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**International Convention on the
Elimination of All Forms of Racial Discrimination
Alternative Report Submission on Spain**

Prepared for
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Reporting Organization

The International Human Rights Advocacy Group (“IHRAG”) is an international human rights organization consisting of law students at the William S. Richardson School of Law at University of Hawai‘i at Mānoa. IHRAG is committed to investigating and reporting human rights abuses around the world. The named member students of IHRAG hereby submit this Alternative Report for consideration of the 89th Session of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) for the purposes of protecting the human rights of the people of Spain. Our investigation has found that the Roma population in Spain has experienced widespread discrimination in various areas of society and public service across Spain. The Spanish government must focus attention on enforcement at local levels of national-level non-discrimination policies.

I. Introduction

1. As the Government of Spain has pointed out in paragraph nine of its State Party Submission to the Committee on the Elimination of Racial Discrimination (“CERD”) dated 28 November 2014, the economic hardship that has affected Spain as a result of the 2008 Global Financial Crisis has resulted in “racist, xenophobic, and intolerant attitudes” across some spectrum of Spanish society.¹ As a country committed to the human rights of its people, Spain has made many strides in “preventing and combatting such attitudes so that all Spaniards may enjoy their rights on an equal footing. . . .”²
2. The Government of Spain also noted that, given the current “financial situation, and the budgetary measures that it has been forced to introduce in order to bring the public deficit into line with European Union stability objectives, have left the government of Spain with no choice but to focus on financial activities and instruments.”³ IHRAG submits this report in part in objection to the notion that a State Party’s obligations to uphold its people’s human rights can be abrogated in light of financial and budgetary measures. The Government of Spain has improved in its efforts to uphold the human rights of all

¹ Government of Spain, Submission to the Committee on the Elimination of Racial Discrimination, ¶ 9, CERD Doc. CERD/C/ESP/21-23 (2014) [hereinafter Spain’s Submission].

² *Id.*

³ *Id.*

Spaniards, but there are some areas specifically involving the Roma population in Spain that the government must take into consideration for improvement.

3. Official data in Spain estimates that there are between 725,000 and 750,000 Roma living in Spain currently.⁴ However, because of problems with census data in Spain, this estimate is not accurate and other organizations estimate that there are between 500,000 to 1,000,000 Roma living in Spain.⁵ Officially, the Spanish Roma population is spread across the country with major centers in Andalucía, Cataluña, Valencia, and Madrid.⁶ Although the Roma population is well-known for a transitional lifestyle, modern trends demonstrate that most of the Roma population is now permanently established close to major urban centers.⁷
4. It is important to distinguish between the traditional Spanish Roma population that has become moderately integrated into Spanish society, referred to in Spanish as *Gitanos*, from the more recent Roma immigrants from Eastern Europe, who have not seen a warm welcome in Spain.⁸ Much of the discrimination detailed, *infra*, has been directed towards Romani immigrants as well as towards the more established *Gitano* population.
5. Most of the demographic studies demonstrate that the Roma population is remarkably young when compared to the rest of the Spanish population—approximately one third of the Roma population in Spain is younger than 16 years of age.⁹ The Roma population in Spain has one of the highest birth rate of any ethnic group in the country.¹⁰
6. The current financial crisis has brought out a recent wave in anti-Roma attitudes in the broader Spanish population.¹¹ This has been heightened by the current influx of Roma migration to Spain since the government opened its borders to intra-European Union migration in 2002. This links up with an increase in Roma immigration when Bulgaria and Romania joined the European Union in 2007.
7. In general terms, the Roma population has seen some improvement in its treatment by the Spanish government, notably in line with Spain's gradual shift to a more service-based society with the government providing more social services to its population.¹²

⁴ Government of Spain, Annex IV to Spain's Submission to the Committee on the Elimination of Racial Discrimination entitled *Informe Sobre las Actuaciones de la Administración en Relación con la Población Gitana*, CERD Doc. CERD/C/ESP/21-23 (2014) [hereinafter Annex IV]; *National Roma Integration Strategy in Spain 2012-2020*, 4, available at http://ec.europa.eu/justice/discrimination/files/roma_spain_strategy_en.pdf.

⁵ Miguel Laparra Navarro, et al., INFORME SOBRE EXCLUSIÓN Y DESARROLLO SOCIAL EN ESPAÑA 2014, Ch. 3, 187 (2014) (this report contains the findings referred to in detail later in this report regarding the 2007 and 2013 surveys conducted by Estudios Sociales y Sociología Aplicada ("FOESSA")).

⁶ *National Roma Integration Strategy in Spain 2012-2020*, *supra* note 4, at 4.

⁷ *Id.*

⁸ European Roma and Travellers Forum, *Fact Sheet on the Situation of Roma in Spain*, Jan. 2016, available at https://www.ertf.org/images/Reports/The_situation_of_Roma_in_Spain_06012016_FIN.pdf.

⁹ Annex IV, *supra* note 4, at 2-3.

¹⁰ *Id.*

¹¹ *Id.* at 3.

¹² *National Roma Integration Strategy in Spain 2012-2020*, *supra* note 4, at 5.

8. Although Spain has been working to improve the integration of the Roma population, these efforts need to be maintained and strengthened. From 2007 to 2013, the Spanish government has allocated €536 million to improve and guarantee the integration of the disadvantaged people.¹³ However, these drastic economic efforts have not been sufficient to achieve a significant advancement of the Roma population's situation in Spain.
9. Spain has been working and implementing several programs at the national level, but this strategy does not guarantee a complete enforcement of the different programs. IHRAG asserts that if the Spanish government starts delegating this duty to the provinces and municipalities, coupled with a mechanism for monitoring integration, better enforcement can be achieved at the local level.
10. As will be detailed, *infra*, IHRAG asserts that Spain has committed violations of, *inter alia*, Articles 2.1(a), (d), (e); 2.2; 4(c); 5(a), (b), (e); and 7 of the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD"). Specifically relating to Spain's obligation to ensure its local authorities comply with all provisions of ICERD, Article 2.1(a) specifically requires States Parties "to ensure that all public authorities and public institutions, national and local, shall act in conformity with [these] obligation[s]."¹⁴ Therefore, as noted in IHRAG's policy recommendations, *infra*, Spain must undertake efforts to ensure its local authorities and agencies comply with the State's obligations under ICERD.

II. Areas for Regional Improvement in Treatment of Roma Populations

A. Housing

11. Article 5(e)(iii) of ICERD explicitly requires that "States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, [color], or national or ethnic origin, to equality before the law," specifically guaranteeing "[t]he right to housing."¹⁵ This right is of particular importance to the Roma population in Spain, given the history of transient housing amongst the Roma population and the current influx of Romani migrants from Eastern Europe.
12. Recent studies have shown that there has been a great improvement in the past several decades in the Spanish Roma population's access to housing, in line with greater access for all Spaniards to housing as a public service.¹⁶ Official data demonstrates this improvement by noting that Spain's Roma population has moved towards urban centers

¹³ European Commission, *The European Union and Roma – Factsheet Spain*, Apr. 4, 2014, available at http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2014/spain_en.pdf.

¹⁴ International Convention on the Elimination of All Forms of Racial Discrimination art. 2.1(a), *entered into force* Jan. 4, 1969, 660 U.N.T.S. 195 [hereinafter ICERD].

¹⁵ *Id.* at art. 5(e)(iii).

¹⁶ See Annex IV, *supra* note 4, at 5-6; see also, *National Roma Integration Strategy in Spain 2012-2020*, *supra* note 4, at 7.

away from temporary encampments in the countryside.¹⁷ By this data, 88.1% of the Roma population now lives in a “normalized housing situation” and only 3.9% of Spanish Roma remain in encampments.¹⁸ However, 7.8% of the Roma population living in “normalized housing situations” reside in “infrahousing,” which are structures which do not comply with the minimum building standards which apply to true housing.¹⁹

13. Although the Spanish government is reporting an improvement in the Roma housing situation, a local Spanish Non-Governmental Organization, Estudios Sociales y Sociología Aplicada (“FOESSA”) conducted an alternative study in 2014 examining the change of exclusion in Spain over a seven-year period. In that report, FOESSA has reported that, in 2007, 68.3% of Spanish Roma surveyed reported experiencing exclusion in housing.²⁰ That number increased to 72.1% of the Spanish Roma population in 2013.²¹ “Exclusion” generally refers to experiencing discrimination by the Spanish public housing authorities. This can range in personal experience, but generally reflects discrimination in public services relating to housing.
14. While IHRAG recognizes that the official Spanish data notes an improvement in the housing situation for the Roma population, data from surveys of the Roma population demonstrate a much wider experience of discrimination when seeking these new public housing opportunities. While the national programs initiated to combat the housing crisis amongst the Roma population is impressive²²—although the lack of quality standards in this housing is cause for concern²³—the local authorities in control of the Roma population’s access to this housing have demonstrated a discriminatory attitude which counters the national government’s policies.²⁴ Because Spain is obligated to ensure these local authorities refrain from discriminatory behavior under its various obligations under ICERD,²⁵ the Spanish government must improve its monitoring to ensure the proper application of the national-level policies.

B. Employment

15. Article 5(e)(i) of ICERD specifically requires States Parties to protect “[t]he rights to work, to free choice of employment, to just and [favorable] conditions of work, to

¹⁷ Annex IV, *supra* note 4, at 5-6.

¹⁸ *Id.* at 6.

¹⁹ *Id.*

²⁰ Navarro, et al., *supra* note 5, at 188.

²¹ *Id.*

²² European Roma and Travellers Forum, *supra* note 8, at 9 (referring to the State Housing and Rehabilitation Plan 2009-2012, which, still in force, aims to “contribute, together with other administrations, to the eradication of sub-standard housing and slums.”).

²³ According to the Roma Inclusion Index of 2015, 1% of Roma are homeless, 4% have no running water and 9% have no electricity. European Roma and Travellers Forum, *supra* note 8, at 8. Furthermore, 4% of Roma households live in slums and 12% in substandard housing. *Id.*

²⁴ Roma are often not able to access the social services responsible for assisting people with accessing housing. European Roma and Travellers Forum, *supra* note 8, at 8.

²⁵ *See, e.g.*, ICERD, *supra* note 14, at art. 2.1(a).

protection against unemployment, to equal pay for equal work, to just and [favorable] remuneration.”²⁶

16. The Spanish government has officially recognized that employment is a major area of discrimination against the Spanish Roma population.²⁷ Despite this recognition, the official Spanish employment data reflects that the vast majority of the Roma population is engaged in some sort of employment.²⁸ What this data does not include is the quality of this employment.
17. Much of the Roma population in Spain is employed in atypical and non-permanent employment.²⁹ One of the major types of employment for the Roma population is peddling, which is often against local laws, which further engenders more discrimination from other business owners in the regions.³⁰ This situation has evolved from a limited access to education and an early starting age for employment across the Roma population in Spain. Therefore, many Roma are not qualified for more official jobs, even in an entry level.³¹
18. This disparity in quality of employment affects all aspects of Roma employment. The Roma population not engaged in full-time, steady employment often face barriers relating to healthcare, social security, and retirement, all of which are tied to official employment, and protected under the same provisions in ICERD.³² Furthermore, the Roma population often does not receive a steady salary as compared to the rest of the Spanish population.³³ Variance in monthly salaries affects other aspects of life for the Roma population including: paying for housing, food, and other basic quality-of-life benchmarks. This phenomenon also leads to a majority of the Spanish population viewing Roma as a “social burden,” triggering further social discrimination.³⁴
19. This trend is confirmed by FOESSA’s survey of the Roma population. In 2007, 69.7% of Roma reported experiencing exclusion in employment.³⁵ In 2013, that number increased to 78.6% of Roma.³⁶ This data demonstrates that when the Roma population attempts to engage in more regular employment, they face varying levels of discrimination, which often prohibits them from entering the “normal” Spanish workforce.³⁷

²⁶ *Id.* at art. 5(e)(i).

²⁷ Annex IV, *supra* note 4, at 5.

²⁸ *Id.*

²⁹ *National Roma Integration Strategy in Spain 2012-2020*, *supra* note 4, at 6.

³⁰ Navarro, et al., *supra* note 5, at 189. There may also be some discrepancy between Spanish *Gitano* populations and the Roma immigrants from Eastern Europe. These non-Spanish Roma, having migrated due to extreme poverty in their home countries and facing severe housing, health-care, and employment discrimination, have little choice but to turn to begging and peddling to survive. European Roma and Travellers Forum, *supra* note 8, at 6.

³¹ Annex IV, *supra* note 4, at 5.

³² ICERD, *supra* note 14, at art. 5(e).

³³ European Roma and Travellers Forum, *supra* note 8, at 6.

³⁴ *Id.*

³⁵ Navarro, et al., *supra* note 5, at 189.

³⁶ *Id.*

³⁷ *See, e.g.*, European Roma and Travellers Forum, *supra* note 8, at 6.

20. This development is also reflected in official data. The Spanish government estimates that in 2005, 39% of Roma were employed as peddlers.³⁸ The government has excused themselves of responsibility for these numbers due to the ongoing financial crisis.³⁹
21. There have been some positive developments with respect to employment of Roma in Spain. A new program “Acceder,” intended to improve access to employment generally, provides additional assistance to the Roma community for the creation of businesses.⁴⁰ However, due to the ongoing financial crisis, there is no reliable data as to whether this program has had any impact on employment amongst the Spanish Roma population.⁴¹ Furthermore, budget cuts have been implemented to Roma-specific programs due to the economic crisis.⁴²
22. Based on facts presented above, IHRAG strongly asserts that the Spanish government has failed to prohibit and to eliminate racial discrimination and to guarantee the rights of Spanish Roma to work in compliance with Article 5(e)(i) of ICERD.

C. Discrimination in Applicability of Laws and Law Enforcement

23. Article 2.1(a) of the ICERD requires that “[e]ach State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.”⁴³ Article 2.1(d) mandates that “[e]ach State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.”⁴⁴ Furthermore, article 2.1(e) provides that “[e]ach State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.”⁴⁵
24. These obligations are combined with obligations under article 2.2 to “take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.”⁴⁶ Article 4(c) further mandates that States Parties “[s]hall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.”⁴⁷

³⁸ Annex IV, *supra* note 4, at 5.

³⁹ See Spain’s Submission, *supra* note 1, at ¶ 9.

⁴⁰ European Roma and Travellers Forum, *supra* note 8, at 7.

⁴¹ *Id.*

⁴² *Id.*

⁴³ ICERD, *supra* note 14, at art. 2.1(a).

⁴⁴ *Id.* at art. 2.1(d).

⁴⁵ *Id.* at art. 2.1(e).

⁴⁶ *Id.* at art. 2.2.

⁴⁷ *Id.* at art. 4(c).

25. Additionally, article 5 of ICERD requires that States Parties undertake efforts to eliminate racial discrimination that interferes with a number of integral rights, two of which have been discussed, *supra*.⁴⁸ More rights protected under article 5 include: the “right to equal treatment before the tribunals and all other organs administering justice”;⁴⁹ the “right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution”;⁵⁰ and the “right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.”⁵¹
26. Many rights are protected by ICERD, and Spain has many obligations to combat discrimination by private individuals and government officials at all levels. In the past years, Spain has made some progress on combatting discrimination against Roma, though there is much work to be done. The “Programa de Desrallo Gitano” (translated into English as “Gypsy Development Plan”) is one of the main national-level government policies implemented to improve the lives of Spain’s Roma population.⁵² This plan had its impetus in the first national-level recognition of the plight of the Roma population. Since 1989, the Program has been administered by the Minister for Health, Social and Equal Services.⁵³
27. The Program aims to achieve a better quality of life and public participation for the Roma population and ensuring a better cultural exchange. Throughout this Program, the Spanish government has implemented 96 projects administered by the autonomous and local communities, investing a total of €21.1 million in the past five years.⁵⁴
28. Although the Spanish government has taken serious steps to improve its anti-discrimination legislation, an effective practical enforcement of the anti-discrimination legislation is necessary. Despite the Spanish government’s efforts to fight discrimination, anti-Roma hate crimes have been on the rise in recent years.⁵⁵ Many Roma in Spain face discrimination and racist attitudes from the police, and police in Spain stop Roma to ask for their identification papers 10 times more compared to people with a Caucasian appearance.⁵⁶ Three such incidents have been reproduced:

In “Huesca’s party district”, a young Roma involved in a fight hit a police officer. The event was widely reported in the media with an emphasis on the fact that the person involved in the fight was a

⁴⁸ *See id.* at art. 5.

⁴⁹ *Id.* at art. 5(a).

⁵⁰ *Id.* at art. 5(b).

⁵¹ *Id.* at art. 5(f).

⁵² Annex IV, *supra* note 4, at 9.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ European Roma and Travellers Forum, *supra* note 8, at 10 (citing European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Report on the implementation of the EU Framework for National Roma Integration Strategies 2015*, E.U. Com. Doc. COM(2015) 299 (2015)).

⁵⁶ *Id.*

Roma. As a result of the social tension following similar incidents, a meeting was held with the head of the [Fundación Secretariado Gitano's] Equal Treatment Department to solve potential future conflicts. Nevertheless, the Police Commissioner was less interested in conflict resolution. During the meeting he said: "obviously a Gypsy is more suspect of criminal [behavior] than anyone else" (2013).

In the town of Ansoáin, a young Roma girl was accused of stealing some articles from a supermarket where she was shopping with a friend of hers. The shop manager called the police and upon their arrival, they examined the shopping bags and found no stolen goods. Nonetheless the young girl was called to appear in court a few weeks later and was asked by the prosecutor to sign a plea of six days imprisonment on weekends and/or holidays. Feeling threatened and scared, she signed the plea. (2013)

In Barcelona, discrimination by the police officers in public areas happens regularly. A group of Romanian Roma was chased away by the police in a popular plaza, where they were eating and resting. The cleaning services were asked to remove their trolleys without even allowing them to take their personal belongings. The reaction of the police is not a result of a disorderly [behavior] since they were not making any excessive noise. The attitude of the police is not based on evidence but is a result of "pure prejudice". (2013)⁵⁷

29. Because there have been several complaints regarding police department practices in many localities in Spain towards the Roma population, training among the security forces is highly recommended. The Spanish government's effort to improve the Roma population's situation is concentrated in the promulgation of laws and injection of financial resources; however, there remains serious work with respect to implementation of these policies across the many localities with strong local governments across Spain.

III. Policy Recommendations

30. IHRAG has found that the Spanish government not only has shown a serious commitment to improve the discrimination issues, but also has invested a considerable amount of resource to help to incorporate minorities. However, the non-official studies have shown that despite the government efforts, the Roma population has not improved. IHRAG therefore concludes that, although the government has made efforts designing and funding new anti-discrimination policies, there have been problems with the enforcement and application of these policies on a local level. Therefore, the Spanish government should be focusing its efforts on ensuring that their national-level policies are

⁵⁷ *Id.*

applied in a non-discriminatory manner at all levels of government, guaranteeing that every member of the Roma population can access to social help and benefits.

31. Particularly, IHRAG recommends that the Spanish government should concentrate their efforts in: 1) educating local government workers in the non-discriminatory policies; and 2) monitoring the application of these policies.
32. IHRAG urges the Spanish Government to take a decisive measure for the implementation of training programs to educate local authorities on proper methods on how to eliminate discrimination and how to handle situations with the potential for discrimination. For example, given the many incidences involving discrimination at the hands of police forces and other social services, IHRAG recommends that the Spanish government relocate resources to train security forces, law enforcement officials, and social workers to handle delicate situations where discrimination and cross-cultural interaction might be an issue.
33. IHRAG also assert the Spanish government should implement a monitoring plan to ensure the correct application of the national non-discrimination policies at the local level. We acknowledge that the delegation of power to local authorities is an essential element of Spain's political system, and we believe that this approach can work positively because local authorities can ensure the correct application of the policies by tailoring their application to the particular issues in specific localities. However, because this system also leaves open the possibility of discrimination at the local level, as evidenced by surveys of Spain's Roma population, we believe that it is important that the Spanish government designs and applies a compliance plan to guarantee the proper application of national non-discrimination policies. Consequently, we recommend that the Spanish government investigate and track the application of their plans.

IV. Conclusion

34. Although official data demonstrates an improvement in the lives of the Spanish Roma population, alternative surveys illustrate that the Roma population are still victims of severe discrimination across all levels of public life.⁵⁸ Particularly, in general term the FOESSA survey explain that one in every four Roma in Spain were in a "severe" situation of exclusion.⁵⁹ Notably, that number has increased rather than decreased after the implementation of the latest governmental policies.
35. Because of this broad level of discrimination is felt by a majority of the Spanish Roma population across various geographical regions of Spain, a broad national approach to enforcement of non-discrimination policies on the local level must be undertaken. IHRAG notes that the current level of discrimination in Spain against the Roma coupled with Spain's improper shift in focus from human rights to combatting the financial crisis are contrary to Spain's obligations under Articles 2.1(a), (d), (e); 2.2; 4(c); 5(a), (b), (e);

⁵⁸ Navarro, et al., *supra* note 5, at 187.

⁵⁹ *Id.* at 188.

and 7 of the International Convention on the Elimination of All Forms of Racial Discrimination.