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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2021]

* Issued as received, in the language(s) of submission only.



Spain: Judicial persecution of Catalan representatives and activists exercising their right to freedom of peaceful assembly and of association

The Catalan people's right to freedom of peaceful assembly and of association has been repeatedly violated by Spanish authorities. Closely linked to this are the Catalan minority's rights to freedom of expression and to political participation. This submission refers to numerous well-documented instances of state-sponsored judicial persecution and arbitrary detention of Catalan elected leaders, human rights defenders and activists, including keeping them in prison during the Covid-19 pandemic, which started in 2020.

In 2015, Spain reformed the Criminal Code and the Law on the Protection of Public Security- The so-called "gag law"- to criminalize the glorification of terrorism through public messages; and to limit protests with new administrative fines. These laws have been used to grant additional powers to Spanish authorities to undermine international human rights standards.

Consequently, freedom of assembly and of association and freedom of expression in Spain has come under pressure. Social media users, journalists, lawyers, activists, and musicians have been prosecuted under Article 578 of the Criminal Code, the Catalan pro-independence movement being one of the main victims of this use of counterterrorism legislation in a way that violates fundamental rights.

Nine Catalan civil and political leaders have been in prison for more than three years, including six former members of the Catalan Government, the former speaker of the Parliament of Catalonia, and two civil society leaders. They have been sentenced to between nine and 13 years on charges of sedition and others - crimes that have not been deemed as such by Courts in Germany, Scotland, or Belgium.

In response to the disproportionate sentences, mass demonstrations took place in Catalonia in October 2019, which were severely repressed, leading to a total of 594 wounded (70 of them journalists) and the arrest of 194 protesters, 28 of whom were taken into pre-trial detention. According to the Venice Commission of the Council of Europe, the imposition of disproportionately severe punishments for actions carried out in the context of demonstrations can create a chilling effect that leads individuals to refrain from carrying out or attending such events.

Since 2017, the ceaseless criminalization of the pro-independence movement, representing a political will of the majority of the Catalan minority by the Spanish State has led to the prosecution of nearly 3,300 people. The repression against members of a national minority involves a violation of fundamental rights such as the right to freedom of peaceful assembly and association, freedom of expression, and political participation and representation.

This has been condemned in a statement by the Council of Europe's Commissioner for Human Rights, non-governmental organizations such as Amnesty International, the World Organization Against Torture and the World Jurist Association, among others. Moreover, the United Nations Working Group on Arbitrary Detention (WGAD) pointed out in June 2019 that "The purpose of the criminal charges and the resulting trial is to coerce them [Catalan activists] on account of their political opinions", and that "the detention is arbitrary, as it is the result of exercising the right to freedom of opinion, speech, association, assembly and participation". The WGAD also called on Spain to immediately release the Catalan civic and political leaders, a request that has been systematically ignored.

In January 2020, the framework of the United Nations Universal Periodic Review to Spain, twenty-two UN member States expressed their concern with respect to the protection of the right to freedom of expression and the right to freedom of assembly and association, especially in relation to journalists and civil society, both related to the Catalan case.

In a report published in March 2020, the UN Special Rapporteur on Minority Issues joined the criticism made to Spain by the Working Group on Arbitrary Detention, reminding Spain

of its legal obligation to protect minority rights, especially concerning the rights named above. The Special Rapporteur also highlighted the significant increase in hate speech, vilification, vandalism, physical threats and even assaults against members of the Catalan minority, as well as allegations that these complaints are not investigated, thus increasing intolerance of Spanish nationalism.

Especially concerning are the cases of the peaceful activists Tamara Carrasco and Adrià Carrasco, who were accused of crimes relating to “terrorism” in 2018 as well as the macro police operation in 2019, dubbed ‘Judas’, against nine peaceful activists under allegations of belonging to an armed group, terrorism and rebellion.

Despite lacking enough evidence to support such severe accusations, Tamara Carrasco was kept in home arrest for over a year, and seven activists of the ‘Judas’ case were imprisoned for three months under solitary confinement and precarious conditions. All those prosecuted were freed and the cases dismissed in its majority. This suggests that the intent was not to prosecute alleged criminals, but to create a chilling effect on the political participation of the Catalan minority.

In February 2021, when the Catalan rap singer Pablo was sentenced to nine months in prison for criticizing the Spanish monarchy in songs and tweets, several (international) civil society organizations such as Amnesty International assessed his sentence as disproportionate and a restriction of its freedom of expression by judicial means, and reinforced the call to revise the Spanish Criminal Code.

The case of Lluís Puig, former Catalan Minister of Culture in exile, for whom the Spanish justice issued an arrest warrant, is relevant since a Belgian court affirmed in January 2021 that the Spanish Supreme Court does not have the authority to try former members of the Catalan government and raised concerns on the fact that Lluís Puig' presumption of innocence could be at risk in Spain. In the same vein, the Public Prosecutor at the Brussels Court of Appeal recently communicated the decision to the Spanish investigating judge Pablo Llarena, in a letter that includes a recommendation to investigate whether there is a “risk of violation of fundamental rights.”

Therefore, Society for Threatened Peoples calls on the Human Rights Council to urge the Government of Spain to:

- Revoke the Organic Law for the Protection of Civic Security, commonly known as the “Gag law”, which threatens the freedom of expression, and amend Article 578 of the Spanish Criminal Code, especially provisions concerning the glorification of terrorism, which is used to persecute the Catalan minority.
- Guarantee full enjoyment of the right to freedom of peaceful assembly and of association, and freedom of expression, by revising the Spanish Criminal Code, ensuring that its crimes are in line with international standards so the definition of the crime of sedition does not criminalize acts of peaceful civil activism or peaceful civil disobedience.
- Comply with the recommendations of the United Nations Working Group on Arbitrary Detention and immediately release all Catalan civil and political leaders incarcerated for the organization of a self-determination referendum and calling peaceful protests in 2017.
- Follow the recommendations of the Council of Europe Commissioner for Human Rights, and of twenty-two UN member states during Spain's Universal Periodic Review on police brutality, putting an end to brutal practices by the police during the exercise of the rights of freedom of assembly, and to investigate all the cases concerning accountability for past violations on human rights in Catalonia.