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Gender discrimination in the spanish labour market and regulation of the public policies.

Discriminación de género en el mercado laboral español y políticas de regulación públicas.

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Abstract

Although it is true that the participation rate of women in Spain has increased considerably in recent decades and that significant progress has been made through public policies in regulating gender equality, there are still inequalities and statistics show that Spain is in a relegated position compared with other European countries. The Spanish Organic Act for Effective Equality between Men and Women (2007) is aware of this, by providing in section II of the Preamble that “full recognition of formal equality before the law, while indisputably constituting a decisive step, has proved to be insufficient, since gender violence, wage discrimination, higher female unemployment stand as evidence, among other reasons, that the attainment of full, effective equality between women and men is even today an unfinished task, whose completion calls for further legal instruments”.

Based on these assumptions, this paper aims to show from a legal and economic point of view the situation in which women find themselves compared to men in different fields, but with especial attention to the labour market, and to analyse the effect of the enactment of the aforementioned Organic Act (2007) as well as to identify the aspects on which future public regulations should act to achieve a more effective equality between women and men.

Key Words: inequality; gender; discrimination; employment; regulations and equal opportunity

Resumen

Si bien es verdad que la tasa de actividad de las mujeres en España se ha incrementado de manera notable en las últimas décadas y aunque se ha avanzado significativamente en las políticas públicas sobre la regulación de la igualdad de género, existen todavía desigualdades y las estadísticas revelan que España se encuentra en un puesto relegado comparado con el resto de los países europeos. La propia Ley Orgánica de Igualdad entre Hombres y Mujeres (LOI) (2007) es consciente de esto, al establecer en el apartado II de su Exposición de Motivos que «el pleno reconocimiento de la igualdad formal ante la ley, aun habiendo comportado, sin duda un paso decisivo, ha resultado ser insuficiente ya que la violencia de género, la discriminación salarial, el mayor desempleo femenino, muestran, entre otros motivos, cómo la igualdad plena y efectiva entre mujeres y hombres es todavía hoy una tarea pendiente que precisa de nuevos instrumentos jurídicos».

Partiendo de estas premisas, este trabajo tiene por objeto mostrar desde un punto de vista jurídico-económico la situación en la que se encuentra el colectivo femenino comparado con el masculino en diferentes ámbitos, aunque con especial atención al laboral, y analizar el efecto producido por la promulgación de la citada LOI (2007) así como detectar aspectos sobre los que deberían actuar futuras regulaciones públicas para alcanzar una más efectiva igualdad entre mujeres y hombres.

Palabras clave: desigualdad; género; discriminación; empleo; regulación e igualdad de oportunidades

1. Introducción.

In Spain, recent years have been marked by increasing rates of incorporation of women into the labour market, but despite the existence of a new legislation and a bigger social awareness of the role of women in all spheres of life, there are still substantial differences between men and women in the labour market. There are many papers related to matters such as the occupational segregation of women, the increasing presence of women in positions of part-time work, wage differentials between workers of both sexes, differences between the public and the private sector, etc. Thus, the most relevant literature will first be reviewed.

The phenomenon of discrimination against women in the labour market has profound social and anthropological roots; therefore, its eradication involves major changes related to individual and collective consciousness of a society. This explains that the enactment of new legislation on this phenomenon does not always have as immediate or effective effects as desired. The Law 3/2007 of 22 March on “Equality between women and men”, better known as “Equality Act”, has become a milestone in the consideration and treatment of gender equality in Spain. This Act is aimed at combating all forms of discrimination that still exist, promoting real equality and ultimately removing barriers and social stereotypes that impede its achievement. Thus, in the second part of our paper a review of the legal rules that directly affect issues on equality between men and women in Spain will be conducted.

In the third part the different statistics resources related to the object of study are analysed in order to obtain a set of results that will allow us to draw conclusions about the effectiveness of the implementation of the legislation enacted. As said before, this is a complex phenomenon that does not only belong to a specific geographical and labour area, since international economic factors also affect the process of labour insertion of women in Spain.

In the fourth section, the main conclusions of the study are drawn, which may represent a starting point to undertake new legislative reforms that tend to reduce discrimination against women in the Spanish labour market. Finally, a section is dedicated to the main bibliographical references used in our study.

Many studies have been published on labour discrimination based on gender; many of them emphasize specific aspects like the wage gap, occupational segregation of women, the predominance of certain types of contract based on gender, etc. However, any work that systematically develops legal and economic aspects simultaneously has not been found. With a clearly legal approach Medina-Arnáiz (2010) concludes that despite the incorporation of the European regulation on gender equality to Spanish legislation, its effectiveness has been limited due to its non-obligatory nature (see Eurofound —2013—).

Some authors especially emphasize the wage gap based on gender. Simón *et al.* (2008) conclude although better relative qualifications of female have tended, together with others factors, to reduce the gap, its positive effect on female relative wages has been almost completely offset by that of higher female segregation into low-wage firms. Regarding sectorial differences Lassibille (1998) affirm *ceteris paribus* women earn less than men on average: there is no equal pay for equal work between males and females in the public sector. Ullibarri (2003) studies the wage gap between the public

and private sectors according to the gender factor and conclude men would earn higher salary working in private sector. However women with university degree would earn a higher salary in the public one. In other cases, specific analyses are introduced in specific situations. Caparros *et al.* (2004) state that when there is occupational mobility, wage discrimination is detected. In cases of involuntary mobility the female workers who are laid off suffer the strongest wage discrimination.

Other studies emphasize social and institutional factors. From a sociological point of view, in Spain there are still significant differences in the distribution of housework and care of children and disabled people. In addition, some authors highlight the prevalence of female part-time work compared to male workers. In this sense it is not always easy to carry out this analysis since we must distinguish between two types of motivations, which may not always provide reliable data: no willfulness, no similar full-time position is found; willfulness caused by family obligations and home care. Villar *et al.* (2010) state that inequality between women and men in the labour market has a much more important component of occupational segregation, with different dimensions: unequal participation, work in sectors and companies with lower wages, less responsible jobs, worst types of contracts, etc. One part of this segregation is explained by the social role of women, which is reflected in the distribution of family responsibilities and the different uses of time associated with them. Arrazola *et al.* (2010) conclude that gender differences detected in the Spanish labour market are mainly due to institutional factors (child care, home care, care of disabled people...) and not to average characteristics of men and women.

Some studies are focused on issues related to the career and the professional promotion of women compared to men. Some of them discuss the promotion of managerial positions of large companies or public institutions. De Luis Carnicer *et al.* (2011) analyse and recognise the worth of stakeholders in relation to the balanced presence of men and women in the Boards of Directors of companies. In spite of recognizing the relevant role played by the Government, the authors believe that developing rules on this aspect will not be very effective. Albert *et al.* (2011) conclude the gender gap in promotion tends to increase as the level of promotion rises. These could support the hypothesis that there is a glass ceiling in the Spanish labour market (see Somarriba *et al.* —2013—).

2. Legal framework on gender equality in Spain.

2.1. Historical evolution of the right to gender equality: International Law and European Community Law.

2.1.1. International Law.

The origin of anti-discrimination law based on gender can be placed in the United States of America through two key facts: one is in 1848, in New York, where the First Convention on the rights of American women was held in order to denounce their political marginalization, as they could neither vote, be elected to any position nor attend political meetings. Other important fact to keep in mind is that of March 8, 1857, also

in New York, where hundreds of female workers of a textile factory organized the first protest march against the low wages, lower back then, a 60 percent of those received by men (see Anderson and Zinsser—2007—).

But it is necessary to wait for the constitutional texts of the World Post-war II to find significant and consolidated changes in a process of recognition, equality and comparison of both sexes, and for the first time the freedom and equality of women and men are recognized in the preamble of the Charter of the United Nations, signed in San Francisco in 1945, which reaffirms “the faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of large and small nations” and later, on December 10, 1948, the Universal Declaration of Human Rights is proclaimed, whose article 2 states that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of race, color, sex, language, political or other opinion, national or social origin, property, birth or other status”, a premise that has been the basis and the precedent of the European constitutional texts that have been published later until our days.

In the 60s, the essential text on this subject is the Civil Rights Act of 1964, designed primarily to extend the right to vote and promote the equal rights of women in the workplace. Subsequently, and from the point of view of the applicable regulations, there have been a large number of rules and agreements that have been following one another, among them, it is worth mentioning as an example the *Equal Employment Opportunity Act* of 1972 which proclaims the equal opportunities of women and men in employment; in 1979, the United Nations Convention of 18 December, 1979 on the *Elimination of All Forms of Discrimination against Women*, approved by the General Assembly of United Nations (ratified by Spain in 1983); and the *Civil Rights Act* of 1991, closer in time and in the same sphere of activity.

Moreover, the international policy of equal opportunities between women and men has been so promoted for the last decades that numerous conventions, conferences and summits all over the world have been conducted due to the fact that international organizations have committed to regularly hold World Conferences on Women, in order to debate the developments of females in the world and strengthen the courses of action for the governments of different countries.

The importance of women’s access to work to attain economic autonomy and independence has been clear during the United Nations Decade for Women. Thus, firstly, we can mention the First World Conference held in Mexico in 1975 on the legal and social status of women, in which a World Plan of Action was approved for 5 years in order to give priority to the achievement of “equality of opportunity and treatment for women workers and their integration into the working population (...) recognizing their right to work, to equal pay for work of equal value, to equal working conditions and progress”; and, secondly, the United Nations Convention of 18 December 1979, known as the “Charter of Human Rights of Women”, on “the Elimination of All Forms of Discrimination against Women”. It is also necessary to take into account, among others, the subsequent Conferences, such as those of Copenhagen in 1980, Nairobi in 1985 and Beijing in 1995, which introduce the concept of gender. Finally, the “Millennium Declaration”, approved by the United Nations in 2000, sets goals to end all forms of discrimination until 2015.

2.1.2. European Community Law.

The international sphere has been the basis for the Community Law, and “equality” has been a fundamental principle in the European Union collected in countless rules of both Primary Law (treaties) and Secondary Legislation (regulations, directives, decisions, recommendations, etc...).

A. - Primary Law.

At EU level, the Treaty of Rome of 25 March 1957 establishing the European Economic Community (EEC) plays a very important role on which the European policy of equal opportunities for women and men is based. The article 111 on “equal treatment of men and women in matters of employment” and the article 119 on “equal pay for men and women for equal work” are the legal bases for the European policy of equal opportunities.

However, in subsequent Treaties, like the Treaty of the European Union in 1992 (TEU) and those coming after it, a real policy of protecting and defending the right to equality as a fundamental right is developed; and since the entry into force of the Treaty of Amsterdam in 1999, the principle of equality between men and women has become legally strong. Later, the Charter of Fundamental Rights of the European Union, signed in Nice on 7 December 2000, devotes its Chapter III to non-discrimination (Article 21) and equality between men and women (Article 23), stating that “equality between men and women must be ensured in all areas, including employment, work and pay”, and it also explicitly considers the legality and legitimacy of positive actions, since it adds that “the principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex”. This same approach is reinforced in the Treaty of Nice in 2001 and the Treaty of Lisbon in 2007, as higher activity and employment rates of women under conditions of equal opportunities is at the center of the European employment policies.

B. - Secondary Legislation.

More specifically and through Secondary Legislation, especially multiple Directives, the European Union adopts many actions on equality between women and men (see Cruz Villalón *et al.* (1997)).

Firstly, the Council Directive 75/117/EC on the approximation of the laws of the Member States relating to the application “of the principle of equal pay for men and women” and a year later the Council Directive 76/207/EC on the implementation “of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions” as amended by the European Parliament and Council Directive 2002/73/EC of 23 September 2002, which has been incorporated into our legal system by the Organic Act for Effective Equality between Men and Women.

Among many other Directives and Decisions, we can also highlight the following: the Council Directive 2000/78/EC of 27 November 2000 “establishing a general framework for equal treatment in employment and occupation”; the Council Directive 2004/113/EC of 13 December 2004 “implementing the principle of equal treatment between men and women in the access to and supply of goods and services”; the Directive 2006/54/EC on the principle of equal opportunities and equal treatment of men and women in matters of employment

and occupation (recast); the Regulation 1922/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a European Institute for Gender Equality; the Council Decision 2007/491/EC of 10 July 2007 on guidelines “for the employment policies of the Member States”; the Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 “on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity”; and the Directive 2010/18/EU “implementing the revised Framework Agreement on parental leave”.

Besides this great diversity of regulations, it should be noted that the European Union policy of equality between women and men has experienced a very important evolution and expansion in many different areas, among which we highlight the following: The Community Initiative EQUAL designed to promote “new ways of combating all forms of discrimination and inequalities in the labour market on the basis on transnational cooperation”, the Roadmap for Equality between Women and Men (2006-2010), the Community Programme for employment and solidarity for the period 2007-2013, the Women’s Charter adopted by the European Commission in 2010, which is a strengthened commitment to gender equality and consolidation of the gender perspective in all policies; and the EU Plan of Action on “Gender Equality and Women’s Empowerment in Development Cooperation” (2010-2015) which details actions under five priority areas identified in the Women’s Charter in order to achieve progress and stimulate change: 1) Equal economic independence; 2) Equal pay for equal work and work of equal value, 3) Equal representation of women and men in decision-making, 4) Dignity, integrity and an end to gender-based violence, 5) Gender equality beyond the Union.

The European Union is committed to achieving the “Millennium Development Goals” and helping to reach the levels predicted by the United Nations Convention on the Elimination of All Forms of Discrimination against Women, as envisaged in the EU Plan of Action (2010-2015). Therefore, the EU will actively cooperate with International Organizations working on issues of gender equality, such as the ILO, the OECD, the United Nations and the African Union, as well as the UN Women (the new UN Entity for Gender Equality).

Regarding the jurisprudence of the Court of Justice of the European Union in matters of “Gender equality at work”, it has evolved from the concept of “equal pay” (as an equalization between men and women) to the possibility of introducing positive actions in the legislation of the States (as a legitimate means of eradicating gender inequality).

This development has been very significant, but it is from the second half of the 90s that the Court of Justice has to rule on positive action measures of the Member States, in order to avoid indirect discrimination (business conducts that apparently conform to the law, but have a discriminatory effect on women) and achieve a real equality. To this purpose the Court has given many judgments, among others, the ECJ Judgment of 17 October, 1995 (Kalanke case), the ECJ Judgment of November 11, 1997 (Marshall case), and the subsequent resolutions in the Badeck and Anderson cases in 1998 and 2000 respectively, and the Lommers case in 2002. In all these judgments the ECJ follows the line of decisions “that according to criteria of proportionality, Member States of the EU can establish positive action measures for women who are in certain circumstances, provided that these measures are reasonable and proportional to the objective pursued in each case”(what is known as “judgment of equality” or “relevant criteria”).

2.2. The Spanish Constitution of 1978 and The Right to Gender Equality.

Most of the Constitutions of the countries currently in force, and including the Spanish, have considered “equality” as one of its pillars. The Spanish Constitution of 1978 recognizes the right to equality in several precepts along its articles:

- The article 1.1 establishes as one of the highest values in which our legal system is based “the principle of equality”, which manifests itself as one of the fundamental rights of citizens (see Rey Martinez —1995—) and serve as justice imperative.
- The article 9.2 establishes that it is the responsibility of the public authorities to promote conditions ensuring that freedom and equality of individuals and of the groups to which they belong are real and effective, to remove the obstacles preventing or hindering their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life.
- The article 14 recognizes the right to equality by stating that “Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance”.
- This general prohibition of discrimination based on gender is ratified in the article 35, which determines that “all Spaniards have the duty to work and the right to work, to the free choice of profession or trade, to advancement through work and to a sufficient remuneration. Under no circumstances may they be discriminated on account of their sex”.

In order to fulfill the constitutional mandate and regarding the jurisprudence of the Constitutional Court, many judgments, based on European jurisprudence, have been issued throughout time on the subject of “discrimination on account of sex “(See among others: JCC 229/1992, JCC 3/2007 and JCC 12/2008), to establish measures aimed at accelerating the process of equalization between men and women and finding a remedy for the traditional women’s inferior status in different areas.

2.3. The Organic Act 3/2007 of 22 March for Effective Equality between Men And Women.

Without prejudice to other regulations in the matter, since the right to gender equality is “transversal” and requires that the principle of equal treatment between women and men reports the actions of the public authorities, the Act 3/2007 of 22 March for effective equality between women and men (LOI in Spanish) is promulgated in order to ensure the right to equal treatment and opportunities for women and men, in particular via the elimination of discrimination against women of whatsoever circumstances or background and in all areas of of life, specially in the political, civil, occupational, economic, social and cultural domains, so as to build a more democratic, fair and solidary society.

The LOI, having as starting point the fulfilment of constitutional mandates (articles 9.2 and 14 EC), establishes multiple rules on the protection of the rights of women through the elimination of any form of sex discrimination, and along its articles, in implementation of public policies for equal opportunities, it regulates a series of “general principles” (article 14 LOI) that public authorities must attend to, among which the following ones deserve special attention:

- Integration of the principle of equal treatment and opportunities in economic, labour, social, cultural and artistic policies as a whole to prevent occupational segregation and to eliminate differences in remuneration.
- Potentiation of female entrepreneurial growth in all the domains covered by the policies as a whole, and recognition of the value of women's work, including housework (article 14.2 LOI).
- Balanced participation of women and men in decision-making (article 14.4 LOI)¹, understanding by "balanced participation", according to article 45.2 LOI, the principle that forces companies with over two hundred fifty employees to negotiate an equality plan with social agents. The Organic Act foresees as well that within eight years the boards of directors of large companies must be formed by at least 40% of women.
- Adoption of necessary measures to eradicate gender violence, family violence and all forms of sexual harassment and harassment on the grounds of sex (article 14.6 LOI). In this sense, the Resolution of 28 July 2011, of the State Secretariat for Public Office, by which the Agreement of 27 July 2001 is approved, by the Negotiating Table of the Central Government on the protocol for action against sexual harassment and harassment on the grounds of sex in the domain of the Central Government and the Public Organisms linked to it, gives fulfilment to article 62 LOI, that establishes that "the central, regional and local governments and workers' legal representatives will negotiate a protocol for action that will follow, among other principles, Commitment on the part of the Central Government and its associated or subordinate public bodies to prevent and institute zero tolerance of sexual harassment and harassment on the grounds of sex."
- Consideration of the specific difficulties encountered by women who are members of particularly vulnerable communities, such as women members of minorities or immigrant groups, girls, women with disabilities and elderly women, widows and victims of gender violence, for whom the public authorities may also adopt positive action measures.
- Protection of maternity, focusing particularly on society's assumption of the effects of pregnancy, childbirth and breastfeeding (article 14.7 LOI). Concerning the maternity question, the Court of Justice of the European Union (CJEU) has stated that this and the biological circumstances derived from it (pregnancy, childbirth and breastfeeding) are exactly the questions that make women different from men and that they are to be taken into account when offering protection of labour and health rights for women, so that maternity does not constitute an obstacle for their incorporation and maintenance in the labour market.
- Establishment of measures that ensure the reconciliation of women's and men's working, personal and family lives and furtherance of co-responsibility for housework and family care (article 14.8).

¹ After the success of women in sport in the last Olympic Games of London 2012, it is meant to raise to initiative "a greater participation of women in decision-making in Sports Organizations", such as the Spanish Olympic Committee (COE in Spanish), in which nowadays, from 119 members, 103 are men and there are only 16 women, that is, only 13.45% of women take part in the decision-making system.

All these questions, object of regulation, will be taken into consideration to promote and integrate the Spanish policy of international development cooperation.

In addition, the article 15 LOI adds in particular the exigency in Public Administrations to integrate actively the principle of equal treatment between women and men in the adoption and execution of regulatory arrangements, in the definition and budgeting of public policies in all the domains, emphasising the provisions related to education, health, information society, sports, rural development (See Rural Sustainable Development Act 45/2007), urban policies, territorial ordination and housing, development cooperation, contracts and grants, etc., in the development of the whole of their activities.

The Administration as well takes part in the gender perspective in many ways. On the one hand, by means of positive actions, public policies to promote equality; in this sense, incentives can be offered, such as grants, tax benefits or the Seal of Distinction “Equality in workplace” (See Royal Decree 1516/2009, 26 of October, by which granting and use of the Seal of Distinction “Equality in workplace” is regulated and article 50 LOI) that include conducts and measures aimed at equality. On the other hand, the Administration acts playing a passive role, a controlling one, establishing the corresponding punishments and sanctions in the cases where the Organic Act for Effective Equality is not accomplished and as a judicial consequence of discriminatory situations or behaviours.

It should also not be forgotten that LOI always requires certain proceedings by the Central Government and it also establishes the measures corresponding to the own competences of the Autonomous Communities. Thus, in its article 21, it foresees the collaboration among Public Administrations and it establishes that the Central Government and the Autonomous Administrations will cooperate to integrate the gender dimension in the exercise of their respective competences and the possibility of adopting within the Women’s Sectorial Conference combined action plans and programs to this end.

In this sense, Equality Plans are required in the public employment of the Central Government and its associated or subordinate public bodies (article 53 LOI) and the article 51 LOI establishes the criteria for action of the different Public Administrations requiring that “all the announcements of selective tests for access to public employment will be subject to submission of a gender impact report”, suggesting a balanced presence of women and men in the different organisms with a composition that assures at least 40% to one of the genders, as the 1st Additional Provision of LOI demands.

3. Situation of women regarding men in today’s society.

Taking a look at society, it can be noticed that in every aspect of life, including the judicial one, and from the day we are born until the day we die, we are not equal at all. However, something different is to consider equality as a positive value, desirable and necessary, as a goal to reach and as a tool by which to remove discriminations that will allow women and men to achieve their life projects, overcoming the obstacles that are placed in their respective paths.

In the past years, based on development and economic growth, women in Spain have joined massively the labour market (See Molina –2004–) and their participation in the Spanish economy is gaining much importance. Women’s activity rate has increased greatly in the last decades, whereas their continued presence has risen in the labour market. As it can be seen, Table 1 reflects the evolution of women’s activity rate during the last years, appreciating its continuous growth in almost every age group.

Table 1: Annual average activity rates by age groups.Women (several years).

	2005	2008	2011	2014
Total	46,41	50,93	53,39	53,67
From 16 to 19 years old	23,35	25,13	17,08	13,29
From 20 to 24 years old	61,74	63,40	61,37	55,22
From 25 to 29 years old	79,62	83,40	84,08	84,34
From 30 to 34 years old	74,89	81,88	85,64	87,44
From 35 to 39 years old	70,14	77,03	83,37	85,97
From 40 to 44 years old	68,49	74,60	79,38	82,78
From 45 to 49 years old	63,25	70,33	76,20	78,87
From 50 to 54 years old	52,19	60,51	68,25	72,72
From 55 to 59 years old	37,74	44,22	53,13	58,66
From 60 to 64 years old	20,38	23,69	29,53	33,27

Source: Labour Force Survey (INE in Spanish: National Institute of Statistics).

In the age group from 16 to 20 years old, the differentials in the activity rates for 2014 are located around 3.5%-4% below men. However, it is especially significant the reduction of these differentials between men and women in the last years.

On the other hand, changes in the social mindset have been produced regarding the traditional family structure, where the man was considered as “the supplier” and the woman as “the housekeeper”, dependent economically on her husband, in order to bring about truer equal opportunities. Nevertheless, it is a clear fact in today’s society that in the bosom of many families, men’s duties differ from women’s. Although women devote less time to housework than years ago, the load of hours has not decreased in the same proportion as the time they spend working outside the home. Most of the housework, if not the whole, devolves upon them, what makes difficult, in most cases, their incorporation in the labour market. According to Villar *et al.*(2010) and Arrazola *et al.*(2010), women assume part-time jobs to a greater extent, they are more likely to be unemployed or underemployed and they have worse working conditions since in general the tasks they carry out are less financially rewarded than those developed by men.

In Table 2, the time distribution that men and women devote to activities related to housework and family can be observed according to time use survey 2009-2010, developed by the National Institute of Statistics (INE). On average, women devote more than one hour per day to tasks associated with housework and family than men, what reveals that there are still significant differences between sexes on housework issues.

Table 2: Distribution of time in minutes/day devoted to housework and family care by sexes.

	Time in minutes/day	
	Men	Women
HOME AND FAMILY		
Home and family activities not specified	4	15
Food activities	26	24
Household maintenance	17	49
Dressmaking and clothes care	1	23
Gardening and pet care	18	7
Construction and repairs	6	1
Shopping and services	20	31
Household managements	1	1
Children care	18	32
Assistance for adult household members	2	4
Total	113	187

Source: Time use survey 2009-2010 (INE).

Although women have a very relevant presence in the Spanish labour market (See González Bustos —2009—), this is, however, still linked to qualification, marital status and life cycle, being the gender difference related to women’s reproductive role the most notable one in the world of work, since, in general terms, employers consider maternity as a cost. Maternity continues having a strong impact that influences, in spite of the measures taken, women’s professional development.

In Table 3 the distribution of assets can be seen by sex, marital status and age groups in three different last years. Perhaps the most significant feature of this table is the increase in the participation rate of active women in every age group, except for the segment of married from 25 to 44 years old that remains stable and whose most likely cause is related to maternity and young children care.

Table 3: Distribution of assets by sex, age groups and marital status.

	2008								TOTAL
	Men				Women				
	Single	Married	Widower	Separated/ divorced	Single	Married	Widow	Separated/ divorced	
Younger than 24 years old	53,61%	1,57%	0,00%	0,05%	41,22%	3,47%	0,00%	0,08%	100%
From 25 to 44 years old	25,42%	28,09%	0,04%	1,93%	17,74%	23,88%	0,21%	2,70%	100%
From 45 to 54 years old	7,20%	46,04%	0,45%	4,11%	5,08%	30,01%	1,55%	5,55%	100%
Older than 55 years old	4,72%	54,34%	1,60%	3,49%	3,81%	23,53%	4,19%	4,32%	100%

	2012								TOTAL
	Men				Women				
	Single	Married	Widower	Separated/ divorced	Single	Married	Widow	Separated/ divorced	
Younger than 24 years old	51,50%	1,30%	0,01%	0,02%	44,20%	2,67%	0,01%	0,30%	100%
From 25 to 44 years old	26,15%	25,26%	0,07%	2,02%	19,20%	24,29%	0,21%	2,80%	100%
From 45 to 54 years old	8,40%	41,21%	0,41%	4,84%	6,21%	30,95%	1,44%	6,54%	100%
Older than 55 years old	4,64%	47,43%	1,26%	4,64%	4,46%	27,87%	3,84%	5,84%	100%

	2014								TOTAL
	Men				Women				
	Single	Married	Widower	Separated/ divorced	Single	Married	Widow	Separated/ divorced	
Younger than 24 years old	52,76%	0,66%	0,00%	0,01%	44,34%	2,05%	0,03%	0,15%	100%
From 25 to 44 years old	26,74%	23,79%	0,06%	2,26%	20,46%	23,31%	0,18%	3,19%	100%
From 45 to 54 years old	9,17%	39,28%	0,46%	5,53%	6,54%	31,02%	1,32%	6,68%	100%
Older than 55 years old	5,09%	45,69%	1,23%	4,79%	4,91%	28,25%	3,72%	6,32%	100%

Source: prepared by the author on the basis of the Labour Force Survey (LFS in English) data (INE).

Table 4 shows employment rates by age groups and sex. The most noteworthy fact is that in the last years (2005 to 2014) the differentials between men and women employment rates have been reduced, for people younger than 25 years old, almost to zero, and for people older than 25, these differentials have been halved going from 25.05% to 11.60%, what indicates a very notable process of convergence in terms of occupation by sex, especially since the year 2008.

Table 4: Employment rates by different age groups and sex.

	2005		2008		2011		2014	
	Men	Women	Men	Women	Men	Women	Men	Women
From 16 to 19 years old	25,71%	14,89%	21,06%	14,01%	7,65%	6,25%	5,54%	3,69%
From 20 to 24 years old	61,78%	49,16%	58,10%	50,15%	36,00%	36,41%	29,58%	27,84%

Younger than 25 years old	47,66%	35,83%	43,19%	35,71%	24,17%	23,97%	19,32%	17,71%
From 25 to 54 years old	86,94%	61,51%	84,36%	65,91%	74,45%	62,73%	72,47%	62,27%
From 55 years old and older	26,95%	10,66%	27,78%	12,41%	24,36%	14,17%	23,04%	14,85%
From 25 years old and older	66,53%	41,48%	65,27%	44,94%	56,93%	43,23%	54,11%	42,52%

Male differentials employment rates compared with female

	2005	2008	2011	2014
Younger than 25 years old	11,83%	7,48%	0,20%	1,62%
25 years old and older	25,05%	20,33%	13,70%	11,60%

Source: prepared by the author on the basis of LFS data (INE).

Concerning unemployment, figures indicate the persistence of a greater female exposure to it, although distances are shorter than ten years ago. The evolution of the labour market in the last nine years according to the workers’ gender can be analysed in Table 5, where unemployment rates are shown according to this fact. It is especially relevant the approximation that female unemployment rates have had in the last years regarding male unemployment rates.

Table 5: Unemployment rates by different age groups and sex.

	2005		2008		2011		2014	
	Men	Women	Men	Women	Men	Women	Men	Women
From 16 to 19 years old	24,54%	36,25%	35,75%	44,45%	64,37%	63,71%	65,73%	72,19%
From 20 to 24 years old	14,32%	20,37%	20,05%	20,81%	44,42%	40,62%	50,97%	49,58%
From 25 to 29 years old	9,13%	13,63%	13,48%	13,74%	27,70%	26,09%	30,62%	30,02%
From 30 to 44 years old	5,45%	10,69%	8,37%	12,06%	19,24%	21,01%	20,58%	23,59%
From 45 to 54 years old	4,59%	8,91%	7,23%	9,88%	16,34%	18,00%	20,24%	22,37%
From 55 and older	5,20%	7,24%	6,11%	8,63%	14,59%	13,86%	19,63%	18,82%

Male differentials unemployment rates compared with female

	2005	2008	2011	2014
From 16 to 19 years old	-11,71%	-8,70%	0,66%	-6,46%
From 20 to 24 years old	-6,05%	-0,76%	3,80%	1,39%
From 25 to 29 years old	-4,50%	-0,26%	1,61%	0,59%
From 30 to 44 years old	-5,24%	-3,69%	-1,77%	-3,02%
From 45 to 54 years old	-4,32%	-2,65%	-1,66%	-2,13%
From 55 and older	-2,04%	-2,52%	0,73%	0,81%

Source: prepared by the author on the basis of LFS data (INE).

Along these three years the deterioration of the Spanish labour market can be noticed, how unemployment rates have increased during the analysed period, both for female and male employment.

Moreover, women's participation in the labour market has taken on great importance above all in self-employment, tending to grow the percentage as female entrepreneur or self-employment. Statistics indicate that the trend of starting a business appears more and more, as long as the level of education increases and self-employment is considered a possibility of professional development and promotion for many women. Moreover, more and more women have reached the "glass ceiling" and abandon self-employment in order to start a business or begin an entrepreneurial activity, seeking more freedom, a balance between work and family and to reconcile personal and professional life. According to the employers' organization ATA (freelance workers association), to this date, small enterprises (PYMES) and self-employed in general (most of them women) generate 80% of the new jobs.

In Table 6 a continuous growth of female entrepreneurs can be seen in the last years. It is especially significant the fact that the total of male entrepreneurs has decreased around 32.000 between the second quarter of 2008 and the second quarter of 2012, while for the same period the total of female entrepreneurs has grown approximately in 13.000. If we pay attention to the first column referred to businessmen with wage earners, this point, if anything, is more notable since men have decreased around 39.000 between 2008 and 2012 and the increase in the number of businesswomen with wage earners has been of the order of 10.600, according to the Labour Force Survey data (LFS).

Table 6: Entrepreneurs of both sexes with higher education.

		Businesspeople with wage earners	Businesspeople without wage earners or self-employed	Members of cooperative	Help in the family business or company	Total
2nd Q 2005	<i>Man</i>	198174	296781	16909	20540	532404
	<i>Woman</i>	71621	200794	9688	33468	315571
2nd Q 2008	<i>Man</i>	265591	350307	15910	10367	642175
	<i>Woman</i>	96906	208112	10837	16246	332101
2nd Q 2012	<i>Man</i>	226485	365627	8667	9277	610056
	<i>Woman</i>	107553	219658	3286	15009	345506

Source: prepared by the author on the basis of LFS microdata (INE).

Nevertheless, in view of the situation of women in today’s labour market, we can state that, with a few exceptions, education and professional experience are two aspects where women are at a clear disadvantage compared to men who have on average more years of work experience and have held managerial positions to a greater extent. Women have more experience on teaching, retailing and administration instead of holding leadership positions.

According to the occupation data by LFS corresponding to the first quarter of 2015, for the case of directors and managers, in the age group under 44 years old, women represent around 66% of the percentage meant to men (See Table 7). This ratio gets worse from the age group of 45 years old where it becomes 41% and is reduced, reaching 59% for the age group between 60 and 64 years old. This may indicate a change in the tendency towards a gender balance in managerial positions.

Table 7: Percentage of actives by sex and age group in the position of Directors and Managers.

	Men	Women
From 30 to 34 years old	2,05%	1,66%
From 35 to 39 years old	4,37%	2,43%
From 40 to 44 years old	5,28%	3,50%
From 45 to 49 years old	6,08%	2,51%
From 50 to 54 years old	6,11%	2,72%
From 55 to 59 years old	5,20%	2,51%
From 60 to 64 years old	6,05%	3,58%
From 65 to 69 years old	14,89%	8,73%

Source: prepared by the author on the basis of the data of the 1st quarter of 2015 by the LFS (INE).

In view of these data, it can be seen that businesswomen are still a minority due to the fact that employers, when it comes to hiring people, between a man and a woman, prefer the first one. They take into account the fact that women are more likely to be absent from work for biological/family reasons and the fact that these absences may cause important organization costs for the company and, what is more important, the greater the level of qualification is, the higher the costs are in general terms.

In order to avoid these problems, companies must adopt measures addressed to avoid any kind of labour discrimination between women and men, measures that they will have to negotiate with social agents and, if necessary, with workers' legal representatives in the way determined by the labour legislation. The achievement of real and effective equality in our society does not only require the commitment of public authorities but also their promotion in the area of relationships among particulars. Thus, the regulation of access to goods and services is subject to attention by the LOI in the title VI, combining the principles of freedom and freedom of contract in the company with the promotion of equality between men and women.

4. Conclusions.

In spite of the data shown, gender inequalities continue to exist in the labour market since the Organic Act for Effective Equality itself has turned out to be insufficient and it even recognises in its Statement of Purpose that in order to achieve full and effective equality between men and women, new legal instruments are needed.

Bearing in mind that women have increased their positions quantitatively in the labour market but not qualitatively, the presence of women in this market must be favoured by means of support measures at an educational and professional level, being necessary an institutional reform to get rid of any kind of sex discrimination.

Maternity is still having a strong impact that influences, in spite of the measures taken, women's professional development and the fact that they hold less positions of high direction in companies than men. In order to avoid this, companies must respect equal treatment and opportunities men/women in the work sphere and adopt measures addressed to avoid any type of discrimination on the grounds of sex. Thus, employers must promote equality plans that include: access to employment, job classification, licenses, promotion and formation, remuneration, organisation of working time, work-life balance and prevention of sexual harassment.

It is also necessary to take into account that the ways in which women and men experience poverty and social exclusion are very different, since women are faced with a greater risk of poverty especially those who raise their children alone and those elderly. When wage gap leads to pensions gap, active ageing policies and specific measures in the area of pensions are going to be needed to ensure that women have the appropriate means to retire.

Capacity building for entrepreneurship turns out to be an efficient tool for the economic development in general and for female employment in particular since it is difficult to escape the global crisis in which we are stuck without entrepreneurs' (men/women) economic strength, who are the true job creators.

A change in the orientation of European policies, including ours, is needed, since they do not take into account so far the distribution of the total of work sharing (productive/ domestic) or modify substantially the factors and processes that favour gender inequality in the labour market; they are in fact partial policies, what means that for them to be effective and in order to improve the current conditions they should tackle the distribution of the total of work sharing between genders along the whole lifetime or life cycle, what means a reorganisation of working time and working days according to the needs of today's society.

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