



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Forty-fourth session

Summary record of the 888th meeting (Chamber A)

Held at Headquarters, New York, on Wednesday, 22 July 2009, at 10 a.m.

Chairperson: Ms. Gabr

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention

Sixth periodic report of Spain (CEDAW/C/ESP/6, CEDAW/C/ESP/Q/6 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Spain took places at the Committee table.

2. **Ms. Aido** (Spain), introducing the sixth periodic report of Spain, said that she was the very first Minister of Equality in the history of her country. The Ministry of Equality had been created in April 2008 following the recommendations of the Beijing Platform for Action and the Committee on the Elimination of Discrimination against Women and in keeping with her Government's policy of assigning top priority to the promotion of equality and the mainstreaming of the gender approach throughout the Government.

3. The Government had taken significant steps to eliminate discrimination, including the enactment of a law on same-sex marriage, a comprehensive law against gender violence and a law on effective equality between women and men. A bill on equal treatment and non-discrimination would soon be submitted to the Parliament. The current Administration was the first one in Spanish history to have more female than male ministers; both the first and the second vice-presidents were women. The national Parliament, legislative assemblies in the autonomous communities and local governments were all close to achieving the goal of balancing male and female membership, in compliance with the law on effective equality, which called for no less than 40 per cent and no more than 60 per cent of either sex. The private sector was still lagging behind, as female representation on boards of directors had only risen from 3 per cent in 2005 to 9 per cent in 2009.

4. The Government had taken steps to achieve effective equality between women and men in three areas: legislation, affirmative action and international cooperation. In the legislative sphere, the enactment in 2004 of the Organic Law on comprehensive protection measures against gender violence meant that gender violence was no longer a private matter but was a key issue of public policy. That law provided for such innovative measures as the creation of courts specializing in gender violence. It created special

responsibilities in that regard at all levels of public administration (national, autonomous communities and local), and called on society at large to become involved in combating violence against women. A three-year evaluation had been conducted on the implementation of that law. In recent months, a new system had been set up for monitoring and following up on perpetrators of gender violence, in order to improve victim protection, and programmes had been established to help victims find jobs and receive job training. Efforts would also be intensified to provide special training for professionals involved in victim assistance, especially male and female judges.

5. In 2007, the Parliament had passed the Organic Law on effective equality between women and men (LOIE). While the law on gender violence represented a response to the problem of violence suffered by women, the effective equality law was aimed at combating all manifestations of discrimination based on sex and removing obstacles and social stereotypes that hindered the achievement of genuine equality. Its enactment had led to amendments being made in 27 other laws, such as those relating to elections, the judiciary, employment and social security. Further work would be needed in areas such as penal law and tax law. The equality law also provided for gender mainstreaming and introduced basic legal concepts such as direct and indirect discrimination and sexual harassment, as well as affirmative action measures, as called for in the Convention. As part of the new administrative structure called for in the equality law, a committee on equality policies had been set up that was presided over by the First Vice-President of the Government. In addition, an Inter-Ministerial Committee on Equality between Women and Men had been set up, which she presided over in her capacity as Minister of Equality. Equality Units had been set up in all the ministries. In 2009, for the first time ever, a gender impact report had been added to the national budget; that practice would be continued for future budgets. In order to coordinate the work of the autonomous communities, many of which had already passed equality laws of their own, a sectoral equality conference met on a regular basis. The equality law also called for creation of the Council on Women's Participation, to provide coordination with women's organizations and civil society. In addition, it required businesses to take steps to eliminate discrimination in the workplace. The two-year evaluation of the Organic

Comment [UN1]:

Law on effective equality between women and men would be submitted to the Parliament in March 2010.

6. The Law on promotion of personal independence and care for dependent persons was another example of the Government's mainstreaming policy and its commitment to the Beijing Platform for Action. Two new bills were being prepared, one on sexual and reproductive health and voluntary interruption of pregnancy and one on equal treatment and non-discrimination.

7. Measures taken to promote affirmative action included the National Human Rights Plan adopted by the Council of Ministers in December 2009, the Strategic Plan on Equality of Opportunities, adopted by the Council of Ministers in December 2007, and the Comprehensive Plan to Combat Human Trafficking for Purposes of Sexual Exploitation. The Plan provided for activities designed to raise awareness about the trafficking issue and provide assistance and protection to victims. In addition, Spain had ratified the Council of Europe Convention on Action against Trafficking in Human Beings, of May 2005. The Government was working out the practical details of the Plan and was coordinating its efforts with those of the autonomous communities and other stakeholders. The Spanish Government was aware that much remained to be done, especially to combat new forms of gender inequity that were coming to light. The Plan also included affirmative action measures for immigrant women who were victims of gender violence, rural women, women with disabilities and Roma women.

8. In the international sphere, Spain was committed to fulfilling the Millennium Development Goals as a way to improve conditions for women throughout the world. The Spanish Government's international cooperation plan for 2005-2008 had included gender equality as one of its cross-cutting principles, and that approach was continued in the plan for 2009-2012. Under the new plan, 9 per cent of Spain's official development assistance would be earmarked for gender issues and 6 per cent for health, with special emphasis on sexual and reproductive health. In 2007, Spain had adopted a plan of action on Security Council resolution 1325 (2000) on women, peace and security, which would be supplemented with provisions relating to Security Council resolution 1820 (2008).

9. Spain was also participating in the African and Spanish Women's Network, an initiative designed to

bring together African and Spanish women, agencies and organizations. Spain had substantially increased its voluntary contributions to a number of funds and programmes working for women's equality and empowerment. In 2008, it had launched the Fund for Gender Equality through UNIFEM to promote and finance gender equality policies in developing countries, with an initial contribution of €50 million. That was in addition to the UNDP-Spain MDG Achievement Fund, which placed special emphasis on Goals 3 and 5. Moreover, gender equality would be one of the core issues promoted by Spain during the first half of 2010, when it would exercise the Presidency of the European Union.

10. The Government of Spain was firmly committed to implementing affirmative action measures to ensure effective equality between women and men. Spain had chosen to bring its problems in that area into the light and face them head on. Spain wanted to build a just and sustainable society, and that could not be achieved without full equality for all its citizens. She also wished to acknowledge the work done by the non-governmental organizations and women's organizations.

Articles 1 to 6

11. **Mr. Flinterman** noted that the birth of the *Infanta Leonor* in October 2005 raised the question of succession to the throne. Since there seemed to be political consensus on the matter, perhaps the time had come to change the rules on male succession to the throne and to withdraw the declaration regarding succession that Spain had made at the time of ratification of the Convention. Paragraph 15 of the report (CEDAW/C/ESP/6) stated that Law 33/2006, on the equality of men and women in the order of succession to titles of nobility, was based on the Convention, and he wondered if he could assume that the earlier rules of succession to titles of nobility were considered by the Government as discriminatory within the meaning of the Convention.

12. Regarding the constitutional structure of Spain, he would like to know how the Government ensured the full implementation of the Convention throughout Spain. What measures could the Government take when a particular autonomous region was lagging behind or was failing to implement fully the obligations under the Convention? He would like to know how the Convention had been used in the context

of judicial decisions, and whether members of the judiciary and the legal profession were aware that domestic legislation, especially Organic Law 3-2007, had to be interpreted in the light of Spain's obligations under the Convention.

13. **Ms. Arocha Domínguez** said that she would like to know how many discrimination complaints the Women's Institute had helped to file, for what types of discrimination, and what results had been achieved. She asked how the work of other bodies concerned with equality issues also operating under the Ministry of Equality was coordinated within the Ministry in order to avoid overlap. With the Organic Law on effective equality already in force, she wondered why a new law on equality was deemed necessary and what specific aspects it would cover.

14. The law on effective equality provided for the creation of the Council on Women's Participation, yet its membership and operating by-laws had not yet been decided, and she asked what was hindering the adoption of those regulations. She was also interested to know the current status of the Governing Council of the Women's Institute. She was also interested in the fundamental findings of the three-year evaluation of the law on gender violence and whether it had already been submitted to the Parliament.

15. Spain had many different mechanisms for gathering statistics and preparing indicators; however, the report and the responses to the list of issues and questions contained very few references to statistics and specific indicators on the situation of immigrant women, women with disabilities, rural women and Roma women. She did not fully understand the difficulty of gathering statistics on Roma women. General data could be collected without revealing the personal identity of Roma individuals, so as to develop collective statistics that would give a better picture of their situation.

16. **Ms. Popescu** said she would like to know whether the Organic Law on effective equality of women and men extended to the autonomous communities and if so, how it tied in with the equality legislation and policies that had been adopted by some autonomous communities, such as Galicia, the Basque Country, Murcia and Castilla-León. What would be the situation of others that had not adopted their own equality policies? She was also interested to know how the large number of equality institutions working under

the Ministry of Equality reached out to the provincial and local levels and how the Ministry of Equality managed to preserve a coherent and harmonious approach to the very complex machineries that had been created.

17. If an evaluation had been made of the Strategic Plan for Equality of Opportunities, she would be interested in its findings. It would be useful to hear about any coordination and monitoring mechanism for implementing the Strategic Plan and whether it included references to implementation of the Committee's recommendations, along with any sanctions for failure to implement the Plan.

18. Turning to article 4 on temporary special measures, she noted that the Organic Law on equality included a definition of affirmative action, and asked if that definition was based on article 4.1 of the Convention, as well as on the General Recommendations on temporary special measures. She would like to hear some concrete examples of temporary special measures taken with respect to Roma women, migrant workers, women with disabilities and other vulnerable groups, especially in terms of political participation.

19. **Mr. Flinterman**, noting that Law 3/2007 on effective equality of women and men included provisions on the issue of temporary special measures under the term "positive action", asked if that term was fully in line with the term "temporary special measures" as referred to in article 4.1 of the Convention and further interpreted in general recommendation No. 25. Article 11 of the Organic Law on equality stipulated that public authorities "shall adopt" (*adoptarán*) specific measures; that appeared to be an imperative mandate. On the other hand, in article 14.6, regarding the special difficulties faced by women of especially vulnerable communities, the word "may" (*podrán*) was used, apparently giving discretionary powers to the authorities. The imperative form was also used in other articles of the Organic Law. He would like to know if it was clear to everyone in the Spanish Government, as well as to the judiciary and to legal professionals, that Law 3/2007 must be interpreted and applied in line with the obligations of the State Party under the Convention.

20. **Ms. Aido** (Spain), replying to the question regarding royal succession, said that amending the Spanish Constitution required consensus of both the

Parliament and of society at large. Currently, there was not enough consensus to consider amending the Constitution on that issue alone. Whenever the issue of a broader Constitutional amendment was considered, the matter of succession to the throne would surely be included.

21. **Ms. Ruiz** (Spain) pointed out that Law 33/2006, on the equality of men and women in the order of succession to titles of nobility was very brief. Article 1 clearly stated men and women had the same right of succession to titles of nobility and that there was to be no preference based on sex. Article 2 stipulated that charters granting titles of nobility that excluded women or showed preference for men would have no effect. That law had been applied retroactively. It included a transitory provision clearly stating that it applied to all cases relating to titles of nobility that were pending as of 27 July 2005. In fact, just recently, the Supreme Court in its judgment 251/2008 had clearly stated that the possession of a title of nobility was not a right that could be considered part of a person's assets such that it could be covered by the prohibition against retroactive application of legal provisions that might affect it. Article 9.3 of the Constitution included the principle of non-retroactivity of laws. According to the Supreme Court decision, Law 33/2006 had been applied retroactively because the title of nobility was not considered a right.

22. **Ms. Aido** (Spain), replying to questions regarding inter-ministerial coordination, coordination with the autonomous communities and monitoring of their compliance with the Convention, said that the Organic Law on effective equality had created a number of mechanisms and tools to guarantee mainstreaming of the gender approach. Those mechanisms included the Inter-Ministerial Committee on Equality between Women and Men and the gender impact reports that were prepared on every law, rule, decree and plan adopted by the Government. Coordination with the autonomous communities was ensured through a sectoral conference that was held twice a year at which all the autonomous communities could share their equality policies.

23. **Ms. Martínez** (Spain) said that the State and the autonomous communities shared responsibilities in such areas as equality policy, education, health and other public policies. In the case of the law on effective equality, the State and the Ministry of Equality were responsible for designing public policies, laws and

strategies relating to equality. The equality law entrusted other responsibilities to all State authorities and public administrations, including those of the central administration, the autonomous communities and local authorities. In addition to the sectoral conference, a meeting of heads of equality agencies of the autonomous communities was held in Madrid at least four times a year. The autonomous communities themselves were empowered to draft laws within the scope of their competence. Several autonomous communities had enacted laws on effective equality which included provisions on social assistance and on specific measures for certain groups of women. Under the Organic Law on effective equality, the electoral law had been amended to require that slates of candidates must include no less than 40 per cent and no more than 60 per cent of either sex. In some autonomous communities, such as Andalucía, the electoral law had been amended to require that candidates for election to the parliament must be alternately men and women.

24. **Ms. Ruiz** (Spain) said that, as an example of a court decision that had referred to the Convention, in its judgment 12/2008 of 29 January, the Constitutional Court had upheld the constitutionality of the requirement that at least 40 per cent of candidates for elected positions must be women, referring to article 7 of the Convention. Further, Constitutional Court judgment 59/2008 of 14 May, ruling on a challenge to article 153.1 of the Penal Code, which established a lighter penalty for women than for men in cases of domestic violence, had determined that the article was constitutional because the intention behind it was to stress that when a man was the perpetrator, the abuse was more serious because his behaviour was part of a cultural pattern of demeaning women. In the view of the Constitutional Court, the distinction made in the Penal Code was reasonable because it sought to increase the protection of the physical, mental and moral integrity of women within a couple, in which women were not adequately protected. Moreover, the Court had underscored that violent behaviour was more serious when it was committed by a man.

25. Another more recent decision was Constitutional Court judgment 13/2009, which also referred to article 7 of the Convention. In that case, the appeal had been against the equality law of the Basque Country, which required that not 40 but 50 per cent of candidates to electoral positions must be women. Again the Constitutional Court had ruled that the measure was

constitutional, since it promoted a greater participation by women in the process, and that establishing a 50 per cent requirement for each sex was fully justified in the light of article 7 of the Convention.

26. There were many other decisions, such as a Supreme Court decision on the protection of persons, which referred to articles 1, 4 and 10 (c) of the Convention. Another recent decision was judgment 259/2008, which referred to the Convention in a general way, and decisions of courts in Madrid and Catalonia, which referred to several articles of the Convention.

27. **Ms. Aido** (Spain) said that the new law on equal treatment was still in the drafting stage and had not yet been submitted to the Council of Ministers. A study of related laws in other countries was currently under way. The idea was to standardize levels of protection for all forms of discrimination, including discrimination based on disability, sexual orientation, racial or ethnic origin and health status. The new law would guarantee equal access to services, to employment and to public establishments. Spain would assign high priority to that issue during its term in the Presidency of the European Union in 2010.

28. **Ms. Martínez** (Spain) said that the Women's Institute was responsible for directing and coordinating all policies relating to positive action, especially in those areas where women were still not adequately represented. The aim was for it to become the observatory for equal opportunity issues in Spain. The Women's Institute was the main agency for the promotion of women's associations in Spain. The Ministry of Equality had created general directorates that also developed public policies to promote equality. The Government had also appointed a representative to deal with violence against women. The Women's Institute was competent to provide legal assistance to women, and there was a toll-free telephone number for women to call with their questions on issues such as separation or divorce, as well as discrimination in the workplace. It also published regular statistical reports on its legal assistance services. The most recent data would be included in Spain's next periodic report.

29. Regarding the Council on Women's Participation, she said that the Government had been working closely with women's organizations throughout Spain for more than a year to bring together the organizations that would be included in the Council. The Council should

include women's organizations that were involved in combating discrimination against women in every area, and its composition must be agreed by consensus of all those groups, and for that reason the decree establishing it had not yet been submitted to the Council of Ministers. The draft of the royal decree was already with the State Council, a consultative body that reported on Government projects, and its adoption was expected by the end of 2009.

30. **Mr. Lorente** (Spain) said that on balance, the first three years of implementation of the Organic Law on comprehensive protection measures against gender violence had been positive. The evaluation had covered all the measures falling within the purview of the law, including prevention, protection, assistance and punishment and re-education of perpetrators. During that time period, the regulations for implementation had been drafted, as well as the organizational structure for providing assistance. In terms of prevention, the outcome had been positive, inasmuch as the violence that had remained hidden behind the walls of people's homes had been exposed. The number of complaints filed had risen by over 20 per cent compared to the period preceding the adoption of the law, indicating that more women who suffered violence trusted the relevant institutions to help them deal with a situation that had gone unnoticed. Another outcome was that the increased number of complaints were coming not only from women suffering violence, but also from people close to those women, such as family members, friends and professionals who were in contact with them. That had made it possible to implement the necessary mechanisms to help the victims.

31. With regard to training, he said that there had been an increase in the number of professionals specializing in the different fields of action envisaged in the law against violence. Moreover, the number of courts dealing specifically with gender violence had increased to 469. The number of teams that helped women deal with the aftermath of a trial had increased, and forensic units had been created specifically for the purpose of analysing and assessing the situation of victims of violence. The number of police specializing in gender violence had risen from 742 in 2004 to 1,848 in 2009. In addition to the specialized police, training was provided for all members of the police forces. Sixty-five units on gender violence had been set up in the provinces to monitor and follow up on cases in their respective territories. Other special services for

victims of gender violence included a single toll-free number — 016 — for the entire country, which provided information and free legal counsel seven days a week, 24 hours a day, for women who had suffered violence. A mobile telephone system had also been put in place, so that women could be connected at all times to report problems as they came up.

32. Electronic devices had been set up to monitor compliance with protection orders to prevent abusers from contacting their victims. A re-education programme for abusers was also being developed. Compared with the period preceding the adoption of the law against violence, the average number of homicides associated with gender violence had fallen by 3.5 per cent, showing that the measure had been effective in preventing violence and protecting women. Progress had also been made in raising awareness about the problem of gender violence, as more people were willing to file complaints. Even so, much remained to be done, and the Government was working to avert a backlash to its efforts to promote equality.

33. **Ms. Martínez** (Spain) said that a number of affirmative action measures had been put in place. In regard to employment, bonuses ranging from €800 to €1,200 over a four-year period were available to employers who hired women. The bonus was even higher for employers who provided training opportunities. Priority was given to ensuring access to training for women who had stopped working in order to care for their children and then wished to re-enter the labour market. Special assistance was also offered for women who wished to become self-employed and start their own company. Other affirmative action plans were in place to help women with disabilities, older women and Roma women. In the arts, a yearly festival was organized, called “Ellas Crean” (“Women Create”), to showcase women’s artistic productions. Several books and publications promoted women’s participation in culture and the arts. Affirmative action measures were also being implemented in the area of housing. Women who were victims of gender violence received special help to enable them to find jobs and receive training, social assistance and schooling for their children.

34. **Ms. Linares** (Spain), replying to questions regarding statistics on women with disabilities and Roma women, said that there were few data for those groups. In 2008, the National Statistical Institute had conducted a survey on disabilities and personal

independence and the situation of persons who were dependent. The study had consisted of a household survey in which respondents described their disabilities. The data from that survey had been disaggregated by type of disability and age range. At present, there were 3,874,900 persons with disabilities, of which 2,300,000 were women.

35. The Roma population had suffered more social rejection than immigrants or any other minority. The difficulty of compiling data on that group stemmed from the fact that they were constitutionally protected from having to declare their race or ethnic origin. Moreover, most Roma people would be reluctant to declare their ethnicity because the persecution they had suffered from the Nazi regime was still fresh in their memory. Another factor that made it difficult to obtain specific statistics on the Roma population was that when a Roma woman married a non-Roma man, she often lost her status as a Roma, even though a Roma man married to a non-Roma woman retained his Roma identity. Thus, the issue was a complex one. Data on the Roma population were being obtained through more specific research studies that were currently under way.

36. **Ms. Martínez** (Spain), replying to the question on evaluation of the Strategic Plan for Equality of Opportunities, said that under the equality law, a report must be submitted to the Parliament every other year evaluating the status of equality efforts. The first report would be submitted in March 2010; however, in March 2009, a progress report had been prepared, which would be made available to the Committee. Work on the biennial report would begin in September 2009, in collaboration with the autonomous communities and all the ministerial departments. Statistics and gender variables were available from all the ministerial departments and in every area of study. An agreement had been reached with the National Statistical Institute, and every effort was being made to obtain gender variables. Information on the Roma population was protected; nevertheless, agreements had been reached with certain Roma advocacy organizations that would make it possible to get more information on the location and living conditions of the Roma populations. Spain’s written replies to the list of issues and questions, included data taken from a recent study carried out in collaboration with the Fundación del Secretariado Gitano which gave an idea of the living

conditions of Roma women and the main obstacles they faced.

37. The Strategic Plan had only been applied for a year and a half; an evaluation would be conducted after it had been implemented for three years. A plan to promote equal access to knowledge was in the process of approval, as well as a proposal on equality in sports. The Strategic Plan did not include any provision for penalties, although it did call for workplace inspections and sanctions for companies that did not comply with the law regarding equality of opportunities.

38. **Ms. Hayashi** asked what the State Party was doing to combat stereotypes in the media based on gender and ethnicity, especially stereotypes regarding Roma women. Remarking on the references in the report to the Advisory Commission on the Image of Women in Advertising and the Media and the Association for Self-regulation of Commercial Communications, she asked if objections had been raised based on the argument that regulating the media would undermine the right to freedom of speech, and how the Government countered such arguments. She would also like more information on the role of the Advisory Commission and its mechanisms. She requested more information on measures taken by the State Party to raise awareness among the media regarding the language used to depict the Roma people, especially Roma women. She asked what role the Advisory Commission played in promoting positive images of Roma women and other minority women and whether any temporary special measures had been adopted in regard to the mass media and the need to promote the concept of diversity.

39. **Ms. Begum** noted that in its reply to the list of issues and questions, the State Party had reported that the percentage of protection orders granted to foreign women had risen from 30.2 in 2005 to 36.9 in 2008. Although she realized that the statistics indicated that women had access to justice, it still appeared that there had not really been any reduction in the level of gender violence. In its concluding observations on the fifth periodic report of Spain, the Committee had expressed concern about the prevalence of violence against women, particularly the alarming number of reported murders of women by current and former spouses or partners. She was concerned as well about gender-based violence against foreign women, migrant women and Roma women, as well as sexist advertisements in the media. The report did not include any statistics

about murders of wives by their husbands or about the number of perpetrators that had been imprisoned or prosecuted. She would like to have statistics on all those issues. Also, she would appreciate information on the Women's Institute study on gender-based violence and equality in the media.

40. She would also like to know about the number of shelters in Spain, whether there were any shelters in rural areas, the type of services they provided, whether they were free to victims who sought refuge there, and if they were also open to foreign women, Roma women, migrant women and older women. She also asked for clarification on how elderly women were being protected from violence, abuse and neglect.

41. **Ms. Pimentel** said that while the report contained a great deal of information on strategies, plans and programmes, what was missing was evaluation. With regard to Organic Law 1/2004, on Comprehensive Protection Measures against Gender Violence, she asked why the number of deaths of women by gender violence was more or less the same as it had been before the adoption of the law, and why there was still no change in the patriarchal, *machista* attitude of men. Was there a specific strategy for sensitizing men to the problem of violence against women, not only through the media but in more specific ways?

42. The Fundación Secretariado General Gitano seemed to take the view that having data disaggregated by ethnic groups would not be unconstitutional and that it would not entail identifying individuals. In fact, such data would be very helpful in the design of public policies, which could be based on better knowledge and thus ensure a better response to the needs of that group. She would like to hear more on that issue.

43. **Ms. Chutikul** asked whether the code of conduct on the representation of women in advertising that was being prepared by the Women's Image Observatory in collaboration with the Association for Self-regulation of Commercial Communications had been completed, and if so, what it included. She asked how many complaints about sexist advertisements in the media had been lodged in 2008 and 2009 and what procedures were followed once complaints were received by the Women's Image Observatory. She inquired whether the term "sexist advertising" covered all forms of discrimination against women and who was monitoring the media to ensure that the code of conduct was being implemented.

44. She requested clarification of the legislation governing prostitution and trafficking, whether the two issues were covered by the same law and whether both practices were considered crimes. The report had mentioned that the Second Plan of Action against Sexual Exploitation of Children and Adolescents 2006-2008 called for, inter alia, adapting national legislation to the Palermo Protocol with respect to trafficking in juveniles. In its responses to the list of issues and questions, the Spanish Government had stated that at the first meeting of the inter-ministerial coordination group, a list of priorities had been drawn up, the first of which was the legislative changes proposed in the Comprehensive Plan to Combat Human Trafficking for Purposes of Sexual Exploitation. She would like clarification as to how it addressed exploitative commercial sex and trafficking.

45. She would also like to know if trafficking was prohibited only when it was for purposes of prostitution and not for other purposes mentioned in the Palermo Protocol, and if Spain also recognized the Recommended Principles and Guidelines on Human Rights and Human Trafficking, especially for victims. She asked if the same shelters were used for prostitutes, victims of trafficking and other victims of violence against women. The proportion of comprehensive care in shelters provided by the Government and by the NGOs would be interesting to know. She asked if the comprehensive care was organized as a "one-stop service", including such services as legal aid and witness protection, and the police force had specialized personnel trained in the area of psychological and vocational counselling. She wondered if programmes include efforts to reduce demand. It would be interesting to know the countries of origin of the many victims of trafficking who were aliens. The Comprehensive Plan to Combat Human Trafficking mentioned cooperation with those third countries, and she would like more information on specific measures discussed with those countries of origin.

46. **The Chairperson**, speaking in her capacity as an expert, said that while the efforts of the new Ministry of Equality to improve the image of women were commendable, improvements in the business community were still limited. She wondered if consideration had been given to using school curricula to promote a positive image of women and their role in society. Such an effort should also include groups like

immigrant women, Roma women and women with disabilities. She would also like to know what was being done to combat sexual harassment, especially in the workplace.

47. She would like to have more details regarding penalties for persons involved in human trafficking and about measures taken to protect victims. Further information on internal trafficking in human beings and the use of Spain as a transit country would also be helpful. What training was provided for law enforcement personnel who worked with victims? Finally, she would appreciate more information on international cooperation and efforts to reduce demand.

48. **Ms. Aido** (Spain) said that the best way to deal with stereotypes was to break them down. The Government itself had already taken steps in that direction, given that the Council of Ministers included more women than men, and both the first and the second Vice-Presidents were women. For the first time in the history of Spain, the Minister of Defence was a woman, and the Constitutional Court was headed by a woman. Nevertheless, although significant progress had been made in the legislative area, the time had come to move from formal, legal equality to practical equality in everyday life. The national Government and the autonomous communities were committed to doing whatever was necessary to achieve that goal.

49. The media had a fundamental part to play in translating values into words and helping to destroy stereotypes. The Government was working to strengthen coordination mechanisms to address the way in which information about gender-related violence was handled. A working group had been set up to bring together the authorities and a number of representatives of television channels and other media. Once the Organic Law on Comprehensive Protection Measures against Gender Violence was enacted, further measures would be possible to raise public awareness of the problem. The media had a key role to play in ensuring that every man and every woman realized that gender violence was not only a personal issue, but a public issue as well. Abused women now had more resources available to them to enable them to break away from violent relationships.

50. Replying to questions about victim protection, she said that the increase in the number of complaints was significant because it meant that the violence that had previously been covered up was coming to light,

and that women now had more confidence in the justice system. The three-year evaluation of the implementation of the Organic Law on effective equality had shown that as the number of complaints had increased, protection of women had also increased, and the number of fatalities had decreased. Her Ministry was working on sensitization campaigns and trusted that the statistics on violence would soon begin to drop. The Government was committed to investing resources and pursuing measures to achieve that goal. The problem of violence against women would also be a central emphasis of the Spanish Presidency of the European Union in 2010.

51. Turning to the issue of human trafficking, she said that Spain had taken a very important step with the approval of the Comprehensive Plan to Combat Human Trafficking for Purposes of Sexual Exploitation. Furthermore, Spain had ratified the Council of Europe Convention on Action against Trafficking in Human Beings, of May 2005. The Government had decided not to concern itself with the free exercise of prostitution, but only with forced prostitution and trafficking of persons for purposes of sexual exploitation. According to figures provided by the United Nations, Spain was used both as a country of destination and as a transit country, although to a lesser degree. Available police data showed that 90 per cent of the women who practised prostitution in Spain were foreigners, and most of them were victims of trafficking. Trafficking was a very lucrative activity and was especially attractive to organized crime. The Spanish plan against trafficking was an ambitious one and had only been in force for six months. Budgetary resources had been allocated for 62 different measures, so the plan was not just a declaration of principles.

52. The plan had three objectives: the fight against organized crime, protection of and assistance to victims of trafficking and raising awareness about the problem. Campaigns specifically targeting clients would begin in September. Some of the most important measures envisaged were those relating to victim protection and establishment of a recovery and reflection period of at least 30 days during which victims were entitled to social assistance and free legal assistance in their own language. The goods seized from traffickers would be used to create a fund for victim assistance and to strengthen police action. More control mechanisms were being set up to detect trafficking activities in ports, airports and means of

transport. Inspections of potential trafficking areas were being increased, and indicators were being developed to improve data on the true status of trafficking activities.

53. **Mr. Lorente** (Spain) stressed the importance of analysing what happened once policies for preventing and combating gender violence were adopted. As progress was made towards achieving equality, those who had been in a position of power resorted to violence to try to perpetuate that power and to maintain the values and cultural references that had given them those privileges. The statistics had shown that during the first year after the adoption of legislation to combat gender violence, the number of homicides had fallen, from 72 homicides in 2004 to 58 in 2005, a 20 per cent decline in murders. There had been a backlash, however, as men had tried to maintain and perpetuate their power. That reaction had not only been manifested in an increase in the number of homicides, but also in the type of violence perpetrated. For example, shootings had declined, while stabbings had increased, and the average number of knife wounds inflicted on women had increased from 16 to 28. It was important to understand the backlash and develop positive responses to the situation through preventive measures directed at men. Thus, the Government was implementing measures to re-educate men who had been abusers with a view to preventing gender violence by breaking down the stereotypes that caused men to react violently to conflict in the couple relationship. In addition, a campaign was being carried out to raise awareness in society at large, including through a hotline for men who wanted to learn about equality policies and how to exercise their masculinity without violence.

54. Punishment and social censure were also important. Ten per cent of men in prison were there for gender violence. The average sentence for men who had murdered their spouse or partner had increased by 15.5 per cent, from 14 years in 2000 to 18 years in 2004. The social response was reflected in the institutional response. There had been an increase in the number of protection orders for both foreign women and Spanish women, reflecting the fact that women had enough confidence in the system to seek that protection. Additional protection policies were also needed, given the backlash from abusers. If specific protection measures were not applied after a complaint was filed, the risk would continue.

55. Comprehensive assistance to women victims of violence was also needed. There was a network of recovery centres for women who had suffered violence. Shelters were not merely places to go in a passive sense, but rather they were centres where women received help as they recovered from the situation of violence. The shelters were distributed throughout the country and were managed with resources supplied by the autonomous communities. They were completely free for any woman who sought shelter, no matter what her circumstances or ethnic origin. When women were taken into the network of assistance, they were also offered job training and financial assistance, as well as help in finding a place to live once their recovery process had been completed.

56. **Ms. Ruiz** (Spain) said that prostitution was deemed to be a criminal offence only when it was forced upon a woman against her will or when minors or persons with disabilities were involved. In such cases, prostitution was included in the Penal Code, in articles 187 and 188. With regard to trafficking, she said that the Government was drafting an amendment to the Code to include the concept of trafficking embodied in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). The proposal had not yet been introduced in the *Cortes Generales* (the Spanish Parliament) or approved by the Council of Ministers. Previously, the concept of trafficking had not been clearly defined in the penal legislation, but rather it had been regulated in conjunction with the crime of clandestine immigration. The confusion in terminology had made it impossible to penalize trafficking as required by Spain's international commitments, including those it had undertaken in the context of the European Union.

57. The amendments proposed by the Government would not define human trafficking as an offence only when the victims were foreigners; rather, it would cover all types of trafficking in human beings, both national and transnational, regardless of whether or not it was linked to organized crime. The acts that would be punished were the use of violence, intimidation and deceit, as well as abuse of the perpetrator's position of superiority or the victim's vulnerability. The penalties would cover situations of forced labour or forced services, sexual exploitation, pornography and removal

of human organs. The amendment would provide for more severe penalties when the victims were minors or when they were especially vulnerable, and when victims were exposed to serious danger. Penalties were also aggravated when the offence was committed by individuals taking advantage of their position of authority, members of law enforcement or public officials. Penalties would be applicable not only to individuals but also to legal entities.

58. In the context of the Plan to Combat Human Trafficking, the Ministry of Justice, the Ministry of the Interior and other judicial bodies were drafting a protocol on obligations relating to the protection of victims and witnesses. The Office of the Attorney General was collaborating in the effort and had undertaken to draw up instructions for the use of victims' statements as evidence during preliminaries to trial (*prueba anticipada*). Also, there was a proposal to provide free legal assistance to trafficking victims in administrative or judicial proceedings.

59. Law enforcement personnel received training on a continuing basis. Training programmes on trafficking-related issues were also offered for attorneys who provided legal assistance, as well as for judges, prosecutors and law-enforcement personnel such as medical examiners and court clerks.

60. **Ms. del Puy** (Spain) said that the Ministry of the Interior was actively pursuing measures both to protect victims and to prosecute those involved in human trafficking. Preventive measures included early detection in the victims' countries of origin, through monitoring of visa applicants and follow-up when they arrived in Spain. Every effort was being made to keep the national security forces up to date on the trafficking phenomenon. Given the lack of clarity regarding trafficking in the Penal Code, research on that type of crime had been very important; however, the information available so far was still incomplete. Therefore, a significant part of the measures included in the Comprehensive Plan to Combat Human Trafficking for Purposes of Sexual Exploitation had to do with improving tools for gathering statistical information and conducting research. In addition to the national security forces and the Ministry of the Interior, other ministries would also be involved. The Ministry of the Interior would be especially concerned with obtaining intelligence to be used in planning its interventions. The plan to combat trafficking also envisaged increasing and strengthening specialized

anti-trafficking units. The national security forces already included specialized units of the judicial police, but the idea was to strengthen them and offer them more specialized training in areas such as investigation of financial transactions, given that human trafficking was often linked to other types of transnational crime involving complex financial structures.

61. In addition to implementing preventive measures, the Ministry of the Interior would address the need for training not only of the police forces but also of foreign service officials such as police attachés and liaison officers in Spanish embassies. Protocols would be developed for actions to be taken by police and other professionals, including those responsible for coordination with other national and regional police forces. The Ministry of the Interior would also coordinate its actions with police forces in the countries of origin and destination of trafficking victims and with international police organizations such as INTERPOL and Europol. Bearing in mind that the first contacts trafficking victims had upon their arrival in Spain was with the State security forces, the Ministry would establish protocols for the protection of victims and their referral to assistance and health facilities and other resources provided by NGOs. In addition, the Spanish Government's plan for international cooperation for 2009-2012 assigned high priority to the fight against trafficking.

62. The main countries of origin of women who were victims of trafficking in cases where Spain was a transit country, were Brazil and other South American countries and from Africa. When Spain was the final destination, victims were brought from Colombia, the Dominican Republic, Nigeria, Russia, Ukraine, Romania, Bulgaria, Brazil, Croatia, Czech Republic, Hungary, Morocco and Poland. According to police data, 90 per cent of the women practising prostitution in Spain were foreigners, and more than half of them were from the American continent, especially Colombia and Brazil; one third were European, especially from Eastern Europe, mainly Romania and Russia; and the rest were African, mainly Nigerian and Moroccan. As for the routes most frequently used by trafficking organizations, women from Central and South America often travelled through third countries to avoid flying directly to Spanish airports. From Brazil, they often stopped in Paris and then flew to airports in northern Spain and Madrid. Women from

Eastern Europe, especially Russia, Lithuania, Ukraine and Romania, usually travelled by bus or van across Europe.

63. **Ms. Linares** (Spain), replying to questions regarding older women and Roma women, said that since women in Spain usually lived longer than men, they often became dependent. That was not to say that they became disabled; in Spain, the term "dependent" referred to persons who needed someone else to help them with the most basic activities of life. About 67 per cent of all dependent persons in Spain were women. To address that challenge, the so-called "fourth pillar" of the social protection system had been created by Law 39/2006 of 14 December 2006, on the promotion of personal independence and care for dependent persons. The law, which was implemented in collaboration with the autonomous communities, established three types of dependency: severe, very severe and highly dependent. The plan allowed the elderly to choose whether they wanted to enter a residential facility or receive care at home. In Spain, elderly citizens who had no resources and were unable to work could receive a non-contributory State pension, and those who had paid into a fund received their contributory pension.

64. With regard to stereotypes, she said that in a society where beauty was highly regarded, stereotypes of people with disabilities were especially hurtful to women in that situation. The equality plan therefore included measures to draw attention to the problems of the disabled. Steps were also being taken to create a positive image of Roma women. The creation of the Instituto de Cultura Gitana had helped to showcase the contributions that Roma women and men had made to Spanish culture. The matter of gathering statistics on the Roma population still posed problems, owing to their history of Nazi persecution. Moreover, in Spain the Roma population were not nomadic; indeed, almost 50 per cent of the Roma population lived in Andalucía. Consequently, they also had dual loyalties, as they identified both with their ethnic group and with their geographic region. That dual identity, along with the constitutional protection of their personal data and the complex situation of the children of Romas who married outside their ethnic group, made it very difficult to quantify that population.

65. **Ms. Aido** (Spain) said that the law on effective equality called for clear statistics and indicators, not only with regard to the Roma population but also the

immigrant population. Such data would provide a strong diagnostic tool that would make it possible to design improved policies for affirmative action on behalf of those groups.

advertisements that would help break down stereotypes.

The meeting rose at 1.05 p.m.

66. **Ms. Martínez** (Spain) said that although progress had been made at the government level in placing gender equality high on the policy agenda, that had not been the case with the media. That was evident, for example, in the fact that news stories about women holding ministerial positions in the Government often focused on their attire rather than their performance as ministers. In Spain, 60 per cent of journalism students were women, yet 76 per cent of the decision-making positions in the media were held by men. Although polls had shown that 80 per cent of the population had a favourable opinion of the law on effective equality, all the editorials in the media had opposed it. Given that situation, and bearing in mind the need to respect the right to freedom of expression, the Government was working with the media to raise their awareness about the need to promote gender equality. The law on effective equality created certain obligations for both State-owned and private media. The Ministry of Equality had signed agreements with the State-owned news agency EFE and Radio Televisión Española whereby training on the use of gender-sensitive language was offered to their personnel. The Ministry was also helping them develop non-sexist programming to promote equality in entertainment and children's programmes.

67. The Women's Institute had also set up a Women's Image Observatory and an Advisory Commission on the Image of Women in Advertising and the Media. The Advisory Commission had helped to develop some of the self-regulation codes mentioned in the report. Sexist advertising was illegal under the law on effective equality, and citizens and organizations could file complaints about sexist advertising with the Observatory. In 2008, 324 complaints had been made, and in 2007, the number had been 1,176. Recently, a fine of €100,000 had been levied against the TV station Telecinco for an advertisement containing a picture that was demeaning to women. However, since the media often had no problem paying fines, it was more important to try to foster a sense of responsibility regarding the need to protect the dignity of women. The "Crea Igualdad" prize had been created to encourage the submission of innovative spots and