



Quality in Gender+ Equality Policies

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Silvia López, Elin Peterson, and Raquel Platero

with input from Inês Nunes Fernandes and Amaia Pérez

with the supervision of Emanuela Lombardo and María Bustelo

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1. LEGISLATION AND MACHINERY

1.1. A short history of the development of (gender) equality law or (gender) equality strategies or plans.

In these pages we present the *Spanish Issue Histories Report*, where we review both gender equality policies and women's machinery. At first, we present a general view, underlining the most salient events. Then, our attention is focused on three issues studied by QUING: non-employment, intimate citizenship and gender-based violence. We explore several sub-issues in each case, explaining first the different events in great detail and then, synthesizing them with timelines. The Spanish case study is particularly interesting since our country has a very young democracy, born after a military dictatorship that lasted almost forty years (1939-1975). The challenge was not only to build a democratic political system, based on the idea of reconciliation and consensus, but also to leave behind traditions, habits, mentalities, and inherited political culture from the former regime. Regarding gender equality issues, our country moves from the legal sanction of gender inequality in Francoism to the approval of avant-garde legislation on the subject, such as the Comprehensive Law on Gender Violence, the so-called 'Gender Identity Law' and the amendments of the Civil Code to allow same-sex partners to marry¹. Changes have happened extremely fast, implying an evolution with plenty of nuances, which deserves an in-depth explanation.

Spanish society of the late Francoism starred in great changes: economic development, a gradual process of urbanization, mass-consumption, appearance of critical sectors within the Catholic Church and Army, social forces working underground, and more contacts with foreign countries which eased subsequent political changes. General Francisco Franco died on November 1975, and from that moment the Spanish transition to Democracy began. The new government, headed by Adolfo Suárez, began to design the *Law for Political Reform (Ley para la Reforma Política, 1976)*, which is *de facto* the norm that dismantles the former regime. The following year, democratic elections are called and from that moment on the process of the development of a new constitution began. Meanwhile, important reforms and laws are passed regarding women's status. Thus in 1975 there were an important modification of the Civil Code: *marital permission* was revoked (Law 14/1975, of 2 May). This legal modification supposed mainly that woman could manage their own goods, and participate in commercial activities without the need of a formal husband's permission. Regarding other laws, Law 22/1978, of 26 May² revoked the articles of the Civil Code related to adultery and cohabitation; Law 45/1978, of 7 October³ legalized

¹ We will speak about these norms in greater detail later.

² Law 22/1978, on depenalization of adultery and cohabitation [*Ley 22/1978, de 26 de mayo, de despenalización del adulterio y del amancebamiento*].

³ Law 45/1978, to modify articles 416 and 343 b of the Civil Code [*Ley 45/1978, de 7 de octubre por la que se modifican los artículos del Código Civil 416 y 343 b*].

the sale and advertising of contraceptive methods, and Law 46/1978, of 7 October⁴ offered a new regulation for rape and kidnapping, considering the person –and not only the woman- as a passive subject of the crime. In the same year the Royal Decree 1914/1978 revoked feminine ‘Social Service’ (Servicio Social), a compulsory service for single or widow women under thirty- five and without children that allowed them to obtain the driving license or to work in public institutions. These last reforms were headed by the newly elected centre- right government (Democratic Centre Union [UCD]). Simultaneously, social forces that had worked underground in the former regime began to emerge: political parties and trade unions began to be legalized and the feminist movement began to organize itself and became visible. In this context of deep political and social changes, the approval of the democratic constitution took place by *referendum* on December 6, 1978.

Spanish Constitution 1978 is engaged with equality as we can observe mainly in three articles: article 1.1. considers equality one of the most important values of the Legal System, article 9.2. lays the foundations to implement affirmative actions since it allows policy makers to remove obstacles that hinder the achievement of equality, and article 14 states equality before the law and the prohibition of any kind of discrimination in terms of birth place, race, sex, religion, opinion or any other personal or social circumstance.

The approval of the democratic constitution lays the foundations for claims in favour of new rights in four realms (Ortiz Heras 2006): labour/ financial rights, civil rights, political rights, and rights related to sexuality. After the approval of the Constitution, intense legislative activity took place in order to develop the principle of equality. Next we will show the main milestones regarding gender equality policies, studied in depth in each issue history⁵.

In relation to employment realm, the *Worker’s Statute* (*Estatuto de los Trabajadores*, 1980) states the principle of non-discrimination in terms of sex and marital status, among others. On the one hand, women have been allowed to perform some types of work prohibited to them in the past: for example, under the social democratic government (PSOE), the Act that allows women’s presence in the Army was passed (Law 17/89, of 19 May⁶) and its regulation has been improved with the reform that took place under the Conservative Party (PP) one decade later (Law 17/99,

⁴ Law 46/1978, to modify the regulation of rape and kidnapping [*Ley 46/1978, de 7 de octubre, por la que se modifican los delitos de estupro y rapto*].

⁵ To better understand the following information, it is useful to remember that the Spanish Democracy has known four periods so far: Centre- right government (1977- 1982) [UCD], Social democratic government (1982- 1996) [PSOE], Conservative government (1996- 2004) [PP], and the current Social democratic government (2004-) [PSOE].

⁶ Law 17/1989, on regulation of professional military staff [*Ley 17/1989, de 19 de julio, reguladora del régimen del personal militar profesional*].

of 18 May⁷). Likewise women take part in night work, the mining sector, and in the Police and Civil Guard. On the other hand, affirmative actions have been implemented in the labour market sphere, but, as Valiente points out, they have had a 'pilot nature' (2007- forthcoming) so their target group was quite limited. Some examples of affirmative actions implemented have been job training courses, promotion of self-employment, and bonuses to employers, among others. In terms of gender equality in labour market, the *Constitutional Court (Tribunal Constitucional)* has played an important role since it has recognized the legality of affirmative actions, it has worked in favour of the application of the principles of equality and non- discrimination, and it has helped to establish the principle of 'equal pay for work of equal value'.

Regarding the very first directives on 1) equal remuneration (*Directive 75/117/EEC, of 10 February 1975*, on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women), 2) equal treatment in employment (*Directive 76/207/EEC, of 9 February 1976*, on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions, and *Directive 86/613/CEE*, on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood), and 3) social security (*Directive 79/7/EEC, of 19 December 1978*, on the progressive implementation of the principle of equal treatment for men and women in matters of social security and *Directive 96/97/EEC*, equal treatment for men and women in occupational social security schemes); the Spanish State has performed quite well, introducing these directives quite exhaustively (Lombardo 2004).

In Spain, reconciliation of work and family life has been mainly framed as an issue linked to the employment realm (reconciliation) and not to the intimate sphere (shared responsibilities) and especially to women's need of reconciliation (Peterson 2007). According to this, the *Law to promote the reconciliation of worker's work and family life (Ley para la conciliación de la vida familiar y personal de las personas trabajadoras, 1999⁸)* focuses mainly on working mothers, seeing them as having principal responsibility for care-taking and 'social nurture' issues. It is also important to mention the reform introduced by Law 42/2002, of 18 December⁹, because it offers the possibility to working mothers of obtaining an allowance of 100 euros for each child under three. This reform is designed within the frame of the *Comprehensive Plan to Support Families (Plan Integral de Apoyo a las Familias, 2001- 2004)*, developed during the Conservative period, since the traditional family was considered as state's

⁷ Law 17/1999, on regulation of Army staff [*Ley 17/1999, de 18 de mayo, de régimen del personal de las Fuerzas Armadas*]

⁸ Law 39/1999, to promote reconciliation of workers' family and work life [*Ley 39/1999, de 5 de noviembre, promover la conciliación de la vida familiar y laboral de las personas trabajadoras*].

⁹ Law 42/2002, on partial reform of the Income Tax [*Ley 42/2002, de 18 de diciembre, de reforma parcial del impuesto de la renta de las personas físicas*].

main target group.

Regarding the intimate citizenship sphere, our democracy dealt with great challenges in its very first moments. In the field of Family Law, two important laws were passed. On the one hand, Law 11/1981, of 13 May¹⁰, states the equal status between husband and wife, shared parental authority and the equal status of children born within the marriage or not. Some months later, one of the most controversial acts of the democratic period was passed: it was Law 30/1981, of 7 July¹¹, which allows civil marriage and established the regulation of divorce. The centre-right government received rough attacks from both the Catholic Church and the right positions, stating the end of the family and of traditional values. Nevertheless, the feminist movement and positions linked to the left saw this reform as an indispensable step for the modernisation of our country and for the rapprochement to European countries (Rubiales 2003). No less controversial was the approval of the regulation of abortion, just five months after PSOE's victory (1983). The reform of the Penal Code establishes the legalization of abortion under three cases (article 417 bis): when pregnancy is because of rape, risks to women's physical or physic health, or damage of the foetus. Conservative sectors of society showed a complete rejection, while for the feminist movement the changes were seen as insufficient. The Act came into force in 1985 because the parliamentary group of *People's Alliance* [Alianza Popular], a conservative predecessor of the later PP, presented a 'previous complaint of unconstitutionality' that was finally rejected.

In 1985 the Law 5/1985, of 19 June¹² is approved. This is the Act that regulates the political representation of citizens at the central level state in Spain. During the late eighties, this text produced an internal debate within left wing political parties, regarding women's political participation. In the **Socialist Party (PSOE)**, thanks to the pressure of feminist women, the discussion ended with the approval of a 25 percent women's quota for internal party positions and on party electoral lists in 1988 (one decade later the quota was raised to 40%). At the same time, the coalition **Leftist Party (Izquierda Unida, IU)**, the third political party at the national level state, began its debates around women's political participation and in 1989 it reached a commitment to include 30 percent of women on internal party positions and on party electoral lists. This percentage was raised to 35 percent in 1990, and seven years later a quota of 40 percent was approved. In contrast, **the Conservative Party (PP)** shows a clear position against quotas, stating that valuable women will reach powerful positions

¹⁰ Law 11/1981, on modification of Civil Code regarding filiation, parental guardianship and economic regime of marriage [*Ley 11/1981, de 13 de mayo, de modificación del Código Civil en materia de filiación, patria potestad y régimen económico del matrimonio*].

¹¹ Law 30/1981, on modification of marriage's regime and to regulate nullity, separation and divorce procedures [*Ley 30/1981, de 7 de Julio, por la que se modifica la regulación del matrimonio en el Código Civil y se determina el procedimiento a seguir en las causas de nulidad, separación y divorcio*].

¹² Law 5/1985, on General Electoral Regime [*Ley 5/1985, de 19 de junio, del Régimen Electoral General*].

without the state's intervention. For example, the Conservative Party, with an absolute majority in Parliament, rejected a bill that proposed to introduce a compulsory quota of 40 percent in all parties. The bill was submitted by the Socialist Party (PSOE) in 2001. Nevertheless, the increasing presence of women in political decision-making cannot be explained without quotas approved by left wing parties (Valiente 2007 forthcoming).

Several reforms and new Acts were passed in the field of gender- based violence. With respect to rape, in 1983 it was established in the Penal Code that the supposed 'forgiveness' of the victim was not an excuse to acquit the aggressor. Since 1989¹³ this crime has been regulated under the 'crimes against sexual freedom'. Thus, the issue is re-framed because the law protected a woman's sexual freedom and not the alleged woman's honour. The passive subject of the crime is not only the woman but the person herself, and rape goes further on the possibilities than heterosexual vaginal coitus. 'Gang rape' (committed by three or more people) was regulated as well. At the beginning of the eighties, rape and sexual abuse was a very hot issue for the feminist movement, which directed its actions mainly towards increasing the social awareness of this problem (Alberdi *et al.* 1996). The reform of 1989 covered a new regulation on domestic violence. The article 425 of the Penal Code introduced repeated physical violence as an offence, but it didn't approach the problem as a gendered one. In fact, it puts together women and children as the weakest members of the family group. The following Conservative government (1996- 2004) had to deal with a surge of violent cases that caught the media's attention and led to a deeper awareness. In 1998, the first *Action Plan against Domestic Violence* (Plan de Acción contra la Violencia Doméstica, 1998- 2000) was approved, and the next year a new Organic Law¹⁴ was enacted to introduce repeated psychological violence as an offence. Since the beginning of the nineties, the feminist movement worked for the approval of a Comprehensive Act in the matter. This claim was assumed by the Socialist Party [PSOE] that presented two bills on the matter in 2000 and 2002. Both were rejected by the Conservative Party [PP] since it had absolute majority in Parliament.

Regarding policy making, it is important to mention the approval of the so-called 'Gender impact Act' (Law 30/2003, of 30 October¹⁵). This Act made it compulsory to write a report on the gender impact of government bills and regulations. This report is merely informative, in that no ability to modify the text was provided.

Also in 2003, Law 62/2003 of 30 December on fiscal, administrative and social

¹³ Organic Law 3/1989, to update Penal Code [L. O. 3/1989, de 21 de junio, de actualización del Código Penal].

¹⁴ Act on modification of the Penal Code regarding domestic violence, and of the Criminal Procedure Law [L.O. 14/ 1999, de 9 de junio, de modificación del Código Penal en materia de malos tratos y la Ley de Enjuiciamiento Criminal]

¹⁵ Law 30/2003, of 13 October, on measures to incorporate evaluation of gender impact into norms done by government [Ley 30/2003, de 13 de octubre, sobre medidas para incorporar la valoración del impacto de género en las disposiciones normativas que elabore el Gobierno].

measures is enacted. In this Law, two European Directives are transposed: *Council Directive 2000/43/EC*, of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and *Council Directive 2000/78/EC*, establishing a general framework for equal treatment in employment and occupation.

The legislative activity of the current term deserves special mention. In spring 2004, a new social democratic period began in Spain with the victory of the Socialist Party [PSOE]. The new President, the self-defined feminist José Luis Rodríguez Zapatero, formed a parity government and appointed as vice-president a feminist woman- María Teresa Fernández de la Vega. From that moment on, a process of legal changes began in the field of social policy and gender equality policies. That is why some authors have defined this period as a 'social term' unknown so far. Just nine months after the elections, the *Comprehensive Law on Gender Violence* (Organic Law 1/2004, of 28 December¹⁶), long demanded by feminists, was approved. The more advanced aspects of the text were basically two: it states that violence against women is not just a private issue, on the contrary it should receive special attention from policy-makers. In addition, violence against women was defined as a gendered issue, which takes root in structural gender inequality. Nevertheless, this Act received a double critic. From feminist positions, the critics focused on its limited definition of gender violence –only within the partnership- and the slowness and difficulties in its development. From conservative positions the most controversial point was the existence of affirmative actions. Thus the Conservative Party presented several complaints of unconstitutionality and critical reports of several members of the *General Council of the Judicial Power* (Consejo General del Poder Judicial), organ of government of Spanish judges, underlined the alleged unconstitutionality of different parts of the Act according to the article 14 of our Constitution.

On March 2005 several documents oriented to the promotion of gender equality were passed, coinciding with International Women's Day. Thus *general measures to favour gender equality* were passed by the Agreement of Ministry Board (Ministerial Decree PRE/525/2005, of 7 March¹⁷). These measures try to combat women's discrimination in different realms: employment (with special mention to Public Service); reconciliation of work and family life; promotion of gendered research; cooperation development; sport; and gender-based violence. Second, a *Plan for the promotion of Gender Equality in Public Service* at the national level was approved (Ministerial Decree APU/526/2005, of 7 March¹⁸). This Plan offered measures in six realms:

¹⁶ Act on Integrated Protection Measures against Gender Violence [*Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género*].

¹⁷ Ministerial Decree on measures to promote gender equality [*Orden PRE/525/2005, de 7 de marzo, por la que se da publicidad al Acuerdo de Consejo de Ministros por el que se adoptan medidas para favorecer la igualdad entre mujeres y hombres*].

¹⁸ Ministerial Decree on the approval of the 'Plan for the promotion of gender equality in Public Service' [*Orden APU/526/2005, de 7 de marzo, por la que se dispone la publicación del*

promotion of gender equality in access to public employment; in labour promotion; reconciliation of personal, family and work life; prevention of gender violence; general measures to promote gender equality; and research on the labour course in terms of sex. Finally, the Ministry Board approved *measures for the promotion of women's access to and integration into the Army* (Ministerial Decree DEF/524/2005, of 7 March¹⁹). The Preamble pointed out that these measures were passed due to the increasing number of women in the Army, which creates new situations that deserve special attention. One of the most noteworthy measures was a *Nursery Plan (Plan de Guarderías 2005- 2007)*, that prepares the creation of nurseries in the barracks of eight regions (*Comunidades Autónomas*).

In 2006 the so-called 'Dependency Act' (Law 39/2006, of 14 December²⁰) was approved. This Act professes to lay the foundations of the *System of Autonomy and Attention to Dependent People* (SAAD), defined as the fourth pillar of our welfare state. The text planned two groups of measures: on the one hand, the promotion of public services of care (public centres and home assistance) and, on the other hand, the more controversial allowances for the family care-taker. Feminist Organizations, such as *Feminist Assembly (Asamblea Feminista)*, pointed out that there was an implicit risk of reproducing gender roles, since the main care-takers were still women. On the other hand, funds offered by this Act have been seen as insufficient. In the same year, a *Ministerial Decree on women's access to Civil Guard* was approved (Ministerial Decree PRE/600/2006, of 3 March²¹). The norm recognizes that the selective process has led to women's discrimination because the size demanded to be part of this Force was not differentiated in terms of sex. In other words, the male size was considered as the 'neutral' size and it led to women's rejection by this Force.

Also in 2006, II Spanish Report relating to the *Frame Agreement to protect national minorities* of the Council of Europe is presented in our country. This Report focuses specifically on young Roma women due to the cross-sectional discrimination that they suffer. Special attention is paid to gender violence, cultural identity and social participation.

Acuerdo de Consejo de Ministros de 4 de marzo de 2005, por el que se aprueba el Plan para la igualdad de género en la Administración General del Estado.

¹⁹ Ministerial Decree on measures to promote women's incorporation into the Army [*Orden DEF/524/2005, de 7 de marzo, por la que se dispone la publicación del Acuerdo de Consejo de Ministros de 4 de marzo de 2005, por el que se aprueban medidas para favorecer la incorporación y la integración de la mujer en las Fuerzas Armadas*].

²⁰ Law 39/2006, to promote personal autonomy and to assist dependent people [*Ley 39/2006, de 14 de diciembre, de promoción de la Autonomía Personal y Atención a las personas en situación de dependencia*].

²¹ Ministerial Decree to modify Ministerial Decree of April 9, 1996, by which the selective process to incorporate new members into the Civil Guard is approved [*Orden PRE/600/2006, de 3 de marzo, por la que se modifica la Orden del Ministerio de la Presidencia de 9 de abril de 1996, por la que se aprueban las bases y circunstancias aplicables a los procesos selectivos para ingreso en los centros docentes militares de formación para acceso a la Escala de Cabos y Guardias del Cuerpo de la Guardia Civil*].

The role played by lgbt organizations, left wing political parties and the media is crucial in understanding one of the bigger shifts: the one related to lgbt rights, in which there are two important milestones. Firstly, in 2005 the Act that allows same- sex partners to marry was passed (Law 13/2005, of 30 June²²). The Act reformed sixteen articles of the Civil Code to make lesbian and gay marriage equal to the heterosexual one, adoption included. Secondly, the Law 3/2007 of March 15²³ was enacted which allows transgender people to change their personal data without the need of surgery or legal proceedings. Despite the large impact of these laws and their visibility, lgbt organizations and civil society in general are demanding larger changes concerning discrimination in daily life and public policies. Also, both acts and most legal reforms were constructed from a (false) neutral perspective, lacking an intersectional perspective on the concrete discriminations against lesbians, under age lgbt individuals, immigrant lgbt people, elderly people, etc. (Platero 2007).

Coinciding with the 'European Year of Equal Opportunity for Everybody' in 2007, Spanish Equality Law is enacted. The national *Equality Law* was approved on March 22, 2007 and its first aim was, in our President words, 'doing women justice', especially in the 75th Anniversary of women's right to vote. This Act transposed two European Directives: *Directive 2002/73/CE that reformed 76/207 CEE*, on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; and *Directive 2004/113 CEE*, implementing the principle of equal treatment between men and women in the access to goods and services and to their supply. The Law recognizes in the Preamble that the principle of equality has not been sufficiently developed given the extent of gender violence, the wage gap, the higher rate of women's unemployment, the glass ceiling, and so forth. Thus, the main objective of the Law is to make the principle of equality real and to prevent gender discrimination. Several realms are affected by the Law; the most noteworthy measures are explained below:

- ° Parity: in electoral list, it should be at least two women out of a five person group.
- ° A 15- day paternal leave is established.
- ° Equality Plans should be implemented in companies with 250 workers or more.
- ° Promotion of women's presence in Executive Boards.
- ° The Act introduces measures to promote reconciliation between work and family life.
- ° Promotion of equality in public media.

²² Law 13/2005, on modification of the Civil Code regarding marriage [*Ley 13/2005, de 1 de julio, por la que se modifica el Código Civil en materia de derecho a contraer matrimonio*].

²³ Law 3/2007, to promote effective equality between men and women [*Ley Orgánica 3/2007, de 22 de marzo para la igualdad efectiva entre hombres y mujeres*].

°The principle of equal treatment for access ing goods, services and mainly insurances is established.

Spanish Equality Law focuses on fighting against gender inequality and it pays special attention to double discrimination. Migrant, disabled and minority women are seen by the law as vulnerable groups thus requiring special consideration (Preamble, II).

The Act was passed thanks to the support of all parliamentary groups, except the Conservative one. The vice-president, María Teresa Fernández de la Vega, stated that this norm is the most important one to reach gender equality since the approval of our current constitution. In spite of that, the Conservative Party (PP) has submitted a complaint of unconstitutionality because of the establishment of parity electoral lists (June 2007). According to the conservative line of argument, this measure hinders freedom of ideology and political pluralism, and limits a party's ability to decide freely. Both the Socialist Party (PSOE) and Leftist Party (IU) have expressed scathing attacks against PP's attitude. Socialist Secretary of Equality, Maribel Montaña, stated that PP wants to hinder women's presence in public institutions, and MP Isaura Navarro (IU) assessed that this complaint of unconstitutionality is a direct attack against women's social advance.

As *Table 1* shows, six regions (Comunidades Autónomas) approved their regional equality laws before the national one. Though their names are very similar, there are noticeable differences in how gender equality is framed (Bustelo and Peterson, 2005).

Table 1: Equality Laws at the Regional Level.

Equality Laws passed at the regional level (in chronological order)
<p>Navarra. Regional Law to promote Equality of Opportunities between Women and Men [<i>Ley Foral 33/2002, de 28 de noviembre, de fomento de la igualdad de oportunidades entre mujeres y hombres, del Parlamento de Navarra</i>] http://www.ahige.org/docs2/75025.pdf</p>
<p>Valencian Community. Valencian Law for Equal Opportunities between Women and Men [<i>Ley Valenciana 9/ 2003, de 2 de abril de 2003 para la Igualdad de Oportunidades entre mujeres y hombres</i>]. http://www.ahige.org/docs2/75031.pdf</p>
<p>Castilla and León. Law for Equal Opportunities between Women and Men [<i>Ley 1/ 2003, de 3 de marzo de Igualdad de Oportunidades entre mujeres y hombres en Castilla y León</i>]. http://www.todalaley.com/mostrarLey1041p1tn.htm</p>
<p>Galicia. Galician Law for Equality between Women and Men [<i>Ley Gallega 7/ 2004, de 16 de julio de 2004 para la Igualdad de mujeres y hombres</i>]. http://www.boe.es/boe/dias/2004/09/21/pdfs/A31571-31580.pdf</p>
<p>Basque Country. Basque Act for Equality between Women and Men [<i>Ley Vasca 4/2005, de 18 de febrero de 2005 para la Igualdad de mujeres y hombres</i>]. http://noticias.juridicas.com/base_datos/CCAA/pv-l4-2005.tp.html</p>
<p>Balearic Islands. Law for Women [<i>Ley 12/2006, de 20 de septiembre, para la mujer</i>]. http://www.caib.es/fitxer/get?codi=133915</p>

Source: Regional Women's Institutes.

In the current year (2007), an *Action Plan for Disabled Women* has been approved as well. The Plan aims to combat the double discrimination of disabled women, which is not merely the addition of two discriminations but a more complex situation. In

agreement with the 'European Manifesto of Disabled Women' (1997) and 2000/78 *European Directive*, the Plan prepares the measures long demanded by organizations of disabled women. The measures planned are divided into two groups: affirmative actions; and cross-sectional measures in several realms, such as education, gendered violence, employment or health. On the other hand, the Plan proposes to complete two previous laws. First, Law 51/2003 on *Equal Opportunities and non-discrimination of disabled people* (known as LIONDAU²⁴), in which article 8.2 mentions disabled women's additional discrimination and the subsequent need of affirmative actions. Second, it proposes to modify the Law 62/2003 on *fiscal, administrative and social measures*, where the Directive mentioned above is transposed. Moreover, the Plan complements the *First Comprehensive Action Plan for Disabled Women (2005-8)* approved by the Spanish Committee of Representatives of Disabled People (known as CERMI). This Committee created the 'Commission of Women' in 2000, which impelled the approval of the mentioned Plan. CERMI is one of the most important organizations for disabled people, it groups 2900 organizations and represents the nine percent of Spanish disabled people.

On June 27, the Commission sent formal requests to 14 Member States to fully implement EU rules banning discrimination on the grounds of race or ethnic origin (2000/43/CE). The countries concerned, Spain among them, have two months to respond, 'failing which the Commission can take them to the European Court of Justice'. The Race Equality Directive was agreed in 2000 with a deadline for implementation into national law by 2003.

Apart from the 'hard law' presented so far, in Spain other policies are implemented to promote gender equality. We refer concretely to *Equality Plans*, which have been the main and almost exclusive policy instruments regarding Spanish gender equality policies for the first twenty five years of their history, until the 'equality laws' arrived (Bustelo and Ortals 2007). An 'equality plan' is a group of measures and objectives drawn up by gender equality institutions. Its implementation is planned in a concrete period of time, four years on average. Gender equality institutions are not the only actors that implement the Plans, on the contrary, different governmental departments and civil society organizations take part in the development of the measures. This fact supposes that femocrats and gender equality institutions actually impel other actors to develop the measures. That is to say that femocrats should develop skills of persuasion (Valiente 1995), which is a potential weakness of equality plans, since the success or the complete implementation of Plans depends to a great extent on the 'human factor' (Bustelo 2004).

²⁴ Law 51/2003, to promote equal opportunity, non-discrimination and universal access for disabled people [*Ley 51/2003, de 2 de diciembre, de igualdad de oportunidades, no discriminación y accesibilidad universal de las personas con discapacidad*].

Table 2 presents the fourth ‘generations’ of Equality Plans at the National level. There has been a noticeable evolution of the texts which can be seen in their very names.

Table 2: Fourth generations of Equality Plans at the National Level:

Equality Plans implemented at the national level so far
<p>I Plan 1988-90: Plan for Equal Opportunities (<i>Plan de Igualdad de Oportunidades</i>)</p>
<p>II Plan 1993-1995: Plan for Women’s Equality (<i>Plan para la Igualdad de Oportunidades de las Mujeres</i>)</p>
<p>III Plan 1997-2000: Plan for Equal Opportunities between Women and Men (<i>Plan de Igualdad de Oportunidades entre Mujeres y Hombres</i>)</p>
<p>IV Plan 2003-2006: Plan for Equal Opportunities between Women and Men (<i>Plan de Igualdad de Oportunidades entre Mujeres y Hombres</i>)</p>

Source: Women’s Institute.

As we will present in greater detail in the next section, the national *Women’s Intitute* (Instituto de la Mujer) created in 1983 by Law 16/1983, of 24 October²⁵, acted as a source of inspiration for the regional equality institutions (Bustelo and Orbals 2007). They have developed regional equality plans, although their rhythm has been quite different. As *Table 3* shows, whereas autonomous communities like Catalonia apply their fifth generation of plans, others like the Valencian Community have just passed the third one. It is also noticeable that there is just one plan passed in Ceuta and Melilla, the two Spanish autonomous cities, as well as in Navarra.

²⁵ Law 62/2003, on fiscal, social, and administrative measures [*Ley 62/2003, de 30 de diciembre, de medidas fiscales, administrativas y del orden social*].

Table 3: Equality Plans in force (national and regional level):

Equality Plans in force in July 2007 (in alphabetical order)
<p>National Level: IV Plan for Equal Opportunities between Women and Men (<i>IV Plan de Igualdad de Oportunidades entre mujeres y hombres. 2003- 2006</i>)</p>
<p>Aragón: III Plan of Affirmative Action for Women from Aragon (<i>III Plan de Acción Positiva para las mujeres de Aragón. 2001- 2004</i>).</p>
<p>Asturias: IV Plan of Affirmative Action for Women from Asturias (<i>IV Plan de Acción Positiva para las mujeres del Principado de Asturias. 2001- 2005</i>).</p>
<p>Balearic Islands: III Action Plan for Equality between Men and Women (<i>III Plan de actuaciones para la Igualdad entre hombres y mujeres. 2002- 2005</i>).</p>
<p>Canary Island: III Canary Plan for Equal Opportunities between Men and Women (<i>III Plan canario para la Igualdad de Oportunidades entre hombres y mujeres. 2003- 2006</i>).</p>
<p>Cantabria: III Plan for Equal Opportunities between Women and Men (<i>III Plan para la Igualdad de Oportunidades entre mujeres y hombres de Cantabria. 2003- 2006</i>).</p>
<p>Castilla and León: IV Plan of Equal Opportunities between Women and Men (<i>IV Plan de Igualdad de oportunidades entre mujeres y hombres. 2007- 2011</i>).</p>
<p>Catalonia: V Action Plan for the Development of Women's Policy in Catalonia (<i>V Plan de Acción y Desarrollo de las políticas de mujer en Cataluña. 2005- 2007</i>).</p>
<p>Ceuta: I Plan for Equal Opportunities between Women and Men (<i>I Plan de Igualdad de Oportunidades entre mujeres y hombres. 2005- 2008</i>).</p>
<p>Extremadura: III Plan for Equal Opportunities for Estremenian Women (<i>III Plan para la Igualdad de Oportunidades para las Mujeres de Extremadura. 2006- 2009</i>).</p>
<p>Galicia: IV Plan of Equal Opportunities for Galician Women (<i>IV Plan de Igualdad de Oportunidades das Mulleres Galegas. 2002- 2005</i>).</p>

Madrid: IV Plan of Equal Opportunities between Women and Men (*IV Plan de Igualdad de Oportunidades entre mujeres y hombres. 2002- 2005*).

Melilla: I Plan of Equal opportunities between Men and Women in the Region of Melilla (*I Plan de Igualdad de Oportunidades entre Hombres y Mujeres de la Comunidad Autónoma de Melilla. 2001- 2004*).

Murcia: III Plan of Equal Opportunities between Men and Women (*III Plan de Igualdad de oportunidades entre hombres y mujeres. 2003- 2005*).

Navarra: I Plan for Equal opportunities for Women and Men in the Region of Navarra (*I Plan de Igualdad de Oportunidades para Mujeres y Hombres de la Comunidad Foral de Navarra. 2006-2010*).

La Rioja: III Comprehensive Plan for Women (*III Plan Integral de la Mujer. 2006-2009*).

Valencian Community: III Plan for Equal Opportunities for Women and Men (*III Plan para la Igualdad de Oportunidades para mujeres y hombres. 2006- 2009*).

Source: Bustelo (2004) and Women's Institute.

To end this section, we will say a few words on the influence of international legislation on the Spanish legal system. In 1983, Spain ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), and three years later, under the social democratic government, it became a new member of the former European Economic Community. According to Teresa Freixes (2002), women, as European citizens, are for the first time active subjects in the composition and reform of European treaties and Directives, and not merely objects of the norms. Valiente (2007 forthcoming) points out that the influence of the European Union can be understood as threefold. First, the EU is a fundamental actor in the promotion of gender equality in labour market realm and hence both equality directives and treaty provisions have impelled a process of revision of national discriminatory legislation. Though some reforms were undertaken before our country's access –as we have already seen, and, in some cases, Spanish legislation is more advanced than European one²⁶ (for example, see Threlfall 1997, Valiente 2003, Lombardo 2004), treaty provisions and the transposition of European Directives have accelerated and guided the fight against gender discrimination. In addition, European influence

²⁶ For example, the reversal of the burden of proof was established in Spain in 1989- 90 and at the EU level in 1997. Sexual harassment at work is regulated in Spain in 1989, while a European Directive on the matter is in 2002.

introduces into the Spanish agenda not only new topics but also a new policy-making style, that can be defined as 'Europeanization of Spanish Policies' (Lombardo 2004).

Moreover, the impact of the European Union can be traced in the Spanish Equality Plans, previously explained. National Plans are inspired by the *European Action Programs about Equal Opportunities for Women*. Specifically the fourth National Equality Plan which follows respectively the guidelines of the second, the third, the fourth, and the Fifth European Action Programs.

Finally, the European Union has encouraged the feminist movement not only in economic terms but also providing a wide network to suggest and defend claims both in the social and political realm. We will study this in depth in the next section.

1.2. A short history of the development of gender equality machinery in government and its relationship with governmental institutions for other equalities.

In the last section we presented the main milestones in gender equality law and plans in Spain. Next we will focus on women's machinery. In the Spanish case, the first steps in the development of gender equality machinery are closely connected to feminist women who had taken part in previous feminist political activity. Thus, controversy around 'double militancy' concentrates most of the debates in the late seventies. Some feminist women emphasised the patriarchal nature of the state (historical oppressor of women), while others saw political machinery as a potential ally in women's fight. For that reason, we will take a brief look at the formation of the Spanish feminist movement and its (controversial) connection to women's machinery.

1975 was a very salient year not only because of the international feminist movement but also for the Spanish one. As literature shows, the year of Franco's death can be underlined as Spanish feminist movement's birth. 1975 was declared 'Women's International Year' by the United Nations, which was used by feminist women to highlight Spanish women's disadvantaged situation, especially through the media. In addition, a *National Commission for Women's International Year (Comisión Nacional para el Año Internacional de la Mujer)* was created to gather information on women's legal and social status, and the report was published two years later. But the big shift was the holding of the *National Women's Liberation Conference (Jornadas Nacionales por la Liberación de la Mujer)* in Madrid, on December 1975. This first meeting initiated the first contacts between provincial feminist groups as well as the creation of a circle to exchange proposals and to plan political goals and actions (Escario, Alberdi and López- Acotto 1996). At this moment, a debate around the articulation of the feminist movement and about its relationship to the state's machinery emerged. This debate was known as the opposition between *monism* versus *dualism*, or *unique militancy*

(*'militancia única'*) versus *double militancy* (*'doble militancia'*). Feminist women from the first groups stated that feminist goals were part of a bigger fight in favour of democracy and political rights. Thus, they accepted participation in political parties because they thought that fighting against a dictatorship and supporting citizen rights would also help in meeting feminist goals. *Women's Democratic Movement* (*Movimiento Democrático de Mujeres*) and *Women's Democratic Association* (*Asociación Democrática de Mujeres*) agreed with these ideas and were connected to worker's parties. Later, most of the women participating in these groups took part in the women's machinery. On the other hand, feminist women of the second group (*dualism ones*) argued that the feminists' fight should be independent from other political claims and they rejected any alliance with political parties or state machinery. Thus, they stated that the fight in favour of democracy didn't necessarily mean that feminist claims would be satisfied. In this group, we can mention *Seminars* and *Feminist Associations* (*Seminarios y Colectivos feministas*). Finally, there was an attempt to find a 'third way', exemplified by the *Women's Liberation Front* (*Frente de Liberación de la Mujer*). These women accepted double militancy but they were not connected to a concrete political party. One year later, the *First Catalan Women's Conference* (*Primeres Jornades Catalanes de la Dona*) was held in Barcelona. The importance of debates around double militancy was increasing considerably. The most dramatic example occurred in the Conference held in Granada in 1979, where disagreements hindered joint conclusions (Escario, Alberdi and López- Acotto 1996).

Meanwhile, in the electoral campaign of democratic elections (1977), feminist issues were seen by political parties as a secondary objective and only twenty five women deputies were in Parliament. Under the newly elected government, the most salient event was the creation of the *General Sub-directorate of Feminine Condition* (*Subdirección General de la Condición Femenina*), attached to the Ministry of Culture. This subdepartment was run by a group of progressive women, who acted in the middle of double pressures. On the one hand, conservative sectors were worried about family integrity. On the other hand, feminist activists saw the reforms as quite limited. In that moment, feminist women were in a controversial situation since this Subdepartment was seen as the unique democratic institution in favour of women's rights. But, on the other hand, it was evaluated as a (patriarchal) structure within a right wing government (Escario, Alberdi and López- Acotto 1996). In 1980, the subdepartment's name was changed into *General Sub-directorate of Women* (*Subdirección General de la Mujer*), but it was mainly a symbolic change because there was a very reduced budget and consequently their capacity to act was still limited.

The most outstanding event happened at the end of 1983. On October 1982, the Socialist Party (PSOE) won in the general elections. Regarding some authors' opinions, this event meant the end of the Spanish Transition. One year after the socialist's victory, the *Women's Institute* (*Instituto de la Mujer*) was created at the central level. Several factors had influence on its creation: pressures from the feminist

movement, international influence and especially pressures from women within Socialist Party (Valiente 1996). The *Women's Institute* is an autonomous body attached firstly to the governmental structure of the Ministry of Culture, then to Social Affairs (Royal Decree 727/1988, of 12 July), then to Employment and Social Affairs (Royal Decree 758/1996, of 5 May). It increases the political rank of governmental institutions dedicated to women since it has its own budget. From that moment, gender equality policies became part of the government's policies and agenda. To sum up, the *Women's Institute* inaugurated Spanish State Feminism and Gender Equality Policies.

So far, there is not any institution to fight against other inequalities, neither at regional nor at local levels.

In addition, the *Women's Institute* acted as a source of inspiration for regional women's machinery. From the approval of the 1978 Constitution a process of decentralization began in Spain through the approvals of the regional *Statutes of Autonomy (Estatutos de Autonomía)*. Thus, Spain can be defined as a *quasi* asymmetrical federal system. The beginning of regional State Feminism took place in 1988 (Bustelo 1994). This year saw the creation of the regional Women's Institute in Andalusia, in Valencian Community and in Basque Country. *Table 4* shows the evolution of regional women's machinery. Moreover, regional women's bodies are attached to different governmental areas, which show implicitly different gender assumptions. Thus, they are attached to the regional presidency ministry in Asturias, Balearic Islands, Catalonia, Murcia and Basque Country, and to the regional vice-presidency ministry in Galicia. In five regions and in the autonomous city of Ceuta they are attached to regional social welfare or affairs ministries. The rest of the regions: Cantabria and Castilla la Mancha, are attached to regional institutional affairs ministries; in Castilla- León, to regional family ministry; in Extremadura, to regional culture ministry; in the autonomous city of Melilla, to regional education, youth and women ministry; and in Madrid, to regional employment and women ministry.

Regarding the type of organizations, ten regions implement their gender equality law from autonomous bodies, that is to say they are institutions created by law and with their own budget (Aragon, Asturias, Balearic Islands, Canary Islands, Castilla la Mancha, Catalonia, Extremadura, Murcia, Navarra and the Basque Country). Gender equality law is articulated through *General Directorates (Direcciones Generales)* in Cantabria, Castilla- León, Madrid, La Rioja and Valencian Community. That means a more limited action capacity. Finally, Andalusia has a regional equality and social well-being ministry.

Table 4: Creation of National and Regional women's machinery:

GOVERNMENTAL LEVEL	INSTITUTION (YEAR OF OPENING)	EQUALITY PLANS IMPLEMENTED
<i>Nacional Level</i> SPAIN	Woman's Institute (83)	I Plan 1988-90 II Plan 1993-96 III Plan 1997-2000 IV Plan 2003-2006
<i>Gobiernos autonómicos</i>	<i>Organismos autonómicos</i>	<i>Planes autonómicos</i>
ANDALUSIA	Andalusian Woman's Institute (88)	I Plan 1990-92 II Plan 1995-97
ARAGON	Aragon's Woman's Institute (93)	I Plan 1994-96 II Plan 97-2000 III Plan 2001-2004
ASTURIAS	Secretary of Woman (89) Regional Directorate for woman ((93)) Woman's Regional Secretariat (95) Asturias' Women's Institute (99)	I Plan 1989-91 II Plan 1993-95 III Plan 1996-2000 IV Plan 2001-2005
BALEARIC ISLANDS	Woman's Interdepartmental Committee (90) Balearic Women's Institute (2000)	I Plan 1991-93 II Plan 1996-99 III Plan 2002-2005
CANARY ISLANDS	Canary Island Women's Institute (94)	I Plan 1995-96 II Plan 97-2000 III Plan 2003-2006
CANTABRIA	Agency for women's promotion (86)* D.G. Woman(97)	I Plan 1991-93 II Plan 1998-2001 III Plan 2003-2006
CASTILLA-LA MANCHA	D.G. Woman (Directorate-General)(90) Castilla-La Mancha's Women's Institute (2002)	I Plan 1990-94 II Plan 1995-99 III Plan 1999-2003
CASTILLA-LEON	Womea's Regional Service* Woman's Regional secretariat (94)* D.G of woman and equal opportunities. (99)	I Plan 1994-96 II Plan 1997-2000 III Plan 2001-2005
CATALONIA	Interdepartmental Committee for the woman promotion(87) Catalonian Women's Institute (89)	I Plan 1989-92 II Plan 1994-96 III Plan 1998-2000 IV Plan 2001-2003
EXTREMADURA	Woman's Executive consultancy (88)* Woman's D.G. (91) Extremadura's Women's Institute (2001)	I Plan 1991 II Plan 2002-2003
GALICIA	<i>Galician service to promote equality between Man and women. (91)</i>	I Plan 1992-94 II Plan 1995-97 III Plan 1998-2001

		IV 2002-2005
MADRID	Woma D.G. (89)	I Plan 1989-91 II Plan 1993-95 III Plan 1997-2000 IV Plan 2001-2005
MURCIA	Woman D.G. (91) Directorate-General for and F Social Policy and Family(95) Directorate-General for Youth , Woman and Family(97) Murcia's Women's Institute (2002)	I Plan 1993-95 II Plan 1997-2000
NAVARRA	Woman's General Section (91) Navarra's Women's Institute (95)	I Plan 1998-2000
BASQUE COUNTRY	Basque Women's Institute (Emakunde) (88)	I Plan 91-94 II Plan 95-98 III Plan 1999-2002
LA RIOJA	Woman's advisory office * (D.G for social welfare -88)	I Plan 91-95 II Plan 96-99 III Plan 2001-2004
VALENCIAN COMMUNITY	Valencian Women's Institute (88) Woman's D-G(97)	I Plan 89-91 II Plan 1997-2000 III Plan 2001-2004

Source: María Bustelo (2004) and Women's Institute (<http://www.mtas.es/mujer/>).

To end regional women's machinery, we will say a few words on *Gender Units* (Unidades de Género) created in Andalusia (2000) and Cantabria (2005). These are support structures to implement gender mainstreaming. Regarding the Andalusian case, some successful results have been found in relation to gender training, especially training oriented to introducing a gender perspective in regional plans and bodies.

In relation to the local realm, articles 28 and 31 of the Law 7/1985, of 2 April state that municipalities can develop activities connected to women's equality in collaboration with other women's bodies. Thus, the *Women's Institute* and *Spanish Federation of Municipalities and Provinces* (*Federación Española de Municipios y Provincias*) signed a *Framework Cooperation Agreement* (*Convenio Marco de Colaboración*) in 1992. This agreement is renewed every year. Its main objective is to introduce a gender perspective in Local Policy and to develop co-financed equality programs.

Both in the regional and local realm the so-called *Women's Councils* (*Consejos de la Mujer*) play an interesting role as advisory organs. Since the mid nineties, these councils began to be approved. They group different women's associations and their main aim is to promote women's participation in policy-making, that is to say they are speakers between civil society and Public Administration. *Table 5* shows regional

women's councils and their year of creation.

Table 5: Regional Women's Councils:

Regional Women's Council created so far	
Regional Women's Council	Year of Creation
Women's Council of Asturias	April 4, 2001
Women's Council of Cantabria	Cantabria's Law 3/1997, of 26 May
Regional Women's Council of Castilla la Mancha	Decree 35/1990, of 13 March
Regional Women's Council of Castilla- León	Decree 171/2000, 13 July
Catalonian Women's Council	Decree 460/2004, 28 December
Sectorial Women's Council of La Rioja	Order April 8, 1997
Women's Council of Madrid	Law 3/1993, 2 April
Women's Council of Navarra	Regional Order 351/1996, 4 March
Valencian Women's Council	Order July 25, 1997

The first *Parliament- Senate Mixed Commission on Women's Rights (Comisión Mixta Congreso- Senado de los Derechos de la Mujer)* was created on March 1990. The Commission has three main tasks: researching women's social status; monitoring application of international legislation; and monitoring governmental action in this area. In the current term, the Commission was established on April 2004 and the name was changed into *Mixed Commission on Women's Rights and Equal Opportunities*. It is nowadays run by a well-known feminist woman, Carmen Alborch.

In 1995 the *Sectorial Women's Conference (Conferencia Sectorial de la Mujer)* was set up. It has periodical meetings for coordinating equal opportunities between central administration and the Autonomous Communities. Also, it is an organ to debate and cooperate around gender equality policy.

In 2000, the *Observatory to promote Equal Opportunity between Women and Man (Observatorio para la Igualdad de Oportunidades entre mujeres y hombres)* is created (Royal Decree 1686/2000, of 6 October). The main objective of this Observatory is to elaborate a reliable diagnosis on gender inequality in Spain as well as to evaluate gender equality law. It is attached to the *Women's Institute*.

In 2004 the new Socialist Government created the *General Secretariat of Equality*

Policy (Secretaría General de Políticas de Igualdad), led by the well-known feminist academy Soledad Murillo²⁷ (Royal Decree 1600/2004, of 2 July). It is attached to the Ministry of Labour and Social Affairs. Its creation supposes a strengthening of gender equality policy. This body has a higher rank than the *Women's Institute*, which is since then dependent on the Secretariat. From the creation of the Secretariat onwards new concepts appear linked to gender and women's studies, and feminist's claims: the importance of implementing gender policies which have an impact in the private realm, establishment of gender mainstreaming, closer contacts with social actors, and a renewed importance to gender violence and reconciliation policies. As we have said, this institution has had a short lifespan and that is why its impact on gender policies institutional framework cannot be fully assessed. However, it is so far playing a relevant role regarding some issues, such as gender based violence. Thus *Special Governmental Delegation for Gender Violence Issues (Delegación Especial del Gobierno para la Violencia de Género)*, created by Royal Decree 237/2005, of 4 March, and *National Observatory on Gender Violence (Observatorio Estatal de Violencia de Género)*, created by Royal Decree 253/2006, of 2 July, are dependent bodies of the Secretariat as well. Also salient is the creation of the *Observatory to promote Women's Health (Observatorio de la salud de las mujeres)*, attached to the Ministry of Health and Consumption (Royal Decree 1555/2004, of 25 June).

General Primary Sources:

2003:

➤ Law 30/2003, of 13 October, on measures to incorporate evaluation of gender impact into norms done by government (*Ley 30/2003, de 13 de octubre, sobre medidas para incorporar la valoración del impacto de género en las disposiciones normativas que elabore el gobierno*). 3 pages.

Available in: http://noticias.juridicas.com/base_datos/Admin/l30-2003.html

➤ IV Plan for Equal Opportunities between Women and Men. 2003- 2006 (*IV Plan de Igualdad de Oportunidades entre mujeres y hombres. 2003- 2006*). 62 pages.

Available in: <http://www.mtas.es/mujer/politicas/piom.doc>

2005:

➤ Ministerial Decree 525/2005, of 7 March, to advertise the Ministry Board Agreement to adopt measures to promote equality between women and men (*Orden PRE/525/2005, de 7 de marzo, por la que se da publicidad al Acuerdo de Consejo de Ministros por el que se adoptan medidas para favorecer la igualdad entre mujeres y hombres*). 7 pages.

Available in: <http://www.lexureditorial.com/boe/0503/03773.htm>

²⁷ Webpage: http://www.mtas.es/sec_igual/bio/s_murillo.htm

➤ Ministerial Decree 526/2005, of 7 March, to advertise Ministry Board Agreement of March 4, 2005 by which the Plan for gender equality in National Public Service is passed (*Orden APU/526/2005, de 7 de marzo, por la que se dispone la publicación del Acuerdo de Consejo de Ministros de 4 de marzo de 2005, por el que se aprueba el Plan para la igualdad de género en la Administración General del Estado*). 6 pages.
Available in: <http://www.lexureditorial.com/boe/0503/03775.htm>

2007:

➤ Organic Law 3/2007, of 22 March, for Effective Equality between Men and Women (*Ley Orgánica 3/2007, de 22 de marzo para la igualdad efectiva entre hombres y mujeres*). 35 pages.

Available in:

http://www.boe.es/g/es/bases_datos/doc.php?coleccion=iberlex&id=2007/06115

➤ Action Plan for Disabled Women. 2007 (*Plan de Acción para las Mujeres con Discapacidad. 2007*). 74 pages.

Available in: <http://www.seg-social.es/imserso/normativas/pamcd2007.pdf>

General Secondary Sources:

2006:

➤ Equality Law (*La ley de Igualdad*), by Carmen Martínez Ten and 23 three more authors. *El País*, September 14, 2006. 1 page.

Also available in: <http://psoe-ospc.blogspot.com/2006/09/carmen-martnez-ten-la-ley-de-igualdad.html>

2007:

➤ Equality Law opens the door to labour equality and, therefore, to social equality (*'La Ley de Igualdad abre el camino a la igualdad laboral y, por tanto, a la igualdad social'*). Press release by UGT, March 15, 2007. 3 pages.

Available in: <http://www.ugt.es/comunicados/2007/marzo/compre15032007.pdf>

➤ El Mundo: 'PP appeals before Constitutional Court parity electoral lists of the Equality Law' (*'El PP recurre ante el Tribunal Constitucional las listas paritarias de la Ley de Igualdad'*). *El Mundo*, June 25, 2007. 1 page.

Available in: <http://www.elmundo.es/elmundo/2007/06/25/espana/1182793663.html>

➤ Empar Pineda: 'For women's advance' (*'Para el avance de las mujeres'*), *El País*, April 16, 2007. 1 page.

2. NON-EMPLOYMENT

2.1. Introduction to the sub-issues and topics:

The main subissues and topics that we have identified in relation to non-employment in Spain are the following²⁸:

° Reconciliation of work and family life ('*reconciliation*')

- Reconciling paid and unpaid work / care and productive work
- Parental leaves (both maternity and paternity leaves)
- Co-responsibility between women and men

° Care work, domestic work and informal work ('*care work*')

- Sharing care/ domestic work between women and men
- Childcare, care for the elderly and disabled
- Domestic/care work employment
- Migration and domestic work

° Tax/benefit policies ('*tax /benefit*')

- Access to welfare benefits
- Pensions
- Joint taxation vs. individualization of taxes

Reconciliation of Work and Family Life:

Debates on non employment in Spain between 1995 and 2007 have focused primarily on the subissue of '*reconciliation of work and family life*'. The reconciliation of work and family (and personal) life has been the most salient subissue since it has been frequently discussed by a multitude of actors. It has also had an explicitly gendered approach.

In the context of the European Union the concept of reconciliation of work and family life was introduced in the 1970s and was linked to the idea of sharing responsibilities in productive and reproductive work among women and men.

²⁸ In Spain, there have not been debates around equal pay and equal access to labor market or in relation to these, equal treatment.

Nowadays the issue of reconciliation forms part of the dominant language of the EU, but it has gradually become associated with liberal market solutions and less with the problem of gender inequality (Stratigaki 2004). Spain has adopted the discourse on reconciliation in the last ten years, partly as a response to EU policies on the issue. The concept 'reconciliation' was introduced in the III Equality Plan (1997-2000) and in the IV Equality Plan (2003-2006) it turned into one of the central areas. 'Reconciliation' has evolved into a recurrent notion that shapes the debates on (non)employment, gender equality and social policy. The Conservative government of *Partido Popular* (1996-2004) made 'reconciliation of work and family life' a key issue of the political agenda. During the Conservative government the 'Reconciliation Law' was adopted. Law 39/1999, which drew upon the European Community Directives 96/34/EC on parental leave and 92/85/CEE on maternity protection in the labour market, illustrated how the reconciliation debate was closely linked to motherhood and rights related to maternity leave. In a context where Spain has come to have one of the lowest birth-rates in Europe, the focus on motherhood long overshadowed other issues such as the care for elderly. Overall, the policies that aimed to address the 'reconciliation' were oriented towards women, or 'working mothers', and the managing of paid and unpaid work, care and productive work, employment and family life (or *family responsibilities*). Another important measure taken by the Conservative government was to introduce a tax measure (law 46/2002) which gave working mothers the possibility to apply for a subsidy of 100 euros per month for childcare for each child under 3 years of age. The objective was to compensate mothers on the grounds that motherhood implies a 'social and labour related cost for women'. Further, the Conservative party viewed reconciliation as a strategy to achieve women's equality.

The Socialist government (2004-) declared gender equality a priority, and the issue of reconciling 'personal, family and work life' has been a recurrent one in political debates during this government. The Organic Law for de Facto Equality between Women and Men from 2007, elaborated by the Socialist government and approved by parliament, treats the 'reconciliation of personal, family and work life' as a key issue and the individual right to paternity leave is considered the most innovative measure. Indeed, reconciliation has been, and still is, strongly associated with parenthood.

The issue of women and men's co-responsibility in care and productive work has been debated in the discourse on reconciliation. However, the idea of co-responsibility has often been considered important in order to make women's reconciliation feasible and women's participation in the labour market is then the primary goal. There have not been any important changes when it comes to flexibility of work to improve reconciliation, and flexibility can rather be associated to the companies' flexible conditions and unstable precarious work. Part-time work is not as common in Spain as in many other European countries and issues like the right to part-time or full time jobs, and their gendered implications, has not entered the political agenda. Although 'reconciliation' has become an important and recurrent issue on the political agenda,

'reconciliation' policies in Spain show great deficiencies when it comes to public services and infrastructures related to the care of children, elderly and disabled.

Within the feminist movement, two main positions can be identified on the issue of reconciliation; on the one hand, those who believe in the possibility of effectively achieving a balance between employment and family/personal life and consequently are focused on providing practical proposals. On the other hand, those who believe that reconciliation problems are the expressions of deeper and structural problems of capitalist societies and the interlinked performance of gender with ethnicity, class, nationality, etc.

Care Work, Domestic Work and Informal Work:

The issue of *care work, domestic work and informal work* is less salient than the 'reconciliation' issue. It can in a sense be considered part of the reconciliation debate but then usually as subordinate to women's participation in the labour market. Nevertheless, we can find debates surrounding care work, domestic work and informal work that are much more diverse than the reconciliation debate. The debates are often gendered, and at the same time, care and domestic work is represented very differently depending on if the discussions are related to childcare and care for dependents, to sharing care and domestic work between women and men, or to domestic workers and migration.

Women's unpaid domestic work and care has often appeared in debates on combining work and family responsibilities and women's participation in the labour market. Then the issue of 'sharing' care and domestic work between women and men appears as important in order to liberate women to enter the labour market. The issue of sharing care work and domestic work between women and men has appeared in national Equality plans elaborated by the national Women's Institute. The II Plan for Equal Opportunities between women and men highlighted the necessity to promote a more equal distribution of domestic responsibilities between women and men. The IV Plan for Equal Opportunities promotes men's participation in domestic work. However, the general idea here is that a greater sharing of care and domestic work will facilitate women's participation in the labour market (Peterson 2007).

Spanish welfare policies have attributed a key role to the family, and thereby women. However, studies indicate that the expectations on women's unpaid care and domestic work within the family can no longer sustain the weight placed upon it (Anttonen 2005). Public support for care of children, elderly and disabled is rather limited; Spain is one of the countries of the European Union that spends the least on support to families and infancy and there is a lack of care services for elderly in a context of an aging population (Moreno & Salido 2005). During the Conservative government, family responsibility, non-governmental provision, and voluntary work

were emphasised in welfare issues such as care for children, elderly and disabled (Valiente 2001). Care was an issue that clearly entered the political agenda with the Socialist government law proposal to provide public support for people in situations of dependency (the law does not include the issue of childcare). The Law for the Promotion of Personal Autonomy and Attention to Persons in Situation of Dependency (39/2006) elaborated by the socialist government and adopted by the parliament in November 2006, assigned state responsibility in providing care for persons in situations of dependency. Thereby, the often invisibilised care work and domestic work became a hot issue on the political agenda. However, the law was criticised by the feminist movement for reproducing the norm of care work as 'women's work' with measures that strive to help women continue caring in notably precarious conditions. From the feminist movement, critique was also directed towards implications related to class and nationality. The law focused on people's right to get care and not on women's right *not* to care.

The characteristics of the Spanish welfare state, the aging population, the increasing participation of women in the labour market, and the unequal distribution of domestic and care work between women and men are features interconnected with the expansion of domestic service as a field of employment (Martínez Buján 2005). Under the legal title 'domestic work', paid care work in private households is gradually becoming more common and migrant women have come to play a crucial role in providing care in the absence of welfare provision. In recent years, the supply of domestic workers has been promoted by the state through its immigration policies. The successive modifications of the foreigners' law have established a policy designed at meeting demographic, labour and economic needs, and the continuing incorporation of migrants in domestic work has been promoted through a quota system (Lutz 2002; Anthias & Lazaridis 2000). In the extraordinary regularization process carried out by the Spanish Ministry of Labour and Social Affairs in 2005, 32% of the applications were related to employment in the domestic service sector, and 83 % of the workers within this sector were women. Moreover, the Spanish legal framework constructs paid domestic work as 'different' from 'normal' types of work. This is reflected in the social security system, in the Special Regime of Domestic Workers from 1985, which regulates employment in domestic service and provides far less protection than the General Regime.

Paid and unpaid care and domestic work has been debated in rather different contexts and policy areas. Care/domestic employment has been less prominent in the official debates than women's unpaid work in the home. However, paid domestic work is more often related to not only gender inequality but also class, ethnicity and nationality. These issues have mostly received attention by the feminist movement but the exploitation of immigrant labour has also been targeted by trade unions to some extent. However, paid domestic work and care has recently received attention from the Spanish government and parliament; the issue of improving the special regime was

debated in parliament in 2005 and in 2007, and the government promised to improve the conditions of domestic workers by reforming the Special Regime and eventually incorporating them in the General Regime.

The feminist movement used to focus on domestic work but has gradually focused more and more on the issue of care work in a wider sense. The debates on care and domestic work have shifted in focus since 1995. In the mid 90s the debate was characterized by the oppositional positions of those who promoted a salary for housewives and those who supported the idea that women should stop doing domestic work. The debate on salaries for housewives has lost its salience. At the same time, the idea of revaluing domestic work has shifted from attributing it monetary value towards focusing on domestic work to question social and economic structures. More recently the feminist movement has focused on the issue of the care crisis to formulate a wider critique of socio-economic structures. Additionally, the care issue has been the point of departure for alliances between the feminist movement and other social movements (i.e. organizations related to disability and anti-capitalism). The focus on inequality between women and men in care work has also shifted towards drawing attention to power relations between women and migrant women's work in the context of care crisis. In the last years there have been intense debates within the feminist movement around diverse governmental initiatives. In debates on the 'Dependency law' the feminist movement argued for a fully public and universal right to receive needed care. The degree to which the law fulfilled diverse expectations varied. The debates on the equality law were mainly related to the issue of reconciliation. The fight for citizenship rights has recently been transformed by some feminist groups into a struggle for caership rights (i.e. cUldadanía instead of cUdadanía).

Tax/benefit policies:

It has been pointed out that there has been a 'Europeanization' of the Spanish welfare State and social policy agenda (Mangen 1996). However, the Spanish system of social protection can be characterized for its peaks of generosity for those who are in the core sectors of the labor market and huge gaps for those who are in irregular work. For those others in weak labor market positions there are only meager benefits (Threlfall et.al. 2005). Spain has one of the lowest proportions of women in paid employment in Europe and at the same time the social security system has been linked to formal occupation. As men more often maintain a stable relation with the formal labor market they are favored by the social protection system based on remunerated work while women to a large extent have to rely on social protection that is based on dependency or an idea of 'special needs' (Carrasco 1997).

Social policies have not usually had the objective of improving in gender inequalities but to avoid social exclusion by establishing minimum economic standards. The Toledo pact, signed in 1996 and since then modified several times, tightened the

links between labor market participation and pension rights, which has had gendered implications strengthening inequalities (Guillén & Matsaganis 2000). However, the debates surrounding pensions have not been strongly gendered. Also, the issue of joint taxation vs the individualization of taxes has been a gendered issue, but mostly debated among experts and academics.

Debates surrounding tax/benefit policies have been clearly gendered when they overlap with debates surrounding reconciliation and care. Family policy in Spain has often been oriented towards fiscal reforms rather than direct social policy, like public care services. Tax/benefit policies is strongly linked to the reconciliation debates in the sense that the support for working mothers has gone through fiscal measures. Gendered approaches to the subissue of tax / benefit policies can be found in the debates surrounding the '100 Euro law' 46/2002 from 2002 and the 'Dependency law' from 2006. As explained above, the so called 100 Euro law gives working mothers the possibility to apply for a subsidy of 100 Euro per month for each child under three years of age. The subsidy is a tax deduction and only women who do formal remunerated work are right-holders. This measure complemented an already existing measure whereby all taxpayers were granted the possibility to deduct from their income tax up to 1200 Euro per year for each child under three years of age. When the tax reform was introduced it was criticized for being neither non-contributory i.e. supporting those with lower income, nor universal i.e. related to citizens' rights. Furthermore, it was criticised by trade unions and women's organisations because it ignores women who are not in paid employment. In 2007 the government has announced the introduction of a payment of 2500 Euros in relation to childbirth which can already be applied for by mothers with new born children. As with the 100 Euro subsidy for childcare, only mothers would be able to get the 2500 Euros. The issue of access to welfare benefits is interrelated with the issue of care work in debates surrounding the 'Dependency Law' 39/2006. The so called 'Dependency Law' has opened the debate about state responsibility in the provision of care for persons in situations of dependency; care for elderly and disabled although not childcare. The law was legitimized as promoting gender equality but it was highly criticised by the feminist movement for reproducing the norm of care work as 'women's work' with measures that strive to help women continue caring. In addition, the advocacy for a change in the special regulation of paid domestic work has been debated within the women's movement for a long time and it seems finally to be coming to fruition since the government affirmed in 2007 that the domestic work sector will be integrated into the General Regime.

2.2. Actors:

In the following, the main actors identified as involved in debates surrounding non-employment will be outlined.

State actors:

The Parliament (*Congreso de Diputados*) has widely debated issues on reconciliation of work and family life, maternity and paternity leaves, and care for people in situations of dependency during the last decade.

Political parties: Socialist Party (PSOE), Conservative Party (PP) and Leftist Party (IU).

The major political parties have widely debated the issue of reconciliation in the last decade. The conservative party has represented reconciliation of work and family life as one of its privileged issues on the agenda, focusing on reconciliation as a working mother's matter. The solution proposed is to support and encourage working mothers so that they are able to combine work and family life. The principle problem though has been women's incorporation in the labour market. Market friendly solutions to reconciliation problems have been associated with the promotion of flexible 'feminine' work. The Socialist party has, to a certain extent, articulated a policy discourse that questions the association of domestic work and care with 'women's work', drawing attention to men's lack of co-responsibility in care and domestic work. Care has been discussed as a public problem and the solutions have been related to improved welfare policies and legislative changes. During the conservative government, PSOE and the leftist party criticised the lack of public care services and promoted an individual right to paternity leave. These issues have been raised by the Socialist government through the 'Dependency law' and the Equality law.

Ministry of Labour and Social Affairs is the institution where issues of reconciliation, care work and tax/ benefit issues are located. Before 1996 the Ministry of Social Affairs and the Ministry of labour were separated, but joined together with the conservative government. The general issues dealt with in this ministry are the following: social security, immigration and emigration, social services, family and disability, work, equality and youth. (<http://www.mtas.es/>)

The national Women's Institute (Instituto de la Mujer). This body is an autonomous organization dependent on the Ministry of Labour and Social Affairs through the General Secretariat of Equality Politics. It works for the central government to promote equality politics between women and men. It has published studies on the issues of reconciliation, care work and tax/benefit policies, and more specifically on migrant women in domestic service, unpaid work, individualization of taxes and care and welfare issues (<http://www.mtas.es/mujer/>).

The regional Women's Institutes have developed different plans and strategies in relation to issues of reconciliation and care work. The Basque Women's Institute *Emakunde* and the Catalan Women's Institute *Institut Català de les Dones* can be

especially mentioned since they stand out in issues of reconciliation and care work, emphasizing care services, men's role in care and domestic work and the reorganization of time and work.

General Secretariat of Equality Policy (*Secretaría General de Políticas de Igualdad*). Though the Secretariat has only been recently established, it has taken part in reconciliation debates.

Trade Unions:

The trade unions are an important voice in the issue of reconciliation of work and family life and benefit policies. The two main trade unions **Unión General de Trabajadores** (Workers' General Union) **UGT** and **Comisiones Obreras** (Workers' Commissions) **CCOO** both include reconciliation as an objective in collective negotiations, pointing at the necessity to intervene in the organization of work in order to facilitate the reconciliation of work and family life and highlighting women's position. Both trade unions criticized the 'Reconciliation law' (1999) pointing at the lack of attention to the need for public care services. They supported the creation of a law for the protection of people in situations of dependency (2006) and the legislative project of the equality law (2007). They demanded a one month long paternity leave in the negotiations of the equality law. The law established a 2 weeks leave that, however, would be extended in the future to 4 weeks. The main trade unions have organized some campaigns in favour of the rights of domestic workers like requesting to equalize the Special Regime for Domestic Workers with the General Regime, but have also received critique from the domestic workers' associations for being passive in this issue. Both UGT and CCOO support the Socialist government's initiative of incorporating domestic service into the general regime in the social security system. There are smaller trade unions that are more sceptical about the discourse on reconciliation of work and family life and that focus more on the issue of care and care crisis, like for example **Confederación General de Trabajo** (General Confederation of Work) **CGT**.

UGT has a Women's department that works with issues of reconciliation of work, family and personal life, care work and benefit policies. Their internet based bulletin, *Crisalida*, raises questions surrounding gender and benefit policies, reconciliation, care work and migrant workers.

<http://www.ugt.es/Mujer/crisalida/crisalidamenu.html>

CCOO has a Women's Secretariat which publishes a journal, *Trabajadora*, (from 1984) on issues surrounding the participation of women in the labour market, in the trade unions and the different areas of social, political and cultural life. The Women's Secretariat works with issues related to reconciliation of work, family and personal life, care work and benefit policies.

Women's movement, feminist associations, NGOs:

National level

Federación de Mujeres Jóvenes (*Federation of young women*) started in 1986 as a space for young women's participation and activism. They have worked on co-responsibility on family and working life. (<http://www.mujieresiovenes.org/>)

Marcha Mundial de Mujeres (*Women's world march*). Among the issues that they have raised are: equality in task sharing, division of domestic labour, socialization, support for families, domestic/unrecognized/unpaid work. (www.worldmarchofwomen.org)

CELEM Coordinadora para el Lobby Europeo de Mujeres (*Coordinatiom for the European Women's lobby*). This organization started in 1993 with the objective of coordinating women's NGOs in Spain. Among the demands there are issues of improving the reconciliation of work and professional life, equal distribution of tasks and individualization of rights. (<http://www.celem.org/>)

Plataforma de Mujeres por la Ley de Dependencia. This Women's Platform for the Dependency law promoted universal rights, an adequate adjusted budget, the inclusion of the Dependency law in the framework of the social security system, decentralized organization of the implementation of the law, and a system for the support of caregivers.

Plataforma Cívica por el Permiso de Paternidad Intransferible. The Civic Platform for a Non-transferable Paternity Leave struggle for a paternity leave of four weeks. (<http://www.nodo50.org/plataformapaternidad/>)

Plataforma de Asociaciones de Empleadas de Hogar. The Platform for Domestic workers Associations works to improve the working conditions of domestic workers, to achieve the same rights as workers in other sectors, to professionalize the sector and to legalize the situation of migrant women without papers working in the sector.

Regional level:

Basque country

Asociación de Trabajadoras de Hogar- Etxe Langileen Elkartea / ATH-ELE. (*Women's Association of Domestic Workers*) Started in 1986. The objective is to achieve a legal change to improve conditions in the domestic work sector and treat domestic work as just another job. (<http://www.ath-ele.com/>)

Plazandreok. A political platform of women which started in 1993. Its electoral program refers to the undervaluation of domestic work and care work and strategies to achieve sharing between women and men. (<http://www.plazandreok.org/>)

Plataforma por un Sistema Público Vasco de Atención a la Dependencia. (*Platform for a public system of attention to people in dependency in the Basque Country*) A campaign started in 2005 on the issue of care work in favour of universal

public attention to people in dependency.

Coordinadora de Asambleas Feministas de Euskadi. (*The Basque Coordinator of feminist Assemblies*)

Catalonia

Dones i Treballs. From 1994. Its main objective is to create a feminist space in which to reflect, analyse, discuss, change experiences, and elaborate proposals on women's work (mainly domestic work and waged work).

Associació de Famílies Monoparentals de Catalunya. From 1997. This association fights for the right of women to have a decent life and have their own resources to avoid the feminization of poverty and also makes proposals to promote reconciliation.

Madrid

Asamblea Feminista de Madrid.

Feminismo y Cambio Social. From 1998. A space for debate about the transformations of women's work and lives in the context of the globalized economy.

Precarias a la Deriva is an initiative between research and activism on the precariousness of existence. It has focused on care work, the care crisis, global care chains and careship. Currently reorganized as Agencia de Asuntos Precarios Todasacien. Current alliances with some migrant domestic workers' associations (SEDOAC) and people with disabilities associations (Foro de Vida Independiente). (<http://www.sindominio.net/karakola/precarias.htm>)

Eskalera Karakola. From 1996. The project Sex, lies and precarity (1999-2000) aimed at analyzing women's labor conditions and provoking changes. Participation on the organization of the conference: Feminist Reflections on the social reorganization of care, November 2006. (<http://www.sindominio.net/karakola/sexoment.htm>).

Forum de Política Feminista started in 1985 in order to promote women's political demands. It has participated in the debates on the dependency law and the equality law. (<http://www.forumpoliticafeminista.org/index.htm>)

Andalusia

Asamblea Feminista Lilitu from 2003 has worked on carework and care practices, deconstruction of sexualized identities and careship. They suggested the concept of careship, which sets the concept of care in the centre of debates surrounding citizenship rights and obligations thereby visibilizing this work traditionally done by women.

Asamblea de Mujeres de Granada has worked on the issue of domestic practices as a point of departure for radical politics (<http://www.asambleamujeresgranada.com/>).

2.3. Timeline: Non-Employment:

Pre-Quing period Before 1995:

1985:

Care work:

The Special Regime of Domestic Workers was established in law 1424/1985.

Primary sources:

- *Real Decreto 1424/1985, de 1 de agosto, por el que se regula la relación laboral de carácter especial del servicio del hogar familiar* (Royal Decree Law 1424/1985, of the 1st of August, that regulates the special labour relation of home work). E-text: http://noticias.juridicas.com/base_datos/Laboral/rd1424-1985.html

1993:

Care work:

The II National Plan for Equal opportunities (1993-1995) marked the beginning of the development and implementation of specific measures to achieve gender equality. This plan highlighted the necessity to promote a more equal distribution of domestic responsibilities between women and men and a more balanced participation of women and men in the labour market. One of the 10 core areas was the promotion of equal sharing of domestic work.

On the 8th of March this year, the Basque Country coordinator of the feminist assemblies chose the slogan: 'Refuse mandatory family Service' advocating sharing of care tasks between women and men.

Primary sources:

- *II Plan de Igualdad de Oportunidades entre Mujeres y Hombres 1993-1995* (The II Plan for Equal Opportunities Plan between Women and Men 1993-1995). E-text: <http://www.oei.es/oeivirt/rie06a08.htm>

Secondary sources:

- AMB-BEA Women's Assembly of Vizcaya (Asamblea de Mujeres de Bizkaia-Bizkaiko Emakumeen Asanblada). '*La dedicación a los demás. El derecho a elegir, objetivo político prioritario*' (Dedication to others, the right to chose a political priotity), in Federación de Organizaciones Feministas del Estado Español (ed.) (1993), *Juntas y a por todas-Som-hi totes juntas. Jornadas Feministas*, Madrid: Federación de Organizaciones Feministas del Estado Español, pp. 29-36.

Saitua, Aintzane; Sarasola, Maruja. '*La insumisión. El cuidado como elección*' (Disobedience. Care as a choice). *Geu Emakumeok*, 1993, 17:27-29. Bilbao.

QUING period 1995-2007:

1995:

Tax / benefit:

With the change of government in 1996 it was expected that the Conservative government would carry out cuts in public spending. However, extensive cutbacks in social welfare and privatizations did not occur due to the effectiveness of the opposition, parties and trade unions in denouncing any move that could endanger the attained levels of social protection. Yet the fear of the trade unions that the Conservatives would act unilaterally made them willing to engage in national social bargaining with employers and the government which led them to sign relevant pacts. The Toledo pact, adopted by parliament in April 1995, tightened the links between labor market participation and pension rights, an act which had strong gender implications, increasing gender inequalities. Yet in the debates the issue of pensions was mainly non-gendered.

Reconciliation:

The region of Andalusia presented its II equality plan for 1995-1997, which would be the last one due to the fact that the region later developed a Women's Unit to implement gender mainstreaming and then stopped producing equality plans.

Primary sources:

- *II Plan Andaluz para la Igualdad de las Mujeres, 1995- 1997* (II Andalusian Plan for Women's Equality). <http://www.juntadeandalucia.es/bojas/boja97.052/123646.htm>
- *Pacto de Toledo* (Toledo Pact), April 1995.
<http://www.usmr.ccoo.es/Publicaciones/Documentacion/pactotoledo/textopactotole do.htm>

1996:

Tax / benefit:

The modification of the Toledo Pact was signed by all political parties except for the leftist party, Izquierda Unida. The major trade unions supported the Pact. This agreement for the consolidation of the social security system highlighted structural problems in the social security system and the reforms that were considered necessary in order to maintain a viable pensions system.

Primary sources:

- *Acuerdo para la mejora y el desarrollo del sistema de protección social*

(Agreement for the improvement and development of the social security system).

<http://www.laclave.net/docs/documentos/acuerdoss.pdf>

1997:

Reconciliation & care work:

The III National Equal opportunities plan covering 1997-2000 was elaborated by the national Women's Institute, containing a specific part on reconciliation of work and family life. The concept of reconciliation was articulated and framed in strict relation to the areas of economy and employment; the specific part about reconciliation of work and family life was treated under the headline "Economy and Employment". As a measure to recognize women's un-paid domestic work, the plan promoted an investigation of the possibilities to calculate women's domestic work as part of the GDP. This plan also included a measure to 'study' the Special Regime of Domestic Workers to 'evaluate its functioning', as well as a measure to promote the qualifications and training of women in those professions that constitute 'new fields of employment' (such as care work).

The Madrid region also adopted an equality plan this year.

Tax/benefit policies:

A new law, which drew upon the Toledo Pact and was elaborated by the new Conservative government, increased the years of contribution to take into account when calculating pensions. The pension would be calculated on the basis of income in the last years before pension. The law was criticized by the feminist movement for disfavours workers who did not have formal employment just before retirement, often women.

Primary sources:

- *III Plan de Igualdad de Oportunidades entre mujeres y hombres 1997-2000* (III Plan for Equal opportunities between women and men 1997-2000).
- *III Plan para la igualdad de oportunidades de mujeres y hombres de la comunidad de Madrid 1997-2000* (III Plan for Equal opportunities of women and men in Madrid).²⁹
- *Ley 24/1997, de consolidación y racionalización del sistema de la seguridad social* (Law 24/1997 on the consolidation and rationalization of the social security system).

E-text: http://noticias.juridicas.com/base_datos/Admin/l24-1997.html

²⁹ In Spain the regions have developed equality plans like the Women's Institute on the national level. However, for this timeline we have chosen to focus on the regions of Basque Country, Catalonia, Madrid and Andalusia. While the regions of Basque Country and Catalonia represent the more advanced or vanguard of the equality plans, the Madrid regions has been marked by the long rule of Conservative governments and Andalusia has a tradition of Socialist governments.

1998:

Reconciliation:

Law 11/1998 ruled that the contracts of unemployed workers recruited to replace women workers on maternity leave, adoption or fostering would be exempted from social security contributions. This governmental measure eliminated the 'double cost' of 'double contracts' for companies. The law 11/1998 was in force until the reconciliation law 39/1999 came into force in November 1999.

The region of Catalonia presented its third equality plan.

Reconciliation & care work:

A study published by the national Women's Institute pointed to the problem that women's 'liberation' has not gone hand in hand with a restructuring of the sexual division of labour. The study highlighted the increase of migrant domestic workers and their role in 'helping autochthonous women' to reconcile work and family life. It stated that the domestic worker replaces her professional [female] employer in reproductive tasks that neither the state nor the partners share.

Tax/ benefit:

The Conservative government implemented a tax reform based on the norm of 'vital minimum', the non taxable income threshold needed to meet the basic needs of the taxpayers. Personal and family circumstances were to be taken into account in order to assess what would be the real disposable income of the taxpayers. The approval of the reform of income tax, which came into effect in 1999, received criticism from the major trade unions UGT and CCOO and from feminist scholars and the women's movement since it proved to be discriminative towards one parent families, usually headed by single mothers. The law promoted a joint family tax system.

Primary sources:

- *Real Decreto-ley 11/1998, de 4 de septiembre, por el que se regulan las bonificaciones de cuotas a la Seguridad Social de los contratos de interinidad que se celebren con personas desempleadas para sustituir a trabajadores durante los períodos de descanso por maternidad, adopción y acogimiento* (Royal Decree-Law 11/1998, from the 4th of September, which regulates social security contributions to hire unemployed persons as substitutes for workers on maternity leave).

E-text: http://noticias.juridicas.com/base_datos/Anterior/r0-rdl11-1998.html

- *III Plan para la Igualdad de Oportunidades entre Mujeres y Hombres en Cataluña 1998-2000* (III Plan for Equal Opportunities between Women and Men 1998-2000, Catalonia).

- *Ley 40/1998, de 9 de diciembre, del Impuesto sobre la Renta de las Personas Físicas y otras Normas Tributarias* (Law 40/1998, from the 9th of December, on taxes

of Physical Persons and other tributary norms).

E-text: http://noticias.juridicas.com/base_datos/Fiscal/I40-1998.html

Secondary sources:

- Instituto de la Mujer (Oso, Laura) 1998. *La migración hacia España de mujeres jefas de hogar*.

1999:

Reconciliation:

A crucial law within the issue of reconciliation was adopted this year; the so called 'reconciliation law', Law 39/1999 on the reconciliation of work and family life. The legislation extended the rights to maternity leave, the right to time off work without pay in order to take care of children or dependant persons in the family, the right to reduce the working day for the same reasons, and the right to breastfeeding leave. It treated maternity from a health perspective and a non-discrimination perspective, regulating the right to protection during pregnancy against health risks in the workplace, and making it illegal to dismiss a worker motivated by pregnancy or maternity leave. Law 39/1999 drew upon the European Community Directives 96/34/EC on parental leave and 92/85/CEE on maternity protection in the labour market, although the transposition of the directives into Spanish law violated the spirit of the directive, promoting individual non-transferable rights. Women continued being the exclusive right-holders of parental leave, but the mother was allowed to transfer up to 10 of her 16 weeks of maternity leave to the father on the condition that she had a formal employment. The law was largely criticized by the opposition parties, the trade unions, the feminist movement and the press. The main criticism was directed towards the tendency to define reconciliation as a women's issue. The Socialist party (PSOE) and other leftist parties argued that the reconciliation of work and family life could not be facilitated only with rights to leaves and time of work. They criticized the fact that care services were not included in the draft bill and that that it conceptualized the combination of family and work life as a women's problem. The main trade unions CCOO and UGT promoted an extension of circumstances that would allow workers to take time off work, better protection from (illegal) dismissals of workers on leave, and an increase of care services. The feminist movement largely agreed with the left wing parties in Parliament, regarding the law as merely symbolic since care services were not to be developed.

Reconciliation & care work:

This year the III plan for positive action for women in the Basque Country was adopted, with a distinctive perspective. It highlighted the issue of co-responsibility between women and men and the problem of reconciling personal, professional and family life. The actions were designed around co-responsibility, changing labour and social/family structures and expanding socio-communitarian services.

Primary sources:

- *Ley 39/1999 de 5 de noviembre para promover la conciliación de la vida familiar y laboral de las personas trabajadoras* (Law 39/1999 to Promote the Workers' Reconciliation of Family and Work Life, November 5th, 1999).

- Debate in the Commission of Social and Employment Policy, the 27th of April 1999, on the issue of reconciliation of work and family life.

E-text: http://www.congreso.es/public_oficiales/L6/CONG/DS/PL/PL_233.PDF 10 p.

- Parliamentary debate, the 27th of July, on the report on the legislative project to Promote the Workers' Reconciliation of Family and Work Life.

E-text: http://www.congreso.es/public_oficiales/L6/CONG/DS/CO/CO_739.PDF 14 p.

- *III Plan de Acción Positiva para las mujeres en la Comunidad Autónoma de Euskadi 1999- 2005* (III Plan for positive action for women in the Basque Country (1999- 2005)).

E-text: http://www.emakunde.es/papme/images/7_area_c.PDF 9 pp.

Secondary sources:

- El País, the 2nd of November 1999 '*Conciliación de la Vida Familiar y Laboral ¿Sólo para mujeres?*' (Reconciliation of family life and work: just for women?). Also published at the home page of the trade union CCOO.

http://www.ua.es/ccoo/dona/dona_articulo_conciliacion.html 1 p.

2000:Reconciliation and care work:

Feminist organizations criticizes the 'Reconciliation law'.

Tax/benefits policies:

In the general elections held in March 2000 the Conservative party achieved absolute majority in parliament, and hence continued in government. The law 1/2000 updated the amount of the means-tested child allowances that had been fixed since 1991. The law was criticized for its low impact and its propagandistic contents as it implied a grant to poor families just before the elections. Parties in opposition (Socialist party, Leftist party and the Mixed group) presented law proposals to introduce a guarantee fund of compensatory pensions in the case of marriage or family rupture. They were rejected by the Conservative party.

Primary sources:

- *Real Decreto Ley 1/2000, de 14 de enero, sobre determinadas medidas de mejora de la protección familiar de la Seguridad Social* (Royal Decree Law 1/2000, from the 14th of January, on certain measures to improve family protection in social

security). E-text:

http://noticias.juridicas.com/base_datos/Admin/rdl1-2000.html

• Parliamentary debate, the 17th of October 2000, on law proposals by the Socialist party, the Leftist Party and the Mixed Group, on a guarantee fund to support children and complementary pensions in case of separation.

E-text: http://www.congreso.es/public_oficiales/L7/CONG/DS/PL/PL_033.PDF 9 pp.

Secondary resources

• Feminist collective Colectivo Rompe y Rasga, 2000, '*Reparto del trabajo, no sólo del empleo*' (Sharing work not only in employment), '*Algunas reflexiones a propósito de la ley para promover la conciliación de la vida laboral y familiar de las personas trabajadoras*' (Some reflection on the objectives of the law to promote reconciliation of work and family life', '*Cuidar de l@s demás, un problema ético*' (Caring for others, an ethical problem), en <http://www.uv.es/~dones/temasinteres/sira.htm#cuid>

2001 :

Reconciliation :

The Integral Plan for Family Support was approved by the Council of Ministers. The plan intended to coordinate and enhance the coherence in family policy measures taken by different ministries and at different territorial levels, and to create a more family friendly environment. The plan had four basic objectives: to increase the quality of life of the families, to promote intergenerational solidarity, to support the family as a guarantee for social cohesion and to support families at risk (social exclusion, single parents, families in separation and families with 'intra-familial' violence). Ten strategies were drawn up, and one of them was labelled the reconciliation of family and work. Within that part, various issues were raised. In families, attitudes should favour an equal sharing of family responsibilities between women and men, companies should favour the reconciliation of work and family life, and the state should see that men and women can enter the labour market without abandoning their family responsibilities. The plan was criticized in the Congress by the Socialist and Leftist Party, particularly for its lack of specific funding commitments.

Law 1251/2001 was approved and established that maternity leave can be prolonged through combining it with part-time work. The law was criticised because it covered only women in formal paid work, rather than adopting a more integrated approach like in other EU Member States.

At this time, there was also an ongoing debate in the press and in parliament on the matter of paternity leave as an individual right. The parties in opposition presented law proposals to introduce the right to paternity leave. The Mixed group presented a law proposal to modify the reconciliation law and introduce an individual paternity leave. The Socialist Party presented a law proposal to extend reconciliation rights. The proposals would not be taken into consideration in parliament where the Conservatives had absolute majority.

Care work:

Feminist organizations published texts on the (re)organization of work and time.

Tax/ benefit:

A reform of the Toledo Pact was signed this year, which implied that a major agreement on pension reform was signed by the Spanish government, the employers' confederations and the trade union CCOO. The accord provided for enhanced funding and improved conditions for pensioners in areas such as early retirement, minimum benefit levels and widows' benefits. The UGT union confederation did not sign the deal, which implied a rupture in the agreement between the major trade unions on the issue of pensions.

Primary sources

- *Ley 24/2001, de 27 de diciembre, de Medidas Fiscales, Administrativas y del Orden Social* (Law 24/2001 from December 27th, on fiscal, administrative and social measures). E-text: http://noticias.juridicas.com/base_datos/Admin/I24-2001.html

- *Plan Integral de Apoyo a la Familia 2001-2004* (Integral plan for family support 2001-2004). 20 pp.

- *Real Decreto 1251/2001, de 16 de noviembre, por el que se regulan las prestaciones económicas del sistema de la Seguridad Social por maternidad y riesgo durante el embarazo* (Law 1251/2001, from the 16th of November, regulating maternity leave benefits and benefits in case of risks during pregnancy). E-text: http://www.seg-social.es/inicio/?Mlval=cw_usr_view_Folder&LANG=1&ID=32411

- *IV Plan de Actuación del gobierno de la generalitat de Cataluña para la igualdad de oportunidades de las mujeres 2001-2003* (IV Plan of Action of the Catalanian government for equal opportunities of women 2001-2003).

Secondary sources

- Dones i Treballs, 2001, '*Repensar desde el feminismo los trabajos y los tiempos en la vida cotidiana*' (Rethinking work and time from a feminist perspective) in *Asamblea de Mujeres de Córdoba Yerbabuena*, pp. 317-24

2002:

Reconciliation:

The opposition parties presented law proposals regarding extended rights to reconciliation, introducing individual paternity leaves and investigating the effects of the reconciliation law. After voting in parliament, the law proposals were not taken into consideration.

The region of Madrid presented the IV equality plan where reconciliation of family and professional life was one of the core areas and the objective stated was to decrease women's burden of family responsibilities and to promote an equal

distribution of tasks to make possible combining family life with personal and professional life.

Reconciliation, care work & tax/benefit:

The Conservative government introduced a new tax measure (law 46/2002) giving working mothers the possibility to apply for a subsidy of 100 Euro per month for each child under 3 years of age. This governmental measure fell within the wider program of actions (the integral plan for family support 2001-2004), which aimed to facilitate reconciliation of work and family, and to reduce the fall in birth rate in Spain. The objective of this reform was to compensate mothers on the grounds that motherhood implies a social and labour related 'cost for women'. This fiscal measure complemented an already existing measure whereby all taxpayers were granted the possibility to deduct from their income tax up to 1200 Euro per year for each child under three years of age. The beneficiaries of this measure should have a full-time job or be self-employed and be registered for social security at least 15 days per month. Also women who had part-time jobs working at least 50% and who were registered for social security would benefit from the reform. Women who work less than 50% were excluded but could still deduct a proportional amount from their annual tax declaration. As a fiscal reform, the reform was exclusive of certain groups of women, such as unemployed women, workers in the unofficial economy and housewives.

Tax/ benefit:

Opposition parties presented law proposals on a guarantee fund for maintenance in case of separation, but the proposals expired without being taken into consideration.

Primary sources

- *Ley 46/2002, del 18 de Diciembre reforma parcial del IRPF* (Law 46/2002 on Partial Reform of the Personal Income Tax IRPF, December 18th 2002)

- Parliamentary debate, from the 12 of March, on the law proposals on reconciliation rights. E-text: http://www.congreso.es/public_oficiales/L7/CONG/DS/PL/PL_144.PDF

IV Plan de Igualdad de Oportunidades de Mujeres y Hombres de la Comunidad de Madrid 2002-2005 (IV Plan for Equal Opportunities for Women and Men in Madrid (2002-2005). Area 2 on the reconciliation of family and professional life. 9 pp.

2003:

Reconciliation, care work and tax/benefit:

The new national Equality Plan was adopted by the government, and reconciliation was one of the central areas. Here, men are called upon to take greater part in the domestic work, but the main solution is to increase work flexibility (for women) meaning part-time jobs, work from home and intensive workdays.

There were parliamentary debates surrounding the law proposals regarding the reconciliation of work and family rights, including the right to paternity leave, presented by the Socialist Party and the mixed group.

The Conservative majority rejected taking these proposals into consideration. The trade unions called for measures to improve reconciliation policies. The women's secretariat of the CCOO and UGT confederations drew up a joint manifesto for International Women's Day where they promoted more nurseries and centres for dependent persons to improve reconciliation of work and family life.

The Catalonia region introduced an individual paternity leave for civil servants, which still did not exist in the national legislation.

A study carried out by the trade union UGT highlights that domestic services of migrant women constitute a central strategy to improve the reconciliation of work and family life. Exploitative working conditions are denounced, but at the same time the study considers that migrant women are 'used to' bad conditions from their home countries. It is stated that migrant women accept the harsh conditions of domestic workers as live-ins, which they sometimes even value as positive because they usually compare them with the conditions in the country of origin. Also the Feminist Assembly of Madrid presented a report on the issue of domestic work.

Reconciliation & tax/benefit policies:

In a critique by the trade union UGT the tax reform of law 46/2002 is seen as problematic because of its exclusionary character. The trade union wished to give all mothers the right to a child subsidy. The ombudsman criticized the idea of extending the subsidy to all mothers stating that it could be seen as a mothers' salary with negative effects on women's participation on the labour market.

Tax/Benefit:

The Conservative government made a fiscal reform that reduced the number of tax brackets. Tax breaks for children living in the family household (up to 25 years) were increased. The threshold of the 'vital minimum' was raised although it did not match the increase of the cost of living.

Primary sources:

- *IV Plan de Igualdad de Oportunidades entre mujeres y hombres 2003-2006* (IV Plan for Equal Opportunities between women and men 2003-2006). Area on reconciliation 5 pp.

- Parliamentary Debate, from May 13th 2003, of the Socialist Party's law proposal on the rights to reconcile family and professional life of working men and women, and the Catalanian Nationalist Party law proposal on paternity leave in case of child birth, adoption or foster parenting.

E-text: http://www.congreso.es/public_oficiales/L7/CONG/DS/PL/PL_251.PDF 11 pp.

- June 27th, 2003, Parliamentary debate and proposal to investigate the development of the Law 39/1999 which promotes the reconciliation of family and labour life for working people.

E-text: http://www.congreso.es/public_oficiales/L7/CORT/DS/CM/CM_148.PDF 4 pp.

Secondary sources:

- Manifiesto 8th March 2003, UGT and CC.OO. Manifiesto para el día 8 de Marzo, día Internacional de la Mujer Trabajadora (Manifiesto for the 8th of March, the International Women's Day).

E-text: <http://www.ugt.es/Mujer/manifiesto8marzo2003.pdf> 2 pp.

- Dones i Treballs 2003, '*Malabaristas de la vida. Mujeres, tiempos y trabajos*' (Life jugglers. Women, time and work), Barcelona: Icaria

Department of Studies of UGT Federation of Services, 2003, '*La inmigración y el mundo de trabajo: servicio doméstico*' (Immigration and the work world: domestic service). 7 pp.

- Asamblea Feminista de Madrid. *¿Qué hacemos con el trabajo doméstico?* (What do we do with domestic work?).

E-text:

http://www.nodo50.org/feministas/docs/QUE_HACEMOS_CON_EL_TRABAJO_DOMESTICO.doc 8 pp.

- Asociación de Trabajadoras de Hogar- Etxe Langileen Elkarte / ATH-ELE, 2003 '*La protección de Seguridad Social de las empleadas domésticas. Informe*' (The social security protection of domestic workers. A report).

http://www.ath-ele.com/cast/doc/informe_2.pdf 11 pp.

- Unión General de trabajadores (UGT) 2003. '*Valoración de la deducción por maternidad y de la reducción por cuidado de hijos incluidas en la reforma parcial del IRPF*' (Evaluation of the tax deduction for maternity and the tax reduction for child caring included in the partial reform of the IRPF-law).

E-text: <http://www.ugt.es/comunicados/2003/enero/cieneuros.pdf> 5 pp.

2004:

Reconciliation:

This year there were general elections in Spain. In the Conservative Party's electoral program, the reconciliation of work and family life was presented as the key to women's emancipation, stating that 'We especially want *mothers* to develop their professional careers and have as many children as they want'. Partido Popular considered women's equality as conditioned by the creation of more employment for women (i.e 'flexible' work, different from men's employment). The text defined the family as a caretaking unit and women as mothers a priori.

Reconciliation & tax/benefit:

After winning the elections, the Socialist party forms government and the Minister of labour and Social Affairs promises to extend the subsidy of 100 Euros to 'working mothers' to all mothers.

Care work:

The head of the General Direction for the Integration of immigrants stated in an interview published by the women's secretariat of UGT that the work of immigrants sustains the reconciliation of work and family life for Spanish women. The research/activist project *Precarias a la deriva* publishes a book and produces a DVD on women's precarious work/lives.

Primary sources:

- Electoral Programs of the Conservative Party PP (March 2004). 5 p.

Secondary sources:

- El País, 27th of April 2004, '*Caldera propone extender la ayuda de los 100 Euros a las madres sin empleo*' (Caldera proposes to extend the 100 Euros support to mother without employment). 1 p.

- Nr. 9 of *Crisalida*, Bulletin of the Women's Secretariat of the trade union UGT, the 22nd of December 2004, '*El trabajo de las inmigrantes sostiene la conciliación de la vida laboral y familiar de las españolas*' (The work of immigrant women sustains the reconciliation of work and family of Spanish women). 1p.

- *Precarias a la deriva* (2004), '*A la deriva por los circuitos de la precariedad femenina*', Madrid: Traficantes de Sueños.

2005:

Reconciliation:

The Ministry of Public Administration adopted 'Plan Concilia' which introduced measures to improve the reconciliation of personal and work life for civil servants in the Public Administration. The measures assured better conditions for civil servants in issues related to reconciliation, including flexible workdays and ten days paternity leave. The major trade unions supported the initiative.

Reconciliation & care work:

The Basque Law on Equality of women and men was adopted and entered in force replacing the plan for positive action 1999-2005. The law introduced in article 35 the principle of co-responsibility in the chapter on reconciliation of personal, family and work life. Public administrations are to promote men to be co-responsible in domestic work. This law represented a shift as it focuses clearly on men and gender relations and not on women as the ultimate 'reconciliatory' actors. It also promotes a change in work structures and the creation of public services. The region of Catalonia presents a

new plan, the V Plan for Action and Development of Women's Policies in Catalonia. It includes a core area titled 'Reorganization of time and work to make daily life a central part of public policies'.

Care work:

An extraordinary regularization process was carried out by the Spanish Ministry of Labour and Social Affairs this year, 32% of the applications were related to employment in the domestic service sector (i.e. the Special Regime of Domestic Workers), and 83 % of the workers within this sector were women. However, the debate on the regularization process was largely de-gendered.

In June 2005 there was a parliamentary debate on a possible reform of the Special Regime of Domestic Workers from 1985. The MPs seemed to agree on the idea that the Special Regime is obsolete and discriminatory and that domestic work should be attributed dignified conditions. At the same time, some argued that an improvement in the Special Regime would increase the unofficial economy. The MPs also seemingly shared the idea that improving the rights of domestic workers would promote 'gender equality' due to the fact that the great majority of the workers are women. However, other issues like the financial balance, employment and middle class families' interests and 'quality of life' were considered more important. The Member of Parliament (MP) representing Partido Popular argues in favour of subsidies to 'big families' (familia numerosa) for employing domestic workers, above all because it would 'create employment opportunities'. None of the MPs intervening in the parliamentary debate referred to the demands of those organizations and associations that work in favour of the rights of domestic workers. After voting the proposal was not taken into consideration.

Care work & tax/benefit:

47 women's associations signed a Manifesto in favour of the Project of the Dependency Law.

Tax/ Benefit:

The national Women's Institute published a study showing that one out of six women do not pay national insurance, and the domestic service sector was the sector with most problems in this regard. It also showed that in this sector salaries are sometimes lower than 300 Euros a month.

Primary sources:

- *Ley 4/2005, de 18 de febrero, para la Igualdad de mujeres y hombres* (Basque Country Law 4/2005, from the 18th of February for Equality of Women and Men). E-text: http://noticias.juridicas.com/base_datos/CCAA/pv-l4-2005.t3.html#a49

- *V Plan de Acción y Desarrollo de las Políticas de mujeres en Catalunya 2005-2007* (V Plan for Action and Development of Women's Policies in Catalonia 2005-

2007).

E-text: http://www.gencat.net/icdona/docs/v_pla_cas.pdf 12 pp

• Parliamentary Debate, 27th of June 2005, on the law proposal presented by the Galician Nationalist Party on the Improvement of the protection of the Special Regime of Domestic Service.

E-text: http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_098.PDF 9 pp.

• Ministry of Public Administration, '*Plan Concilia*' - *Plan integral para la conciliación de la vida personal y laboral en la Administración* ('Plan reconcile' – Integral Plan for the reconciliation of personal and work life in the Administration). E-text: <http://www.csi-csif.es/castillayleon/Article800.html>

• Instituto de la Mujer. '*La presencia de las Mujeres en el empleo irregular*' (The presence of women in irregular work).

http://www.mtas.es/mujer/mujeres/estud_inves/estudio%20irregular.pdf

Secondary sources:

• UGT secretaría para la igualdad Depto. Confederal de la mujer, 2005, '*Conciliación para la vida laboral, personal y familiar para que todo encaje*' (Reconciliation of work, personal and family life to make everything fit together).

E-text: <http://www.ugt.es/Mujer/mujer8.pdf> 19 pp.

• *El País*, 8 March 2005, 'In order for a Spanish woman to be emancipated, an immigrant woman is necessary'.

• *Mujeres por la Ley de Dependencia*: San José, Begoña (2006), "Mujeres por la ley de protección a la dependencia", *El Clarión*, nº 15.

• *El País*, 22nd of March 2005. '*Una de cada seis mujeres que trabajan en España no cotiza a la Seguridad Social*' (One out of six women do not contribute in the national insurance system).

2006:

Reconciliation:

In February 2006, the Spanish government consulted the social partners on the employment-related measures in a new draft gender equality law. The proposed legislation included measures on fighting discrimination, allowing positive action measures in collective agreements, addressing the reconciliation of work and family life, promoting equality plans and fostering good practices.

In relation to the legislative Project of the Equality law, a Manifesto of women's associations on the 8th of March (organized by *Forum de política Feminista, Mujeres por la Paz, Confederación de Mujeres Rurales CERES y CELEM*) demanded an extension of the right to maternity leave to all women workers, non-transferable paternity leave of 4 weeks, better measures for reconciliation also for workers in other regimes than the General Regime of the social security system, and increased care services.

Care work & tax/benefit:

The Law 39/2006 for the Promotion of Personal Autonomy and Attention to Persons in Situation of Dependency was adopted by the parliament on the 30th of November 2006 and will come into operation from 2007 onwards. The so called 'dependency law' assigned state responsibility in the provision of care for persons in situations of dependency: care for elderly and disabled but not childcare. The law was highly criticised by the feminist movement for reproducing the norm of care work as 'women's work' with measures that strive to help women continue caring, in notably precarious conditions. It was pointed out that there are class related implications of the limits to the principle of universal rights. The great majority of households with low and medium incomes will still have to pay a significant amount for public services. Also, the law was said to be unclear on migrants' rights to care services and there is a risk that the law will exclude those who frequently perform care work from the right to be cared for in the future. The types of care given status in the law are 'family care' (also referred to as non professional) performed by someone in the family, and 'professional care' which involves public services, private companies and profit or non profit organizations. Domestic workers as conceived in the Special Regime of Domestic Workers constitute an absent figure.

Primary sources:

- Parliamentary debate, the 21st of December, on the draft bill of the Organic Law of Real Equality between women and men.

E-text: http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_225.PDF 18 pp.

- *Ley 39/2006 of the 14th of December 2006 de promoción de la autonomía personal y atención a las personas en situación de dependencia* (Law 39/2006 for the Promotion of Personal Autonomy and Attention to Persons in Situation of Dependency). E-text: <http://www.boe.es/boe/dias/2006/12/15/pdfs/A44142-44156.pdf> 15 pp.

- Parliamentary debate, from the 22nd of June 2006, on the legislative project for the Promotion of Personal Autonomy and Attention to Persons in Situation of Dependency http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_187.PDF 22 pp.

Secondary sources:

- Feminist Assembly of Madrid (Ana Hernando) 2006, '*Una crítica feminista a la ley de dependencia*' (A critique of the dependency law).

E-text: <http://www.vientosur.info/articulosabiertos/vientosur88-LeydeCuidados-AnaHernando.pdf> 7 pp.

- Asamblea feminista de Madrid, the 17th of November 2006, '*Demandas feministas a la ley de dependencia*' (Feminist demands to the dependency law).

E-text:

<http://www.nodo50.org/feministas/madrid/docs/Demandas%20feministas%20a%20a%20Ley%20de%20Dependencia.pdf> 8 pp.

- Plataforma por un Sistema Público Vasco de Atención a la Dependencia (2006), *Por un sistema público vasco de atención a la dependencia,. De la obligación de cuidar al derecho a recibir cuidado* (For a public sytem of attention to dependency. From the obligation to care to the right to receive care). E-text: (<http://www.emakumeak.org/docdebate/movimiento>)

2007:

Reconciliation & care work:

The Organic Law for de Facto Equality between Women and Men treated the issue of 'reconciliation of personal, family and work life' as a core area. The introduction of an individual right to paternity leave (2 weeks to be extended to 4 in some years) was represented as the most innovative measure. The previous regulation (law 39/1999) involved the possibility for the mother to transfer 10 of her 16 weeks maternity leave to the father, but no individual right to paternity leave. The law also introduced a new subsidy of 42 days (after giving birth) to women whose tax contribution is not high enough to be entitled to receive maternity benefit. There was an overall silence on domestic workers and the Special Regime in the equality law but one measure targeted these workers: the right to maternity leave.

Care work:

In February 2007, the Strategic Plan for citizenship and integration (2007-2010) was approved by the Government. The plan was elaborated in the Ministry of Labour and Social Affairs. The insertion of immigrant women in certain kinds of feminized jobs is represented as a problem. The types of jobs are not directly listed; the feminized types of work where immigrant women enter the labour market are called work niches. It says that these kinds of jobs are often precarious, little recognized by society and have low salaries. Another problem that is highlighted is the unequal distribution of responsibilities and work in the family. This can be decisive for immigrant women's situation of social inclusion or exclusion. Immigrant women take the main responsibility for caring of children and other dependents, and for domestic work.

Reconciliation, care work & tax/benefit:

The president announced in July the introduction of a payment of 2500 Euros in relation to childbirth. As with the 100 Euro subsidy for childcare, only mothers would be able to get the 2500 Euros.

Care work & tax/Benefit:

The government states that it plans to integrate domestic service into the general regime and there will be measures in order to professionalize the work. The main trade unions UGT and CCOO support the initiative to integrate domestic work in the general regime.

The coordinator of feminist associations printed a leaflet with a critique of the dependency law for the 8th of March.

Primary sources:

- *Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres* (Organic Law 3/2007, of the 22nd of March, for de Facto Equality between Women and Men). E-text: http://www.mtas.es/mujer/politicas/Ley_Igualdad.pdf 33 pp.

- Parliamentary debate, from the 15th of March 2007, on the Organic Law 3/2007 for de Facto Equality between Women and Men.

E-text: http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_240.PDF 12 pp.

- Plan Estratégico de Ciudadanía e Integración 2007-2010 (Strategic Plan for Citizenship and Integration 2007-2010).

E-text:

<http://www.mtas.es/migraciones/Integracion/PlanEstrategico/Docs/160207pecitextocompleto.pdf> The part on migrant women 9 pp.

Secondary sources:

- Crisálida, Bulletin of the Women's Department of UGT 19th of July 2007. '*El gobierno tomará medidas para profesionalizar el sector de las empleadas de hogar*' (The government will take measures in order to professionalize the sector of domestic workers). <http://www.ugt.es/Mujer/crisalida/crisalida30.pdf> 1 p.

- The coordinator of feminist associations, March 2007. 'Por un reorganización social del cuidado' (For a social reorganization of care) E-text:

https://pdimail.ucm.es/attach/diptico%208%20marzo%20detras.pdf?sid=&mbox=INBOX&charset=escaped_unicode&uid=422&number=4&filename=diptico%208%20marzo%20detras.pdf 2 pp.

- 20 minutos 17 de julio 2007. 'El cheque bebé sólo lo cobra la madre' (Only mothers will get the baby cheque). E-text:

<http://www.20minutos.es/noticia/260460/0/cheque/cobrar/madre/> 1 p.

3. INTIMATE CITIZENSHIP

3.1. Introduction to the sub-issue and topics:

In Spain, the most relevant sub-issues and 'sub-sub-issues' identified within Intimate Citizenship for the QUING project comprise:

- Reproductive rights, including abortion, assisted reproduction, emergency contraception, '*morning after pill*',
- Divorce, separation, marriage.
- Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity.

Nowadays, sexual rights (see *same sex marriage, transgender rights and public policies* for LGTB) is the most salient sub-issue within intimate citizenship. Both public administrations and civil society have included these issues in their agendas, especially over the last five years. Nevertheless, in the first stages of our democracy, attention was focused mainly on reproductive rights (mostly on abortion) and divorce rights. The incipient feminist movement struggled to obtain not only formal equality but also access to abortion and divorce, which was contested by the Catholic Church, the Conservative Party and conservative realms of society. Once these rights were obtained, other issues took over the attention. The fights for women and homosexual rights were simultaneous and influenced each other: while formal equality for women was taking place, the first gay organizations emerged and were legalized, demanding the decriminalization of homosexuality (and transgenderism). Again, once these rights were obtained, other pressing issues gained relevance, such as emergency contraception, partnership rights, etc. Reproductive rights passed from being a really important issue, with a relevant mobilization for abortion rights in the seventies and eighties, to being a less central issue with the introduction of new reproduction techniques and the emergence of new ethical issues over the last decade. Nowadays, emergency contraception is the most recent debate that concerns reproductive rights and which brings political attention, mostly from feminist and leftist/center parties. In the meantime, the ongoing proposals to reform the abortion legislation are not gaining enough support and mobilization yet to obtain further rights.

Concerning the political debate on kinship and partnerships, three major moments can be emphasised, namely regarding the regulation of marriage and divorce. The first one took place with the promotion of the 1978 Constitution, which brought equality for women and children born outside of marriage, followed by the right to divorce (1981). Afterwards, there was a transition moment in which attention was directed towards partnership rights, which included same sex and opposite sex couples, although this

was represented as a 'gay demand' (1992-2002). The last period took place in 2005, in which both marriage and divorce laws were reformed to include same sex marriage and what has been known as 'express divorce'. As a result, the institution of family is now more inclusive, while the institution of marriage and divorce become highly relevant in the recognition of rights and access to citizenship. Getting both married and divorced is easier. New citizens have access to these rights and there are new remarks³⁰ relating to marriage and gender roles. However, the same traditional values are reinforced: monogamy, shared economy, cohabitation, etc.

Lastly, developments concerning sexual rights are extensively present with the promotion of new rights; from the demands of partnership rights (1992-2002), to the struggle for same sex marriage (2002-2005) and transgender rights (2005-2007) and the increasing relevance of public policies devoted to LGTB issues (1995-2007). These new laws have been widely visible in the international debate, presenting the Spanish socialist government as progressive and transformative.

Taking a closer look, these rights have gained relevance and legitimation over time, influenced by the European directives and the member states, in a fierce battle with the conservative realms of society and different support from political actors. Political parties have gained increasing relevance in this debate: left and center parties have taken the demands from social (LGTB) movements and adapted them to their electoral programs, shifting their proposals to their electoral support and the social acceptance of sexual minorities and same sex marriage. The LGTB organizations have presented themselves as one voice with consensus over their demands, with double activism in the left/center political parties. Meanwhile, the conservative realms of society (Catholic Church, Conservative Party and others) organized against the reform of the Civil Code that allowed same sex marriage, focusing the debate over the suitability of gay individuals to be parents, and lastly presenting unconstitutionality appeals against same sex marriage law (13/2005), which are still not ruled upon.

Next, we will briefly present these four sub-issues, focusing on the main shifts and actors in each one.

Reproductive Rights:

In this section of the Intimate citizenship sub-issues, and within the subissue of *reproductive rights*, we are going to introduce the most prominent debates, actors and policy developments between 1995-2007, which is the QUING period. In this sub issue, we have identified three main sub-sub-issues: abortion, contraception and assisted

³⁰ (eg. Art. 68 "spouses are obliged to live together, be faithful and help each other. Also, they must share domestic responsibilities, care and attention for children and elderly, along with other dependent individuals of their responsibility").

reproduction.

Since reproductive rights is one of the most controversial and gendered issues, turning points before the year 1995 are mentioned in order to provide historical background to the development of all issues. Therefore we have to point at some key events, such as the depenalization and access to contraceptives (1974), the abortion law (1985, law 9/1985) and the law on assisted reproduction (1988). Women's Sexual and Reproductive rights did consolidate as human rights in the world conferences of Cairo (1994) and Beijing (1995) and are considered as fundamental to the United Nations Population Fund Activities (UNFPA) to achieve gender equality in Southern and Northern Countries. Reproductive rights are recognised in the Spanish State through the related legal texts: Law for the Voluntary Interruption of Pregnancy (Law 9/1985, *Ley de la Interrupción Voluntaria del Embarazo*); General Health Care Law (Law 14/1986, *Ley General de Sanidad*) and Law for Assisted Reproduction (Law 35/1988, *Ley sobre la Reproducción Asistida*) which is in line with the recommendation 1.046 made by the European Council in 1986.

As noted above, reproductive rights have been one of the most controversial, gendered citizenship issues in the Spanish socio-political context, with large mobilizations and debate during the pre-Quing period and an increasing presence during the Quing period. The debates have been focused on abortion for a long time; firstly to make it legal, and then afterwards focusing on contraception and UR 486 and the right of health professionals to claim conscientious objection. Nonetheless, some authors like Celia Valiente have stated that the policy debates concerning abortion in Spain are small compared to other European countries, probably due to the color of the left-center parties, and lack of experience with regard to democracy, etc (2001: 229-245). Also, during the Quing period the issues related to Assisted Reproduction Techniques have gained relevance over time, obtaining different legislation that is progressively more liberal.

The relevance of reproductive rights has been placed mostly in the pre-Quing period, with large controversies concerning abortion and divorce rights, followed by a shift in the Quing Period. In the late nineties, despite the unsuccessful attempts to reform abortion legislation which is reflected in many policy debates, the contraception UR 486 was finally distributed in Spain and different legislation on Assisted Reproduction Techniques was approved overtime, reflecting a progressively more liberal framework concerning ethical issues such as legalizing research on stem cells, etc.

Divorce, separation, marriage:

Concerning our second chosen issue: *marriage, divorce and separation*, we find that these three subissues reflect the construction and transformation of kinship rights

in Spain overtime. Firstly, we need to start by saying that the institution of family and how kinship rights are defined have undergone considerable changes in Spain, mostly due to women's greater incorporation into the paid labour force, women's growing economic independence, and their increasing control over maternity and birth control, among other changes. Secondly, it is important to highlight the democratic transition period after Franco's dictatorship as the starting point for the battles for civil rights in general, from the removal of legal obstacles that punished homosexuality and limited women's rights. But in order to locate the institution of marriage and separation against their legal and historical background, it is necessary to go back in our political history in which Spain was defined as a Catholic State (1889), and with a spirit of a Confessional State that has long defined policy making regarding family, marriage and divorce. The main shifts are defined by the transition of marriage as Catholic and the illegality divorce (with little room for annulment), to the new status of marriage as civil marriage, and the long awaited access to divorce.

Altogether, the recent reforms on marriage and divorce (2005) position those institutions closer to the idea of a "love contract" rather than traditional economic and social institutions, as we know them. The debate is open, and whether these changes imply an in depth transformation of society and gendered roles, or if it is just one more step towards normalization and implies an assimilationist perspective for women and same sex unions, is something that needs to be discussed.

The relevance of the second issue on divorce, marriage and separation rights has been placed both in the pre-Quing period, with the struggle for formal equality for women (1978 and onwards) and divorce rights (1981), and later on, within the Quing Period with the transformation of the institutions of marriage to include same sex couples (2005) and the reform of marriage (2005). These two broad periods reflect the construction of family, women and gay rights over time, in which kinship rights have experienced transformation in Spanish society, which reflect changes in the legislation.

Sexual Rights:

The emergence of sexual rights in the Spanish political scenario is highly relevant, since it has produced enormous changes over a short period of time. The recent history of repression and dictatorship with severe restriction in freedom for women and the punishment of homosexuality and transgenderism (16/1970 Law on Social Danger and Rehabilitation) contrasts with the developments that present the Spanish State as a social laboratory of sexual freedoms (Osborne, 2006) that have taken place in the last decade.

Same-sex partnership has been without a doubt the 'hottest' issue regarding partnership rights in Spain in the last twenty years. Although there was and there is no consensus over the demand of partnership or marriage rights, the first proposals can

be found in the early nineties, with the lesbian feminist organizations (see Pineda, 2007). But it is not until the mid nineties that partnership legislation fully developed, resulting in a situation in which different regions granted different rights and there was a lack of national legislation concerning partnership rights for both different and same sex couples. The situation is profoundly transformed once the partnership rights strategy is discarded by the FELGT with the support of political parties and the demand for same sex marriage gains relevance, to be finally realised during the Socialist Government with the modification of the Civil Code (2005).

Nonetheless, Sexual rights are defined not only by the access to partnership rights for both heterosexual and same sex couples (implying the approval of twelve heterogeneous regional partnership laws) and access to same sex marriage with the same rights granted to heterosexual couples (law 13/2005). They are also defined by the emergence of transgender rights (law 3/2007), public services for lgbt people in the regional and local realms (Madrid, Basque Country, Catalonia etc), an interdepartmental plan to mainstream sexual rights in public administrations (*Plan interdepartamental³¹ de la Generalitat de Catalunya*, 2006) and a program for gay, lesbian and transgender collectives in the Catalanian Government³² (2005), and proposals to act and regulate (by law) prevention against homophobic bullying in schools (Left wing regional parliamentary proposal in Madrid 2006 and electoral program for Madrid 2007), amongst others.

The evolution of sexual rights has gone from sexual rights linked to the recognition of kinship rights to a wider perspective linked to the impact of discrimination and homophobia, with an increasing responsibility of public administrations, mostly regional and local bodies. In sum, the most visible representation of gay rights in the Spanish political agenda since the nineties is linked to partnership and same sex marriage, but there are a number of other issues that are linked to sexuality that are relevant in policy making that are more visible nowadays, such as transgender rights and homophobia.

The relevance of this issue on sexual rights has been clearly increasing within the Quing period: the nineties were a period for the promotion of partnership rights (1997-2005), which evolved into same sex demands, achieving a law in 2005, while a diversification of the focus on sexuality has also taken place overtime. Transgender rights (2007) is the most recent achievement, along with the developments in local and regional policy making creating gender and sexuality intersectional institutions, specific plans and tools.

The European Directives have impacted these sexual rights much more clearly

³¹ *Pla interdepartamental per a la no discriminació de les persones homosexuals i transsexuals*, September 2006.

³² *Programa per al col·lectiu gai, lesbiana i transexual*. Departament de la Presidència. Generalitat de Catalunya.

than the other two issues of reproductive and marriage/divorce/separation rights. One of the first European texts regarding sexuality was the 1989 European Parliament recommendation to member States regarding their role in avoiding discrimination against transgender individuals. Also, the increasing visibility of gay and lesbian rights in the late nineties emerges with the approval and coming into force of the Amsterdam Treaty (1999) in relation to antidiscrimination and with specific remarks on sexual orientation. Later, the 2000/78/CE Directive on anti-discrimination and equal treatment in the labour market is passed (which came into force on December 2nd, 2003) and the Socialist Government has committed to implement it within the current legislature. Some of the developments also took place in the regional level, such as the promotion of the Catalan Interdepartmental Plan, etc. Also, there is another EU directive on free movement passed in 2004 (came into force in April, 30th, 2006) that is not implemented yet. It sets out the rules for EU citizens and their family members who wish to move to another member state, including taking up a new job, undertaking studies, etc. It is relevant for same sex families, but Spain has not yet taken action concerning its implementation.

It is difficult to assess the impact of these directives and recommendations, since they aren't always translated into one specific measure. Nonetheless these policy texts do create the legitimation and support needed for the transformation of intimate citizenship, not only in the perception of society and the normalization of sexual minorities, but also in the developments of Spanish policy making as a whole (e.g. same sex marriage, transgender rights, lgtb policies, etc).

3.2. Actors:

Regarding *reproductive rights* we have identified several actors that had an important role in the debates concerning this sub issue. Firstly, reproductive rights have been a central demand for the emerging Spanish feminist movement which was crucial in the agenda setting. Many groups within the Spanish feminist movement have gathered to claim abortion rights since 1970s and 1980s, with mobilizations claiming for the decriminalization of abortion (Valiente 2001: 230, quoting Sundman 1999; Trujillo, 1999). These feminist organizations have evolved from being small groups in the 70s and 80s like "*Comisión Pro-derecho al Aborto*" (Pro-Abortion Committee) and others linked to the "*Coordinadora Feminista*" (Feminist Coordination Platform), a national platform that gathered most feminist groups, to current women's organizations that also provide services concerning gender training and program implementation, such as "*Fundación Mujeres*" (Women's Foundation) or "*Asociación de Mujeres Progresistas*" (Progressive Women's Association).

Secondly, Femocrats at Women's Agencies³³ (such as the "*Instituto de la Mujer*") and left wing political parties such as Leftist Party (*Izquierda Unida, IU*) and Socialist Party (*Partido Obrero Español, PSOE*) have been very relevant actors, often through women that were active in both realms: feminism and political parties/trade unions. These women have been influential taking the demands of these feminist groups into the mainstream politics, with an increasing presence of women's rights in the Spanish political agenda, more visible in the nineties and present decade.

Lastly and opposed to the supporters of women's rights to their body and sexuality, there are conservative actors that have defended overtime traditional family values and rigid morality, such as the Catholic Church and the Conservative Party (*Partido Popular, PP*). The influence that the Catholic Church has sought to exercise after dictatorship on the democratic political life has been targeted both at centre-right and left governments as well as the feminist movement. Historically, Spanish law followed the Catholic Church's ideology on abortion. The Catholic Church is not a political actor *per se*, but in the Spanish context they have played an influential role concerning intimate citizenship, shaping the debates in public policies.

The main actors identified for the subissue of *Divorce, Marriage and Separation* are the following: Firstly, feminist organizations have played an important role in the demand for the same rights for women and children within marriage, which was granted in the 1978 Constitution, to later fight for divorce rights (see for instance "*Coordinadora Feminista*", Feminist Coordination Platform). Concerning the transformation of marriage into same sex rights to later the promotion of same sex marriage (explained in depth in the next issue) it is important to point to the gay, lesbian, transgender and bisexual organizations (See National Federation for Lesbian, Gay, Bisexual and Transgender Organizations, FELGTB). Secondly, leftist and center political parties have been important in introducing the feminist demands into the mainstream policy making (mostly Socialist and Leftist Parties), fighting resistance from the most conservative realms of society, represented by the Conservative Party (PP) and the Catholic Church, that clearly opposed the transformation of traditional and Catholic families.

There are several main actors identified within the subissue of *Sexual Rights*. Firstly, lesbian, gay, transgender and bisexual organizations have passed from being prohibited to working with allies in different realms (feminism, left wing parties and organizations, etc.) with different standpoints regarding their rights, to the present moment in which there are clear speakers and organizations that obtain most attention, such as the National Federation for LGTB³⁴ organizations (*Federación Estatal de*

³³ Some authors point to the role played by femocrats that were part of the Women's Institute (Instituto de la Mujer) established in 1983 supporting the decriminalization of abortion (Valiente, 2001: 320).

³⁴ LGTB: Lesbian, Gay, Transgender and Bisexual individuals.

Lesbianas, Gays, Transexuales y Bisexuales, FELGTB). Secondly, leftist (IU) and socialist parties (PSOE) have played an important role, taking demands from social movements, including LGTB organizations, into their electoral programs; the leftist party has been more clear and outstanding in their support to partnerships, same sex marriage, transgender rights and other initiatives concerning the fight against homophobia, the same demands that LGTB organizations were presenting. The socialist party (PSOE) was appointed in 2004 and was the party that had the capability to promote the legislation concerning same sex marriage (2005) and transgender rights (2007). Concerning civil society, many other organizations supported the mobilization for LGTB rights, such as feminist organizations, family promotion organizations (for instance '*Unión de Asociaciones Familiares*') left wing organizations, etc. The political debate has been so intense that all political parties have presented their standpoint concerning sexual rights, including those that were opposed, such as the conservatives parties and platforms created "to defend family", in which the Catholic Church, and the conservative party, allied with the most traditional organizations to march and present an unconstitutionality demand against law 13/2005 concerning same sex marriage.

3.3. Timeline: Intimate Citizenship:

Pre Quing Period (before 1995):

1978:

Reproductive rights:

The Spanish feminist movement had its origins in the early 1970's; in 1975 the first official feminist conference made demands on the public authorities to abolish all sections of the Criminal Code which restricted women's freedom to control their own bodies by making illegal information on the purchase of contraceptives. Also, other demands were made like the decriminalization of abortion, the creation of family planning centres and the legalization of contraceptives with provision of these through the social security system. They also demanded the inclusion of sex information in study courses (Navarro 1984). However, during the process of creating the 1978 Spanish Constitution, there was a consensus to leave abortion along with other 'hot' issues out of the final text, so there was a need for a law on abortion that took place in 1985 (Valiente, 2001).

Divorce, Marriage and Separation:

The Spanish State have relied and continue to rely on the family as a social and economic institution in which the social, economic and legal protection of families is currently fixed (see article 39.1) by the 1978 Constitution. But the Constitution does not define family in terms of marriage; instead family is vaguely defined, and it is broader

than heterosexual marriage³⁵. The Constitution stated that “*men and women have the right to marry with full legal equality*”, without explicitly stating that marriages had to be between men and women. The provision was interpreted as providing for heterosexual marriage only, but this was unsuccessfully challenged numerous times³⁶.

The origin of the religious and civil institution of marriage is rooted in the 1889 Spanish Civil Code that lasted until the II Republic, in which Spain was defined as a Catholic State. It regulated marriage as religious marriage which was compulsory for baptized people, whereas civil marriage was limited to the few non-Catholic individuals. The ecclesiastic tribunals had power to determine questions relating to religious marriages and the State was limited to regulating civil marriages. Equality between the sexes had been recognized during the Second Republic (Art. 25, 36) between 1931 and 1939. During the II Republic, divorce was allowed; adultery was not a crime neither for women or men, since infidelity was granted as a source of annulment of marriage. However, the Franco dictatorship (1939-1975) sent women back into traditional roles, controlled by the State, creating a specific organization to train women in their role of mothers and wives (*‘Sección Femenina’*). Between 1944 and 1961, women’s infidelity was punished with prison while the murder of a woman by her husband was an honour crime (known as *‘uxoricidio’*), later on only punished to exile.

The Civil Code was reformed on April 24 of 1958, introducing two types of marriages: mandatory ecclesiastic marriage if any of the two spouses was Catholic, and civil marriage limited to two non-Catholic spouses, clearly a small minority in Spain. The legislation was clear about the role of women: until 1975, the Civil Code treated them as if they were, in effect, underage.

The formal separation of State and the Catholic Church is a recent event in Spain, reflected in the marriage institution. It has been both a religious and civil status based on women’s subordination to their husbands, through the *‘marriage license’* (*‘licencia marital’*) up to 1975. The history of the political transition and the first period of democracy are marked by the removal of legal discrimination against women, children born outside marriage and the granting of civil rights to all citizens. It is only on January 19th 1978 that adultery and extra-marital relationships are free from being considered a crime.

(not found on the web)

Secondary Sources:

- Valiente, Celia (2001). Gendering Abortion Debates: State Feminism in Spain. In

³⁵ The Constitutional Court (STC 222/1992, December 11th) defined family allowing for the inclusion of all kinds of relationships based on solidarity and dependence, far from the traditional (heterosexual) definition of family.

³⁶ Resolution by the General Directorate of Registers and Notaries (1988) ratified by the Superior Tribunal of Justice (1991, 1994 and 1996)

Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism, ed. Dorothy McBride Stetson, 229-45. New York: Oxford University Press.

- Navarro, M.V. (1984). The feminist position on family planning in Spain. *International Planned Parenthood Federation Europe Region Apr*; 13(1): 43-5.

1979:

Reproductive rights:

The Feminist movement was active fighting for reproductive rights and after the 1975 feminist meetings, a Coordinating Organization was established for the family planning committees that were functioning in the different feminist organizations. The problem of where to obtain contraceptives was solved by a group of feminist women which opened the first family planning center in Spain in 1979 (Navarro 1984).

Secondary Sources:

- Navarro, M.V. (1984). The feminist position on family planning in Spain. *International Planned Parenthood Federation Europe Region Apr*; 13(1):43-5.

1981:

Divorce, Marriage and Separation:

The access to divorce once allowed during the II Republic was long awaited till 1981, with law 30/1981, determining also the access to annulment and separation. The law was approved with a large controversy from the conservative realms and the Catholic Church. Nonetheless, the secular status of the Spanish State was undermined by the continuous agreements³⁷ with the Catholic Church, continuously permitting the strong role of the Catholic Church in marriage (Serrano Alonso 2005).

Primary Sources:

- *Ley 30/1981, de 7 de Julio, por la que se modifica la regulación del matrimonio en el Código Civil y se determina el procedimiento a seguir en las causas de nulidad, separación y divorcio.* (Law 30/1981, July 7th, modified the Civil Code concerning marriage, nullity, separation and divorce). 21 pages.

<http://www.mtas.es/Guia/leyes/L3081.htm>

1983:

Reproductive rights:

Prior to October of 1983, abortion, the sale of contraceptives and access to birth

³⁷ The Spanish State signed agreements with the Catholic Church in January 3rd, 1979 recognizing the civil rights of canonical marriage previous to the Constitution. New reforms like law 30, July 7th, 1981, still recognize the role played by the Church in religious marriages.

control information were considered crimes. Consequently, many Spanish women were forced to travel to England to obtain abortions and contraceptive devices.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

During the eighties the impact of HIV/AIDS contributed to the stigmatization of gay and transgender individuals; in the meantime, transgender organizations demanded rights for sexual workers and denounced the police harassment (Vázquez, 2001). These struggles became a formal proposal presented to the General Directorate for Taxes (*Dirección General de Tributos*) demanding the legal right of sex workers to pay social security in order to obtain benefits (Rullán, 2004:40).

In 1983, in an environment of growing visibility, sexual reassignment surgery is depenalized in Spain (changing art. 428 of the Penal Code), in a positive trend that counts on the European Parliament Resolution (1989) which stated that member states should generate measures to combat social discrimination against transgender individuals. Therefore since 1983, intersexual individuals have been treated by the public health system (known as 'Seguridad Social').

Primary Sources:

• *Ley Orgánica 8/1983, de 25 de junio, de reforma urgente y parcial del código penal («BOE», num . 152, de 27 de junio de 1983 . Corrección de errores: «BOE», num. 175, de 23 de Julio dev1983).* (Law 8/1983, June 25th, urgent and partial reform of the Penal Code). 19 pages.

http://www.congreso.es/constitucion/ficheros/leyes_espa/lo_008_1983.pdf

1985:

Reproductive rights:

The struggle for abortion rights mobilized a number of different feminist groups, with the support of professional groups. The debate was polarized in 1985-1986, while the conservative realms in the health sector and the Catholic Church opposed not only the application of the law but the law itself, the socialist government was rather ambiguous. There were tensions within the socialist government and political party: on the one hand their electoral program was committed to obtain abortion rights, but on the other hand they did not stop the action of judges and police in closing abortion centers and detaining professionals involved in abortion clinics.

Finally, reproductive rights were recognised in the Spanish State through the legal texts related: Law for the Voluntary Interruption of Pregnancy (*Law 9/1985, Ley de la Interrupción Voluntaria del Embarazo*); General Health Care Law (*Law 14/1986, Ley*

General de Sanidad).

In 1985, after the 1983 abortion law was found unconstitutional, Spain partially legalized abortion in cases of rape, severe foetal abnormality and serious risk to the woman's mental or physical health. Shortly after, there were several leftist attempts to reform Law 9/1985, lacking a significant majority that would allow them to reform the law.

Also, in 1985 the Ministry of health promoted a conscience clause, for which health professionals could refuse to participate in abortion procedures, which did and does result in a significant number of abortions being carried out in the private sector.

Primary Sources:

- *Ley 9/1985, Ley de la Interrupción Voluntaria del Embarazo* (Law 8/1985, on the voluntary interruption of pregnancy).

http://www.congreso.es/constitucion/ficheros/leyes_espa/lo_009_1985.pdf

- *Ley 14/1986 de 25 de Abril, General de Sanidad* (Law 14/1986, General Law in Health)

http://www.congreso.es/constitucion/ficheros/leyes_espa/l_014_1986.pdf

1987:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

There is no legislation concerning transexual rights, so it is the role of judges and courts to rule upon their rights. On June 2nd, 1987 the High Court (*Tribunal Supremo*) recognized the right of a transgender woman to legally inscribe herself as a woman, creating a law of precedent (Antonelli, 2007: 11).

1988:

Reproductive Rights:

Law in Assisted Reproduction, which is in line with the recommendation 1046 by the European Council in 1986. It does not discriminate against lesbian women or non married women by not prohibiting and granting them access to assisted reproduction.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

The legislation regulating the Spanish Army changed in 1988, from punishing “threats against military dignity”, as homosexuality was considered, to a more ambiguous penalization of “conducting sexual behaviour³⁸ in military areas ... for the way or circumstances in which are performed, or by their transcendence may be threatening military dignity.” Clearly the new law was still discriminatory, and some MPs like socialist Carmen Calleja tried to defend non discrimination against other MPs like Carles Campuzano i Canades who stated that the spirit of the law was not discriminatory.

Primary Sources:

- *Ley 35/1988, de 22 de noviembre, sobre técnicas de reproducción asistida* (Law 34/1988, november 22, on assisted reproduction techniques). 6 pages.

http://www.boe.es/g/es/bases_datos/doc.php?coleccion=iberlex&id=1988/27108

- *Ley Orgánica 8/1988, de 2 de diciembre, de Régimen disciplinario de las Fuerzas Armadas* [Boletín Oficial del Estado número 289 del 3 de diciembre de 1998, páginas 39699 a 39714] (Law 8/1988, December 2nd, on disciplinary regime of the Army).

(Not found on the web)

Secondary Sources:

- ILGA Report about Spain

<http://www.fundaciontriangulo.es/informes/InformeILGAEspana.htm>

1991:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

Lesbian feminists from all over Spain published a common set of demands in relation to same-sex marriage,³⁹ and in 1992 some groups began to meet with political parties⁴⁰ campaigning for rights.

Concerning transgender rights, while a number of countries were regulating their legal rights (Sweden, 1972; Germany, 1980; Italy, 1982; Holland, 1985; United Kingdom, 2004), in Spain the main role regulating transgender rights has been played by the High Court (Tribunal Supremo, sentences: 02/07/1987, 15/07/1988, 03/03/1989

³⁸ Whole quote in Spanish: "*Mantener relaciones sexuales en acuartelamientos, bases, buques, aeronaves y demás establecimientos militares cuando, por la forma y circunstancias en que se lleven a cabo, o por su transcendencia, atenten contra la dignidad militar*".

³⁹ In 1991 the Lesbian Feminist Collective of Madrid promoted a joint text on lesbian rights called "*Lesbiana que no te discriminen*", by the national lesbian feminist taskforce: "*We are not in support of institutionalising (affection) relationships, but we do not accept the discrimination suffered by those lesbians and gays that would like to marry and cannot do it*".

⁴⁰The Revolutionary and Cultural Committee for Lesbians (CRECUL) presented the first partnership proposal.

y 19/04/1991), based on the Constitution articles 10 and 14 on the right to personality development and no discrimination. During the nineties, the gay organizations started a trend of demands for partnership rights, following the international influence of moving towards kinship rights. In this period the first transgender organizations that claimed for register changes without compulsory surgery emerge (Ramos, 2004).

In 1991, the criteria to recognize a transgender person in the chosen sex is unified in Spain and included irreversible surgery, which gave priority to the psychosocial sex rather than the morphological sex. Transgender women in this situation were considered by law “fiction women” (“*ficción de hembra*”), banning them from the right to marry or adopt.

Primary Sources:

- Constitution articles 10 and 14 on right to personality development and no discrimination.

http://www.constitucion.es/constitucion/castellano/titulo_1.html

- High Court sentences: 02/07/1987, 15/07/1988, 03/03/1989 y 19/04/1991.

1992:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

The new law (5/1992) on data prohibited the creation of records that included information regarding people’s sexuality (Art. 7), although there were some denunces of this kind of abuse by police and State institutions until 1995.

Primary Sources:

- *Ley Orgánica 5/1992, de 29 de octubre, de regulación del tratamiento automatizado de los datos de carácter personal* [Boletín Oficial del Estado número 262 del 31 de octubre de 1992, páginas 37037 a 37045]. (Law 5/1992, October 29th, regulating the treatment of personal data). 9 pages.

http://www.boe.es/q/es/bases_datos/doc.php?coleccion=iberlex&id=1992/24189

1993:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

Spanish homosexual organizations presented two different texts as Law Proposals for Domestic Partnership (by two regional organizations in Madrid, COGAM and

CRECUL), which were the very first initiatives in the country, on June 1993. In September 1993, a member of the parliament from the Catalonia Nationalist Party (CiU), Lluís Recoder i Priù, presented a parliamentary question to the socialist government, inquiring on their intention to regulate non-married couples. The government's answer stated that "the issue is enough regulated" and that it has no intentions to promote new legislation.

Concerning the feminist movement and despite the controversial international trend, the relationship between the feminist movement and gay, lesbian and transgender organizations have been positive. Moreover, transgender activists have participated in the national feminist conferences (1993, 2000), celebrations of women's rights day, etc. The relationship of transgender organizations with gay and lesbian organizations has been both positive and controversial, as shown in the 2006 and 2007 debates concerning the law proposal on gender identity.

Reproductive Rights:

A long and winding process has also followed some parliamentary initiatives regarding contraceptive methods and access to them through the National Health Service, especially regarding access and availability of 'emergency postcoital contraception' RU 486, most commonly referred to as 'the morning after pill' (*la píldora del día después*). In 1993, the Leftist Party (IU) presented the first initiative regarding access to RU 486; by 1995 PSOE unified their votes to the PP to vote against a new initiative from IU regarding RU 486 with the same objectives as in 1993.

Primary Sources:

- Law Proposal Draft by the Mixed Group on RU 486. 5 pages.

http://www.congreso.es/public_oficiales/L4/CONG/DS/CO/CO_139.PDF

1994:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

In March 1994, the major from Vitoria (Basque Country), Mr. José Angel Cuerda, created the first Register for 'Domestic Partnerships' in Spain, for both same sex and opposite sex partners. Since the mid nineties, quite a few city councils and Autonomous Communities had already opened registers for civil unions that allowed benefits for unmarried couples of any sex, although their effect is mainly symbolic (Platero, 2004).

In April 1994, the Spanish Constitutional Court denied partnership rights to a widow who was not married to her partner. This fact was really controversial and the Social

Affairs Minister, Ms. Cristina Alberdi announced that she would promote a partnership law, but finally stated that there was not time within the legislature (El País, 24/10/1995). Also in April, the Madrid Regional Parliament -*Asamblea de Madrid*- asked the national government to create a Domestic Partnership Law. Other regional parliaments presented unsuccessfully the same demand to the national government. Throughout 1994 many other regional and local registers are created. Meanwhile, the Social Affairs Minister meets with different lgtb organizations.

In November 1994, the Parliamentary Socialist Group presented in the Parliament a non-legislation proposal, asking the government to promote a partnership law. It is a paradox, since the Social Affairs Minister, Ms. Alberdi, had already announced their intention to promote a law and finally the law proposal expired before reaching the Council of Ministers -*Consejo de Ministros*- (Argudo Gutierrez 2003: 138).

Secondary Sources:

- EL MUNDO – 30-11-1994 *El Congreso insta al gobierno a regular las parejas de hecho con la abstención del PP* (The Parliament urges the government to regulate partnership rights with the abstention of the Conservative Party, PP). 1 page. <http://www.elmundo.es/papel/hemeroteca/1994/11/30/sociedad/24380.html>

Quing Period (1995-2007):

1995:

Reproductive Rights:

In 1994 and 1995, the Spain's socialist government brought to the agenda a law proposal that would allow abortion during the first 12 weeks of pregnancy. The abortion would require a three-day waiting period following counselling on alternatives to abortion. With this new proposal the Spanish Government pretended that abortion, partially depenalised, became simply legal. The proposal approved that the voluntary interruption of pregnancy should only be based on the woman's choice though the Spanish High Court had formerly pointed that it was compulsory to give evidence of conflict between the life of the 'yet to be born' and certain fundamental rights of the pregnant woman.

While the Feminist movement, the Socialist and Communist parties were pushing for 'broadening' the abortion law more in line with more fast track European Member States, the Church, the Pro-Church section of the Conservative People's Party (*Partido Popular*) and pro-life organisations argued against any progressive and gender equality oriented regulation. The Socialist Workers' Party (*PSOE*), failed to have this law approved and two other law proposals made by two left parties Leftist Party and New Left (*Izquierda Unida y Nueva Izquierda*), were voted on in the Spanish Congress with

very little success.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

In 1995 the Penal Code is reformed, known as the 'Democracy Code'. It was a milestone in setting formal equality, prohibiting discrimination on the basis of sexual orientation and criminalizing homophobia.

Throughout 1995-1998, the "Army Case" of Sevilla was highly controversial: 49 men were accused of having homosexual sex with minors in Sevilla. A few of them were famous singers, TV showmen, etc. The press presented the case as homosexuals abusing children and the prostitution of minors. A public debate started across the country, discussing the link between homosexuality and child abuse. Finally, most of the presumed perpetrators were declared innocent and *only* the owners, six workers and six clients were convicted for the prostitution of minors.

As a key actor, during 1995, the Catholic Church's Episcopal Conference campaigned against homosexuals, stating that "homosexuality is a result of bad habits, bad companies and negative early experiences".

The national debate around same sex (domestic) partnership rights continued: on the one hand the Social Affairs Minister, Cristina Alberdi, announces that within their legislature there is no time to promote a partnership law, October 24th, 1995. On the other hand, activists organized and demanded partnership rights with demonstrations at the Civil Register (November 22nd 1995) and large demonstrations in Madrid (Over two thousand people marched in Madrid asking for a partnership law. It is one of the first large demonstrations of lgtb people in Spain, December 26th, 1995). Also, in Barcelona, the Court ruled in favour on the rights' of a gay man who lost his partner in a traffic accident and got 7.5 million pesetas. This means recognition of rights in a same sex relationship (December 12th 1995).

The regional legislation on partnerships impacted on national legislation, such as the Law 35/1995 that recognizes partnership rights (both same sex and opposite sex unions) to victims of violence and sexual freedom.

In the regional realm, the focus on partnership rights takes place in Madrid: in March, the Region of Madrid opens a Register for Domestic Partnerships, since the City of Madrid does not open a Register themselves. When the Conservative Party started ruling in Madrid, it did keep the register, as in many other cities, but they did not take the initiative to open a Register themselves.

Concerning policies that intended to focus both on gender and sexuality, there was a pioneer experience in the city of Barcelona, with a trajectory of addressing discrimination from a diversity perspective, going from a focus on gender to include a civil rights perspective, creating the Department of Civil Rights (Regidoria de Drets Civils, 1995).

Primary Sources:

- *Proposición de Ley de regulación de la interrupción voluntaria del embarazo presentada por Izquierda Unida* (Law proposal regulating voluntary interruption of pregnancy by the leftist party). 9 pages.

http://www.congreso.es/public_oficiales/L5/CONG/DS/PL/PL_167.PDF

- Congress reform on the abortion Law rejection, 6 pages.
http://www.congreso.es/public_oficiales/L5/CONG/BOCG/A/A_125-09.PDF

- *Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*. (Law 10/1995, November 23rd, concerning the Penal Code). Two references in 183 pages.

<http://www.juecesdemocracia.es/legislacionvigente/penal/general/codigopenal.pdf>

- *Decreto del Alcalde de Vitoria-Gasteiz, de 28 de febrero de 1994, sobre creación del registro municipal de uniones civiles*. (Act by the Mayor of Vitoria-Gasteiz, February 28th, 1994, creating a municipal register for civil unions). 3 pages.

<http://www.euskadi.net/bopv2/datos/1994/03/9401077a.pdf>

- *Decreto 36/1995, de 20 de abril, por el que se crea el Registro de Uniones de Hecho de la Comunidad de Madrid*. BOCM de 24 de abril de 1995. Corrección de errores: BOCM de 4 de mayo de 1995).

(Not found on the web)

- *Ley 35/1995, de 11 de diciembre, de ayudas y asistencia a las víctimas de delitos violentos y contra la libertad sexual*. [Boletín Oficial del Estado número 296 del 12 de diciembre de 1995, págs. 35576 a 35581]. (Law 35/1994, December 11st, on funding and assistance to victims of violent and sexual crimes). 6 pages.

http://www.cepolicia.com/atencion_victimas/ley_ayudas.pdf

Secondary sources:

- *Ideas para un debate. La discusión sobre el proyecto de ley del aborto* (Ideas for a debate: The discussion on the abortion law proposal) 4 pages.
<http://www.aceprensa.com/plantilla.cgi?plantilla=articulo.htm&accion=6&arbol=ver%20servicio&fichero=0S5-95-A&ticket=>

- *Aborto: Laberinto de ficciones*, EL MUNDO (Abortion: Labeythin of Fictions) 1 page. <http://www.elmundo.es/papel/hemeroteca/1995/07/08/opinion/51233.html>

- EL PAÍS - Sociedad - 24-10-1995 *Alberdi no cree que haya tiempo para aprobar las parejas de hecho*. M. P. O. 1 page.

1996:

Reproductive Rights:

The Executive Committee of the Spanish Bishops' Conference made a public statement saying the proposals concerning abortion are 'radically immoral' and calls all society, especially Catholic citizens, to reject this kind of regulation. The same Socialist Party (PSOE) policy text on abortion was presented in 1996 and rejected by the new majority led by the Conservative Party (PP).

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

In March 1996, the Conservative Party won the national elections and the new Social Affairs Secretary announced that the partnership law is not "a priority" of the new government. All lgbt organizations reacted criticizing their standpoint, being quite active and protesting, as shown in the media records of this period. These organizations were increasingly present in the debate of lgbt rights and as political actors, supporting those parties that include lgbt rights in their electoral programs. For instance, in some news the Gay and Lesbian Organization -*Coordinadora Gay-Lesbiana*- denounces the Catholic Church's attitude concerning lgbt rights, calling them the "anti-democratic lobby", January 23rd 1996.

One of the largest organizations at the time, the Triangle Foundation –gay and lesbian foundation, started a round of meetings with all political parties in the Parliament and started a campaign of postcards to the Conservative Party during 1996-1997, claiming the right to partnership law. Meanwhile, other lgbt Organisations organized the "*Pink Vote*" or gay vote campaign, analyzing the political parties' electoral programs, and asking people to vote for those parties who offer more rights to lgbt people. In October 1996, the "*Pink Vote*" campaign stated that the Socialist Party met part of their demands.

Concerning the debate and fight for partnership rights recognition, during 1996 the socialist party presented a law proposal (these are presented at national level) (October 1996), which does not include adoption or tax benefits. Soon after, the Conservative Party announced their will to present a law proposal for civil unions, including homosexual couples. All political parties got involved in the debate for lgbt rights, including these rights in their agenda. For example, the Catalonia Nationalist Party –*CiU*- on several occasions showed their support for a domestic partnership law in Catalonia (February 22nd and June 7th 1996), as well as the left wing party, by creating a platform for gay rights (July 1996).

In the national arena and regarding the mandatory military service for men, the media showed the case of a gay man who was the breadwinner and head of a gay family,

who refused to serve due to his responsibilities. He was dismissed from the service. The lgtb movement strongly supports the family's standpoint, August 1996.

Secondary Sources:

- *Licencia aún más amplia para matar a los hijos* (Larger licence to kill children), Spanish Bishop's Conference. September 13th, 1998. 1 page. <http://www.christusrex.org/www1/camino/ca9-20-98.html>

- EL PAÍS - Sociedad - 23-01-1996 *La Coordinadora Gay-Lesbiana califica a los obispos de "lobby antidemocrático"*. (The Gay and Lesbian Organization - *Coordinadora Gay-Lesbiana*- denounced the Catholic Church's attitude concerning lgtb rights, calling them "anti-democratic lobby"). 1 page.

- EL MUNDO / Sociedad 6 de Agosto de 1996 *Un joven homosexual solicita no ir a la PSS porque mantiene a su pareja*. (One young homosexual applies for a dismissal of Alternative Military Service due to his role as breadwinner). 1 page.

1997:

Reproductive Rights:

It is not until November 1997 that the Parliament Health Commission approve a law proposal by IU (Leftist Party) in which the government is urged to 'remove the mechanisms that obstruct the commercialisation of RU 486', with the support of the conservative, socialist, leftiest, basque and catalonian nationalst parties (PP, PSOE, IU, CiU and PNV).

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

Most Spanish society members supported the recognition of same sex couples rights, while living together in a stable relationship, with the same rights and obligations to married couples (CIS Study on "New Families, Study number 2.248, May 1997).

During 1997, most of the debate on lgtb rights was located in the national debate and law proposals on domestic partnerships. In March 1997, the Socialist and Leftist Parties Proposals for Domestic Partnership were voted, being the first time that the results were even in Spanish Parliament: 161 pros and 161 cons. In a third round, the Conservative Party –PP-, the Catalonia Nationalist Party –CiU- and the Canary Party –CC- pressured their own members of the parliament and won the elections against the law. On the same date, March 18th, a study subcommittee was created to present a report on the partnership issue before June 30th 1997, but no report was presented and the subcommittee was dismissed. The lgtb organizations, human rights, trade unions and youth organizations support the demand for domestic partnership legislation.

Probably due to the criticism after supporting the Conservative Party in the Parliament, the Canary Party –*Coalición Canaria*- presented a new Domestic Partnership Proposal. The Canary Island Party's Proposal on Partnerships is approved to "be taken into consideration". This was a surprise due to the support of half of the Catalonia Nationalist Party. The domestic partnership issue was controversial and some members of the parliament voted against their parties' standpoint. This is the case of Maria Jesús Aguirre, from the Basque Nationalist Party, leaving the Parliament to avoid voting against the law, and part of the Catalonia Nationalist Party –CiU- (this parliamentary group contains two groups: "*Convergencia*" and "*Unió*", and the first group voted supporting the law).

On April 30th, the press published the Conservative Party's draft of the Civil Unions Law Proposal. This text does not describe the unions as couples or relationships that included affection, instead referred to two people living together, no matter their affiliation. The lgbt organizations protested against this proposal because it denied the sexual and affectionate link between two people. Later, in September 1997, the Conservative Party presents the Civil Unions Law Proposal, which is slightly different from the draft the press had published. It was meant to be an "Organic Law", which requires a long procedure, and in the end of the legislature it is not approved. The lgbt organizations (*Fundación Triángulo*) started a campaign pressuring the Catalonia Nationalist Party –CiU- members to vote against the Conservative Party Civil Union's Law Proposal, October 1997.

The Parliament voted on the Conservative Party Proposal, which was approved with 170 votes supporting it and 160 against, November 1997. During the parliamentary debate, the conservative party representatives stated: "homosexual couples are not family". In the European Union the Amsterdam Treaty is signed in October, with a number of recommendations, including article 13. This article recommends member states to abolish discrimination based on sexual orientation. The Treaty enters into force on May 1st 1999 and brought a couple of changes relevant for lesbians and gays in the European Union, including a new anti-discrimination clause, Article 13, which covers discrimination on the grounds of sexual orientation, together with sex, racial or ethnic origin, religion, belief, disability and age. It is the first time that discrimination on the grounds of sexual orientation was mentioned in the EU Treaties. Article 13 however doesn't have a direct effect but only provides the legal basis for the EU to take appropriate action to combat discrimination.

Primary Sources:

- *Proposición de Ley de medidas para la igualdad jurídica de las parejas de hecho.*(Law proposal on measures to obtain legal equality for partnership (de facto couples). 4 pages.

http://www.congreso.es/public_oficiales/L6/CONG/DS/PL/PL_068.PDF

- *Proposiciones de Ley del Grupo Socialista sobre el reconocimiento determinados*

efectos jurídicos a las parejas de hecho; Del Grupo Parlamentario Federal de Izquierda Unida-Iniciativa per Catalunya, de igualdad jurídica para las parejas de hecho; Del Grupo Parlamentario de Coalición Canaria, sobre reconocimiento de efectos jurídicos a las parejas de hecho estables. (Law proposals by the socialist party on certain legal effects for partnerships; leftist law proposal concerning legal equality for partnerships; Canary Island Nationalist Party law proposal recognizing legal rights for stable partnerships. 8 pages.

http://www.congreso.es/public_oficiales/L6/CONG/DS/PL/PL_086.PDF

Secondary sources

- *Centenares de Francesas abortan en España. Francia autoriza el aborto hasta las diez semanas de gestación, y la legislación española es más permisiva* (Hundreds of French Women abort in Spain. France allows all women abortion until the 10th week of pregnancy and Spanish legislation is more permissive)

<http://www.aceprensa.com/plantilla.cgi?plantilla=articulo.htm&accion=6&arbol=ver%20servicio&fichero=055-97-E&ticket=>

- CIS Study on “New Familias, Study number 2.248, May 1997). 3 pages.

http://www.cis.es/cis/opencms/-Archivos/Boletines/13/BDO_13_familias.html

1998:

Reproductive Rights:

On two occasions in February and September 1998 opposition parties from the left proposed the introduction of a fourth case of legal abortion to grant women the autonomy of choice on the interruption of their pregnancy. While IU (*Leftist Party*), NI (*New Left*) and BNG (*Nationalist Galician Bloc*) unsuccessfully asked for self-determined abortion respectively, within sixteen weeks for IU and 14 weeks for the other two parties.

In September 1998 the Church’s mobilisation to promote political refusal of reproductive autonomy on the basis of Catholic doctrine proves to be very relevant in late 1990’s democratic Spain. The Church finds allies in the Conservative party to maintain a unitary position against the new law in spite of the internal differences between hardcore so-called ‘pro-life’ active conservatives and ‘softer’ right wing actors⁴¹. The feminist movement and progressive theologians reacted at the Church’s interference in the political debate. Feminist associations such as the Progressive Women Federation (Federación de Mujeres Progresistas), The Association of Women Lawyers (Asociación THEMIS), the Forum against Violence (Foro contra la Violencia), and the women departments of trade unions, on different occasions had been lobbying

⁴¹ It is also important to briefly mention the ‘on and off’ hot issue and debate about the legalization of Euthanasia where the Catholic Church does not grant human beings to make choices over issues regarding Intimate Citizenship and considers any progressive legislation on the issues to be an ‘unconstitutional attack to human life’.

for legislative proposals on the modification of the 1985 Abortion Law. The Catholic Church continued to influence the debate on reproductive issues, though neither the Conservative Party nor the Socialist Workers Party considered abortion as a priority on the agenda.

In 1998, with the Conservative party in office, a new non-legislative proposal regarding the contraceptive and abortive pill UR 486 was debated with a proposal by the Leftist Party (IU), which was in line with former IU proposals. The Socialist party, in opposition, presents a transactional amendment limiting the use of RU 486 to the health sector and excluding any public financing. The amendment is unanimously approved in spite of the restrictions within it- all to obtain more parliamentary support. The CiU (Catalan Nationalist Party) and the PNV (Nationalist Basque Country) voted in favour of the proposal once they learned that the RU 486 is used in both autonomous communities like a foreign 'pill' (They voted for the proposal not in favour of gender equality but for commercial reasons). These were important shifts benefiting women in the context of a Conservative government. As from that moment, the Spanish State together with other EU Member States share similar legislation in terms of the 'morning after pill'. The Spanish Episcopal Conference formally replies to the Spanish Parliament describing the pill as a 'lethal chemical weapon', and asks the government to avoid taking any measure which can contribute to its distribution. Although formally available at the National Health devices, access to the pill remains a hot issue, especially since abortion rates in Spain are growing amongst youngsters.

Concerning human assisted reproduction, the Conservative Party (PP) presented an appeal to the High Court, claiming that having access to assisted reproduction was a 'threat to the constitutional conception of family'. The Court ruled that the concept of family was inclusive of other profiles wider than married families with children.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

The nineties were the starting point of the public policies for lgbt citizens with the emergence of partnership regulation, which resulted in twelve regional laws regulating both heterosexual and same sex partnerships (1998-2005). This legislation is a result of the lobbying and struggle of lgbt organizations that organized a number of demonstrations, like the march that took place in Madrid on March 28th, in which over four thousand people marched against the Conservative Party proposal.

The first law was the Catalanian text: On June 30th, the Catalanian Parliament approved the Law on *Stable Unions of Partners (Ley sobre Uniones Estables de Pareja)*. It is a binding law only for Catalonia and it recognizes different rights to different and same sex couples; it was approved by all parliamentary groups except the

conservative party. From this date on, twelve partnership laws⁴² have been approved, illustrating the importance of the debate on gay and lesbian rights in the regional realm. These laws are quite diverse: some grant access to the same rights that same sex marriage allows while others are like contracts of cohabitation.

Around 2002, the strategy changed from demands for partnership rights to the demand for same sex marriage, and both left wing parties and LGTB organizations allied to rally for a law reform in the civil code that resulted in the promotion of Law 13/2005. In this environment, the actions in public policies have been not only in kinship rights, which have attracted most energy and resistances, but also in the development of public policies concerning LGTB issues, mostly in the regional and local level.

The city of Barcelona, through the Department of Civil Rights, promoted the “Office for non Discrimination” (l'Oficina per la No Discriminació) in 1998. It is the first European local body charged to defend citizens' rights in terms of gender, sex, sexual orientation, origin and cultural background, physical and mental health, age and social or economic situation in the city of Barcelona.

Primary sources:

- *Conferencia Episcopal contra la 'píldora del día después'* (Bishops' Conference against the morning after pill). 4 pages.

<http://www.conferenciaepiscopal.es/documentos/Conferencia/aborto.htm#II.%20EL%20ABORTO%20QUÍMICO%20ES%20TAN%20INMORAL%20COMO%20EL%20QUIRÚRGICO>

- *Ley Orgánica 11/1999, de 11 de abril, de modificación del Título VIII, Libro II del Código Penal* (Law 11/1999, April 11th, modifying Title VIII, Book II of the Penal Code) – regarding sexual liberties. 4 pages.

http://sgi.xunta.es/document/BOE_pdf/lei%2011-1999.pdf

- *Sentencia del Tribunal Constitucional 116/1999, de 17 de junio, recaída en el recurso de inconstitucionalidad número 376/1989 promovido con fecha 27 de febrero de 1989, por 63 Diputados del Grupo Parlamentario Popular, contra la ley 35/1988, de 22 de noviembre, sobre Técnicas de Reproducción Asistida.* (High Court Sentence 116/1999, June 17th, concerning the unconstitutionality appeal 376/1989 promoted on February 27th, 1989 by the 63 Conservative MPs, against law 35/1988, November 22 in the matter of Assisted Reproduction Techniques). 23 pages.

<http://www.aeds.org/jurisprudencia/constituembrion.htm>

- *Proposición No de Ley para el Reconocimiento de las Pensiones de Viudedad a*

⁴² In chronological order: Catalonia (Law 10/1998); Aragón (Law 6/1999); Navarra (Law Foral 6/2000); Valencia (Law 1/2001); Madrid (Law 11/2001); Baleares (Law 18/2001); Asturias (Law 4/2002); Andalucía (Law 5/2002); Canarias (Law 5/2003); Extremadura (Law 5/2003); Basque Country (Law 2/2003); Cantabria (Law 1/2005); Catalonia (Law reform 3/2005).

Homosexuales, de 20 de febrero de 1998 de Izquierda Unida. (Law Proposal concerning the recognition of Widow Pensions for homosexuals, February, 20th, 1998, by the Leftist Party). 2 pages.

<http://www1.izquierda-unida.es/doc/1170867257299.pdf>

• *Ley 10/1998, de 15 de julio, de uniones estables de pareja (cataluña).* B.O.E. 19 de agosto de 1998 (Law 10/1998, July 15th, on stable couple's unions). 15 pages.

<http://www.hegoak.com/doc/lcataluna.pdf>

Secondary Sources:

• *La RU-486 estará en España el próximo verano.* (The RU-486 will be in Spain next summer). *El Mundo*, Sociedad. 30 de Septiembre 1998. 1 page.

<http://www.elmundo.es/1998/09/30/sociedad/30N0054.html>

• *El Congreso desestima ampliar la despenalización del aborto pero el PSOE promete un 'cambio tranquilo'* (The Congress rejects to enlarge the depenalisation of abortion but the PSOE, Socialist Party promises a 'calm change'). 1 page.

<http://www.lukor.com/not-soc/cuestiones/0409/28192048.htm>

• EL PAÍS, 24 de junio de 1999. "*El Constitucional avala el aborto legal y la investigación sobre embriones no viables*". Bonifacio de la Cuadra. 1 page.

• EL PAÍS, 25 de junio de 1999. "*El aval constitucional a la Ley de Reproducción Asistida divide a los expertos*". 1 page.

• LA VANGUARDIA, 28 de junio de 1999. "*Los obispos critican una sentencia del Constitucional que avala el aborto legal*". 1 page.

1999:

Reproductive Rights:

Despite the controversy, on October 7th 1999 the Parliament allowed the distribution and access to UR 486.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

The key demand concerning lgtb rights in the period from 1990 to 2002 has been partnership rights, which evolved into same sex marriage later on. There are some factors that have facilitated this evolution such as the presence of gay activists in relevant political parties leading the demand for gay marriage. Some of these activists have become mainstream politicians. Moreover, there has been an increasing presence and relevance of the lgtb organizations in the political arena and the media claiming gay marriage instead of partnership rights. In addition, in the political debate same sex marriage has been a source of political polarity among parties. Lastly, there has been an opportunity to present Spain as a "modern" country, linked to the idea of improving and catching up with the growing international (UN-Conference on Women in 1995, Beijing) and European legitimization of rights for

gays and lesbians (Platero, 2007b).

The trend of partnership legislation during 1999 results in March with the approval of a new and progressive partnership law for the Aragon Region (law 6/1999), supported by all political groups except the Conservative Party, ruled in Aragon in coalition with the Aragon Nationalist Party that voted supporting the law.

One of the milestone dates for transgender rights in Spain was 1999, in which the Andalusia Health Services created a Unit for Gender Identity Disorders in Malaga. It implied a visibility of transgender needs in terms of multidisciplinary intervention and the role played by the State concerning their wellbeing. The trend of growing visibility increased with parliamentary proposals for transgender rights (left wing law proposal presented in 1999, socialist law proposal presented in 2000) and the parliamentary approval of the report⁴³ on transgenderism that favoured the inclusion of transgender treatment in the public health system (2002). These initiatives took the spirit of 1989 recommendation regarding the role played by member States and discrimination against transgender individuals. In the regional realm, there are some initiatives to include extending assistance to Basque transgender individuals in the Basque Public Health Service.

Primary Sources:

- *Propuesta No de Ley de Izquierda Unida garantizando el acceso de la UR-486* (Draft Law proposal by the leftist Party regarding guaranteeing the access to UR-486). 5 pages.

http://www.congreso.es/public_oficiales/L6/CONG/DS/PL/PL_185.PDF

- *Preguntas de la señora Maestro Martín (Grupo Parlamentario Federal de Izquierda Unida), sobre agilización de los trámites necesarios para que las mujeres puedan acceder a la Ru-486 para la interrupción voluntaria de su embarazo, en cumplimiento de una proposición no de ley aprobada por la Cámara.* (Parliamentary questions by Ms. Maeso Martin (Leftist Party Federal Parliamentary Group) on the promotion of needed procedures for women to access RU-486, voluntary interrupting pregnancy, meeting the approval of the proposal approved by the Chamber). 2 pages.

<http://www.senado.es/pdf/legis6/congreso/ds/CO0799.PDF>

- *Proposición no de Ley por la que se insta al Gobierno a dictar disposiciones legales sobre el derecho de los transexuales a un cambio de sexo.* (Draft Law Proposal urging the government to rule upon transgender people's legal rights to change sex). 3 pages.

<http://www1.izquierda-unida.es/doc/1170865826322.pdf>

- *Proposición no de ley sobre inclusión del proceso de cambio de sexo entre las*

⁴³ Informe científico técnico sobre transexualidad realizado por la Agencia de Evaluación de Tecnologías Sanitarias del Instituto de Salud Carlos III, dependiente del Ministerio de Sanidad y Consumo, (2002).

prestaciones gratuitas de Osakidetza Servicio Vasco de Salud (Draft Law Proposal regarding the inclusión of the process of sex change within the free services offered by the Basque Public Health System). 5 pages.

<http://www1.izquierda-unida.es/doc/1170866181630.pdf>

• *Ley 6/1999, de 26 de marzo, relativa a parejas estables no casadas (Aragón)*. B.O.E. 21 de abril de 1999. (Law 6/1999, March 26th, concerning non married stable partnerships). 6 pages.

<http://www.ucm.es/info/rqtr/biblioteca/Parejas%20de%20Hecho/Ley%20de%20Parejas%20Estables%20no%20Casadas%20de%20Aragon.pdf>

2000:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

Up to this moment, the Parliament debate on domestic partnership does not seem to have progressed since 1997. In the meantime, there are three regions with partnership legislation: Madrid, Valencia and Andalusia. Many other regions recognize the registration of these partnerships: Asturias, Castilla-La Mancha, Extremadura, Basque Country and Ceuta. There is a chaos of local and regional registers with uneven recognition of rights; there are no national registers or national information on all of the registers and the rights that each one of them offers.

After national elections in March 2000, the Conservative Party wins the national elections with absolute majority for the Parliament and the Senate. Three law proposals are unsuccessfully presented in May 2000, by the Catalonia Nationalist Party —CiU-, the Socialist Party —PSOE- and the Leftist Party —IU-. These law proposals are quite different in the requirements, such as length of time living together (Socialist Proposal requires six months, the Leftist Party's Proposal requires one year and the Catalonia Nationalist Party requires two years), the access to adopt children (only in the Leftist Party proposal), inheritance, tax benefits, etc. The three law proposals are discussed in September 2000, together with the proposal presented by the Catalonia Coalition Nationalist and Green Party- *Iniciativa per Catalunya-Verds*- but the conservative party, with absolute majority, rejects all four proposals.

After some comments made by the Madrid city major, there is a media debate on whether partnerships reach higher levels of domestic violence than married couples. This debate reaches the parliament, with a parliamentary question to the government in June 2000.

While the Conservative party is not supporting the partnership legislation, the president of the region of Valencia Mr. Zaplana presents a partnership draft in

September 2000 and meets many lgtb organizations. The Valencia Government presented a Partnership Legislation on October 2000, which was approved by the Valencia Parliament later in March 2001. Also, the Navarra Partnership Law was approved in July 2000: this law is the most progressive in Spain. Navarra modified the Legislation on Minors, allowing homosexual and lesbian couples to adopt children. At this point, there were seven regions preparing partnership legislation: Castilla-La Mancha, Baleares, Asturias, Canarias, País Vasco, Andalucía y Comunidad Valenciana. In December 2000, the Andalusia Government presented a Partnership law Draft. Also, in December, in Germany gay marriage was approved and the Vatican asks countries and politicians not to accept domestic partnerships.

The Conservative Party in Navarra took the Partnership Law to the Constitutional Court, fighting homosexuals' right to adopt children. At the same time, the conservative party at the national level started the previous studies for a national partnership law.

Primary Sources:

- Three Law proposals on partnership rights by the Socialist Party, Convergencia i Unió, Leftist Party and Mixed Group. 13 pages.

http://www.congreso.es/public_oficiales/L7/CONG/DS/PL/PL_024.PDF

- *Ley foral 6/2000, de 3 de julio, para la igualdad jurídica de las parejas estables* (Navarra). (BON 7-7-2000, núm. 82) (Law 6/2000, July 3rd, for the legal equality for stable partnerships). 8 pages.

http://www.cfnavarra.es/Bienestarsocial/norma/iv/a/5_lf_6_2000.doc

- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. 7 pages.

http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l_303/l_30320001202en00160022.pdf

2001:

Reproductive Rights:

There are some proposals presented to the Congress, such as: The non governmental proposal by the Catalanian Nationalist Party (Convergencia i Unió) demanding the inclusion of women prosecuted on the ground of gender in the status of refugee (April, 23, 2001. File 161/000196). Also there was a non governmental proposal on the increase of funding of sexual and reproductive projects in Africa, by the Socialist Party (April 25th, 2001, file 161/000567). In addition, there have been a number of proposals on genital mutilation, becoming a hot issue mainly in Catalonia in contrast to the rest of the regions. Some of these proposals are: the non governmental proposal by leftist Catalanian party (Iniciativa per Catalunya-Verds), May, 10th, 2001; and the Socialist Party proposal on the eradication of genital mutilation (May 10th, 2001).

At the national level, there were some interesting initiatives, such as the

Socialist Proposal to prosecute effective female genital mutilation by reforming art. 23.4 of Law 6/1985 (*Ley Orgánica del Poder Judicial 6/1985*) and article 146 of Law 10/95 (*Ley Orgánica 10/95*). May 22, 2001.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

The debate on partnership rights continued to be located in the regional realm, with a number of law drafts (Balearic Islands, Asturias) and the approval of partnership laws in other regions (Andalusia approves the first requirements in the legislative process; Balearic Islands (law 18/2001) Valencia (law 1/2001) and Madrid (law 11/2001) laws were passed). Both the Leftist party and coalition of Catalonia Nationalist and Green Party (*Iniciativa per Catalunya-Verds*) presented partnership proposals to modify the Civil Code allowing same sex marriage. Both proposals were rejected.

Primary Sources:

There are a number of proposals by different parliamentary groups regarding genital mutilation. These initiatives will be explored in further stages of the project.

- *Proposición no de ley 162/000308 sobre medidas tendentes a la erradicación de la Mutilación Genital Femenina del Grupo Parlamentario Parlamentario Popular.*

- *Proposición no de Ley 162/000290 por la que insta al Gobierno a llevar a cabo todas aquellas actuaciones que contribuyan a erradicar la práctica de la Mutilación Genital Femenina del Grupo parlamentario Socialista.*

- *Proposición no de Ley 162/000292 para la puesta en marcha de un plan de prevención destinado a evitar la mutilación de los genitales femeninos del Grupo Mixto (Sr. Saura).*

- *Proposición no de Ley 162/000292 por la que se insta al Gobierno a que adopte medidas para eliminar la práctica de la Mutilación Genital Femenina, del Grupo parlamentario Catalán.*

- *Proposición no de Ley 162/000304 sobre adopción de medidas para combatir la práctica de la ablación o Mutilación Genital Femenina del Grupo Federal de Izquierda Unida.*

- *Ley 1/2001, de 6 de abril, por la que se regulan las uniones de hecho (Valencia).* (Law 1/2001, April 6th, regulating *de facto* unions in the region of Valencia. 4 pages.

<http://www.gva.es/cidaj/pdf/1-2001.pdf>

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<http://www.boe.es/boe/dias/2002/03/05/pdfs/A08844-08846.pdf>

- *Ley 18/2001, de 19 de diciembre, de Parejas Estables (Islas Baleares).* (Law 18, 2001, December 19th, on Stable Partnerships in the region of Balearic Islands). 2 pages.

<http://www.todalaley.com/mostrarLey600p1tn.htm>

2002:

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

In the regional arena, new legislation on domestic partnership is approved in the Balearic Islands, Asturias (law 4/2002) and Andalusia (which started the process in 2001, law 5/2002). Within the trend of partnership rights recognition, for the first time the Civil Guard (Spanish military body similar to Police) regulates lgbt issues: the Civil Guard changes their policies to allow gay couples the right to live in the army buildings.

Primary Sources:

- *Ley 4/2002, de 23 de mayo, de Parejas Estables (Asturias)*. (Law 4/2002, May 23rd, on Stable Partnerships in the region of Asturias). 4 pages.

<http://constitucion.rediris.es/oapa/codigaut/2002/TCLPA04-2002.html>

- *Ley 5/2002, del 16 de Diciembre de 2002, de parejas de hecho (Andalusia)*. (Law 5/2003, December 16th, 2002, on *de facto* partnerships. 10 pages.

http://www.juntadeandalucia.es/igualdadybienestarsocial/opencms/system/bodies/Infancia_Familia/FAQ/006/369_L20020005.pdf_parejas_de_hecho.pdf

2003:

Reproductive Rights:

The law on Assisted Reproduction was reformed in 2003, (Law 45/2003, modifying Law 23/1988), with the intention of limiting embryos that did not have a reproductive goal, regulating storage of frozen cells, stem cells (*celulas madre*), clone cells, making compulsory the anonymity of ovule donation (which results in discrimination for lesbians that wish to donate to each other), etc.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

The larger debate and action continues to take place in the regional realm, where new laws are promoted in Extremadura (5/2003), Canary Islands (law 5/2003) and the Basque Country (law 2/2003). The most progressive legislation is approved in the Basque Country, supported by all parties except the conservative one. It allows adoption and foster parenting. Regarding the influence of the EU, some authors have pointed out that the Basque Law on partnerships (2/2003) implied a transposition of the 1997 Amsterdam Treaty and the 2000 Directive on Equal Treatment since the law granted the same rights to same sex partnerships that (heterosexual) marriage offered at the time, including adoption, tax and inheritance benefits. Later on, in July 2003, the

conservative party appealed the Basque law, taking it to the Constitutional Court. Some of these laws allow adoption for same sex partners, as in the case of Aragon and Extremadura.

In this climate of partnership legislation emerging in many Spanish regions, the Catholic Church asks Catholic politicians to oppose legislation that recognizes homosexual unions. There was a big controversy when the church and the finance minister Mr. Montoro stated that recognizing same sex marriage would break down the Spanish social security system.

Lastly, concerning policies that intended to focus both on gender and sexuality, there are instances in the cities of Coslada, which has a long trajectory of actions and programs for women that expanded into LGTB issues in 2003, mostly funding research on the impact of discrimination in the labour market and homophobia in schools, along with a conference in cities and public policies.

Primary Sources:

- *Ley 45/2003, de 21 de noviembre, por la que se modifica la Ley 35/1988, de 22 de noviembre, sobre Técnicas de Reproducción Asistida* (Law 45/2003, November 21st, modifying law 35/1988, November 22nd, concerning Assisted Reproduction Techniques). 6 pages.

<http://www.boe.es/boe/dias/2003/11/22/pdfs/A41458-41463.pdf>

- *Ley 5/2003, de 6 de Marzo, para la regulación de las parejas de hecho en la Comunidad Autónoma de las Islas Canarias*. (Law 5/2003, March 6th, regulating de facto partnerships). 7 pages.

<http://www.hegoak.com/doc/lcanaria.pdf>

- *Ley 5/2003, de 20 de marzo, de parejas de hecho de la Comunidad Autónoma de Extremadura*. (Law 5/2003, March 20th, on partnerships, region of Extremadura). 3 pages.

<http://www.ucm.es/info/rqtr/biblioteca/Parejas%20de%20Hecho/ley%20parejas%20hecho%20extremadura.doc>

- *Ley 2/2003, de 7 de mayo, reguladora de las parejas de hecho (País Vasco)*. (Basque Law 2/2003, May 7th, regulating partnerships). 11 pages.

<http://www.ucm.es/info/rqtr/biblioteca/Parejas%20de%20Hecho/leyes%20parejas%20hecho%20euskadi.pdf>

2004:

Reproductive Rights:

After four years (2000-2004) in which the Conservative Party (PP) ruled with absolute majority, thus hindering any attempt to renew the law proposal on abortion, the newly elected socialist government-with a non- majority in the Congress of

Deputies- announced in March 2004 its intention to reform the current law to give women the right to decide autonomously on the interruption of pregnancy within 12 or 14 weeks. The Socialist proposal was welcomed by feminist organizations though after the first six months in office, the PSOE's declarations on abortion are already more cautious, all this in a climate of fierce Conservative opposition. Later on in 2004 both the Minister of Justice and the General Secretary of the PSOE claimed that the reform of the abortion law is not a priority issue and that it is postponed to 2006, following a social and political debate. The Church promised strong mobilisations against any possible socialist proposal to further legalise abortion.

Over time the conservative realms of society, the Catholic Church and the Conservative Party (PP), have promoted the idea of traditional family as the true source of citizenship, portraying LGBT rights along with divorce and feminist struggles as a source of instability, an attempt to break Spanish society and an intrusion into legitimate rights.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

In the climate of partnership rights and demands for same sex marriage, for the first time in Spain a judge allows a lesbian couple to adopt children. One of the mothers was the biological mother and the second mother applied for adoption, based on the Navarra Partnership (February 2004).

In the national elections of March 2004, all political parties but the Basque Nationalist Party PNV had proposals on partnership rights. The Socialist Party won the elections and their electoral program included a domestic partnership law and same sex marriage that excludes adoption. In the opening of the new legislature mandate, while the elected president was voted by the members of the parliament, Mr. Zapatero announced his will to change the current legislation. He announced his proposal to change the Civil Code to recognize gay marriage, including inheritance, labour rights and taxes, among other gender comprehensive legislation proposals (April 15th, 2004).

In Aragon the Parliament changed the partnership law to allow adoption rights on April 30th. The Catalonia Government announced that they would present a pre-proposal law to modify the Civil Code, Inheritance Legislation and the Stable Partnership Unions Law, allowing homosexuals to adopt children, on May 13th. Also, they proposed to allow transgender citizens to legally change their name and sex designation without the requirement of surgery.

In the army, a transgender woman was expelled from the service on grounds of "physical disqualification" (expediente de inutilidad física). Now she is accepted back in

the army, the first case of military positive regulation of transsexuality (March 2004).

The EU directive on free movement was passed on 2004 (came into force on April 30th 2006) and it has not been implemented in Spain yet. It set out the rules for EU citizens and their family members who wish to move to another member state, including taking up a new job, undertaking studies, etc.

Primary Sources:

- Electoral programs of all political parties for the general elections of 2004.
- *En favor del verdadero matrimonio* (Note by the Spanish Episcopal Conference titled: " In favour of true marriage). July 15th, 2004. 2 pages.

<http://www.conferenciaepiscopal.es/documentos/Conferencia/VerdaderoMatrimonio.htm>

- *Proposición de Ley de modificación de la ley de 8 de junio de 1957, reguladora del registro civil, para el acceso de la unión estable de pareja o pareja de hecho al registro civil. Esquerra Republicana.* (Law Proposal by the Catalan Republican Left, modifying June 8th 1957 law concerning the civil register granting access to partnerships). 3 pages.

http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_042.PDF

- *Proposición de Ley de uniones estables de pareja. Convergència i Unió.* (Law proposal by Nationalist Catalan Party -Convergència i Unió- on stable partnerships). 3 pages.

http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_042.PDF

- *Izquierda Verde-Izquierda Unida-Iniciativa per Catalunya Verds Proposición de Ley de igualdad jurídica para las parejas de hecho* (Leftist Party and Catalan Green Party Law Proposal on legal equality for partnerships).

http://www.congreso.es/public_oficiales/L8/CONG/DS/PL/PL_042.PDF. 3 pages.

- *Grupo Parlamentario Mixto Proposición de Ley de igualdad jurídica para las uniones de hecho* (Mixed Parliamentary Group's law proposal on de facto unions' legal equality). 5 pages.

[http://www.congreso.es/cgi-bin/BRSCGI?CMD=VERLST&BASE=puw8&DOCS=1-1&DOCORDER=LIFO&QUERY=\(CDB20040423005501.CODI.\)](http://www.congreso.es/cgi-bin/BRSCGI?CMD=VERLST&BASE=puw8&DOCS=1-1&DOCORDER=LIFO&QUERY=(CDB20040423005501.CODI.))

Secondary sources :

- *El Congreso desestima ampliar la despenalización del aborto pero el PSOE promete un 'cambio tranquilo'* (The Congress rejects to enlarge the depenalisation of abortion but the PSOE, Socialist Party promises a 'calm change'). 1 page.

<http://www.lukor.com/not-soc/cuestiones/0409/28192048.htm>

- *Directorio de la Pastoral Familiar* (The Catholic Church's Directive on family). 80 pages approx.

<http://www.conferenciaepiscopal.es/documentos/Conferencia/PastoralFamiliar1.htm>

- *El Congreso desestima ampliar la despenalización del aborto pero el PSOE promete un 'cambio tranquilo'* (The Congress rejects to enlarge the depenalisation of abortion but the PSOE, Socialist Party promises a 'calm change'). 2 pages.

<http://www.lukor.com/not-soc/cuestiones/0409/28192048.htm>

- Directive 2004/58/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, [2004] OJ L229/35. N.B.

[http://europa.eu.int/eur-](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2004/l_229/l_22920040629en00350048.pdf)

[lex/lex/LexUriServ/site/en/oj/2004/l_229/l_22920040629en00350048.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2004/l_229/l_22920040629en00350048.pdf)

2005:

Divorce, Marriage and Separation:

The law 13/2005 brought about changes in the Civil Code allowing same sex marriage, therefore heterosexuality was no longer the exclusive norm for marriage. The 13/2005 Law provided access for same-sex married couples to rights of inheritance, residence, adoption of the other spouse's children, tax benefits, and to divorce rights. Law 13/2005 constitutes a simple technical legal arrangement (Forcada Miranda, 2005: 27), adding a paragraph to article 44 of the Civil Code stating that marriage would carry the same rights and obligations whether the spouses were of the same or of opposite sexes.

Very soon after, the legislation on divorce is reformed with Law 15/2005, making divorce faster and easier: it eliminated the requirement of separation, made possible to start divorce three months after marriage (in case of gender violence there is no need to wait three months); there is no obligation to claim a cause, or come to an agreement with the other spouse (Villagrasa 2005). The current legislation states the obligation to compensate the economic imbalance caused to one of the members of the terminated marriage or their children, through an alignment pension. The divorce law, commonly known as "divorce express", grants the possibility of joint custody of children, which is controversial among feminist groups, due to the vulnerability in cases of violence.

Currently, under Law 15/2005 separation in circumstances of violence does not require a minimum of three months of living together, with common consequences (end of common economy and obligation of living together and mutual responsibility) with divorce with the exception of the extinction of marriage. Also, the causes of annulment include those circumstances in which one person gets married under threat or violence, lack of consent, false identity of one member, being condemned of crimes of murder, bigamy, being under 14, kinship incompatibilities, etc.

Both same sex marriage (Law 13/2005) and divorce (Law 15/2005) law reforms brought to the Spanish law and policy: a new definition of kinship, closer to the idea of

regulating the sexual and affectionate relationship among two people; in economic terms, facilitating the paperwork for unions and separation, including lesbians and gays; as well as facilitating unions with foreign citizens; making explicit as cause for divorce the lack of implication in domestic tasks, etc (Platero 2007).

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

Prior to the national elections there is some policy interest on partnership legislation with the promotion of a regional law in Cantabria (law 1/2005) and the modification of the pioneering and conservative Catalanian partnership law (law 3/2005).

During the national elections of March 2005, all parties except the Basque nationalist party PNV presented proposals on gay and lesbian rights, either national partnership legislation and/or same sex marriage; gay and lesbian rights were a hot issue in the political agenda. The socialist party won the elections, after presenting an ambiguous electoral program concerning adoption rights; finally same sex marriage was approved on June 2005. It was the beginning of formal equality for gays and lesbians (Platero, 2007b).

Therefore, same sex marriage did not emerge 'out of the blue'; it was the culmination of a series of demands based on a long struggle for partnership rights from social movements on the left (including political parties and policymakers) who perceived a window of political opportunity in Tarrow's terminology (Platero, 2007). Leftist parties were constructing a vision of citizenship that requires a greater commitment to social movements (Calvo 2005, p.33). The Leftist Party –*Izquierda Unida, IU*- was crucial in introducing the most progressive proposals contributing to the emergence of LGBT policy issues on the political stage. But the main role has been played by the Socialist Party –*Partido Socialista Obrero Español, PSOE*.

The main debates over gay marriage were reactive as they have mainly been a response to the conservative statements and resistances. Consequently the debates on the impact of marriage as a sexist institution or the role played by partnerships vs. marriage were rather rare, since any critical reflection was misinterpreted as a tool for the right wing.

Although adoption rights have been the milestone of the marriage debates, Spanish law allowed single people to adopt children so a same-sex couple could undertake a 'de facto' adoption. In addition, the law in assisted reproduction does not prohibit lesbians to be inseminated.

Conservatives groups have been really active in asking for affirmation of their

views. The Spanish Family Forum⁴⁴ brought together conservative politicians and the Catholic Church and was very present in the media, organizing a national march against same sex marriage called 'Family Rights' (June 18th 2005). Lastly, the Conservative Party presented a law proposition to 'Support Family and Infancy' as well as an unconstitutional appeal to the 13/2500 marriage law (September 2005) that is still in process to be judged (Platero, 2007b).

Finally, the bill regarding same-sex marriage is approved by the Cabinet on the 1st October 2004 and submitted to Parliament on 31st December, being passed by the Congress of Deputies on 21 April 2005. However, this bill is rejected on 22nd June 2005 by the Senate, where the opposition PP (Spanish Conservative Party) holds plurality of seats. The bill is then returned to the lower house, which holds power to confront the Senate, and gets final approval on 30th June 2005 with 187 votes for and 147 against and 4 abstentions.

Spanish Prime Minister-elected Rodriguez Zapatero had always pronounced himself in favour of same-sex marriage. Legalising gay unions was one of his campaign pledges -and he says that same-sex marriage is a characteristic of a "modern and tolerant society". The PP (Conservative Party) has long rejected same-sex marriage and the demand for recognition of partnership status by the LGTB movement. Besides, though Spain is a secular country, there is a strong hardcore Catholic section of Society that condemns homosexuality and homosexuals as not fit enough to form a proper 'marriage', not to mention adopting children. The most radical arm of the Conservative Party has stated on many occasions that passing the law on gay and lesbian marriage weakens 'family values'.

With the final approval of the law on 1st July 2005 (Law no. 13/2005) through a change in the Civil Code (*Código Civil*), Spain becomes the third country in the world to formally legalise same-sex marriage at the national level (all autonomous communities). Although this law has put Spain at the forefront of equal treatment in terms of partnership rights, there was still a legal flaw regarding gender equality and 'double mothering': children born in a lesbian marriage could only be legally recognised by the biological mother. However, fathers in a formal heterosexual partnership can legally recognise their non-biological children.

The PSOE government proposed to amend the law on assisted reproduction in 2006 to allow non-biological mothers to recognise children born within a lesbian marriage (same-sex parents' adoption rights), which has been approved within Law 3/2007 on gender identity.

⁴⁴ The platform is called 'Spanish Family Forum' (*Foro Español de la Familia*) and supports the idea of family as heterosexual, fighting same sex marriage. See <http://www.forofamilia.org>

Shortly after the law on gay and lesbian marriage passed in Spain, questions arose about the legal status of marriage to non-Spaniards after a Spaniard man and an Indian national living in the Autonomous Community of Catalonia are denied a marriage licence on the grounds that India does not allow same-sex marriage. However, on 22nd July another judge in Catalonia marries two women-the first marriage between women in Spain- though one of the partners is an Argentinean national. The second judge disagrees with his colleague's decision and gives preference to the right of marriage in Spain over Argentinean law which does not allow same-sex marriage. On 27th July, a body of lawyers that advises the Minister of Justice office (*Junta de Fiscales de Sala*), issues an opinion that lesbians, gays, bisexuals and transgender (LGTB) Spanish citizens can marry non-nationals from countries that do not allow same-sex marriage. The marriages will be valid according to Spanish law, but not necessarily under non-national laws. In this sense, The PSOE (Socialist party) Government is ensuring full recognition of the rights of LGTB families in the Freedom of Movement EU Directive.

Moving from same sex marriage to public policies for lgbt individuals, 2005 was an important date: The region of Catalonia launched a pioneer experience by creating a Program for Lesbians, Gays and Transgender within the Catalonia Government, located in the Presidency Department. This departmental structure has been responsible for the creation in 2006 of the Interdepartmental Program for No Discrimination against homosexuals and transgender people. This Program intends to develop a sexuality "mainstream" action within the Catalonian Government, by promoting actions in eight realms: formal equality, discrimination in the work place (based on 2000/78/CE directive), health, education, and promotion of lesbians, gays and transgender people in culture, communication, social services and participation.

The Catalonia Government's inclusive perspective in sexuality diversity is reflected in the approval of the Catalonia Government Plan (2004-07), which the paragraph on "Catalonia, a socially advanced nation", concerning social wellbeing and social action policies, stated the need to create an autonomous public body and an interdepartmental plan. Also, the Catalonia Autonomous statute passed in 2006, creating two articles: 40.7 about the recognition of same sex couples rights and art. 40.8 on the role played by the public institutions promoting equality regardless origin, nationality, sex, race, religion social background or sexual orientation, along with the actions against racism, anti-Semitism, xenophobia and homophobia.

Also, gender equality policies have reflected the sexual diversity perspective by including specific actions and measures within the V Catalanian Equality Plan, called: "V Plan de Acció y desarrollo de las políticas de las Mujeres de Cataluña (2005-07)", and also the Integral Plan in violence against women 2005-2007 (Programa per a l'abordatge integral de les violències contra les dones 2005-2007).

The Socialist Government presented their National Action Plan for Social Inclusion (2005-2006) which included gay, lesbian and transgender individuals as priority groups in the matter of equal opportunities and fight against discrimination.

Regarding transgender rights in prison, on March 9th, 2006, the Prison Administration allowed transgender women to be sent to the women's prison, even in cases where women have not gone through genital surgery (the policy did not affect transgender men since there was not data on male transgender inmates).

Primary Sources:

- *Ley 3/2005, de 8 de abril, de modificación de la Ley 9/1998, del Código de Familia, de la Ley 10/1998, de uniones estables de pareja, y de la Ley 40/1991, del Código de Sucesiones por causa de muerte en el Derecho Civil de Cataluña, en materia de Adopción y Tutela.* (Law 3/2005, April 8th, modifying Law 9/1998 on the Penal Code, Law 10/1998 concerning stable partnership unions, Law 40/1991, from the Inheritance Code due to death on the Catalanian Civil Law, in the matter of Adoption and tutorship). 4 pages.

<http://www.boe.es/boe/dias/2005/05/10/pdfs/A15793-15796.pdf>

- *Ley 1/2005, de 16 de mayo, de parejas de hecho de la Comunidad Autónoma de Cantabria.* (Law 1/2005, May 16th, on de facto partnerships in the region of Cantabria). 5 pages.

<http://www.boe.es/boe/dias/2005/06/07/pdfs/A19195-19199.pdf>

- *Ley 13/2005, de 1 de julio, por la que se modifica el Código Civil en materia de derecho a contraer matrimonio, BOE de 2 de Julio de 2005, nº 157.* (Law no. 13/2005 1st July 2005, concerning, through the change in the Civil Code, the access of gays and lesbians to the institution of marriage). 3 pages.

http://www.igualdadoportunidades.es/archivos/doc_832007_92941.pdf

- *Ley 15/2005, de 8 de julio, por la que se modifican el Código Civil y la Ley de Enjuiciamiento Civil en materia de separación y divorcio.* (Law 15/2005, July 8th, concerning the modification of the Civil Code and Civil Law in the matter of separation and divorce). 4 pages.

<http://www.boe.es/boe/dias/2005/07/09/pdfs/A24458-24461.pdf>

- Electoral programs of 2005 on marriage and divorce reforms and same sex rights concerning family units.

- *V Plan de Acción y desarrollo de las políticas de las Mujeres de Cataluña (2005-07)* (V Action Plan and development of policies for Women in Catalonia). 120 pages.

http://www.gencat.net/icdona/docs/v_pla_cas.pdf

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http://www.gencat.net/icdona/docs/v_pla_cas.pdf

- *Manifiesto del Foro Español de la Familia* (Family Forum Manifesto). 1 page.

<http://www.20minutos.es/noticia/32527/0/manifiesto/foro/familia/>

• *III Plan Nacional de Acción para la Inclusión Social (2005-2006)*. (National Action Plan for Social Inclusion (2005-2006))

<http://www.mtas.es/SGAS/ServiciosSocDep/inclusocial/plannacional/IIIPNAin.pdf>

Secondary Sources:

• Spain's same-sex marriage law applies to foreigners, 2005. 1 page.
http://www.advocate.com/news_detail_ektid19523.asp

2006:

Reproductive Rights:

The law on Assisted Reproduction is newly reformed in 2006, (Law 14/2006, on assisted human reproduction techniques), allowing genetic selection with therapeutic purposes, experimental techniques, creating a national register of Cells donors, and stating the prohibition of cloning human beings and 'Wombs for rent'.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

In Madrid, the regional parliament (*Asamblea de Madrid*) rejected in February 2006 the leftist party (*Izquierda Unida*) legal proposal to promote a Regional Plan against Homophobia and Transphobia in the Education System. The same political party has presented in the regional and local elections not only several proposals concerning the discrimination on the grounds of sexual orientation and gender identity within the educational system, but also the promotion of "Cities of Equality", which refers to including the perspectives of LGTB citizens. The left wing party proposed the creation of partnership registers in all city halls, trade union agreements to extend benefits to all partnerships, specific training for public servants, etc.

In the meantime, the Barcelona Civil Rights Department shaped an initiative to create a forum in which the public administration meet with the LGTB organizations, which is not a easy task since it is a quite diverse movement with different sources of conflict. The City of Barcelona initiative on Civil Rights has an impact on other cities, creating similar bodies, such as the Catalan cities of Vilanova i la Geltrú, Lleida and Badalona. In addition, there are public services that are offered to LGTB citizens, with psychological, legal and personal assistance in some regions and local cities in Madrid, Basque Country, Catalonia and Navarra.

The government announced their will to regulate asylum including prosecution on the basis of sexual orientation and gender identity; the right to claim asylum rights and the recognition of prosecution based on gender was recognized by law 3/2007 on gender equality.

Primary Sources:

- *Ley 14/2006, de 26 de mayo, sobre técnicas de reproducción humana asistida.* (Law 14/2006, May 26th, concerning assisted human reproduction techniques).

<http://www.boe.es/boe/dias/2006/05/27/pdfs/A19947-19956.pdf>

- *Propuesta no de ley (PNL) en la Asamblea de Madrid para elaborar un Plan contra la Homofobia y Transfobia en el Sistema Educativo. Febrero de 2006, Izquierda Unida.* (Legal Proposal at the Madrid Parliament concerning the Plan against Homophobia and Transphobia in the Educational System). 9 pages.

<http://www.asambleamadrid.es/Recursos/Ficheros/C5/Diarios%20de%20sesiones/Diarios%20de%20sesiones%20%20Legislatura%20VII/VII-DS-655.pdf>

- *Pla interdepartamental per a la no discriminació de les persones homosexuals i transsexuals, September 2006.* (Interdepartmental Plan for the no-discrimination of homosexual and transgender people). 36 pages.

http://www.gencat.net/benestar/GLT/pdf/pla_interdepartamental_glt_tcm54-48903.pdf

Secondary sources :

- *Veinte años después de la despenalización del aborto, ponencia presentada en el XII Congreso de la Sociedad Vasca de Contracepción, Iruña, 20 octubre 2006* (Twenty years after the unpenalization of abortion, Paper presented at the XII Congress of the Basque Association of Contraception. Iruña 20th October 2006). 4 pages. <http://lahaine.org/index.php?blog=2&p=18030>

- *Gobierno, patronal y sindicatos llegan a un acuerdo sobre la reforma de las pensiones.* (Government, companies and trade unions come to an agreement concerning the reform of pensions). 1 page.

<http://www.elmundo.es/mundodinero/2006/05/31/portada/1149049704.html>

- *Anteproyecto de ley da asilo a gays y lesbianas en España. La diferencia sexual es castigada en más de 60 países. Címac | Madrid.* (Spanish Law Draft in the matter of asylum including gays and lesbians. Sexual difference is punished in over 60 countries).

<http://www.cimacnoticias.com/noticias/06ene/06010305.html>

2007:

Reproductive Rights:

Despite the efforts from the current Socialist Government to assure more funds for reproductive rights in developing countries, in the face of regional elections the Association of Family Planning in the Autonomous Community of Madrid has presented a Manifesto to advocate for further policy developments with a focus on gender equality+reproductive rights. Civil Society actors, including the feminist movement, are arguing for better access to 'the morning after pill', and are also defending the right to choose a natural birth through the National Health Service and a more intersectional

approach to Sexual and Reproductive Services with an emphasis on the diversity of needs of all women including lesbians, gypsies, disabled women and migrant women. Though efforts are made by the feminist movement, representation in mainstream politics of issues concerning reproductive justice (access and resources) remains unimportant.

The Church opposition to reproductive rights and reproductive democratic health care is still strong in Spain as revealed in the Bishops' Conference reactions against campaigns for sexual rights and reproductive autonomy. Due to cases of harassment and conscientious objection, not that many physicians are willing to operate openly or operate at all, so abortion has been effectively relegated to private clinics, where raids and prosecutions of illegal abortions continue.

Divorce, Marriage and Separation:

In spite of the egalitarian spirit of law 13/2005, it is discriminatory against lesbians since it does not recognize both women in a marriage as mothers in cases of artificial insemination, whereas in heterosexual marriages it does. This situation has been modified with law 13/2007 on Register Changes for Gender Identity, passed on March 2007.

Sexual Rights: Civil partnerships, gay marriage, transgender rights, discrimination on the basis of sexual orientation and sexual identity, policies linked to sexual orientation and gender identity:

Regarding public policy initiatives concerning non discrimination and homophobia, there are some public policy proposals at the moment in the process of gathering support or future approval, such as the announcement made by the Catalonia Government to promote a Law against Homophobia in 2008. The law proposal is still being debated within the Catalonia government, as it has only been recently announced by Carme Capdevila, from the Social Action and Citizenship Council.

The Socialist party presented in their electoral program (May 2007) proposals for the promotion of Municipal Plans in Equal Treatment, according to EU directives that would also include Observatories to detect discrimination in different municipalities along with information and sensitizing campaigns.

Once the same sex marriage law was passed in 2005, the lgtb movement presented transgender rights at the next frontier, demanding a law on register changes that did not imply compulsory surgery. This demand did not count with the same support from the lgtb organizations and political parties, but was successful in creating enough alliances to obtain a law proposal that was approved in March 1st 2007. Law 3/2007 grants transgender individuals the right to change their name in the Register once they have passed through a process of two years of psychological treatment with

the diagnosis of gender disforia, not having to reassign their genitalia and without the requirements of being infertile and not being married, like in other countries.

Primary Sources:

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4. GENDER- BASED VIOLENCE:

4.1. Introduction to the sub-issues and topics:

Within *gender-based violence*, four sub- issues were considered:

- Domestic violence.
- Prostitution and trafficking.
- Sexual harassment
- Female genital mutilation (especially in Catalonia).

Next, we will briefly present these four sub-issues, focusing on the main shifts and actors in each one.

Domestic Violence:

Nowadays, *domestic violence* is the most salient sub-issue within gender-based violence. Both public authorities and the feminist movement have included this issue in their agendas, especially in the late nineties. Nevertheless, in the first stages of our democracy, attention was focused mainly on rape and sexual abuse. For instance, in the *First Conference on Violence* (Santiago de Compostela) workshops about self-defence have been made and public authorities initiatives were focused on rape (two important changes in the Penal Code on this matter took place in 1983 and 1989). The situation changed dramatically in 1997, when Ana Orantes, a battered woman, is killed by her former husband after telling her experience on domestic violence in a well-known TV show. This was an important shift since a new awareness for this subject emerged within Spanish society, largely thanks to the media's role. Both the women's movement, and women's machinery and femocrats focused their interventions on this problem: the former began to claim for a comprehensive law on the matter and the latter approved policies against gender-violence, like the Plans against Gender Violence (*Women's Institute*, 1998- 2000, and 2001- 2004). The Conservative Party, at the moment with the government's presidency, promoted some laws to act against gender violence (Law 14/99; Organic Law 38/2002; Organic Law 11/2003; Organic Law 13/2003), but ignored feminist claims for a more comprehensive law. The Socialist Party (PSOE), the opposition party, assumed this claim and presented two law proposals in the Parliament (2000 and 2002). Both of them were rejected by the Conservative Party, with absolute majority at that moment. In addition, feminist associations, such as *Women's Foundation (Fundación Mujeres)* and *Progressive Women Federation (Federación de Mujeres Progresistas)*, began to elaborate statistics of killed women. Finally, other public institutions (*Ombudsman, General Council of Judicial Power*) paid attention to domestic violence in their respective annual reports.

The second major shift took place in 2004 when the Socialist Party (PSOE) took

office. In December, it is approved the *Organic Law 1/2004, of 28 December, on Integral Protection Measures against Gender Violence (Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género)*, as it was promised in the election manifesto. Despite the fact that this Law was criticized by only focusing on violence within partnership, it represented an important step for two reasons: not only did it define gender inequality as the origin of men's violence, but it also made clear that domestic violence is not just a private issue. The Catholic Church in its 2003 Directive stated another point of view, since it located gender violence within the changes in women's social roles (seen as a negative pattern) and specifically in 'sexual revolution'.

The so-called 'comprehensive law' has motivated different texts either from feminists or civil society. Several reports by *Amnesty International* deserve a special mention since they have paid great attention to battered *sans papiers* women. *IA* denounces that these women are in a more vulnerable position in cases of domestic violence.

Prostitution and Trafficking:

Prostitution has had an increasing importance in our country. Until 2000 the debates around prostitution were largely connected to other issues (rape, trafficking, sexual exploitation) and, consequently, it has been seldom debated as an autonomous issue. Actors who have taken part in this debate have showed two standpoints. First, there are groups pleading for the regulation of 'voluntary prostitution' and prosecution of forced prostitution, trafficking in people and sexual exploitation. *Hetaira* is one of the most important feminist groups supporting this view. Also, *Workers' Commission (Comisiones Obreras -CC.OO.-)*, the majority trade union in our country, supports likewise a pro-regulatory attitude. Second, other groups defend abolition of prostitution since it is understood as a form of sexual slavery and as an attack against human dignity. As a result, they don't support a distinction between forced and voluntary prostitution as both are understood as forms of gender-based violence. Within the feminist movement, a salient group is the *Violence against Women Research Commission (Comisión para la investigación de malos tratos a mujeres)*. Another actor that also deserves to be emphasized is *Workers' General Union (Unión General de Trabajadores -UGT-)*, the second largest trade union in Spain, which shows a pro-abolition approach as well.

Prostitution was first debated in the Parliament in 1994, in the context of the debates on the reform of the Penal Code. Within the debates on 'Crimes against sexual freedom' attention was focused on sexual abuse and rape. At the time, prostitution was debated only in connection to rape. Reforms planned by government were closer to the regulatory approach though the Women's Institute defended a pro-abolition stance. For this reason, it supported some conferences organized by the *Violence against Women*

Research Commission (Comisión para la investigación de malos tratos a mujeres). This *Commission* was against depenalization of prostitution, one of the main measures promoted in the reform. Finally, *Law 10/95* presented measures in agreement with the regulatory groups.

Another remarkable moment took place in 1997. The Conservative party (PP) presented a bill to reform specifically Title VIII of Penal Code ('Crimes against Sexual Freedom'), in which the main novelty was the introduction of trafficking of people for sexual exploitation as a new crime. It supposed an important shift in this issue, since debates on prostitution began to be connected to trafficking in women. Groups in favour of abolition stated that most of women in prostitution were trafficked women. Therefore, prostitution was the last link in the gendered violence chain and its regulation would promote women trafficking mafia. On the other hand, pro-regulatory groups pointed out that trafficking in women should be prosecuted and voluntary prostitution regulated. Consequently, these groups argued that trafficking or forced prostitution and voluntary prostitution are actually two different realities with different needs. Reforms of 'Law of Foreign People' (Ley de Extranjería) were also connected to trafficked women (*Law 11/1999*).

In 2002, a *Special Commission on Prostitution* was created. Representatives of civil society –such as feminist organizations, neighbours' associations, religious orders for prostitutes' assistance, etc. - and of political parties expounded their opinions on the matter. Once more pro-abolition and pro-regulation approaches clashed with each other. Four years later, a *Study Commission on Prostitution* is created thanks to the proposal of Carme García, a Catalanian Green Deputy. The main objective of the Commission was to debate whether voluntary prostitution should be regulated or not. In the current year, the Commission presented a report rejecting the regulation of prostitution, and emphasizing the need to combat women trafficking mafia. This time pro- abolition groups showed an enthusiastic reaction to this report. The development of the *Study Commission on Prostitution* coincided with the Catalanian proposal on the regulation of prostitution. Montserrat Tura, Catalanian Socialist ministry of interior [PSC], presented a regional bill on the regulation of voluntary prostitution. The main objective was to fight against street prostitution and create a net of regulated brothels. At the same time, Anna Simó, Catalanian ministry of family and well- being [ERC], proposed to create 'red areas', where street prostitution could take place. Disagreements within the Catalanian coalition government hindered the approval of the bill.

Sexual harassment:

Sexual harassment has been a salient issue in three moments: twice before the QUING period (1989 and 1995) and in 2002. Nowadays, it has relative importance, especially in trade unions' research. As Spain should transpose *European Directive*

2006/54 regarding equal opportunities and sexual harassment in the workplace, this issue might possibly become a hotter issue in the near future.

In the late eighties, both trade unions and the Women's Institute promoted research on sexual harassment. As a result, *Workers' Commission* (CCOO) began to spread information on sexual harassment in order to encourage victims to make complaints. Also, the *Workers' General Union* (UGT) published several reports analyzing the importance of the problem as well as denouncing the lack of legal measures to combat it. Also, the women's departments of trade unions and femocrats had several meetings to agree on a common definition of sexual harassment and to plan future action. Debates around maternity leave in Parliament opened a 'window of opportunity' to introduce this issue into them. Only the Conservative Party (then AP) stated a clear rejection to regulate sexual harassment at workplace. Finally, this issue was introduced into Law 3/1989.

Sexual harassment became a hot issue again in the mid nineties, coinciding with the debates around the reform of Penal Code. Feminist women within trade unions and *Leftist Party* (IU) lobbied the MP Diego López Garrido (IU), an active participant in the debate, to introduce sexual harassment in the Penal Code as an autonomous crime. As a consequence, IU presented amendment 766, which was debated and approved with some important changes. Finally, Law 10/1995 introduced sexual harassment in article 184 of the Penal Code.

Research on the importance of sexual harassment and on tools to combat it went on through the nineties, but generally speaking it was not a hot issue in either the political or social arena. This situation changed dramatically in 2001, when the so-called 'Nevenka's affair' took place. Nevenka Fernández, a council woman, pressed charges of sexual harassment against the mayor of Ponferrada, Ismael Álvarez (PP), who was her former partner. The trial aroused contempt, especially among feminists, due to the intervention of the administration prosecutor, José Luis García Ancos, who showed both aggressive attitudes and gender prejudices towards Fernández. Moreover, this affair raised a new social sensitivity on the matter largely due to media's role. As in the case of Orantes' murder, the media showed an 'invisible' reality and introduced sexual harassment into social and political debates. The mayor was finally found guilty but PSOE and IU defined the sentence as benevolent. In addition, both parties severely criticized PP's attitude because it didn't clearly denounce Álvarez's crime. After 'Nevenka's affair' the importance of sexual harassment in public debates decreased considerably.

Female Genital Mutilation:

Female Genital Mutilation is undoubtedly the least relevant issue in our country. In spite of that, it has had a certain importance in Catalonia, a Spanish Autonomous

Community with a large immigrant population. It launched a pioneering project to protect African girls from genital mutilation and has begun distributing a manual designed to help teachers, doctors, social workers and police look for telltale signs from girls who are at risk or have suffered from genital mutilation. The Catalanian government (*Generalitat de Catalunya*) has played an important role in this issue.

In addition, Spanish Senate presented in 2001 a *Law proposal to reform article 149 of Organic Law 10/1995, of 23 November, to add a clause on the repression of female genital mutilation*. This reform was finally added to Law 11/2003, of 29 September, on concrete measures on public safety, domestic violence and social integration of foreign people. Female genital mutilation may become a hotter issue in Spain in the near future due to European recommendations on the subject.

Table 6 : Laws and Plans on Gender- Based Violence passed at the regional level:

Laws and Plans passed at the Regional Level (July 2007)	
Canary Islands	
April 8, 2003	Law 16/2003, on Comprehensive Women's Protection against Gender Violence [<i>Ley de prevención y protección integral de las mujeres contra la violencia de género. Ley 16/ 2003</i>].
Cantabria	
April 1, 2004	Law 1/2004, on Prevention of Violence against Women and Victim's Protection [<i>Prevención de la violencia contra las mujeres y protección a las víctimas. Ley de Cantabria 1/2004</i>].
Castilla La Mancha	
May 17, 2001	Law 5/2001, on Prevention of domestic violence and protection of battered Women. [<i>Ley de prevención de malos tratos y protección a las mujeres maltratadas. Ley 5/ 2001</i>].
Madrid	
December 20, 2005	Law 1/2005, Comprehensive Law against Gender Violence of Madrid [<i>Ley Integral contra la Violencia de Género de la Comunidad de Madrid. Ley 5/ 2005</i>].
December 29, 2005	Comprehensive Action Plan against Gender Violence [<i>Plan de Acción Integral contra la Violencia de Género. 2005-2008</i>].

Navarra	
March 7, 2003	Law 12/2003, to Adopt Comprehensive Measures against Sexist Violence [<i>Ley de adopción de medidas integrales contra la violencia sexista. Ley Foral 12/2003, modificadora de la Ley Foral 22/ 2002</i>].
La Rioja	
March 2, 2006	Comprehensive Plan against Gender Violence [<i>Plan Integral contra la violencia de género. 2006- 2009</i>].

Source: Women's Institute.

4.2. Actors:

Next, we will highlight the main actors that have taken part in the issues explained above.

Political Parties. Socialist Party (PSOE), Conservative Party (PP), United Left (IU).
Catalonian Parties: Catalanian Socialist Party (PSC), Catalanian Nationalist Party (*Iniciativa per Catalunya-Verts*), Catalanian Republican Party (ERC).

Spanish Political Parties have widely debated the four sub-issues studied within gender-based violence, though the relevance of the debates has noticeably varied through the period analysed, as noted above. Regarding *domestic violence*, the Socialist Party (PSOE) has been close both to feminist claims and problem frames. This party has defended 'domestic violence against women' as another form of gender violence, that is to say, a kind of violence that takes root in gender inequality, which is the problem to overcome. This idea can be found not only in the two law proposals presented by the PSOE in the Parliament in 2000 and 2002 (inspired in feminist claims in favour of a 'comprehensive law') but also in the 'comprehensive law' that passed in 2004. Both socialist law proposals and 2004 Law were rejected by the Conservative Party, which has revealed different frames and attitudes. The laws that were approved through the Conservative period (1996-2004) framed 'domestic violence against women' mainly as a family problem, connected to the vulnerable position of women, children or old people within the family. In spite of that, the surge of women killed by their (former) partners led to the approval of important measures, such as the long-demanded 'protection order' (*orden de protección*) in 1999.

Regarding *prostitution*, the Catalanian parties are notable actors. In 2006, Carme García (Catalonian Nationalist Party- CiU) presented a proposal in the national Parliament in order to study the possible regulation of voluntary prostitution. The

Commission's final report rejected the 'regulatory approach', which was a clue to the Parliament's majority opinion. Nowadays, the Socialist Party in office focuses its fight against *women's trafficking*. At the same time, Montserrat Tura (Catalonian Socialist Party- PSC) presented a regional bill (2006) to establish 'regulated brothels' and to eliminate street prostitution. This bill frames voluntary prostitution as another form of labour that should be regulated, while trafficking in women should be prosecuted. The Catalonian Republican Party (ERC), which takes part in the Catalonian coalition government as well, supported the creation of street 'red or tolerance areas' where prostitution would be allowed. These disagreements led to the bill's withdrawal.

The fight against *sexual harassment* has been headed by left wing parties, under feminist pressure. In 1989, the PSOE showed sensitivity towards feminist claims in favour of the regulation of sexual harassment, and measures to combat it were finally included in the reform of the Penal Code, which passed that year. On the contrary to what was expected, the PP showed a 'liberal attitude' since it pointed out that the state should not intervene in problems that are still tackled in collective bargaining. The United Left (IU), the leftist party of our political system, led the 1995 proposal on the regulation of sexual harassment as an autonomous crime. Some years later, both PSOE and IU showed a very critical position towards the PP's attitude around the so-called 'Nevenka's affair'. Both parties denounced the explicit support to the PP's mayor charged with sexual harassment.

Debates around *female genital mutilation* have been less salient than the others mentioned above. Despite this fact, several draft law proposals were presented and debated in the Parliament by different parliamentary groups (Catalonian, Conservative, Socialist, and United Left Federal Group) in 2001.

Public Institutions. Women's Institute, Ombudsman, General Council of Judicial Power, Senate.

The Women's Institute (*Instituto de la Mujer*) has played an important role in the three hottest issues studied in this Report: domestic violence, prostitution and trafficking, and sexual harassment. Regarding *domestic violence*, the Women's Institute had the responsibility to draw up the two National Plans against domestic violence (1998 and 2001), which tried to address social concern on the subject. The so-called *PIOMHs* (National Equality Plans) include a chapter on domestic violence as well. In addition, the Institute has worked on several advertising campaigns to raise awareness of this social problem, especially in the period 1998-2002. Concerning *prostitution and trafficking*, the Women's Institute has shown an attitude closer to the 'pro-abolition approach'. Consequently, it financed conferences organized by the Women Research Commission (*Comisión de investigación de malos tratos a mujeres*), a well-known feminist group which argues prostitution is connected to trafficking in women and that is the reason why it should be prosecuted. In addition, the distinction

between voluntary and forced prostitution is strongly rejected. Finally, the Women's Institute also expressed concern about *sexual harassment*, especially in the mid nineties. Thus, it promoted both research on the subject (through the nineties) and monographs that compiled chapters from books, press releases and statistics. The last one was published in 2002. As it can be noticed, research in the matter coincided with the main milestones of sexual harassment (1995- reform of the Penal Code; 2002- Nevenka's affair).

Both the Ombudsman and the General Council of Judicial Power have played an important role in the fight against *domestic violence*. In 1998, the year after Orantes' murder, these two institutions took part in the social contempt of this problem and contributed to make this issue more visible. Thus, the former included a chapter on domestic violence in its 1998 Annual Report and the latter published a monographic volume on the subject.

The Spanish Senate is defined as the 'cooling chamber' (*cámara de enfriamiento*) of our political system, which means that is the place where the debates are far from media pressure and can proceed in a more relaxed way. That is the reason why different proposals, amendments and debates are less-known. In spite of that, the Senate has taken part in the debates connected to the issues studied in this report. For instance, it presented a Law proposal to reform the article 149 of Organic Law 10/1995, of 23 November, to add a clause on the repression of *female genital mutilation*. This reform was added to Organic Law 11/2003.

Trade Unions. Workers' Commissions (*Comisiones Obreras- CCOO*) and Workers' General Union (*Unión Genral de Trabajadores- UGT*).

Spanish trade unions have played a salient role concerning mainly the sub-issues of prostitution, trafficking, and sexual harassment. The Workers' Commissions (CCOO), as the biggest trade union in Spain, supports a 'pro-regulatory approach' regarding *prostitution*. Therefore, Carmen Bravo, the current Secretary of Women's Department, points out that voluntary prostitution should be regulated, while trafficking in women, prosecuted. Consequently, the CCOO frames the problem as a labour problem since who they define as 'sex workers' are not protected enough, lacking their labour and citizen rights. To enforce their position, the CCOO has promoted a book titled *Citizen Rights for women and men sex workers* (2007), where a main line of argument is developed: if prostitution is not regulated, trafficking in women and sexual exploitation will increase.

On the other hand, the Workers' General Union (UGT), the second largest trade union in Spain, shows an attitude closer to the 'pro-abolition approach'. Almudena Fontecha, current UGT's Secretary for Equality, defines prostitution as a 'contemporary form of slavery', linked to women's trafficking and sexual abuse. Hence, UGT frames

prostitution as another form of gender-based violence and encourages the government to work in favour of its abolition, since in their opinion regulation would only contribute to increase human trafficking mafia. Both CCOO and UGT expounded their respective attitudes in the *Study Commission on Prostitution* held in 2006.

Regarding *sexual harassment*, both CCOO and UGT worked to raise awareness of this issue especially in the eighties and early nineties. They developed not only research on the matter but also informative leaflets to encourage women to press charges in cases of sexual harassment in the workplace. Though sexual harassment is not a hot issue nowadays, trade unions continue updating information on the subject and publishing research. Thus, CCOO published *The importance of sexual harassment at workplace in 2002* and UGT, *Sexual harassment at workplace: analysis and intervention proposals*.

Feminist movement. Anti-Aggressions Committee (*Comité Anti-agresiones*), Women's Foundation (*Fundación Mujeres*), Separated and Divorced Women's Federation (*Federación de Mujeres Separadas y Divorciadas*), Hetaira, Feminist Assembly (*Asamble Feminista*), APRAMP, Women Research Commission (*Comisión de investigación de malos tratos a mujeres*), Women's Organizations Platform in favour of abolition of prostitution (*Plataforma de organizaciones de mujeres por la abolición de la prostitución*).

Feminist organizations have been a key actor in gendered public policy. In terms of *domestic violence*, the 1989 reform of the Penal Code cannot be understood without the previous work and pressure headed by the feminist movement since the very first moments of our democracy⁴⁵. These organizations have lobbied (left wing) political parties to introduce feminist demands in political agendas. Sometimes, feminist achievements have been taking advantage of the so-called 'windows of opportunity', which means introducing feminist claims in general debates and lobbying deputies closer to feminist demands.

Since the eighties, the feminist associations have organized conferences on violence against women (especially the Anti-Aggressions Committee), and established shelters for battered women. From the nineties, claims in favour of a 'comprehensive law' began to be important and were finally assumed by PSOE, the opposition party since 1996, which presented two law proposals in close collaboration with the feminist movement (2000 and 2002). Also, the Women's Foundation (*Fundación Mujeres*) and the Separated and Divorced Women's Federation (*Federación de Mujeres Separadas y Divorciadas*) started to elaborate statistics on killed women, and the former created its 'Observatory of Violence'.

⁴⁵ This comment is also appropriate for 1983 and 1989 legal reforms on rape and sexual abuse, not studied in this report.

Feminist organizations have also played a salient role in the debates around prostitution and women's trafficking. Concerning this issue, we have found fierce debates since there are two irreconcilable approaches. On the one hand, some associations, like *Hetaira* and *Feminist Assembly*, support a 'pro-regulatory approach', that is to say, they assess that 'sex workers' (*trabajadoras del sexo*) need labour rights in order to overcome the social stigma and to improve health conditions. In addition, they argue that the regulation of prostitution is an effective measure to fight against women's trafficking. On the other hand, associations closer to a 'pro-abolition approach' put their focus on 'prostituted women' (*mujeres prostituídas*), who are seen as victims of gender violence and economic abuse. These associations support measures to fight against prostitution and trafficking, two connected phenomena in their opinion. Associations within this approach are APRAMP, the Women Research Commission (*Comisión de investigación de malos tratos a mujeres*), and Women's Organizations Platform in favour of abolition of prostitution (*Plataforma de organizaciones de mujeres por la abolición de la prostitución*), among others.

The Catholic Church. The Spanish Catholic Church is an interest group, mainly articulated through the 'Episcopal Conference' (*Conferencia Episcopal*). Regarding gender issues, most of the Church's efforts are orientated to the protection of the traditional family and the traditional gender roles. This attitude has had an impact on domestic violence's frame, since the Catholic Church frames this issue as a *problem* that is rooted in the changes of the feminine roles within the family. The 'sexual revolution' deserves a special emphasis since it is seen as the origin of the 'feminine problems' in the domestic realm. These ideas were published in the *Family Directive* (2004).

In terms of *women's trafficking*, the Catholic Church published the *Human and moral drama of trafficking with Women* in 2001. This is an interesting document since it frames trafficking in women as 'a modern form of slavery' for migrant women, which leads to forced prostitution and sexual abuse. In addition, this Directive focuses on the prostitution customers as those having the main responsibility for the maintenance of this situation and denounces the social tolerance towards this form of violence. Also, the media are strongly criticized because of their promotion of a degrading image of women through sexist advertisements.

Organizations not only connected to gender issues. Amnesty International and Queen Sofía Centre for the Study of Violence (*Centro Reina Sofía para el estudio de la violencia*).

Some organizations, not only connected to gender issues, have played a noticeable role, especially through research and campaigns to raise social awareness. Amnesty International has been paying attention to *domestic violence* since 2002, and

has especially focused on the vulnerable situation of *sans papier* women. In addition, this NGO has developed a monitoring and partial evaluation of the so-called 'comprehensive law'. In fact, this year it has published *Put all the means within their reach, please* (*Pongan todos los medios a su alcance, por favor*), where the National Plan for awareness and prevention of gender violence (*Plan Nacional de sensibilización y prevención de la violencia de género*), passed last December, is analysed. Amnesty International frames domestic violence as one of the most serious attacks against Human Rights and as a public health problem. It denounces the persistent invisibility of the problem and asks public authorities to work in favour of *real* equality beyond the paper.

The Queen Sofía Centre for the Study of Violence (*Centro Reina Sofía para el estudio de la violencia*) is an organization founded in 1997 to analyse all forms of violence, gender violence among them. It has conducted research on violence within partnership, on female genital mutilation, and on sexual exploitation. In addition, since 2002 it has analysed the evolution of killed women (defined as 'femicides'-*feminicidios*) both in the national and international realm. The Queen Sofía Centre for the Study of Violence defines gender violence as 'any intentional act or omission that harms or may harm a person because that person deviates from the socially constructed stereotypes'.

Media. Despite the fact that the media are often criticized due to a sensationalist treatment of gender issues, they have played a salient role by raising social awareness and promoting visibility of gender violence cases. It can be clearly noticed in two moments: first, in 1997, when Ana Orantes is killed by her former husband after telling her story of domestic violence in a TV show. Second, in 2002, when the trial against Ismael Álvarez, Nevenka Fernández's harasser, began. In both cases, media contributed to social debate, and *domestic violence* and *sexual harassment* received attention from public authorities.

4.3. Timeline Gender- Based Violence:

Pre QUING period (before 1995):

1983:

Domestic Violence:

Coinciding with the creation of the Women's Institute, *First Campaign against Domestic Violence* (*Primera Campaña contra los malos tratos*) took place in Spain.

1984:

Domestic Violence:

First refuges for battered women were set up. Pioneer cities were Madrid and Pamplona.

1987:

Domestic Violence:

In 1987 a fiscal reform allowed citizens to choose whether they want to devote a 0,52% of their annual tax payment either to the Catholic Church or to 'other social purposes'. Thanks to this reform, and the money available for social projects through this new system, shelters and reintegration centres were opened in Spain.

First Conferences on Violence (Primeras Jornadas sobre Violencia) were held in Santiago de Compostela. First workshops on self- defense were developed in these conferences. This reflects the important focus on sexual violence, a very salient issue in that moment.

Sexual Harassment:

Both the Women's Institute and Women's departments of trade unions promoted in the late eighties research on the importance of sexual harassment in Spain. Thus, the former financed *Sexual harassment at workplace (El acoso sexual en el trabajo)* (1987). UGT's women's department published *Women's discrimination and sexual harassment at the workplace (La discriminación de las mujeres y el acoso sexual en el trabajo)* (1988). Both books underlined that harassed women did not press charges against the harasser but tried to solve the situations by themselves. In those cases, they used to be punished with the most tedious tasks and there were no chances to be promoted. Moreover, they noted that there were not regulations to punish this crime in the case of formal complaints.

Feminists within the Women's Institute and Women's departments of trade unions had several meetings to agree on a common definition of sexual harassment. They both agree on two aspects: sexual harassment is rooted in behaviours with sexual content, and they are unwanted by the victim. Nevertheless, the main disagreement was on the definition of the harasser. Most of the trade union's representatives argued that sexual harassment was only connected to employers' behaviour because there is a power difference. Consequently, sexual harassment perpetrated by workmates would not be seen as a crime.

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1988:

Prostitution and trafficking:

First National Plan on Equal Opportunity for Women (1988-90) stressed the need for fighting against prostitution of under age people, and called for the abolition of the Law on Social Danger (1970).

Madrid Ministry of Health proposed to depenalize street prostitution in order to combat AIDS. This means that prostitution is framed as a problem of public health.

Sexual harassment:

The Women's department of *Workers' Commissions* began to spread informative leaflets on sexual harassment. Consequently, it published *Against sexual harassment at the workplace, report it!* (*Contra el acoso sexual en el trabajo, ¡denúncialo!*). This leaflet explained what sexual harassment is, encouraged victims to report it and offered information on the trade union's support mechanisms.

The debate in Parliament on the extension of maternity leave opened a 'window of opportunity' for the regulation of sexual harassment. Femocrats and feminists from trade unions lobbied the socialist government to include sexual harassment in the debate. This pressure was quite successful since the law approved the following year included measures related to sexual harassment.

In the parliamentary debate, the Conservative Party (then People's Alliance [AP]) was against the regulation of sexual harassment. Conservative MP's argued that public authorities should not regulate it because these issues were discussed in collective bargaining. Moreover, they stated that sexual harassment was already regulated, but implicitly.

On the contrary, left wing parties pointed out that the regulation of sexual harassment was a fundamental step to legal modernization and it could offer a pedagogical message to society since it would be forbidden and, therefore, it would deserve social contempt. Thanks to a socialist absolute majority in Parliament, the reform was finally approved.

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Secondary sources:

- El País: 'Madrid regional ministry of health proposes to depenalize prostitution' (*'El consejero de Sanidad se plantea despenalizar la prostitución'*), *El País*, March 12, 1988. 1 page.
- Calle Fuente, Mercedes *et al.* 1988. *Women's discrimination and sexual harassment at workplace* (*Discriminación y acoso sexual en el trabajo*). Madrid: Fundación Largo Caballero.

1989:Domestic Violence:

The Penal Code classified repeated physical violence against women perpetrated by husbands or cohabiting partners as an offense, and not as a misdemeanour. This reform is introduced by Organic Law 3/1989, June 21, to update the Penal Code (*Ley Orgánica 3/1989, de actualización del Código Penal*).

Sexual harassment:

Law 3/1989, of 3 March, to extend the maternity leave to sixteen weeks and to establish measures to promote women's equal treatment at workplace (*Ley 3/1989, de 3 de marzo, para ampliar a dieciséis semanas el permiso de maternidad y establecimiento de medidas para favorecer la igualdad de trato de la mujer en el trabajo*). This Law reformed *Workers' Statute Law* and, as a result, article 4.2.e. says "In relation to work, workers have the right to;...e) respect to their privacy, consideration to their dignity, meaning protection from verbal or physical offences of sexual nature". A similar paragraph was included in the *Law on National Civil Servants*⁴⁶ (article 63). *Law 8/1988, of 7 April, on infringements and sanctions in social realm* established fines for employers in case of violation of worker's intimacy or dignity, including sexual harassment.

Primary sources:

- Diary of Sessions of the Senate (*Diario de Sesiones del Senado*), February 22, 1989: 5101- 5107. 6 pages.
- Organic Law 3/1989, June 21, to update Penal Code (*Ley Orgánica 3/1989, de 21*

⁴⁶ Approved by Decree 315/1964, of 7 February.

de junio, de actualización del Código Penal). 1 page.

http://noticias.juridicas.com/base_datos/Penal/lo3-1989.html

• Law 3/1989, of 3 March, to enlarge the maternity leave to sixteen weeks and to establish measures to promote women's equal treatment at workplace (*Ley 3/1989, de 3 de marzo, para extender el permiso de maternidad a dieciséis semanas y establecer medidas para promover la igualdad de trato de las mujeres en el trabajo*). 3 pages.

<http://constitucion.rediris.es/legis/1995/rdleg0001-1995-2.html>

Secondary sources:

• Ana Alfageme: 'The powerless aggression' (*'La agresión impotente'*), *El País*, March 8, 1989. 1 page.

http://www.elpais.com/articuloCompleto/sociedad/ALMEIDA/CRISTINA/agresion/impotente/elpepisoc/19890308elpepisoc_14/Tes

1992:

Domestic Violence:

The *Anti- aggressions Committee* called a demonstration against gender violence. This Committee was quite active in the early nineties and its pressure made the 1995 legal reform of the Penal Code easier. The Feminist movement began to claim for a 'comprehensive law' in the matter.

1994:

Prostitution and trafficking:

The Socialist Party in government presented a draft law proposal on the reform of the Penal Code. Prostitution was under the Title VIII ('Crimes against sexual freedom'). In parliamentary debate, attention was focused mainly on sexual aggressions while prostitution was either a marginal issue or an issue connected to others, especially rape. In spite of that, the Conservative Party (PP) underlined the need to fight against prostitution of under age people.

A *Meeting on Prostitution* was organized by the Commission against gender violence, a pro- abolition group. There was severe criticism of the draft law proposal to reform the Penal Code. For example, Choni Miura pointed out that it was a great mistake to distinguish between voluntary prostitution and forced prostitution.

Sexual harassment:

In 1994 a new debate around a reform of the Penal Code began. At this time, feminists within the Leftist Party (IU) and *Workers' Commissions* (CCOO) promoted the inclusion of sexual harassment as an autonomous crime. In order to do that they

lobbied the deputy Diego López Garrido, member of the *Leftist Party* (IU) who was, by then, actively working on this new reform.

Centre of Sociological Research (*Centro de Investigaciones Sociológicas*) published a survey on the family. Question 19 of this survey was about sexual harassment at work.

Primary sources:

- Diary of Sessions of the Congress of Deputies (*Diario de Sesiones del Congreso de los Diputados*), Full Session, V Term, Number 157- 162.

Secondary sources:

- R. Rivas: 'Meeting on Prostitution claims that prostitution should be a crime against dignity' (*El Encuentro sobre Prostitución pide que sea delito contra la dignidad personal*), *El País*, March 26, 1994. 1 page. <http://www.elpais.com/archivo/buscando.html>

QUING period (1995-2007):

1995:

Domestic Violence:

The so- called EMUMES were created within the Civil Guard (*Guardia Civil*). EMUMES (Teams for women's and under age people's assistance) are specialized teams to assist women and under age people who have been victims of concrete crimes. Regarding gender issues, these teams assist women victims of domestic violence, trafficking of people for sexual exploitation and rape or sexual abuse. Similar teams exist within the National Police Force (*Policía Nacional*): they are the so-called SAF (Services for Family Attention).

Prostitution and Trafficking:

The Violence against Women Research Commission (*Comisión de investigación de malos tratos a mujeres*), a pro- abolition feminist group, promoted conferences on prostitution, funded by the Women's Institute. The aim of these conferences was to raise awareness about prostitution as a form of violence against women. Moreover, this *Commission* presented a report on new anti- abolition reforms in Parliament under a critical perspective (*Mujeres 18*, second quarter). They also lobbied some socialist women deputies to avoid the approval of reforms relating to depenalization.

Organic Law 10/1995, of 23 November, of the Penal Code (*Ley 10/1995, de 23 de noviembre, del Código Penal*) is enacted. The reform has three novelties: first, it depenalized the promotion of prostitution as well as making a profit from it (except for

under age or disabled prostitutes). Second, it punished people who force prostitution and therefore defends implicitly distinction between forced prostitution and voluntary prostitution. Third, it abolished the so-called *Law on Social Danger* (Ley de Peligrosidad Social (1970), because it pursued prostitutes together with homosexual men and beggars (see below).

These reforms are closer to the feminist branch that argues prostitution should be regulated, because they agree with the prosecution of forced prostitution. In contrast, feminist 'abolishing' groups showed their dissatisfaction with the new reforms because they understand that prostitution is an attack against human dignity and, therefore, they do not agree with the distinction between forced and voluntary prostitution.

Sexual Harassment:

Leftist Party (IU) presented the amendment 766, to include sexual harassment as an autonomous crime. Feminist women within IU and CCOO were working on a text on the matter before this debate. The amendment established that sexual harassment could be perpetrated by workmates as well, and it included different realms apart from labour.

During parliamentary debate on this amendment there were no opinions showing disagreement with the inclusion of sexual harassment in the Penal Code. This shows the evolution of Spanish parliament, since a law to promote gender equality is not criticized or seen as an unnecessary measure anymore.

Organic Law 10/1995, of 23 November, on the Penal Code (*Ley Orgánica 10/1995, de 23 de diciembre, del Código Penal*) is enacted. Sexual harassment is regulated in article 184.

Primary sources:

- Organic Law 10/1995, of 23 November, of the Penal Code (*Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*). 192 pages.

http://noticias.juridicas.com/base_datos/Penal/lo10-1995.html

Secondary sources:

- Protocol for national security services and to coordinate judicial organ's actions to protect gender violence and domestic violence victims (*Protocolo de actuación de las fuerzas y cuerpos de seguridad, y de coordinación con los órganos judiciales para la protección de las víctimas de violencia doméstica y de género*). 20 pages.

<http://www.policia.es/cnp/saf/protocolo.htm>

- *Mujeres*, 18, second quarter, 1995.

1997:

Domestic Violence:

Ana Orantes, a victim of domestic violence who spoke in a TV program, was set on fire and killed shortly afterwards by her husband. The way in which the media portrays and covers domestic violence cases is often criticized by feminists and women's movements and it remains a 'touchy' and controversial matter. This case had a great impact on the media role, prompting their greater involvement in the issue. Moreover, Orantes' murder impelled a new social sensitivity in the matter and introduced domestic violence into the political agenda once and for all. From that moment, both legislative action and women's machinery focused on gender violence.

The feminist NGO Women's Foundation (*Fundación Mujeres*) began to count dead women, following the information given by newspapers.

Prostitution and Trafficking:

In October 1997, the Conservative Party (PP) in government presented a draft of law proposal on the reform of the Title VIII ('Crimes against sexual freedom'). The reform focused on several issues, specifically corruption of minors, sexual harassment and prostitution. The reform introduced a new crime: trafficking of people for sexual exploitation. Debates around prostitution revolved around the definition written in the proposal. Thus, the Socialist Party (PSOE) pointed out that it was such a large definition that customers could be punished, an option rejected firmly by PSOE. *Canarian Coalition (CC)*, *Basque Nationalist Party (PNV)* and *Mixed Group* also rejected the definition proposed by PP. Moreover, these four parliamentary groups were against the penalization of the promotion of adults' prostitution, also planned in the draft.

The Feminist movement did not take part in parliamentary debates, but self-defined feminist deputies were active in them (M^a Teresa Fernández de la Vega [PSOE] and Cristina Almeida Castro [IU]).

The first non- legislative Commission on trafficking in women and children (1997-2000) is established within the Mixed Commission of Women's Rights.

III National Equality Plan (*III Plan Nacional de Igualdad*) underlined the vulnerable position of trafficked women and claimed for measures in the matter.

Primary sources:

- Instituto de la Mujer: III National Equality Plan (*III Plan de Igualdad*). 1997- 2000.

Secondary sources:

- El País: 'He killed his former wife setting her on fire' (*Mató a su esposa prendiéndole fuego*), *El País*, December 18, 1997. 1 page.

<http://www.elpais.com/archivo/buscando.html>

1998:

Domestic Violence:

First Action Plan against Domestic Violence (*Plan Nacional contra la Violencia doméstica*) (1998- 2000) is passed by the Spanish government and it is drawn up by the Women's Institute. This Plan contains proposals and measures to combat violence against women in the fields of prevention, education, support services for victims, health, legal reforms, and research. The Plan was impelled by the Women's Sectorial Conference (*Conferencia Sectorial de la Mujer*) and several actors, such as Autonomous Communities, Ministries and Women's Associations took part in its development through the Women's Institute.

Women's organizations assisting victims and researching on gender violence, in 1998 and 1999, claim the need for a 'comprehensive law' to tackle gender violence. Women's organizations said it was a state problem and it is necessary to regulate it with public policies. PSOE, then Opposition Party, began to work on a bill in the matter in collaboration with feminist women.

Then Ombudsman, Fernando Álvarez de Miranda, presented a Report titled 'Domestic Violence against Women' (*La violencia doméstica contra las mujeres*) on November 1998, with 51 recommendations for public administrations to improve the assistance to women victims. The Report points out that measures focused on aggressors are essential steps to fighting against gender- based violence. Basque Country developed reeducation programs for aggressors in 1998, programs that had already been set in motion in Quebec (Canada) in 1979.

Director of Public Prosecutions (*Fiscalía General del Estado*) published the Circular 1/1998 of 24 October (*Circular 1/1998, de 24 de octubre*), stating the need of reeducation of active subjects of gender violence. Moreover, *Instruction 3/1998* proposed the creation of a Special Service for Domestic Violence. Finally, *Annual Report (1998)* contained a whole chapter on domestic violence.

General Council of Judicial Power's Annual Report (1998) reflected on the origins of gender violence and studied legal reforms of that moment.

Prostitution and Trafficking:

On February and March 1998, *Leftist Party (IU)*, the Nationalist Catalanian Party

Convergence and Union (CiU) and Mixed Group presented three bills to reform the so-called 1985 Law on Foreign People (*Ley de Extranjería*) [Law 7/1985, of 7 July, on rights and freedoms of foreign people].

On November 1998, Conservative Party in government presented an amendment in relation to trafficked people. If they press charges against their traffickers or help in their prosecution, they will obtain residence and labour permit in Spain.

Primary sources:

- Diary of Sessions of the Congress of Deputies (*Diario de Sesiones del Congreso de los Diputados*), Full Session, VI Term, February 12, 1998.

- First Action Plan against Domestic Violence (1998- 2000) (*Primer Plan de Acción contra la Violencia Doméstica*). 6 pages.

<http://www.malostratos.org/images/pdf/PLAN%20DE%20ACCION%20CONTRA%20LA%20VIOLENCIA%20DOMESTICA%201998.pdf>

- Ombudsman's Annual Report: Domestic Violence against Women (*Informe anual del Defensor del Pueblo: Violencia doméstica contra las Mujeres*). November, 1998. 730 pages.

<http://www.defensordelpueblo.es/index.asp?destino=informes2.asp>

- Director of Public Prosecutions:

- * Circular 1/1998 of 21 October, on the intervention of Director of Public Prosecutions regarding prosecution of gender violence in domestic and family realm (*Circular 1/1998, 21 de octubre de 1998, sobre la intervención del Ministerio Fiscal en la persecución de los malos tratos en el ámbito doméstico y familiar*). 25 pages.

http://www.fiscal.es/fiscal/public/!ut/p/ s.7 0 A/7 0 9J/.cmd/ad/.ar/sa.spf_ActionList ener/.c/6 2 6G/.ce/7 1 2BE/.p/5 1 1UU/.d/2/ th/J 2 9K/ s.7 0 A/7 0 9J?PC 7 1 2BE spf_strutsAction=%212factionManager.do%213fCS Param%3Dcid%253D1101371755978%2526pagename%253DPortalFiscal%25252FPPage%25252FwpsPortalFiscal_1998PFTpl_xml%2526docid%253D1099558063493%2526c%253DPaginaPF#7 1 2BE

- * Instruction 3/1998. Not available on the web.

- * Annual Report (1998). Not available on the web.

- General Council of Judicial Power's: Annual Report (1998). Chapter on Domestic Violence. Not available on the web.

Secondary sources:

- Mujeres en Red: 'Comprehensive Law against Gender Violence. Some notes on the history of the proposal' (*La Ley Integral contra la Violencia de género. Algunas notas sobre la historia de la propuesta*). 2 pages. Available in:

http://www.nodo50.org/mujeresred/v-ley_integral-historia.html

1999:

Domestic Violence:

Repeated psychological violence at home is introduced in the Penal Code as an offense (*Law 14/1999, to modify Penal Code 1995, to protect violence victims, and to modify the Criminal Procedure law*). The Conservative Party in government answered with social sensitivity and satisfied only partially the women movement's claims.

Women's Sectorial Conference approved requirements that shelters for battered women should fulfil. This is an important measure to unify criteria among Autonomous Communities that want to set in motion these centres.

First courts specialized in gender violence were set in motion in Alicante, Elche and Orihuela thanks to the agreement of the Full Session of General Council of Judicial Power (*Consejo General del Poder Judicial*). This measure is spread with the approval of the 'Comprehensive Law'.

From 1999, the Federation of separated and divorced women (*Federación de mujeres separadas y divorciadas*) count the number of women who have been killed, following information given by newspapers.

Prostitution and Trafficking:

Organic Law 11/1999, of 30 April, on modification of Title VIII, Book II of the Penal Code, passed by Organic Law 10/1995, of 23 November (*Ley Orgánica 11/1999, de 30 de Abril, de modificación del Código Penal aprobado por Ley Orgánica 10/1995, de 23 de Noviembre*) is enacted. Finally, it does not penalize the promotion of adults' prostitution and the definition proposed in the draft is eliminated. Prostitution is regulated in articles 187- 190, and trafficking of people for sexual exploitation, in article 188 of the Penal Code.

Primary sources:

- Organic Law 11/1999, of 30 April, on modification of Title VIII, Book II of the Penal Code passed by Organic Law 10/1995, of 23 November (*Ley Orgánica 11/1999, de 30 de Abril, de modificación del Código Penal aprobado por Ley Orgánica 10/1995, de 23 de Noviembre*). 6 pages.

http://noticias.juridicas.com/base_datos/Penal/lo11-1999.html

- Law 14/1999, to modify Penal Code 1995, to protect violence victims, and to modify the Criminal Procedure Law (*Ley 14/1999, de modificación del Código Penal de 1995, para proteger a las víctimas de violencia, y para modificar la Ley de Enjuiciamiento Criminal*). 4 pages. http://noticias.juridicas.com/base_datos/Penal/lo14-1999.html

Secondary sources:

- Trade Union manifesto, March 8, 1999. 2 pages.

<http://www.eurofound.europa.eu/eiro/1999/03/word/es9903209nes.doc>

2000:

Domestic Violence:

During the electoral campaign of 2000, the Conservative Party (PP) at a meeting with artist women committed to a gender violence 'comprehensive law'. The same commitment was made by the socialist candidate and this very year PSOE presented a bill on the matter that was rejected by the Conservative Party, with absolute majority in Parliament.

Commission on the eradication of gender violence within Mixed Commission of Women's Rights (2000- 2002) and Commission to study trafficking in women and children (2000- 2003) were created.

The *Women's Institute* promoted the first 'Macro- survey' (Macroencuesta) on violence against women to gather information about how many women have been battered and on the causes that lead to gendered violence. The survey focused on gender violence in the domestic realm. More than twenty thousand women were interviewed.

In 2000 more than eight hundred *Information Centres* worked at the national and regional level. In addition, twenty- nine offices to assist gender violence victims were opened following the approval of the 1998 Plan, and the National Women's Institute and other regional women's agencies set in motion telephone helpline systems.

Prostitution and Trafficking:

Organic Law 4/2000, of 11 January, on rights, freedoms and social integration of foreign people in Spain (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*). PP's amendment on prostitution is gathered in article 55. This Law was reformed by *Organic Law 8/2000, of 22 December* and the article changed into 59.

Sexual Harassment:

Spanish trade union CCOO impelled the research *The importance of sexual harassment at work in Spain (El alcance del acoso sexual en el trabajo en España)*. This research is developed under the European Program 'DAPHNE' and it is promoted by General Secretariat of European Commission.

Primary sources:

- Macro- survey 'Violence against Women' (*Macroencuesta 'Violencia contra las Mujeres'*).

http://www.mtas.es/mujer/mujeres/cifras/violencia/macroencuesta_violencia.htm

- Organic Law 4/2000, of 11 January, on rights, freedoms and social integration of foreign people in Spain (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*). 17 pages.

http://noticias.juridicas.com/base_datos/Admin/lo4-2000.html

Secondary sources:

- VV.AA.: The importance of sexual harassment at work in Spain (*El alcance del acoso sexual en el trabajo en España*). CC.OO.- Secretaría Confederal de la Mujer. 109 pages.

<http://www.minerometal.ccoo.es/ficpdf/55ALCANCEACOSOSEXUAL.PDF>

2001:Domestic Violence:

II Integral Plan against Domestic Violence 2001- 2004 (*II Plan Integral contra la Violencia Doméstica*) is approved at the national level.

Prostitution and Trafficking:

Episcopal Conference presented a Directive titled *Human and moral drama of trafficking in Women (El drama humano y moral del tráfico de mujeres)*. This Directive argues that poverty and conflicts in countries of origin impel people to leave their countries. Women suffer from a most vulnerable position in society and often they fall into human trafficking mafia that force them to work as prostitutes. This fact is defined as 'human misery' and 'a modern form of slavery'. Destination countries show a high level of tolerance, especially to customers. According to this report, the media plays a salient role and contributes to women's degradation through the spreading of pornography, and sexist advertisements.

Sexual Harassment:

Sexual harassment became again a hot issue due to the so- called 'Nevenka's affair'. Nevenka Fernández, a council woman in Ponferrada, a little city in León, pressed charges of sexual harassment against the mayor, Ismael Álvarez (PP), her former partner. After the break- up, Álvarez committed sexual harassment that led first to Fernández's depression and then to her leaving Spain to work in England.

The trial was highly controversial, especially the interrogation carried out by the administration prosecutor (José Luis García Ancos) of the victim. He showed a reproachful tone to Nevenka. The president of the Court reminded García Ancos that Fernández was a witness and not the accused.

Female Genital Mutilation:

Different parliamentary groups –Socialist, Mixed, Catalanian and Conservative– presented several law proposals to prevent and eradicate female genital mutilation. These proposals were unified in a ‘consensus text’ (texto transaccional) that was approved without amendments.

Spanish Senate presented a Law proposal to reform article 149 of Organic Law 10/1995, of 23 November, to add a clause on the repression of female genital mutilation (*Proposición de Ley para la Reforma del artículo 149 de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal, a fin de introducir una cláusula interpretativa sobre la represión de la mutilación genital femenina*). This reform will be added to Organic Law 11/2003.

Primary sources:

- II Comprehensive Plan against Domestic Violence, 2001- 2004 (*II Plan Integral contra la Violencia Doméstica, 2001- 2004*). 15 pages.

<http://www.malostratos.org/images/pdf/II%20PLAN%20INTEGRAL%20CONTRA%20LA%20VIOLENCIA%20DOMESTICA.pdf>

- Law proposal to reform article 149 of Organic Law 10/1995, of 23 November, to add a clause on the repression of female genital mutilation (*Proposición de Ley para la Reforma del artículo 149 de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal, a fin de introducir una cláusula interpretativa sobre la represión de la mutilación genital femenina*).

Secondary sources:

- LXXVI Episcopal Conference’s Full Session: Human and moral drama of trafficking in women (*El drama humano y moral del tráfico de mujeres*). April 27, 2001. 5 pages.

http://www.conferenciaepiscopal.es/documentos/Conferencia/trafico_mujeres.htm

- Mariví Moreno: ‘Judge thinks that there are enough evidences to prosecute Ponferrada’s mayor’ (*‘El juez ve indicios para juzgar al alcalde de Ponferrada’*), *El País*, December 8, 2001. 1 page.

<http://www.elpais.com/archivo/buscando.html>

2002:

Domestic Violence:

Creation of the Subcommittee for the study of measures against gender violence (*Subcomisión de estudio de medidas de respuesta a la violencia de género*) within the Commission of Social Policy (2002- 2003).

Law 38/2002, of 24 October, of partial reform of Criminal Procedure Law, on fast and immediate judgements related to certain crimes, and modification of the abridged proceedings (*Ley 38/2002, de 24 de octubre, de reforma parcial de la Ley de Enjuiciamiento Criminal, sobre procedimiento para el enjuiciamiento rápido e inmediato de determinados delitos y faltas, y de modificación del procedimiento abreviado*). This law established an abridged proceedings for offences connected to gender violence since 'society shows a special contempt to these crimes'.

Observatory against domestic and gender violence was set in motion in September 26 within the *General Council of Judicial Power*. It was created thanks to an agreement signed by *General Council*, Ministry of Justice, Ministry of Labour and Social Affairs, and later by Director of Public Prosecutions and Autonomous Communities with competences in the matter. Its main objective is watching over the constitutional principle of administrative coordination and protecting inviolable rights of citizenship, and specifically women's rights.

A law proposal on an integral law on gender violence is presented to the Parliament by PSOE in 2002. This proposal was elaborated with inputs from experts in Law, as well as Health and Education. Feminist women also participated. The law was rejected, having the support of all political parties but the Conservative Party (PP) in government.

Feminist organizations regret the lost opportunity due to PP's rejection. Nevertheless, the fight in favour of a comprehensive law continued.

Leftist Party (Izquierda Unida) presented in 2002 an 'urgent call' for the government (*Interpelación Urgente al Gobierno*) to explain the current and future measures on gender violence. As a result of this interpellation there was a *State Agreement (Pacto de Estado)* approved against gender violence, with a number of actions, but with no mention of an integral law.

Prostitution and trafficking:

Special Commission on Prostitution (Senate, March 21, 2002- January 20, 2004). There were more than fifty papers presented by members of Academia (M^a José Barahona, Dolores Juliano), associations for attention of women's prostitutes (mainly religious orders), NGO's (Cruz Roja), representatives of neighbours' associations, feminist women (Lidia Falcón) and politicians (Esperanza Aguirre, Cristina Almeida), among others. Both the 'abolitionist' approach and 'regulatory' approach were represented in the debate. Papers available in: http://www.senado.es/legis7/comisiones/index_405.html

Sexual harassment:

In May 2002, García Ancos is replaced. The President of the Court stated that the administrator prosecutor showed sexist prejudice against Fernández, and they doubted the impartiality of the trial. Feminist women showed their support to Nevenka Fernández and denounced García Ancos' attitude. They also criticized the silence of PP's women (http://www.nodo50.org/mujeresred/nevenka-bosch_ferrer.html).

Ismael Álvarez is found guilty of sexual harassment. Sentence available in:

<http://www.redfeminista.org/nueva/uploads/ponferrada.pdf>

Sexual harassment at work in Spain is a book that summarizes two previous pieces of research promoted by 'Comisiones Obreras'. Information was updated in a new report in 2002.

Female Genital Mutilation:

Protocol for the prevention of female genital mutilation in the city of Girona is published in 2002 and updated every year. This protocol offers information on the impact on women's health, the judicial context, contingency plans and recommendations.

Primary sources:

- Law 38/2002, of 24 October, of partial reform of Criminal Procedure Law, on fast and immediate judgement related to certain crimes, and modification of the abridged proceedings (*Ley 38/2002, de 24 de octubre, de reforma parcial de la Ley de Enjuiciamiento Criminal, sobre procedimiento para el enjuiciamiento rápido e inmediato de determinados delitos y faltas, y de modificación del procedimiento abreviado*). 2 pages.

<http://www.todalaley.com/mostrarLey882p1tn.htm>

- Socialist Parliamentary Group: (Organic) Law proposal on an Integral Law against Gender Violence) (*Proposición de Ley integral contra la violencia de género (Orgánica)*). December, 21 2001.

Secondary sources:

- VV.AA. 2002: Sexual harassment at work in Spain (*La importancia del acoso sexual en España*). CC.OO.- Secretaría Confederal de la Mujer. 3 pages.

http://www.nodo50.org/mujeresred/nevenka-bosch_ferrer.html

- Dolores Jualiano: Paper presented at the Study Commission on Prostitution. 28 pages.

<http://www.colectivohetaira.org/doljul0602.html>

- Cristina Almeida: "It is an incomprehensible idea considering prostitution as another form of labour" ("*Me rechina pensar que la prostitución es una forma más de trabajo*"). November 5, 2002. [http://www.lacerca.com/Local%202002/pagina\(05-11-02\)-4.htm](http://www.lacerca.com/Local%202002/pagina(05-11-02)-4.htm)

- J.C.: 'PSOE and PP consider Álvarez's sentence as laughable and benevolent' ('PSOE e IU ven 'irrisoria' y 'benébola' la sentencia'). *El País*, May 31. 1 page.

http://www.elpais.com/articuloCompleto/espana/LEON/PSOE/IU/ven/irrisoria/benevola/sentencia/elpepiesp/20020531elpepinac_8/Tes

- Esperanza Bosch and Victoria A. Ferrer. 2002. 'Nevenka's affair as paradigm' ('*El caso Nevenka como paradigma*'). 2 pages.

http://www.nodo50.org/mujeresred/nevenka-bosch_ferrer.html

- VV.AA. 2002. Protocol for the prevention of female genital mutilation in the city of Girona (*Protocolo para la prevención de la mutilación genital femenina en la ciudad de Gerona*). 36 pages. http://www.gencat.cat/justicia/doc/doc_43846160_1.pdf

2003:

Domestic Violence:

While the Conservative Party in government rejected the approval of a Comprehensive Law in the matter, it could not avoid increasing social attention and political pressure. That is why four important laws are enacted in 2003.

Organic Law 11/2003, of 29 September, on concrete measures on public safety, domestic violence and social integration of foreign people (*Ley Orgánica 11/2003, de 29 de septiembre, de medidas concretas en materia de seguridad ciudadana, violencia doméstica e integración social de los extranjeros*).

Ley Orgánica 13/2003, de 24 de octubre, de reforma de la Ley de Enjuiciamiento Criminal en materia de prisión provisional (*Organic Law 13/2003, of 24 October, on the reform of the Criminal Procedure Law regarding provisional imprisonment*). The most interesting aspect of this Law is article four. Here video conferencing is allowed to preserve the victim's intimacy and to avoid her contact with the aggressor. A gender violence victim attested by video conference for the first time in 2001 (Provincial High Court of Alicante; *Audiencia Provincial de Alicante*). This case is known as the 'trial of Foncalent'.

Organic Law 15/2003, of 25 November, by which Organic Law 10/1995, of 23 November on Penal Code, is modified (*Ley Orgánica 15/2003, de 25 de noviembre, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*). Thanks to modifications of articles 33, 39, 40, 48 and 57, it is forbidden that the aggressor can live near the victim, approach or communicate with her.

Law 27/2003, of 31 July, to regulate 'order of protection' for domestic violence victims (*Ley 27/2003, de 31 de julio, reguladora de la orden de protección de las víctimas de violencia doméstica*) is passed. This Law regulates the 'order of protection for victims of domestic violence'. It was impelled by the Subcommittee for the study of

measures against gender violence (*Subcomisión de estudio de medidas de respuesta a la violencia de género*).

Sexual Harassment:

Trade Union *Workers' Commissions* (CCOO) pointed out the lack of attention to sexual harassment in collective bargaining. CCOO argued for the inclusion of the new definition established in the new European Directive (2002), the development of efficient mechanisms to punish harassers, and research on factors that lead to sexual harassment.

This trade union also published *Trade Union Guide to tackle sexual harassment at work*. The text provides the judicial context on the matter as well as mechanisms to prevent this problem.

Female Genital Mutilation:

Organic Law 11/2003, of 29 September, on concrete measures on public safety, domestic violence and social integration of foreign people (*Ley Orgánica 11/2003, de 29 de septiembre, de medidas concretas en materia de seguridad ciudadana, violencia doméstica e integración social de los extranjeros*). This law modified article 149.6. of the Civil Code to punish female genital mutilation (six to twelve years imprisoned).

Primary sources:

- Organic Law 11/2003, of 29 September, on concrete measures on public safety, domestic violence and social integration of foreign people (*Ley Orgánica 11/2003, de 29 de septiembre, de medidas concretas en materia de seguridad ciudadana, violencia doméstica e integración social de los extranjeros*). 14 pages.

<http://www.todalaley.com/mostrarLey1228p1tn.htm>

- Organic Law 13/2003, of 24 October, on the reform of the Criminal Procedure Law regarding provisional imprisonment (*Ley Orgánica 13/2003, de 24 de octubre, de reforma de la Ley de Enjuiciamiento Criminal en materia de prisión provisional*). 8 pages.

http://noticias.juridicas.com/base_datos/Penal/lo13-2003.html

- Organic Law 15/2003, of 25 November, by which Organic Law 10/1995, of 23 November on Penal Code is modified (*Ley Orgánica 15/2003, de 25 de noviembre, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*). 42 pages. http://noticias.juridicas.com/base_datos/Penal/lo15-2003.html

- Law 27/2003, of 31 July, to regulate 'order of protection' for domestic violence victims (*Ley 27/2003, de 31 de julio, reguladora de la orden de protección de las víctimas de violencia doméstica*). 4 pages.

http://noticias.juridicas.com/base_datos/Penal/l27-2003.html

Secondary sources:

- CC.OO. Press release: 'CC.OO. considers that attention and regulation of sexual

harassment in collective bargaining is not enough' ('CC.OO. *considera escasa la atención y regulación del acoso sexual en los convenios colectivos*'). November 1, 2003. 2 pages.

http://www.ccoo.es/cscceo/menu.do?Información:Notas_de_prensa:1103

- VV.AA.: Trade Union Guide to tackle sexual harassment at work (*Guía sindical para abordar el acoso sexual en el trabajo*). CC.OO.- Secretaría confederal de la Mujer. 33 pages.

http://www.uhu.es/ccoo/mujer/guia_acoso.pdf

2004:

Domestic Violence:

During the elaboration of the law proposal on gender violence, civil society expressed its opinions and contributed to the debate. Amnesty International published fifteen recommendations to the government oriented towards improving the law proposal.

Organic Law 1/2004, of 28 December, on Integrated Protection Measures against Gender Violence (*Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género*). This Law is approved thanks to the support of all political parties. It is a pioneer law in the matter not only because of its integral aim but also due to its affirmation of structural gender inequality as the origin of gender violence.

Royal Decree 355/2004, of 5 March, to regulate general register for the protection of domestic violence victims (*Real Decreto 355/2004, de 5 de marzo, por el que se regula el Registro Central para la protección de las víctimas de la violencia doméstica*).

The Observatory of Women's Health is created, and it is attached to the Ministry of Health and Consumption. It focuses on gender equality policies in the health realm, gender violence and sexual and reproductive health.

The Catholic Church presents a directive on family issues in January 2004 (written in November 2003). According to the Church, the origins of violence are located in the 'sexual revolution'. The combination of the marginalization of Christian values and traditional family values with the sexual revolution and economic interests has created greater problems with prostitution, pornography, abortions and contraceptives (Directory of Family Pastoral of Spanish Church; *Directorio de la Pastoral Familiar de la Iglesia en España*).

Sexual Harassment:

Juan José Millás, a Spanish writer involved in gender equality issues, published *Some things are not like people say* (*Hay cosas que no son como me dicen*), where the

author describes Fernández's story. This book shows new social sensitivity in the matter and the important role of the media to spread the details of the trial.

Female Genital Mutilation:

UGT published a press release titled *Towards a society of equal people (Hacia una sociedad de iguales)* on the occasion of the International Day against Racism and Xenophobia. The text underlined that not only legal reforms are needed to promote foreign people's integration in the labour market but also measures leading to social integration in democratic patterns. Thus, female genital mutilation is denounced as one of the social practices that hinder social integration and gender equality.

First Andalusian Conferences on Health, Human Rights and Female Genital Mutilation were held in Seville on November. These Conferences were organized by the association *Mediterranean Women*.

Primary sources :

- Organic Law 1/2004, of 28 December, on Integrated Protection Measures against Gender Violence (*Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género*). 32 pages.

http://noticias.juridicas.com/base_datos/Admin/lo1-2004.html

- Royal Decree 355/2004, of 5 March, to regulate general register for the protection of domestic violence victims (*Real Decreto 355/2004, de 5 de marzo, por el que se regula el Registro Central para la protección de las víctimas de la violencia doméstica*). 8 pages.

http://noticias.juridicas.com/base_datos/Admin/rd355-2004.html

Secondary sources:

- Episcopal Conference: Directory of Family Pastoral of Spanish Church (*Directorio de la Pastoral Familiar de la Iglesia Católica*). November 23, 2003 (Published in 2004). 96 pages.

<http://www.conferenciaepiscopal.es/documentos/Conferencia/PastoralFamiliar1.htm>

- UGT- Press release: 'Towards a society of equal people' (*Hacia una sociedad de iguales*). March 21, 2004. 5 pages. <http://www.ugt.es/inmigracion/sociedadiguales.pdf>

2005:

Domestic Violence:

Royal Decree 515/2005, of 6 May, establishes the circumstances in which the execution of work punishments to benefit of the community may occur and also punishments of permanent location. This decree also establishes some security measures and the suspension of the execution of custodial sentences (*Real Decreto*

515/2005, de 6 de mayo, por el que se establecen las circunstancias de ejecución de las penas de trabajos en beneficio de la comunidad y de localización permanente, de determinadas medidas de seguridad, así como de la suspensión de la ejecución de las penas privativas de libertad). It is drawn up to fulfil the Preamble of the former law. This text is very salient because it focuses on aggressors, which is an infrequent situation in our legal system. Thus, the Royal Decree allows aggressors to work for the benefit of the community (*trabajos en beneficio de la comunidad*), on tasks connected to the perpetrated offence.

Royal Decree 205/2005, Insertion Active Income for unemployed people with special economic needs and difficulties in finding a job (*Real Decreto 205/2005 por el que se regula el Programa de Renta Activa de Inserción para desempleados con especiales necesidades económicas y dificultades para encontrar empleo*). Battered women deserve special mention in this text.

Royal Decree 237/ 2005, to establish rank and functions of the Governmental Special Delegation against Violence against Women (*Real Decreto 237/ 2005, por el que se establecen rango y funciones de la Delegación Especial de Gobierno contra la Violencia sobre la Mujer*).

Royal Decree 1452/2005, to establish economic aid for gender violence victims. This Decree develops article 29 of Organic Law 1/2004 (*Real Decreto 1452/ 2005, Ayuda económica a víctimas de violencia de género (desarrollo del artículo 27 de la Ley 1/2004)*).

In May 2005, five months after the approval of the 'Comprehensive Law', Amnesty International published a report titled *Beyond the paper (Más allá del papel)*. The report showed the lack of protection of battered women that are part of vulnerable groups, such as Romany women, disabled women, drug addicts, and women with mental disorders. Following this report, public institutions showed prejudices toward these women, and this fact leads indeed to 'double victimization'. The situation of battered *sans papiers* immigrant women, to whom a monographic report is dedicated, deserves special attention. This report assesses that the 'Comprehensive Law' discriminates against these women since they cannot obtain economic aid or access to shelters (*Sans papiers immigrant women. Till when without protection before gender violence?; Inmigrantes indocumentadas. ¿Hasta cuándo sin protección frente a la violencia de género?*).

Third International Interparliamentarian Dialogue on Femicide Violence (*III Diálogo Internacional Interparlamentario sobre Violencia Femicida*) is held in Madrid, September 15 and 16. Deputies from Mexico, Guatemala and Spain debated the need for new legislative measures as well as the fight against aggressors' impunity. The fight against gender inequality was underlined as an essential aspect of the problem.

Prostitution and Trafficking:

APRAMP (*Association for reintegration of 'prostituted' women*) published a report titled *Prostitution. Key questions to reflect on this problem (La prostitución. Claves básicas para reflexionar sobre un problema)*. This report connects prostitution to women's sexual exploitation and trafficking in women. Consequently, these social problems are rooted in men's demands of 'sexual objects' and therefore actions should be focused on customers. The Swedish model on the matter is seen as the role model.

Female Genital Mutilation:

Organic Law 3/2005, of 8 July to modify Organic Law 6/1985, of 1 July, on Judicial Power, to prosecute female genital mutilation beyond our frontiers (*Ley Orgánica 3/2005, de 8 de julio, de modificación de la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, para perseguir extraterritorialmente la práctica de la mutilación genital femenina*). The text defines female genital mutilation as a violation of Human Rights since it attacks women's integrity. For that reason, this law pretends to prosecute this crime though it would take place in countries of origin.

Primary sources:

- Royal Decree 515/2005, of 6 May, establishes the circumstances in which the execution of work punishments towards the benefit of the community may occur and also punishments of permanent location. This decree also establishes some security measures and the suspension of the execution of custodial sentences (*Real Decreto 515/2005, de 6 de mayo, por el que se establecen las circunstancias de ejecución de las penas de trabajos en beneficio de la comunidad y de localización permanente, de determinadas medidas de seguridad, así como de la suspensión de la ejecución de las penas privativas de libertad*). 12 pages.

http://www.mir.es/INSTPEN/INSTPENI/Archivos/real_decreto_515.pdf

- Royal Decree 205/2005, for unemployed people with special economic needs and difficulties in finding a job (*Real Decreto 205/2005 por el que se regula el Programa de Renta Activa de Inserción para desempleados con especiales necesidades económicas y dificultades para encontrar empleo*) 20 pages.

<http://www2.inem.es/BDlegislativa/script/documentos.asp?archivo=Legis/PDF/SoloPDF/d16848>

- Royal Decree 237/ 2005 to establish rank and functions of the Governmental Special Delegation against Violence against Women (*Real Decreto 237/ 2005, por el que se establecen rango y funciones de la Delegación Especial de Gobierno contra la Violencia sobre la Mujer*). 3 pages.

<http://www.boe.es/boe/dias/2005/03/08/pdfs/A08114-08116.pdf>

- Royal Decree 1452/2005, to establish economic aid for gender violence victims (*Real Decreto 1452/2005, para establecer una ayuda económica para víctimas de violencia de género*). 4 pages. <http://aspex.juntaex.es/legislacion/A41341-41344.pdf>

- Organic Law 3/2005, of 8 July to modify Organic Law 6/1985, of 1 July, on Judicial Power, to prosecute female genital mutilation beyond our frontiers (*Ley Orgánica 3/2005, de 8 de Julio, para modificar la Ley Orgánica 6/1985, de 1 de julio, sobre el Poder Judicial, para la persecución de la mutilación genital femenina más allá de nuestras fronteras*). 1 page.

<http://www.boe.es/boe/dias/2005/07/09/pdfs/A24457-24457.pdf>

Secondary sources:

- Amnistía Internacional: Beyond the paper (*Más allá del papel*). 45 pages.

<http://web.amnesty.org/library/index/esleur410052005>

- Amnistía Internacional: *Sans papiers* immigrant women. Till when without protection before gender violence? (*Inmigrantes indocumentadas. ¿Hasta cuándo sin protección frente a la violencia de género?*). 20 pages.

http://www.es.amnesty.org/uploads/tx_useraitypdb/inmigrantes_indocumentadas_06.pdf

- APRAMP: *Prostitución*. Prostitution. Key questions to reflect on this problem (*Claves básicas para reflexionar sobre un problema*). 122 pages.

http://www.apramp.org/upload/doc8_MAQUETA%20APRAMP%20DEFINITIVA.pdf

2006:

Domestic Violence:

Elena Valenciano, member of the European Parliament, demanded European Integral legislation regarding gender violence. According to Valenciano, it is necessary to unify criteria about what gender violence is and to agree common indicators to count the number of battered women.

Royal Decree 253/2006, of 3 March, by which functions, rules of functioning and composition of the National Observatory of Violence against Women are established, and Royal Decree 1600/2004, of 2 July, by which the basic organic structure of Ministry of Labour and Social Affairs is developed, is modified (*Real Decreto 253/2006, de 3 de marzo, por el que se establecen las funciones, el régimen de funcionamiento y la composición del Observatorio Estatal de Violencia sobre la Mujer, y se modifica el Real Decreto 1600/2004, de 2 de julio, por el que se desarrolla la estructura orgánica básica del Ministerio de Trabajo y Asuntos Sociales*).

National Plan for awareness and prevention of gender violence. Theoretical frame and axis of intervention (*Plan Nacional de sensibilización y prevención de la violencia de género. Marco conceptual y ejes de intervención*). It was passed on December, 2006 by government. Six months later, Amnesty International published a report called *Put all means within their reach, please* (*‘Pongan todos los medios a su alcance, por favor’*), where measures approved by government in the last Plan are analysed in great detail.

Moreover, one year after the approval of the 'Comprehensive Law', this NGO published a report analysing measures established in that Law (*More rights, same obstacles; Más derechos, los mismos obstáculos*).

Gender violence victims draw up a manifesto claiming for the real application of the 'Comprehensive Law', more research on psychological violence, and legal fight against 'benevolent sentences'. Moreover, feminist organizations argued for a legal reform of the Criminal Procedure Law that would mean that in cases of gender violence family members would not necessarily have to declare against the accused. The reason for this claimed reform is that very frequently, when the judge asks the victim whether she wants to declare against the aggressor, she usually hesitates and this results in a closed case (the complaint is filed).

Two feminist lawyers –Lydia Falcón and Olga Campos- presented a report titled *Hacer los derechos realidad* (Making rights come true) in Madrid. The report showed the persistence of gender bias in the judicial system, the need for reliable statistics, suitable training for civil servants and effective application of the laws.

Prostitution and Trafficking:

In Catalonia, a left coalition took office (Catalonian Socialist Party [PSC], Catalonian Republican Party [ERC] and a Green Party [ICV]).

In January, Socialist Catalonian ministry of Interior, Montserrat Tura [PSC], presented a regional draft bill on the regulation of prostitution. Following this text, prostitution could only take place in authorized brothels, and street prostitution would be punished with 600- euro fines. Moreover, procurers will be severely prosecuted as well as human trafficking mafia. The draft bill proposed to guarantee the physical and psychological integrity of voluntary prostitutes (*La Vanguardia*, January 24, 2006).

In February, Carme García, representative of a Catalonian Green Party (*Iniciativa per Catalunya-Vers*) presented an 'urgent call' (*interpelación urgente*) in Parliament to create a *Study Commission on Prostitution*. The objective of the Commission was to debate the regulation of voluntary prostitution. All parliamentary groups supported García's proposal, but some of them showed reluctance on the matter. Thus, Merce Pigem (Catalonian Nationalist Party- CiU) underlined risks connected with the regulation of prostitution; and Enriqueta Seller (PP) and Mariví Monteserín (PSOE) agreed with the creation of the Commission, but pointed out that government should fight against prostitution and trafficking in women.

April 1, *El País* published 'Feminism and prostitution' (*Feminismo y prostitución*), by M^a Luisa Maqueda Abreu. The author argues that prostitution should be regulated if it is the result of a voluntary agreement between adult people. In contrast, forced

prostitution is defined as one of the most serious forms of gender violence and, therefore it should be prosecuted and punished. The same position is defended by the Women's Department of trade union *Workers' Commissions* (CCOO) [press release June 27, 2006].

On April 27, the first meeting of the *Commission* took place. From April to July different papers were expounded in Parliament. According to information gathered by Lourdes Muñoz Santamaría (*Catalonian Socialist Party- PSC*), speakers could be classified in seven realms: feminist movement, political realm, psychological realm, labour market, judicial realm, economic realm and prostitutes' needs (<http://lourdesmunozsantamaria.blogspot.com/>). Both pro-abolition and pro-regulatory feminists took part in the debate and expounded their respective points of view.

In June, Vice-president, M^a Teresa Fernández de la Vega, announced the approval of a comprehensive plan to fight against trafficking of people for sexual exploitation.

Almudena Fontecha, Secretary for Equality of the trade union UGT (General Workers' Union), presented in Parliament the reasons why prostitution should be considered a contemporary form of slavery. According to Fontecha, society should show a complete rejection of this activity and political objectives should be orientated to its abolition.

Sexual harassment:

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). The text states that sexual harassment is contrary to the principle of equal treatment between men and women and constitutes discrimination on grounds of sex. This Directive has not been transposed to Spanish Law so far.

Primary sources:

- Royal Decree 253/2006, of 3 March, by which functions, rules of functioning and composition of the National Observatory of Violence against Women are established, and Royal Decree 1600/2004, of 2 July, by which basic organic structure of Ministry of Labour and Social Affairs is developed, is modified (*Real Decreto 253/2006, de 3 de marzo, por el que se establecen las funciones, el régimen de funcionamiento y la composición del Observatorio Estatal de Violencia sobre la Mujer, y se modifica el Real Decreto 1600/2004, de 2 de julio, por el que se desarrolla la estructura orgánica básica del Ministerio de Trabajo y Asuntos Sociales*). 7 pages.

http://noticias.juridicas.com/base_datos/Admin/rd253-2006.html

- National Plan for awareness and prevention of gender violence. Theoretical frame and axis of intervention (*Plan Nacional para la sensibilización social y la prevención de la violencia de género. Marco teórico y ejes de intervención*). 80 pages.

http://www.mtas.es/mujer/servicios/centro_documentacion/3-2007.pdf

Secondary sources:

- M^a Luisa Maqueda: 'Feminism and Prostitution' (*Feminismo y prostitución*), *El País*, April 1. 1 page.

<http://www.ccoo.es/cscocoo/menu.do?Información:Notas de prensa:1442>

- Amnistía Internacional: More rights, same obstacles (*Más derechos, los mismos obstáculos*). 76 pages.

http://www.es.amnesty.org/nomasviolencia/docs/informes_ai/02regiones/04europa/espana/resumen_aniversario_ley_integral.pdf

- Lidia Falcón and Olga Campos: 'Making rights come true' (*Hacer los derechos realidad*). 9 pages.

<http://www.redfeminista.org/nueva/uploads/HACERLOSDERECHOSREALIDAD.doc>

©

- Hetaira: Paper presented at the Study Commission on Prostitution by Cristina Garaizabal. June 2006. 8 pages. <http://www.colectivohetaira.org/crisgar0606.html>

- Lidia Falcón: Paper presented at the Study Commission on Prostitution. June 2006. 32 pages.

<http://www.lourdesmunozsantamaria.cat/IMG/pdf/Trnas08.06.06.pdf>

- Almudena Fontecha- UGT Press release: 'Prostitution is a contemporary form of slavery' (*La prostitución es una forma contemporánea de violencia*). 2 pages.

<http://www.ugt.es/comunicados/2006/mayo/compre18052006.pdf>

2007:

Domestic Violence:

Full Session of the *National Observatory of Gender Violence* approved its first Annual Report. It has been drawn up by experts from academia, judicial power, psychological field and women's machinery.

Full Session of the Parliament approved a proposed motion claiming full implementation of the 'Comprehensive Law', a sufficient budget to implement already planned measures, and the promotion of civil society's participation in the development of an 'Integral Attention System'.

The Observatory of Women's Health has developed a common protocol for medical care in cases of gender violence (April 2007).

Queen Sofía Centre for the Study of Violence (*Centro Reina Sofía para el estudio de la violencia*), founded in 1997, published the II International Report on Partner

Violence against Women (*II Informe Internacional. Violencia contra la mujer en las relaciones de pareja*). The report offers a theoretical frame on gender- based violence and studies the state of the question on legislation and statistics in the matter.

Prostitution and Trafficking:

Study Commission on Prostitution published its final report in March. The report concluded that prostitution and trafficking in women are connected phenomena and, therefore, the fight against human trafficking mafia should be on the political agenda. Thus, the Commission proposed the approval of a Plan against sexual exploitation.

UGT supports the decision made by the Mixed Commission on Women's Rights regarding the refusal of regulations of prostitution. This trade union goes on to state that prostitution is a form of women's slavery.

80 feminist associations published a press release supporting the report as well (available in: <http://www.nodo50.org/pce/secretarias/secmujer/pl.php?id=1467>).

These associations claim to fight against prostitution through public policy.

Regarding the Catalan case, feminist activists severely criticize Tura's proposals. Thus, it is defined as an attack against gender equality law and they argued that her draft bill is on the side of procurers and brothel owners.

Catalonian Ministry of Well- Being and Family, Anna Simó [ERC], proposed the creation of 'red zones', that is to say streets or areas where prostitution could take place. Tura rejected this proposal since these areas could easily become marginal areas. Disagreements between both regional ministries hindered the approval of the regional law.

Sexual harassment:

Equality Law establishes the need for workers' protection against sexual harassment and gender- based harassment (article 7). The Law extends the article 4.2. e) of the *Workers' Statute Law*. Thus, in addition to sexual harassment and sex- based harassment, this article protects from harassment on grounds of religion, ethnic group, beliefs, disability, age, and sexual orientation in the labour realm.

Primary sources:

- Organic Law 3/2007, of 22 March, for Effective Equality between Men and Women (*Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva entre hombres y mujeres*). 35 pages.

<http://www.boe.es/boe/dias/2007/03/23/pdfs/A12611-12645.pdf>

- Study Commission on Prostitution: Report on the situation of prostitution in Spain

(*Informe sobre la situación de la prostitución en España*). March 13, 2007. 224 pages.

http://www.lourdesmunozsantamaria.cat/IMG/pdf/INFORME_PONENCIA_PROSTITUCION_EN_ESPANA.doc.pdf

Secondary sources:

- Press release on the report of the Study Commission on Prostitution signed by 80 women's associations. 2 pages.

<http://www.nodo50.org/pce/secretarias/secmujer/pl.php?id=1467>

- UGT Press release: 'UGT supports parliamentary recommendation regarding no regulation of prostitution' (*UGT apoya la recomendación parlamentaria de no regular la prostitución*). 1 page.

<http://www.ugt.es/actualidad/2007/abril/b17042007.html>

- J. García: '[Catalonian] Law on prostitution is paralysed' (*'La ley [catalana] de prostitución, apartada'*), *El País*, March 13, 2007. 1 page.

- VV.AA. Rights for women and men sex workers (*Derechos para trabajadoras y trabajadores del sexo*). CC.OO.- Secretaría Confederal de la Mujer.

- Amnistía Internacional: Put all means within their reach, please (*Pongan todos los medios a su alcance, por favor*). 26 pages.

http://www.es.amnesty.org/nomasviolencia/docs/informes_ai/02regiones/04europa/espana/dos_anios_Ley_Integral.pdf

- Centro Reina Sofía (ed.). 2007. II International Report. Violence against women within partnership (*II Informe Internacional. Violencia contra la mujer en las relaciones de pareja (estadísticas y legislación)*). Serie Documentos (vol. 11).

<http://www.centroreinasofia.es/informes/11Informe.pdf>

5. CONCLUSIONS

Relative importance of topics in the sub issues in Spain

In Spain, the most gendered and hottest issue, and the one with more stable saliency during this last decade has been violence against women. Also, same sex partnership and marriage has been a big issue during the last four to five years. Reconciliation of family and work life has been salient during the QUING period, with some peaks in saliency regarding mainly paternity leaves.

Debates on **non employment** in Spain between 1995 and 2007 have focused primarily on the subissue of '*reconciliation of work and family life*'. The reconciliation of work and family (and personal) life has been the most salient one since it has been frequently discussed by a multitude of actors. It has also had an explicitly gendered approach.

The Socialist government (2004-) declared gender equality a priority, and the issue of reconciling 'personal, family and work life' has been a recurrent one in political debates during this government. The Organic Law for de Facto Equality between Women and Men from 2007, elaborated by the Socialist government and approved by parliament, treats the 'reconciliation of personal, family and work life' as a key issue and the individual right to paternity leave is considered the most innovative measure. Indeed, reconciliation has been, and still is, strongly associated with parenthood.

The issue of *care work, domestic work and informal work* is less salient than the 'reconciliation' issue. It can in a sense be considered part of the reconciliation debate but then usually as subordinate to women's participation in the labour market. Nevertheless, we can find debates surrounding care work, domestic work and informal work that are much more diverse than the reconciliation debate. Certainly, paid and unpaid care and domestic work has been debated in rather different contexts and policy areas. Care/domestic work employment has been less prominent in the debates than women's unpaid work in the home. However, paid domestic work is more often related to not only gender inequality but also class, ethnicity and nationality. These issues have mostly received attention from the feminist movement but the exploitation of immigrant labour has also been targeted by trade unions to some extent. Paid domestic work and care has recently received attention from the Spanish government and parliament. Due to the diversity in debates, the richness of actors involved, the recent saliency, and the possibilities of finding some traces of an intersectional approach, we consider this sub-issue an especially interesting one for studying in the Spanish case in QUING.

Debates surrounding *tax/benefit policies* have been clearly gendered when they overlap with debates surrounding reconciliation and care. Family policy in Spain has often been oriented towards fiscal reforms rather than direct social policy, like public care services. Tax/benefit policies are strongly linked to the reconciliation debates in the sense that the support for working mothers has gone through fiscal measures.

During the Quing period, the debates on **intimate citizenship** have been mainly focused in the subissues of '*marriage, divorce and separation*' and "*sexual rights*", mainly in the common issue of same sex marriage. All political actors have discussed sexual rights, mostly around same sex marriage, with polarized standpoints and little room for further discussions other than supporting or being against. The socialist government presented along with the Law in Violence (Law 1/2004) changes in the Civil Code to allow same sex marriage (law 13/2005), being both important parts of their electoral programs and their current legislature. Nonetheless, the debate has not being gendered but rather represented as a 'gay issue', that has often marginalised its impact⁴⁷ in terms of the specific effects on women, along with other disenfranchised individuals (immigrants, under age, etc.). We do not intend to give the impression that same sex marriage is the only issue that brings political attention, but it is central to understand the long struggle for partnership rights (1992-2002) and the latter visibility of LGTB issues that facilitates the promotion of transgender rights (2005-2007) and LGTB public policies in local and regional realms (1995-2007).

The issue of *reproductive rights* is less salient than marriage/divorce/separation and sexual rights during the Quing period. The debate around the reform of the abortion law is not getting support. There is an interest on artificial reproductive techniques and emergency contraception that do get attention and are part of the political debate, but to a lesser extent than other issues like marriage/divorce/separation or sexual rights.

The issue of marriage, divorce and separation has common topics with sexual rights, and it is important to understand the transformation of kinship rights in general, in a country that has gone from being a strongly closed Catholic State to a young democracy. Looking at the Quing period, the recent reforms of marriage and divorce (2005) have transformed the institution, being nowadays something closer to a "love contract", in which marriage is more accessible and getting divorce is much easier. Marriage as an institution is reinforced, and some new values are inserted, such as monogamy, cohabitation, shared economy, etc., presenting the institution as the last frontier for formal equality and citizenship. Not only is marriage now open to same sex couples, but also in the divorce law there are references to gender roles, in which breaking the rules of cohabitation, fidelity and shared domestic tasks and care are reasons for breaking the union.

Within **gender-based violence**, *domestic violence* is the most salient sub-issue. Both public authorities and the feminist movement have included this issue in their agendas, especially in the late nineties. Although in the first stages of our democracy,

⁴⁷ In fact, laws in same sex marriage and transgender rights are limited in their scope, targeting neutral subjects, that in fact reproduce inequality by excluding the effects of artificial reproduction techniques on women on lesbian marriages and transgender immigrants and under age in their right to change their name in the Civil Register (see Platero, 2007)

attention was focused mainly on rape and sexual abuse, the situation changed dramatically in 1997, when Ana Orantes, a battered woman, is killed by her former husband after relating her experience of domestic violence in a well-known TV show. This was an important shift since a new awareness for this subject emerged within Spanish society, largely due to the media's role. Both the women's movement, and women's machinery and femocrats focused their interventions on this problem: the former began to claim for a comprehensive law on the matter and the latter approved policies against gender-violence, like the Plans against Gender Violence. An important major shift took place in 2004 when the Socialist Party (PSOE) took office, and the *Organic Law 1/2004, of 28 December, on Integral Protection Measures against Gender Violence (Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género)* is passed. Although this law has been criticized for its narrow definition of gender violence -almost ignoring forms of gender violence other than violence related to intimate relations- it is one of the most advanced laws in Europe and it clearly and directly associates domestic violence with gender inequality.

Prostitution has had an increasing importance in our country. Until around 2000, the debates around prostitution were connected to other issues (rape, trafficking, sexual exploitation) and consequently it has seldom been debated as an autonomous issue.

Sexual harassment has been a salient issue in three moments: twice before the QUING period (1989 and 1995) and in 2002. Nowadays, it has a relative importance, especially in trade unions' research. As Spain should transpose *European Directive 2006/54* regarding equal opportunities and sexual harassment in the workplace, this issue might possibly become a hotter issue in the near future.

Major changes in gender+ equality policies and in the three subissues

General gender+ equality policies

The major changes during the QUING period (1995-2007) have mainly occurred during the last three years, after the socialist party took office in March 2004. The *Rodríguez Zapatero* Cabinet has been quite active in issues regarding gender equality, having the first parity government in the history of Spain, adopting some measures regarding reconciliation for civil servants (*Plan Concilia*), and approving four important laws in this respect: gender violence (2004), same-sex marriage (2005), 'dependency law' (2006), and the equality law (2007), and 'gender identity law' (2007). However, these changes can only be explained taking also into account that even during the former Conservative party (*Partido Popular*) period, from 1996 to 2004, some alternative frames were found in Spain regarding the issues of gender inequality in politics, reconciliation, and domestic violence, comparatively stronger and more frequently than in other European countries (see results from the project MAGEEQ). Thus the arrival of the Socialist Party to government represented an excellent and unique political opportunity for promoting changes regarding gender policies that, to a

certain extent, were already being prepared during the former years.

These changes have been not only in gender+ equality policies, but also in instruments and structures. Although the so-called 'equality plans' (a set of measures approved by the Cabinet) were the main and almost exclusive tool that articulated gender equality policies in Spain for almost two decades, a new and intense legislative initiative has been characteristic of these more recent years. Regarding structures, a new General Secretariat of Equality Policy (*Secretaría General de Políticas de Igualdad*) was created in 2004. Its creation supposes a strengthening of gender equality policy. This body has a higher rank than the Women's Institute, which is since then dependent on the Secretariat.

Non employment

Spain has adopted the discourse on *reconciliation* in the last ten years, partly as a response to EU policies on the issue. The concept 'reconciliation' was introduced in the III Equality Plan (1997-2000), and in the IV Equality Plan (2003-2006) it turned into one of the central areas. 'Reconciliation' has evolved into a recurrent notion that shapes the debates on (non)employment, gender equality and social policy. The Conservative government of *Partido Popular* (1996-2004) made 'reconciliation of work and family life' a key issue of the political agenda. The Socialist government (2004-) declared gender equality a priority, and the issue of reconciling 'personal, family and work life' has been a recurrent one in political debates during this government. The Organic Law for de Facto Equality between Women and Men from 2007, elaborated by the Socialist government and approved by parliament, treats the 'reconciliation of personal, family and work life' as a key issue and the individual right to paternity leave is considered the most innovative measure. Indeed, reconciliation has been, and still is, strongly associated with parenthood.

Care has clearly entered the political agenda very recently with the Socialist government law proposal to provide public support for people in situations of dependency (the law does not include the issue of childcare). The Law for the Promotion of Personal Autonomy and Attention to Persons in Situations of Dependency (39/2006) elaborated by the socialist government and adopted by the parliament in November 2006, assigned state responsibility in providing care for persons in situations of dependency. Thereby, the often invisibilised care work and domestic work became a hot issue on the political agenda.

The characteristics of the Spanish welfare state, the aging population, the increasing participation of women in the labour market, and the unequal distribution of domestic and care work between women and men are features interconnected with the expansion of *domestic service* as a field of employment (Martínez Buján 2005). Under the legal title 'domestic work', paid care work in private households is gradually becoming more common and migrant women have come to play a crucial role in

providing care in the absence of welfare provision. Paid domestic work has recently received attention from the Spanish government and parliament; the issue of improving the social security special regime was debated in parliament in 2005 and in 2007 the government promised to improve the conditions of domestic workers by reforming the Special Regime and eventually incorporating these workers in the General Regime.

Finally, debates surrounding tax/benefit policies have been clearly gendered when they overlap with debates surrounding reconciliation and care. Very recently, in July 2007, the government has announced the introduction of a payment of 2500 Euros in relation to childbirth which can already be applied for by mothers with new born children.

Intimate citizenship

Nowadays, *sexual rights* (same sex marriage, transgender rights and public policies for LGTB) is the most salient sub-issue within intimate citizenship. Both public administrations and civil society have included these issues in their agendas, especially during the last five years. Nevertheless, in the first stages of our democracy, attention was focused mainly on *reproductive rights* (mostly on *abortion*) and *divorce* rights. The incipient feminist movement struggled to obtain not only formal equality but also access to abortion and divorce, which was contested by the Catholic Church, the Conservative Party and conservative realms of society. Once these rights were obtained, other issues took over the attention. The fight for women and homosexual rights were simultaneous and influenced each other: while formal equality for women was taking place, the first gay organizations emerged and were legalized, demanding the decriminalization of homosexuality (and transgenderism). Again, once these rights were obtained, other pressing issues gained relevance, such as emergency contraception, partnership rights, etc. Reproductive rights passed from being a really important issue, with a relevant mobilization for abortion rights in the seventies and eighties, and started to become less prominent with the emergence of new reproduction techniques and new ethical issues in the last decade. Nowadays, emergency contraception is the most recent debate that concerns reproductive rights and that brings political attention, mostly from feminist and leftist/center parties. In the meantime, the ongoing proposals to reform the abortion legislation are not yet gaining enough support.

As it has been said, *reproductive rights* have been one of the most controversial, gendered and associated with citizenship, issues in the Spanish socio-political context, with large mobilization and debate during the pre-Quing period and a not so high though increasing presence during the QUING period. The developments concerning *sexual rights* are extensively present during the QUING period, going from the demands of partnership rights (1992-2002), to the struggle for same sex marriage (2002-2005) and transgender rights (2005-2007) and the increasing relevance of public policies devoted to LGTB issues (1995-2007). The new laws on same-sex marriage and sexual identity have been widely visible in the international debate, presenting the Spanish socialist government as progressive and transformative.

Gender-based violence

As we have already mentioned, nowadays, *domestic violence* is the most salient sub-issue within gender-based violence. An important and major shift was the approval of the 'comprehensive' law in 2004, although other initiatives and major feminist struggles were taking place also during the conservative period of 1996-2004. As a matter of fact the Conservative Party, at the time of the government's presidency, promoted some laws to act against gender violence (Law 14/99; Organic Law 38/2002; Organic Law 11/2003; Organic Law 13/2003), but ignored feminist claims for a more comprehensive law. The Socialist Party (PSOE), the opposition party, assumed this claim and presented two law proposals in the Parliament (2000 and 2002). Both of them were rejected by the Conservative Party, with absolute majority at that moment. In addition, feminist associations, such as the *Women's Foundation (Fundación Mujeres)* and *Progressive Women Federation (Federación de Mujeres Progresistas)*, began to collect statistics of killed women. Finally, other public institutions (*Ombudsman, General Council of Judicial Power*) paid attention to domestic violence in their respective annual reports.

Actors

Non-employment

State actors in the non-employment debates, besides the women's machinery (at the national, regional and local levels), are the parliament, the political parties and the Ministry of Work and Social Affairs.

Trade Unions are also important actors in the political debates around the non-employment issue.

Within the women's movement, there are some new groups that have been recently active regarding the issues of care and dependency, as well as some associations of domestic workers.

Intimate citizenship

Regarding *reproductive rights*, many groups within the Spanish feminist movement have gathered to claim abortion rights since 1970s and 1980s. Some of these feminist organizations have evolved from being small groups in the 70s and 80s to become women's organizations that also provide services concerning gender training and program implementation, such as "*Fundación Mujeres*" (Women's Foundation) or "*Asociación de Mujeres Progresistas*" (Progressive Women's Association). For the sub-issue of *same sex marriage* and *sexual rights* it is important to point at the gay, lesbian, transgender and bisexual organizations (See National Federation for Lesbian, Gay, Bisexual and Transgender Organizations, FELGTB).

Secondly, Femocrats at Women's Agencies (such as the "*Instituto de la Mujer*") and left wing political parties such as Leftist Party (*Izquierda Unida*, IU) and Socialist Party (*Partido Obrero Español*, PSOE) have been very relevant actors, often through women that were active in both realms: feminism and political parties/trade unions.

Lastly and opposed to all the sub-issues regarding intimate citizenship, there are conservative actors that have long defended traditional family values and rigid morality, such as the Catholic Church and the Conservative Party (*Partido Popular*, PP). The Catholic Church is not a political actor *per se*, but in the Spanish context they have played an influential role concerning intimate citizenship, shaping the debates in public policies.

Gender-based violence

In the issue of gender violence in Spain, the feminist movement has had an important and active role during the last 15 years. The demands of the feminist movement were supported by the political parties to the left (PSOE and IU), and this alignment, especially with the Socialist Party, led to the approval of the 'Comprehensive' law in the very first period of the Rodríguez Zapatero government. Regarding the domestic violence issue, the judicial actors have also been important, such as *Consejo General del Poder Judicial*, as well as other public institutions such as the Ombudsman (*Defensor del Pueblo*), the senate and the parliament.

Women's machinery and Spanish femocrats have also been very important actors and agenda setters for the issue of gender violence.

The fight against *sexual harassment* has been headed by left wing parties, under feminist pressure.

Regarding *prostitution*, Catalanian parties are salient actors. In 2006, Carme García (Catalonian Nationalist Party- CiU) presented a proposal in national Parliament in order to study the possible regulation of voluntary prostitution. Spanish trade unions have also played a salient role, especially in prostitution and trafficking, and *sexual harassment*.

Influence of the European Union and other international bodies in each issue

Non-employment

Reconciliation of work and family life. In the context of the European Union, this concept was introduced in the 1970s and was linked to the idea of sharing responsibilities in productive and reproductive work among women and men. Nowadays the issue of reconciliation forms part of the dominant language of the EU,

but it has gradually become associated with liberal market solutions and less with the problem of gender inequality (Stratigaki 2004). Spain has adopted the discourse on reconciliation in the last ten years, partly as a response to EU policies on the issue. The concept 'reconciliation' was introduced in the III Equality Plan (1997-2000), and in the IV Equality Plan (2003-2006) it turned into one of the central areas. 'Reconciliation' has evolved into a recurrent notion that shapes the debates on (non)employment, gender equality and social policy. The Conservative government of *Partido Popular* (1996-2004) made 'reconciliation of work and family life' a key issue of the political agenda. During the Conservative government the 'Reconciliation Law' was adopted. Law 39/1999, which drew upon the European Community Directives 96/34/EC on parental leave and 92/85/CEE on maternity protection in the labour market, illustrated how the reconciliation debate was closely linked to motherhood and rights related to maternity leave. In a context where Spain has come to have one of the lowest birth-rates in Europe, the focus on motherhood long overshadowed other issues such as the care for elderly.

Concerning *tax and benefit policies*, it has been pointed out that there has been an 'Europeanization' of the Spanish welfare State and social policy agenda (Mangen 1996). However, the Spanish system of social protection can be characterized by its peaks of generosity for those who are in the core sectors of the labor market and huge gaps for those who are in irregular employment. For those others in weak labor market positions there are only meager benefits (Threlfall et.al. 2005). Spain has one of the lowest proportions of women in paid employment in Europe and at the same time the social security system has been linked to formal occupation. As men more often maintain a stable relation with the formal labor market they are favored by the social protection system which is based on remunerated work while women to a large extent have to rely on social protection that is based on dependency or an idea of 'special needs' (Carrasco 1997).

Intimate Citizenship

Regarding *reproductive rights*, we can point to some key events, such as the depenalization and access to contraceptives (1974), the abortion law (1985, law 9/1985) and the law on assisted reproduction (1988). Women's Sexual and Reproductive rights did consolidate as human rights in the world conferences of Cairo (1994) and Beijing (1995) and are considered as fundamental to the United Nations Population Fund Activities (UNFPA) to achieve gender equality in Southern and Northern Countries. Reproductive rights are recognised in the Spanish State through the related legal texts: Law for the Voluntary Interruption of Pregnancy (Law 9/1985, *Ley de la Interrupción Voluntaria del Embarazo*); General Health Care Law (Law 14/1986, *Ley General de Sanidad*) and Law for Assisted Reproduction (Law 35/1988, *Ley sobre la Reproducción Asistida*) which is in line with the recommendation 1.046 made by the European Council in 1986.

In addition, European Directives have impacted *sexual rights* much more clearly than the other two issues on reproductive and marriage/divorce/separation rights. One of the first European texts regarding sexuality was the 1989 European Parliament recommendation to member States regarding their role in avoiding the discrimination of transgender individuals. Also, the increasing visibility of gay and lesbian rights in the late nineties emerges while the Amsterdam Treaty is approved and came into force (1999) regarding antidiscrimination, with specific remarks on sexual orientation. Later on, the 2000/78/CE Directive on anti-discrimination and equal treatment in the labour market is passed (which came into force on December 2nd, 2003) and the Socialist Government has committed to implement it within the current legislature. Some of the developments also took place in the regional level, such as the promotion of the Catalonian Interdepartmental Plan, etc. Also, there is another EU directive on free movement passed on 2004 (came into force on April 30th, 2006) that is not implemented yet. It sets out the rules for EU citizens and their family members who wish to move to another member state, including taking up a new job, undertaking studies, etc. It is relevant for same sex families, but Spain has not yet taken action concerning its implementation.

It is difficult to assess the impact of these directives and recommendations, since they aren't always translated into one specific measure. Nonetheless these policy texts do create the legitimation and support needed for the transformation of intimate citizenship, not only in the perception of society and the normalization of sexual minorities, but also in the development of Spanish policy making as a whole (eg. same sex marriage, transgender rights, lgtb policies, etc).

Gender-Based Violence

Regarding *domestic violence*, the so-called 'Comprehensive Law' expected to follow international recommendations on the subject. The Preamble explicitly quotes several United Nations texts, *European Decision 804/2004/EC of the European Parliament and of the Council*, adopting a programme of Community action (2004 to 2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk (the Daphne II programme), among others.

Concerning *sexual harassment*, the more salient text was *Directive 2002/73/EC of the European Parliament and of the Council*, amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. This Directive was transposed on March 2007, thanks to the 'Equality Law' approval.

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