



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Summary record of the 2065th meeting

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Chairperson: Mr. Kemal

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The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Eighteenth to twentieth periodic reports of Spain (CERD/C/ESP/18-20; CERD/C/ESP/Q/18-20; HRI/CORE/ESP/2010)

1. *At the invitation of the Chairperson, the delegation of Spain took places at the Committee table.*
2. **Mr. Garrigues** (Spain) said that the Constitution of 1978 clearly laid out his country's commitment to promoting and protecting human rights. The authorities sought to promote respect for difference and to foster integration, firm in the belief that all people should have equal access to the enjoyment of human rights. The principles of equality and non-discrimination underpinned the Human Rights Plan that had been adopted in December 2008. Spain was committed to upholding its obligations under the United Nations human rights protection system and took an active part in the Human Rights Council and its mechanisms. His high-level delegation was a reflection of the importance the Government attached to the elimination of all forms of racial discrimination.
3. **Mr. Salama** (Spain), introducing his country's combined eighteenth to twentieth periodic reports (CERD/C/ESP/18-20), said that the provisions of the Universal Declaration of Human Rights had been incorporated into daily life in Spain through the Constitution, the jurisprudence of the Constitutional Court, legislation, and judicial and administrative practice. While human rights were a priority in Spain's strong democracy, the authorities were aware that racial discrimination took many forms and could occur unexpectedly. They therefore sought constantly to improve their protection of minority groups and prevent, prosecute and punish racist acts.
4. On the thirtieth anniversary of the adoption of the Spanish Constitution, his Government had adopted the Human Rights Plan, thus joining the few countries to have such a plan. The Plan constituted a strong political commitment which took the form of a series of measures the Government was implementing and would continue to promote in the future. Under the Plan, legislative measures were being taken to strengthen immigrants' legal position, such as the 2009 reform of the Aliens Act, bringing it into line with Constitutional Court decisions that gave foreigners, including those without proper documentation, almost all the same civil rights as citizens.
5. The Strategic Plan for Citizenship and Integration (2007–2010) had brought about significant progress in the integration of immigrants through coexistence and recognition of their rights. Civil society was currently participating in the preparation of a new plan for 2011–2014. The Human Rights Plan also included a commitment on the part of the Government to adopt a comprehensive national strategy for combating racism and xenophobia, which was currently under development. Under the Human Rights Plan, other important developments relating to equality had included the 2008–2011 Strategic Plan on Equal Opportunities, which was currently being assessed, the establishment of the Council for the Promotion of Equal Treatment of All Persons without Discrimination on grounds of Racial or Ethnic Origin, the drafting of a bill on equal treatment and non-discrimination, and the adoption of the 2010–2012 action plan under the Gypsy Development Programme.
6. Under the Education Act, a new subject entitled "Education for citizenship and human rights" had been introduced into curricula. It was an effective tool in the struggle against discrimination and inequality in education.
7. Several new legislative measures were intended to combat racial discrimination. They included a far-reaching reform of the Criminal Code under Organization Act No.

5/2010, which brought the Spanish legal system up to the highest international standards in terms of prevention of xenophobia and illegal acts against foreigners. The Act specifically criminalized trafficking in persons, differentiating it from offences against the rights of immigrants. In addition, the scope of the aggravating circumstance of committing an offence for racist, anti-Semitic or other reasons discriminating against the victim had been extended.

8. The reform of the Criminal Code followed the direction taken in 2009, when the Government had ratified the Council of Europe's Convention on Action against Trafficking in Human Beings and had implemented a comprehensive plan to combat trafficking in human beings for the purpose of sexual exploitation. As a result of the reform of the Criminal Code, perpetrators of human trafficking could be imprisoned for up to 18 years and victims were specifically exempted from responsibility for any offences they might have committed whilst being exploited. Measures were also being taken to train judges, magistrates and police officers in human rights protection so as to ensure they were on the alert for racist incidents.

9. In order to promote religious freedom and interfaith harmony, since 2004 the Foundation for Pluralism and Coexistence had been conducting cultural and educational programmes for the social integration of minority religious denominations. In addition, the Government had undertaken to establish a monitoring centre for cultural and religious pluralism in Spain; a map of religious pluralism was due to be completed by June 2011.

10. **Mr. Marugán Zalba** (Spain) said that the Organization Act on the rights and freedoms of aliens in Spain and their social integration (Aliens Act) provided comprehensive protection of the rights of all migrants, both legal and illegal. Many economic, social and cultural rights were recognized in Spain for all persons, regardless of their legal status. Migrant workers' rights to health care, access to education, legal aid, the right of assembly, the right to demonstrate, the right to trade union freedom and the right to strike were therefore fully protected. The recent reform of the Aliens Act provided that the various public authorities should promote integration between immigrants and the host society in all policies and services and foster the economic, social, cultural and political participation of immigrants. The Act also established the Spanish Racism and Xenophobia Monitoring Centre.

11. A fundamental element of the Strategic Plan for Citizenship and Integration was that it addressed Spanish citizens and immigrants alike, making all members of society responsible for integration. The Plan helped Spaniards to learn to live alongside immigrants and to manage diversity, strengthening social cohesion and giving both sectors of society the same rights and responsibilities. The major areas of investment under the Plan were education, employment and admission of immigrants, followed by social services, children's and youth issues, awareness-raising and co-development.

12. Since 2005, the Support Fund for the Admission, Integration and Education of Immigrants had enabled the Government to allocate €650 million to promoting the integration of immigrants at the regional and local levels. It had been used to support public services and programmes to combat racism and xenophobia, to train professionals in multiculturalism, to transfer knowledge and good practice, and to promote NGOs and immigrants' associations. Central Government had signed agreements with all 17 Autonomous Communities and the autonomous cities of Ceuta and Melilla, committing the Communities to contribute at least 30 per cent of the amount they received under the Fund. At least 40 per cent of the Fund was allocated to projects that were developed or implemented by local entities. Further information on the Fund was provided in paragraph 135 of the periodic report.

13. Additional funding had been allocated to integration programmes run by NGOs and immigrants' associations in order to implement the Strategic Plan for Citizenship and Integration. The 2011–2014 Strategic Plan was currently being developed, based on a dialogue between the Autonomous Communities, local entities, NGOs, immigrants' associations, other social partners and academics involved in integration. Based on the results of the previous Plan, the new one would retain its primary focus on education, access to the labour market and citizen participation, and would also prioritize coexistence within neighbourhoods and the fight against racism, xenophobia and discrimination.

14. The role of the Spanish Racism and Xenophobia Monitoring Centre was to promote the principles of equal treatment and non-discrimination, encourage study, research, specialist training and awareness-raising on racism and xenophobia, establish an information network to gather data on the situation of racism and xenophobia for subsequent analysis, and work in conjunction with the various public and private partners nationally and internationally. Further details of its work were provided in paragraph 138 of the periodic report.

15. The comprehensive national strategy for combating racism and xenophobia that was being drawn up as part of the Human Rights Plan would be based on reliable data and a thorough analysis of the evolving situation of racism and xenophobia. To that end, the crime statistics register had been amended to ensure that any act that could be classified as racist or xenophobic would be recorded as such. Plans were also under consideration to introduce a protocol to train law enforcement officials to identify and record in real time acts motivated by racism or xenophobia. In addition, an annual report was published on developments in racism and xenophobia in Spain, based on a survey on the Spanish population's attitude to immigration.

16. The strategy would also include support for victims of discrimination or racist or xenophobic attacks. The Council for the Promotion of Equal Treatment of All Persons without Discrimination on grounds of Racial or Ethnic Origin had set up a network of assistance to victims of discrimination to that end. Under the strategy, plans to raise awareness at the regional and local levels would also be drawn up, with the full participation of local authorities. Local entities and NGOs were also involved in awareness-raising, and a Government-funded project was under way in Andalusia and Catalonia, based on intercultural dialogue and social cohesion.

17. The strategy included training and awareness-raising for many professionals, including law enforcement officials. Given the visibility of the police, they were often regarded as models for other institutions and were required to act impartially when faced with different ethnic and cultural groups. They received human rights training and guidelines were available on the relevant training for all levels of the service.

18. Education was a fundamental part of the strategy, which sought to guarantee immigrant children equal access to education along with Spanish children. Efforts were being made to ensure that the education system could accommodate the diversity of students entering it.

19. Lastly, the strategy involved a commitment to raising awareness among professionals in the media to ensure that they understood the phenomenon of immigration and advising them, notably using a handbook produced in collaboration with media professionals on avoiding stereotypes and prejudice against immigrants. Annual reports were now published on how immigration was portrayed in the media.

20. **Mr. Sola** said that since 2004 his Government had made equality and the elimination of all forms of discrimination a priority. Spain had made a breakthrough in expanding the legal framework of liberties enjoyed by its citizens through the adoption of numerous measures relating, inter alia, to gender-based violence, gender equality and same-

sex marriage. Moreover, it had expanded its international legal framework through the ratification of several international instruments, such as the Convention on the Rights of Persons with Disabilities and the Council of Europe Convention on Action against Trafficking in Human Beings.

21. In an effort to promote equality in Spanish society, the Government had established the Council for the Promotion of Equal Treatment of All Persons without Discrimination on grounds of Racial or Ethnic Origin under European Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and had drafted a preliminary bill on equal treatment and non-discrimination. As a body established under the Directive, the former Council was charged with providing independent assistance to victims, conducting independent studies and publishing independent reports on discrimination.

22. The Council's multi-year programme of work included the establishment of a network of local and regional victim support centres. Their functions included furnishing potential victims of discrimination with information and raising public awareness in order to root out discriminatory practices. All the centres used a common working method aimed at assisting victims and exchanging information. There were currently 105 centres dealing with complaints all around the country. The programme of work also included a yearly study focusing on the evolution of victims' perceptions of racial or ethnicity-based discrimination, an annual report on racial and ethnicity-based discrimination and a report relating to the text of the Equal Treatment and Non-Discrimination Bill.

23. That Bill was a comprehensive text covering all forms of discrimination. It would be the first law of its kind in the Spanish legal system, aimed at broadening the right to equality and establishing the broadest possible framework to safeguard the right to equal treatment. Furthermore, it would provide for the appointment of a prosecutor to oversee legal proceedings against acts of discrimination and to establish special rules regarding the burden of proof in non-criminal proceedings. The Bill also provided for the establishment of an independent equal treatment authority to support victims of discrimination, process their complaints, carry out studies, produce reports and recommendations, act as an intermediary and alert the competent authorities to cases of discrimination. Finally, it established a series of proportionate and reasonable penalties that would provide satisfactory compensation to victims of discrimination.

24. **Mr. Blázquez Martín** said that the Committee had always taken a keen interest in the situation of the Gypsies in Spain. His delegation was pleased to note that the Committee had found that there had been an improvement in their situation. Over the past few years, the Government had sought to promote equal treatment for all through providing additional support to the tertiary sector, developing programmes to identify cases of discrimination involving the Gypsy community, providing support and advice to victims on safeguarding their rights, and technical assistance and training for all those involved in the fight against discrimination.

25. The Government's efforts to promote tolerance and to overcome the prejudices and negative stereotypes associated with the Gypsy community had centred on alerting the media to their role in both the propagation and eradication of stereotypes. In that context, the Government supported a publication aimed at making journalists aware of the problems facing the Gypsy community and their portrayal by the media. In addition, it had jointly published a practical guide on the equal treatment of Gypsies in the media and had tasked the institute for Gypsy culture with encouraging the teaching of Romany language and culture in schools.

26. Through the Gypsy Development Programme, the Government had developed an action plan for 2010–2012 to improve the living conditions and general situation of the

Gypsy community. Many actors had contributed to the plan, including working groups of the Gypsy State council, which comprised specialists from various ministerial departments. The plan targeted eight specific areas: citizenship, equal treatment and non-discrimination, education, employment, social action, health, housing, and the place of the Gypsy community and their culture in the European political agenda.

27. The Gypsy Development Programme liaised with all public authorities, allocated funding and took specific steps to protect the rights that were of interest to the Committee. The Programme provided financial assistance to both social outreach projects aimed at encouraging the involvement of the Gypsy community in the life of the Autonomous Communities, and also NGOs working with the Gypsy community.

28. In 2006, the Programme had launched the “Acceder” initiative to facilitate the Gypsy community’s access to the job market. As a result, nearly 40,000 Gypsies had found employment by June 2010. In addition to allocating funding to allow the Gypsy community access to housing, the State plan for housing and rehabilitation had taken steps to rejuvenate run-down areas and funded the removal of shanty towns. Recent studies had revealed a marked improvement in school attendance in the Gypsy community: nearly 95 per cent of Gypsy children started school at the correct age and around 90 per cent were in a class appropriate to their age. Furthermore, the past 15 years had witnessed a dramatic turnaround in both absenteeism and academic achievement. His delegation noted with satisfaction that the majority of Gypsy families had come to recognize the value of education and encouraged their children to complete their secondary education.

29. **Mr. Santamaría**, observing that education was an essential tool in the promotion of respect, understanding and tolerance, said that his Government planned to give priority to the fight against discrimination and inequality in its education policy. The Education Act set out the basic principles governing the fight against discrimination and inequality in the Spanish education system. The Act accorded the same rights and duties to both Spanish and foreign students; provided for remedial education for students from disadvantaged backgrounds; encouraged the incorporation of foreign students into the education system; called for the development of programmes to facilitate their integration into Spanish society; recognized the importance of diversity and interculturalism in primary education; recognized that inclusion was the first step towards equity; and provided for special needs and the integration of late starters.

30. The Act also aimed to remedy the educational deficits of disadvantaged people or groups by means of State compensation mechanisms, providing those in question with both monetary and educational support. As to State school admission policies, the Act guaranteed an effective system whereby the vast majority of applications were considered as a matter of course. The admission procedure was non-discriminatory on principle but could only admit as many students as there were places.

31. Furthermore, in accordance with the EU recommendations on education for a democratic citizenship, the Act had introduced the concept of education for citizenship and human rights into the education system. As a branch of studies, it played a fundamental role in promoting social cohesion and respect for diversity and in raising awareness of the value of education. Consequently, the Government planned to incorporate it into all levels of secondary education.

32. Conscious of the need to promote both equity and academic achievement in Spanish schools, the Ministry of Education had taken steps to frame a social and political covenant on education. However, a lack of political consensus had prevented the covenant’s adoption, but its 12 objectives had been used to develop an action plan for the education system for the period 2010–2011. That plan sought to improve the educational experience of all students at every level and operated on the principles of equality and non-discrimination.

Particular emphasis was placed on academic excellence, equality, the social dimension, teacher training and cultural diversity.

33. The Ministry of Education, having identified the common ground covered by the objectives of the action plan and those of the Strategic Plan for Citizenship and Integration and the Human Rights Plan, was planning measures to promote inclusion and integration in all areas of education. Those measures included the gradual incorporation of a human rights element into the initial stages of teacher training and stricter assessment criteria for aspiring primary-school teachers. It was hoped that a master's degree in human rights would also ensure that those wishing to teach in State-administered secondary schools, vocational colleges or language schools received adequate human rights training.

34. **Mr. Calí Tzay** (Country Rapporteur) welcomed the State party's avowed determination to combat all forms of discrimination. However, its statement that various NGOs had been involved in the preparation of its periodic reports stood in stark contrast with claims by the Spanish Association for International Human Rights Law that the Government had failed to consult the Ombudsman, regional human rights bodies, the Prosecutor-General's Office or any civil society organizations.

35. The cornerstone of the legal framework to combat discrimination was the Constitution of 1978, under which the principle of the equality of all without discrimination on any grounds was established as a supreme value. Quoting articles of the Constitution and the Aliens Act that detailed the freedoms and rights of foreigners in Spain, he underlined the definition of discriminatory acts under article 23 of the Act, which included "any act which, directly or indirectly, involves any distinction affecting, exclusion of, or restriction or preference against an alien on the basis of race, colour, descent, national or ethnic origin, or religious beliefs and practices, and which has as its purpose or effect to vitiate or curtail the recognition or exercise, on conditions of equality, of human rights and fundamental freedoms in the political, economic, social and cultural spheres".

36. He welcomed agreements between Spain and Romania, Senegal and Morocco on the protection and repatriation of unaccompanied minors, but asked what happened to unaccompanied minors from States that had no such agreements with the State party. He also asked whether article 610 of Act No. 11/2003, on the crime of genocide, applied to foreigners who had perpetrated such offences in their own countries or only to persons planning such acts in the territory of the State party.

37. With reference to the use of the word "indigenous" in the context of the Strategic Plan for Citizenship and Integration (2007–2010), it was his understanding that the word referred to Spanish nationals. The plan was based on the "principle of equality and non-discrimination, which implies equal rights and obligations for the immigrant and indigenous population" but he wondered if any legislation ensured the equality and integration of foreigners and respect for their rights and how acts of racism and xenophobia against immigrants in the State party might be explained.

38. The Ombudsman and Prosecutor-General's Office had detected serious procedural irregularities that made it difficult for foreigners held in detention centres to contact legal counsel, prosecutors, judges, family members or interpreters. Civil society organizations had repeatedly reported cases of torture and abuse by police officers. According to the Spanish Association for International Human Rights Law, of more than 16,500 foreigners held in nine detention centres in 2009, just under 9,000 had been deported from the State party. It appeared that a minor administrative offence was being exaggerated and he agreed with the Association that detaining people for up to 60 days for such an offence was illegal, discriminatory and unjust. Moreover, he wanted to know what had happened to the detainees who had not been deported, how many detainees had been deported in 2010 and what their nationalities had been. It was not for the Committee to comment on a State

party's legitimate right to control migration, but did the delegation not find such measures disproportionate and incompatible with article 5 of the Convention? There had also been cases of persons being held in detention even though it was known from the outset that they could not be deported. He asked whether the State party had considered compensating them for the irreparable psychological harm and financial loss they had suffered as a result.

39. The Ombudsman and other civil society organizations had reported that conditions in the detention centres were inhuman. Had the State party taken steps to render them compatible with the human dignity of detainees and respect for their physical and mental well-being?

40. Reports indicated that more than 1 million illegal immigrants lived and worked in Spain. Was the State party contemplating measures to regularize their situation? He expressed the hope that it would not follow the example of the European Union by extending the maximum period of detention for illegal immigrants caught without documents to 180 days or, worse still, that of Italy and the Netherlands, which had made illegal entry into those countries a criminal offence.

41. Although there was no policy of discrimination in the State party, the right of foreigners to equal access to public services, housing, work, health care and education was complicated by xenophobia in Spanish society. Certain police officers had ordered raids on districts in which the majority of inhabitants were immigrants in order to check their identity papers. Profiles of immigrants had been drawn up in which it was assumed to be a near certainty that a certain type of immigrant was in Spain illegally. He asked what the State party was doing to eradicate such practices.

42. With regard to the Human Rights Plan, which he applauded, he noted that the Government of the State party intended to appoint a commission, composed of members of the executive, civil society and the Ombudsman's Office, to monitor its implementation. He asked the delegation to furnish more details on what form follow-up of the Plan would take.

43. The importance of Spain's National Plan for the Alliance of Civilizations was clear, given the breach in understanding between Spanish society and the Arab population living in the State party. Indeed, the good intentions expressed by the State party were often contradicted by racist acts. Citing xenophobic slogans he had encountered in his research on the State party, he said that one political party in particular campaigned on an anti-immigration platform, laying much of the blame for Spain's current economic difficulties on immigrants. He also expressed surprise at the number of articles about racism appearing in the Spanish press and at the fact that some journalists expressed racist ideas. He asked what legal measures the State party was taking to combat racist propaganda. Why did it not prohibit the public expression of racist and xenophobic views? Did it consider the freedom of expression more important?

44. He welcomed the introduction of citizenship and human rights education as a mandatory subject in primary and secondary schools under the Plan, giving school-age children the opportunity to learn about their rights and obligations.

45. With regard to the State party's plan to combat the trafficking of human beings, he expressed concern at the distinction drawn between such trafficking and the transport of illegal migrants and said that, depending on the circumstances, the latter could easily lead to the former. Illegal migrants could find themselves forced to work or even be sexually exploited by the people they paid to transport them.

46. He disagreed with the delegation's view that gathering population statistics disaggregated by race or ethnicity contributed to discrimination. The lack of such statistics contributed, on the contrary, only to masking racism and acts of racial discrimination. He wondered why the State party kept no statistics on the racial or ethnic origin of foreigners

or Spanish nationals, but did have such information on the Spanish Gypsy population. Gypsy organizations recognized that the State party had made considerable efforts to improve their lot but remained concerned at the phenomenon of shanty towns (*chabolas*). He asked what measures the State party had taken to stem the spread of shanty towns and whether their destruction would have any adverse effects on Gypsy culture. He also wished to know whether the State party had any plans to improve the poor standard of education among Gypsies, in particular among women.

47. Praising the host of anti-discrimination legislation passed in recent years, he noted especially an amendment to the Workers' Statute concerning the right of women workers to "respect for their privacy and due consideration for their dignity, including protection against harassment on grounds of racial or ethnic origin, religion or beliefs, disability, age or sexual orientation, and against sexual harassment and gender-based harassment". Nevertheless, the Committee had been informed that foreign working women rarely filed complaints for sexual harassment or violence for fear of being deported. He asked whether deportation in such cases was systematic or whether it depended on the interpretation by individual officials of the relevant legislation.

48. While welcoming provisions that recognized as an "aggravating circumstance in criminal liability the commission of an offence motivated by, among other things, racism or anti-Semitism or any other form of discrimination based on race or ethnic group", he regretted that not only victims but also law enforcement officials were largely unaware of anti-discrimination legislation or how it should be applied in racial discrimination cases. He asked the delegation what the State party was doing to educate law enforcement officials concerning anti-racism legislation.

49. Finally, he asked the delegation what it had meant by the statement that the State party was experiencing a "new social reality".

50. **Mr. Avtonomov** said that the delegation had referred to a number of bills concerning, for instance, equal treatment and non-discrimination that were currently being drafted. The Committee would like to hear further details about the stage reached in their enactment.

51. The number of foreigners detained in Catalonia and Andalusia seemed to be higher, on average, than in for Spain as a whole. He asked whether the delegation could account for the difference.

52. He had reservations about the Government's view, expressed in paragraph 72 of the report, that the availability of statistics relating to persons of each race or ethnicity in Spain would result in discrimination. Such data could be analysed to identify groups that were particularly vulnerable and to ascertain where structural discrimination existed. The areas in which discrimination could be assessed included employment, school enrolment, life expectancy and income levels. Detailed figures had been provided, on the other hand, on the economic and social circumstances of Gypsies.

53. The Ombudsman's Office played an important role in ensuring the State party's compliance with the Convention. However, the core document (HRI/CORE/1/Add.2/Rev.2) mentioned comparable offices at the regional level – in Andalusia, the Balearic Islands, the Basque Country, Catalonia and elsewhere. He enquired about their contribution to the resolution of problems falling under the Convention.

54. **Mr. Diaconu** said that the State party had enacted extremely detailed legislation in all areas covered by the Convention. He commended, in particular, the Aliens Act enshrining a list of foreigners' rights and the provisions aimed at enhancing immigrants' image. The definition of racial discrimination was fully in line with that contained in the Convention. Notwithstanding the economic crisis, additional funds were being allocated to

the immigration services. He also noted with interest the prohibition of racial discrimination in private companies.

55. Foreigners accounted for more than 10 per cent of the total population of Spain. He requested additional information regarding the ethnic groups to which they belonged. Noting that, according to paragraph 89 of the report, the Autonomous Communities of Andalusia and Aragón were required to promote the integration of minorities, including the Gypsy community, he asked which minorities were being referred to.

56. The State party drew attention to a phenomenon linked to cultural differences that might be termed “new racism”. It was based, inter alia, on the alleged superiority of some cultures over others. He asked whether such discrimination might also arise, for instance, in the case of a Catalan who lived in Andalusia or Madrid.

57. The State party had recognized the problem of schools segregated along cultural, ethnic, social and economic lines because of the large numbers of immigrant pupils. The Education Act provided for mechanisms to enable balanced enrolment in publicly-funded schools. He asked whether the Act had achieved positive results.

58. With regard to the attitude of the law enforcement authorities to foreigners and immigrants, a police circular issued in 2010 had provided for street checks of undocumented immigrants and their transfer to local police stations. Such policies were clearly conducive to racial profiling.

59. The conditions in centres for foreigners failed to comply with the provisions of the Aliens Act. Moreover, women had allegedly been expelled for reporting violence committed against others instead of being given a fair hearing.

60. **Mr. de Gouttes** commended the wide range of plans aimed at countering discrimination in Spain. The Committee was eager to hear details of the State party’s initial impact assessment.

61. The list of offences established under the Criminal Code to combat racism and intolerance had been extended following the entry into force of Organization Act No. 11/2003. He asked whether the number of offences for which a racist motive could serve as an aggravating circumstance had also been increased and whether the burden of proof could be alleviated in such circumstances or even reversed in civil proceedings. The practice of “testing” made it easier to assess the existence of discriminatory practices affecting access to employment or to public places such as hotels, restaurants or nightclubs. Had the State party ever organized such tests?

62. He enquired about the impact of Act No. 19/2007 on violence, racism, xenophobia and intolerance in sport.

63. He joined other members of the Committee in expressing regret at the lack of statistics on the racial or ethnic composition of the population. Such data were required for effective monitoring of the existence of discrimination.

64. The report cited judgements delivered by some Spanish courts pursuant to criminal legislation against racial discrimination but failed to provide countrywide figures on complaints, prosecutions, convictions and reparations. The Committee’s general recommendation No. 31 had made it clear that a small number of complaints was not necessarily a positive indicator, since prospective complainants might be unaware of victims’ rights, fear social stigma, be deterred by the cost of legal proceedings or lack faith in the police. The police themselves might also be unaware of the existence of such offences.

65. There were no figures in the report concerning the number of non-national detainees or members of minority ethnic or racial groups in places of detention. He drew attention

again to the provisions of general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

66. With regard to complaints of ill-treatment and acts of discrimination by police officers, he noted with surprise that Spain had been unwilling to accept the recommendation ensuing from the universal periodic review concerning the establishment of an independent police complaints mechanism. He asked the delegation to account for the State party's opposition to the recommendation.

67. The Committee would be interested in hearing whether Spain could propose any solutions to the serious humanitarian problem of refugees and asylum-seekers who risked their lives to reach Spain by sea, especially from North Africa.

68. The State party referred in its report to the high concentration of immigrant pupils in State schools in socially disadvantaged areas and the risk of segregation. He hoped that the measures taken to deal with the problem had proved effective.

69. The "new racism" described in paragraph 195 clearly called for a new anti-racist strategy. The Committee would be interested in hearing about the prospects for such a strategy.

70. **Mr. Murillo Martínez** joined other Committee members in requesting additional information regarding the prison population. Certain racial and ethnic groups seemed to be disproportionately represented in places of detention.

71. He would also be interested in hearing the delegation's comments on alleged racial profiling in the context of requests for identification.

72. Many commendable measures against racism and racial discrimination had been adopted and a wide range of laws had been enacted on equal treatment. It had been alleged, however, that the practical impact of the measures left a great deal to be desired. He invited the delegation to comment.

73. Acknowledging the State party's efforts in support of people of African descent in many Latin American countries, he asked whether Spain had any special plans for 2011, the International Year for People of African Descent.

74. **Mr. Amir** joined other members of the Committee in requesting the State party to provide a demographic breakdown, if possible by region, in future reports. Such data could also shed light on the "new racism" mentioned in the report.

75. The issue of freedom of movement was becoming increasingly urgent, especially between countries on the southern and northern shores of the Mediterranean.

76. He asked whether the Spanish people appreciated the Judaeo-Arab contribution to civilization in Spain and in Europe as a whole in the eighth and ninth centuries.

77. **Mr. Lindgren Alves** expressed strong support for Spain's National Plan for the Alliance of Civilizations.

78. He was also impressed by the number of action plans dealing with immigrants and racism and looked forward to hearing about their impact.

79. He emphasized that the situation of Gypsies in Spain was very different from that of the Roma in other European countries. The Gypsies had been fully integrated into Spanish culture.

80. He had recently read an article in the Brazilian newspaper *El Globo* concerning the manner in which Brazilian nationals were treated by the Spanish authorities in Madrid's Barajas Airport. The identification requirements were allegedly extremely severe and even university professors travelling to Spain to attend seminars had been harassed.

81. **Mr. Lahiri** said that when the economic situation in any country deteriorated and people were faced with unemployment, they tended to turn against immigration and immigrants. However, he had no doubt that the Spanish Government would tackle the situation effectively and ensure that the country resumed its position in due course at the forefront of European development.

The meeting rose at 6 p.m.