

## TAKE ACTION NOW

AI Index: EUR 41/03/2002

Send your letters to:

<p><b><u>Minister of the Interior</u></b> Excmo. Sr. D. Mariano Rajoy Brey Ministro del Interior Ministerio del Interior Paseo de la Castellana 5 28071 MADRID</p> <p>Form of address: Dear Minister/Señor Ministro</p>	<p><b><u>Minister of Justice</u></b> Excmo. Sr. D. Ángel Acebes Paniagua Ministro de Justicia Ministerio de Justicia San Bernardo 45 28015 MADRID</p> <p>Form of address: Dear Minister/Señor Ministro</p>
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Please send copies of your letter to:

<p><b><u>Director General of the Department of the Interior</u></b> Director General de Seguretat Ciutadana Generalitat de Catalunya Departament d'Interior Direcció General de Seguretat Ciutadana Via Laietana 69 08003 BARCELONA</p>
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[www.amnesty.org](http://www.amnesty.org)

# SPAIN

## Race related ill-treatment

***Abdelhak Archani***

***Ill-treatment by police***



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Abdelhak Archani, a Moroccan, alleged that he was abducted and beaten by three plain clothes officers on 9 July 2001.

He says that at 3 am, while in the Calle Marqués de la Argentera in Barcelona, he approached a police officer to ask him where he could lodge a complaint about the theft of a friend's passport. The officer, who was standing beside another uniformed officer and three men in plain clothes, allegedly replied "Go away! Go away!" One of the plain clothes officers then told him to accompany him to a car. He became nervous and asked them why, but was apparently reassured that there was nothing to worry about. A companion, with him up to that moment, noted the registration.

Abdelhak Archani got into the car. He was accompanied by the three plain clothes officers. He said that while the car was in the city the officers said nothing to him, but once they got to the motorway they began to insult and threaten him with words such as "Dirty Moor, we're going to kill you!" The car stopped in a lay-by outside the city and two of the officers pulled him out of the car, taking truncheons from under the seats. They began to beat him while the driver looked on.

Abdelhak Archani began to run away from them but the officers followed, still hitting him with their truncheons, for about 300 metres. They then stopped, went back to the car, and left him on the motorway.

Abdelhak Archani was treated in hospital for his injuries and a medical report, referring to multiple lesions and contusions, was sent to the investigating magistrate of Santa Caloma. Photographs showed clear marks, consistent with the allegations of beatings with truncheons, on the backs of both legs.

A companion of Abdelhak Archani noted the police car registration number and the police headquarters, *Jefatura Superior de Policía*, confirmed that it belonged to the police, recognized the gravity of the allegations and promised a thorough inquiry. However, the three officers reportedly denied the allegations, stating that Abdelhak Archani had been found drunk in the street and they had simply taken him home. Abdelhak Archani denied being drunk and is reportedly a non-drinker.

The three officers involved were suspended from their duties pending the outcome of the internal police investigation. On 30 November, Abdelhak Archani and two of the police officers, appeared before a judge for questioning. He is reported to be still suffering pain in his legs and back and feels depressed. The judicial inquiry continues.

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## Race related ill-treatment in Spain

In Spain, your skin colour or facial characteristics can put you at risk of abuse. The Roma community has suffered centuries of persecution and marginalization. Recent immigrants too, particularly from Africa and South America, have met growing racism and xenophobia. They have been victims of assault and racist violence, as well as attacks on their property and places of worship.

Yet you cannot rely on the protection of the law. The individual cases AI is highlighting in this action show a pattern of violations of the rights of members of ethnic minorities by public officials. If you are an immigrant without identity documents, you are more likely than a Spanish citizen to be detained and assaulted by police or Civil Guards. Skin colour or facial characteristics are often reason for asking for your papers. Most race-related ill-treatment by the security forces stems from identity checks.

Several deaths have occurred in police and Civil Guard custody allegedly as a result of ill-treatment or excessive use of force. Investigations have not always been full or thorough. Racism is often compounded by discrimination on grounds of gender. Women without documents have been particularly vulnerable to rape and sexual abuse in custody. In recent months children have again been deported from Spanish territories in north Africa and abandoned on the frontier. Members of ethnic minorities who have intervened to stop abuses by police have themselves been arrested and assaulted. Foreign nationals have been ill-treated by guards and staff in holding facilities or detention centres.

The courts have sometimes punished violations against foreign nationals severely but, even when there is evidence that police abuse is racially motivated, many public officials still enjoy impunity. Immigrants fearful of jeopardizing work or residence applications are afraid to lodge complaints.

Racial discrimination attacks the most basic notion of human rights - that everyone is equal in dignity and worth. Spain must uphold its national laws and commitments under international human rights instruments and refuse to tolerate torture and ill-treatment by public officials, as well as the racism and discrimination giving rise to these abuses.

Write to the Minister of Interior and Minister of Justice of the Spanish Government using the addresses at the back of this leaflet and urge them to

- \$ ensure that a full, thorough and impartial judicial investigation is promptly carried out into Abdelhak Archani's allegations of ill-treatment and illegal detention
- \$ to ensure that any officer found responsible for torture or ill-treatment is brought to justice
- \$ ensure that the complainant has full access to the information he needs to pursue the case and be kept informed of the progress of the investigation
- \$ ensure that adequate compensation is paid to Abdelhak Archani, should his allegations of ill-treatment and racial abuse be substantiated

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Please send copies of your letter to:

<p><b><u>Mayor of Madrid</u></b> Excmo. Sr. D. José María Álvarez del Manzano Plaza de la Villa 4 28005 Madrid</p>
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# SPAIN

## Racism and ill-treatment

***Benaissa Belaouni***

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## ***Ill-treatment in police custody***

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Benaissa Belaouni, a Moroccan national who is legally resident in Spain, says he was knocked to the ground, beaten with rubber truncheons, kicked and punched by six police officers as they arrested him. He was then taken to Chamberi police station in Madrid, where they continued to beat him while he was still handcuffed. He was also racially insulted.

Benaissa Belaouni had difficulties getting a permanent job, because he could not speak Spanish and was partially deaf. He occasionally found work as a bricklayer and supported his three children by selling pirate CDs.

On 6 October 2000, at about 9.30pm, he and a companion were selling CDs outside a supermarket in Madrid. They were spotted by two Municipal police officers, who got out of their car. When Benaissa Belaouni and his friend saw the officers approaching they ran into a nearby alleyway, taking with them a rucksack containing the CDs. They were pursued into a dark area where, according to the police, Benaissa Belaouni and his friend took a chain from the rucksack and threatened the officers. There was a struggle and at some stage the friend fled.

The officers called for reinforcements and further officers arrived in patrol cars and on motor bikes. Benaissa Belaouni was allegedly knocked to the ground, then beaten with rubber truncheons, kicked and punched, while he tried to ward off the blows with his hands. According to Benaissa Belaouni, the officers took it in turns to hit him. He was taken in handcuffs to the National Police station in Chamberi, where he alleged that, in the absence of National Police officers, the Municipal Police officers continued to beat him in a closed room, with truncheons and gloved hands while he was still handcuffed. They called him "Arab, son of a bitch, now what are you going to do?@

Benaissa Belaouni was later taken by National police for medical treatment and a report was issued, recording bruising and contusions on the head, chest, left thigh and area of the left kidney and legs. He reportedly had difficulty walking. He was taken before a judge on 8 October 2000 and provisionally released 12 hours later. He later underwent further medical tests at the La Paz hospital. Two police officers also claimed that they had been injured in the struggle.

Benaissa Belaouni lodged a judicial complaint on 10 October 2000. The Ayuntamiento (City Council) of Madrid also opened an investigation into the conduct of six police officers and an internal inquiry was opened by the Municipal Police.

At the end of 2001 Benaissa Belaouni was still suffering from depression as a result of the incident but no known action had yet been taken against any of the police officers involved.

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Please send separate letters to the Minister of Justice and Minister of the Interior of the Spanish Government using the addresses at the back of this leaflet urging them to:

- \$ ensure a full, thorough and impartial judicial investigation is promptly carried out into Benaissa Belaouni's allegations of ill-treatment and racial abuse
- \$ ensure that the complainant has full access to the information he needs to pursue the case and that he is kept informed of the progress of the investigation
- \$ ensure that any officer found responsible for torture or ill-treatment is brought to justice and that adequate compensation is paid to Benaissa Belaouni, as appropriate

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# SPAIN

Race related ill-treatment

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***António Augusto Fonseca Mendes***

## ***Death in police custody***

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## Race related ill-treatment in Spain

António Augusto Fonseca Mendes, from Guinea-Bissau, died in police custody in Lanzarote, the Canary Islands, on 20 May 2000. The investigation into his death appeared to be inadequate and riddled with contradictions.

António Fonseca lived in Madrid with his wife and child, and was on holiday in Arrecife, where his sister lived, in May 2000. He was approached outside his sister's house by two National Police officers, who suspected him of possessing drugs. He ran away and was chased through the streets, caught, handcuffed, and taken to the police station. Soon after, still handcuffed, he lapsed into unconsciousness and died.

Police initially said that he died because he had swallowed a packet of heroin. They later said that he died of a heart attack.

According to his family, he was beaten by police and then choked to death. Relatives said there were bruises on his body and blood on his clothes, fingers and shoes. Photographs they took at the mortuary appeared to confirm this.

A first autopsy found no signs of significant external injury and reportedly attributed death to fluid on the lungs, brought on by stress. However, a second autopsy by an eminent forensic professor noted a number of injuries on the body and concluded that death had been caused by a **blow with a blunt instrument**.

The police then claimed that António Fonseca had struck a car mirror and fallen while being pursued by police, a statement reportedly contradicted by two eye-witnesses.

In August 2000 a police official accused António Fonseca's family of **manipulating** the body in the mortuary, and there were further attempts to discredit the family. António's sister claimed that she was harassed and threatened by police and the state prosecutor opened disciplinary procedures against the Fonseca family's lawyer for allegedly making available to the press the second autopsy report.

Another forensic doctor was asked to examine and arbitrate between the two contradictory autopsy reports. She concluded that there were shortcomings in both autopsy reports and that Antonio Fonseca may have died a **natural death**, in other words, that no third party had been responsible.

In September 2000, the Interior Minister told Congress that there was no evidence that António Fonseca had been ill-treated by police officers and no disciplinary action would be taken. On 30 March 2001 the investigating judge, who had dismissed the evidence of one potentially key witness, closed the case without bringing any charges against police officers.

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Please write both to the Minister of the Interior and the Minister of Justice of the Spanish Government using the addresses at the back of this leaflet expressing:

- \$ your concern about many disturbing contradictions in this case, as well as about reported attempts to harass the civil party to the case and to discredit the family
- \$ your concern about the serious and persistent doubts that the judicial inquiry was thorough and impartial
- \$ your concern about the reported inadequacies in the autopsies and the closure of the judicial inquiry without any clear and satisfactory explanation about the circumstances of the death in custody of António Fonseca.

In addition, urge Spanish authorities to:

- \$ re-open the case for further investigation, in order to ensure not only that specific circumstances of António Fonseca's death are clarified, but to ensure that measures can be taken to prevent such deaths in future
- \$ to ensure that any officer found responsible for torture or ill-treatment is brought to justice

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# SPAIN

## Race related ill-treatment

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***Miriam Rosa Verástegui Templo***

***Sexually assaulted while in  
police custody***



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Miriam Rosa Verástegui Templo, a Peruvian national, was arrested during a routine check for identity documents, and while in custody, was allegedly sexually assaulted.

Miriam Verástegui, an agricultural engineer, had a work permit but was waiting for a residence permit. On 20 June 1998, she was questioned by National Police officers on a street in Madrid. She was arrested for not having the proper documentation, taken to a registration office, and held overnight.

The next morning she was taken to a National Police station, where she told a woman police officer that she had been sexually assaulted. She was advised to lodge a complaint, but Miriam, who had two small daughters in Peru, said she was afraid of the consequences for her family. **AI don't want a fuss. My children have to eat**

Once persuaded to lodge a complaint, Miriam Verástegui alleged that, at 2am on 21 June, the duty police officer entered her cell and began to sexually assault her. Trying to escape him, she went into the toilet. He followed her there, grabbed her by her belt and renewed the assault, attempting to drag her to a nearby bed, lowering his trousers and her underwear and attempting to penetrate her. She did not cry out because she was afraid that other officers might come and assist him. She pushed him away and ran back to her cell. Hospital tests reportedly found traces of semen on her underclothes.

At a meeting on 29 June 1998 between Miriam Verástegui and the officer, in the presence of an investigating magistrate and prosecutor, the officer claimed that Miriam Verástegui had falsely accused him because she wanted to stay in Spain.

In May 1999 the officer reportedly refused to undergo a DNA test, although he subsequently agreed to the test. On 13 March 2001 he was finally formally indicted by the public prosecutor for sexual assault, but not charged with torture. Amnesty International considers that rape and serious sexual assault in custody constitutes torture. The definition of torture in Spanish law is narrower than that contained in international human rights standards, posing an obstacle to the recognition of rape and serious sexual assault as torture under domestic law.

The trial was postponed twice, and is now scheduled for April 2002.

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Write letters to the Minister of Justice and Minister of the Interior of the Spanish Government using the addresses at the back of this leaflet, expressing your concern at the delay in bringing this case to court and at the apparent failure of the authorities to view serious sexual assault in custody as a crime of torture

Ask the Spanish authorities to:

- \$ ensure that the serious allegations made by Miriam Rosa Verástegui Templo are investigated thoroughly and impartially;
- \$ to ensure that any officer found responsible for torture or ill-treatment is brought to justice;
- \$ take steps to protect women in custody against rape and sexual abuse;
- \$ ensure the introduction of a strict code of conduct for the registration, transfer and supervision of all detainees being held in police custody, in order to ensure that they are protected from abuse by police officers;
- \$ ensure that doctors and lawyers are allowed to examine or interview detainees in complete privacy, to avoid possible intimidation by police officers;
- \$ ensure that they are clear guidelines requiring officers to report possible abuses and that officers with chain of command control are held responsible for enforcing those guidelines and strictly enforcing penalties for failing to report, or covering up, abuses.

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<p><b><u>Director General of the Department of the Interior</u></b> Director General de Seguretat Ciutadana Generalitat de Catalunya Departament d'Interior Direcció General de Seguretat Ciutadana Via Laietana 69 08003 BARCELONA</p>	<p><b><u>Secretary General of the Department of Justice of Cataluña/Catalunya</u></b> Secretaria General Departament de Justícia Casp, 26/Pau Claris, 81 08010 BARCELONA</p>
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# SPAIN

## Race related ill-treatment

***Driss Zraid***



## ***Ill-treatment in police custody***

Driss Zraidi, a Moroccan national, says he was assaulted twice by officers of the Catalan autonomous police, the *Mossos d'Esquadra*, on 3 August 1998. The first assault took place when he was on his way to work in San Pedro Pescador, Cataluña. He was stopped for an identity check, in connection with a driving offence. According to reports, when first stopped he was placed against a wall and ordered to put his hands in the air. He was grabbed by the back of the neck and his head was pushed back against the wall, causing his mouth and front teeth to bleed. He was kicked on the ankle, thrown to the ground and repeatedly kned.

He was driven to the *Mossos* station in Rosas and was held there overnight. He said that, during the night, a group of officers came into his cell, racially insulted him by saying: "Go back to your own country you dirty Arab!" and punched him. He pleaded with them to stop. In a statement to the investigating judge he said that his sleeping area was covered in blood. A duty doctor saw him the next day and advised his immediate transfer to hospital. He was escorted by police to Figueras hospital, where X-rays revealed three fractured ribs. There were also chest injuries. He was then returned to Rosas police station.

Driss Zraidi appeared in court on 5 August. No charges were brought against him and he was released from custody. The following day he returned to hospital, where he received treatment and remained for eight days.

An inquiry into the allegations of ill-treatment was opened by the *Direcció General de Seguretat Ciutadana*; eight officers were suspended from duty pending the outcome of the inquiry and one officer was taken into custody. In September 1999 the Catalan Government authorities confirmed to AI that a judicial inquiry was under way. By the end of 2001 the case was still languishing in the courts under judicial investigation. It appears that Driss Zraidi, whose Spanish is reportedly very poor, is having difficulty in finding a lawyer to take an interest in the case.

### **Race related ill-treatment in Spain**

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Please send letters to the Director General of the Department of the Interior and Secretary General of the Department of Justice of Cataluña/Catalunya using the addresses at the back of this leaflet, expressing your concern at the length of time the judicial investigation has taken so far.

In addition, urge Spanish authorities to:

- \$ ensure that the judicial investigation is thorough and impartial
- \$ ensure that Driss Zraidi has adequate legal and linguistic aid to pursue the case, together with all the information he needs, and that he is kept informed of the progress of the investigation
- \$ ensure that any officer found responsible for torture or ill-treatment is brought to justice and that adequate compensation is paid to Driss Zraidi, as appropriate

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<p><b><u>The Minister with responsibility for Immigration</u></b> Ilmo. Sr. D. Enrique Fernández Miranda Delegado del Gobierno para la Extranjería C/Amador de los Ríos 57 28071 MADRID</p>	
<p><b><u>The Minister with responsibility for the Autonomous City of Ceuta</u></b> Ilmo. Sr. D. Luis Vicente Moro Díaz Delegado del Gobierno de la Ciudad Autónoma de Ceuta, Delegación del Gobierno C/Beatriz de Silva 4 51001 CEUTA</p>	<p><b><u>The Minister with responsibility for the Autonomous City of Melilla</u></b> Ilmo. Sr. D. Ignacio Velázquez Consejero de Presidencia de la Ciudad Autónoma de Melilla Plaza de España 1 52061 MELILLA</p>

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For more information about Amnesty International and our work on increasing awareness of human rights violations and racism, contact Amnesty International in your country:

or write to: Amnesty International, International Secretariat, 1 Easton Street, London WC1X 0DW, UK

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# SPAIN

Race related ill-treatment

***Street children: Karim Boutali***

## ***Expulsions and ill-treatment of children***



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Nine-year-old Karim Bouitali was one of eight Moroccan children abandoned by police on the Moroccan border of the Spanish enclave of Melilla on 18 December 2001. Handed over to the Moroccan police, the children were then left to fend for themselves on the streets. Karim was seen that evening, weeping, drenched and numb with cold in the pouring rain, clutching at the border fence.

They had been made to sign papers they had not read and were taken in cars by Spanish armed police to be forcibly deported. No family members or social service officials were at the border to take charge of them. Some were reportedly handcuffed, verbally abused or slapped. One of them, 13-year-old Amin Sghir, said a Moroccan officer had slapped him. Another, 17-year-old Ali Abderrahim Maadi, said he had been handcuffed and verbally abused by the Spanish police.

Local children's aid organizations have documented a renewed pattern of expulsions in recent months from Ceuta and Melilla, two Spanish enclaves in north Africa. Children have been taken by the police from reception centres, where some have lived for up to 10 years. They have not been told they were going to be expelled. No lawyers have represented them or courts examined the legality of their expulsion. They have been driven to the border by armed and uniformed police, and handed over to the Moroccan police who have simply abandoned them. Ostensibly to be reunited with their families, most have within days found their way back across the border. In some cases, their families could not be traced or were not able or willing to care for them.

Children live rough in the streets, port installations and in underground tunnels in Ceuta and Melilla. The only reception centre in Ceuta was recently reported to lack beds and bedding and to be infested with vermin. Children were said to have caught contagious diseases there and to have been physically ill-treated by staff.

Complaints by local police officers help to end the detention, beating and illegal expulsion of children from Ceuta in 1999. Spain's laws provide for the protection of children. However, the Spanish authorities have not responded to Amnesty International's concerns that the authorities in Ceuta and Melilla were resuming their practice of expelling unaccompanied children; or to AI's recommendation that Ceuta and Melilla be given the resources to care for each child, and to examine each case thoroughly and on an individual basis before removing him or her from Spain.

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## Race related ill-treatment in Spain

In Spain, your skin colour or facial characteristics can put you at risk of abuse. The Roma community has suffered centuries of persecution and marginalization. Recent immigrants too, particularly from Africa and South America, have met growing racism and xenophobia. They have been victims of assault and racist violence, as well as attacks on their property and places of worship.

Yet you cannot rely on the protection of the law. The individual cases AI is highlighting in this action show a pattern of violations of the rights of members of ethnic minorities by public officials. If you are an immigrant without identity documents, you are more likely than a Spanish citizen to be detained and assaulted by police or Civil Guards. Skin colour or facial characteristics are often reason for asking for your papers. Most race-related ill-treatment by the security forces stems from identity checks.

Several deaths have occurred in police and Civil Guard custody allegedly as a result of ill-treatment or excessive use of force. Investigations have not always been full or thorough. Racism is often compounded by discrimination on grounds of gender. Women without documents have been particularly vulnerable to rape and sexual abuse in custody. In recent months children have again been deported from Spanish territories in north Africa and abandoned on the frontier. Members of ethnic minorities who have intervened to stop abuses by police have themselves been arrested and assaulted. Foreign nationals have been ill-treated by guards and staff in holding facilities or detention centres.

The courts have sometimes punished violations against foreign nationals severely but, even when there is evidence that police abuse is racially motivated, many public officials still enjoy impunity. Immigrants fearful of jeopardizing work or residence applications are afraid to lodge complaints.

Racial discrimination attacks the most basic notion of human rights - that everyone is equal in dignity and worth. Spain must uphold its national laws and commitments under international human rights instruments and refuse to tolerate torture and ill-treatment by public officials, as well as the racism and discrimination giving rise to these abuses.

Please write to the the Minister of the Interior, the Minister of Justice, the Minister with responsibility for Immigration, the Minister with responsibility for the Autonomous City of Ceuta, and the Minister with responsibility for the Autonomous City of Melilla using the addresses at the back of this leaflet, expressing your concern about the widely-reported inadequacy of facilities for the care of undocumented children, in Ceuta in particular.

Urge Spanish authorities to:

- \$ provide resources for Ceuta and Mellila to care for each child and to examine the case thoroughly and on individual basis before any decision to remove the child from Spain
- \$ abide by international standards on the care and protection of children
- \$ abide by Spain's international obligations, which means ensuring that unaccompanied children enjoy all the rights guaranteed under the UN Convention on the Rights of the Child and that any decision taken is in the child's best interest.