

**¿Sí se puede?
Norms, Work-Family Reconciliation, and Economic Gender Equality in Spain**

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Chapter One: Introduction

Article 11 of the United Nations *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) postulates that “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality the same rights [as are accorded to men]”. Wisely, the Convention does not stop at the simple requirement of “equality”, but rather goes on to specify in paragraph 2 of the same article that “in order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their *effective* right to work, State Parties shall ... encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life” (my emphasis).

By distinguishing women’s “effective” right to work from the more straightforward requirement of equal employment rights, the Convention recognizes a most fundamental reality for the majority of women today: the challenge of reconciling family duties with work outside of the home. Although gender equality has widely been recognized as an important social ideal, gender norms that condone an unequal division of domestic and paid labor between men and women are still prevalent. In most cases, women undertake the majority of unpaid domestic and family responsibilities, which results in their disadvantage

with respect to men in the labor market. Economic equality is a significant subset of the gender equality ideal, as it is a valuable contributor to women's autonomy. In order to achieve economic gender equality, it is not enough to simply make provisions for equal employment rights and egalitarian treatment in the workplace; women's unique position, including the disadvantages they face due to unequal divisions of labor within the private sphere must also be addressed.

Measures that enable the reconciliation of work and family life are therefore an important step towards achieving effective gender equality in the labor market, or economic gender equality. However, if directed exclusively at women, work-family reconciliation policies can serve to reinforce the very gender dynamics within the domestic sphere that contribute to economic gender inequality in the first place. Thus, in order to adequately address the problem of economic gender inequality and one of its main causes, – gender inequality within the family, – work-family reconciliation measures should target both men and women.

In order to promote effective economic gender equality, governments all over the world have implemented work-family reconciliation policies that seek to provide the types of social support mechanisms for women and men that are called for by CEDAW. These policies have been an especially prevalent topic of consideration in the European Union. In this thesis I will analyze the effectiveness of European work-family reconciliation mandates in Spain, one of the Union's Member States. I conceptualize policy effectiveness by assessing indicators of

gender equality both in the public (labor market) as well as the private (family and home) sphere.

I argue that work-family reconciliation policies in Spain have been influenced in large part by international norms and European Law. The normative basis of these policies, however, is incongruent with socio-cultural norms of gender and the family that are pervasive in Spanish society. As a result, Spanish society has resisted to the full efficacy of these policies in achieving economic gender equality. The predominantly external, as opposed to domestic, source of influences for the creation of these policies further undermines their level of effectiveness in Spain.

I begin the next chapter with a more detailed explanation of the nature of work-family reconciliation policies and of their influence on economic gender equality. I summarize academic literature that has addressed this policy area and issues of gender and the family in general terms. I then consider similar work that has focused more specifically on Europe and Spain. Finally, I identify a theoretical framework that the analysis in this thesis will follow.

In Chapter Three, I assess legal and normative standards of gender and work-family reconciliation on a broader international, as well as European, level. I thereby identify the so-called ideal of gender equality that, as I will argue, Spain is expected to emulate through its policies and practices. I end the chapter by providing an overview of the success of European work-family reconciliation policies across Member States and show that there is a high level of State-to-State variance.

In Chapter Four, I turn to Spain as the case of interest. I begin by analyzing historical and cultural factors that have contributed to the creation of Spain's traditional gender norms, which I contend are in contradiction with the underlying ideology of work-family reconciliation policies that Spain is expected to implement. I then use survey and opinion poll data to illustrate the prevalence of these norms within Spanish society. After analyzing Spanish legislation that has addressed work-family reconciliation, I end by using several quantitative indicators of economic gender equality in order to show the level of effectiveness that these policies have achieved.

In Chapter Five, I discuss the data presented in Chapters Three and Four, and synthesize the central argument of this thesis. I return to the theoretical framework proposed in Chapter Two and reinforce the importance of gender norms in determining the success of work-family reconciliation policies, both in the Spanish case specifically, as well as in general terms.

Chapter Six concludes this thesis. I identify policy-level and academic implications of my analysis, while recognizing some of its limits. I end by suggesting avenues for further research that will advance our understanding of the relationship between social norms, social policy, and the politics of gender equality.

Chapter Two: Conceptualizing Gender Norms, Work-Family Reconciliation, and Economic Gender Equality

I begin this chapter by conceptualizing work-family reconciliation. I then provide an overview of some of the literature that addresses work-family reconciliation policies as a means for achieving gender equality and as a prerequisite for gender equality in the labor market. I include a discussion of the challenges of policy creation and implementation. Next, I survey the literature concerning issues of gender and work-family reconciliation in the European Union and in Spain. Finally, I identify a theoretical framework for my analysis.

Work-Family Reconciliation Policies

In most basic terms, work-family reconciliation policies create or support mechanisms that help individuals combine labor force participation with family obligations. Governments can create policies to help ensure that citizens' working lives do not come in conflict with their family lives by offering subsidized childcare, requiring employers to give parental leave (both maternal as well as paternal) to their employees, and prohibiting dismissal on the grounds of pregnancy or parenthood, among other measures. If such measures target women as well as men, they can contribute to greater economic gender equality in the

labor market by reducing the disadvantages that women faced in the labor market as a result of their traditionally large share of domestic responsibilities.

Not all work-family reconciliation policies have either the motivation or the effect of promoting gender equality.¹ Other policy aims may include improving early childhood education (as in the case of subsidized pre-school programs),² reducing unemployment (by encouraging part-time work and expanding the public care-work sector),³ or raising fertility levels (by making it easier for working women to have more children).⁴ Although these are all legitimate policy goals, this essay evaluates work-family reconciliation policies based on their contribution to the achievement of economic gender equality.

Work-family reconciliation policies address a significant source of economic as well as social gender inequality. Mazur and Moss agree that many forms of gender inequality in employment practices such as hiring, promotion, and remuneration, stem from unequal gender roles in the family. Mazur argues that the way gender roles are perceived and played out within society influence employers' approaches to women's work. Persistent economic inequality between men and women, as well as women's economic dependency, can be attributed to gender differences in the distribution of domestic and family responsibilities.⁵

¹ For an overview of possible goals of work-family reconciliation policies, see Mazur, Amy, *Theorizing Feminist Policy*, New York: Oxford University Press 2002, p. 104-105

² See Valiente, Celia, "Central Child Care Policies in Postauthoritarian Spain: Implications for Gender and Carework Arrangements," *Gender and Society*, Vol. 17, No. 2 (April, 2003), pp. 287-292, Thousand Oaks, CA: SAGE Publications, Inc, 2003

³ Jenson, Jane and Mariette Sineau, *Qui doit garder le jeune enfant? Modes d'accueil et travail des mères dans l'Europe en crise*, Paris: Collection Droit et Société, 1998

⁴ Hakim, Catherine, *Models of the Family in Modern Societies*, Great Britain: MPG Books, Ltd., 2003, p. 108

⁵ Mazur, Amy, *Theorizing Feminist Policy*, New York: Oxford University Press 2002, p. 80, 99, 130

Moss points out that an unequal division of labor within the family influences inequalities in the labor market. In particular, women's disproportionately high share of family responsibilities translates into their inability to fully participate in the labor market, which in turn diminishes their negotiating power within the family itself. This reinforces the male-breadwinner model of the family. Consequently, a cycle is created whereby women can become unable to enter the labor market on an equal footing with men. Work-family reconciliation policies that allow both women as well as men to combine family responsibilities with labor force participation can help break this cycle and ensure effective gender equality in employment practices. Specifically, Moss emphasizes that parental leave without increased risk of subsequent unemployment for both men and women is essential to maintaining gender equality in the labor market.⁶

It is important to specify the types of work-family reconciliation policies that promote gender equality. In order to be effective, work-family reconciliation policies must strike a delicate balance between acknowledging the different needs of men and women and promoting a more equal conception of gender roles both within the private and the public spheres. On one hand, Gil Ruiz notes that policies that do not recognize any difference between men and women often serve to camouflage discrimination, as they are conceptually centered on the male model of the citizen.⁷ On the other, Lewis argues that it is problematic to focus too much on the difference between men and women in the *amount* of family

⁶ Moss, Peter, Cuidado de los Hijos e Igualdad de Oportunidades, Barcelona: Industrias Gráficas CARO, S.L., 1990, p. 56

⁷ Gil Ruiz, Juana María, Las Políticas de Igualdad en España: Avances y Retrocesos, Granada: Publicaciones de la Universidad de Granada, 1996, p. 286-7

work that each performs; policies that target only women because of the disproportionately high amount of family and domestic tasks that women perform can reinforce the existing gendered division of domestic and paid labor.⁸ Meehan agrees that framing women's needs as exclusive may serve to reinforce divisive gender stereotypes.⁹ Instead, work-family reconciliation policies should seek to promote greater gender equality in the division of household labor, even while recognizing that different needs do exist between men and women. Lewis contends that any form of social policy, does in fact need to be gendered, as historically, access to almost all kinds of resources (income, education, healthcare) has been gendered. Thus, if gender differences are not recognized, then, as Ruiz suggests, women's needs will be overlooked.¹⁰

Many authors agree that a way to ensure that the intricacies of gender equality and work-family reconciliation policies are adequately addressed is to increase women's participation in parliaments and other legislative bodies. Birte claims that as long as women have decision-making power, they can provide the perspective necessary for deciding when policies need to emphasize gender differences and when it is better to steer more towards an idea of sameness, thus resolving the conflict identified in the preceding paragraph. Birte's analysis of Scandinavian welfare states credits these countries' high levels of women's

⁸ Lewis, Jane, "Gender and Welfare Regimes: Further Thoughts," *Social Politics*. Vol. 4, No. 1 (Spring 1997), pp. 161-177, New York: Oxford University Press, 1997

⁹ Meehan, Elizabeth, "Women's rights in the European Community," *Women and Social Policies in Europe*, Ed. Jane Lewis. Vermont: Edward Elgar Publishing Co., 1993

¹⁰ Lewis, Jane, "Gender and Welfare Regimes: Further Thoughts," *Social Politics*. Vol. 4, No. 1 (Spring 1997), pp. 161-177, New York: Oxford University Press, 1997

parliamentary representation for their success in promoting gender equality.¹¹ Ruiz agrees that the only way to create policies that truly cater to women's needs is to put more women in political power.¹² Joni Lovenduski generalizes this string of arguments further by claiming a correlation between women in parliament and women-friendly policies. She argues that the mere presence of female legislators will increase the overall understanding of and sensitivity to women's issues. Women's presence in parliaments inevitably brings about change in gender equality policies, because women politicians are expected to specifically represent their gender, in addition to representing their general constituency.¹³

Other authors have identified normative factors as equally if not more important than women's political representation in creating work-family reconciliation policies that effectively contribute to gender equality in the labor market. From her analysis of work-family reconciliation policy development in Denmark, Germany, Ireland, and the United States, Mazur concludes that prevailing social norms are most significant in determining the success of such policies – more so than the percentage of women in legislative bodies, the influence of feminist lobbyists, or the preference of political parties in power.¹⁴ Similarly, Linda Hantrais cites normative differences as proxies for differences among Member States in implementation of European Union work-family

¹¹ Birte, Siim, "The Gendered Scandinavian Welfare States: The Interplay Between Women's Roles as Mothers, Workers and Citizens in Denmark," *Women and Social Policies in Europe*, Ed. Jane Lewis. Vermont: Edward Elgar Publishing Co., 1993

¹² Gil Ruiz, Juana María, *Las Políticas de Igualdad en España: Avances y Retrocesos*, Granada: Publicaciones de la Universidad de Granada, 1996, p. 286-7

¹³ Lovenduski, Joni, "Change in Women's Political Representation," *Gender Policies in the European Union*, Ed. Mariagrazia Rossilli, New York: Peter Lang Publishing, 2000

¹⁴ Mazur, Amy, *Theorizing Feminist Policy*, New York: Oxford University Press, 2002, p. 118

reconciliation mandates.¹⁵ The importance of norms that these authors identify will be key to the analysis that I perform in this thesis.

Gender and Work-Family Reconciliation Policies in the EU/EEC

Work-family reconciliation policies have been broadly addressed by the European Union. Current policies explicitly aim to contribute to gender equality both in the labor market and within the more private spheres of society, recognizing the connection between the two realms. Several limitations on the scope and effectiveness of these policies have been identified. First, their development has been limited by the original mandate of the European Economic Community (EEC) and European Union (EU), which primarily addressed the economic life of Member States. Thus, gender equality has not always been the goal of these policies. Second, Member States have interpreted and applied EU work-family reconciliation policies differently. Finally, the results, as reflected by economic gender equality indicators, have also been different among Member States.

Meehan argues that the original mandate of the EEC limited its approach to policies that affect individual citizens. Having to place all social policy within an economic framework, EEC policy could treat men and women only as workers, not individuals.¹⁶ Hantrais points out that originally, measures requiring gender equality in remuneration of labor were meant to promote fair competition

¹⁵ Hantrais, Linda, "From Equal Pay to Reconciliation of Employment and Family Life," Gendered Policies in Europe, Ed. Linda Hantrais. New York: St. Martin's Press, Inc., 2000

¹⁶ Meehan, Elizabeth, "Women's rights in the European Community," Women and Social Policies in Europe, Ed. Jane Lewis. Vermont: Edward Elgar Publishing Co., 1993

between Member States instead of being concerned with the principle of gender equality *per se*. The EEC thus aimed to ensure that no state could acquire a competitive advantage by using women's "cheaper" labor. The need for gender equality in the labor market was subsequently recognized only as a prerequisite for fair competition rather than a goal in itself.¹⁷ According to Jenson and Sineau, work-family reconciliation policies in particular were a tool for helping families, as unitary entities, cope with insecure market conditions.¹⁸ Measures such as these, which were originally designed to bring women onto the male workers' competitive field, eventually turned into policies aimed at reversing socially constructed inequalities at work and in the home. Eliminating these inequalities was recognized as essential for achieving economic equality, which had already become synonymous with fair economic competition.¹⁹

European Member States have not all implemented EU work-family reconciliation policies in the same manner. Stratigaki contends that the same EU-mandated measures can be applied differently in accordance with varying national policy cultures, gender norms, understandings of concepts, strategies, and policy tools.²⁰ Hantrais identifies three general reasons for variance in implementation: 1) disagreement on the legitimacy of EU authority in this policy area, 2) loosely defined policy requirements resulting from disagreements during drafting, 3) soft-

¹⁷ Hantrais, Linda, *Social Policy in the European Union*, New York: St. Martin's Press, Inc. 2000, p. 113

¹⁸ Jenson, Jane and Mariette Sineau, *Qui doit garder le jeune enfant? Modes d'accueil et travail des mères dans l'Europe en crise*, Paris: Collection Droit et Société, 1998

¹⁹ Mazur, Amy, *Theorizing Feminist Policy*, New York: Oxford University Press 2002, p. 102

²⁰ Stratigaki, Maria, "The Cooptation of Gender Concepts in EU Policies: The Case of 'Reconciliation of Work and Family'," *Social Politics*, Vol. 11, No. 1 (Spring 2004), pp. 30-56, New York: Oxford University Press, 2004

law format of some of the policies in question.²¹ Implementation differences, for example, can lie in the details of a specific work-family reconciliation measure, such as maternity leave, the administrative details of which can depend on a Member State's economic preferences (whether or not it would be beneficial to keep women out of the labor force for longer periods of time, etc).²²

Hantrais, Meehan, and Stratigaki, among others, agree that the one thing EU Member States all have in common is some remaining form of gender disparity, both social and economical.²³ This gender gap is especially pronounced in Southern European countries. Lohkamp-Himmighofen and Dienel argue that the traditional models of the family that are pervasive within these societies resist the more gender-egalitarian principles that European work-family reconciliation policies promote. Had it not been for EEC/EU pressure, these policies would mostly likely not have been implemented in countries such as Italy, Portugal, and Greece, where they are currently among the weakest in Europe.²⁴ Valiente supports this argument, pointing to Spain's normative adherence to the traditional view of maternity as one reason for the relative lack of success of gender equality policies.²⁵ Hantrais specifies that countries that joined the EEC in the 1980s – as did Spain – had to bring their gender equality legislation up to exogenous

²¹ Hantrais, Linda, "From Equal Pay to Reconciliation of Employment and Family Life," Gendered Policies in Europe, Ed. Linda Hantrais, New York: St. Martin's Press, Inc., 2000

²² Hantrais, Linda, Social Policy in the European Union, New York: St. Martin's Press, Inc., 2000, p. 130

²³ Meehan, Elizabeth, "Women's rights in the European Community," Women and Social Policies in Europe, Ed. Jane Lewis, Vermont: Edward Elgar Publishing Co. 1993

²⁴ Lohkamp-Himmighofen, Marlene and Christiane Dienel, "Reconciliation Policies from a Comparative Perspective," Gendered Policies in Europe, Ed. Linda Hantrais, New York: St. Martin's Press, Inc., 2000

²⁵ Valiente, Celia, "Reconciliation Policies in Spain," Gendered Policies in Europe, Ed. Linda Hantrais, New York: St. Martin's Press, Inc., 2000

Community standards. As these countries did not contribute to the development of such standards, they could not become deeply seated within their respective societies.²⁶

Gender and Work-Family Reconciliation Policies in Spain

Relatively little academic work has been done on the subject of gender equality in Spain, and even less has focused on the family. Valiente illuminates this observation, noting that within academic circles in Spain, gender studies have a negative image. Those who do pursue gender studies are quickly labeled as “feminists,” which is commonly used as a derogatory term that also indicates a lack of academic integrity. Valiente suggests that one of the reasons why family issues are not addressed is the association between any form of interference (political or academic) with the family institution and Francisco Franco’s authoritarian family policies. The negative sentiment that is therefore associated with public “invasion” of the family is prevalent within Spanish society and tends to steer academics of all disciplines away from analyzing family issues. Consequently, work-family reconciliation rarely has been addressed as an academic topic. Moreover, most funding for research on gender and the family that is conducted comes from the Spanish government. As a result, the research that has been done is mostly descriptive, because it is used for informational

²⁶ Hantrais, Linda, *Social Policy in the European Union*, New York: St. Martin’s Press, Inc., 2000, p. 126

purposes. Most notably, an international perspective is missing from the existing body of research.²⁷

Much of the literature on gender issues in Spain that does exist indicates that gender disparities in Spain persist, especially within the family. Hantrais points to gendered divisions of domestic labor and family care work. She compares this tendency with that of the other Southern European States whose societies adhere to traditional models of the family.²⁸ Moss observes that the male breadwinner model is the most normatively accepted family arrangement within Spanish society.²⁹ Larumbe claims that existing work-family reconciliation policies that support more gender-equal family roles have been externally influenced by the European Community, as Spain had to adhere to Community standards upon its accession in 1986.³⁰ Valiente qualifies this point by explaining that after the fall of Franco's regime in 1975, Spain had to catch up to most other European countries, as men and women were not even equal before the law at that time. Thus, more pressing issues had to be addressed by policy makers and the relatively weak Spanish feminist movement, putting intricate measures such as

²⁷ Valiente, Celia, "An Overview of Research on Gender in Spanish Society," *Gender and Society*, Vol. 16, No. 6. (December, 2002), pp. 767-792, Thousand Oaks, CA: SAGE Publications, Inc., 2002

²⁸ Hantrais, Linda, "From Equal Pay to Reconciliation of Employment and Family Life," *Gendered Policies in Europe*, Ed. Linda Hantrais, New York: St. Martin's Press, Inc., 2000, p. 8

²⁹ Moss, Meter, *Cuidado de los Hijos e Igualdad de Oportunidades*, Barcelona: Industrias Gráficas CARO, S.L., 1990, p. 50

³⁰ Larumbe, María Ángeles, *Una Inmensa Minoría: Influencia y Feminismo en la Transición*, Zaragoza: Prensas Universitarias de Zaragoza, 2002, p. 150

work-family reconciliation on hold until European influences called them to the forefront of policy work.³¹

Addressing current work-family reconciliation policies, Contreras and Carrillo note that despite the availability of parental leave to both genders, men continue to avoid taking advantage of this allowance.³² This supports Moss's observation that despite legal equality, effective gender equality has not been realized within the private sphere, particularly within the realm of the family. Specifically, Moss observes that mothers of young children who do not dedicate the majority of their time to childcare are often stigmatized, while fathers encounter a similar stigma if they favor childcare over paid labor.³³ Froitié addresses this incongruence between legal and effective gender equality, pointing out the tension between the Spanish government's willingness to comply with EEC/EU work-family reconciliation policies and the society's reluctance to accept the more egalitarian model of gender relations and the family that these policies promote. Froitié argues that the drastic contrast between Franco's traditionalist family policies that effectively defined women's primary role in society as that of upholding family morality, and current equality-promoting policies makes this tension all the more surprising. For some reason, drastic changes in policy work have not brought about a corresponding social construct

³¹ Valiente, Celia, "The Feminist Movement in Spain, 1970s-2000," Women's Movements Facing the Reconfigured State, Eds. Lee Ann Banaszak, Karen Beckwith and Dieter Rucht, New York: Cambridge University Press, 2003, p. 41

³² Contreras, Pilar Nuñez-Cortés and Antonio Cebrián Carrillo, El Reflejo en la Jurisprudencia de las Medidas de Conciliación de Vida Laboral y Personal, Madrid: BOCM, 2006, p. 35-40

³³ Moss, Meter, Cuidado de los Hijos e Igualdad de Oportunidades, Barcelona: Industrias Gráficas CARO, S.L., 1990, p. 53

of gender roles. In other words, the practices of Spanish society have somehow not “caught up” with official Spanish policy.³⁴

I propose to help fill the gender and family gap in academic research on Spanish society and analyze the puzzle that Froitiée articulates and to which Moss, Valiente and others allude. In this thesis, I address Spanish work-family reconciliation policies in light of their international influences, thus providing the international perspective that is lacking in the literature, according to Valiente. I focus specifically on the European Union, as the main source of pressure for the development of these policies. By analyzing various normative indicators, I show that persistent socio-cultural norms of gender in Spain stand in the way of effectively implementing work-family reconciliation policies and achieving the ultimate goal of economic gender equality.

Theoretical Framework

In analyzing the relationship between norms and policy effectiveness, I adhere to the theoretical framework articulated by Martha Finnemore and Kathryn Sikkink.³⁵ Finnemore and Sikkink emphasize the importance of norms for policy formation and the subsequent success or effectiveness of policy implementation. The authors define norms as a distinct kind of widely accepted rules that are characterized by a prescriptive quality, or a quality of “oughtness”; in other words, they define “standards of behavior for individuals of a particular identity.”

³⁴ Froitiée, Brigitte, “La politique espagnole d’aide à la famille: Le traitement de la questions familiale après le franquisme,” *Recherches et Prévisions*. No. 78 (Décembre 2004), pp. 51-61, Paris: CNAF, 2004

³⁵ Finnemore, Martha and Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organizations*, Vol. 52 No. 4 (1998), pp. 887-917, Cambridge: The MIT Press, 1998

Norms within a society may originate at the domestic or the international level. An international norm “cascades” across individual states after it reaches a certain “tipping point,” or critical mass of state supporters. Subsequently, it spreads rapidly throughout a community of states even without requiring domestic pressure or active support. Sovereign states may be prompted to adhere to an international norm if they are members of a community that promotes or already adheres to this norm, or if they are seeking legitimization within the international community. When an international norm is adopted, it does not become fully effective or influential within a society until it is “internalized” on the domestic level. New norms are most likely to be effective if they fit well with or are analogous to already existing norms.

The norms that I address in this thesis are norms of gender equality, particularly within the family and the labor market. Work-family reconciliation policies that seek gender equality in the labor force are manifestations of these norms on the policy level. As shown earlier, gender equality in the labor force cannot be fully achieved without the aforementioned domestic gender equality. I argue that these norms were introduced into Spanish society by the European Economic Community, but have not yet been internalized on the domestic level. Spain originally embraced European work-family reconciliation policies because it sought to adhere to Community standards, as a new member, as well as to gain legitimacy internationally as a new democracy with a recent authoritarian past. However, existing norms of gender in Spanish society contradict these norms and therefore impede the effective implementation of work-family reconciliation

policies. As a result, there is a notable discord between gender equality on the policy level and the actual state of gender relations within Spanish society.

Chapter Three: The European and International Perspective

In this chapter, I address the legal standards for work-family reconciliation and gender equality on a broader international, as well as the European, level. These legal standards embody the ideal of gender equality as conceptualized by the international community. This ideal is in turn posited as the goal towards which governments should strive. More specifically, as a State Party of the United Nations and Member State of the European Union, Spain falls under the influence of the legal and normative framework that these governing bodies establish. This chapter will therefore elucidate the nature of the international standards of gender equality and work-family reconciliation that are imposed on Spain. The first section addresses the Convention on the Elimination of All Forms of Discrimination against Women, which is the primary and most comprehensive reflection of these standards on the international level. The second section does the same with the European Union's (formerly, the European Economic Community's) legal treatment of gender equality and work family reconciliation, which reflects the more proximate standards to which all Member States, including Spain, are expected to adhere. The last section shows the level of variance in gender equality indicators among Member States. In subsequent

chapters, I will demonstrate the extent to which these standards are adopted by Spanish law and Spanish society.

International Law

On the international level, gender equality and work-family reconciliation are most notably addressed by the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which entered into force in 1981. CEDAW establishes a general principle of gender equality, and sets up a detailed framework for ensuring the effective implementation of this principle. The Convention approaches the goal of effective gender equality both from the legal as well as the socio-cultural standpoint. Work-family reconciliation is established as a significant means of achieving effective gender equality. All State Party signatories of the Convention, Spain being one of them, are expected to adhere to its standards.

CEDAW conceptualizes “discrimination against women” as “any distinction, exclusion or restriction made on the basis of sex which has the *effect* or *purpose* of impairing or nullifying the recognition, enjoyment or exercise by women, [...] on a basis of equality [with men], of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (my emphasis).³⁶ It requires States Parties to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices

³⁶ Article 1, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Text of CEDAW was retrieved from “Discrimination Against Women: The Convention and the Committee”, *Human Rights Fact Sheet No. 22*, Centre for Human Rights, Geneva: United Nations, 2005

which constitute discrimination against women.”³⁷ The Convention hereby recognizes a connection between the legal and customary spheres; social change – “customs and practices” – therefore must accompany legal change – “laws and regulations” – in order to achieve gender equality.

Further calling for social change, CEDAW obligates States Parties to “modify [by ‘all appropriate measures’] the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices, and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on *stereotyped roles for men and women*” (my emphasis).³⁸ Some of the legal measures that are to accompany and reinforce this social change should “prohibit [...] the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave,”³⁹ “introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowance,”⁴⁰ and “encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life.”⁴¹ A legal framework that provides means for individuals to reconcile work and family responsibilities, and prohibits the treatment of maternity and child bearing as grounds for any form of discrimination, discourages the traditional segregation of women to the private sphere (family and the home) and men to the public (paid work outside the home).

³⁷ Article 2(f), CEDAW

³⁸ Article 5(a), CEDAW

³⁹ Article 11(2)(a), CEDAW

⁴⁰ Article 11(2)(b), CEDAW

⁴¹ Article 11(2)(c), CEDAW

Spain ratified CEDAW in January 1984. Since then, it has submitted reports in a timely manner, as required by the Committee on the Elimination of All Forms of Discrimination Against Women, which is charged with monitoring compliance. The Committee has met forty times since its first meeting in 1982, and Spain has been evaluated on five individual reports. During its eleventh session, which took place in 1992, the Committee commended Spain for legally complying with the majority of CEDAW's standards. It noted two main problem areas: sexual assault and sexual harassment statutes that did not adequately protect victims, and lack of effective work-family reconciliation measures that would allow women's full economic participation. While acknowledging that parental leave and protection against dismissal on the grounds of pregnancy did ameliorate the situation to some extent, the Committee emphasized the traditional gender roles manifested by Spanish men's lack of participation in family duties as a significant hindrance to Spain's achievement of economic gender equality.⁴²

The Committee reviewed Spain's third and fourth reports during its twenty-first session in 1999. Once again, the Committee commended Spain for the legal status of gender equality achieved by its laws. The Committee continued to express its concern however that "notwithstanding the Government's active policy and concrete measures to eliminate them, stereotypical gender-based attitudes persist with regards to the roles of women and men in the home, in the

⁴² Fraser, Arvonne and Miranda Kazantsis, compilers, *CEDAW #11: The Committee on the Elimination of Discrimination Against Women*. International Women's Rights Action Watch, August, 1992, pp. 19-20

workplace and in society.”⁴³ To explain this shortcoming, it pointed to the fact that Spanish women’s rate of participation in the labor market is one of the lowest in Western Europe and encouraged greater efforts towards dismantling these stereotypes.⁴⁴ Eliminating discrimination against women in the labor market was also cited as one of Spain’s greatest challenges in adhering to CEDAW standards during the Committee’s evaluation of its fifth report at the thirty-first session in 2004.⁴⁵

This section shows that Spain has not only voluntarily ratified CEDAW, but has also been a compliant participant in the Commission’s efforts to monitor the implementation of the Convention’s standards. Thus, it has accepted legal responsibility to adhere to the specific norms of gender equality promoted by the Convention. In the following two chapters, I will address the lack of *effective* adherence, which is indicated by the Committee’s critiques.

European Law⁴⁶

The European Union (EU) and the European Economic Community (EEC) have addressed the issue of gender equality through three main legal routes: directives, recommendations, and action programmes. Directives are

⁴³ *Report of the Committee on the Elimination of Discrimination Against Women: Twentieth Session, Twenty-first Session*, General Assembly Official Records, Fifty-fourth Session, Supplement No. 38 (A/54/38/Rev.1), New York 1999, p. 69

⁴⁴ *Ibid*, p. 70

⁴⁵ CEDAW 31st Session, “Women’s Parity in Government, Eliminating Domestic Violence Among Issues, as Anti-Discrimination Committee Considers Spain’s Fifth Report,” Convention on the Elimination of All Forms of Discrimination against Women, <http://www.un.org/News/Press/docs/2004/wom1451.doc.htm>, (Accessed February 25, 2008)

⁴⁶ Unless otherwise noted, all legislative texts for the European Union or European Economic Community referred to in this section were retrieved from EurLex, <http://eur-lex.europa.eu/en/index.htm>, (Accessed December 2, 2007)

legally binding for Member States. Each state must take whatever legislative actions may be necessary on the national level in order to achieve the results mandated by the directive. Recommendations, on the other hand, are considered a type of “soft law.” While they do not hold the binding power of directives, they do shape community norms, to which Member States are expected to adhere.⁴⁷ Action programmes are used to manage specific policy areas. Upon its adoption, an action programme becomes the basis for appropriate legislative proposals, including directives, funding of projects, and commissioning of studies in its policy area.⁴⁸ Thus, action programmes combine the binding power of directives and the normative implications of recommendations.

The first pro-gender equality measure was a directive that promoted a rather basic form of equality: equal pay for both genders. Each successive measure elaborated on the principle of equality, mandating broader approaches to achieving this goal. Work-family reconciliation appeared relatively early in this development, as a necessary condition for achieving gender equality. Ultimately, the concept of mainstreaming was introduced, which calls for an almost limitlessly multi-faceted strategy for achieving gender equality, which involves the economic, political, social, cultural, and other spheres of influence.

Directive 75/117/EEC, of February 10, 1975, outlined legal action to be taken by the Member States in order to adhere to the principle of equal pay for men and women. Namely, Member States were to abolish any laws that allowed

⁴⁷ Folsom, Ralph H., European Union Law in a Nutshell, St. Paul, MN: Thomson/West, 2005, pp. 38-39

⁴⁸ Hoskyns, Catherine, “A Study of Four Action Programmes on Equal Opportunities,” Gender Policies in the European Union, Ed. Mariagrazia Rossilli, New York: Peter Lang Publishing, Inc., 2001

gender-based discrimination for remuneration. Moreover, they had to introduce measures that would allow individuals who feel that this principle of equality has not been applied to them, to seek restorative action through judicial means. A year later, Directive 76/207/EEC expanded this principle of equality and called for a broader standard of equal treatment for men and women in employment, vocational training, promotion, and working conditions. The directive began by claiming that “equal treatment for male and female workers constitutes one of the objectives of the Community.” Article 2 established that “for the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on ground of sex either directly or indirectly *by reference in particular to marital or family status*” (my emphasis). This veiled reference to the relationship between gender inequality and male and female roles within the family, set the stage for the work-family reconciliation discourse. The directive went on to affirm that Member States must take all necessary steps to eliminate discrimination based on gender in any aspects of paid work, as listed above.

In 1982, the EEC proposed the *First Action Programme on the Promotion of Equal Opportunities for Women*.⁴⁹ The programme, intended for the period of 1982 to 1985, was introduced by the following statement: “The Community’s longstanding commitment to the improvement of the situation of women has

⁴⁹ “A new Community action programme on the promotion of equal opportunities for women, 1982-85: Commission communication to the Council, presented on 14 December 1981,” Bulletin of the European Communities, Supplement 1/82, Luxembourg: Office for Official Publications of the European Communities, 1982

established it as a pioneer and innovator in this field.”⁵⁰ The EEC thus situated women’s issues at the center of its policy-making realm. Through this Programme, the Community expected to address gender inequality more adequately than it had done in the past. In order to do so, it sought to implement measures in areas that had been neglected in the past as not directly related to gender equality, both on the Community level, as well as through the cooperation of Member States.

In particular, Action 1 called for the establishment of national organizational bodies for the promotion of equal opportunities, especially women’s employment. Such bodies were to provide information and consultation with the purpose of promoting equality in women’s work. Action 7 requested that Member States examine the possibility of extending parental and family-related leave. It cautioned that *maternity* leave (a gender-specific allowance) should not be extended beyond physical need, as it would then replace what should be *parental* leave (a gender-neutral allowance). Action 8 required Member States to adopt measures that specifically protect pregnant women and young mothers from discrimination in employment. Action 9 acknowledged that legal provisions may not be enough and encouraged positive action to compensate for existing social attitudes or structures that are detrimental to the cause of gender equality. Finally, Action 15 encouraged a more equitable sharing of occupational, social, and family responsibilities between men and women. Notably, it indicated that this is especially important in order to increase women’s participation in decision-making processes, especially on the governmental level.

⁵⁰ Ibid, p. 5

The Community itself assumed the responsibility of setting an example for Member States by adopting positive action measures in its personnel policy, aimed at improving women's position and opportunities.⁵¹ In its recruitment and career building processes, the EEC committed to seeking female participation on all selection boards and promotion committees. In terms of work-family reconciliation, the EEC vowed to provide more flexibility in granting leave allowances for family reasons to both male and female employees. Moreover, it pledged to introduce training courses that would allow for a full return to professional life after an extended leave for personal (family) reasons.

In 1984, the EEC reaffirmed its stance on the use of positive action for the purpose of addressing and modifying social attitudes by issuing the *Recommendation on the promotion of positive action for women* (84/635/EEC). The recommendation began by stating that “existing legal provisions on equal treatment [...] are inadequate for the elimination of all existing inequalities unless parallel action is taken by governments, both sides of industry and other bodies concerned, to counteract the prejudicial effects on women in employment which arise from social attitudes, behaviour and structures.” Member States were advised to adopt a positive action policy that would aim to eliminate all existing inequalities through various mechanisms, including informational initiatives, a reorganization of work and working time, and measures designed to promote a more gender-egalitarian sharing of occupational and social responsibilities. Although work-family reconciliation was not explicit in this recommendation, the

⁵¹ Ibid, p. 27

notion of a non-stereotypical division of male and female labor was conveyed clearly and thus established as a prerequisite for effective gender equality.

Following up on the *First Action Programme on Equal Opportunities*, the *Second Programme* was issued for 1986-1990.⁵² The preface qualified this programme as being “part of and [contributing] to the achievement of a people’s Europe,”⁵³ which “can only be realized if it is supported by the political will of all parties, particularly by the Member States.”⁵⁴ This programme reasserted most of the measures promoted by the *First Action Programme*. One notable distinction is the more forceful tone used to compel Member States to cooperate. Along with the Actions advocated under the “Sharing of family and occupational responsibilities” category, the EEC acknowledged that some States had decreased their level of investments in work-family reconciliation practices such as public child care due to the adverse economic environment. However, it pointed out that “this was not true of other countries which have given a degree of priority to improving the situation, including the promotion of alternative child-minding facilities.”⁵⁵ Here, the EEC established the expectation that each Member State must place a high priority on its work-family reconciliation efforts. It appeared that any state that did not prioritize work-family reconciliation therefore risked an almost embarrassing comparison to those who did. Finally, this programme built upon the already established trend of targeting social attitudes in order to achieve

⁵² “Equal opportunities for women, Medium-term Community programme 1986-90: Commission communication to the Council, transmitted on 20 December 1985,” Bulletin of the European Communities, Supplement 3/86, Luxembourg: Office for Official Publications of the European Communities, 1986

⁵³ *Ibid*, p. 5

⁵⁴ *Ibid*, p. 7

⁵⁵ *Ibid*, p. 15

gender equality by calling for more expansive informational campaigns. “Equal treatment should figure as a permanent topic in information and awareness campaigns with a broader scope, for example in connection with occupational choices, job creation, the activities of associations, etc.”⁵⁶ By making this specification, the programme acknowledged the strong socio-normative quality of gender equality laws and the resulting need for a more comprehensive policy approach.

To continue the trend of elevating the cause of gender equality, the *Third Action Programme on Equal Opportunities for Women and Men*,⁵⁷ intended for 1991-1995, stated that “improving the integration of women in the labour market, not only in quantitative but also qualitative terms, now forms an essential part of the strategy for Europe’s *economic and social cohesion*”⁵⁸ (my emphasis). There were no new measures brought about by this Programme, as it primarily reinforced the amount of effort that Member States needed to exert for the cause of equality and the various courses of action that had to be taken in order to achieve it. The Programme was however distinct in the manner in which it addressed actions to be taken under the category of “Reconciliation of Working and Family Life”. It explicitly stated that “men – as well as women – should be able to benefit from the full range of measures directed towards the reconciliation of working and family life and thus be enabled to take on a fair share of family

⁵⁶ Ibid, p. 16

⁵⁷ The title of the Third Action Programme is notably different from the first two, as it now includes the word “men”. This change reflects the more substantive focus this Action Programme, as well as the ones that follow, has on the treatment of men and its role in promoting gender equality.

⁵⁸ “Equal Opportunities for Women and Men, The third medium-term community action programme, 1991-1995,” Commission of the European Communities, 6 November 1990, Luxembourg: Office for Official Publications of the European Communities, 1990

responsibilities.” With this affirmation, targeting men through work-family reconciliation measures was made indispensable for their success. The Programme also provided more support and incentive for Member States to take action, by establishing the New Opportunities for Women (NOW) initiative. Through NOW, member states may receive financing for measures aimed at assisting women’s integration in the labor force, improving childcare options, and other gender equality objectives consistent with the framework set forth in European legislation.⁵⁹

The concept of “mainstreaming,” which became crucial in the legal conceptualization of gender equality towards the second half of the 1990s, was introduced by the European Union Council’s *Decision establishing the Fourth Action Programme on Equal Opportunities for Men and Women, 1996-2000 (95/593/EC)*. It was defined in Article 2 as the “principle of integrating the equal opportunities for men and women dimension in all policies and activities.” Under this programme, Member States could apply for financial support for actions that they took individually in order to fulfill one of the “areas of action” defined by the Programme. “Reconciliation of professional and parental responsibilities, including the role of men” appears under the second area of action, namely “Employment and Working Life.” This Programme thus continued to highlight the importance of addressing the role of men in achieving gender equality.

The June 3, 1996 *Directive on the framework agreement on parental leave concluded by UNICE, CEEEP and the ETUC (96/34/EC)* alluded to the European Union’s unclear authority in the family realm, which may undermine its ability to

⁵⁹ Ibid, p. 13

legislate on issues such as work-family reconciliation.⁶⁰ The directive stated that it remains up to the Member States to determine under what conditions parental leave may be exercised. Nonetheless, the framework agreement endorsed by the directive did request that Member States *encourage* men to take paternity leave, as they should be *encouraged* to bear an equal share of family responsibilities (Directive Annex, section I, point 8). The issue of invading the private sphere was thus sidestepped, while the European Union's stance on the approach that Member States should take to parental leave is still made clear.

Council Decision 2001/51/EC, *establishing a Programme relating to the Community framework strategy on gender equality [2001-2005]* embodies the latest Action Programme. One of the justifications for the need of another such programme, as cited in the preamble, is that Member States alone cannot achieve the goal of equality. This programme also offered funding opportunities to Member States for the implementation of measures deemed necessary for compliance with the programme's objectives. It defined five "intervention areas." Work-family reconciliation initiatives appeared both under the "Economic life" as well as the "Social rights" intervention areas. Following an already established pattern, the broad "Gender roles and stereotypes" intervention area addressed issues of social attitudes and behavioral tendencies. The Council thus claimed the right to mandate measures that "cover mainstreaming, in particular in education,

⁶⁰ The European Court of Justice determined in the 1984 case of Hofmann v. Barmer Ersatzkasse that the EC and its Equal Treatment Programmes may not invade the private sphere by dictating a particular balance of domestic responsibilities. (Szyszczak, Erika, "Fourth Medium-Term Community Action Programme on Equal Opportunities for Women and Men (1996-2000)," *Industrial Law Journal*, Vol. 25, No. 3, (September 1996), pp. 255-257, London: Sweet and Maxwell, 1996, p. 256

training, culture, science, media, youth and sports policies.” It is therefore evident that despite purported limitations, the European Union retained significantly broad authority in any matters that are related to the greater goal of gender equality.

Finally, Directives 2002/73/EC and 2006/54/EC, both *amending Council Directive 76/207/EEC 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*, reaffirmed the social approach towards the achievement of gender equality. The first of these called for the promotion of social dialogue while also acknowledging that such initiatives could be done “in accordance with national tradition and practice” (Article 8b, 1). Article 21 (entitled “Social dialogue”) of the last directive elaborated on this by specifying the monitoring of practices in individual workplaces as an exemplary method of promoting social dialogue.

The breadth of gender equality legislation on the European level indicates that this is a definitive policy area that cannot be ignored by Member States. By extension, work-family reconciliation policies must be implemented, because they are established as a key contributor to the achievement of effective equality. Nonetheless, the substantial socio-cultural diversity among European States suggests that a community-wide change in gender norms may not be easily achieved. The following section explores this proposition.

“Economic and Social Cohesion”⁶¹ in Europe?

Although the European Union has ensured that all Member States have at least some sort of provisions for work-family reconciliation, there continues to be considerable diversity in the types of policies that are actually implemented on the national level.⁶² Moreover, the states’ differences in economic situation, historical background, societal and cultural norms, among other factors, shape Member States’ policy motives that may be just as different. When devising a policy or adapting an existing policy to comply with the directives and programmes discussed in the previous section, different motives may in turn lead to policies that are not designed to achieve the particular goals envisioned by the EU. Family policy, for example, which encompasses work-family reconciliation, may be influenced by an economic motive, a pro-natalist motive, a socio-political motive, or a gender-equality motive, among others.⁶³ Each of these can result in varying levels of legal support for and progress towards the goal of gender equality.

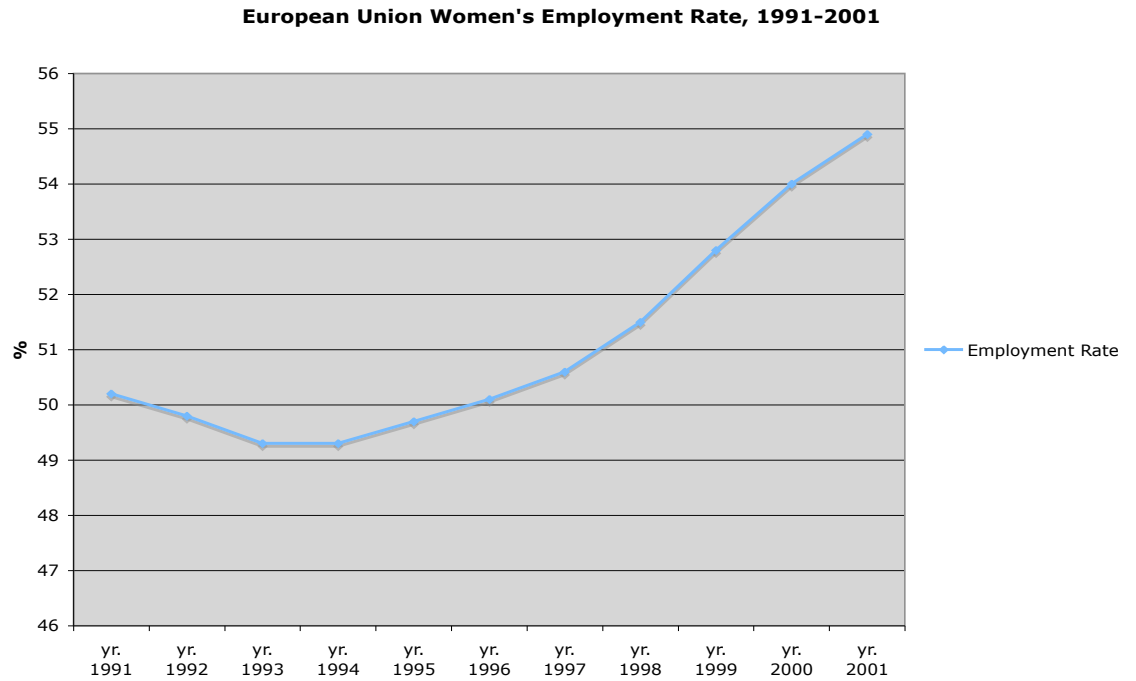
It is evident that there has been some progress made in the realm of economic gender equality on the EU level. Graph 1 shows that women’s labor force participation has been rising, albeit slowly, from 1991 to 2001. The total increase over this time period is approximately 5 percent. Graph 2 demonstrates some improvement in the gender wage gap between 1994 and 2004.

⁶¹ As discussed in the previous section, The *Third Action Programme on Equal Opportunities for Women and Men* indicates that “economic and social cohesion” is an important goal for Europe.

⁶² Cohen, Bronwen, “Parental Leave in Europe: Policy Implications,” *Parental Leave: Progress or Pitfall?* eds: Peter Moss and Fred Deven, Brussels: NIDI CBGS Publications, 1999

⁶³ Kaufman, Franz-Xaver, “Politics and Policies towards the Family in Europe: A Framework and an Inquiry into their Differences and Convergences,” *Family Life and Family Policies in Europe, Volume II*, New York: Oxford University Press, 2002

Graph 1



Source: Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2003, p. 114

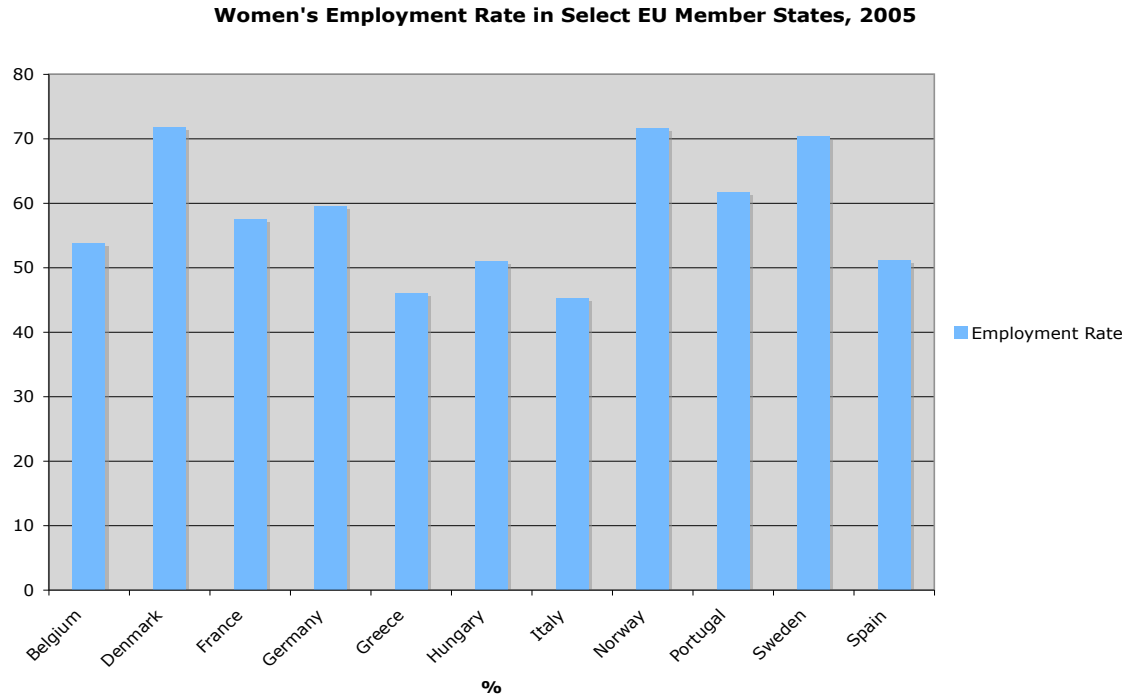
Graph 2



Source: Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2007, p. 182

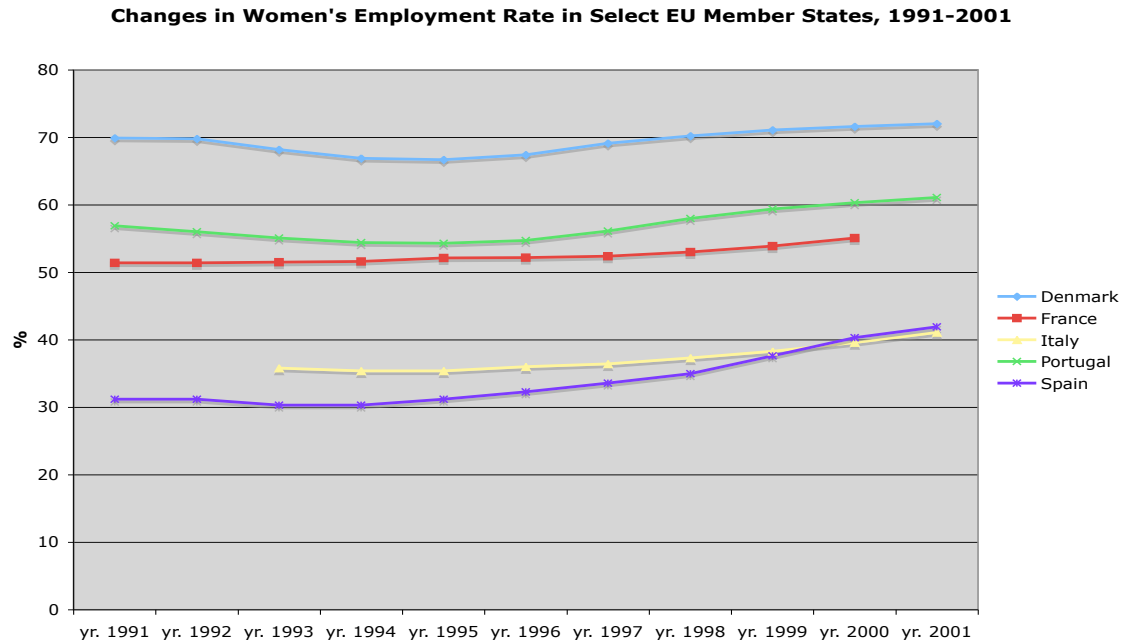
EU indicators, however, are not representative of the situation in all its Member States. Graph 3 shows significant differences between women's employment rates of several Member States for the year 2005, which provides a snapshot of the lack of uniformity in economic gender equality across the EU. Italy and Greece had the lowest rates, both at approximately 45 percent, while Norway and Sweden had highs of approximately 70 percent. Graph 4 shows the changes in women's employment rates over the time period between 1991 and 2001 in five of these Member States. There are also differences between the trends of change in each state. Despite its low rate of women's employment, Spain made a comparatively large amount of progress over this ten-year period, as the rate increased by approximately 10 percent. Denmark on the other hand, where women's employment rate is among the highest, had only a 2 percent increase in the same time period. It is clear, at least according to this relevant indicator, that there is a discrepancy between the levels of gender equality within the Member States despite the fact that all are under the influence of the same directives and programmes.

Graph 3



Source: Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2007, p. 135

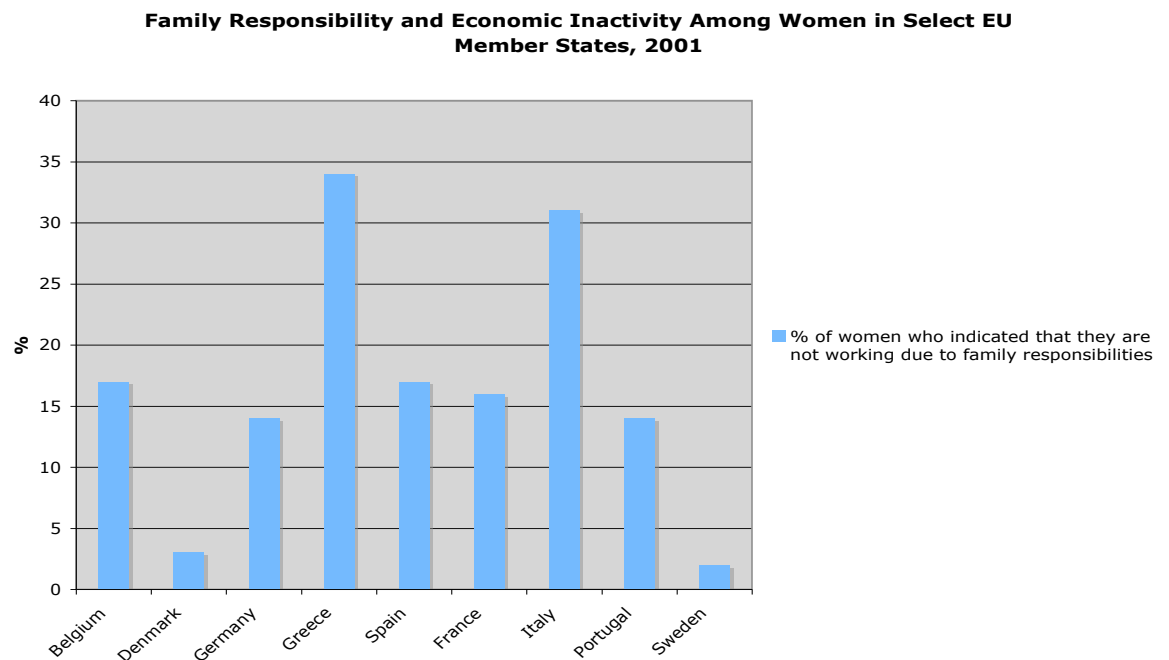
Graph 4



Source: Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2003, p. 114

Focusing on an indicator that is more closely related to work-family reconciliation in particular, Graph 5 shows the differences in the percentage of economically inactive women who cite family responsibility as the primary reason for their inability to participate in the labor market. The highest percentages are in Italy and Greece, both in the 30s; Denmark and Sweden have two of the lowest, at less than 5 percent. The differences between Member States for all the indicators discussed here suggest that the EU directives, recommendations and action programmes are not equally influential throughout the Union. This points to a greater importance of domestic factors in determining and explaining levels of gender equality and effectiveness of measures such as work-family reconciliation policies.

Graph 5



Source: Hein Catherine, *Reconciling Work and Family Responsibilities: Practical Ideas from Global Experience*, Geneva: ILO Publications, 2005, p. 19

* * *

It is evident that the European Union has put great effort into influencing this policy area. Through binding directives and continued interactions with Member States, the EU has both the authority to legislate as well as the monitoring capacity to establish accountability. Moreover, the funding made available to Member States by the Action Programmes on Equal Opportunities for initiatives that are in compliance with each programme's gender equality and work-family reconciliation standards creates additional incentives to comply. Nonetheless, there is a puzzling variation of results across Member States, as shown above. What explains this variation? The next two chapters show that in the Spanish case, deep-seated cultural trends and social conceptions of gender make up a powerful source of resistance to the implementation of international and European standards.

Chapter Four: The Spanish Case

As shown in the previous chapter, gender equality policies promoted by the European Union have not been equally successful in all its Member States. Spain is one of the countries whose economic gender equality indicators are lower than most other countries' indicators in the Union. In this chapter, I will show that traditional gender stereotypes that are pervasive in Spanish society challenge the effectiveness of gender equality policies in general and work-family reconciliation policies in particular. Despite significant legal compliance with European Union and international standards, Spanish socio-cultural norms provide a strong resistance for the effective implementation of such policies. I begin by analyzing relevant historical and cultural factors that influence societal gender norms. Then, I use opinion and time-budget data in order to approximate existing norms of gender and the family among the Spanish people. I continue with an analysis of legal provisions for work-family reconciliation and gender equality. Finally, I look to several quantitative indicators in order to assess the effectiveness of these measures.

Historical and Cultural Background

There are several historical factors that condition the current state of gender norms in Spain. The first of these factors is Spain's relatively recent

transition from an authoritarian regime to a democratic form of government. Both the nature of Francisco Franco's policies on gender and the family, as well as the process of democratization are of significance. Next, the role that the Catholic Church has played in Spanish society since the country's democratization must be evaluated. Finally, the history of feminist activity in Spain should be considered.

Alfonso Alba points out that the traditionally inferior position of women is aggravated in a non-democratic society.⁶⁴ Franco's authoritarian regime was no exception to this rule. The ideology and family policies promoted during the time of his reign charged women with the task of cultivating traditional family values and idealized the family as an integral building block for the political and social systems. Maintaining the family institution as the primary responsibility of women brought about the inevitable result of a patriarchal society in which women were for the most part removed from the public sphere in general and from paid labor in particular.⁶⁵

After Franco's death in 1975, Spain began its path towards democratization. Despite the omni-present sentiment that democracy was the only way forward, "reform was imposed from above by the very people who had been part of the Franco machine."⁶⁶ Thus, the regime change was more of a seamless transition rather than a radical rupture with the past. In fact the Union de Centro Democrático [Centrist Democratic Union], or UCD party, having won the 1978 elections, ran the country's first democratic term. McDonough, Barnes, and López

⁶⁴ Alba, Alfonso, *La riqueza de las familias*, Barcelona: Ariel Sociedad Económica, 2000, p. 52

⁶⁵ *Ibid*, p. 53

⁶⁶ Brassloff, Audrey, *Religion and Politics in Spain*, New York, NY: St. Martin's Press Inc., 1998, p. 79

Pina, drawing on national surveys conducted in 1978 and 1980, observe that there was a high “correlation between satisfaction with ‘the last ten years of the Franco government’ and with the ... UCD government.”⁶⁷ This suggests that UCD governance and the last decade of Franco’s regime were somehow similar. Thus, it is logical to conclude that even if Franco’s regime did not live on, some parts of his legacy did. Although democratic processes quickly replaced his authoritarianism, the social ideologies of his time, such as the strictly familial role of women, did not disappear.

As a new democracy, the Spanish government moved forward with several motivators in mind. One of these was the need to “consolidate ties of Spain with the rest of Western Europe.”⁶⁸ Spain needed to show that it was a (relatively) liberal democracy, like the rest of the European Community. In order to do so, new, more liberal policies had to be implemented. Just as the regime change itself was implemented from above, so were new policies that strove towards this goal of consolidation. These policies did not necessarily reflect popular convictions or popular support, but rather were strategic means of demonstrating Spain’s new identity. On the other hand, policy ties with the authoritarian past had to be broken. As mentioned earlier, Franco’s regime established and strongly promoted conservative family policies. Consequently, any family policy became associated with the old authoritarian regime, which resulted in a pointed avoidance of family issues in the realm of public policy.⁶⁹

⁶⁷ McDonough, Peter, Samuel H. Barnes, Antonio López Pina, The Cultural Dynamics of Democratization in Spain, Ithaca, NY: Cornell University Press, 1998, p. 61

⁶⁸ Ibid, p.93

⁶⁹ Alba, Alfonso, La riqueza de las familias, Barcelona: Ariel Sociedad Económica, 2000, p. 53

Although this avoidance of family policy was meant to be a more liberal approach, it turned out not to be quite the opposite for the purposes of allowing women greater access to paid work. Even though women and men did have legally equal access to work, women and men were *not* equal in the realm of the family, due to the ideologies engrained in society by Franco's regime. This type of inequality in the private sphere inevitably influences the status of gender equality in the public sphere – and in the labor market.⁷⁰ Thus, by avoiding reformist family policies, the Spanish government ignored one of the biggest social hindrances to economic gender equality. By leaving the family alone, the new Spanish democracy also left gender stereotypes alone.

Another lingering influence on Spanish ideology is the Catholic Church. Spain has been a profoundly religious country throughout its history – a characteristic that is negatively correlated with gender equality and the promotion of women's rights.⁷¹ The ideology of the Catholic Church in particular often comes in conflict with the concept of women's rights for two reasons. First, the women's rights movement is predicated on the liberal value of individual autonomy. In contrast, Catholic theology values human beings in terms of their relation and service to God and opposes individualistic affirmation. Second, Catholic theology identifies maternity as the essence of woman and thus opposes claims that minimize its importance. Women's rights advocacy, on the other hand, promotes the idea of the woman as a social subject who determines her own

⁷⁰ Ibid, p. 54

⁷¹ Inglehart, Ronald and Pippa Norris, Rising Tide: Gender Equality and Cultural Change Around the World, New York: Cambridge University Press, 2003

capacity, which moves away from maternity as woman's primary purpose.⁷² Thus, if Spanish society is influenced by Catholic theology, then it is likely that its norms will not correspond with norms of gender equality.

But is Spain as religious today as it has been in centuries past? Does it still make sense to cite the Catholic aspect of Spanish culture as an impediment to the progress of women's rights in Spain? I argue that although the majority of Spanish people today do not identify themselves as religious, Catholicism continues to play a significant role in their ideological dispositions. In his homily at the Mass celebrating the ascension to the throne of King Juan Carlos on November 27, 1975, at the Jerónimos Church in Madrid, Cardinal Tarancón laid out his vision for the relationship between the Catholic Church and the new democratic state. He preached that that which is Spanish is inseparable from that which is Catholic.⁷³ Although most of the newly established political parties of the newly democratic regime opposed any establishment of religion, in 1978 the Church ultimately did obtain an explicit mention in the Spanish Constitution, under Article 16: "The public authorities shall take the religious beliefs of Spanish society into account and shall in consequence maintain appropriate co-operation with the Catholic Church and other confessions."⁷⁴ Moreover, the Catholic Church continued to play an influential role in primary education. In the mid-

⁷² Rosado-Nunes, Maria José, "Catholicism and Women's Rights as Human Rights," *The Rights of Women*, 2002 vol. 5., London: SCM-Canterbury Press Ltd., 2002

Also See: Boden, Alison L., ed, *Women's Rights and Religious Practice: Claims in Conflict*, New York: Palgrave MacMillan, 2007

⁷³ Brassloff, Audrey, *Religion and Politics in Spain*, New York, NY: St. Martin's Press Inc., 1998, pp. 85-86

⁷⁴ *Ibid*, p. 96

1980s, the Church owned and operated approximately 90% of private schools.⁷⁵ In addition, Brassloff notes that although overt religiosity declined rapidly after the end of Franco's regime ("whereas 91% of young people in 1960 said they were 'practicing or not very strongly practicing Catholics,' in 1982 the figure had dropped to 34%"), "a reserve of basic beliefs which still provided points of reference for many of people's values and attitudes" remained.⁷⁶ McDonough, Barnes, and Pina add that despite being detested by many intellectuals, the Catholic Church in Spain has always been seen as "an ideation force, capable of dealing in abstractions and fine feeling, that had contributed to a national, indeed a cosmopolitan ethos."⁷⁷ We are thus led to conclude that Catholicism is still present in Spanish ideology, even if strict religious practices may not be as prevalent as they once were.

I now turn to the question of Spanish feminism. There is no evidence of significant feminist activity in Spain before the twentieth century. Some feminist groups did form in the late 1960s and early 1970s, but they were illegal and were part of the opposition to Franco's authoritarian regime⁷⁸ (a regime that did not end by opposition, as discussed above). Overall, Valiente notes that "the Spanish feminist movement has been historically weak, with its activists only involving a minority of women. Durán and Gallego estimate that by the mid 1980s the

⁷⁵ Ibid, p. 124

⁷⁶ Ibid, p. 117

⁷⁷ McDonough, Peter, Samuel H. Barnes, Antonio López Pina, The Cultural Dynamics of Democratization in Spain, Ithaca, NY: Cornell University Press, 1998, p. 121

⁷⁸ Valiente, Celia, "The Power of Persuasion: The *Instituto de la Mujer* in Spain," Comparative State Feminism, eds. Dorothy McBride Stetson and Amy G. Mazur, Thousand Oaks, CA: SAGE Publications, 1995

number of feminist activists accounted for less than 0.1% of adult women.”⁷⁹ This suggests two inferences: 1) gender equality ideology, such that is promoted by feminist movements, is not prominent within social discourse, and 2) women are not accustomed to taking action in order to claim or assert their rights. Making up for the lack in domestic feminist activity, international influences have been widely recognized as primary contributors to the promotion of women’s rights in Spain. Alba cites Spain’s integration into the European Economic Community as a key step towards the promotion of gender equality in Spain,⁸⁰ while Valiente points out that the Instituto de la Mujer [Woman’s Institute], the national women’s policy office, – part of the Ministerio de Trabajo y Asuntos Sociales [Ministry of Labor and Social Affairs], – was modeled after similar agencies in other advanced democracies⁸¹. Thus, ideological and active influences of gender equality and women’s rights came largely from the outside rather than from within the country.

Since its creation in 1983, Instituto de la Mujer has been the main channel for feminist political influence, explains Valiente. Even as such, its efficacy has remained limited. As a sub-division of the Ministry of Labor and Social Affairs, it cannot directly influence policy making. Instead, its three main tasks are to independently investigate, inform, and relay formal complaints of gender-based discrimination. The Instituto conducts studies to assess various aspects of women’s lives in Spain, coordinates Centros de Información de los Derechos de la

⁷⁹ Ibid, p. 231

⁸⁰ Alba, Alfonso, *La riqueza de las familias*, Barcelona: Ariel Sociedad Económica, 2000, p. 57

⁸¹ Valiente, Celia, “The Power of Persuasion: The *Instituto de la Mujer* in Spain,” *Comparative State Feminism*, eds. Dorothy McBride Stetson and Amy G. Mazur, Thousand Oaks, CA: SAGE Publications, Inc., 1995

Mujer [Informational Centers of Women's Rights], and receives individual complaints of discrimination. It may use its expertise in order to promote policies whose creation and implementation will be at the discretion of other political institutions, namely the municipal ministries. Due to the indirect path that the Instituto de la Mujer must follow in order to ensure the implementation of its policies of interest, its efficacy depends on how sympathetic the current political leadership is to the cause of gender equality.⁸² Consequently, the level of influence that the feminist movement has on political processes in Spain remains conditional at best. Moreover, the lack of feminist activity and the limited nature of the Instituto de la Mujer indicate that there are few channels for political pressure in favor of women's interests.

Expressed Norms

I will now demonstrate the persistence of traditional gender norms in Spanish society through the expressed opinions of the Spanish people. Much of the literature discussed in Chapter 2 indicates that gender roles within the family affect gender dynamics in the public sphere, especially in the labor market. Thus, it is appropriate to focus on expressed norms of gender and the family in order to approximate Spanish gender ideologies that are particularly relevant to the topics of economic gender equality and work-family reconciliation.

First, I consider some of the findings from a 1992 EURO-OPINA study of the social attitudes regarding Spanish women. Table 1 depicts the percentage of

⁸² Valiente, Celia, "El Feminismo de Estado en España: El Instituto de la Mujer, 1983-1994," Estudio/Working Paper 1994/58, Instituto Juan March de Estudios e Investigaciones, Madrid: Ediciones Peninsular, 1994

respondents, separated by gender, who agreed with each of the statements concerning responsibility for either children's upbringing or domestic tasks. Although the majority of respondents consider these to be the responsibility of both the man and the woman in a family, a substantive percentage attributes each responsibility to the woman instead of the man. Only 1-2 percent of men or women consider children's upbringing as a man's responsibility, while 12-14 percent do consider it to be primarily a woman's domain. More strikingly, only .07 percent of women (no data is available for male respondents) would attribute domestic tasks to men's work, while 84-86 percent of both men and women see domestic work as women's work. Thus, there is a clear tendency towards the traditional construction of gender roles within the home, as women are more likely than men to be associated with domestic tasks and children's education. Moreover, men and women accept this concept almost equally, indicating that this particular construct of gender roles permeates Spanish society regardless of gender itself. It is, however, striking that an overwhelming majority of both men (85.56 percent) as well as women (84 percent) express the view that children's upbringing is a responsibility that should be shared equally by men and women. This seems to suggest that more egalitarian view of gender roles apply to childcare than to domestic tasks. I will return to this suggestion momentarily.

Table 1: Gender Roles in the Family (% of respondents)

	Women	Men
Taking care of children's upbringing is more of a woman's responsibility	13.68%	12.59%
Taking care of children's upbringing is more of a man's responsibility	1.1%	1.67%
Taking care of children's upbringing is up to both men and women	84%	85.56%
Performing domestic tasks is more of a woman's responsibility	41.17%	43.82%
Performing domestic tasks is more of a man's responsibility	.07%	-----
Performing domestic tasks is up to both men and women	58.38%	55.57%

Source: Estudio Sociológico sobre las actitudes sociales de las españolas, EURO-OPINA, 1992. Madrid, 1992

A more recent study, performed by the Instituto de la Mujer [Woman's Institute] in 2005, demonstrates that the traditional view of gender roles persisted through the 1990s. This study combined survey data with personal interviews and discussion groups. Male as well as female discussion participants expressed perceptions of distinct male and female roles. Women were associated with domestic and family responsibilities, while men seemed to be largely excused from such tasks due to their paid work outside the home. When asked about the reasons for this traditionally gendered division of labor, both men and women commonly referred to a certain instinct that women have, but men do not.⁸³

Table 2 summarizes responses to questions regarding gender and the issue of labor force participation in relation to family status, which were asked in the survey portion of this study. The results further substantiate the tendency towards a traditional division of labor, showing that nearly half of the respondents believe

⁸³ Instituto de la Mujer, Conciliación de la vida familiar y la vida laboral: Situación actual, necesidades y demandas, Madrid: Rumagraf, S.A., 2005, p. 81

that a woman should stop working⁸⁴ following the birth of her first child, and 17.5 percent even feel that she should do so upon being married. Not surprisingly, less than 1 percent of respondents expect a man to leave work for these reasons. Even comparative income value is a less popular reason for leaving work than is gender. Therefore, the majority's expressed preference for an equal division of domestic responsibilities between men and women (shown in Table 1) is not substantiated. Instead, the domestic work/paid work division is made along gender lines.

Table 2: Gender, Family and Voluntary Unemployment (% of respondents)

The woman stop working after marriage	17.5%
The woman should stop working after the birth of her first child	45.8%
The man should stop working after marriage	0.4%
The man should stop working after the birth of his first child	0.6%
The spouse with the lower income should stop working after marriage	10.2%
The spouse with the lower income should stop working after the birth of his/her first child	6.4%

Source: Instituto de la Mujer, *Conciliación de la vida familiar y la vida laboral: Situación actual, necesidades y demandas*, Madrid: Rumagraf, S.A., 2005, p. 108, Table 3.10

Returning once again to the earlier observation of expressed gender-equal norms of responsibility for children's education, Table 3 and 4 depict the average time commitment of men and women to domestic tasks as well as childcare. Despite the fact that a majority of men and women in Spain express a belief in a gender-equal sharing of responsibility for children's upbringing, this belief does not translate into practice. On average, women spend more time on domestic tasks, as well as on childcare, than do men. This holds true when the general

⁸⁴ In the original Spanish, the phrase "abandonar el trabajo" is used, which indicates a permanent, or at least a long-term withdrawal from the labor market.

population of respondents is taken into consideration and when the calculations are restricted to the economically active population. Thus, whether or not a woman is active in the labor market does not significantly reduce the percentage of domestic and family responsibilities that she undertakes in relation to the man. Instead, the female gender is consistently correlated with greater involvement with domestic and child rearing responsibilities. This falls in line with the norms expressed in Table 2, which show that employment status is not as strong a determinant of work-family balance as is gender.

Table 3: Gender Asymmetry in Division of Familial and Domestic Labor (general population)

Activity	Time dedicated by women (daily average)	Time dedicated by men (daily average)	Time dedicated by women as % of total time
Domestic Tasks	4:02	1:32	72%
Childcare	4:01	2:09	65%

Source: Instituto de la Mujer, *Conciliación de la vida familiar y la vida laboral: Situación actual, necesidades y demandas*, Madrid: Rumagraf, S.A., 2005, p. 399

Table 4: Gender Asymmetry in Division of Familial and Domestic Labor (economically active population)

Activity	Time dedicated by women (daily average)	Time dedicated by men (daily average)	Time dedicated by women as % of total time
Domestic Tasks	3:10	1:30	68%
Childcare	3:38	2:20	62%

Source: Instituto de la Mujer, *Conciliación de la vida familiar y la vida laboral: Situación actual, necesidades y demandas*, Madrid: Rumagraf, S.A., 2005, p. 401

Further encouraging the normative expectation that a woman should favor domestic and family work over paid work, is a somewhat prevalent opinion that a working mother's relationship with her children is not as positive as that of a non-

working mother. According to the World Values Survey, one third of respondents have held this opinion through most of the 1990s – a percentage that decreased by 1999.⁸⁵ Although this view is not expressed by the majority, it is still substantially supported, as shown in Table 5.

Table 5: Relationship between Working Mothers and Children (% of respondents)

A working mother can establish just as warm and secure a relationship with her children as a mother who does not work.	1990	1995	1999
Agree strongly/Agree	63.5%	63.7%	74.2%
Disagree strongly/Disagree	32.3%	34.3%	22.4%

Source: “Online Data Analysis,” The European Values Study Foundation and World Values Survey Association, <http://www.worldvaluessurvey.org/>, (Accessed February 2, 2008)

Finally, let us consider the normative relationship between religion and the family. Data from the World Values Survey shows that the view of the Church as a source of answers to family-related problems has been consistently prevalent throughout the 1980s and 1990s. In this time, between 32% and 38% of respondents expressed confidence in this proposition. In fact, the percentage increased slightly in the 1990’s despite findings that the level of religiosity in Spanish society has been decreasing since the 1980’s.⁸⁶ Although the percentage dropped again by the year 2000, as shown in Table 6, adherents of this view still make up nearly one third of respondents. This indicates that a significant portion of the Spanish population associates family issues with the Church. As discussed in the previous section, Catholic theology is correlated with conservative gender

⁸⁵ The decrease may indicate that there is a trend towards a view that is more condoning of the working mother’s relationship with her child; however, there currently is not enough data in order to support this hypothesis.

⁸⁶ Brassloff, Audrey, *Religion and Politics in Spain*, New York, NY: St. Martin’s Press Inc., 1998

norms in general, and a conception of maternity as women’s primary purpose in particular. Although this is by no means a direct measure of the Catholic Church’s influence on individual ideas of family and the gender roles associated with it, it does serve as an approximation of yet another indicator of traditional gender and family roles in Spanish society.

Table 6: Church and Family (% of respondents)

Do Churches give answers to the problems of family life?	1981	1990	2000
Yes	34.3%	38.2%	32.2%
No	48.8%	44.8%	52.1%

Source: “Online Data Analysis,” The European Values Study Foundation and World Values Survey Association, <http://www.worldvaluessurvey.org/> (Accessed February 2, 2008)

*Policy Analysis*⁸⁷

I now turn to gender equality and work-family reconciliation policies in Spain. The contemporary Spanish state first addressed gender equality in the working sphere through the 1980 Estatuto de los Trabajadores [Workers’ Statute].⁸⁸ Here, gender was mentioned simply as one of the characteristics that employers may not use as basis for discrimination. Practical means of achieving effective gender equality were not considered. Work-family reconciliation was alluded to only through the statement of the legal limit on maternity leave. The articles analyzed below portray the extent to which this statute dealt with gender equality and work-family reconciliation.

⁸⁷ Unless otherwise noted, all legislative texts referred to in this chapter were retrieved from Boletín Oficial del Estado. <http://www.boe.es/g/es/>, (Accessed December 28, 2007)

⁸⁸ “Estatuto de los Trabajadores,” Ministerio de Trabajo y Asuntos Sociales, <http://www.mtas.es/publica/estatuto06/estatuto.htm>, (Accessed December 28, 2007)

Article 4 stated the basic rights of workers. In section 2(c) of the article, workers were guaranteed

to not be discriminated against in obtaining employment, or once employed, for reasons of sex, civil state, for age within the limits demarcated by this law, race, social condition, religious or political ideas, affiliation or lack thereof with a union, as well as for reasons of language, within the Spanish state.⁸⁹

Section 1 of Article 17 then supported the non-discriminatory statute by invalidating any unilateral decision made by an employee that is discriminatory based on any of the aforementioned characteristics.

Article 37, 45, 46, and 48 all addressed measures that fall under the definition of work-family reconciliation. Article 37, Section 3(b) allowed the worker (masculine form of this noun is used) 2 days of leave from work in the case of childbirth. Section 4 allowed the female worker 1 hour per workday to be used for breastfeeding. Article 45, Section 1(d) listed “maternidad de la mujer trabajadora” (maternity of the female worker) as a legitimate reason for voluntary suspension of a working contract. There was no mention of paternity as reason for taking leave. Article 46, Section 3, stipulated that a worker may leave the place of work for no more than 3 years for the purposes of child care. This section specified that in the case that both parents work, only one may take time off. Section 5 of the same article stated that the worker who has taken such leave would only receive a preferential benefit for re-integration to a post of equal or similar category, if such a post could be made available within a company. Finally, Section 4 of Article 48 guaranteed the preservation of a worker’s position

⁸⁹ Original text: “a no ser discriminados para el empleo o una vez empleados, por razones de sexo, estado civil, por la edad dentro de los límites enmarcados por esta ley, raza, condición social, ideas religiosas o políticas, afiliación o no a un sindicato, así como por razón de lengua, dentro del Estado español.”

for no more than 14 weeks in the case of childbirth. The feminine form of the noun was used here to refer to the worker, and no allowance was made for the possibility of paternity leave.

The first Spanish law to make an implicit connection between work-family reconciliation and gender equality in the work place was enacted on March 3, 1989: *Ley 3/1989, por la que se amplia a dieciséis semanas el permiso por maternidad y se establecen medidas para favorecer la igualdad de trato de la mujer en el trabajo* [Law 3/1989, whereby maternity leave is increased to sixteen weeks, and measures that favor equal treatment of the woman in the workplace are established]. The text of this law clearly demonstrates the level of authority that international organizations commanded in this policy area. Section II of the *Exposición de motivos* [Exposition of motives] preamble cited the World Health Organization in establishing the importance of a prolonged maternity leave. Furthermore, it recalled Spain's ratification of Convention 103 of the International Labor Organization, specifying that the *Estatuto de los Trabajadores* (discussed above) does not adhere to the Convention's mandate of at least 6 weeks of maternity leave immediately following birth.

In addition to increasing the legal allowance for maternity leave to sixteen weeks while stipulating that at least 6 of these must be taken immediately after childbirth, *Ley 3/1989* took important steps toward ensuring that parental leave policies effectively contribute to gender equality in the work place. *Exposición de motivos* stated that a parental leave allowance that is not accompanied by a right to retain one's working position – which was the case at the time that this law was

passed – does not provide workers with the effective choice to take time away from the labor force in order to care for their children. To improve the situation, Section 3 of Article 2 guaranteed workers the right to retain their positions for one year of the maximum of three years that may be taken away from work for the purposes of childcare. Moreover, the law allowed for the possibility of paternity leave. Section 4 of the same Article stipulated that the mother could share a part of the sixteen weeks of maternity leave allotted to her with the father, provided that she still retained the mandatory six weeks of post-birth leave. Although this was a significant improvement compared to the complete absence of paternity leave policy in the 1980 *Estatuto de los Trabajadores*, this type of leave sharing still carried a clear normative connotation of parental leave as the realm and responsibility of the mother. If a father were to undertake the responsibility of caring for a newborn child, he could do so only by means of taking part of the mother's designated leave allowance. Thus, this policy sanctioned a gendered division of work and family responsibility, which undermined its potential for promoting gender equality in the work force.

Ley 39/1999, para promover la conciliación de la vida familiar y laboral de las personas trabajadoras [Law 39/1999, to promote the conciliation of the familial and labor lives of working individuals], or LCVFL, enacted on November 5, 1995, directly addressed work-family reconciliation as a necessary step in the promotion of economic gender equality. In its *Exposición de motivos* section, the law recognized that

The incorporation of women in the labor force has motivated one of the most profound social changes of this century. This fact makes it necessary to

configure a system that considers emerging new social relations and a new mode of cooperation and compromise between men and women, which permits an egalitarian division of responsibilities in the professional and private lives.⁹⁰

The text of this law mirrored the tendency of the previously discussed law to turn to international norms for the substantiation of its motives. Stating that the need for work-family reconciliation as a means of removing “obstacles that impede or complicate ... the participation of all citizens in the political, economic, cultural or social life”⁹¹ had been recognized on the international and European levels, the text cited several directives of the European Union, and the United Nations IV World Conference on Women. Specifically, Directive 96/34/EC of the European Union was cited as requiring the Spanish state to take steps towards integrating fathers in its childcare leave model. Thus, international influences remained strong in work-family reconciliation policies.

LCVFL’s most important contribution to work-family reconciliation came from its more progressive treatment of paternity than Spanish law had thus far exhibited. Article 2, Section 1 modified Article 37, Section 4 of the *Estatuto de los trabajadores*, which allowed mothers a one-hour absence during the workday for the purpose of breast-feeding. With the modification, fathers could now also utilize this time for other childcare purposes. Article 5 of LCVFL modified Article 48, Section 4 of the *Estatuto*, allowing mothers and fathers to share parental leave simultaneously. Although paternity leave continued to exist solely

⁹⁰ Original text: “La incorporación de la mujer al trabajo ha motivado uno de los cambios sociales más profundos de este siglo. Este hecho hace necesario configurar un sistema que contemple las nuevas relaciones sociales surgidas y un nuevo modo de cooperación y compromiso entre mujeres y hombres que permita un reparto equilibrado de responsabilidades en la vida profesional y en la privada.”

⁹¹ Original text: “los obstáculos que impidan o dificulten ... la participación de todos los ciudadanos en la vida política, económica, cultural y social”

as a shared portion of the sixteen weeks of maternity leave, the two parents could now share the responsibilities of caring for a newborn. The same implication of a gendered division of labor therefore still remained; however, it was softened allowing for the possibility that both parents take time away from paid work in order to care for a child at the same time. Finally, Article 7 modified Section 4 of Article 53 of the *Estatuto* to include leave taken for paternity reasons – along with reasons such as maternity, pregnancy, and others that were already listed – as invalid grounds for dismissal from the workplace.

LCVFL also considered the possibility of modifying social norms as a means of making these policies more effective. The law's fourth disposition announces governmental intent to initiate public informational campaigns that would promote a more equal division of domestic and family responsibilities between men and women. Such campaigns were said to facilitate the realization of the new opportunities associated with the work-family reconciliation provisions introduced by this law.

The most decisive steps towards achieving effective gender equality in the Spanish labor market were taken by the *Ley Orgánica 3/2007, para la igualdad efectiva de mujeres y hombres* [Organic Law 3/2007, for the effective equality of men and women], enacted on March 22, 2007. This law continued to address paternity in its treatment of work-family reconciliation. Moreover, it recognized the importance of incorporating gender equality within the context of social norms and outlined specific steps that can be taken in order to increase the social acceptability and thereby the effectiveness of policies that promote gender

equality. Although the first paragraph of the *Exposición de motivos* section cited the Spanish Constitution's prohibition of gender-based discrimination, the remainder of the section was dedicated largely to a recitation of international laws and norms that support the legislative innovation purported by the present law. The UN Convention on the Elimination of All Forms of Discrimination Against Women, the Treaty of Rome, three different directives of the European Union, as well as the works of John Stuart Mill were all cited as standards towards which the *Ley Orgánica* strives. Thus, even in 2007, 21 years after Spain's integration into the European Union, the Spanish government continued to draw largely upon international, rather than domestic, influence and support for the development of its gender equality laws.

As mentioned in the preceding paragraph, a significant portion of this law's innovation lies in its paternity leave allowance. Section 3 of Article 44 established a paternity leave of thirteen days that is separate from the sixteen-week maternity leave; as discussed earlier in this section, previous legislation only allowed for paternity leave to be taken as a shared part of the total maternity leave allowance. Thus, this measure took a step towards establishing childcare as a sphere of responsibility to be taken on by both mothers as well as fathers. The section stated that an individually defined paternity leave is in fact intended to promote a more egalitarian division of familial responsibilities. Nonetheless, it is important to note that a thirteen-day paternity leave is significantly different from a sixteen-week maternity leave. Therefore, it would be much too optimistic to say that parental leave has become legally gender-neutral with the enactment of this new policy.

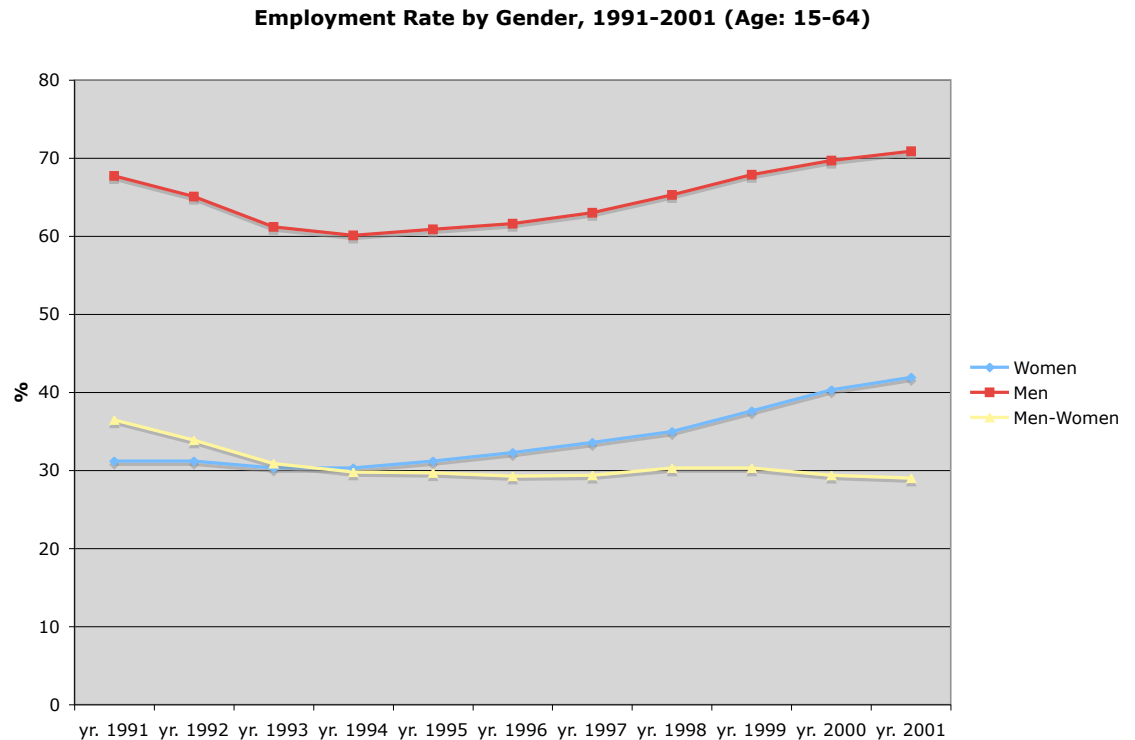
The *Ley Orgánica* followed a comprehensive and multi-faceted approach to the establishment of gender equality in general and a more egalitarian conception of gender roles in particular within the country's socio-cultural norms. The *Exposición de Motivos* stated that the projection of gender equality norms through all aspects of social reality is necessary in order for equality laws to be effective. To that end, Section 8 of Article 14 listed the establishment of measures that will ensure the reconciliation of work and family responsibilities for both men as well as women, which promotes a more egalitarian division of domestic labor. Section 2(b) of Article 24 demanded that special attention be paid to the elimination of any sexist or gender-stereotyped content in books that have educational material or are used in schools. Along similar lines, the Seventh Additional Disposition stipulated that any publicity or televised programming directed towards minors must transmit an egalitarian and non-stereotyped image of men and women. Moreover, Article 50 stated that the Ministerio de Trabajo y Asuntos Sociales [Ministry of Labor and Social Affairs] will establish a measure of distinction that will be awarded to employers that demonstrate outstanding application of policies that promote equal treatment and opportunity of all workers (here, both the feminine as well as the masculine form of the noun "worker" was used). The *Ley Orgánica* thus approached the goal of promoting gender equality in the socio-cultural realm by addressing the educational development of minors, the influence of the media, and the incentives for employers to adhere to gender equality standards.

Policy Effectiveness

The preceding section shows that the work-family reconciliation policies that are currently operating in Spain are in compliance with the standards set forth by the European Union. In this section, I evaluate the effectiveness of these policies. Holding gender equality in the labor market as their ultimate goal, I look to various indicators of gender equality such as employment rates, wages, and rates of dismissal from the labor force. I also take into account data that is more specific to the division of paid and domestic labor.

Graph 1 depicts the change in employment rates, separated by gender, from 1991 to 2001. In this time period, both male and female employment rates have increased, and male rates have remained higher than female rates. The graph also shows that the difference between male and female employment rates has remained steady for most of this time period, with the exception of a notable 6 percent drop between 1991 and 1994.

Graph 1



Source: Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2003, p. 115

Table 1 shows that there has been a decrease in the gender wage gap since 1995. However, the female/male wage ratio has remained rather steady at around 70 percent within more recent years. Despite improvements, women continue to receive significantly lower wages than do men – an inequality that has therefore not been adequately addressed. These indicators are notably lower than the European average, which was 85% percent in 2004, as shown in the preceding chapter.

Table 1: Gender wage gap

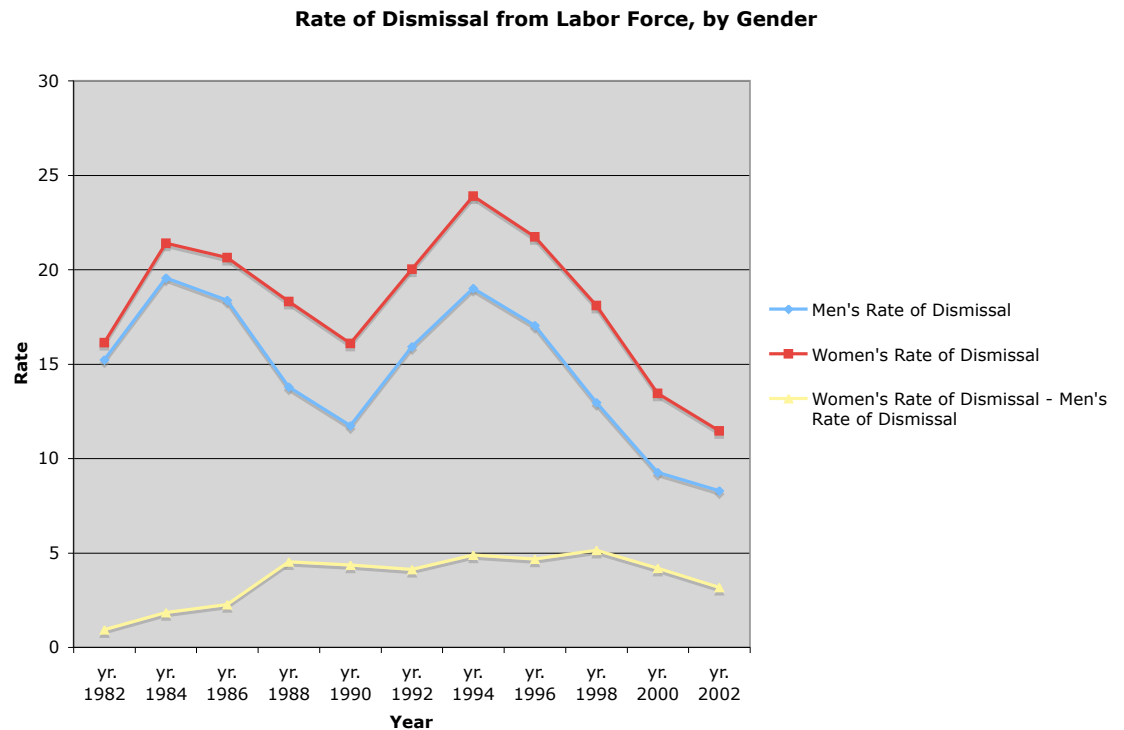
Year	Average Earnings: Female/Male
1995	64.32%*
2002	71.12%*
2004	72.46%*
2005	72.48%*

* Calculated from 1995, 2002, 2004, and 2005 Wage Structure Surveys, Instituto Nacional de Estadística, <http://www.ine.es/jaxi/menu.do?type=pcaxis&path=%2Ft22%2Fp133&file=inebase&L=1>, (Accessed December 28, 2007)

Graph 2 depicts another indicator of gender equality in the labor force: the rate of dismissal⁹² from 1982 to 2002, separated by gender. Surprisingly, there was the least difference between men and women for this indicator in 1982. Since then, the gender difference between rates of dismissal has risen, reaching its highest point in 1998. Note that it has declined since then, which may be attributed to measures aiming towards gender equality in the labor force, such as the LCVFL.

⁹² The term “dismissal” refers to any situation in which an employee is asked or forced to leave his or her place of work by the employer. It is impossible to know whether or not this is an indicator of direct discrimination without knowing the circumstances of each individual dismissal. However, a consistent discrepancy among the rates of dismissal for men and women does suggest effective inequality, whether this be inequality of treatment or opportunity.

Graph 2



Source: Corulla, Carmen Ortiz, "Iniciativas Comunitarias," Agentes de igualdad de oportunidades: Acciones positivas en el marco de la cooperación, Eds. Rosa Martínez Segarra, Celia Parcero Torre, Josune Aguinaga Roustau, Madrid: Editorial Universitas Internacional, S.L., 2006, p. 170

I now consider some of the reasons that men and women cite for their inability to re-enter the labor force. According to a study performed by the Instituto de la Mujer in 2005, 22 percent of women who were unable to return to the labor force after a prolonged absence cited difficulty in finding employment that would allow them to attend to their family responsibilities as the reason for their continued absence. Only 6.7 percent of men in the same situation cited this reason, as shown in Table 2. Thus, even six years after the LCVFL came into force, a significant percentage of women found it difficult, if not impossible to reconcile their family and work responsibilities.

Table 2: Reasons given for being unable to return to the labor force after a prolonged absence

Reason	Men	Women	%Women/ %Men
There were no employment possibilities that allowed me to attend to my family responsibilities	6.7%	22%	3.28
There were no employment possibilities that interested me	60%	34%	0.57
My level of education was no longer adequate	26.7%	14.6%	0.55

Source: Instituto de la Mujer, *Conciliación de la vida familiar y la vida laboral: Situación actual, necesidades y demandas*, Madrid: Rumagraf, S.A., 2005, p. 162

As discussed in the preceding section, one of the most innovative aspects of the LCVFL is its treatment of paternity, which was meant to promote a more equal sharing of family duties between men and women. Table 3 shows that although the male percentage of all who take parental leave from their paid labor positions has risen slightly since 2000 (the year after LCVFL), it still remains extremely low, barely surpassing 1.5 percent. This indicates that women are still responsible for a much larger share of family responsibilities than are men, which in turn makes it more difficult for them to participate in the labor force on an equal footing with men.

Table 3: Gender of working individuals who take parental leave

Year	Women	Men
2000	99.03%	.07%
2001	98.69%	1.31%
2002	98.52%	1.68%
2003	98.46%	1.54%
2004	98.37%	1.63%
2005	98.24%	1.76%
2006	98.35%	1.65%

Source: "Estadísticas," Instituto de la Mujer, <http://www.mtas.es/mujer/mujeres/cifras/index.htm>, (Accessed February 2, 2008)

Spain has adopted the legal measures to promote gender equality and facilitate work-family reconciliation that are mandated by European and international authorities. Nonetheless, the data discussed in this section shows that the gendered division of paid and unpaid labor has persisted through the 1990s and into the new millennium. Women still are not as active in the labor force as are men, nor do they receive equal remuneration. Women also make up the overwhelming majority of parental leave beneficiaries, which indicates an unequal division of family responsibilities. These persistent inequalities are in accordance with the conservative gender norms that are still present in Spanish society, as identified in the first two sections of this chapter. In the next chapter, I will show that the unique nature of work-family reconciliation policies makes their effectiveness especially challenging in the presence of contrary norms.

Chapter Five: Discussion

In the last two chapters, I analyzed the content and effectiveness of work-family reconciliation policies in Spain in light of European law and other international standards. I showed that there are substantial normative challenges to the implementation of these policies in Spain. In this chapter, I will synthesize the findings of the previous two chapters and demonstrate that the effectiveness of work-family reconciliation policies is especially susceptible to normative challenges. The fact that in the case of Spain the creation of these policies comes in large part from extra-national pressure further reduces their effectiveness. Finally, I will identify EU-specific limitations on the implementation of norm-based legislation.

Legislative Compliance

Comparing Spanish laws that address work-family reconciliation with European legislation on this topic shows that official Spanish policy is currently in agreement with European and international standards. Table 1 provides a summary of some of the most notable work-family reconciliation measures mandated by the EU/EEC and the corresponding laws that implement them on the domestic level in Spain. Despite the notable time lapse between some of the

European mandates and the Spanish domestic policies that follow, as can be seen from the date of each piece of legislation listed, eventual adoption is evident. While this is not an exhaustive list of all the relevant policies that were analyzed in the preceding chapters, it is sufficient for demonstrating general legislative compliance.

Spanish policies are also in compliance with CEDAW's work-family reconciliation mandates. Spanish legislation provides the option for both men and women to undertake family responsibilities while being active in the labor market. The latest laws addressing work-family reconciliation in Spain have also undertaken the promotion of a more equal conception of gender roles in society in order to discourage a gender-based division of labor. The UN Committee on the Elimination of Discrimination Against Women acknowledged Spain's legislative compliance as early as 1992.⁹³ Nonetheless, even in 2004, the Committee cited the achievement of effective equality of men and women in the labor force as one of the biggest challenges still facing Spanish society.⁹⁴ Thus, legislative adoption of international standards of gender equality, however high they may be, is not enough to guarantee effective equality. This is just as true for standards set forth by the European Union as it is for CEDAW standards. In order to be effective, legislative adherence to international standards must be supported by domestic norms.

⁹³ Fraser, Arvonne and Miranda Kazantsis, compilers, *CEDAW #11: The Committee on the Elimination of Discrimination Against Women*, International Women's Rights Action Watch, August, 1992, pp. 19-20

⁹⁴ CEDAW 31st Session, "Women's Parity in Government, Eliminating Domestic Violence Among Issues, as Anti-Discrimination Committee Considers Spain's Fifth Report," Convention on the Elimination of All Forms of Discrimination against Women, <http://www.un.org/News/Press/docs/2004/wom1451.doc.htm>, (Accessed February 25, 2008)

Table 1

EU/EEC Legislation, Date	Principle/Measure Mandated	Spanish Legislation, Date	Principle/Measure Adopted
First Action Programme on the Promotion of Equal Opportunities for Women, 1982	Protection from discrimination in employment of young mothers and pregnant women	Ley 3/1989, 1989	Workers are guaranteed the right to retain their employment for up to one year of leave for child-care purposes
First Action Programme on the Promotion of Equal Opportunities for Women, 1982	More equitable sharing of occupational, social, and family responsibilities (parental leave for men as well as women)	(1) Ley 3/1989, 1989; (2) Ley 39/1999 (LCVFL), 1999; (3) Ley Orgánica 3/2007, 2007	(1) Men may take parental leave by sharing a part of the woman's sixteen weeks of maternity leave; (2) Men and women can simultaneously benefit from parental leave allowances; (3) 13 days of paternity leave, independent of woman's 16-week maternity leave allowance
Second Action Programme on Equal Opportunities, 1986	Gender equality in all spheres as a permanent topic in information and awareness campaigns	Ley 39/1999 (LCVFL), 1999	Governmental agencies will initiate public informational campaigns promoting a more equal division of family responsibilities between men and women
Fifth Action Programme on Equal Opportunities; Directive 2002/73/EC, 2002	Promotion of social dialogue on gender equality and elimination of gender stereotypes	Ley Orgánica 3/2007, 2007	Elimination of sexist or gender-stereotyped material in text books or publicity and television programming aimed at minors
Directive 2006/54/EC, 2006	Monitoring gender equality practices in individual workplaces as method of promoting social dialogue	Ley Orgánica 3/2007, 2007	Ministry of Labor and Social Affairs will establish a measure of distinction to be awarded to individual work places that demonstrate outstanding application of gender equality policies

Normative Resistance

In Chapter Two, I identified a theoretical framework proposed by Finnemore and Sikkink, which addresses the role of norms in policy formation and effectiveness. According to these scholars, norms are a distinct kind of widely accepted rules that define “standards of behavior for individuals of a particular identity.” Norms may originate at the domestic, or the international level. International norms can spread or “cascade” throughout the population of states for various reasons, two of which are a pressure for conformity that a state may feel or the state’s desire for legitimization within an international community. International norms are most effective only when they have become appropriated on the domestic level or passed through the “domestic filter.”⁹⁵ This theoretical framework helps explain why the internationally influenced work-family reconciliation policies in Spain have not been very effective.

As emphasized in the previous chapter, the text of the Spanish laws that address work-family reconciliation indicates that international influences play a substantial role in the promotion of these policies. Each law cites the European Union, the United Nations, as well as other international organizations and governing bodies. This suggests that the new measures introduced by these laws, as well as the socio-normative arrangements that they promote, do not necessarily reflect domestic values, demands, or norms. Instead, the principles behind these laws are being imposed on Spanish society, rather than legislated from the bottom up. During the 1980’s, – the time period during which the European Community increased its

⁹⁵ Finnemore, Martha and Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organizations*, Vol. 52 No. 4 (1998), pp. 887-917, Cambridge: The MIT Press, 1998

focus on economic gender equality, as indicated by the initiation of the Action Programmes on Equal Opportunities – Spain was a new democracy and a new member of the EEC. As such, it was obliged to “make provisions for the application of Community law within its territory and for the supremacy of Community law over national law.”⁹⁶ Thus, it fit well with the two reasons for “norm cascades” mentioned above – pressure for conformity within a community (EEC’s standards of membership) and need for legitimization (coming out of an authoritarian regime, Spain had to prove itself as a new democracy). The emphasis placed on gender equality by international governing bodies indicates that this policy area comprised an important criterion for evaluation of a new Member State. Thus, the source of the norms that accompany work-family reconciliation policies is largely international. As Finnemore and Sikkink indicate, policy effectiveness will therefore be limited until these norms become appropriated on the domestic level or “pass through the domestic filter.”

Despite the government’s willingness to comply with EU/EEC mandates,⁹⁷ which is indicated both by legislative compliance and by indicators such as the rate of increase in women’s employment rates,⁹⁸ gender norms in Spain do not correspond with the norms inherent in gender-egalitarian work-

⁹⁶ Hartley, Trevor C, The Foundations of European Community Law: an Introduction to the Constitutional and Administrative Law of the European Community, New York: Oxford University Press, 1981, p. 224

⁹⁷ Froitiée, Brigitte, “La politique espagnole d’aide à la famille: Le traitement de la questions familiale après le franquisme,” *Recherches et Prévisions*, No. 78 (Décembre 2004), pp. 51-61, Paris: CNAF 2004

⁹⁸ Graph 4 in Chapter Three depicts the changes in women’s employment rates between 1991 and 2001 in five EU Member States. Among these, Spain had the greatest increase – 10%. Despite the notable increase, women’s employment rate in Spain remains among the lowest in the EU. (Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2003, p. 114)

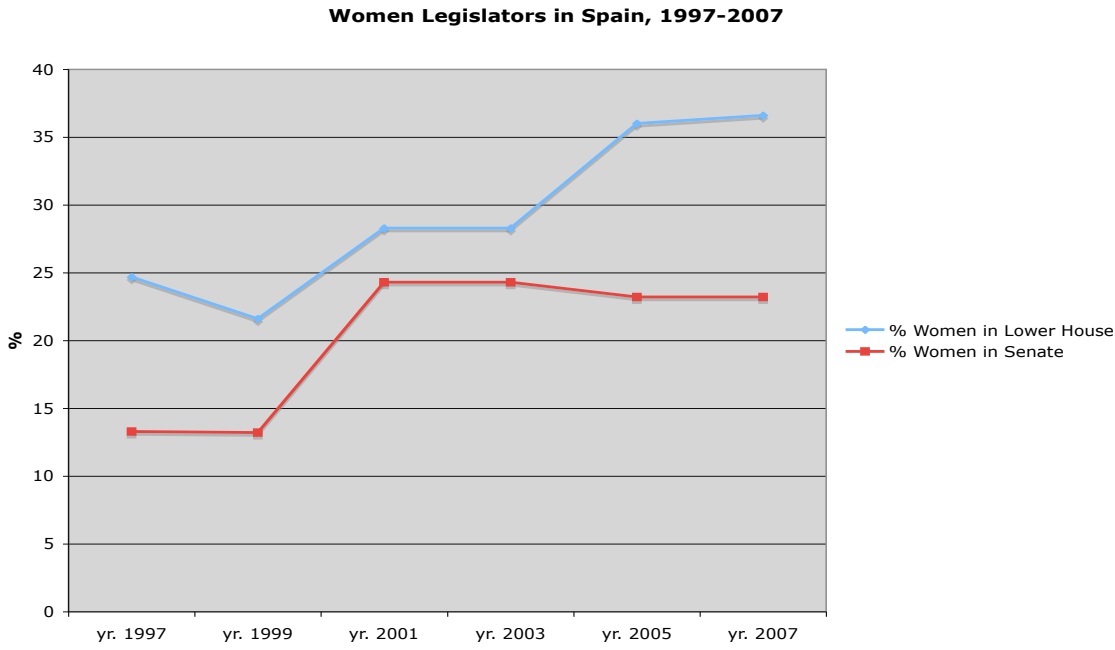
family reconciliation policies. Cultural and religious influences that support stereotypical gender norms are still present in society. A substantive percentage of men as well as women still adhere to views that correspond with a gender-based divide between domestic work and paid labor. Despite the fact that a majority of men and women express agreement with the proposition that childcare is a responsibility that pertains equally to the mother and the father, women continue to dedicate more hours to childcare and domestic tasks than do men. This dynamic is not diminished even when only economically active women are considered, indicating that labor force participation does not relieve the woman of stereotypically female unpaid labor. Thus, even despite improvements such as the aforementioned increase in the rate of women's employment, considerable gender inequality persists in the home and in the labor market.

Moreover, opinion polls whose results are broken down by gender show that both male and female respondents adhere to similar views of gender roles within the family. Thus, promoting more gender-egalitarian practices is not a question of allowing more women to have a say in decision making on the policy level, as suggested by EU Action Programmes on Equal Opportunities. Instead, the stereotypical gender norms are a much more pervasive social phenomenon in Spain that transcend gender lines. If women adhere to the same ideology of gender as do men, then higher rates of female representation in decision-making bodies will not necessarily translate into more "women-friendly" or gender-egalitarian policies.

Demonstrating this dynamic, Graph 1 shows that the percentage of women legislators in Spain has risen by approximately 10 percent in both the Lower House as well as the Senate between 1997 and 2007. Currently, 36.6 percent of legislators in the Lower House and 23.2 percent of those in the Senate are women. Graph 2 provides a comparison between Spain and several other EU Member States. This data shows that Spain has as high a percentage of women legislators as do Denmark and Norway, two countries that have exemplary gender equality records. Data presented in Chapter 3, Graph 3, shows that women's employment rates, for example, are significantly higher in these two countries than in Spain (a 20-30 percent difference). France also performs better than Spain on this particular indicator of gender equality, with a rate of women's employment approximately 10 percent higher than that of Spain.⁹⁹ However, in 2005 Spain had a much higher percentage of women legislators in the Lower House, at 36 percent, than did France, at 16.9 percent. Thus, more women with decision-making power on the policy level do not correlate with effective gender equality within a society. Recalling that stereotypical gender norms in Spain are common among women as well as men, it becomes intuitive that the presence of women in Spanish legislature will not contribute to more gender-equal practices, since women themselves do not necessarily question the prevalent norms.

⁹⁹ Source: Eurostat Yearbook: The Statistical Guide to Europe, Luxembourg: Office for Official Publications of the European Communities, 2007, p. 135

Graph 1



Source: "Women in National Parliaments," *Inter-Parliamentary Union*, <http://www.ipu.org/wmn-e/arc/classif311205.htm>, (Accessed February 15, 2008)

Graph 2



NOTE: Denmark, Sweden and Portugal do not have an upper house or senate, so the % of women legislators is coded the same as % Women in Lower House for other countries listed

Source: "Women in National Parliaments." *Inter-Parliamentary Union*. <http://www.ipu.org/wmn-e/arc/classif311205.htm>, (Accessed February 15, 2008)

Norms and Work-Family Reconciliation

So far, I have discussed the challenge of implementing international norms in theoretical terms and have demonstrated the resistance of Spanish gender norms to the European and international standards of gender equality and work-family reconciliation that have been mandated. Now, I will look at the dynamics of work-family reconciliation more closely. The nature of these policies is such that it is especially difficult to make them effective in a society that is characterized by contrary norms. Thus, the informational and socio-normative intervention clauses of the laws summarized in Table 1 are particularly important in order for work-family reconciliation policies to effectively contribute to the ultimate goal of economic gender equality in Spain. To help explain why normative support is so important for the effectiveness of work-family reconciliation policies, I look to models of decision-making within the family.

Gary S. Becker develops an economic model whereby he attempts to capture the decision-making process of the division of labor within the family, which is directly addressed by work-family reconciliation policies. Becker's model assumes that the family unit aims to maximize its satisfaction by selecting the type of labor arrangement (or combination of commodities) that will provide the greatest utility. Time spent in the labor market produces income, which in turn allows for the acquisition of market goods that are then integrated into time spent within the home, which creates commodities. Therefore, considerations of opportunity cost play a dominant role in deciding how each spouse should divide his or her time between the labor market and the home. If one spouse is more

likely to acquire a larger income, then he or she will spend more time in the labor market. In exchange for the benefits of the better paid spouse's income, the other spouse will spend more time on domestic and familial tasks. In this way, the family unit can reach its maximum productive potential.¹⁰⁰

Becker's model suggests that gender dynamics in combining work and the family can be easily influenced by policy. If external factors, such as income possibility, were to be altered in a way that would ensure comparable income for the male and the female spouse, then the opportunity cost of tending to domestic tasks instead of participating in the labor market would be equal. Therefore, both would spend an equal amount of time on domestic tasks. This framework suggests that the only reason that gender equality in the labor force and within the family has not been achieved in Spain is that a gender wage gap, or some other form of gender inequality of opportunities for employment still remains. Although this conclusion may be economically sound, it is much too simplistic.

Work-family reconciliation policies concern the very private dynamic of individual relationships and decision-making within the family that involves more than just economic considerations. Normative considerations affect both an individual's participation in the labor market,¹⁰¹ as well as his or her assumption of family responsibilities. Julie Brines expands Becker's model in order to reflect this more complex reality. Taking perceptions of gender roles and gender norms

¹⁰⁰ Blau, Francine D., Marianne A. Ferber, Anne E. Winkler, "The Family as an Economic Unit," *The Economics of Women, Men, and Work*, Fifth Edition, New Jersey: Prentice Hall 2006

¹⁰¹ Englehardt, Kögel, and Prskawetz demonstrate the influence of norms on women's employment decisions on the macro level in Englehardt, Henriette, Tomas Kögel and Alexia Prskawetz, "Fertility and Women's Employment Reconsidered: A Macro-Level Time-Series Analysis for Developed Countries, 1960-2000," *Population Studies*, Vol. 58. No. 1 (March 2004), pp. 109-120, London: Routledge, 2004

into consideration, Brines finds that the exchange of domestic tasks for paid labor is not as clearly defined as Becker's economic model indicates. Women who are economically dependent on their husbands do in fact dedicate more time to domestic tasks than do their husbands. However, women who are economically active do not decrease significantly their contribution to domestic labor. This holds true in the case of Spain, as demonstrated by the time-budget data discussed in Chapter 4.¹⁰² Counter-intuitively, men who earn less than their wives tend to spend even less time on domestic tasks than do men who earn more. Thus, the economic exchange of paid and domestic labor is not balanced across gender lines, but rather veers towards the male breadwinner model of the family.¹⁰³ In other words, responsibility for domestic work is distributed between male and female spouses in a way that pushes the family unit towards this traditional model instead of an economic model of maximum utility. Therefore, considerations such as the male-breadwinner norm influence the distribution of paid work and housework within the family unit.

Brines' framework counteracts the assumption that the division of paid and unpaid labor within the family is susceptible to policy influences that redefine opportunity cost, as inferred from Becker's model. Even if the gender wage gap was completely eliminated and accommodations within the public sphere were created whereby both men and women could undertake familial and domestic

¹⁰² Instituto de la Mujer, Conciliación de la vida familiar y la vida laboral: Situación actual, necesidades y demandas, Madrid: Rumagraf, S.A., 2005, pp. 399, 401

¹⁰³ Brines, Julie, "Economic Dependency, Gender, and the Division of Labor at Home," *American Journal of Sociology*, Vol. 100, No. 3 (Nov., 1994), pp. 652-688, Chicago: The University of Chicago Press, 1994

responsibilities, the dimension of norm-influenced individual decision-making would still exist. By their nature, work-family reconciliation policies can only be effective if individuals make them effective by using the allowances or services offered. If taking advantage of work-family reconciliation provisions is in conflict with normative standards that are widely accepted and followed, then the policies cannot be successful. If it is more acceptable for mothers to leave the labor market, or if it is normatively strange for a father to take time away from the labor market in order to take care of a newborn child, then women will be less likely to use an opportunity to continue working after the birth of a child, and men will not take paternity leave even if it is available to them. This is certainly true in the case of Spain, where men comprise less than two percent of parental leave beneficiaries, as shown in Chapter 4, Table 3.¹⁰⁴ The effectiveness of policies pertaining to the division of labor within the family therefore depends on the level of normative support for such policies within the society that they are targeting.

This analysis helps explain the limited effectiveness of work-family reconciliation policies in Spain. It also points to the importance of more recent initiatives to counteract social norms that condone gender stereotypes both on the European and on the national level. The 2007 *Ley Orgánica* in particular spells out a detailed and comprehensive method of encouraging norms that are more conducive to gender equality within Spanish society. This approach includes conducting informational campaigns, eliminating sexist content from educational material and entertainment programs that target minors, and monitoring and

¹⁰⁴ “Estadísticas,” Instituto de la Mujer, <http://www.mtas.es/mujer/mujeres/cifras/index.htm>, (Accessed February 2, 2008)

rewarding progressive gender-equal practices within individual workplaces. As of yet, it is too soon to tell whether the bold approach envisioned by the *Ley Orgánica* is more effective than preceding legislation that has addressed work-family reconciliation, because less than a year has passed since its implementation. However, given the relationship between normative attitudes and effectiveness of work-family reconciliation policies (conceptualized above), and having good evidence to show that legal measures alone are insufficient, it is logical to conjecture that this law will in fact be more successful than its predecessors. If the intervention measures it proposes can influence social norms, it will be more effective in implementing work-family reconciliation and promoting economic gender equality. To substantiate this assumption, it will be necessary to monitor any changes in gender norms in Spain, particularly as they are expressed through the gender division of paid and domestic labor, over the next several years.

Limitations on EU Influence

In addition to contrary norms that challenge the effectiveness of work-family reconciliation policies in Spain, there are also several general limitations on the influential power of the European Union that further complicate implementation. There is no doubt that the EU does have some legitimate political influence over its Member States. In addition to the varying levels of binding power inherent in EU legislation, the texts of EU acts also serve as foundational

materials for further policy work that is done individually by Member States.¹⁰⁵ Spain in particular, through the Treaty of Accession to the European Community in 1986, has legally transferred some of the sovereign powers of its Cortes Generales, the body of government that most directly represents the Spanish people, to the EEC (now the EU). Article 93 of the Spanish Constitution explicitly allows for such a transfer: “By means of an organic law, authorization may be granted for concluding treaties by which powers derived from the Constitution shall be vested in an international organization or institution.” This Article was included in the Constitution in anticipation of Spain’s eventual accession to the EEC, as the Constitution was promulgated only eight years prior to the accession.¹⁰⁶

Nonetheless, the EU’s legitimacy and effectiveness, especially in the realm of policymaking that touches upon issues such as gender norms, are questionable. Eric Stein points out that “the institutions of the European Union are endowed with broad authority to make and implement norms with direct impact on its citizens, but they do not meet the current idea of representative democracy,” which undermines the legitimacy of such legislation in the eyes of its constituents.¹⁰⁷ When it comes to interpreting EU law on the Member State level, however, the States have effective authority. The EU itself acknowledges States’

¹⁰⁵ Stratigaki, Maria, “The Cooptation of Gender Concepts in EU Policies: The Case of ‘Reconciliation of Work and Family,’” *Social Politics*, Vol. 11, No. 1 (Spring 2004), pp. 30-56, New York: Oxford University Press, 2004, p. 39

¹⁰⁶ Aurrecoechea, Ignacio, “Some Problems Concerning the Constitutional Basis for Spain’s Accession to the European Community,” *The International and Comparative Law Review Quarterly*, Vol. 36, No. 1 (Jan, 1987), pp. 14-31, Londong: British Institute of International and Comparative Law, 1987

¹⁰⁷ Stein, Eric, “International Integration and Democracy: No Love at First Sight,” *The American Journal of International Law*, Vol. 95, No. 3 (July, 2001), pp. 489-534, Washington: American Society of International Law 2001, p. 530

interpretative power, as demonstrated by clauses such as the one allowing Member States to determine individually the conditions that constitute eligibility for parental leave in Directive 96/34/EC (discussed in Chapter 3). The manner in which states interpret and apply the law will therefore depend on each one's national interests, normative standards, and other similar considerations.¹⁰⁸ Peter van Ham points out the high level of cultural pluralism in Europe, claiming that there is no such thing as a European cultural identity. Instead, the socio-cultural identity of each Member State varies significantly from the others', which indicates that a single policy cannot be equally implemented within each State.¹⁰⁹ Taking this into consideration, it is evident that the manner in which each will interpret or apply European laws, especially laws that touch upon normative issues, will vary significantly. Moreover, as I have shown in this thesis, when it comes to mandates such as work-family reconciliation policies, there is yet another level of interpretative authority even beyond a Member State's government: society. Even if the government is willing to comply with EU law, it can be essentially powerless if societal norms do not support the measure in question.

Thus, the effectiveness of European Union legislation is directly dependent upon its Member States. Despite legal acceptance of EU sovereignty in certain policy areas, States retain their authority in framing and implementing EU legislation. Norms that are legislated by the EU remain suspect because of the

¹⁰⁸ Morgenthau, Hans and Kenneth W. Thompson, "The Main Problems of International Law," *Politics Among Nations: The Struggle for Power and Peace*, 6th Ed. New York: Knopf, 1985, p. 300

¹⁰⁹ Van Ham, Peter, "Europe's Postmodern Identity: A Critical Appraisal," *International Politics*, Vol 38 (June, 2001), pp. 229-252, Hague: Kluwer Law International, 2001

lack of democratic input by the constituents that these norms are meant to affect. These limitations add to those of internationally imposed norms in general, as discussed earlier in this chapter. The effectiveness of norms that the European Union imposes on its Member States is therefore conditional on socio-cultural, political, and other factors on the State level.

* * *

Legislative compliance has thus far not been enough for internationally mandated work-family reconciliation policies to reach the goal of economic gender equality in Spain. The normative resistance of traditional gender stereotypes, which are still pervasive within Spanish society, has been too strong to allow for the effective implementation of these policies. In general, norms that are imposed upon a state by an international community or organization will not be effective until they become assimilated within the state's domestic norms. The effectiveness of the European Union's normative legislation in particular is also challenged by its quasi-democratic institutional structure, as well as the Member States' ultimate authority in implementation. All these factors support the claim that international and EU mandates of gender equality have limited effect on Spanish society and will continue to do so as long as domestic norms remain in contradiction with the normative subtext of these policies.

Chapter Six: Conclusion and Implications

In this thesis, I stepped away from the formulaic style of policy analysis and focused on norms as a more fluid concept. I have shown that the effectiveness of work-family reconciliation policies in Spain has been limited, because norms of gender and the family that are pervasive in Spanish society come in conflict with these policies. International pressure and legislative mandates to adopt such policies are not enough to counteract domestic normative forces, which play a powerful role in determining the effectiveness of social policies. Social norms are an especially important influence on the success of work-family reconciliation policies because of these policies' proximate connection with individual decision-making. I will now conclude by discussing several limitations of my analysis, identifying implications for policy and academic work, and suggesting avenues for further research.

One of the limitations of my research is that it focuses on the traditional (two-parent, heterosexual) model of the family and does not consider single parent, homosexual, or unmarried households. Investigating the unique issues associated with less traditional family structures would undoubtedly contribute to a more comprehensive understanding of the dynamics of work-family reconciliation in Spain. However, considering that the traditional family is most

common in Spanish society, it is logical to use it as a starting point. As discussed earlier in this thesis, gender roles within the family sphere affect gender dynamics in the public sphere, especially in the labor market. Thus, even members of non-traditional families will be affected by gender norms that are fostered in traditional families.

Another critique of this thesis may be that work-family reconciliation and social gender dynamics are not the only determinants of gender equality indicators like the gender wage gap and women's labor force participation. Other influences may be purely economic or political in nature and may play a greater role in determining levels of gender equality. It would be instructive for future research designs to consider these influences and weigh their importance relative to the socio-normative dimension that my thesis has addressed. As discussed, however, work-family reconciliation policies target a potent source of economic gender inequality, and as such are an important factor to analyze. Moreover, I have shown that normative considerations are especially important for the effectiveness of these policies, because their implementation depends on individual action. Thus, the impact of work-family reconciliation measures can only be fully understood in conjunction with the relevant social norms. Consequently, work-family reconciliation policies and their socio-normative settings make up a valuable dimension for analyses of economic gender equality.

The interplay between norms and social policy that this thesis demonstrates carries strong implications for policy making. Most directly, one can infer that in order to be effective, social policies must be accompanied by

measures that promote or support the policies' normative basis. These measures will help ensure that policy effectiveness is not undermined by contrary social norms that prevent individual implementation. For example, in the case of Spanish work-family reconciliation policies, policy effectiveness is limited in part by gender norms that make it difficult for men to share parental leave and other child-rearing responsibilities with women. As discussed earlier, it is therefore especially interesting to monitor any changes in gender norms and work-family reconciliation implementation over the next several years, as the comprehensive social intervention measures of the *2007 Ley Orgánica* take effect. Opinion and time-budget surveys, in conjunction with statistical indicators of economic gender equality, will be instrumental for properly analyzing the effects of these measures.

Froitiée suggests that changes towards a more gender-equal ideal within the Spanish family institution are inevitable. She argues that the government will see gender equality within the private sphere as indispensable to continued modernization and will therefore take more decisive steps towards promoting such changes.¹¹⁰ This prediction, however, brings up several concerns. Is it appropriate for a democratic government to legislate norms? In one sense, intervention measures such as monitoring the content of television programs (part of the *2007 Ley Orgánica*) may be seen as unjustified censorship. On the other hand, the cause of gender equality may be justification enough. Moreover, is it appropriate for international organizations to virtually mandate norms to sovereign states? Is the European Union encroaching too much upon state

¹¹⁰ Froitiée, Brigitte, "La politique espagnole d'aide à la famille: Le traitement de la questions familiale après le franquisme," *Recherches et Prévisions*, No. 78 (Décembre 2004), pp. 51-61, Paris: CNAF 2004

sovereignty by requiring Member States to take steps towards achieving gender equality, even within families? Whether or not it is appropriate for the EU to undermine state sovereignty in this way, I have shown that domestic norms challenge the effectiveness of policies that contradict them, and thus act as an effective defendant of state, or at least social sovereignty.

Focusing more on the international perspective of this thesis, it is instructive to ask whether there are ways for organizations such as the European Union to be more effective in seeking social integration. Considering the diversity of EU Member States, their varying cultures, social structures, and even economic situations, it is evident that the EU cannot hope for a uniform social policy to be equally effective in all States. Whether or not the EU should even interfere with the social dimension of States is beyond the scope of this thesis. However, it is evident that a more state-specific approach would contribute to its effectiveness. Of course, such an approach may be beyond EU resources. Nonetheless, it is important to consider, particularly if greater social integration of Member States is an EU goal.

* * *

Although “women’s rights are human rights” has by now become, in most cases, an obvious proposition, it is arguable that true gender equality has not yet been achieved in any part of the world. This thesis has addressed an intricate aspect of the quest to achieve economic gender equality. I have shown the key

role that norms play in shaping the outcome of work-family reconciliation policies. By assessing the influential capabilities of international organizations, as opposed to that of domestic factors, in the effectiveness of work-family reconciliation policies in Spain, I have also contributed to the understanding of international actors' parameters and limitations in shaping this area of domestic policy.

Gender equality has vastly been recognized as an important social ideal. Economic gender equality is a significant subset of this ideal, as it is a valuable contributor to women's autonomy. Although many individual nations and international organizations continue to express their commitment to the promotion of gender equality, modern reality is still quite far from achieving this goal. It is especially important to continue academic and policy inquiries into issues that are related to the achievement of economic gender equality, because economic gender equality and women's economic independence have implications that go beyond the ideology of equal rights. For example, many experts have pointed to a strong correlation between women's economic dependence on men and heightened levels of gender violence.¹¹¹ Women's economic independence is thus intrinsically connected to the protection of very basic human rights – a relationship that should prioritize it among the work of political scientists and policy makers alike.

Understanding the dynamics of work-family reconciliation policies as contributors to the goal of economic gender equality is crucial to their

¹¹¹ For an overview, see Whaley, Rachel Bridges, "The Paradoxical Relationship between Gender Inequality and Rape: Toward a Refined Theory," *Gender and Society*, Vol. 15, No. 4 (August, 2001), pp. 531-555, Thousand Oaks, CA: SAGE Publications, Inc. 2001

improvement. Although European countries have taken significant steps toward promoting such policies, many other nations, including the United States, are far behind in these developments. Analyzing developmental conditions and strategies to determine which are more or less fruitful than others, can create a background of knowledge that will facilitate the initiation and promotion of work-family reconciliation policies, in the hopes of bringing society even closer to the coveted ideal of gender equality.

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