


## Maximising the outcomes of Spain's political engagement with the UN

Jessica Almquist | Senior Research Fellow, Elcano Royal Institute  
@Jessica66101611 

### Theme

With its current seat on the Human Rights Council (2018-20), Spain should strive to continue and revitalise its foreign policy in respect to reinforcing both the UN and multilateralism.

### Summary

Spain's political engagement with the UN is based upon resources, expertise and strategic interests. This paper discusses the stability and degree of commitment of Spain's engagement, despite internal political changes and the challenges it has faced. Following the economic crisis, which led to a drop in its financial contributions, Spain's commitment to the organisation is regaining force and intensifying as a result of its membership of the Security Council (2015-16). With its current seat on the Human Rights Council (2018-20), and given its recent work on the Security Council, Spain is particularly well placed to promote an international human rights agenda and a programme of action aimed at rebuilding collective security. This strategy renews Spain's key priorities at the UN and reinforces its basic commitment to the pursuit of global values through the strong support of multilateral frameworks and initiatives.

### Analysis

#### Introduction

The UN provides a unique institutional vehicle for the progressive development of global law and policy aimed at furthering fundamental interests of humanity. Its role in detecting and countering threats against such interests has become significant. Today, the UN's agenda focuses on ways to counter climate change, extreme poverty, armed conflict involving serious crime on a massive scale, international terrorism and the spread of infectious or epidemic diseases. The UN is also a popular forum for voicing, defending and promoting the strategic interests of both powerful and weak states. States might use the General Assembly's sessions to condemn the threats posed to their national security and public order by, for instance, other states or a phenomenon such as climate change. However, it might also be in a state's strategic interest to promote the basic interests of humanity in the UN context to strengthen its image, reputation and standing in the international community. The latter approach can translate into a country providing resources far beyond what it is required as a matter of international and regional obligations, and also into efforts to ensure it places a larger number of its representatives or nationals in significant positions within the organisation. Several EU members, including Spain and Portugal, are in this category. The effective pursuit of global values

is greatly aided when states that are strongly committed to the UN join forces in seeking to forge common views on major priorities and on improving the organisation's efficiency.

### Spain's political engagement with the UN

Since Spain became a UN member in the mid-1950s it has shown an ever-increasing commitment to it and a readiness to support its core activities. At present it takes part in virtually all UN organs and bodies and is one of the organisation's top-10 providers of financial contributions. It is currently the world's sixth-largest contributor to the UN system (considering both assessed and voluntary contributions) and the ninth-largest contributor to the UN's regular budget. It is also among the top-10 donor states to UN peacekeeping operations and is part of the so-called Geneva Group, made up of 18 'like-minded' members on administrative and financial matters.

Spain's affirmative foreign policy as regards the UN –particularly in the fields of human rights, collective security and development– has been fairly stable despite internal political change. Notably, Spain's key priorities in the UN have not changed dramatically since the Socialist Party (PSOE) lost the general elections to the Popular Party (PP) in 2011 and which has been in power since then. The UN Alliance of Civilisations, a joint initiative between Spain and Turkey, and approved by the UN General Assembly in June 2005, is an eloquent example.<sup>1</sup> Of equal significance in this regard is the Spanish initiative to create the Sustainable Development Goals Fund in 2014 and to provide it with an initial donation of US\$45 million. The Fund promotes sustainable development by taking into account experience, knowledge and the lessons learnt from the former MDG Achievement Fund that was the result of an agreement between the Spanish government and the UN in 2007.<sup>2</sup> A further instance is the stability of Spain's commitment to promoting gender equality and women's rights. The UN Women's Fund for Gender Equality was created in 2009 thanks to a significant contribution of US\$65 million from the Spanish Government and Spain continues to be one of its 25 principal sponsors. Also important is the abolition of the death penalty, with a call to abolish it being part of the 2017 Spanish campaign for membership in the Human Rights Council (HRC). Two years earlier, the International Commission against the Death Penalty, created in 2010 on the initiative of the Spanish government, established its Secretariat in Madrid.

Spain's membership of the EU reinforces the strength of its commitment to the UN and its activities. According to the EU Treaty, the Union 'shall promote multilateral solutions to common problems, in particular in the framework of the United Nations' (art. 21). The reinforcement of the UN framework is thus a central aspect of the Global Strategy for the EU's Foreign and Security Policy that was approved in June 2016. As proclaimed in the Strategy, the EU will promote a 'rules-based global order with multilateralism at its key principle and the United Nations at its core'. However, Spain's active involvement in UN

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<sup>1</sup> Jorge Sampaio, President of Portugal between 1996 and 2006, was elected High Representative for the UN Alliance of Civilisations in April 2007, being succeeded in March 2013 by Nasser Abdulaziz al-Nasser, a Qatari diplomat at the UN.

<sup>2</sup> Spain made an initial contribution of US\$900 million to the MDG Achievement Fund.

(cont.)

affairs is not merely the result of meeting the basic expectations of bringing its foreign policy into line with EU law and policy. Arguably, however, its recent efforts to gain membership in major UN bodies shows a degree of engagement that goes beyond its EU obligations<sup>3</sup> and gives rise to special opportunities for an active participation and for taking initiatives in the fields of global law and policy, including implementation measures, through its political engagement with the UN.

### Promoting human rights while tackling challenges at home

The international promotion of human rights around the world is an essential component of Spanish foreign policy. Spain's role in this regard became reinforced with its candidacy to the HRC and prompted it to stake out its priorities with respect to international human rights. In the debate among HRC candidates in September last year, the Ambassador of the Spanish Permanent Mission to the UN stressed the need to enhance measures in the fight against racism and all types of intolerance and in promoting gender equality and the rights of disabled persons. Also highlighted was the importance of reinforcing UN measures against human trafficking, not least in conflict situation. Other major Spanish priorities in the field of human rights include combating the death penalty<sup>4</sup> and promoting business and human rights, the human right to safe drinking water and sanitation and the protection of human-rights activists.

Spain has been elected a member of the HRC at a time when it is recovering from a crisis that prompted a drop in its financial support for the Office of the High Commissioner for Human Rights (OHCHR). Since the Office's ordinary budget only covers around 40% of its costs, voluntary financial contributions are essential. As shown in Figure 1, in 2008 and 2009 the Spanish government made large-scale donations. However, the crisis led financial contributions to fall dramatically. The worst year was 2014 but since then contributions have recovered somewhat. Notably, in 2016 and 2017 the Spanish government authorised donations of around €1 million, although it is still far from matching the sums donated before the crisis.

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<sup>3</sup> Spain has been a non-permanent member of the Security Council on five occasions: 1969-70, 1981-82, 1993-94, 2003-04 and 2015-16. Around 70 countries have never been Security Council members. Spain was a member of the Human Rights Council from 2011 to 2013 and will be on it from 2018 to 2020. It was also a member of the now-abolished Human Rights Commission in 1984-86, 1988-90 and 2002-04.

<sup>4</sup> The Commission comprises 18 governments that promote a universal moratorium as a first step towards abolition. Up to 58 states retain the death penalty, with two being permanent members of the Security Council: China and the US. Others, such as Egypt, Jordan and Lebanon, are part of the Mediterranean Union.

**Figure 1. Spanish government contributions to the Office of High Commissioner for Human Rights**

Year	Contributions (US\$)
2008	10,673,854
2009	13,900,952
2010	6,855,401
2011	4,774,584
2012	1,469,371
2013	896,522
2014	24,783
2015	372,442
2016	938,588
2017	1,283,449

Source: Voluntary contributions to the OCHR (2008-2016) and voluntary contributions to the OCHR (2017).

Spain is also taking up a seat at the HRC at a time when it is seeking to tackle human-rights concerns at home. Any state's commitment to the promotion of international human rights should be backed up by efforts to protect the rights of its own citizens as well as of others who are directly affected by its measures. Spain has ratified virtually all the major human-rights treaties and optional protocols, allowing individual complaints of alleged human-rights violations. The sole exception is the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (2003). The voluntary submission to treaty-based procedures shows the extent of Spain's commitment to human rights, as does its [standing invitation to special procedures](#) in 2001, accepting visits of special rapporteurs on a regular basis. Its human-rights record has also been submitted to Universal Periodic Review in 2010 and 2015, respectively.

The significant impact of the country's austerity measures on the protection of the economic and social rights of the Spanish population, including child poverty, was noted in the report of the Working Group on Universal Periodic Review issued in 2015 (A/HRC/29/8, par. 18). Even if Spain is not alone among UN members in experiencing a crisis, as indicated by the report and maintained by the Spanish delegation, any measure to counter a crisis must be proportionate, provisional and necessary, and not be regressive or discriminatory (par. 8). A second topic highlighted in the report relates to the major migratory pressure experienced in Spain's North-African enclaves of Ceuta and Melilla. Attempts to enter Spain illegally continue and, according to the Spanish government, pose a challenge to internal security and public order. Efforts are being made to respond to this challenge through new asylum procedures and the creation of reception centres, but current national deportation practices and integration policies are

in need of improvement (pars. 57 and 131). A third topic of concern, discussed in the same report (par. 131), is the challenge of gender-based violence. There is a need to continue working on the effective compliance of the Spanish state with the due diligence obligation to prevent this form of violence as well as with the obligation to provide access to justice for the victims.<sup>5</sup> The Pact against Gender Violence that was finally approved at the end of December 2017 is a significant achievement in this regard as is the decision to allocate €1.000 million over the next five years to put an end to gender-based violence (see [here](#)).

More recently, the Spanish reaction to the calling in Catalonia of an illegal referendum on 1 October 2017, followed by a 'symbolic' declaration of independence on 27 October, became the object of UN scrutiny. Not only did it prompt a serious comment by the High Commissioner for Human Rights, but it was furthermore criticised by the UN's Independent Expert on the Promotion of a Democratic and Equitable International Order for using force against political dissent and for suspending Catalanian political autonomy instead of encouraging political dialogue. The criticism was co-signed by the UN's Special Rapporteur on the right to freedom of peaceful assembly and of association. However, insofar as international law reaffirms a state's right to territorial integrity and sovereignty, there was no legal foundation for the regional parliament to organise a referendum on self-determination. Since the outcome of the Catalan regional elections last 21 December has not affected the current stalemate, a change of political strategy on both sides seems warranted.

No state has a perfect human-rights record. The challenges faced at home can reinforce the quality of its engagement with human-rights promotion in the UN context. While essential, the unilateral promotion of human rights is not only about providing financial resources but also about the active participation in the progressive development of global law and policy, including the design of measures for their effective implementation. For this, considerable expertise on the topics of major concern is needed. In this context, HRC members are critical sources of information, experience and lessons learned, including best practices, and can aid in the improvement of human rights at the global level.

### Defending human rights at a time of collective insecurity

As a newly elected member of the HRC, and considering the focus of its work at the Security Council, Spain seems particularly well placed to focus its efforts over the next three years to promote human-rights issues of special relevance to the field of collective security. Thus, it should make use of its recent work in promoting human-rights concerns at times of armed conflict, including the suffering of women and children, human trafficking and the lack of safe water and sanitation, through direct interaction and dialogue with the Security Council's permanent members. The time has come to conjure up a more robust defence of these and related human-rights issues and to work towards building a more prominent role for the HRC in responding to them effectively.

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<sup>5</sup> For international human-rights standards regarding gender violence see, for instance, CEDAW's General recommendation on women's access to justice (23/VII/2015).

During its Security Council mandate, Spain took a special interest in promoting gender equality in the collective security sector. Of particular importance was its active participation in the review of the peace operations conducted in 2015 and in which it focused on the need to strengthen the role and leadership of women. With this aim in mind, it took part in the High-Level Leaders' Summit on Peacekeeping Operations in September 2015 and co-led an initiative with the UK to carry out a high-level review of resolution 1325 on Women, Peace and Security (WPS), leading to the adoption of resolution 2242, which develops the revised agenda on women, peace and security. As a follow-up, an [Informal Working Group of Experts on WPS](#) was set up, co-chaired by Spain and the UK. In 2017 it organised the first meeting of the Network of Contact Points between Women, Peace and Security, attracting the participation of 60 states in Alicante (see [here](#)). As it begins its work on the HRC, Spain is committed to promoting gender equality in all sectors and should therefore continue its valuable work on women, peace and security, and its role and leadership in peacekeeping and peace-building processes.

A second international concern for both human dignity and collective security, which is in need of continued attention, is human trafficking. The Spanish engagement with this issue at the HRC and its attempts to counter it will build on the achievements of the Spanish-led process with Guatemala for the adoption on 8 September 2017 of a [General Assembly resolution](#) on the strengthening and the promotion of effective measures and international cooperation of organ donation and transplants to prevent and combat trafficking of persons to extract organs and the trafficking of organs. The resolution followed up Security-Council resolution 2331, approved in December 2016 while Spain held the Security-Council Presidency. The HRC has a critical role in adopting further measures, similar to the initiative of the OHCHR and the International Civil Aviation Organisation, to develop a set of guidelines to train cabin crew members on how to identify and report suspected cases of human trafficking.

A third issue of direct relevance for both human dignity and collective security is how to improve the protection of civilians in armed conflict, not least the most vulnerable groups such as women and children, but also doctors, human-rights activists and journalists. In the face of a growing number of attacks against hospitals and doctors in conflict zones, in May 2016 the Security Council decided to strengthen the protection of medical assistance in armed conflicts ([res. 2286](#)), an initiative promoted by Spain. In this regard, Spain can continue to co-lead proposals on how to better protect the human rights of civilians in armed conflicts. A concerted effort to protect these groups continues to be urgent considering the situation in Syria, Iraq and Libya.

The promotion of gender equality, the fight against human trafficking and the protection of civilians in armed conflicts are essential human-rights issues for Spain's foreign policy. Other human-rights issues linked to collective security that have not been underlined as much in the Spanish candidacy to the HRC but which are in line with its strategic interests and expertise are the human-rights impact of measures to counter collective security threats, including international terrorism and weapons of mass destruction, especially in the form of coercive or forcible measures such as military action and economic sanctions.

Spain's expertise in the field of human rights and terrorism is well established. As a Security Council member, it took a special interest in promoting the rights of the victims



of terrorism and the responsibility of states in relation to foreign terrorist fighters. From a human-rights perspective, a deeply pressing issue is the legitimisation of the use of military force against international terrorist groups. Spain participated and voted in favour of [resolution 2249](#), which was adopted unanimously in December 2015. Although the full ramifications of the resolution remain to be seen, the Security Council's decision to urge states to take all necessary measures, including military action, to combat Daesh and other related terrorist groups in Iraq and Syria is unprecedented. As a result, the Security Council legitimised militarising the fight against international terrorism without demanding that international authorisation, guidance or control of the use of force. Though reaffirming the respect owed to international human rights and humanitarian law when taking military action against targets in these countries, the Security Council showed no interest in assuming responsibility for how this type of action was to be carried out.

A second and related topic that matches Spain's priorities and expertise is the human-rights impact of sanctions and other coercive measures against security threats. As is well documented, sanctions can be detrimental not only to the protection of the human rights of targeted persons but also to civilian populations at large. A significant part of Spain's responsibilities as a Council member centred on economic sanctions. When presiding the Committee on the elimination of weapons of mass destruction, Spain sought a more effective implementation of resolution 1540 by promoting its universal application and incorporating critical elements of the Global Review process of the resolution that culminated in the approval of resolution [2325](#) in December 2016 (see [here](#)). The previous year it also presided the 1737 Committee on sanctions against Iran. During the period, the Security Council adopted resolution [2231](#) endorsing the nuclear agreement with Iran and stipulating the lifting of sanctions following verification by the IAEA of the country's commitment to transparency and the civil character of its nuclear programme. When the sanctions regime terminated in January 2016 ([S/2016/57](#)), Spain was appointed Facilitator for Iran's implementation and compliance. Notwithstanding the growing popularity of economic sanctions and unilateral coercive measures in recent years, there are still doubts about their effectiveness and on how to counter their detrimental impact on human rights. In this respect, Spain could lead the promotion of a comprehensive review of these kinds of measures.

### Rebuilding collective security through human rights

Making the role of human rights in rebuilding collective security the flagship of Spanish political engagement with the UN brings under the spotlight the growing dissatisfaction with the UN's institutional architecture for peace and security. Any review must take the human rights dimension of collective security seriously without glossing over the division of labour between the HRC and the Security Council but also the subordinate position of the HRC within the UN's institutional structure. Unlike the Security Council, the HRC is not recognised as a principal body of the organisation, its resources are scarce and it has no power to adopt legally-binding decisions with universal force for all UN members. To this should be added that the HRC has no mandate to order or authorise enforcement in response to massive human-rights violations but must rely on the Security Council to shoulder the responsibility without any guidance or control on how its actions are carried out or on their effects on human rights.

In Spain's candidacy to the HRC, it stressed its support for the effective functioning of this organ through its engagement in interactive dialogue and debates, its submissions to the Universal Periodical Review (UPR) Mechanism and its ratification of optional protocols allowing individual petitions against Spain to be examined by international human-rights expert committees. It also stressed its openness to the monitoring of its human-rights policies by independent experts and special procedures. While this is an important disposition for an HRC member, more could be done to strengthen the effective functioning of the HRC at a time when it is being criticised for suffering from exactly the same problem as its predecessor: politicisation. However, reforming the HRC was not a key topic on the [new reform agenda](#) set out in June 2017 by the newly-elected UN Secretary General, António Guterres, who stressed the importance of building up a transparent, effective and responsible organisation. As indicated in the [Joint Statement for Improving UNHRC Membership](#) –delivered last June by the Netherlands on behalf of 47 countries–, members, candidates and the electorate have a crucial role in aiding the Council to regain a measure of legitimacy. In relation to this, it was unfortunate that Spain won its seat at the Council without competition [when France withdrew its candidacy](#) in support of Spain. More generally, the election of members with poor human-rights records, who want to be part of the Council only to shield themselves from criticism, presents a basic challenge to Spain and other countries that are genuinely committed to human rights. This creates special responsibilities for all Council members to ensure that UPR reviews are conducted on the basis of objective and reliable information as well as in due regard of an equal treatment of all states.

## Conclusions

The impact of the 2008 crisis has not significantly changed the depth of Spain's commitment to the pursuit of global values through multilateral institutional frameworks and, in particular, UN bodies. Spain continues to demonstrate its ambition to play an active role in UN activities, geared towards the realisation of these values; additionally, through its successful candidacies for membership in major UN bodies, it has generated special opportunities for a more prominent role in strengthening these values. Over the next three years it should make the best of its seat at the HRC to further strengthen the criticism, based on the universal protection of international human rights, of how challenges are faced at the national level. Considering its recent membership of the Security Council, and taking into account the centrality of the collective security agenda in the UN context, Spain should centre its efforts on the promotion of the full integration of international human-rights obligations into this agenda. It should also continue to promote joint efforts with states that are equally committed to the UN and with whom it shares ambitions and priorities, such as the EU's other member states. Such a strategy will ensure both the continuity and the revitalisation of Spanish foreign policy in respect to reinforcing both the UN and multilateralism.