

Spain

Spain is a constitutional monarchy with a bicameral parliament. The population of around 46 million people enjoy constitutional guarantees of secularism, though in practice there are extant religious privileges, in particular for the Catholic Church.

Constitution and government	Education and children’s rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
<u>There is systematic religious privilege State-funding of religious institutions or salaries, or discriminatory tax exemptions</u>	<u>There is state funding of at least some religious schools</u>	<u>Discriminatory prominence is given to religious bodies, traditions or leaders</u>	<u>Criticism of religion is restricted in law or a de facto ‘blasphemy’ law is in effect</u>
	<u>State-funded schools offer religious or ideological instruction with no secular or humanist alternative, but it is optional</u>		

Legend

Constitution and government

The constitution and other laws and policies protect freedom of religion or belief, freedom of expression, and freedom of assembly and association. These rights are generally respected in practice, and there is no state religion, although the Roman Catholic Church continues to receive some privileges that are not available to other religions or groups.

The constitution provides for religious freedom and the freedom of worship by individuals and groups. The constitution also states that “no faith shall have the character of a state religion.”

Federal tax law, however, provides taxpayers the option of allocating up to 0.7 percent of their income tax to the Catholic Church or to a nongovernmental organization (NGO), but not to other religious groups.

As a result of a 1979 agreement with the Vatican, religious institutions are exempt from paying property tax.

Education and children’s rights

The government funds teachers for Catholic, Islamic, Protestant, and Judaic instruction in public schools when at least 10 students request it. The courses are not mandatory. Those students who elect not to take religious education courses are required to take an alternative course covering general social, cultural, and religious themes. Religious groups are responsible for selecting teachers for their particular religion. Either the national Ministry of Education or the regional entity responsible for education certifies teachers’ credentials.

Family, community and society

Secularization is proceeding apace in some regions. Around 30% of Catalans now profess atheism, compared to 20% Roman Catholicism. According to a survey conducted in 2016 by the Center for Sociological Research, 19.4 percent of respondents identified themselves as “non-believers” and an additional nine percent stated themselves as being outright “atheistic.” At 67.8 percent, Roman Catholicism has the largest group of religiously affiliated adherents.

Expression, advocacy of humanist values

The expression of humanist or secular values is generally respected.

There are some concerns that the Law on Public Safety (2015) places some undue limits on freedom of expression and association on “public order” grounds. Under the law all protests must be registered with a local authority and protesters are forbidden from demonstrating near government buildings. Disseminating unauthorized images of law enforcement can also carry a penalty of up to €30,000.

<freedomhouse.org/blog/worrying-setback-freedom-expression-spain>

De facto “blasphemy” law

A de facto blasphemy law is still on statute and is sometimes enforced. Article 525 of the Spanish Civil Code reads:

“1. Those that, in order to offend the feelings of members of a religious confession, make public derision, orally, by writing or through any type of document, of their dogmas, beliefs, rituals or ceremonies or mistreat, also publicly, those who practice that religion, will be punished with a fine between eight to twelve month of their salary. 2. Those that make public derision, orally or by writing, of people who do not confess any religion will incur in the penalties set in the previous paragraph.”

<ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/Annexes/Spain.pdf>

There have been a number of prosecutions under this law in the last several years. Most of these cases have been brought by the Spanish Association of Christian Lawyers and by a Catholic legal association, the Tomás Moro Legal Center (see “Highlighted cases” below).

Europa Laica, an organization that promotes pluralism and freedom of conscience, campaigns against Article 525 and has initiated a petition for its derogation.

<peticionpublica.es/Default.aspx?pi=P2010N4138>

Highlighted cases

Three women, **Rocío Ballesta, Antonia Ávalos and a third woman who has chosen anonymity**, were dragged through five years of criminal proceedings following a peaceful march in 2014, on charges of “crimes against religious sentiment”, before the case was finally thrown out in October 2019. The case dated back to 2014 when the accused carried a large latex model of a human vulva during a general worker’s union march. The model, named the *coño insumiso* (rebellious pussy) was a parody of the effigies of saints and the Virgin Mary, which are still carried on religious parades in Spain. The three women said they were marching on behalf of the “Guild of the Sacred Rebellious Pussy and the Sacred Burial of Social and Workers’ Rights”. The proximate reason for the “rebellious pussy” protest was “to draw attention to their belief that the church’s teaching denied

women fundamental rights at a time when the government was planning to introduce a restrictive abortion law.”

The case was first dropped in 2016 because the court found that the defendants were entitled to the freedom of expression represented by “publicly proclaiming that you don’t follow a religious faith”. However, the Association of Christian Lawyers then brought a civil action for “crimes against religious sentiment” and “mocking Catholic symbols and dogma”. During the second trial, defendant Ávalos said, “We feel that we are being persecuted and criminalised for defending women’s sexual and reproductive rights”. Campaigners condemn the new trial as an attack on free expression. Finally dismissing the case on 11 October 2019, the judge said the point of the parade had not been to offend religious sensibilities but to “defend social, workers’ and feminist rights.” This appears to leave the door open to other cases where “offending religious sensibilities” is considered part of the intention.

<thelocal.es/20151127/spanish-women-in-court-over-giant-plastic-vagina-protest>

<elsaltodiario.com/el-jornal-andaluz/ofensa-vulvar-cono-insumiso-sevilla-elena-duenas>

<theguardian.com/world/2019/oct/11/seville-judge-throws-out-rebellious-pussy-latex-vagina-effigy-case>

In July 2017, the Spanish actor **Willy Toledo** wrote a Facebook post to express his indignation after three women were charged for offense against religious feelings by parading a large model of vagina through the streets of Seville during what was called the *Procession of the insubordinate pussy*. The Facebook post read:

“I shit on God and have enough shit left over to shit on the dogma of the saintliness and virginity of the Virgin Mary. This country is unbearably shameful. I’m disgusted. Go fuck yourselves. Long live the Insubordinate Pussy.”

<elpais.com/elpais/2018/09/04/inenglish/1536063749_831261.html>

The Spanish Association of Christian Lawyers filed a complaint against Toledo. In May 2018, instead of appearing at court, the actor called a press conference where he stated that he had not committed any crime and therefore would not appear before a judge. In September 2018, the Court of Madrid issued an arrest warrant against Toledo after he twice failed to appear and testify in court.

<eldiario.es/politica/archivan-mayoria-denuncias-sentimiento-religioso_0_343665942.html>

<humanistfederation.eu/spanish-actor-willy-toledo-prosecuted-following-case-on-insult-to-religion/>

In 2004, the Spanish singer **Javier Krahe** was accused of blasphemy based on a short-film shot in 1978, where the artist allegedly showed how to cook a crucified Christ. The case was open for eight years and in 2012, after multiple attempts by the Tomás Moro Legal Center to prosecute him, the judge ruled that there was no intention from the defendant to humiliate religious beliefs and Krahe was acquitted.

<elpais.com/sociedad/2012/05/26/actualidad/1338051427_175989.html>

During his play *The Revelation*, comedian **Leo Bassi** dressed up as the Pope in an attempt to condemn religious fanaticism and obscurantism. The Tomás Moro Legal Center accused Bassi of breaching Article 525. However, the court concluded in 2015 that apparently believing in a religion

and publicly manifesting it (even in the form of satire chosen by Bassi) is protected under freedom of expression. Bassi also received multiple death threats and on 1 March 2015, during one of the comedian's shows, a homemade explosive device was put under a theatre chair (luckily, the bomb caught fire but did not explode).

<eldiario.es/politica/archivan-mayoria-denuncias-sentimiento-religioso_0_343665942.html>