

Country Visit to Spain
Report of June Zeitlin, the Special Representative of the OSCE Chairperson-in-Office on Gender Issues
November 11-November 13, 2013

Introduction

The goal of my visit to Spain was to examine and raise issues related to gender equality. More specifically, during my visit I focused on women's political participation, non-discrimination, violence against women, and the impact of the economic crisis on women. My visit was framed by the OSCE's commitments on gender equality. These focus on promoting gender equality and gender mainstreaming within the organization, and encouraging states to implement OSCE gender equality commitments in six priority areas (protection against discrimination, prevention of violence against women, promotion of women's participation in the political and public sphere, promotion of women's participation in conflict prevention and resolution, enhancement of equal opportunities for women in the economic sphere, and the creation of national mechanisms to promote the advancement of women).¹

I wish to thank the Spanish Ministry for Foreign Affairs and Cooperation for their warm welcome to Spain and for arranging an interesting and extensive program. I would also like to acknowledge the various non-governmental organizations that helped arrange meetings with civil society for me. Finally, I would like to give a special note of thanks to all of the individuals and organizations that took time to meet with me during my visit to Spain.

This report reflects my views as the Special Representative of the OSCE Chairperson-In-Office on Gender Issues and is based on discussions that took place during my visit (see attached list of meetings). It concludes with my recommendations.

Legal and Institutional Context

In preparation for my visit to Spain I reviewed the following documents: the Sixth periodic report of Spain to the CEDAW Committee², the CEDAW Committee's Concluding Observations with respect to the Sixth periodic report³, Spain's follow up to these concluding observations⁴, a shadow report to the Sixth periodic report by Fundación Secretariado Gitano⁵, the executive summary of a shadow report to the

¹ See generally "Gender Equality," at <http://www.osce.org/gender/41497>.

² U.N. Doc. CEDAW/C/ESP/6 (April 23, 2008), at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/320/24/PDF/N0832024.pdf?OpenElement>.

³ U.N. Doc. CEDAW/C/ESP/CO/6 (August 7, 2009), at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/460/96/PDF/N0946096.pdf?OpenElement>.

⁴ U.N. Doc. CEDAW/C/ESP/CO/6/Add.1 (November 11, 2011), at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/469/76/PDF/G1146976.pdf?OpenElement>.

⁵ "Shadow Report: 44th Session Committee for the Elimination of All Forms of Discrimination against Women: Fundación Secretariado Gitano," at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/FundacionSecretariadoGitanoReport_Spain44.pdf.

Sixth periodic report by the Plataforma Impacto de Género YA⁶, and an academic article on the impact of the economic crisis on gender equality⁷. These documents provided a comprehensive overview of the political, social, and cultural aspects of gender equality in Spain.

The cornerstone of gender equality legislation in Spain is article 14 of the Spanish Constitution. This provision is implemented in part by Organic Law 3/2007 and Royal Decree 1370/2007 for effective equality between men and women, which focuses on equality of treatment and equality of opportunities for men and women. The law deals with issues of indirect and direct discrimination and affirmative action, calls for the creation of a Strategic Plan for Equal Opportunities, and requires that each piece of draft legislation be examined from a gender equality perspective. Furthermore, the law created institutional mechanisms including the Inter-Ministerial Committee on Equality between Women and Men, responsible for coordinating the policies and measures adopted by Ministries to guarantee the right to and to further the effectiveness of equality between women and men, equality units within each ministry, and The Women's Participation Council. The law also amended the functions of the Women's Institute to include providing assistance to victims filing complaints of discrimination, conducting studies and publishing reports, and making recommendations related to discrimination. Also created was a Government Executive Committee for Equality Policy, composed of the Vice-President of the Government and Minister for the Presidency, who is the President, and the Ministers of Justice, Finance and Public Administrations, Internal Affairs, Education, Culture and Sport, Employment and Social Security, and Health, Social Services and Equality. The Committee examines and addresses general issues related to different ministerial departments, those that require a joint proposal prior to its adoption by the Council of Ministers and those that, affecting more than one Ministry, do not require submission to the Council of Ministers. In addition to these institutional mechanisms, there is a separate standing Parliamentary Committee dealing with women's issues known as the Equality Commission of Congress.

Spain has a comprehensive gender-based violence prevention and protection scheme grounded in Organic Law 1/2004. The law defines gender violence as violence against women by present or former spouses or men with whom they have a similar relationship "as an expression of discrimination, the situation of inequality and the power relations prevailing between the sexes." It includes measures for protection, prevention, punishment and eradication of violence against women as well as the provision of social assistance to victims. The law provides for the Government Delegation against Gender-Based Violence, whose functions include the drafting of Government policies on violence against women and coordinating and promoting all actions taken in this area. It also provides for a State Observatory on Violence Against Women, which serves as a center for analysis of the status and evolution of violence against women and collaborates with the Delegation on drafting proposals to eradicate gender-based violence. Additionally, this law provides for a ban on

⁶ "SPAIN: Shadow report regarding the VI periodical report presented by Spain to the Committee on the elimination of all forms of discrimination against women made by Plataforma Impacto de Género YA," at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/Executive_Summary_PIGYA_Spain44.pdf.

⁷ Rodríguez, María Luz. "Effects of the Economic Crisis on Gender Equality: The Spanish Case," at http://www.upf.edu/gredtiss/pdf/2013-LLRNConf_Rodriguez.pdf.

advertising that is offensive, stereotypical and sexist.⁸ Further details regarding violence against women in Spain will be provided later in this report.

Spain also has an active Ombudsman's office that monitors implementation of the equality law, among other things. The role of the Ombudsman is to mediate between the citizen and the state, mainly focusing on discrimination by the state. Citizens can file complaints regarding issues ranging from discrimination based on ethnicity or sexual orientation to gender-based violence. In our meeting, the Ombudsman's office indicated that women and Roma people file the least number of discrimination complaints. They recognize that this is not an indication that they face little discrimination. Of the complaints filed by women, the majority relate to stereotypes in the media and hiring in museums.

In the international realm, Spain became a party to CEDAW in 1983 and became a party to CEDAW's Optional Protocol in 2001. Spain signed the Istanbul Convention in 2011 and is in the process of ratifying it.⁹

Women's Political Participation

Women's political representation in Spain has exceeded the goal of 30% set out by the Beijing Platform for Action, the Millennium Development Goals and other international benchmarks. After the most recent elections, women make up 36% of the Congress of Deputies and 34.21% of the Senate.¹⁰ It is likely that the quota law, Organic Law 3/2007, which requires that electoral lists be balanced by sex (neither sex can be represented by less than 40% or more than 60% of the candidates)¹¹ has helped achieve this percentage of women in the legislature. When first adopted this law was challenged, but the Constitutional Court upheld it and the quota has been successfully implemented for a number of years. While there is some concern that the international goal of 30% and the quota law requiring at least 40% women on party lists may have created a ceiling for women's representation at the national level, it has been surpassed in autonomous governments, reaching a high of 43.38% of seats. In other areas of the government, women are also fairly well represented in relation to (Report VII and VIII of Spain to CEDAW)

In other areas of the government, women are also well-represented. Women held 32,59% of senior positions within the government in 2012 and women account for 49.83% of people in the judiciary in 2012.¹² There are no women of Roma origin represented in Parliament or these high-level government positions.¹³ At the local

⁸ U.N. Doc. CEDAW/C/ESP/6 (April 23, 2008), at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/320/24/PDF/N0832024.pdf?OpenElement>.

⁹ "Council of Europe Convention on preventing and combating violence against women and domestic violence: CETS No.:210," at <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG>.

¹⁰ IPU Parline Database <http://www.ipu.org/parline/>

¹¹ U.N. Doc. CEDAW/C/ESP/6 (April 23, 2008), at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/320/24/PDF/N0832024.pdf?OpenElement>.

¹² U.N. Doc. CEDAW/C/ESP/7-8 (September 30, 2013), at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fESP%2f7-8&Lang=en

¹³ "Shadow Report: 44th Session Committee for the Elimination of All Forms of Discrimination against Women: Fundación Secretariado Gitano," at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/FundacionSecretariadoGitanoReport_Spain44.pdf.

level, after the last local elections in 2011, 16.77% of mayors were women and 34.95% of councilors were women.¹⁴

In the economic arena, however, women continue to be under-represented in economic decision-making bodies, including company boards. There is currently a proposal for an EU Directive requiring at least 40%, and no more than 60%, women on corporate boards, but this has not yet been approved by the member states. Spain has taken a number of voluntary measures to encourage corporations to increase the number of women on their boards.

Impact of Economic and Social Crisis on Women

The economic and social crisis in Spain has taken a huge toll on all people, men and women, young and old. Although the crisis started as a result of the housing bubble, and was initially seen as a male crisis, it has spread throughout the economy and affected a substantial part of the population. It led to three million more unemployed people, and the highest national debt in history. Currently 1.8-2 million households have no income and six million people are unemployed. While the GDP has finally stopped declining, social services are still being cut back and people are receiving lower incomes and fewer benefits, including government unemployment benefits.

While clearly the crisis has affected all people, it has had a unique impact on women, particularly young women. Today, while the unemployment rates for men and women are relatively equal (due to the fact that male unemployment went up enough during the crisis to equal the higher unemployment rate of women), the long-term unemployment rate for young women is still higher than that of young men. Data from 2012 shows the long-term unemployment rate for women to be 11.6% compared to 10.8% for men.¹⁵ Also, while there is no gender pay gap in the public sector, men are paid nearly 20% more than women in the private sector. Additionally, it has been suggested that throughout the crisis, young women have experienced discrimination during the hiring process; women are invited to interview for positions, where they are often asked questions about their family life and desire to have children, and then not hired. Generally, from the group of people who should be able to get jobs, those who are educated and have work experience, men are more likely to be employed than women. Additionally, the vast majority of people with part-time positions, meaning less pay and fewer benefits, are women.¹⁶

I commend the government for its efforts to combat this type of discrimination in employment. Large companies with over 250 employees are required to have an equality plan, and the government is issuing 'equality at work' labels for companies deemed to be promoting equality and non-discrimination. Currently there are 81 companies that have earned this label. The government also has programs to help small and medium sized companies further advance gender equality.

¹⁴ U.N. Doc. CEDAW/C/ESP/7-8 (September 30, 2013), at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fESP%2f7-8&Lang=en

¹⁵ Eurostat, "Long-term unemployment rate, by sex," at <http://epp.eurostat.ec.europa.eu/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdsc330&language=en>.

¹⁶ "SPAIN: Shadow report regarding the VI periodical report presented by Spain to the Committee on the elimination of all forms of discrimination against women made by Plataforma Impacto de Género YA," at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/Executive_Summary_PIGYA_Spain44.pdf.

Social services have also been hit hard by the economic crisis. Not only does this mean that fewer social services are available, but also more women than men are affected as they predominate in the social sectors (health, education, etc). Additionally, when childcare services are cut, many women end up taking on those responsibilities, as they cannot afford to pay someone else to perform the service. Overall, the government is giving gender equality issues some priority, evidenced, among other lines of actions, by the continued funding of gender-based violence programs during the economic downturn. Some, however, argue that the government and society as a whole have not given these issues enough priority while the country works to solve its economic challenges.¹⁷ Others noted that any changes in gender equality programs were due more to different philosophies of the successive governments in Spain.

Violence against Women

Addressing and preventing violence against women is a very high priority for the Spanish government. Spain has a very comprehensive law on violence against women aimed at combating and preventing gender-based violence. Additionally, programs and assistance for victims include a large network of shelters, free legal assistance, and Special Courts for Violence Against Women, which can resolve both civil and criminal matters and charged with issuing protective orders within 72 hours, and bracelet tracking devices to track perpetrators. Efforts are made to stay in touch with victims after their cases are closed to make sure no further violence has occurred.

Spain's Special Courts for Violence Against Women are presided over by judges who are specially trained to deal with these types of cases and there is also a special unit within the prosecutor's office to deal with violence against women. These Special Courts Judges are authorized to resolve both civil and criminal matters so they can address issues relating to safety and protection, including criminal penalties, as well as family matters, including issues relating to separation, divorce and child custody. Judges are required to hear violence against women cases in these courts within 72 hours of the complaint being filed. Victims are interviewed and their continued risk of further harm is evaluated prior to going before a judge. The judge will dismiss the case, issue a protective order and, in appropriate cases, require the perpetrator to wear a tracking bracelet or in some cases face jail time. When the victim drops the complaint, the prosecutor will continue to go forward where he or she believes there is sufficient evidence against the perpetrator.

An unintended consequence of the speedy procedure, however, is that in some situations, legitimate cases are dismissed because the proper evidence cannot be collected in the required 72 hours. This is especially true for complaints about psychological violence. A report prepared by Amnesty International found that this happens in nearly 50% of cases. Perhaps thought should be given to making the law

¹⁷ Rodríguez, María Luz. "Effects of the Economic Crisis on Gender Equality: The Spanish Case," at http://www.upf.edu/gredtiss/pdf/2013-LLRNConf_Rodriguez.pdf.

more flexible, while still upholding the necessary requirement that cases are heard quickly in order to best protect the victims.¹⁸

Spain has a systematic monitoring program of its domestic and gender-based violence reporting and cases. They use the data to periodically review their programs and make adjustments and improvements as needed. According to the “National Strategy for the Eradication of Violence Against Women (2013-2016)” several surveys have been conducted in an effort to document the incidence of gender-based violence. They found that the proportion of women interviewed who reported experiencing gender-based abuse at some time in their lives doubled from 5.1% in 1999 to 10.9% in 2011. In addition, the General Council of the Judiciary publishes the figures for complaints associated with gender-based violence every quarter. From January 1, 2007 through 31 December 2012, a total of 800,542 complaints were filed. While the number of complaints remained practically constant during 2009-2011, a slight decrease was noted in 2012. There was some discussion that this might be partly due to the economic difficulties in the country and women’s reluctance to report the violence and risk divorce or separation because of the need for spousal financial support. However, more research is needed on this. According to existing data of the 2011 Macro-survey on gender-based violence, when the woman reports the situation of abuse that she is experiencing, in approximately half of the cases (51.8%) the complaints puts an end to the abuse, particularly when the complaint is combined with the end of the cohabitation relationship with the abuser and the separation of the couple.

The government has also undertaken several programs relating to economic support for victims, including a successful effort to encourage corporations to give priority to hiring victims of gender-based violence. The government has also undertaken extensive public education campaigns with very creative and vivid messages and graphics. These campaigns are one way to increase reporting of gender-based violence. They also have recently developed a phone app which enables women to locate assistance and other resources in private.

During my visit, homicide rates from gender-based violence cases were also discussed. According to the National Strategy for the Eradication of Violence Against Women, from 1 January 2003 to 31 December 2012, 658 women died from gender-based violence. However, the number of homicides fell to its lowest level of 52 during the last two years. It is worth noting that homicides mainly occurred in instances where women have not reported the violence. The Government Delegation against Gender-Based Violence continues to look for new approaches to bring this rate down further.

In my discussions, it was noted that patriarchy and stereotypes about the relationship between men and women are still prevalent in Spain, and continue to affect efforts to reduce gender violence. As in many countries, patriarchal values in the family are still transmitted to younger generations. While over time these values slowly dissipate, in Spain they continue to be prevalent in younger generations. Studies show that 22% of students in schools still say that such violence is acceptable.

¹⁸ Amnesty International, “¿Qué justicia especializada? Género: obstáculos al acceso y obtención de justicia y protección,” at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/Que%20justicia%20especializada.informe%202012?CMD=VEROBJ&MLKOB=32130865353>.

The most convincing evidence of the priority the government has given to gender-based violence prevention is that there have been very few cuts to gender-based violence services despite major budget cuts across the board. It was clear to me that Spain is very proud of its programs to address violence against women and has been internationally recognized for its comprehensive and creative approach.

Roma Women and Girls

There are approximately 700,000 Roma in Spain. The Roma are better integrated into Spanish society than in other parts of Europe, but the population is still generally segregated in their own communities from the rest of society. The media continues to perpetuate negative stereotypes about Roma people,¹⁹ and there are no Roma members of parliament and few represented in decision-making positions.

The biggest challenges that were raised related to education. In Spain, education is mandatory until age 16. The dropout rate after 16, however, for Roma children is 64.4%. (FN--UNICEF study in cooperation with Fundación Secretariado Gitano cited by the Department of Education) This is partly due to girls in Roma communities getting married at a young age and boys leaving for the workforce. The dropout rate because of marriage, however, is getting lower. The National Roma Integration Strategy in Spain for 2012-2015 focuses on education, setting a series of goals to increase attendance of Roma children at all levels of primary and secondary school. As the study “Roma Students in Secondary Education” notes, the school attendance of Roma students until age 14 is almost identical to the overall population. It is only after age 15 when the figure for Roma boys and girls drops over 30 points by the time mandatory education ends.

While the UNICEF study found that the Roma population had a positive view of the education system, representatives of Fundación Secretariado Gitano noted that some in the Roma community were not convinced of the values of secondary schooling. For example, one concern expressed was that there was little evidence that attendance in secondary school will improve the job prospects of their children and could result in the children drifting away from their Roma culture or heritage. The Education Department is supporting Roma civil society organizations to help change attitudes within the Roma community about the link between education and the future prospects of their children. CSOs are also working to change school curricula to be more inclusive of the Roma experience.

Violence against women is also a problem in the Roma community. The biggest challenge is getting women to report the violence so that prevention and support services can be provided, and prosecution can potentially take place. The Fundación Secretariado Gitano and other CSO's are working to educate Roma women about stopping the violence and ways to access government services. The goal is to address

¹⁹ Fundación Secretariado Gitano, “Annual Report FSG 2012: Discrimination and the Roma Community,” (2012).

these issues within the Roma community, but if these efforts are unsuccessful, they will guide Roma women to appropriate government-sponsored services.

Gender, Peace and Security

Spain has developed a National Action Plan on the implementation of Security Council Resolution 1325. The NAP mainly focuses on Spanish actions while participating in peace-building in post-conflict situations around the globe. The plan requires the incorporation of women into Spanish peace missions, the inclusion of a gender-perspective in peace-building activities, and the protection of women and children's human rights in conflict and post-conflict areas, among other things. Though I did not meet with officials in the Department of Defense, I am encouraged that a NAP has been written. I also learned that Spain has sponsored trainings on 1325 for participants from many parts of the world in collaboration with the Netherlands.

RECOMMENDATIONS

Women's Political Participation

1. The current quota law, requiring electoral lists to be balanced by sex, should be kept in place in order to maintain the high levels of representation of women in Parliament. Additional efforts should be made to encourage representation beyond the 40% party list quota, and the 30% international goal.
2. Public awareness campaigns and other efforts should be made to promote the representation of women in other decision making bodies, including on the boards of major media organizations and corporations.

Economic Crisis

3. The government should be vigilant to ensure that the ongoing economic crisis is not used as an excuse to make drastic cuts in social service programs or to backtrack on gender equality commitments.

Violence against Women

4. Additional education efforts should be undertaken to deal with traditional patriarchal values prevalent in younger generations in Spain. This is necessary for the continued prevention and combating of gender violence.
5. Since the victims of sexual assault and harassment, and LGBTI couples are not covered under the law on gender-based violence, the government should review other domestic violence laws to determine if similar services are available to all victims in intimate relationships, including same sex couples.
6. The government should undertake or support research to better understand the impact of the economic and social crisis on gender-based violence and particularly the decline in reporting.

7. The government should undertake an analysis of gender-based violence cases that are dismissed to determine if some cases are more complex and difficult to get sufficient evidence within 72 hours—particularly where no serious injury is visible—and determine whether in some specific categories additional time for processing may be needed,
8. Additional public awareness campaigns should be undertaken to emphasize the economic support available to women, so they understand that they do not have to stay in an abusive or dangerous relationship solely for economic reasons.
9. The government should continue protecting gender-based violence programs from budget cuts and maintain its strong commitment to the prevention of gender-based violence.

Roma Women and Girls

10. Continued vigorous implementation of the National Roma Integration Strategy for 2012-2020 to reach the goals of increased enrollment of Roma children at all levels of education should be given priority. Additional actions should be taken to keep Roma children, particularly Roma girls, from dropping out of school at 16. These actions could include more public information campaigns in collaboration with the Roma community, which stress the economic value of an education.

Ombudsman's Office

11. The Ombudsman's office should undertake outreach to encourage women and Roman people who experience discrimination to file complaints with the Ombudsman's office.

List of government representatives who met with Ms. June Zeitlin

- Carmen Plaza Martín, General Director for Equal Opportunities, Ministry of Health, Social Services and Equality
- Blanca Hernandez Oliver, Government Delegate for Gender Violence, Ministry of Health, Social Services and Equality
- Carmen Quintanilla, Member of Parliament, President, Equality Commission of Congress
- Immaculada Montalbán, President of Gender Violence Observatory and chair of the General Equality Council of the Judiciary
- Cristina Fraile, Deputy Director-General in charge of the Human Rights Office, Ministry of Foreign Affairs and Cooperation
- Francisco Fernández Marugán, First Deputy, Office of the Ombudsman
- Jaime Requena, Advisors of the Cabinet of the Secretary of State for Justice, Ministry of Justice
- Elena Mayor, Advisors of the Cabinet of the Secretary of State for Justice, Ministry of Justice

- Paz Ramirez, Advisor-Prosecutor in the General Directorate for Relations with Justice, Ministry of Justice
- Antonio Soto, General Under-Director for International Cooperation
- Angel Santamaria, Technical Counsellor, General Under-Directorate for International Cooperation
- Felix Labrador, Technical Counsellor, General Director of Evaluation and Territorial Cooperation (National Center for Educational Research and Innovation)
- Esther Rubio, Technical Counsellor from the General Service Inspection, Gender Unit
- Lorena Garcia, General Under-Directorate for Sport Promotion, Sports High Council
- Juan Armando Andrada-Vanderwilde, Head of the Council of Europe and OSCE Unit, Ministry for Foreign Affairs and Cooperation
- Martin Remon Miranzo, Ministry for Foreign Affairs and Cooperation

List of civil society and interagency representatives who met individually with Ms. June Zeitlin.

- Amnesty International
- Fundación Secretariado Gitano

List of civil society representatives who participated in group discussions with Ms. June Zeitlin.

- Forum de Política Feminista
- Alianza por la Solidaridad+Plataforma 2015
- Asociación de Mujeres Gitanas Alboreá
- Comisión para la investigación de los malos tratos
- Coordinadora de ONG de Desarrollo de España
- Interred/Pueblos Unidos
- Médicos del Mundo – Spain
- Mujeres por la Paz
- Solidaridad Internacional
- Fundación para la Convivencia Aspacia
- Coordinadora Española para el Lobby Europeo de Mujeres (CELEM)
- Young Women Federation
- Red de Resistencia y Repuesta (RRR)