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Flexible Working and Gender Equality: The Case of Spain

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1. Introduction

Working time is one of the five issues regulated in the Workers' Statute, the main labour law in Spain, within the subjects that the contract agreement has to include. However, particular issues are not specified and they are decided in collective bargaining agreements, which have automatic general effectiveness in all firms and to all workers of the corresponding industry and geographical area. In contrast, the particular place where the worker actually carries out her/his tasks is not included among substantial conditions of the job. Therefore, working time, schedule and distribution of working time and shift regimes are generally included in the collective agreement and there is a tracking of its evolution, at least in general terms, while no official data on telecommuting conditions or "new ways to work" are available.

Despite working time is included in the collective bargaining, flexible arrangements are not usually introduced. Only 7.9% of workers and 5.9 % of collective agreements¹ contained special clauses on working time distribution, while 87.8% of workers and 86.8% of agreements contain clauses on annual working time, holidays and special shifts. This snap shot reflects either the lack of awareness of the importance flexibility has or the lack of agreement between trade unions and employers associations on this particular issue.

Beyond this general legal and institutional context, flexible working time arrangements in Spain are not currently being generally discussed either in the political arena or in the collective bargaining. The high unemployment rate, 20.6% of active men and 21.3% of active women, is the central focus of most labour market policies and initiatives.

Among the four flexible working time arrangements specified in the Netherlands' case study, just **part-time** is widely considered as a common arrangement to integrate flexible working time in companies. In particular, some changes introduced in the labour law² in 2007 supporting part-time for care reasons have improved the conditions and legal back of employees who use it.

However, part-time is not a voluntary decision in more than half of the cases³. Thus, when it is used because workers do not find a full-time job, it is not considered as a

¹ Source: Collective Agreement Statistics (2010 data), Ministry of Employment and Immigration.

² The Constitutional Act 3/2007, of 22nd March, for Effective Equality between Women and Men. (Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres) modified the Workers' Statute.

³ Labour Force Survey (2Q, 2011), National Statistics Institute.

measure to improve work-life balance or a flexible use of time, but rather a way of entering the labour market. In fact, its use is encouraged at present⁴.

Regarding **flexi-time**, understood as the employees' capacity for varying the beginning and ending of their working days, the Constitutional Act 3/2007, of 22nd March, for Effective Equality between Women and Men introduced the following paragraph in the article 38 of the Workers' Statute:

“8. Workers will be entitled to adapt the duration and distribution of their working hours for the effective exercise of their right to reconciliation of personal, family and professional life, in the terms laid down in the collective bargaining agreement or the agreement reached with the employer in keeping, as appropriate, with the provisions of the former.”

Therefore, the change in the national law has not been enough to modify the institutional and legal framework which effectively applies, as collective bargaining is not including clauses on this particular issue.

Moreover, despite the recent introduction of measures to guarantee the possibility of using flexi-time as a work-life balance measure, public administration seems not to be paying attention to the issue, as there is no readily available official data on its inclusion in the collective bargaining, implementation or use.

As previously reported, no specific institutional or legal framework has been designed or implemented for **individual scheduling and telecommuting** (“tele(home)working”) measures or for conditions related to “**new ways to work**”. In these cases, company agreements or informal measures are the most frequent situations, even though they are used by a minority of workers, according to recent research⁵.

2. Policy debate

As pointed out above, the main debate is related to part-time, but it is neither general nor widespread. On the one hand, the use of part-time presents a highly differentiated pattern between men and women: 6.9% of men employees use it while this is the case for 23% of women employees (Table 1). Moreover, this situation has not varied substantially over the last seven years, which may imply that neither the labour law reform, introduced by the Constitutional Act 3/2007, of 22nd March, for Effective Equality between Women and Men, or the economic crisis have structurally affected this asymmetric situation.

⁴ The Royal Decree Law 1/2011 encourages part-time hiring through complete rebates of the Social Security contributions for SMEs for young and long-term unemployed people.

⁵ Martínez Sánchez, A., Pérez Pérez, M., de Luis Carnicer, P and Vela Jimenez, J. (2009), Castillo I. (2011).

Table 1 Part-time employees as a percentage of total employment by sex

	2005	2006	2007	2008	2009	2010	2011
Women	24,9%	23,5%	23,0%	22,8%	23,5%	23,7%	23,9%
Men	4,7%	4,5%	4,3%	4,2%	4,8%	5,5%	6,1%
Total	12,8%	12,2%	12,0%	12,0%	12,9%	13,5%	14,1%

Source: Labour Force Survey (2Q) National Statistics Institute.

On the other hand, these figures accounts for all the employees using part time. However, 53.2% of people working part-time do it because they have not found a full-time job. In this regard, there are also gender differences: 60.6% of men work part-time because they did not find full-time jobs while this is the case for 50.9% of women.

Moreover, it is also worth highlighting different reasons why workers choose part-time, as the legal consequences are different. While care reasons are legally protected and most Social Security rights are considered, this is not the case for health or education reasons. Regarding part-time workers caused by care reasons, they account for 458,900 women (23.3% of part-time female workers) and 18,100 men (2.9% of part-time male workers). In contrast, 28.3% of part-time workers are still much less legally and socially protected not only than the full-time workers, but also than the part-time workers for care reasons. From these 224,700 people, 69.4% are women.

Therefore, the legal system is not only reducing social security rights, which include social and economic benefits in the short, medium and long term, for the working-time arrangement chosen more extensively by women (no matter if this option is taken because of social and cultural pressure or personal preferences), but it also rewards the choice which coincides with the traditional gender role of carer while it penalises the choice if it is caused by other preferences, such as training or health issues.

According to the European Company Survey (2009), about 20% of establishments with more than 10 employees may vary starting and ending time of daily work, though without accumulating hours; about 15% of establishments may accumulate hours but without full day off compensations; and about 25% may accumulate hours for full days off. The key issue is that only 10.7% of companies in Spain have more than 10 employees⁶. Therefore, flexi-time does not seem to be common among the Spanish workers.

From a gender perspective, the only readily available data is the average level of subjective satisfaction with the flexi-time. Women are slightly less satisfied than men in this issue. In any case, both men and women are less satisfied with flexi-time than with overall working time and holidays⁷.

In this sense, despite the general lack of data and measures, some advances in sector research or local and regional experiences are taking place. In many occasions, measures and experiences are related to the concept of “work-family” balance and they are assumed, explicitly or implicitly, as a “women’s issue”. An evolution of the “double sphere” ideology and the possibility to integrate female workers with their traditional

⁶ Companies Central Directory (2010 data), National Statistics Institute.

⁷ Quality of Work Life Survey (2010 data), Ministry of Employment and Immigration.

gender role of carers are, to some extent, present in several approaches, without coping with the role of men in the domestic arena.

In this regard, the “Association for the Rationalisation of the Spanish Working Time” has been dealing with the necessity to reduce the extensive working time that is widespread in different sectors of the Spanish economy. Its main study⁸ summarises the opinion of what they considered the most active population of the society: “employees with continue or reduced working time”, “housewives (30 to 64 years-old)” and “professional students (25 or more years old)”. They choose these groups as a sample of the “active domestic Spaniards” (people staying home during the evening and nights) in order to know how people feel about the split shift, the traditional Spanish working time schedule, in comparison to the so-called “European shift”. It is not exactly flexible working time arrangements what they advocate, but they cope with the use of time, even though a gender perspective is not extensively used.

However, a more recent action line, the “work-life” balance approach, which includes personal life in general, and not only the need of flexible time for family responsibilities, is also being included in some local pilot experiences, such as the project “Balance among personal, family and professional life in Spain and Norway”⁹, which includes time flexibility and co-responsibility as important tools. This approach, as well as that of the concept “new uses of time”, developed in a pilot program in Barcelona Council¹⁰, incorporate the gender perspective.

Additionally, some research¹¹ on the relationship between flexibility and business performance underpins how flexible time arrangements are not a “women’s issue” but an economic and social investment. Nevertheless, once again, how to introduce flexible time arrangements is not a mainstream debate and it is not expected to be in the short term.

3. Transferability issues

Given the situation described above, it is positively assessed to create a commission or taskforce to analyse the general imbalances in the supply and demand sides of the labour market, as well as the part-time particularities. Therefore, the Dutch objective of “bringing about a cultural shift towards full acceptance of men and women being able to effectively combine their work and private lives” is completely essential to increase female participation at work and male participation at home, as how to guarantee care for children and older people is also an issue in Spain.

However, from a gender perspective, there is a significant difference between the Dutch and Spanish contexts, which would need to be adapted in order to transfer this practice, regarding part-time. Part-time female employees who work less than 12 hours are the central issue, revealing the concept of a “mother” dedicated to childcare who is less ambitious and available to work. However, in Spain, this “motherhood ideology” is more and deeply spread. Women who have exited the labour market due to family

⁸ <http://www.horariosenespana.es/descargas/pdf/ENCUESTA%20EL%20MISMO%20EURO%20LA%20MI SMA%20HORA.pdf>

⁹ <http://www.balanceequilibrio.net/>

¹⁰ <http://w110.bcn.cat/portal/site/UsosDelTemps>

¹¹ Martínez Sánchez, A., Pérez Pérez, M., de Luis Carnicer, P and Vela Jimenez, J. (2009); “Temps per temps” project (www.tempsxtemps.cat) (ongoing).

responsibilities are usually unable to re-enter¹², while those mother employees who keep working do not generally reduced their working time.

Only 3.7% of all female workers reduced their working time for childcare reasons and 5.6% for any care reason. While these figures present a relatively small difference (about 440,000 people) in comparison to male workers -those who work part-time for care reasons are 0.04% for childcare and 0.2% for all the care reasons-, inactivity ratios for “home tasks” are significantly different between sexes and in comparison to the European Union.

In the EU27, the share of inactive people aged 16 to 64 due to care and family responsibilities is 28.8% for women and 2.7% for men¹³, while this proportion is 55.6% for women and 10.4% for men in Spain¹⁴. In contrast, percentage of part-time workers caused by care reasons is 44.3% of part-time female workers in the EU27 and 23.3% in Spain while the figure decreases to 11.3% of part-time male workers in the EU27 and to 2.9% in Spain.

Therefore, the key factor to increase labour supply in Spain is to “activate” women, in particular, but also men, in comparison to EU figures, not to increase their working time, as this measure, when it is voluntary, is not so spread and the regulation only allow to halve the working time as the maximum reduction. Working voluntarily less than 12 hours, the specific issue in the Dutch context, is not an issue in the Spanish context.

Moreover, part of the practice may be transferred in order to reduce differences by sex, as part-time is more male accepted by Dutch society, in general, and by men, in particular. The objective would be to encourage men using part-time, especially for care reasons, in order to achieve Dutch and European levels. However, the reduction of women using part-time does not seem so urgent, as the rate is smaller than European levels. In any case, gender differences are still an issue to be tackled, as flexible working time arrangements are still concentrated on part-time schemes and related to traditional gender roles and they have different social and economic rights consequences for men and women.

Additionally, adding the age factor seems also critical to transfer the Dutch experience (Table 2). As previously reported, part-time jobs are being used as a way to enter the labour market. To combine training and working seems essential in the Spanish labour market where young unemployment rate is over 40%. However, differences between sexes in the use of part-time are already noticeable for young workers, when women study in a larger proportion than men. Differences are already significant between men and women younger than 30. Part-time female workers aged 25 to 29 point out care reasons while this is the case for 2.9% of men. No younger men pointed out care reasons for working part-time while 4.2% of women aged 16 to 19 and 3.4% of women aged 20 to 24 declare working part-time for care reasons. Thus, traditional gender roles are affecting part-time arrangements, which may affect not only the short-term, but especially the long-term different situation and conditions of men and women. Key issues as legally conception of women and men as equally available workers and carers are not totally tackled yet. Increase awareness, as the Dutch proposal, is also a pertinent question in the Spanish context, in general, and for the youngest generations, in particular.

¹² Anxo *et al.* (2006)

¹³ Eurostat, Labour Force Survey (2011).

¹⁴ Labour Force Survey (2Q, 2011) National Statistics Institute. Spanish statistics include “housework” as inactivity reason, no referring specifically to care reasons as stated in the part-time reasons. However, this answer seems the most pertinent to the issue analysed.

Table 2 Part-time employees as a percentage of total employment by sex and age.

	Men	Women
Total	6,1%	23,9%
16 - 19	46,7%	70,0%
20 - 24	21,8%	41,4%
25 - 29	11,1%	23,6%
30 - 34	6,1%	22,0%
35 - 39	5,1%	23,1%
40 - 44	3,5%	24,0%
45 - 49	2,9%	22,8%
50 - 54	2,4%	20,3%
55 - 59	2,8%	20,1%
60 - 64	7,0%	22,8%
65 - 69	19,3%	24,8%
70 -	34,3%	47,7%

Source: Labour Force Survey (2011) National Statistics Institute.

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