



shadow report

shadow 2008-2013

*on the implementation of the Convention on the Elimination of
All Forms of Discrimination against Women in Spain*

*report on the list of issues and questions in relation to the
combined seventh and eighth periodic report of Spain*

*61st session of the CEDAW Committee – United Nations
Geneva, 6th-24th July 2015*

General context (LI= 1 / RS = 1 - 8)^{1*}

The crisis has had disproportionate effects on women. This impact has not been subjected to a full and systematic analysis. Moreover, in the period that has elapsed since the submission of the Shadow Report (hereinafter SR) in November 2014 the backlash, cutbacks and dismantling processes described (dismantling of national and international equality structures, drastic reduction of budgets and delays in the development of intervention plans) have worsened and deepened. Some of the most important issues are the following:

Budgets allocated for equality have plummeted. In the central State, policies and equality bodies have been cut up to 50% between 2009 and 2014. The Autonomous Communities have cut, on average, 32% of their equality policies.

In the field of development cooperation and gender policies cuts particularly affect key programs to achieve gender equality. The amendment in 2012 of the Statute of the Spanish Agency for International Cooperation redefines the Department of Sectoral Cooperation and Gender by renaming it as Sectoral Cooperation Department; many gender areas have also disappeared from different Technical Cooperation Offices.

Between January 2012 and March 2014, there has been no Strategic Plan for Equality between women and men even though both the Equality Act and the Beijing Action Platform bind the State to do so. The current Plan has been passed for a period of two years (2014-2016) with a "financial estimate" (not a budget) of around 3 billion euros, difficult to analyze in terms of concrete budget items and inconsistent with the very low budgetary allocations for the Women and Equal Opportunities Institute (20.83 million euros).

Labor reforms and anti-crisis measures exacerbate inequality in relation to the economic rights of women. The elimination of affirmative actions to increase their employability and the maintenance of their employments, the decline of the coverage of unemployment benefits, the raising of the retirement age and the weakening of collective bargaining which affects equality plans in companies, have a greater impact on women. The promotion of part-time contracts, the consolidation of changing working days that worsen working conditions, the freezing of the minimum wage, the postponement of the improvement of the widow's pension, as well as the "outsourcing process" (privatization) of many public services, has negative consequences for women, especially for those who face more vulnerable situations.

The Equality Act is not being completely enforced. The extension of the paternity leave has been delayed for the third consecutive year even though this Act and the Law 9/2009 recognize 4 weeks.

Constitutional, legal and institutional framework (LI= 3 / RS = 10 - 16)

The Strategic Plan for Equality of Opportunities passed in March 2014 covers an extremely short period of time (2014 – 2016) which hinders the possibility to consider it a strategic planning document "*strictu sensu*". Moreover, this plan appears not to have included monitoring and evaluation mechanisms affordable enough to have access to further progress.

National machinery for the advancement of women (LI = 4 / RS= 17 - 23)

Gender equality mechanisms have not only been amended but have also suffered a regression with the implementation of the Act 15/2014 on Public Sector Rationalization.

Instead of consolidating and extending policies on equal opportunities between women and men, fulfilling the gender mainstreaming as encompassed by the Equality Act and the international commitments adopted by Spain, the State constrains and hinders them. The Act subsumes the power of the Directorate General for Equal Opportunities (RD 1887/2011, December 30) in a new Institute for Women and Equal Opportunities and eliminates the first one which is the only specific and specialized body in the field of equal opportunities between women and men in the central government. This new Institute places women only as a target group, diluting gender inequality as a cross cutting element related to other inequalities.

* LI = List of issues / RS = Reply of the State

Also, with regard to inter-agency coordination, the implementation of this Act eliminates the Governing Council of the Women's Institute which has been replaced by the Interministerial Commission for Equality between men and women which implies a greater involvement of Governments moving it away from the experts. The Women's Health Observatory, set up in 2003, has also been abolished.

Stereotypes and harmful practices (LI = 6 - 7 / RS = 28 - 45)

In clear breach of Observation 18 of the 2009 report, text books and curricula contents have not been reviewed, persisting the invisibility of women in all fields of knowledge², contravening also article 24 (sections a and b) of the Equality Act. Examples such as women scientists or women in history, are only mentioned in a 7,5% of all school contents. The exclusion of women from the cultural tradition is exacerbated in the case of women from minority communities. Moreover, this lack of representation and visibility is also linked to the stereotyped choices of professional and vocational studies³.

As recent studies on economic information show, there are fewer women than men in the media.⁴ One of the most important findings is that there is a widespread imbalance and a hierarchy where men play a leading role in relation to the economic information, and in general in relation to other types of information. Similarly, and from the point of view of sports media, priority is given to sports performed by men over the ones performed by women.⁵

Advertising and content Observatories still do not penalize sexist cases. In this respect, the State continues not to take any action on announcements for sexual contacts (prostitution), which economically benefits the major national newspapers, and where cases of trafficking in women may be hidden. In the same way, insufficient measures are being taken to address the hyper-sexualization of the bodies of girls in children's fashion advertisements, and to address the negative image projected towards Roma women and other minorities.⁶

The composition of sporting bodies is 90% male.⁷ Professional women's leagues have less prestige and less labor rights. The media coverage of women's sport is nearly non-existent and in any case insufficient. There is discrimination in the support to access and practice of sports. Women athletes are not properly represented in the content of physical education.

In the field of culture the representation of women in management positions is very low⁸. The Cervantes Prize has only been awarded to three women (8% of the total). In the academic field there are currently 11 women rectors in the 77 existing universities. 36.4% of the teaching and researching staff are women,⁹ and only 15% of the chairs are occupied by them¹⁰. From 2010-2013, the percentage of women in the academic has grown by 1.1%, breaching the Equality Act¹¹.

Violence against women (LI= 8-10 / RS= 46 - 74)

With regard to resources and structures, the State says that budgetary cuts have not affected this field and mentions a group of initiatives that in fact have a predominantly quasi-symbolic character. We reiterate what we have said in the SR and add the consolidation in 2015 of the resources and structures reduction trend. According to the Program 232C "Actions for the comprehensive Prevention of Gender Violence" (State Budget) 2014-2015, remote care services to

² www.revistaeducacion.mec.es/doi/363_188.pdf

³ Even though in 2012 the percentage of women enrolled represented 54% compared to 46% of men enrolled, we can see a significant imbalance in the choices of studies. Figures for 2009 show that an 82,2% of women choose the educational field and a 27,7% fields such as engineering, manufacturing and construction.

⁴ "Representation and treatment of women and gender in economic information" developed in Cataluña in 2012.

⁵ The case of the Spanish basketball team of women quoted by the press is a recent example. <http://www.publico.es/468164/las-chicas-de-oro-invisibles>

⁶ See the controversy caused by the TV show "Word of Roma" issued by Channel Four, which has been reported by the majority of the Spanish Roma institutions. This show portrays women in an absolutely degrading and stereotyped way.

⁷ In the 30 Presidencies of the Olympic Federations there is only 1 women, that is to say a 3%.

⁸ The MAV report 2012 on exhibitions at art centers (1999 -2009), states that of the total 973 individual exhibitions, 200 were women (93 spanish). In relation to speakers at art centers and foundation, only 33,5 % were women, 63% were men and in 3,5% cases there is no information (See report on their web page).

⁹ Data from the Ministry of Education (2007/08).

¹⁰ <http://www.rtve.es/noticias/dia-internacional-mujer/universidad/> (8 July 2013)

¹¹ Article 26.2 states that bodies and structures that are part of the area of public administrations devoted to culture will develop actions and initiatives to promote the participation of women in culture, to combat structural discrimination, and to make active policies to support artistic and intellectual creations and productions by women.

victims of gender based violence fall to 34.55% in comparison with the previous year; there are approximately two million euros less for one of the major prevention programs; the previous cut of 1 million euros in the "social assistance programs for women and children victims of gender based violence" remains in 2015, entailing cuts in relation to reparations, the most sensitive part of the institutional support to victims; the Government Office of Gender Violence has suffered a 22% reduction of its budget in 2015. This Office will manage for the fight against gender violence 23.728 million euros, representing a decrease of 6.634.940 million euros compared with 2014.

Regarding structures it is important to bear in mind that the Act 27/2013 of rationalization and sustainability of local governments eliminates the powers that councils had in relation to the network of points that supported gender violence victims from a legal, psychological and social care point of view (article 19 of the Organic Law 1/2004 against gender violence). This Act restricts the local competences and prohibits expenditures in this matter although Article 7.3 of the Istanbul Convention involves local authorities.

The new Act 4/2015, of April 27, on the standing of victims of a crime, arising from Directive 2012/29 / EU, does not sufficiently protect child victims and victims of sexual violence and trafficking. While recognizing the right to apply it to individuals regardless of their nationality or legal residence, this may not be applied if the Aliens Act and the Royal Decree-Law on Health are not amended because in their current wording they discriminate immigrants in irregular administrative situations, particularly in the access to the complaint and in healthcare. Furthermore, the Act does not make reference to the right to reparation as a central sphere of the State's responsibility.

In legal proceedings concerning the custody of children, in the case of violence inflicted by the father, violence has almost no significance. The suspension of visitation arrangements is agreed in 3% of cases and the suspension of custody in 0.3% of the cases (data of the General Council of the Judiciary 2014).

In relation to the assessment of plans and programs and training to officials, the situation has not changed with respect to what has been indicated in the SR.

With regard to the numbers of killed women and the persistence of stereotypes, we consider that the State has not answered the questions raised. It is important to reiterate some reflections which confirm the low profile of the Government in the fight against gender violence and the stereotyped response of the Administration on this issue. The first related to false allegations of crimes or simulations of crimes. According to the Report of the Attorney General of the State of 2014, convictions for false accusation in the field of gender violence during the years 2009-2013 represent 0.005% -33 final convictions; that is to say, although the percentage is extremely low and negligible, especially if we put it in comparison with other crimes, the Act 4/2015 in its article 35, refers to the obligation to reimburse the aid in case of fraudulent claim, even though these offenses are already punishable under the Criminal Code and also entail civil liability.

The second, related to the impunity of gender violence crimes, indicates that in 2013, 85% of those convicted had their prison sentence completely substituted with community services. Special mention must also be made of the increasing percentage of rejection of the order of protection, -in 2014, 43.39% -. Finally, it is important to highlight the dismissal of the proceedings conducted before the courts of violence against women, one of the highest rates of dismissals in our country. In 2014, the average of shelved cases amounts to 39.80%, figure extremely high taking into account that in this matter there is always a known author. That is to say that the dismissal does not result from unknown authors or absence of evidences to identify a person or group of persons unlike what happens with other crimes.

Regarding questions about other forms of violence against women, as stated in the SR, in Spain there is no standardized system to collect information on sexual violence nor has Spain national surveys on victimization that could shed light on the dimension of the phenomenon. In that light, the Government does not respond to this matter. However, the Interior Ministry said that in 2013 there were 8,923 offences against sexual freedom and sexual safety and 1,298 rapes with penetration.

To conclude it should be reiterated what has been stated in the SR: lack of means and resources in the fight against all forms of discrimination, inadequate knowledge of the different forms of violence against women and the need to address seriously the persistence of discriminatory stereotypes that hinder the access and procurement of justice in cases of domestic violence.

Trafficking and exploitation of prostitution (LI= 11 - 12 / RS= 75 - 87)

The **II Comprehensive Plan to combat trafficking in women and girls for sexual exploitation 2015-2018** is still under review, but should have been launched in January 2013. More than two years have passed since the 1st Plan finished, underscoring that it is not a priority for the government.

In reference to the objectives achieved in the first Plan, the government submitted a monitoring report but not an assessment report, providing vague data and generalities. It also includes the budget allocated but does not clarify whether it has been fully implemented or what percentage has been spent.

With regard to **legal provisions**, the only specific legislation at the state level is the one referred to "trafficking" and "offences against sexual freedom and sexual safety", that is included in Title VII Bis and VIII of the Criminal Code. Despite the entry into force of the Istanbul Convention the necessary measures to enforce the rights of women and girls in this matters have not been undertaken. There remains a lack of recognition of the standing of victims of trafficking, not conditional on their cooperation with the police. Both international and Spanish law do not condition the assistance to victims with their collaboration, but it is conditioning the protection to cooperation with justice.

Access to health care for victims of trafficking is not being effective due to the fact that the exception that applies for them requires that they have been given the "period of recovery and reflection". This is an inapplicable criterion in many cases (eg for victims from the European Union or for those who collaborate from the very beginning but cannot obtain a residence permit because they do not have a passport).

As was mentioned in the SR there is an **absence of a comprehensive and coherent approach** against trafficking in women and girls and we recommend addressing the issue from a **victim-centered approach**, from the perspective of **human rights and gender** and not of re-victimization, promoting the protection and preventing their instrumentalization in connection with the prosecution of the crime. It still **prevails a purely criminal treatment** focused on prevention and prosecution of the crime, as well as on migration control.

Neither the II Comprehensive Plan or other instruments **provide definitions or clear criteria on key concepts** so that victims can access their rights, in particular it does not define "reasonable grounds" to understand that a person could be a victim of trafficking, "personal situation" or what is meant by "collaboration with the authorities"; so that victims face in fact a complete legal insecurity to access the rights that by law are recognized.

Participation in political and public life (LI= 13 / RS= 88 - 101)

The measures identified by the government relate to specific issues, while the general mechanisms have important shortcomings.

The Council of Women's Participation set up in 2009 continues without giving a real channel for the participation of NGOs. At the regional level participation councils have been created, but others have been removed. In municipalities, the lack of powers in equality will impact in the creation of participation channels. Bodies such as the Equality Commission of the General Council of the Judiciary created in 2007 face a precarious situation and has been separated from the Observatory on Gender Violence, depriving both bodies of their remuneration.

The new Act 27/2013 on Local Government reduces municipal powers in the field of equality in contravention of the Constitution (it is challenged before the Constitutional Court), the European Charter for Equality between Women and Men in local life (CEMR 2006) and paragraph 14 of the Concluding Observations of the CEDAW Committee to Spain (CEDAW / C / ESP / 6).

Education (LI 14 / RS 102-112)

The State does not answer questions concerning actions to combat stereotypes and to promote non-traditional choices. As was indicated in the SR regarding the subject of "Education for Citizenship", the new subjects that will replace it will not be taken by students who choose religion because they are the alternative in the current curricula of primary and secondary schools. This means that those students will not have sex education or education about equality in the contents of the new subjects. Thus, contrary to what the Government points out (104), **Organic Act**

8/2013, of 9 December, on the Improvement of Educational Standards, does not reinforce the principles of equality between men and Women but rather breaches them.

In connection with the requested information on Roma girls, although a number of measures / actions are listed, none of them give a detailed account on specific interventions with them, merely talking about mainstreaming and without specifying it. **In conclusion, we are concerned about the backlash in education with regard to equal opportunities.**

Employment (LI 15-16 / RS 113-120)

The large figures of female employment have not improved since the submission of the SR with a female employment and activity rate lower than male rate (69.78% versus 80.71% and 52.27% versus 62.25%, respectively) and a higher unemployment rate (25.09% versus occupation 22.87%). Also, with regard to the quality of employment and to remuneration, while men have 60% of full-time jobs, 73% of part-time jobs are held by women¹². Moreover, the wage gap has increased by 24% and the wages of 46,55% working women are below 15,000 thousand euros / year.

In this context, and despite the precarious situation where the successive labor reforms are part of the problem¹³, no "Special Plan for equal opportunities between women and men in the workplace and wage discrimination" has entered into force. On the contrary, it is only recognized the existence of a line of action for equality (number 4) under the Employment Activation Strategy 2014-2016. This line of action is a very limited framework to act in favor of equal opportunities as it considers not only gender equality but is also devoted to improve the conditions of access to employment from the point of view of geographical mobility.

Thus, the response explains only in detail different measures of access to employment that are in fact programs and projects of various kinds, in most cases related to activities of information and support to the development of projects aiming to set up businesses, and with no common framework. Similarly, from that "devaluation" of the gender perspective the government argues that "women are a priority group" in the training programs for employment¹⁴, turning interventions in projects aimed at women and not in programs to promote gender equality in access to employments of higher quality both qualitatively and quantitatively.

Health (LI = 17 /RS = 121)

The government does not answer the questions raised, and at the same time in April began a process to amend the current legislation on abortion that seeks to impose parental authority if girls between 16-18 years of age wish to undergo a legal abortion. It has passed the first approval by the Congress.

In any case, in this field it is important to reiterate what was collected in the SR on the serious violations of the right to health and to the exercise of sexual and reproductive rights that are happening due to inequalities in the access to health services resulting from the reforms of the National Health System and the insufficient development of the current regulatory framework on sexual and reproductive rights and the constant threats to its future development.

Rural women (LC = 17 /RE = 121)

The information submitted about the Act 35/2011 and the Strategic Plan does not provide substantial data on the improvements and, above all, on how they have addressed the failures and how they will address those that persist. For example, the enforcement and recognition of shared ownership of farms was achieved with great difficulties and although a Regulation was passed and a Register was created (RETICOM in all the Autonomous Communities, it has not been developed as it should and still produces a very uneven and not explained development between the different Autonomous Communities.

With regard to measures to promote equal opportunities, including those in the Strategic Plan, in general terms they have no indicators allowing to quantify previously the impact and afterwards the results.

¹² Source: Press release and Annex of tables of the Labour Force Survey for the First Quarter of 2015: http://www.ine.es/dyngs/INEbase/es/operacion.htm?c=Estadistica_C&cid=1254736176918&menu=ultiDatos&idp=1254735976595#

¹³ See §10.2 p. 16 SR

¹⁴ See § 114, p. 18 RS