
Committee on the Elimination of
Discrimination against Women
Sixth session

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Concluding comments of the Committee on the Elimination of
Discrimination against Women: Spain

Initial report

238. The Committee considered the initial report of Spain (CEDAW/C/5/Add.30 and Amend.1) at its 89th and 92nd meetings held on 1 and 3 April 1987 (CEDAW/C/SR.89 and 92).

239. The representative of Spain introduced her country's report by referring first to the principle of equality before the law specified in the Constitution, which led to a reform of all unconstitutional laws.

240. The representative said that her country's joining the European Economic Community in 1986 increased women's access to legal instruments governing their rights. Discriminatory treatment of women in the media was prohibited and

discriminatory advertising had been eliminated. New administrative units or interparliamentary commissions had been created in 10 out of 17 autonomous communities where political actions were set in favour of women.

241. The representative informed the Committee that women working in a mining company had received a lot of media attention recently. They were seeking to make the company renounce article 8 of the European Social Charter in order to keep their jobs. Also, recently the request of a woman to enter the military academy had triggered a parliamentary debate as to whether women were allowed to enter the armed forces. Appropriate norms for women to enter military academies needed to be established, however.

242. Spain still had considerable deficiencies in the provision of social services, the representative said, which had a negative impact on the further personal development of most women. Despite all those difficulties, more and more women were seeking paid work. The situation in the health sector had changed, as it currently included family planning services for women. Paid household work was regulated by law.

243. The representative stated that the percentage of educated women had increased considerably, but only a minority chose technical studies.

244. In the employment sector, the percentage of economically active women had risen over the preceding five years, whereas the rate of economically active men had declined. There were still far fewer women in the economically active population than men, however. Women continued to be found mostly in traditional jobs, mostly in the service sector, and the majority of women were not very interested in politics, although interest was increasing.

245. The representative informed the Committee that the creation of the Institute of Women's Affairs had raised the awareness of the Spanish population to the principle of equality of opportunities for both sexes and that the Institute had begun to disseminate information on women's rights. Presently, there were 65 information centres on women's matters, 17 refuges for battered women and 327 family-planning centres. The work that had been accomplished was not sufficient, however. Therefore, the Institute had submitted to the Parliament a three-year Plan of Action to speed up equal opportunities for women and men, and it was currently being considered by the different ministries.

246. The members of the Committee congratulated the representative of Spain on the excellent and comprehensive report of her Government, which followed the general guidelines, and on the valuable statistical data provided therein, as well as on her presentation, which supplemented the report. Admiration was expressed for the commitment shown and the significant progress made by the country during only 10 years of democracy and for the consistent reforms in legislation. The critical approach and frankness in recognizing existing discrimination were much appreciated. The example of Spain showed that the appropriate constitutional framework was not enough to establish complete equality in a country. The Institute for Women's Affairs was recognized as a constant vigilator over the elimination of all forms of discrimination against women in the country, and experts were pleased that the report had been presented by the Director of the Institute.

247. Experts' questions concerned the time schedule for implementing the proposed new legislation in the area of civil law and whether the discrimination established by articles 1066 and 1267 of the Civil Code had already been done away with. It was asked whether the international covenants referred to in the report had already entered into effect.

248. It was asked whether the fair interpretation of the new law on sex discrimination by the courts constituted a major problem in Spain, whether the recourse procedure of amparo existed and how many cases were brought to the constitutional court because of violation of the principle of sexual equality. Furthermore, it was asked whether the pardoning of the aggrieved party under the Penal Code had a negative impact on the situation of women. The question was posed as to whether women had access to free legal aid.

249. As regards the autonomous communities, an inquiry was made as to whether the Constitution applied directly to the entire country or whether the communities had individual, separate courts.

250. It was asked how the Institute for Women's Affairs dealt with complaints by women on specific cases of de facto and de jure discrimination on the grounds of sex, how many complaints were received and what the sanctions were. Other inquiries were made about the co-operation between the Institute for Women's Affairs and women's non-governmental organizations, as well as about the decentralization of the machinery on equal opportunities. Experts wanted to know whether the subordination of the Institute to the Ministry of Culture reflected the view that the monitoring of de facto equality was linked with the needs to eliminate "machismo".

251. Comments were made on the usefulness of temporary special measures to accelerate de facto equality between women and men, and experts inquired whether such special measures existed.

252. Several questions were asked about education programmes for young people before their marriage and about common-law relationships between women and men. Experts inquired about the status of women and children of such relationships, their rights and benefits and whether common-law unions could be registered. Information was sought on the new draft law in advertising.

253. It was asked whether women were at all involved in the process of achieving equality between women and men and whether the Catholic Church encouraged or discouraged the process. Statistics were requested on the distribution by sex of paid and unpaid work. It was asked whether there were any measures undertaken to instruct fathers in the upbringing of children, whether parental leave referred to mothers and fathers equally, whether the social security allowances received by women during maternity leave were paid in addition to salaries and whether leave for nursing their children was granted to women as paid leave.

254. It was asked whether the exploitation of prostitution was sanctioned by law. Information was requested on rehabilitation facilities for prostitutes. Inquiries were made as to whether the Spanish Government was aware of the importation of Portuguese women for prostitution, whether the situation was changing and whether programmes existed to reduce the high rate of prostitution.

255. Information was sought on special services for victims of sexual assault and rape, and details on article 583, paragraph 2, of the Penal Code on conjugal abuse were requested. It was asked whether rape within marriage was considered an offence.

256. The low participation rate of women in the Parliament and in ministerial departments and the discrimination against women in political participation in general were viewed with concern. Experts asked whether the Government or political parties were undertaking steps to remove discrimination in that field and whether the Institute for Women's Affairs foresaw any action programmes to overcome that situation. The Institute's attitude vis-à-vis a quota system for political parties was also questioned.

257. Experts asked about the attitude of political parties as regards feminist organizations. It was noted that in Spain, as in other countries, the representation of women was higher in fringe parties. However, there seemed to be a contradiction in the report because it stated that women who reached the Senate were from the socialist group, which was a majority party. Information was sought on reasons for the decrease in women's representation in the Cortes Generales from 1977 to 1982, and current statistics were requested on the Cortes Generales as well as on the political parties. Questions were asked about the status of women with reference to the election lists of the political parties in view of the importance of the way in which lists were composed.

258. More information was sought on the plan of action concerning measures to be taken to encourage the sharing of roles between women and men in order to reduce unemployment and to increase female political participation. Questions were asked on how the discrepancy between the higher female party affiliation and the low percentage at the executive level could be explained. It was asked why the only high position in Government occupied by a woman was that of Secretary of State for Autonomous Communities.

259. Experts wanted to know whether the percentage rate of female civil servants had increased recently and whether any particular fields in civil service were not accessible to women. They asked why there were more women than men with university diplomas in the Ministry of Foreign Affairs, but fewer women than men in its upper echelons of service. They also asked why there were so many women with secondary education in the Ministry and what posts they held and whether the reasons for there being no women with only primary education were the lack of interest or the unavailability of suitable functions. Clarification was sought on the low rate of women diplomats and the much higher rate in the technical scale.

260. It was to be hoped that the reservation made by Spain under article 7 of the Convention as regards the right of succession to the throne would be reconsidered soon.

261. More information was requested on the representation of women in international organizations.

262. It was asked whether there was a nationality or domicile requirement for filing an application for divorce, and an inquiry was made about the historical background for the right of women to have the domicile adjudicated by the court. It was asked whether it would not be better to grant married women a domicile of

choice. Further information was requested on the new legislation proposed in 1984 in respect of international private law.

263. Appreciation was expressed for the way in which the country coped with illiteracy. Questions were asked as to whether teachers underwent special training to make them abandon the old stereotyped sex-related methods and whether the new school text books were adapted accordingly. Experts inquired whether sex education was obligatory, whether women experienced difficulties in taking up studies because of scarce child-care facilities and whether anything was done to attract more women to scientific subjects. It was asked whether the principle expressed in the "Report on Spanish youth", which had been cited in the report, was a fundamental principle or whether it referred only to the education of youth.

264. As concerns the poor educational level of older women, it was asked whether any particular efforts had been made or specific results achieved since 1985. Doubts were expressed as to whether women should really strive for admittance to military academies.

265. Inquiries were made about the reasons for job segregation for women workers, for the unemployment rate being higher for single than for married women and for the decrease of men in the economically active population over the preceding 10 years. Further reasons were requested for the relatively low economic activity rate for women, and it was asked whether the scarce child-care facilities were not also responsible for it. It was thought that the low figure could also be the result of technological developments in the country, and experts asked about the plans of the country to introduce new technologies. It was asked whether the rates included also women working in the non-formal sector, rural women and women in cottage industries.

266. Clarification was sought on the relationship in the statistics on employment between marital status and age brackets. Further statistical data on the economic activity rates of married women were requested, and questions were asked about the levels of work and the tasks carried out by women in the different economic sectors and on jobs carried out in the co-operatives and about the types of work not permitted for women.

267. Appreciation was expressed for the widowhood protection provided by the Government, and it was asked whether working women could extend social security protection in the health field also to children, spouses and parents. Appreciation was also expressed on the programmes introduced to encourage occupational training for women. Experts inquired about unemployment insurance in Spain and about measures taken to increase the working hours for women in gainful part-time employment. Another question concerned the weekly working hours. Details were requested on the public infant care programmes and private child-care institutions.

268. More information was sought on policies on equal pay for work of equal value, the frequency of job evaluation schemes for the comparison of female-dominated with male-dominated jobs and on any attempts to review the protective legislation regarding women that was considered to be outdated as discriminatory to women. It was asked whether the Statute of Workers of 1980 was not discriminatory to mothers. Another inquiry concerned the instruments and measures available to avoid the traditional causes of discrimination in employment.

269. Several questions were related to the new family planning and health programmes; it was asked whether family planning devices were in reach of all women, whether they had reduced the high rate of abortion, whether medical practitioners were still prosecuted for carrying out abortions and what the frequency rate was. Several comments were made on the decriminalization of abortion, and experts inquired about the reaction to that measure by Spanish women.

270. Appreciation was expressed for the existence of statistics on internal and external migration, and it was asked how it affected rural women and children. A question concerning integration measures vis-à-vis migrant women in Spain was raised. Other questions concerned any efforts undertaken by the Government to bring new technologies to rural women and concrete programmes established by the Institute for Women's Affairs for rural women.

271. Having taken note of the abolishment of dowry, in general, experts inquired about the de facto situation in rural areas.

272. A comment was made on the affiliation procedures based upon legal presumptions by the courts, and it was asked how fathers whose paternity had not been evidenced biologically could be forced to pay alimony. Experts asked about the number of divorce suits filed by women in Spain and about the division of property in divorce cases. It was asked whether the courts continued not to give women who were involved in divorce proceedings the administration and disposition of common assets. It was felt that it was unfair that working women separated from their spouses through divorce did not get any pensions. Further comments concerned the delays attributable to lengthy court proceedings in attributing to wives in divorce the domicile or in granting them alimony payments. Many Spanish lawyers had made pertinent petitions, and experts inquired about the results.

273. Questions were raised about the maintenance and social security situation of abandoned children. Further questions concerned adoption by single persons and the possibility to choose freely the name of the father or the mother.

274. Before replying to questions posed by the members of the Committee, the representative of Spain drew the Committee's attention to a document issued by the Institute for Women's Affairs entitled "Situación social de la mujer en España", which contained, in Spanish, information on the social situation of women in Spain as at December 1986 and which could be consulted at the Centre for Social Development and Humanitarian Affairs of the United Nations Secretariat.

275. In answering the questions posed by the members of the Committee, the representative of Spain first dealt with the social and political matters and later passed the floor to her colleague from the Institute for Women's Affairs, who spoke on legal matters.

276. The representative said that the Convention had become part of Spanish national legislation following its publication in the Official Gazette. Consequently, it could be directly invoked before the courts and contravening laws were null and void.

277. The Committee was informed that, by a ruling of the Constitutional Court in 1981, the grounds for affirmative action and temporary special measures under the Convention were clearly established. The most outstanding of those measures was the creation of the Institute for Women's Affairs by the Spanish Government.

278. Replying to a question on the number of cases brought to the attention of the Institute, the representative said that by 1986 approximately 50 complaints had been received.

279. The Institute for Women's Affairs came under the Ministry of Culture as a result of the restoration of democracy and had nothing to do with "machismo". The Institute would probably be transferred to another ministry soon. The Plan of Action submitted by the Institute consisted of 140 proposals covering a wide range of activities. In an effort to achieve greater political participation of women, consciousness-raising campaigns would be launched, and the Institute would support initiatives taken by women's organizations and would exert pressure for the implementation of related provisions.

280. The representative said that, prior to the establishment of the Institute of Women's Affairs, a television campaign had been carried out to change the attitudes of people in the fields of education and work. The Institute would undertake a campaign in the near future to break down stereotyped images of women in domestic and professional life and in advertising, and a draft law against discriminatory advertising was being prepared.

281. Studies showed, she said, that domestic work was mainly performed by women with very little assistance from their husbands, and only very few men were interested in questions of equality between women and men.

282. In Spain, the Catholic Church was very conservative with regard to women, although many Spanish Catholics had more advanced views than the clerical hierarchy, especially as regards the use of contraceptives and the right to abortion.

283. The representative stated that the Penal Code defined infringements of moral integrity, sexual abuse and rape. Prostitution was not penalized, only its exploitation and encouragement. Prostitutes were not yet protected by special assistance measures, but they were entitled to receive health care benefits from local governments. She said that the problem of prostitution was currently being discussed in Parliament at the instigation of the Institute for Women's Affairs. The Government was aware of the illegal traffic in women, often minors, at the Portuguese border, and steps were being taken to try to solve the problem.

284. The combating of sexual harassment was foreseen in the Plan of Action, and it was felt that the best policy was to make women aware of their rights and of institutions available to help the victims and to encourage them to report on related incidents. Recently, a special service consisting of women officials had been set up for victims of rape or sexual abuse at the Ministry of the Interior. Furthermore, women victims could obtain advice through a network set up by one of the women's associations. The criminal offence of rape did not exclude rape between spouses. In 1985, the total number of complaints for sexual abuse came to 1,630. Violence in the family was punishable by imprisonment, but judges preferred to inflict fines. The Plan of Action contained a proposal that repeated offences should be punished by arrest during weekends so that the culprits would not be prevented from working, which would punish the whole family by curtailing the family income.

285. The representative said that currently only males could succeed to the throne but that the situation was likely to change in the near future. At the general

election in 1986, the percentage of women in Parliament was 6.57, in the Senate it was 5.5 per cent and in parliamentary committees between 0 and 18 per cent. The Socialist Party was attempting to increase the number of women in its electoral lists to 25 per cent. She also said that it was not possible to vote specifically for women. The Institute for Women's Affairs was trying to encourage women to stand for elections to school councils. The proportion of women in public administration had risen from 1.8 per cent in 1975 to 18.4 per cent in 1985.

286. It was explained that currently 10 per cent of the career diplomats were women and 16 per cent of the persons entering the diplomatic service were women. There was only one woman ambassador. Of the staff at the Ministry of Foreign Affairs, 41.2 per cent were women, but only 10.5 per cent of the higher officials were women. The percentage of women representing the Government at international meetings was also relatively low.

287. The representative stated that the Civil Code still permitted discrimination in nationality questions. In cases of conflict concerning matters of international private law, the law of the husband's country prevailed.

288. The representative informed the Committee of a decision taken by the Ministry of Education, according to which all public primary and middle schools had to be mixed and teaching materials had to be free of sexual discrimination. Sex education was provided but was not compulsory. Research was being carried out on ways of increasing the interest of girls in new technologies, and a pilot project on non-discriminatory career guidance was being conducted. Illiteracy had been reduced for both sexes, but it was higher for women than for men. About 50 per cent of graduate students were women.

289. It was stated that in Spain the economic activity rate for women was lower than in other European countries and that job segregation was based on cultural patterns, as elsewhere in the world. The economic activity rate for men had decreased because of the extension of compulsory education and the earlier retirement age. The same applied to women, but more women than previously were doing paid work outside the home. The high unemployment rate of single women was explained by the high number of young single women. More women had professional or technical jobs in the public than in the private sector.

290. The principle of equal pay for equal work was reflected in the laws and was watched over closely by the trade unions. But no statistics on its implementation were currently available. Women were allowed to perform any type of work except underground work in mines and service in the armed forces. No special programmes for migrant women existed, but migrants could receive unemployment benefits. Details of the workers' entitlements under the unemployment benefit programme were given by the representative. Of the jobs recently created, 33.9 per cent were held by women, of whom 58.9 per cent were in part-time jobs. It emerged from one of the statistics that 36 per cent of working women were employed in the "hidden" or informal economy.

291. No data were available on subsidies provided by the State to the employment sector. But it was known that programmes specifically intended for women had not been very successful in the past. Further legislative reforms were planned to expand equality in employment.

292. The working week was 40 hours. Lactating mothers were entitled to reduced working hours. Fathers and mothers of children below the age of six years were allowed to cut down their working days by one third to one half, with pro rata salary reductions. During maternity leave, 75 per cent of the salaries were paid by way of social security benefits, but, under most collective agreements, the employers had to provide the remaining 25 per cent. Participation in the social security system by working women, including domestic helpers, was compulsory. It provided widower's pensions, orphan's pensions and health benefits. The Working Women's Statute regulated, in particular, the protection of pregnant women against dismissal. Employers' decisions could be appealed at the Labour Court, and complaints could also be lodged with the Constitutional Court.

293. The representative explained that the use of contraceptive devices was increasing. The Institute for Women's Affairs had waged campaigns on family planning in all media. Since the decriminalization of abortion in cases specified by law, only 1,500 legal abortions had been carried out. That low figure was due to conscientious objections raised by doctors and hospital staff. Efforts were being made to broaden the allowable conditions for abortions. According to a recent survey, about two thirds of the population approved of the new law, while one third supported the idea of free abortion at the request of the woman.

294. The representative pointed out that Spain was mainly an industrial country and that the majority of the population lived in cities. Certain social security services were not available in some rural areas. Radio programmes were set up and socio-cultural campaigns were carried out to reach the most underprivileged areas, however. The representative explained that three mechanisms were operative in the autonomous communities for carrying out policies for the promotion of women: interdepartmental commissions; administrative units with selective responsibilities; and parliamentary commissions.

295. It was explained that the judiciary was identical throughout the Spanish territory. In cases of violations of a citizen's fundamental rights, the constitutional court could be seized of the matter by virtue of the recurso de amparo. A woman who lacked financial resources could request free legal aid.

296. Under the current law, the domicile was chosen by common accord between the spouses, failing which domicile was adjudicated by a judge by taking into account the family's best interest.

297. The applicant did not have to have Spanish nationality to file a suit for divorce or separation. The suit could be filed at the applicant's final place of residence.

298. The system of dowry no longer existed in either urban or rural areas. The abolishment of the reference to the sex as an aggravating circumstance in cases of intimidation, as defined by article 1267 of the Civil Code, was included in the proposals put forward by the Institute for Women's Affairs in its Plan of Action.

299. The provision under which a son took the family name of his father followed by that of his mother until the age of 18, when he could change the order of the names, was being reviewed in Parliament.

300. The representative said that adultery had disappeared as a crime under the terms of the Penal Code. Although it could still be cited as a cause for

separation, it had no effect on the custody of children. The removal of parental authority had to be based on the failure to fulfil parental duties or on physical abuse. Single men or women could adopt children. Parental authority was shared by both parents, and children born within and outside wedlock had equal status.

301. In order to solve the problem of undue delays in separation and divorce proceedings, the Plan of Action contained a proposal to establish more family courts and to increase the staff in existing courts. The representative explained that the courts refused women as well as men the disposal of communal goods during divorce proceedings, as the sharing of matrimonial property was decided in separate proceedings.

302. The Spanish legal system had two types of subsistence allowances: one was fixed by the judge and either of the spouses was entitled to it; the other one was the payment of alimonies for the children. As regards paternity procedures, the presumed father could not refuse the biological proof of paternity. If he did, the court took his refusal for sufficient presumptive evidence to ascribe paternity.

303. Members of the Committee commended the extensive replies given, which had the volume of a supplementary report, and congratulated the Institute for Women's Affairs on its efforts. In answer to a question raised about actions taken by the Spanish Government to counter the exclusion of women from dining rooms and kitchens in the Gastronomical Society in the Basque Autonomous Region, the representative replied that private clubs were free to have their own rules.

304. In reply to other additional questions raised, she commented that information seminars would be organized to counter the alleged discriminatory behaviour of judges. She further said that as men usually earned more than women, it was more natural for women to take parental leave. She would also provide more information on the "hidden" economy in the subsequent report.