

## SPAIN

### CEDAW A/42/38 (1987)

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

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

240. The representative said that her country's joining the European Economic Community in 1986 increased women's access to legal instruments governing their rights. Discriminatory treatment of women in the media was prohibited and discriminatory advertising had been eliminated. New administrative units of interparliamentary commissions had been created in 10 out of 17 autonomous communities where political actions were set in favor of women.

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

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

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

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

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

different ministries.

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

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

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

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

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

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

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

253. It was asked whether women were at all involved in the process of achieving equality between

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

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

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

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

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

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

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

and the much higher rate in the technical scale.

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

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

262. It was asked whether there was a nationality or domicile requirement for filing an application for divorce, and an inquiry was made about the historical background for the right of women to have the domicile adjudicated by the court. It was asked whether it would not be better to grant married women a domicile of choice. Further information was requested on the new legislation proposed in 1984 in respect of international private law.

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

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

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

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

267. Appreciation was expressed for the widowhood protection provided by the Government, and it was asked whether working women could extend social security protection in the health field also to children, spouses and parents. Appreciation was also expressed on the programmes introduced to encourage occupational training for women. Experts inquired about unemployment insurance in Spain and about measures taken to increase the working hours for women in gainful part-time

employment. Another question concerned the weekly working hours. Details were requested on the public infant care programmes and private child-care institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

300. The representative said that adultery had disappeared as a crime under the terms of the Penal Code. Although it could still be cited as a cause for separation, it had no effect of the custody of children. The removal of parental authority had to be based on the failure to fulfil parental duties or on physical abuse. Single men or women could adopt children. Parental authority was shared by both parents, and children born within and outside wedlock had equal status.

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

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

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

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

## **CEDAW A/47/38 (1992)**

303. The Committee considered the second periodic report of Spain (CEDAW/C/13/Add.19 and Amend.1) at its 201<sup>st</sup> meeting, on 28 January 1992.

304. The Committee thought that the first report had been very good, and noted the strong commitment of Spain to reform, modernization and the equality of women. However, the second periodic report consisted mainly of the 1988-1990 Plan for Equal Opportunities. It did not always show what changes had occurred. Some of the figures were out of date, and did not permit up-to-date comparisons. It seemed to have been written in 1988, though dated 1990. The material was organized in accordance with the following headings: legal system; family and social protection; education and culture; employment and labour relations; and internal cooperation and political organization.

305. The amendment repeated much of the material in the second periodic report, but did not state that it was a replacement.

306. Despite those observations, the report and supplement had a great deal of valuable information, and showed the continuing commitment of Spain to principles of equality.

307. The representative of Spain addressed the Committee and emphasized the importance given by her Government to United Nations conventions of human rights, and to the obligations and objectives associated with the Convention on the Elimination of All Forms of Discrimination against Women. The Government wished that the United Nations would increase its activities related to the role of women. The objectives set forth by the Convention were fully consistent with the Spanish Constitution, which had proclaimed the principle of equality of men and women before the law, and called for measures to make equality fully effective. Continuous government effort was needed to accomplish those objectives.

308. The representative said that a main change since the first periodic report had been Spain's acceptance of European norms on equality and of European programmes of affirmative action for 1980-1985 and 1985-1990, as a consequence of entry into the European Community. Another key event had been the first plan of action for equality of opportunities of women, adopted by the Council of Ministers in September 1988. The Steering Council of the Institute for Women's Affairs (IWA) had drafted the plan and had been entrusted with the initiation and follow-up of the measures contained in it. The plan was comprehensive and horizontal. It had established objectives, measures to meet those objectives and institutions responsible for those measures. The objectives were to be achieved between 1987 and 1990. One of the main objectives of the plan was to complete the normative development of the constitutional principle of equality. The plan was also to give legitimacy to positive action in favor of women, and to enhance the acceptance and implementation of such measures. It was also aimed at developing the social infrastructure for the most disadvantaged women.

309. The representative gave the example of education to illustrate the achievements of the plan. Differences between men and women in education were now of a qualitative rather than a quantitative nature. Female students indeed had a tendency to opt for certain fields of studies that

often had fewer job opportunities, although their representation in the technical field was increasing. Since 1987, female attendance in universities had been slightly higher than that of men. Regular vocational training remained an area where female participation was less than that of male.

310. The representative then provided the Committee with information and statistics on the plan's achievements in the field of employment and stressed that there had been a continuous increase in female activity rates between 1984 and 1991 as the actual rate was 33.3 per cent. That had been done, however, mainly through increased female participation in the service sector. The female labour force remained concentrated in professions related to education, health, textiles and personal services. Female representation in public administration had increased in recent years both in the central administration and in higher or senior-level posts. The lack of an entrepreneurial culture aware of women's capabilities was the leading cause in women's low representation in higher level employment in general, and the representative said that public administration had to take the lead in promoting new recruiting habits. Turning to the issue of women in politics, the representative noted that more women had been elected in both general and local elections. The quota system initiated by the Socialist Party helped because it was followed by other political parties that might not have established concrete quotas but might increase the participation of women in various positions. She concluded that there had been important achievements in Spain, but that a lot remained to be done. Achieving de facto equality implied more progress in the field of education, public participation and for the sharing of domestic tasks.

311. The representative then replied to questions contained in the list that had been transmitted to the Government and referred to general observations made by members of the Committee.

312. She mentioned that the structure of the report was in conformity with the plan of action for equality of opportunities of women. The statistics provided were the most recent available and, where possible, were dated from the first quarter of 1991.

313. The Committee noted that IWA was the agency responsible for implementing equal opportunity for women. The plan of action for equal opportunities of women showed a strong commitment to equality, in line with past achievements. It was asked if there was an evaluation of the plan and if information on any evaluation could be provided

314. Answering questions asked by the Committee on areas of change, the representative reported that the plan of action for equality of opportunities of women had been evaluated in December 1990. Women's associations and experts had been participating in that process together with the ministerial departments involved in the implementation of the plan. Out of the 120 measures contained in the plan, 116 measures had been fulfilled in December 1990. All legislative changes had been implemented with the exception of those dealing with men's pre-eminence in determining the order of names for children. Important improvements had been made through the programme of positive actions, but efforts had to be sustained in the medium term.

315. The Committee noted that the Convention was domestic law and could be invoked in the courts; it overrode inconsistent laws. Laws contravening the Convention were invalid and of no effect. It asked whether women could go to the Constitutional Court and to the Court at Luxembourg, and whether there were any cases that had been decided. It was noted that affirmative

action had been established as lawful when it was due to an objection and reasonable cause that justified it. The Committee asked for the text of that provision and information on laws providing for positive action.

316. On the effect of the Convention in domestic law, the representative read article 10 of the Spanish Constitution, which stated that Spanish norms on fundamental rights and liberties should be interpreted in conformity with the provisions of all international human rights treaties signed by Spain. Hence, the Convention on the Elimination of All Forms of Discrimination against Women could be invoked before ordinary courts as well as before the supreme court. Individuals could resort directly to the constitutional court with regard to violations of fundamental rights and liberties, including the principle of equality affirmed by the Constitution in article 14. There was a wide jurisprudence of the constitutional court on the interpretation of article 14 in conformity with international treaties. By a judgement of 1987, the constitutional court had established that positive action was not a form of discrimination as forbidden by article 14. The court had recalled that public authorities in Spain had the responsibility for promoting the conditions necessary to ensure that all individuals enjoyed freedom and equality, in conformity with article 9.2 of the Constitution. That legitimated the implementation of positive action.

317. The Committee noted that law 11/1990 was aimed at discrimination on the ground of sex. It dealt with residence, common law, inheritance, criminal law, maternal preference etc. It was asked whether all legal discriminations had been removed, including those relating to nationality.

318. The Committee noted that Spain still had a reservation under which ratification did not affect the constitutional provisions concerning succession to the Crown. Preference to men in regard to titles of nobility had been abolished. When the initial report was presented, the possibility of change in regard to succession to the Crown had been mentioned. It was asked if there had been further developments.

319. The representative replied that the Spanish reservation to the Convention did not affect the goal and purpose of the Convention, and that a constitutional reform would be necessary to withdraw it.

#### Articles 1-4

320. On questions asked under articles 1 to 4, the representative informed the Committee that Spanish women's associations were part of the steering Committee of IWA and had participated in the evaluation of the first plan, based on which the second periodic report and the amendment had been prepared. She confirmed that Spain had taken into account the general recommendations of the Committee in preparing its report.

321. The Committee noted that the initial report commented that domestic work was still done by women with little help, and men were not interested in equality issues. It said that the Institute would be undertaking a campaign to encourage men to share domestic responsibility, to encourage parents to ensure all kinds of professions were open to girls and to encourage young people to choose professions with an eye to the future. The Committee asked what the effects of that campaign had been.

## Article 5

322. On article 5 and questions on traditional roles and stereotyping, the representative reported campaigns carried out by IWA to promote a better sharing of domestic responsibilities and a diversification of professional opportunities for young women. Men's attitudes towards women remained very traditional, and the impact of actions against stereotyping would be visible in the medium term only. The representative also referred to the general law of 1988 on advertising. The law had declared unlawful advertising that offended the dignity of a person and was injurious to the values and rights recognized in the Constitution, and it gave judges the right to suspend such advertising until further analysis was made. There was no jurisprudence so far.

323. The Committee asked for the full text of the provision, which could be a valuable model.

324. The Committee mentioned that IWA had put forward criteria to be used in all official advertising and asked if those criteria had been met.

325. The representative said that IWA had made a manual on using non-sexist language in administrative documents.

326. She referred also to a campaign aimed to encourage men to behave according to the principles of equality, and she stated that although men ideologically favor those principles their behavior was contradictory.

## Violence against women (articles 2, 5, 11, 12 and 16)

327. In answer to questions on violence, the representative read the definition of rape contained in the penal code. Since a law of 1989, the code established rape to be carnal access to another person by vaginal, anal or oral means, by the use of force or intimidation or by taking advantage of the victim's insanity, or if the victim was under the age of 12. It was punishable by a prison term of from 12 to 20 years. There had been a change and currently the Supreme Court only required evidence of non-consent by the victim. Some lower courts, however, continued to require evidence of resistance.

328. With regard to sexual harassment, she said that that action was not defined as a crime by the penal code, but as a serious violation of the labour order, punished by a fine. The labour inspection was in charge of implementing that sanction. The representative gave examples of programmes for women victims of sexual assaults. Those included the training of State security forces and the creation of services to give special assistance by women police to women at police stations.

329. On violence in the family, the representative said that rape and other sexual offences were independent crimes in which the active party could be a family member or an unrelated person. In relation to offences involving ill-treatment of one member of a family by another, rape and sexual assault in general were treated more severely. She informed the Committee that, according to the Organic Law of 1989, the sterilization of persons suffering from grave mental deficiencies was legal if approved by a judge and by the legal counsel of the incompetent person.

## Article 6

330. The representative said that prostitution of others was punishable under the penal code. Prosecuting prostitution associated with illegal immigration at the Portuguese border had proved difficult. But the Spanish police had programmes to punish the exploitation of prostitution of both Spanish women and illegal immigrants. Programmes developed by the central, regional or local governments for prostitutes included health-care services, child-care, training for vocational opportunities, fellowships and scholarships.

## Articles 7 and 8

331. The second periodic report commented that there was no significant change in political participation: 6.5 and 5.5 per cent in the Senate. But the Amendment noted that from 1989 the percentage of women in Parliament was 14.6 per cent, owing to the increase in the Socialist Workers Party and the United Left. Of Senators, 10 per cent were women. The Socialist Party had approved a quota of 25 per cent of women in posts of responsibility. It was asked if other parties had followed that example. The Committee asked what goals and quotas had been set for women. It was asked how the quota system operated and if it were for candidates or elected representatives. How did it affect the voting patterns? The Committee noted that the report mentioned a programme for women in higher public office. The amended report noted that there were 12.2 per cent women directors-general in 1991. It was asked if those programmes had been effective.

332. The representative said that the Communist Party had introduced a quota of 35 per cent for the participation of women in its governing body and on its electoral lists. Other parties had actually started to include larger numbers of women on their lists. The quota system in the context of closed electoral lists had led to an increase in the number of women in regional assemblies and in the national parliament. Participation of women at higher levels of public administration had also risen between 1987 and 1991. The programme of affirmative action had played a key role, together with the increased participation of women in civil service training institutes.

333. The Committee noted that under Decree Law 1/1988, women might enter all forms of military employment under the same conditions of equality as men. The Committee enquired if women had reached the highest levels of the service and if there were any distinctions that excluded them.

334. The representative replied that there was no distinct exclusion of women from the higher levels of the service, but that there had been no time for women who had joined the army to develop fully their career.

335. On a question on women in the diplomatic corps, she said that their share had increased by more than 100 per cent, and that 50 per cent of the successful candidates in the last entrance competition in 1991 had been women.

## Article 10

336. The Committee noted that the initial report stated that only a minority of women had chosen technical studies. Plans mentioned to the Committee had included mixed schools to be obligatory;

reform of teaching material; and programmes to increase the participation of girls in technology. In the second periodic report, the figures for education were only up to 1985. In the amendment, the latest information was that women were equal in enrolments at secondary schools, and higher in tertiary institutions. But while there were more females than males in universities, there were fewer in vocational training; and still fewer in technical high schools. Women chose science less often than boys. The Committee asked what vocational guidance was available to people completing secondary education; what measures there were to encourage more women to take vocational training, or to study technology at university; whether they had been effective in combating gender-based job segregation; whether there were positive measures, such as special scholarships, to encourage women to take up careers in non-traditional areas; and what was being done to monitor the plan for non-sexist use of language, and teaching material.

337. In answer to several questions, the representative reported various programmes to train professors and school guidance counselors on non-discriminatory vocational guidance. She also reported programmes to enhance female participation in new technologies, including a European Community project and counseling campaigns for educators and teachers of new technology. Such programmes contributed to promote women's participation in sectors of employment traditionally considered as male. Other measures in the area included campaigns for the diversification of professional options, through the diffusion of posters, for example, or through seminars on non-sexist orientation. The representative addressed the issue of the monitoring of the plan for non-sexist use of language and reported a whole range of activities. For example, material and videos of IWA on sex equality were being broadly circulated, a prize had been established in 1988 to promote the production of non-discriminatory didactic material and the Ministry of Education had established a national competition for the preparation of curriculum material giving special attention to the equality of opportunity between men and women.

#### Article 11

338. It was stated by the Committee that 31.9 per cent of women were in the active population in 1987 (compared with 27.8 per cent in 1985), representing 33.5 per cent of the total active population. In 1991, women were 35.3 per cent of the total active population. The Committee asked what the obstacles were to higher participation in the work force by women and if there were de facto obstructions to training etc.

339. The unemployment rate of women was 27.7 per cent and for men it was 16.5 per cent. In 1991, women had an unemployment rate of 23.2 per cent against 11.9 per cent for men. The Committee asked what the education and skills were of unemployed women and if a lack of training was the reason for high unemployment.

340. In answer, the representative differentiated between three main obstacles to women's participation in the economy: entrepreneurial culture; under-evaluation of their capacity by the women themselves; and unshared family responsibilities. She said that there were no de facto obstacles to access to professional training. The female unemployment rate had decreased but remained twice as high as that of men. Lack of training was not the only explanation to female higher unemployment, though poorly educated women, especially those who had left the labour market for several years for family reasons, indeed experienced higher unemployment rates. There

were also corporate obstacles to women's activity.

341. The Committee noted that law 3/1989 extended maternity leave to 16 weeks; it could be shared. A parent could take three years to look after a child and retain his/her place and have the period count for seniority. It had been made an offence to discriminate in respect of wages, hours etc. on the ground of sex; breach of rules regarding pregnancy and nursing were also offences. Decree 521/1990 reversed the burden of proof in discrimination cases, so that the defendant had to show objective and reasonable justification for the actions taken.

342. The Committee asked (a) for more information on how those laws operated and asked if there had been proceedings or prosecutions and if they were leading to changes in practice; (b) if the evaluation of the labour market and women programmes had taken place; (c) if part-time jobs were mainly held by women, and if they were regulated by national labour agreements; (d) if part-time workers had the same terms and conditions as full-time workers; and (e) if there were special programmes to encourage the employment of disabled women.

343. Turning to questions on parental leave, the representative said that the law providing for an extended 16 weeks of leave allowed the last four weeks to be used by either the father or the mother. That choice was also given for the leave for child care. The dismissal of a woman because she was pregnant was considered null by law and the employer was forced to readmit the worker or to pay her salary. A 1990 law had recognized the reversal of the burden of proof. But it had been actually applied when a female worker alleged discrimination on the basis of sex, since a 1981 sentence of the constitutional court. The representative said that there were very few part-time workers in Spain, but that they were entitled to the same social security schemes as full-time workers. She also reported programmes for the educational and professional training of men and women with disabilities, and informed the Committee that quotas had been reserved for persons with disabilities in enterprises with more than 25 employees.

## Article 12

344. The Committee requested figures for fertility and birth rates. It said that despite the fact of contraception a high proportion did not use efficient methods. It seemed more education on contraception was needed and asked if there were programmes for that. It also wanted to know the results of the study of adolescent pregnancies.

345. The representative answered that the Organic Law on the General Organization of the Educational System provided for the incorporation of health education in the educational system and that the fertility rate had declined from 1.64 per cent in 1985 to 1.36 per cent in 1989. Studies showed that the use of contraceptive methods was higher among women who had declared that they had a partner than among the female population of fertile age as a whole. The representative gave examples of programmes to increase awareness of contraception such as pilot programmes for sex education of young people. On teenage pregnancy, she said that the last survey was dated from 1985 and had counted 29,586 births among women under 20 years of age. Consequences included school drop-out and medical problems linked to attempts to conceal the pregnancy as long as possible. Answering questions on the law on assisted techniques of reproduction, the representative said that every woman could make use of those techniques as long as she gave her consent on their free and



aware utilization, was more than 18 years old and fully competent. There was an express prohibition against surrogate motherhood.

346. She said that the latest data on the acquired immunodeficiency syndrome (AIDS) revealed that 6,840 men and 1,359 women were affected, and women represented 17 per cent of all victims. The national programme for AIDS care and prevention included specific activities for women, and IWA had published an informative bulletin on women and AIDS.

347. The representative then answered a question on breast and gynecological cancer. There was no national programme for the prevention of those cancers. There were, however, pilot studies to evaluate the efficiency of the different tests. Primary prevention included research on possible risk factors for breast cancer such as nutrition habits, while secondary prevention included mammography and periodic testing, and participation in a European programme on cancer. There had been various programmes developed by the autonomous communities and private health centres to prevent such cancer and all autonomous communities were to elaborate plans to reduce mortality from such cancer among the female population below 65 by 5 per cent by the year 2000.

348. The representative finally provided the committee with information on drug consumption and said it had emerged as a problem in the 1970s and 1980s, and had become rather high. The number of drug users who resorted to the health system had increased between 1987 and 1990. The autonomous communities had their own plan for the prevention and cure of drug abuse. She presented the 1985 national drug prevention plan, the relative institutions that had been established, and the indicators used and some of its realizations.

### Article 13

349. The Committee noted that action had been taken since the initial report to remedy deficiencies in the provision of social services. A guarantee fund had been established for food and accommodation and for social security for people employed in the home; unequal treatment in pension scales for disabled and injured women had been removed. The tariff for compensation for disability was the same for women as for men now since May 1988. The old age pension for those unemployed at home was equal to the general pension. It asked if the new social security measures and guarantee fund referred to the unwaged sector of the economy and if women working in the family enterprises, or at home, got social security. Also, who paid contributions, and at what age were benefits paid. And what social security was available for homemakers on retirement or disability. Did they qualify independently, or as dependants?

350. The representative said that public health services were universal in Spain. The key factor for determining if a person employed at home or as a family worker would receive a pension was whether or not she had contributed to the pension scheme during a sufficient number of years. If not, she would receive financial assistance other than a pension, provided she met a number of additional conditions associated with retirement or invalidity payments. Non-contributory pensions were recognized as a right of the beneficiary that could be claimed as such and was not subject to the existence of resources or granted as a gracious concession, and they formed part of the social security system as a whole.

## Article 14

351. In the initial report it was noted that Spain was mainly industrial, and the services for rural women were not so good, e.g. young rural women were disadvantaged in such areas as family planning, child care for seasonal workers and access to technology. It was asked what special programmes were being planned to improve the position of rural women.

352. The representative informed the Committee that funds had been allocated in the budget for 1992 for training courses for women in rural areas. Training for work in cooperatives or in rural tourism would be provided, especially to women with children.

## Article 16

353. In answer to queries, the representative said that courts had been instituted in major Spanish towns to deal with marriage, divorce and separation and other issues. Specialized personnel including social workers and psychologists provided assistance.

354. In their additional comments members praised the Spanish Government and its representative for the comprehensive, frank and well-organized reports and answers. There was a strong governmental commitment to improve the situation of women in Spain, and significant progress had been achieved in a short time. The plan of action for equality of opportunities of women was found very ambitious and successful. The law against sexist advertising and actions against stereotyping in employment and education was considered especially successful. Members noted that the de facto changes were slow, despite big advances made in the legal field. Areas of slow progress included the sharing of domestic tasks and child care with men, participation in studies on science, as well as economic participation. New threats were AIDS and drugs. Members were confident however that progress would continue, and felt that Spain could serve as a model for other countries with regard to the promotion of equality.

355. Members requested more information on the decentralization of the policy for equality to the various regions in Spain. They asked if the successful adoption of legal changes had led to a decline in the feminist movement. Members asked what the goals were for the next period of reporting and whether changes in attitudes, especially with regard to the sharing of domestic responsibilities between men and women, had been identified as an area for further progress. Had there been action to encourage men to participate more fully in those tasks? The representative was asked if a prosecutor who took note of a crime of rape could set up a procedure in court without the crime being notified by the victim. Members asked whether there was a law establishing a quota system for political elections, whether there was always the political will among those in charge of the parties to put more women on the lists and, if not, what was done about it. They noted that there were no women in the constitutional court and sought information on the number of women in the rest of the judiciary system. They asked if the increase in the share of women in the diplomatic corps reflected difficulties in finding employment on the labour market in general. Members took note of research on obstacles to equal access to education and asked what had been done to adapt research to the modern society. They expressed the wish that all graphic material on non-sexist education could be made available to the Committee. Members sought more information on incentives granted to enterprises hiring women in traditionally male fields. They asked whether the

law allowed doctors to refuse to perform abortions on the ground of religious or moral reasons, whether the method was practised. They also sought information on the age of women who had an abortion, and on the health structure in which abortion was performed.

356. In answering additional questions asked by members, the representative said that regional governments and sometimes local administrations had comprehensive plans for equality of opportunity. Those included measures within their field of competence. In regions governed by the Socialist Party, there were plans on equality of opportunity. She confirmed that there had been a decline in the feminist movement as a result of the achievement of de jure equality but said that women had increasingly participated in the associative women's movement.

357. The representative agreed that much work remained to be done to change attitudes in Spain and to reduce the double burden of women. Spain's four main goals for the future were to ensure compliance with laws on equality and to apply fully and effectively their goals; to continue pursuing policies for education and promotion employment that would also place women in decision-making positions; to change attitudes and improve the public image of women; and to promote the sharing of domestic responsibilities. She hoped the Government would adopt the second plan for the development of women encompassing those measures in 1992.

358. On rape, the representative said that a modification of the law had made it a public offence, which meant that an offender could no longer be pardoned in the course of the procedure if the victim forgave him.

359. Turning to additional questions on public life and leadership, she said that there was no law establishing a quota system. The Socialist Party had set a precedent and convinced other parties to establish quotas or include more women. On the existence of political will to promote women inside political parties, she said that electoral lists were indeed established by the leaders of political parties and that quotas had been established to overcome their tendency to exclude women. She recognized that the objectives on political participation had not been reached, although there had been a favourable trend as regards women's representation in Parliament, which could and had to be accelerated. There were no women in the Supreme Court, she confirmed, but they were numerous in the judiciary. Thirty-eight per cent of the judges and 31 per cent of the prosecutors were women, and it was hoped that they would pursue their careers and occupy high-level positions in the future. Turning to the increased number of women in the diplomatic corps, she said it was not an effect of recession, since Spain had satisfactory economic growth rates. Like other fields of public administration it was rather due to a system of recruitment based on merit, which was not always the case in the private sector.

360-369. On education, the representative said that female representation was lower in technical and engineering schools, but that half the students studying mathematics and science were women. She said that research on education in general would be pursued.

370. The representative said that there had been 500,000 peseta subsidies to employers hiring women in non-traditional fields, and another 500,000 pesetas in tax release. The provision concerned all professions where women were under represented, which constituted a long list. The measure had not had the positive effect expected because it was still not sufficiently well known.

Similar measures had worked for encouraging the employment of young people.

371. Turning to questions on abortion, the representative said that the revision of article 417 of the Spanish Penal Code had legalized abortion under certain specific conditions: when there was a risk to the life or health of the mother, when the pregnancy was the consequence of rape or when there was a presumption that the foetus would be born with serious physical or mental defects. While most abortions were performed in private clinics, 98 per cent of those with high risk were performed in public clinics. The representative stated that the Committee's concern for drug traffic was fully shared by the Government and that Spain was a port of entry for drugs. She recalled that numerous measures had been taken by public authorities in that field.

372. The representative made available to the Committee the full text of the general law on advertising, and the educational material it had requested.

373. In concluding observations, the Committee expressed its appreciation of the comprehensive report and answers, which showed the Government's commitment to achieving equality and improvements in the situation of women. It noted that there were areas of progress and areas of slower changes, and said that the Government's determination was very positive. Members appealed to the Spanish Government to direct part of its assistance to developing countries to programmes for women, and for areas of implementation of the Convention in particular. The representative took note of the appeal and said that she hoped that the Government would be able to give a satisfactory answer, and that that had been done to a certain extent in assistance to Spanish-speaking countries.

## **CEDAW A/54/38/Rev.1 (1999)**

236. The Committee considered the third and fourth periodic reports of Spain (CEDAW/C/ESP/3 and CEDAW/C/ESP/4) at its 436<sup>th</sup> and 437<sup>th</sup> meetings, on 17 June 1999.

### **(a) Introduction by the State party**

237. In introducing the report, the representative of Spain pointed out that the benchmarks for Spain's national programmes on equality of opportunities had been derived from the platforms and plans of action which had been approved at the various global conferences, from earlier regional preparatory meetings and from the European Union. A number of legal reforms had been adopted to guarantee equality in the entire body of Spanish laws.

238. The representative informed the Committee of the various institutional mechanisms which had been established. The Constitution provided for competencies in the area of equality of opportunities to be distributed between the State, autonomous communities and town councils and, as a result, administrations for the promotion of equality existed in all autonomous communities and women's affairs units had been established in numerous town councils. At the national level, the Institute for Women's Issues, which was attached to the Ministry of Labour and Social Affairs, was the agency charged with promoting government policies in the area of equality. The Minister of Labour and Social Affairs chaired the Institute's Governing Council, which was responsible for implementing policies to coordinate the work of the different ministerial departments concerned with women. The objective of the Directorate-General of the Institute was to ensure maximum coherence in the various equal opportunity policies elaborated by the national Government and the autonomous communities. Non-governmental organizations participated in the work of the Governing Council and received technical and financial assistance for the implementation of specific programmes.

239. The representative outlined the priorities of the different Plans of Action for Equal Opportunities. The main objective of the First Plan (1988-1990) was to enact legislation that would ensure consistency between the domestic legal order and the provisions of the Constitution with respect to the protection and guarantee of equality. The Second Plan (1993-1995) was focused primarily on education, vocational training and health. The Third Plan (1997-2000) had followed the lines of European policies in that area, with a view to promoting a common policy and ensuring gender mainstreaming in all programmes and policies.

240. The representative informed the Committee of the progress that had been made in the field of education, in which women had made significant strides. For example, in only seven years, the number of women who had submitted doctoral theses had risen by 202 per cent. Gender-based inequalities in vocational training and higher education had been reduced considerably, even though some gender-based differences remained in the choice of fields of study. A review of teaching materials and curricula had been begun in collaboration with the universities and a start had also been made on the mainstreaming of gender in training courses. The Ministry of Education and the Spanish Confederation of Associations of Parents of Students jointly promoted non-sexist teaching, sex education and shared family responsibilities. A commission had undertaken a critical review of the dictionary of the Spanish Royal Academy and had published various proposals for inclusion

in a new edition of the dictionary.

241. The employment rate for women had gone up during the 1990s, following the adoption of a variety of measures. The Spanish Kingdom's Action Plan for Employment promoted, *inter alia*, entrepreneurship among women and their insertion into the workforce. The Institute for Women's Issues, in collaboration with the Federation of Chambers of Commerce of Spain, provided technical and financial assistance to a large number of women entrepreneurs. The draft legislation aimed at reconciling the family and working lives of women, which had been submitted to Parliament, contained provisions for maternity or paternity leave.

242. Despite the recent advances made, participation in decision-making, which was another area of key importance for the advancement of women, continued to be limited. The percentage of women parliamentarians had increased from 15 per cent in 1989-1993 to 22 per cent in the national Parliament and from 7 per cent to 20 per cent in the parliaments of the autonomous communities. The number of women employed in ministries, State secretariats and the public service had increased considerably, to 45 per cent. Studies and campaigns had been carried out to ensure more active participation by women in political and social life, but the structures and organizations of power, which were male dominated, continued to be an obstacle.

243. Her Government had adopted numerous measures to eliminate violence against women. In 1998, it had approved the 1998-2000 Plan of Action on violence against women, which had been prepared in collaboration with ministerial departments, autonomous communities, local municipal councils and non-governmental organizations. The Plan contained elements for a comprehensive response to the problem of violence against women, including awareness-raising and prevention, education and training, social resources, health, legislation and judicial practice, and investigation.

244. The representative highlighted the important role of the information media and informed the Committee of the work being done by the Advertising Monitoring Unit, which had made an important contribution to the elimination of discrimination in the portrayal of women in the media.

245. The situation of women in rural areas had changed considerably, since young rural women sought employment outside of agriculture and the home. Only 25 per cent of rural landowners were women, while the average size of their properties was only a third of that of male landowners.

246. Priority areas in the field of the advancement of women and health were the prevention of gynecological cancer, care for pregnant women, menopause, information on and followup of contraceptive use, and the prevention of unwanted pregnancies, especially among adolescents.

247. She concluded by stressing that inequality had ceased to be a problem that affected only women and had become a social problem.

## **(b) Concluding comments by the Committee**

### **Introduction**

248. The Committee expresses its appreciation to the Government of Spain for submitting detailed

third and fourth periodic reports, containing data disaggregated by sex. It commends the Government for the comprehensive written replies to the Committee's questions and its oral presentation, which provided additional information on the current situation of the implementation of the Convention. It appreciates the frank and open manner in which the State party shared with the Committee its analysis of the situation of women and the identification of areas for further progress.

249. The Committee commends the Government of Spain for having sent a large delegation, headed by the Director-General of the Institute for Women's Issues. The Committee notes that recent governmental action, and in particular the Third Plan of Action for Equal Opportunities, are placed within the context of the implementation of the Beijing Platform for Action.

### **Positive aspects**

250. The Committee commends the Government on its strong commitment to achieving equality and equal opportunities for women, reflected in the sustained progress it has achieved in implementing the convention since the consideration of the second periodic report in 1992.

251. The Committee welcomes the adoption of the Third Plan of Action for Equal Opportunities (1997-2000). It welcomes the introduction of gender mainstreaming as a strategy involving all State bodies, the autonomous communities and civil society, as well as the view that the achievement of gender equality is a societal concern rather than a women's issue, and is the responsibility of the State and its authorities.

252. The Committee commends the work of the Institute for Women's Issues and commends the Government on the establishment of the Sectoral Women's Conference as a consultative and deliberative body to ensure consistency between the State's equality and equal opportunities policy and those of the autonomous communities.

253. The Committee notes with appreciation the use of affirmative action measures, especially in the field of employment to overcome obstacles to women's de facto equality. It also commends the Government on the adoption, in April 1998, of a Plan of Action on violence against women with specific budgetary allocations for each of the areas covered by the Plan. It notes the high level of women's educational achievement, especially at the tertiary level. The Committee commends the Government for recognizing, and addressing by different means, stereotypical attitudes as a major source of women's continuing disadvantage.

### **Factors and difficulties affecting the implementation of the Convention**

254. The Committee notes that there are no significant factors or difficulties which prevent the effective implementation of the Convention in Spain.

### **Principal areas of concern and recommendations**

255. The Committee notes that the Spanish Constitution allows for a high degree of decentralization and that competence in respect of equal opportunities has been transferred to the autonomous

communities. While noting that such decentralization may facilitate greater involvement of citizens, in particular women, in decision-making processes, the Committee expresses its concern that in the absence of effective monitoring mechanisms of the national Government, such decentralization may lead to an uneven enjoyment by women of the rights protected under the Convention in the State party.

256. The Committee recommends that the Government carefully monitor equality measures taken at the level of the autonomous communities and their coherence and accountability with national equality policies. It also urges the Government to ensure strong links between the central and local Governments and full support to the Women's Sectoral Conference so as to enable it to implement fully its role as a mechanism for collaboration between the central and regional governments.

257. The Committee expresses concern that notwithstanding the Government's active policy and concrete measures to eliminate them, stereotypical gender-based attitudes persist with regard to the roles of women and men in the home, in the workplace and in society. The committee is particularly concerned that while women are gradually becoming integrated into the world of work, men are not becoming involved in parental and household tasks in a comparable rate and manner.

258. The Committee recommends that high priority be placed on efforts to eradicate traditional stereotypes that perpetuate direct and indirect discrimination against women. The Committee encourages the State party to strengthen educational measures, beginning at a very early age, and to increase its collaboration with civil society organizations, the media and the private sector so as to achieve greater balance in the roles and responsibilities of women and men, particularly in the sharing of family responsibilities. In promoting this policy, it is also necessary simultaneously to encourage greater participation of women in decision-making in public life.

259. The Committee notes that women's participation in the labour market is one of the priority areas in the Third Plan of Action, and that the Employment Plan for 1998 is also contributing to a change in the situation of women in the labour market. These measures notwithstanding, the Committee is concerned that women's overall participation in the labour market is one of the lowest among Western European countries, with only 32 per cent of women holding full-time employment, while the rate of women in part-time employment remains at 76 per cent. Women's unemployment rate is almost double that of men and, on average, women earn about 30 per cent less than men. While new legislation protecting part-time workers was introduced in 1998 to promote such employment, the Committee expresses concern that these measures may lead to short-term gains in women's employment, without addressing long-term structural issues of women's double burden of paid and unpaid work. These measures may also lead to the perpetuation and reinforcement of stereotypical attitudes about women's family responsibilities, rather than increasing their participation in the labour market.

260. The Committee urges the Government to monitor carefully the impact of legislation governing part-time work and its potential for unintentionally trapping women in this type of employment. The Committee also urges the Government to assess continuously the adequacy of its incentive programmes for women entrepreneurs and to monitor the need for comprehensive programmes providing information, training, economic incentives and skills development to ensure success for women in small and medium-sized enterprises.



261. While welcoming women's high level of educational achievement, especially at the university level where women are in the majority, the Committee expresses concern that those achievements are not yet reflected in women's equivalent access to, and representation in, the labour market. In particular, while men's and women's share in public-sector employment is balanced, men hold two thirds of all jobs in the private sector.

262. The Committee recommends that the Government study the causes for women remaining under-represented in employment commensurate with their educational level, and examine, in particular, recruitment practices, training and professional development opportunities offered in the private sector with a view to assessing their potential for indirect discrimination against women.

263. While welcoming the adoption of a Plan of Action on violence against women (1998-2000) covering six areas of activity and with specific resource allocation for each area, and the amendment to the Penal Code in 1999 concerning offences against sexual freedom, as well as on trafficking, the Committee is concerned about the apparent increase in domestic violence.

264. The Committee urges the Government to ensure that rigorous attention is paid to domestic violence in the implementation of the Plan of Action. The effectiveness of the steps taken should be monitored on a regular basis, and a comprehensive impact assessment undertaken at the end of the period covered by the Plan. The Committee also recommends that as experience is gained from implementation of the Plan based on good practices the Government continue to introduce appropriate measures to eliminate domestic violence. It further urges that domestic violence issues be included as a mandatory part of the basic training of law enforcement personnel, and that investigation and prosecution of domestic violence complaints be undertaken on a par with other criminal offences.

265. The Committee is concerned at the significant increase in abortions among adolescents aged 15 to 19 years old.

266. The Committee recommends that abortions among adolescents be addressed by a multiplicity of means, including age-appropriate sex education in primary and secondary schools.

267. Notwithstanding the existence of a good preventive policy on HIV/AIDS, the Committee is concerned at the increase in women's infection rate with HIV/AIDS. The Committee is also concerned at the high level of women's drug and tobacco consumption and other substance abuses.

268. The Committee recommends that awareness-raising campaigns be undertaken concerning the preventable health hazards stemming from tobacco consumption, and that the need be assessed for additional regulatory and education measures to prevent and reduce smoking by women, especially among adolescents and young women. The Committee also calls for further study of the causes for the increase in drug and alcohol use among women. The Committee invites the State party to provide in its next report detailed information on the provision of health services and health insurance to women, and in particular the potential and actual impact of women of any steps considered or taken towards privatization of the health sector.

269. While the Committee appreciates the Government's declared intention to apply the gender

mainstreaming strategy in all policies and programmes, it notes the absence of any systematic attention to, or policy directed at the changes in the demographic composition of the State party. It notes a lack of attention to the situation of older women and the implications of demographic changes for women's health, poverty, pension entitlements and elder abuse. The Committee is particularly concerned that, according to the oral replies of the State party, women's domestic work and care for older persons are the two most important obstacles to women's equal participation in public life, and that 83 per cent of those caring for older persons are women.

270. The Committee recommends that the situation of older women be addressed in a comprehensive manner in the next Plan of Equal Opportunities as a matter of priority, and in a cross-cutting and cross-sectoral manner, with emphasis on older women's pension entitlements. It also recommends that the care requirements for older persons be addressed through public policy measures in order to establish societal responsibility for their well-being, rather than allowing it to remain predominantly as women's unpaid responsibility.

271. While the Committee notes the efforts deployed to reduce the illiteracy rate among women, it urges the Government to strengthen this policy in order to reduce women's illiteracy and thereby enable them to have access to information concerning their rights under the Convention.

272. The Committee is concerned at the lack of information on the number and type of women's studies courses at institutions of higher learning. It recommends that the Government provide this information in its next periodic report.

273. The Committee notes with appreciation that the issue of women in rural settings is one of the 10 areas of concern in the Third Plan of Action for Equal Opportunities. At the same time, the committee is concerned about the lack of data with regard to rural women's poverty, employment rate, health situation, and educational achievement. It also notes a lack of data and information on the situation of other groups of particularly vulnerable women, such as disabled women.

274. The Committee is concerned at the situation of foreign women workers in domestic service, asylum seekers and women who may be living clandestinely in Spain. The Committee is concerned that these women may lack adequate protection from violence and abuse.

275. The Committee recommends that the situation of these women workers be assessed in greater depth, with particular emphasis on the types of work, legislative provisions governing their employment, and de facto situation. It also recommends that measures be taken to improve their level of literacy, including legal literacy.

276. The Committee requests that the Government respond in its next periodic report to the specific issues raised in these concluding comments.

277. The Committee requests the wide dissemination in Spain of the present concluding comments, in order to make the people of Spain, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and further steps that are required in that regard. It also requests the Government to continue to disseminate widely, and in particular, to women's and human rights organizations, the Convention, the

Committee's general recommendations and the Beijing Declaration and Platform for Action.