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

Universal periodic review

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.

[04 June 2020]

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

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Human rights violations in the autonomous community of Catalonia in Spain

Society for Threatened Peoples is concerned about the reprisals against civil society leaders and political figures of the Catalan minority by Spanish authorities, associated with the pro-independence movement and the self-determination referendum held on 1st October 2017. These repressive actions negatively impact fundamental civil and political rights, especially the freedoms of speech, opinion, peaceful assembly as well as the rights to a fair trial and liberty and security. Society for Threatened Peoples is especially concerned about the harsh prison sentences against nine Catalan political and civil society leaders. The criminalization of peaceful activists and elected representatives does not bring a solution to the conflict. Instead, a political solution is needed.

Background information

A broad majority of the approximately 7.5 million Catalan people, a national minority as stated recently by the United Nations (UN) Special Rapporteur on minority issues, defend and seek to exercise the right to self-determination. After the suppression of important parts of the Catalan Statute of Autonomy in 2010, the conflict on the status of Catalonia reached a new peak in 2017. When the Catalan Regional Government announced plans to hold a referendum on independence on 1st October 2017 – considered lawful according to the UN Working Group on Arbitrary Detentions – Spanish authorities opposed it, and the Spanish Constitutional Court ruled such a vote unconstitutional. More than 10,000 Spanish National Police and Guardia Civil, Spanish paramilitary police, were deployed in Catalonia. In reaction to the State's attempt to stop the referendum by confiscating ballots, leaflets, flyers and other materials promoting the participation in the vote, as well as arresting Catalan public officials and raiding and searching Catalan government offices, civil society organizations called for peaceful protests. In this context, UN experts and Special Rapporteurs called on Spain to respect fundamental rights in response to the Catalan referendum. During the referendum day on 1st October 2017, widespread police violence against peaceful voters was observed, resulting in 1,066 people injured, several of them severely injured. Calls on Spanish authorities to investigate police violence were made by several international bodies, such as the Council of Europe's High Commissioner for Human Rights.

Criminalization of pro-independence activists and elected representatives

On 16th October 2017, Jordi Sànchez and Jordi Cuixart, the leaders of the two biggest Catalan civil society organizations (ANC and Òmnium Cultural), were arrested for organizing a peaceful protest in reaction to the State's attempt to stop the referendum. They were charged with crimes of sedition and rebellion and held in pre-trial detention. On 2nd November, Catalan Vice-President Oriol Junqueras and seven Catalan ministers were arrested and likewise charged with the crimes of rebellion and sedition as well as misuse of public funds. Carles Puigdemont, President of the Catalan Government, who had also been charged, fled to Brussels before his arrest. Rebellion is an offense usually limited to violent revolts. However, the accused neither used nor incited violence, as stated by the UN Special Rapporteur on freedom of opinion and expression in April 2018, urging Spanish authorities not to pursue criminal charges of rebellion. The expression of political dissent, including pro-independence political opinion, if exercised in a peaceful way, is protected under the right to freedom of expression.

In 2019, the UN Working Group on Arbitrary Detentions confirmed that the detention of civil society leaders Jordi Cuixart, Jordi Sànchez and former Catalan Vice-President Oriol Junqueras, as well as former ministers Joaquim Forn, Raül Romeva, Josep Rull and Dolors Bassa constitutes arbitrary detention. As they were detained due to their political beliefs and activities, the UN body called for their immediate release and indemnification for the time spent in pre-trial detention. It further called on the Spanish state to investigate the cases of arbitrary detention.

Instead of complying with the recommendations by the UN Working Group on Arbitrary Detention and releasing the prisoners, on 14th October 2019, the Spanish Supreme Court sentenced the nine Catalan civil and political leaders to between nine and 13 years of prison, as well as disqualifying them from holding public office for the crime of sedition, and in some cases also for misuse of funds. A further three representatives were given a fine and disqualified from holding public office for the crime of disobedience. Several jurists and human rights organizations such as the International Commission of Jurists and Amnesty International reacted with expressions of concern on the harsh prison sentences as they represent a restriction on the freedoms of opinion, expression and peaceful assembly. The application and interpretation of the crime of sedition may cause a chilling effect and prevent civil society activists from exercising their rights peacefully out of fear of being prosecuted.

In the same vein, in May 2020 the Spanish prosecutor opposed Jordi Sánchez's leave from prison for some days per week to undertake voluntary work according to the penitentiary legislation, arguing that the purpose of his imprisonment is "to intimidate the whole society", therefore creating a chilling effect on whoever wants to organize peaceful demonstrations in Catalonia.

Also in May 2020, Amnesty International called again for the release of the civil society leaders Jordi Sánchez and Jordi Cuixart, arguing that the crime of sedition in Spain is "vague" and "against the principle of legality". In its statement, Amnesty stated that the sentence opens the door to enabling authorities to impose a ceiling on the number of people who may simultaneously exercise their right to peaceful protest, and to criminalize a wide range of actions closely linked to the exercise of the freedom of speech and freedom of peaceful assembly, as well as civil disobedience or obstructive protest.

Concerning the case of the imprisoned former Vice-President of the Catalan Regional Government Oriol Junqueras, who was elected to the European Parliament in May 2019, the Court of Justice of the European Union (CJEU) ruled that his conviction was unlawful, as he was a Member of European Parliament with immunity when jailed. However, the state refused to release him. Society for Threatened Peoples is concerned with the Spanish authorities' unwillingness to abide by this judgement after already having ignored the recommendations of the UN Working Group on Arbitrary Detentions.

Finally, in January 2020, during the 3rd round of the Universal Periodic Review of Spain, twenty-two UN member states expressed concern and formulated recommendations calling on Spanish authorities to respect rights to freedom of assembly and freedom of expression, and to investigate cases of police violence. Similar concerns were expressed by the Special Rapporteur on minority issues in a report published in March 2020 on his 2019 country visit to Spain.

Society for Threatened Peoples therefore calls upon the Human Rights Council to urge the Government of Spain to:

- respect and implement the recommendations made by the UN Working Group on Arbitrary Detentions and release the Catalan political prisoners,
- guarantee full enjoyment of the right to expression and peaceful assembly by revising the Spanish Criminal Code, ensuring that its crimes are in line with internationally-recognized definitions, so the definition of the crime of sedition does not criminalize acts of peaceful civil activism or peaceful civil disobedience,
- continue the dialogue between the Catalan Regional Government and the Central Government in Madrid to find a political solution for the Catalan conflict in line with the principles of the International Covenant on Civil and Political Rights,
- implement the recommendations to respect civil and political rights, formulated by twenty-two UN member states during the Universal Periodic Review.