

# Civil Society Shadow Report 2008 – 2013

## CEDAW 61<sup>o</sup> Session - United Nations

### Executive Summary

The situation of western women has improved substantially since the creation of the CEDAW. As legislation equalize men and women in every field, the implementation of radical and extremist laws, as well as positive discrimination legislation which violate human rights are not justified and, in many cases, it undermines women instead of helping them. Furthermore, the undefined increase of public funds intended for prevention on women discrimination, if it is not accompanied by improvements, it does not achieve its means and therefore it is necessary to analyze the causes and change the strategy.

The report we now present answers to the scheme of presenting the breaches certain laws infringe against the CEDAW's articles and recommendations, the actual real situation in Spain, the legislation and injured rights as well as the negative consequences of the law for woman and as the opinions to improve women situation. That is what for the following laws are analysed:

#### **1<sup>o</sup> Organic Law 2/2010 of March 3<sup>rd</sup> on Sexual and Reproductive Health and on Voluntary Pregnancy Interruption (LOSSRIVE) which refers to *Women and Health Area***

**Articles 4b), 5b) and 12.2 of CEDAW** on maternity protection and protection of women during pregnancy, childbirth and postpartum are not fulfilled:

- **On the need to reduce the number of abortions:** This law has led to a serious damage for women in Spain as the number of abortions have increasead dramatically.

The decrease of the number of abortions is an UNO aim's and one of the objections repeatedly manifested by the CEDAW towards Spanish politics on the excessive number of abortions and to the WHO recommendations regarding the fact that should be established policies to reduce the number of abortive women.

In most cases women are persuaded even though they do not want to have an abortion. The social pressure creates a situation of institutional violence.. The solution would be to establish specialized agencies to support pregnant women who wish to continue their pregnancy and could identify cases of imposed abortion.

- **On the physical and psychic consequences of abortion in women**

The implementation of the present law has not put into consideration this harmful consequences. For instance the NGO's which support this report, in benefit to the health and the rights of pregnant women have the following proposals: For the recurrent emergence of the psychological symptoms known as Post Abortion Syndrome (PAS) we recommend to create aiding centres to take care of the psychological consequences provoked by abortion. The women must have a complete, accurate and previous information about the risks and consequences of having an abortion, as there is legislation to protect the patient's autonomy and therefore give their informed consent.

- **On the protection to minors under special vulnerability situation.**

Nowadays in force law allows abortion practice of minors without parental consent not even with their knowledge. This is a relevant gap that leaves the teenagers lonely, vulnerable and in a defenceless situation. We propose to eliminate this article of the legislation.

## **2º Education Laws and Sexual Education Programmes (LOE, LOMCE, LOSSRIVE)**

**CEDAW General Recommendation no 3** on the effective adoption of education and public information programmes, which will help to eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women is not being observed:

The present situation of Spain in reference to equality throughout education is favorable as the great majority of the population has interiorized this aspect. Women have a lower rate of school withdrawal than men and also there are more women attending to university than men. Thus every legislation that violates human rights with the aim of forcing an assumed equality can only create violence and injustice.

This laws had included into curricula a subject that clearly violates the fundamental rights of parents to educate their children in order to their own ideas, convictions and liberty. We ask for the removal of this controversial subject (named Education for Citizenship) because it gives no scientific arguments to what it is taught and the false biologic equality that it defends hinder justice in the social rol of women. The new educational law (LOMCE) includes the possibility to choose the subjects that have a moral or ideological content.

On the other hand the obligatory sexual education has just led into unexpected pregnancies on teenagers and sexually transmitted diseases.

## **3º Organic Law 3/2007 of March 22th for the Effective Equality of Women and Men (LOIEMH) which affect to *Human rights of women and Women and Economy***

**CEDAW's Article 11.f.** on the safeguarding of the function of reproduction, freely chosen by women is not fulfilled.

### **- Maternity discrimination and scarce social recognition of women as mothers.**

In western societies with the equality legislations, the only discriminatory effective cause is the consequences of the biological role of women. They are discriminated due to their maternity not only at work but also in society. Mothers who stop working just because they choose voluntarily and freely to devote themselves exclusively to their family suffer social death discrimination and become considered to be useless and second category citizens. We propose a law reform that: increase the flexibility of labour schedule, promote teleworking, include family friendly policies, boost the hiring of women who are mothers, campaigns to create awareness of respect and value of women who choose to take care of their families as a full time not paid job, and the complaint and legal pursuit of any discriminatory act, both in society and in the workplace, with the working woman who wants to have children or to be dedicated exclusively or in part to the care of her family.

## **4º Organic Law 1/2004 on Comprehensive Protection Measures against Gender-Based Violence (LIVG)**

**CEDAW's Preamble and Articles 2a) and 4b)** on the equality of men and women and **Article 5b)** on shared responsibility for women and men for their children's education and the prevalent and fundamental interest of the children are not fulfilled:

In the case of violence against women, Spain has some of the lowest rates in the EU, compared to countries whose affirmative action policies for women have not yet been implemented or have been in force for a short time. On the other hand, "gender" violence is not seen in Spain as a social problem since in the national surveys it is far down the list of citizens' concerns.

The CEDAW recommendations admit positive discriminatory measures provided that are temporally limited. In the case of this law the analysis shows that the LIVG is a sexist and discriminatory law because:

- It punishes as a crime any complaint of a woman against a man, and condemns more harshly the same offense by perpetrator's sex assuming sexist cultural reasons that are not to be proven necessarily in each individual trial. Any outsider could indicate that there is not the required equality before the law when the same crime gets a harder punishment if committed by a man.
- It does away with the presumption of innocence creating "de auteur" crimes by the fact that it is committed by a man. The declaration by female prosecution, without evidence, is sufficient. There are NO procedural guarantees and presumption of innocence is violated.
- The complaint of abuse, however false, means the arrest of the defendant and the restraining order from his children, even without injury report or even if a medical report stating ABSENCE OF INJURIES exists.
- False accusations are not prosecuted, despite being an offense and throw the man in utter defencelessness.

This law has promoted an industry of gender violence by the State giving certain amount of money to the feminist's collectives for each divorce complaint they take into the court. This has led into false cases, judicial collapse, injustice situations and fraud.

It is vital to repeal this sexist law and equality of sexes to be strictly applied because it: produces a situation of injustice and structural and institutional violence to the man, undermines the credibility of real allegations which is prejudicial to the real victims,, subtracts expenses funds and judicial structures, apart from the "economic incentives" to get complaints, albeit false, that could be applied to assist in real violence cases, is NOT demonstrable that it has managed to lower the figures of violence against women. and is a measure of affirmative action that violates basic rights, so CEDAW recommends using it on temporary basis. It is time to repeal this law and normalize the situation.

## **5º About the importance of Civil Society's participation on the CEDAW shadow reports and its involvement in the public life through associations.**

**In various CEDAW recommendations.** Spain there is only support, information and assistance to a type of profile of civil society. A large part of society has been deprived of its voice and its right to be represented.

Furthermore, **in 2009 the point 14 of the concluding observations of the CEDAW Committee to Spain (CEDAW/C/ESP/6)** urged the State to implement the Participation Council of Women, created by the Equality Law 3/2007, for the important role of NGOs in promoting equality. Today the Council has still not provided actual channel for the participation of NGOs as it excludes a large part of civil society including only representatives of a kind of feminism that is increasingly dissociated from real women, their concerns and their real and common problems.