

# Situation report on discriminations against women in Spain

March 2023

## INTERNATIONAL AND REGIONAL INSTRUMENTS

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Optional Protocol

1984  
CEDAW Ratified

2001  
Optional protocol ratified

Council of Europe Convention on preventing and combating violence against women and domestic violence (known as Istanbul Convention)

2014  
Ratified

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

Not Applicable

International Covenant on Civil and Political Rights

1977  
Ratified

International Covenant on Economic, Social and Cultural Rights

1977  
Ratified

## MAIN OBSTACLES TO GENDER EQUALITY DE JURE AND DE FACTO



Women are still underrepresented in some areas of politics and of the economy. Moreover, the Spanish Constitution still institutes preference for men over women in the succession to the crown.



Even if Spain is ranked as one of the most LGBTQ+ friendly countries in Europe, there are still gaps in terms of social protection and acceptance. The same discourse applies to other vulnerable categories such as migrant women.



Despite recent improvements in women's sexual and reproductive rights, practical difficulties remain in the enjoyment of such rights due to conservative attitudes towards abortion, sexual freedom & sexual education.

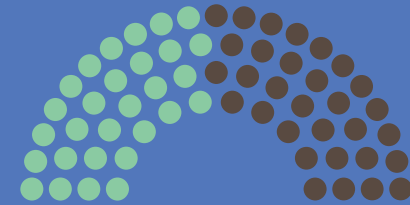
# Did you know?

## RECOMMENDATIONS

- Continue to enforce laws and policies that increase awareness about gender-based violence and promote gender equality, non-discrimination, and women's participation in decision-making processes, particularly in areas where women are traditionally underrepresented such as employment, education and political representation.
- Provide support and resources for women who face multiple forms of discrimination, such as women with disabilities, LGBTQI+ people, and women from marginalised communities.
- Strengthen the collection and analysis of sex-disaggregated data to monitor progress towards gender equality and identify areas where further action is needed.
- Strengthen laws and policies related to gender and sexual violence, including ensuring that victims have access to justice and support services, and ensure that law enforcement and justice officials are properly trained to respond effectively to gender and sexual violence cases, with sensitivity and respect.
- Address the underlying social and cultural norms that contribute to gender and sexual violence, including toxic masculinity and patriarchal attitudes, and encourage the involvement of men and boys in preventing gender and sexual violence, through education and awareness-raising programs that promote healthy relationships and respect for women's rights.

43%

Proportion of seats held by women in national parliaments



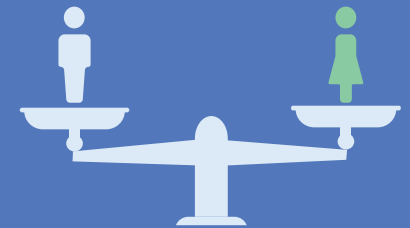
28,81%

Gender pay gap



Near-equal rights

Inheritance rights for widows and daughters



52,65%

Female labour force participation



13%

Prevalence of gender violence in lifetime (% women)\*

\*This is understood according to the more specific Gender Global Gap Report qualification that the statistic refers to the: "Percentage of ever-partnered women who ever suffered intimate partner physical and/or sexual violence".

# 1. LEGISLATIVE FRAMEWORK

## International conventions

Spain ratified the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** on the 5th of January of 1984.<sup>1</sup> Since then, the Mediterranean country has periodically sent reports to the CEDAW Committee, the last one being the ninth periodic report submitted in 2022. Moreover, Spain also ratified the Optional Protocol of the CEDAW in 2001. It is worth mentioning that when Spain ratified the CEDAW, there was one specific declaration: the ratification did not affect the constitutional disposition on the succession to the crown, which establishes a preference for men over women.<sup>2</sup> This condition is still present in the ratification. To comply with the CEDAW, Spain would have to modify the Constitution, a process that requires dissolving the courts, calling elections, approving the text with a  $\frac{2}{3}$  majority in each of the chambers, and submitting the new text to a citizens' referendum.

In addition, Spain has ratified the following agreements<sup>3</sup>: the International Convention on the Elimination of All Forms of Racial Discrimination (1968); the International Covenant on Civil and Political Rights (1977); the International Covenant on Economic, Social and Cultural Rights (1977); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); the Convention on the Rights of the Child (1990); the International Convention for the Protection of all Persons from Enforced Disappearance (2009); and the Convention on the Rights

of Persons with Disabilities (2007). To this day, Spain has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Finally, Spain ratified the **Council of Europe Convention on preventing and combating violence** against women and domestic violence (known as Istanbul Convention) in 2014 and, in 2021, reaffirmed its commitment to the Convention, as it considers it the most exhaustive international instrument to combat all forms of violence against women and girls.

## Constitutional equality

**Article 14 of the Spanish constitution**, drafted and approved on December 6th, 1978, is the only one with a gender perspective, and it states: "Spaniards are equal before the law, without any discrimination based on birth, race, sex, religion, opinion or any other personal or social condition or circumstance."<sup>4</sup> However, the constitution does not mention the right to a life free from gender based violence, sexual and reproductive rights are not valued as fundamental rights, and care and family balance are not mentioned. **Spain's Organic Law 3/2007, of the 22nd of March for the Equality of women and men** guarantees the effectivity of equal rights and treatments for women and men. Article 1 states the following: "Women and men are equal in human dignity, and equal in rights and duties.

The purpose of this Law is to make effective the right to equal treatment and opportunities between women and men, in particular by eliminating discrimination of the women, whatever their

circumstance or condition, in any of the spheres of life and, singularly, in the political, civil, labour, economic, social and cultural spheres for, in the development of articles 9.2 and 14 of the Constitution , achieve a more democratic, fairer and more supportive society".<sup>5</sup>

## Civil and familial rights

The civil code was amended by the Law 30/1981.<sup>6</sup> In chapter II, it is stated<sup>7</sup>: "Article 44. Men and women are entitled to marry pursuant to the provisions of this Code. Marriage shall have the same requirements and effects whether the spouses are of the same or different genders; Article 45. There shall be no marriage without matrimonial consent. Any condition, term or mode limiting consent shall be deemed not to have been put". In its current wording, the Civil Code envisages mothers and fathers committed to equality in the exercise of parental authority over their common minor children. For this reason, article 66 of the civil code states that the **spouses are equal in rights and duties**, and article 68 establishes that **spouses must share domestic responsibilities and the care** and attendance of ascendants and descendants and other dependents under their charge.

Moreover, according to law 1-21 of the Civil Code and law 659 of 1944, it is **prohibited for minors under 18 to get married**.<sup>8</sup> Additionally, **same-sex marriage has been legal** since July of 2005 (Law 13/2005 of July 1st, 2005), amending the Civil Code on the right to marry.

Finally, there is **no discrimination regarding inheritance, and the right to apply/request a divorce**.

## Political Rights

The first time women were allowed to vote was the 19th of November 1933, after the approval of the Constitution of the Second Republic of 1931, which established gender equality before the law, with the same electoral rights between women and men. From 1939 to 1975, Spain was under a dictatorship and there were no elections during this period. After the death of the dictator and with the approval of the new Constitution in 1978, **universal suffrage was guaranteed**, and women voted in the first free elections on the 15th of June 1977. This right is also guaranteed under the Organic Law 5/1985 of the General Electoral System<sup>9</sup> establishing in article 2 the right of universal suffrage.

Finally, **laws on parity at the electoral level** are in place. According to the Organic Law of the General Electoral System, a balanced composition is required in all the electoral lists presented to these different elections: local, regional (autonomous communities, island councils), national and European. This balanced composition of women and men implies the following: in the list for the elections to the Congress of Deputies as a whole, and in any case in each section of 5 seats, candidates of either sex may not constitute less than 40%.<sup>10</sup>

In 2023, Prime Minister Pedro Sánchez announced a new law proposal to impose gender parity rules in politics and businesses. Under this law, all parties would alternate strictly between a man and a woman when drawing up their candidates list ("zipper lists").

## Sexual and reproductive rights

In Spain, **women have the legal right to access safe and legal abortion services**. Abortion was decriminalised in Spain in 2010 under the Organic Law 2/2010, which allows abortion up to 14 weeks of pregnancy on request, and up to 22 weeks in cases of foetal malformation or if the woman's life or health is at risk. After 22 weeks, abortions are only permitted if there is a serious risk to the woman's life or health, or if the foetus is not viable.

On March 3rd, 2010, a law was approved (**Organic Law 2/2010, on Sexual and Reproductive Health and the Voluntary Interruption of Pregnancy**) that built solid foundations for women's sexual and reproductive rights. Under this law, abortion was allowed but with certain obstacles that made it difficult to exercise this right, such as the "conscience clause" applied by practitioners in public hospitals refusing to practice abortion and referring all patients to private clinics. In May 2022, the draft bill for **the reform of this same law** was approved, extending the following rights:

- The guarantee of the right to termination of pregnancy will be maintained.
- This termination of pregnancy can be performed in public health centres.
- The morning-after pill will be available free of charge in all health centres and in all pharmacies.
- The exercise of the right to termination of pregnancy for women aged 16 and 17 and those with disabilities will not require the consent of their legal guardians. "The State guarantees them

that the decision about their bodies, their life projects and their maternity will be theirs", according to the Minister of Equality, Irene Montero.<sup>11</sup>

In addition, this new reform of the law covers aspects related to **pregnancy and good gynaecological-obstetric practices and respected childbirth**, and the right to menstrual health has been included in the legislation for the first time. There will be two measures: regulation of a temporary incapacity fully paid by the State for those women who have painful and incapacitating periods; products related to menstrual hygiene will be dispensed free of charge in educational, penitentiary and social service centres. Moreover, reproductive abuse, forced abortion and pregnancy, forced sterilisation, and forced contraception are recognised as forms of violence against women, as stated in the Istanbul Convention.

In 2021, the Spanish government passed a law mandating that **all public schools in the country must provide comprehensive sexual education**, including information on contraception, consent, and sexual diversity. The law also requires that sexual education be inclusive and non-discriminatory, and that it take into account the different needs and experiences of students.

Finally, **relations before marriage are not criminalised**. Same-sex marriage has been legal since July of 2005 (Law 13/2005 of July 1st, 2005), amending the Civil Code on the right to marry (see above).

## Laws on gender-based violence/violence against women

Spain has a specific law on gender-based violence: **Organic Law 1/2004, of December the 28th, on Integral Protection Measures against gender violence.**<sup>12</sup> Gender violence in this law is approached from an integrated, multidisciplinary standpoint, starting from the processes of education and socialisation. This law establishes integral protection measures with the purpose of preventing, punishing and eradicating gender violence and to aid women, their minor children, and minors subject to their guardianship or custody, victims of this violence. This law also establishes rights for women victims of gender violence, such as access to information and social assistance, free juridical and mobility assistance, economic aid, justification in case of absence from the work place, etc. Moreover, it also includes preventive measures in education, publicity, institutions, military, health, and more.

In addition, Spain approved the **organic Law 10/2022, 6th September, for the Comprehensive Guarantee of Sexual Freedom.** This law eliminates the crime of abuse and states that all conducts that attempt against sexual freedom without consent (the “yes model”) are typified as sexual aggression in the penal code. In addition, the law penalises chemical submission and street harassment, includes sexual violence as a work risk, aggravates the penalties for sexual aggressions, and includes a special protection for minors (especially in the digital world). Finally, it modifies the rights and freedoms for foreign people to avoid sanctions in

relation to women victims of sexual violence who are in an irregular administrative situation.

## Economic and Social Rights

Spain adopted the Royal Decree 902/2020, of the 13th of October, regarding **Equal redistribution between men and women**, with the purpose of establishing specific measures to make effective the right to equal treatment and non-discrimination between women and men in matters of compensation, developing mechanisms to identify and correct discrimination in this scope and fight against it, promoting the necessary conditions and removing the existing obstacles, in accordance with the provisions of articles 9.2 and 14 of the Spanish Constitution.<sup>13</sup>

In 2023, a new parity law has been put on the table regarding **gender parity in politics and businesses.** This law will mandate that at least 40% of persons on the boards of listed companies are women, imposing this requirement in all public companies with more than 250 employees and 50 Million euros in turnover.

## Vulnerable and/or marginalised populations.

Spain’s trans law, known as the **Gender Identity Law**, was passed in 2007. Under this law, individuals could apply to change their gender on official documents such as ID cards, passports, and birth certificates, by making a declaration before a notary or registrar. To do so, individuals had to provide a report that diagnosed them with gender dysphoria and have spent two years undergoing hormonal

therapy. The law also prohibited discrimination on the basis of gender identity and expression and provided protection against hate crimes and hate speech. It recognised the right to healthcare and the provision of gender-affirming treatments, including hormone therapy and gender reassignment surgery. In 2021, the Spanish government proposed a **new trans rights law**, which includes provisions such as the right to self-identification for trans individuals under the age of 16, and the establishment of a registry for gender identity. The main change in relation to the 2007 Gender Identity Law is that under the new law, individuals do not need to undergo any medical procedures, such as hormone therapy or surgery, or provide any proof of gender dysphoria to change their gender.

The law also amends the Civil Code to allow **lesbian and bisexual women to parent their children without the need to be married**. The law was approved in March 2023, despite the opposition faced from conservative groups, the Catholic Church and a sector of the feminist movement.

Moreover, special attention is also attributed to **migrant women**. The Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence takes into consideration the specific situation of foreign women, highlighted as one of the priority lines of action aimed at preventing, eradicating and punishing gender-based violence, as well as protecting this sector of the population. In this regard, article 17 of this Organic Law guarantees the rights recognised therein to all women victims of gender-based violence regardless of their origin, religion or any other personal or social circumstance. In addition, the rights of immigrant women are set out, among other regulations, in Organic

Law 4/2000 of 11 January on the Rights and freedoms of foreigners in Spain and their social integration (after its reform by Organic Law 2/2009 of 11 December and by Organic Law 10/2011 of 27 July), in the Regulation of Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April, and in Law 12/2009 of 30 October, which regulates the right to asylum and subsidiary protection.

## 2. DE FACTO DISCRIMINATION

### Civil and familial rights

Patriarchal mindsets and attitudes are still present in the interpretation of laws. This biased interpretation can be reflected in the implementation of the laws regarding child custody, for example.

### Political rights

In the last general election held in Spain in November 2019, women's voter turnout was slightly higher than men's. According to the Spanish government's Ministry of Interior, women's turnout was 75.6%, while men's turnout was 75.1%.

As of the XVI Legislation (2019-currently), women hold 43.29% of the seats in the Spanish parliament<sup>14</sup>, which is slightly higher than the global average of 26%, as of 2021.<sup>15</sup> Women also hold a significant number of positions of power in regional and local governments in Spain. As of 2022, women serve as presidents of five of Spain's 17 autonomous regions, and as mayors of several major cities.

However, **women are still underrepresented in some areas of politics**. For example, women hold just 21.7% of the seats in the Spanish Senate, which is the upper house of parliament. In addition, women are underrepresented in some political parties, particularly on the right of the political spectrum.

## Sexual and reproductive rights

Abortion services are provided by both public and private healthcare providers. Women seeking an abortion have the right to choose the method of abortion and can choose to have the procedure done under local or general anaesthesia. In addition to abortion services, women in Spain have access to comprehensive sexual and reproductive healthcare, including family planning, contraception, and sexual health services. Contraceptive methods are available through public healthcare services, and emergency contraception is available over-the-counter at pharmacies.

However, there have been **some restrictions on women's reproductive rights in certain regions of Spain due to conservative attitudes towards abortion**. Some doctors have refused to perform abortions on religious grounds, and some clinics have faced protests and harassment from anti-abortion activists. In recent years, there have also been efforts by conservative political groups to roll back abortion rights in Spain, although these efforts have largely been unsuccessful.

Despite the law that establishes that public schools in the country must provide comprehensive sexual education, the **implementation of comprehensive sex education in schools can be challenging,**

as some conservative groups and religious organisations have opposed it on moral and religious grounds. As a result, some schools may offer limited or incomplete sex education, and some parents may choose to opt their children out of sex education classes.

## Laws on gender-based violence/violence against women

According to data from the Spanish government's Ministry of Equality, in 2022 a total of 47,955 cases of gender violence were reported in Spain, representing an increase of 9.41% compared to the previous year.<sup>16</sup> Of these reported cases, 61,035 were cases of violence against women in a domestic or intimate partner relationship, and 18,390 were non-domestic cases.

In terms of sexual harassment, a survey conducted by the Ministry of Equality in 2019 found that 39% of women in Spain reported having experienced some form of sexual harassment in their lifetime. This includes unwanted sexual advances, comments, or gestures, as well as physical contact.

One example of a program for perpetrators of gender-based violence in Spain is the "Integral Program for the Treatment of Male Perpetrators of Gender Violence" (Programa Integral para el Tratamiento de Hombres Maltratadores), which is operated by the Spanish government's Ministry of Equality. This program provides counselling and therapy to male perpetrators of gender-based violence, with the goal of helping them to identify and change their violent behaviour.



## Economic and social rights

As of 2021, the **labour force participation rate for women** in Spain was 61%, compared to 73% for men. Women are also more likely than men to work in low-paid and low-skilled jobs, and they are underrepresented in leadership positions. According to data from Eurostat, in 2020, women in Spain earned on average 14.2% less than men.

The **gender gap in entrepreneurship** is also significant in Spain. As of 2021, only 34.5% of new entrepreneurs in Spain were women, and women-owned businesses tend to be smaller and less profitable than male-owned businesses.

There is also a significant gender gap in terms of **access to social protections and benefits**. Women in Spain are more likely to work in informal and precarious jobs, which often lack access to benefits such as paid leave, social security, and pension contributions.

## Vulnerable and/or marginalised populations

Regarding **immigrant and refugee women**, while there is still work to be done to fully integrate immigrant and refugee women into Spanish society, some policies aimed at improving their access to education and healthcare have been successful. For example, a program called “Healthcare without Borders” provides free medical care to people without papers, including many immigrant women who lack health insurance. According to a report by Médicos del Mundo, the program has helped to improve the health and well-

being of many people who would otherwise have limited access to medical care.

Concerning **LBTQ+ women**, there have been some successes in promoting their rights and well-being in Spain, including the legalisation of same-sex marriage in 2005 and the adoption of a law on gender identity in 2007. However, there is still work to be done to combat discrimination and hate crimes against LGBTQ+ people. According to a report by ILGA-Europe, while Spain is ranked as one of the most LGBTQ-friendly countries in Europe, there are still gaps in terms of legal protection and social acceptance.

Regarding **older women**, some policies aimed at promoting their rights and well-being have been successful, such as the implementation of a “dependency law” in 2006, which provides support for people who are dependent on others for their care. According to a report by the European Commission, the law has helped to improve access to care and support for older people, including many older women.

## 3. RECOMMENDATIONS

### To the Spanish government

- Continue to promote and enforce laws and policies that increase awareness about gender-based violence and promote gender equality, non-discrimination, and women’s participation in decision-making processes, particularly in areas where women are traditionally underrepresented such as employment,

education, and political representation.

- Provide support and resources for women who face multiple forms of discrimination, such as women with disabilities, LGBTQ+ women, and women from marginalised communities.
- Strengthen the collection and analysis of sex-disaggregated data to monitor progress towards gender equality and identify areas where further action is needed.
- Strengthen laws and policies related to gender and sexual violence, including ensuring that victims have access to justice and support services, and ensure that law enforcement and justice officials are properly trained to respond effectively to gender and sexual violence cases with sensitivity and respect.
- Address the underlying social and cultural norms that contribute to gender and sexual violence, including toxic masculinity and patriarchal attitudes, and encourage the involvement of men and boys in preventing gender and sexual violence, through education and awareness-raising programs that promote healthy relationships and respect for women's rights.

## To the EU/The UN or other international institutions.

- Coordinate European and international data collection regarding all forms of Violence against Women and GBV.

## ENDNOTES

- 1 United Nations, Treaty Body Database. Retrieved from: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=163&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=163&Lang=EN)
- 2 Retrieved from: [http://www.bayefsky.com/html/spain\\_t2\\_cedaw.php](http://www.bayefsky.com/html/spain_t2_cedaw.php)
- 3 Retrieved from: <https://indicators.ohchr.org/>
- 4 Retrieved from: [https://portal.mineco.gob.es/ca-es/ministerio/igualdadgenero/Paginas/ART\\_CABECERA.aspx#:~:text=Art%C3%ADculo%2014%20de%20la%20Constituci%C3%B3n,o%20circunstancia%20personal%20o%20social%E2%80%9D](https://portal.mineco.gob.es/ca-es/ministerio/igualdadgenero/Paginas/ART_CABECERA.aspx#:~:text=Art%C3%ADculo%2014%20de%20la%20Constituci%C3%B3n,o%20circunstancia%20personal%20o%20social%E2%80%9D)
- 5 Ibid.
- 6 Retrieved from: <https://www.boe.es/buscar/doc.php?id=BOE-A-1981-16216#:~:text=El%20hombre%20y%20la%20mujer,se%20tendr%C3%A1%20por%20no%20puesta>.
- 7 Retrieved from: [https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Spanish\\_Civil\\_Code\\_\(Codigo\\_Civil\\_Espanol\).PDF](https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Spanish_Civil_Code_(Codigo_Civil_Espanol).PDF)
- 8 Retrieved from: <https://oig.cepal.org/es/laws/9#:~:text=Ley%201%2D21%2C%20que%20modifica,personas%20menores%20de%2018%20a%C3%B1os>.
- 9 Retrieved from: <http://www.juntaelectoralcentral.es/cs/jec/loreg/contenido>
- 10 Retrieved from: <http://www.elecciones.mir.es/generales10N2019/es/formaciones-politicas/informacion-general/que-es-la-paridad-electoral.htm>
- 11 Accessed in March 2023: [https://www.lamoncloa.gob.es/lang/en/gobierno/councilministers/Paginas/2022/20220517\\_council.aspx](https://www.lamoncloa.gob.es/lang/en/gobierno/councilministers/Paginas/2022/20220517_council.aspx)
- 12 Accessed in March 2023: <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/europe/constitutional%20act%201%202004%20of%2028%20december%20on%20integrated%20protection%20measures%20against%20gender%20violence/spain%20%20organic%20act%20on%20integrated%20measures%20against%20genderbased%20violence%202004%20eng.pdf?vs=4719>
- 13 Retrieved from: <https://www.boe.es/buscar/pdf/2020/BOE-A-2020-12215-consolidado.pdf>
- 14 Accessed in March 2023: <https://blog.congreso.es/dia-de-la-mujer-congreso-diputados/>

15 Accessed in March 2023: <https://datos.bancomundial.org/indicador/SG.GEN.PARL.ZS>

16 Accessed in March 2023: <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/En-Portada/El-tercer-trimestre-de-2022-registro-un-aumento-de-las-denuncias-y-de-las-victimas-de-violencia-de-genero-proximo-al-diez-por-ciento>