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**Spanish Legislation on Violence against Women:
Challenges and Facts**

Expert Paper prepared by:

Carmen de la Fuente Méndez*
Pueblos Unidos
Madrid, Spain

* *The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

I. INTRODUCTION

The increasing social, political and legal sensitivity regarding violence against women has been manifested in terms of legislation in the Organic Act 1/2004 on Integrated Protection Measures against Gender Violence

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This legal framework was issued to tackle not only the increase in domestic violence in Spain, but also to reveal a hidden reality, which had been invisible for centuries.

II.

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a) In the **education environment**: the Act recognizes the main role of education in defending fundamental rights and freedoms and equality between men and women. Education is the main tool to change the stereotyped, patriarchal domination-subjugation relationships into equal relationships, rooted in democratic values and new emotional and rational models, where both men and women can coexist as equals and together eradicate every form of gender based violence.

To reach this aim, chapter one of the Integral Act defines the principles of non-violent
levels, from the school to universities and specifies the three () Tj 0 -13.5 TD -0.1166 Tc 3218n

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application, continuous update and the dissemination of protocols containing uniform guidelines (...) and the issue to include gender violence in health plans”.

The main problem is that each Autonomous Community has a different level of competence in the healthcare system, owing to it there are different initiatives to establish a common healthcare assistance protocol, awareness-raising training for healthcare professionals and research/knowledge on the problem.

For this reason the interregional Council has developed some measures for the National Health System, such as: inclusion of Gender Violence in the List of Services provided by the National Health System, the elaboration of a common healthcare assistance protocol, awareness-raising training and the elaboration of minimum common indicators for the epidemiological vigilance of gender violence in the healthcare system.

Rights of the victims of violence

The Title II of the law includes a list of rights of the victims of gender based violence, to protect and recover their rights as citizens, recognising that the situation of violence they are experiencing should affect to diverse aspects of their lives and should need of some supports, no matter the social status of the victim (employee or self-employed women, civil servants, unemployed women or women, that due to their social, personal or economic circumstances are not able to participate in employment integration programmes):

a) **Labour rights:** to adapt the situation of the working women to the situation that they are living, with measures such as justification of absenteeism or unpunctuality, reduction or rearrangement of working hours, possibility to geographic mobility or change of work centre, leave/suspension with reservation of job position or without termination of employment contract,... In the legal framework this regulations have reviewed the Worker's Statute, the Social Offences and Sanctions Act and some collective bargaining agreements which include provisions of the Integral Act.

b) **Social Security rights:** associated to the previous measures, the Act includes Social Security rights, such as unemployment benefits, the consideration of the suspension period as an effective contribution, the suspension of the contribution obligation for self-employment female workers or an employment and professional training policy (to promote the self-employment, employment trainings and a supporting for employment)... with the consequent reviews of the General Social Security Act and the additional provisions of the National Budget Act.

c) **Economic support measures:** for those women who cannot participate in labour integration programmes and do not become incomes, there are economic supports equivalent to six months of unemployment benefit during a maximum of 24 months. These programs are developed by the autonomous communities, which are responsible of the

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of lawyers on duty under legal aid scheme specialised in gender violence and the non sufficient training, that guarantees the homogeneous and adequate treatment and support to the victim.

III.

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«Violence exercised in the family environment, and, in particular, gender violence, constitutes a serious problem for our society that requires a global co-ordinated response on the part of all public authorities. The situation generated by these forms of violence transcends the domestic sphere to become a scourge that affects and involves all citizens».

Different from other legal systems, the Spanish Protection Order is a court order, which protects the victim from further abuses and includes a multi-disciplinary (criminal, civil and assistance) response.

Every victim of gender based violence (including spouses, common-law relationships, boyfriends and former relationships of the above types) or intra-family violence can go to

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a) Judicial measures: The main target of the Integral Act is the creation of specialised courts for matters related to violence against women in every territory. On 28th June 2005 with the enforcement of the Integral Act, 17 new specialist Courts of Violence against Women were established. These Courts respond to a specialisation formula to create examining magistrates with criminal jurisdiction for matters related to gender violence offences and civil jurisdiction for family issues related to violent acts.

Actually, 83 Examining Magistrate's Courts are exclusively specialised for matters – criminal and civil- related to gender violence in the whole country. Another 375 Examining Magistrate's Courts deal with matters related to gender violence, but not exclusively. Their jurisdiction authority extends as well to general criminal matters in 18 Courts and to general criminal and civil matters in 357 Courts. In every case, due to the number of reports -126.293 new reports in 2007⁵- these Courts have difficulties to judge and execute their sentences with the necessary diligence to guarantee the integral protection of the victims.

Every exclusive Examining Magistrate's Court specialised for matters related to gender violence has a Psycho-social team (psychologist and social worker) and a Victim Assistance Office, which inform victims of their rights –previously mentioned- and assess the risk and need for support. Regretfully, in the Courts that have to share their agenda with other criminal and civil issues, the lack of specialised resources such as a psychosocial team is common.

On the other hand, the specialisation of the jurisdiction and the increase of specialised Courts should be followed by gender-sensitivity training of the professionals of the sector - law enforcement officials, prosecutors and judges-. A quite significant part of the budget has been used to achieve this target, although in practice, few of the professionals who work in the specialised courts have received extensive and qualified training to be able to understand the special circumstances of the cycle of violence and the psychological consequences for the victim and her family, especially in groups such as immigrants, disabled women or other cases of high risk or special vulnerability of the victim.

b) Penal measures: The Integral Act includes a legal framework of criminal offences considered “gender violence” through the amendment of the Criminal Code in those sections which include the main and typical conducts related to this forms of violence, such as:

1. Offences against physical and psychological integrity, broadly defined in typical conducts such as assault and battery, no matter the intensive of the physical or psychological damage.

⁵ General Council of the Spanish Judiciary. The reports follow an ascending evolution. In 2005, the first year of the Integral Act's implementation, the rate of complaints was 73.785. Since then, it has only increased. This rates includes the reports of all kinds of criminal acts: minor,

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participate in psychological treatment for aggressors. In practice those training programs for aggressors have not been developed in most of the autonomous communities, with important consequences for victims and aggressors. Only some prisons have established psychological treatment as part of the therapies offered in the penitentiary system for inmates who enter prison for gender violence offences. Despite the legal provision, only 33 of the 77 penitentiary institutions offer re-education programs for gender violence

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