

In May 2010 during its first cycle Universal Periodic Review, no recommendations were made to Spain regarding human rights defenders or freedom of expression or of peaceful assembly. However, the context in which defenders work in the country has since changed. The financial crisis and introduction of austerity measures have seen a 50% increase in demonstrations throughout the country compared to 2011.¹ Human rights defenders have faced restrictions to their right to peaceful assembly, whilst a legislative proposal risks restricting these fundamental rights further. It is essential that the right to peaceful assembly is guaranteed, and that – while acknowledging challenges in policing demonstrations – law enforcement officers ensure individuals' rights during protests.

1. Risks facing human rights defenders

- Cases of human rights violations at times of public demonstrations have been reported, including excessive use of force by the police – such as the use of rubber bullets during several protests² – and inappropriate use or misuse of anti-riot equipment.
- Demonstrators taken into police custody have provided Amnesty International with testimonies of ill-treatment, including verbal abuse by the police, receiving blows to the body, and experiences of being forced to stand for long hours facing a wall. Demonstrators relate receiving no medical attention despite their wounds, while those who did receive a medical examination did so in the presence of the police and were often forced to remain handcuffed.
- Journalists have also been victims of beatings, insults and arrests by the police. Cases of damage caused to their cameras have been reported. This police violence appears to be a means of preventing footage of inconvenient events.³
- In 2012, journalists who criticized the austerity measures taken by the government were fired from the State-owned broadcaster, RTVE.⁴

2. Official restrictions on the space for human rights defenders

- The right of peaceful assembly is enshrined in Article 21 of the Spanish Constitution. Organic Law 1/1992 deals with the Protection of Public Safety and empowers security forces to take action in order to maintain law and order during demonstrations. The law requires that authorities need to be notified of the intention to hold a demonstration at least ten days in advance. This excessive notice period may be reduced to 24-hours, but only where justified on extraordinary and serious grounds.
- In 2013, the Ministry of Interior issued a circular urging police forces not to allow gatherings within 300 metres of the houses of public officials and politicians.⁵
- Since 2011, Amnesty International has received an increasing number of reports about administrative penalties imposed to participants in demonstrations. Fines ranging from EUR 300 to EUR 1,500 have become common for demonstrators.⁶
- The Spanish Congress of Deputies started debating a bill to reform the Criminal Code in September 2013. Reforms would make some crimes punishable by higher penalties when they take place in the context of demonstrations. Some offences would be transferred to the Law on the Protection of Public Safety, which sets heavier administrative fines than the Criminal Code.⁷ The proposed revision to this law would create new offences directly linked to protests,⁸ thus increasing the number of offenses from 30 to 57.⁹ Un-notified protests could be subjected to fines amounting from EUR 30,000 to EUR 600,000.¹⁰ Fines would also be imposed in cases of insults to Spain, its autonomous regions, their institutions and symbols.¹¹ These reforms risk imposing undue restrictions on individuals, including HRDs, in the exercise of their fundamental freedoms to expression, association and peaceful assembly.

3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- There were no reported cases of reprisals against Spanish HRDs cited in the reports of the UN Secretary General on cooperation with the UN, its representatives and mechanisms in the field of human rights.

4. Human rights defenders facing particular risks

- Several cases of women demonstrators experiencing sexist insults in police custody have been reported.¹²

5. The lack of response of the State regarding the protection of human rights defenders

- In Spain, members of the police forces who have resorted to excessive use of force while policing demonstrations often go unpunished. There is a lack of impartial and effective investigations of these cases.¹³
- Cases are reported of police officers not wearing visible badges or numbers that could enable them to be individually identified, as required by Spanish law. This has led to investigations being closed due to the impossibility of identifying police officers involved.¹⁴
- The lack of information regarding an inquiry called for on the evacuation by police forces of Catalonia Square in Barcelona in May 2011, which resulted in 121 persons being injured, has been highlighted.¹⁵ In some cases, no investigations have been carried out, even where there were signs or allegation of ill-treatment.¹⁶ The practice of granting pardons for cases of torture or ill-treatment is on-going.¹⁷

6. Recommendations to the Government of Spain

- The rights to freedom of expression, of peaceful assembly and of association must be upheld by law. Vague provisions in existing legislation that give rise to undue restrictions on these rights should be amended, as any legislative proposals - such as reforms to the Criminal Code - should ensure these fundamental rights in line with international law.
- Spain should combat impunity by ensuring impartial and effective investigations of violations that have taken place during demonstrations.
- Spain should issue clear provisions on the use of force by law enforcement officers in the context of protests, and should provide training to the police forces on the use of weapons in the context of protests. It should take measures to monitor the use of force by police forces in the context of peaceful protests to ensure they are in compliance with relevant international human rights standards.
- Spain should demonstrate strong, high-level political support for HRDs through public statements by officials which recognise their important and legitimate work, including raising human rights concerns during peaceful protests.
- Spain should create and sustain an environment where HRDs, including women human rights defenders and journalists, can carry out their work without undue interference, including from law-enforcement officers.

With the upcoming UPR in January 2015 and General elections to be held in December 2015, the government of Spain has the opportunity to deepen its commitment to ensuring fundamental rights of freedom of expression, of peaceful assembly and of association, through legislative reform and policy change.

¹<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2389885&SecMode=1&DocId=2077824&Usage=2>

² <http://www.theguardian.com/world/2012/sep/26/violence-madrid-police-charge-protesters> and <http://www.amnesty.org/en/news/don-t-beat-protesters-eu-countries-warned-2012-10-25>

³ <http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf>

⁴ <http://freedomhouse.org/report/freedom-press/2013/spain#.U191dVdNF6Y> and http://en.rsf.org/spain-conservative-government-reasserts-07-08-2012_43181.html

⁵ <http://www.rtve.es/noticias/20130410/gobierno-prohibira-escraches-menos-300-metros-domicilios-politicos/635486.shtml>

⁶ <http://www.theguardian.com/world/2014/apr/24/spain-restricting-protest-fines-harassment-excessive-force>

⁷ <https://www.es.amnesty.org/noticias/noticias/articulo/el-proyecto-de-codigo-penal-pone-en-riesgo-el-derecho-a-la-libertad-de-expresion-y-reunion-pacif/>

⁸ <http://www.ugt.es/actualidad/2013/diciembre/ANALISIS%20SINDICAL%20REFORMA%20PENAL%20Y%20SEGURIDAD%20CIUDADANA%20EDITADO.pdf>

⁹ <http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf>

¹⁰ <http://www.aljazeera.com/indepth/opinion/2014/04/spain-rightward-plunge-201441710577753299.html>

¹¹ http://politica.elpais.com/politica/2013/11/29/actualidad/1385720888_697122.html

¹² <http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf>

¹³ Ibid

¹⁴ Ibid

¹⁵ <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2389885&SecMode=1&DocId=2077824&Usage=2>

¹⁶ <http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf>

¹⁷ Ibid

¹⁸ <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2389885&SecMode=1&DocId=2077824&Usage=2>