How to better protect women's health and safety at work in Spain?

- **Mónica Garcés García**[1]

Executive Summary

Equality between women and men in the workplace is not only an objective of democratic societies but also an indicator of development that must transform political agendas. In Spain, with a labour force participation rate for women of 46%, the figure of accidents at work disaggregated by gender does not show such parity, which is a considerable gap in the labour market. In 2019 these figures were: 404,603 men versus 158,153 women (representing 28%) according to INE (National Statistics Institute) data. It is also argued that most of the accidents that women have are linked to repetitive movements and forced postures that cause or may cause musculoskeletal disorders. **This policy brief aims to highlight the main shortcomings of preventive legislation without a gender approach and to offer guidelines for better protection of women's health and safety at work beyond the protection of reproductive health.**

Acknowledgements

The author would like to thank the Training Team of the ILO Research Department and particularly Dr. Naren PRASAD, for helping her in the review process of this policy brief. She would also like to thank Halshka Graczyk and Emanuela Pozzan for their comments on an earlier version of this paper. The views and opinions in this paper are solely those of the author and the responsibility for the information set out lies entirely with her.

Keywords

Women workers, Occupational Safety and Health, Spain

Introduction

This policy brief seeks to provide guidance on how to improve safety and health protection for women through regulation. It has been observed that both national and EU regulations on occupational risk prevention suffer from serious deficiencies in terms of gender perspective.

After analysing the existing regulations currently in force and the data available in relation to occupational accidents disaggregated by sex, as well as the significant differences in the number of accidents registered by men and women , this policy brief proposes that occupational safety and health legislation should contain a gender approach in the light of the fact that (i) the risk of typically female jobs tends to be underestimated, (ii) that less hazardous perceptionthan that undertaken by men may consequently receive less attention for critical workplace procedures, such as risk assessment, or worker training and (iii) in addition, work tools and personal protective equipment (PPE) have been traditionally designed for the Western male body,there is a deficient preventive gender-responsive approach in the business environment.

According to ILO (ILO, 2014) "*a national policy on OSH should include the specific protection of women workers' safety and health as a goal. It should provide guidance to enable employers, trade unions and national authorities to identify problems, make the appropriate links with general safety and health activities for all workers and develop specific programmes to ensure that the needs of women workers are taken into account in occupational and industrial restructuring processes at the national level, particularly in the areas of legislation, information and training, workers' participation and applied research. In the case of research on OSH, occupational epidemiology should be sufficiently sensitive to identify any gender-based disparities*".

This policy brief aims to provide companies, trade union organizations, prevention services, national legislators and the Labour Inspectorate in Spain with some useful

[1]This policy brief was prepared by Mónica Garcés García, Labour Inspector at the Ministry of Labour of Spain. The opinions expressed herein are those of the author and do not necessarily represent the views of the ILO or its staff.

The policy brief is based on the ILO's training on Evidence-Based Policy Making for Decent Work, which was organized by the Research Department from 26 April to 23 June 2021.

tools to detect and improve the perception of the risk of work developed by women, so that its assessment can be as objective as possible.

Background

From an international perspective, there exists a number of legal instruments that focus on the protection of women's safety and health at work. The International Labour Organization (ILO)[2] adopted international instruments such as (i) the Lead Poisoning Recommendation, 1919 (Nº4) – which took into consideration not only the function of maternity but also the physical development of children, women and young persons or (ii) the White Lead (Painting) Convention, 1921 (Nº13)- which contained specific provisions prohibiting the employment of women in certain areas and for certain processes in order not to endanger the reproductive health of female workers. A number of other international treaties were approved thereafter, such as, (i) the Universal Declaration of Human Rights,1948, (ii) the International Covenant on Civil and Political Rights and (iii) the International Covenant on Economic, Social and Cultural Rights of December 1966 (ratified by Spain on April 30th, 1977). These international legal instruments contain general references to equality for women and equality at work. However, they only view the protection of women in terms of pregnancy and breastfeeding, without taking into consideration other biological and psychological conditions that can affect the performance of their professional activity, as well as the horizontal and vertical segregation of feminized jobs, which also affects the type of risks women are exposed to during their working life. It was not until 1995 that the preparatory work for the IV World Conference on Women, held in Beijing (China), led to a definition of gender as a tool for analysing the reality of the female population and a specific content for women's health[3].

ILO has also shown the gender concern in connection with occupational risks during the pregnancy, recent birth and breastfeeding period through numerous Conventions and Recommendations forming a specific normative block that serves as a reference for the legal system of the European Union such as Maternity Protection Convention, 1919 (No. 3); Night Work (Women) Convention, 1919 (No. 4); White Lead (Painting) Convention, 1952 (No. 103) and Maternity Protection Convention, 2000 (No. 183) setting out that pregnant women should not be obliged to carry out work that is a significant risk to her health and safety or that of her child, it outlines the need for the elimination of any workplace risk, additional paid leave to avoid exposure if the risk cannot be eliminated, and the right to return to her job or an equivalent job as soon as it is safe for her to do so. The accompanying Recommendation (No. 191) provides for specific risk assessment and management of risks concerning pregnant women, including exposure to biological, chemical or physical agents which represent a reproductive hazard.

There are several ILO publications such as “The gender dimension: Integrating the gender perspective in OSH policies (ILO, 2014)” and initiatives such as ”The women at work centenary initiative[4]” which aimed to better understand and to address, (i) why progress on delivering on decent work for women has been so slow and (ii) what needs to be done towards securing a better future for women at work. The Initiative addresses four main areas, identified through research and consultations: (i) Discrimination, including stereotypes, that undermine access to decent work; (ii) Low pay and the absence of equal pay; (iii) Lack of recognition, unequal distribution and undervaluation of care work; (iv) Violence and harassment. However, other than issues related to pregnancy or breastfeeding, and the integrated gender responsive approach linked to OSH provided by the Violence and Harassment Convention, 2019 (No. 190), there is no specific Convention or Recommendation in ILO’s regulations dealing with the health of working women with a gender perspective.

[2] Beyond the question of safety and health at work there are four of ILO’s Conventions that have been designated as key instruments for achieving gender equality in the world of work: Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Workers with Family Responsibilities Convention, 1981 (No. 156); Maternity Protection Convention, 2000 (No. 183)

[3] https://www.un.org/womenwatch/daw/beijing/platform/health.htm (last visited: June 2021)
[4] https://www.ilo.org/global/about-the-ilo/history/centenary/WCMS_480301/lang--en/index.htm (last visited: June 2021)

This approach was followed by the European Community in its Framework Directive 89/391/EEC, which was transposed into the Spanish legal system through Law 31/1995 on the Prevention of Occupational Risks and its implementing regulations. Neither the European regulations on safety and health at work nor the Spanish national regulations contain any specific provisions aimed at taking into account the gender perspective in the protection of the safety and health of women workers. The recommendations of the Beijing World Conference have been translated into action programs such as the Community Framework Strategy on Gender Equality (2001-2005), aiming to fight inequalities between the two sexes in economic, political, civil, and social life and to modify roles and eliminate stereotypes. The aforementioned initiatives were implemented by a European Commission's document entitled "How to adapt to changes in society and in the world of work: a new Community strategy on health and safety" (2002-2006), in which the following two issues stand out:

- The complementary objective of integrating the gender equality dimension into risk assessment, preventive measures, and compensation mechanisms, to take into account the particularities of women with regard to health and safety at work.
- The implementation of this new strategy, which is primarily oriented towards quality of work and well-being at work, requires a thorough examination of which structures are best suited to this global approach: - prevention services must be genuinely multidisciplinary, including social and psychological risks, and integrate the dimension of gender equality (Commission).

Methodology

The target audience of this policy brief is not limited to policy-makers willing to bring the gender perspective into their agendas for health and occupational risks law-making, but also to stakeholders, the labour inspectorate and the external prevention services which are bound to comply with the applicable regulations.

This policy brief is based on literature reviews and national data on accidents at work[5]. The documents and data that have been analysed show significant gender inequalities (i) in employment and working conditions and (ii) work-related health problems in Spain. These inequalities are highly influenced by social class and sector of activity. Public policies on occupational health should take them into consideration. (Serna, 2012)[6]

Policy Process

In 2007, there were significant gender inequalities in employment and working conditions and in work-related health problems in Spain (Serna, 2012). The situation has not improved since then. Female workers tend to be offered less favourable contractual conditions than men[7]. Female workers are also exposed to greater psychosocial risks and they also face higher rates of sexual harassment, discrimination, and musculoskeletal disorders. Men, on the other hand, usually work during daytime, are more exposed to noise and physically demanding jobs, and suffer more frequently from work-related accidents. While seasonality, psychosocial risks, discrimination, upper limb muscle pain and occupational diseases are higher among female workers, uncontracted work and harassment are higher among male workers than among their female counterparts (Iñigo Isusi, 2020). In addition, occupational health research for female workers on chemical exposures have focused on limited sector and work tools and personal protective equipment (PPE) have also been traditionally designed for the Western male body. Tools and PPE with poor fit can lead to reduced protection and increase the risk of chemical exposure and

5 Moreover, women's occupational illnesses are often under-diagnosed, under-reported and under-compensated compared with men's, making it difficult to extrapolate from occupational disease registries http://gender-chemicals.org/chemical-safety-at-work (last visited July 2021)
6 Serna, J. C. (2012). Gender inequalities in occupational health in Spain. Gaceta Sanitaria, 343:351
7 https://www.ilo.org/infostories/es-ES/Stories/Employment/barriers-women#intro (last visited July 2021)

accidents, it can lead to forget using it at all. Female workers entering traditionally male jobs in areas like construction, laboratory work and emergency services are particularly at risk from inappropriately designed PPE. (Graczyk, 2020)

Women and men do not have the same physical conditions at work and do not carry out the same kind of work because of the gender segregation. Traditionally, health and occupational risks at work were focused on mainly dangerous jobs and activities that were related to heavy industry mainly carried out by men. Nowadays, despite the fact that risks from activities that mostly concentrate men (i.e. heavy industry or construction) are high, there are factors that indicate that women are also subject to more precarious labour conditions in terms of wage, temporary jobs, and partial work. In the analysis of the successive National Surveys of Working Conditions, differences have been observed in the location and type of pathologies and symptoms. Thus, women complain more about musculoskeletal discomfort: the greatest differences recorded are in the neck/neck (32.2% in women and 24% in men) (Trabajo, 2015). There is very little literature and documentation on the gender issue in prevention of occupational hazards, as this has always been based on a neutral approach, that is, the establishment and analysis of safety standards based on the majority of the working population, mainly men. As a result, there is not even a statistical history on the accident rate for women and the causes for it.

The gender perspective can also be reflected in the perception of risks. The National Survey of Working Conditions in 2015 shows that, since 2005, the percentage of workers reporting that their safety or health are exposed to risks at work was 35%, but this aspect is much more frequently mentioned by men (40% vs. 30% women). (Trabajo, 2015)

(Trad. Directors and managers/ scientific technicians and professionals/ technicians and support professionals/ accounting and administrative staff/ service workers and vendors/ skilled agricultural workers/ craftsmen and skilled workers in industry and construction/ plant and machine operators/ elementary occupations)

On the other hand, an apparent equal exposure can produce very different effects: in the industrial sector, women suffer more often than men from musculoskeletal discomfort in the neck, shoulder, and upper back (women suffer more pain in the neck, shoulder, and upper back[8]). And in services, women complain more about the neck, hand grunt, and shoulder pain than men. And this is also observed in the number of occupational accidents[9]:

[8] A. Bassols et al. “Back pain in the general population of Catalonia (Spain). Prevalence, characteristics and therapeutic behaviour”, Gaceta Sanitaria 17 (2), 2003, March-April, p.97-100: In this study, it is interesting to note that, for the first time, it is shown that the highest prevalence of back pain is found among women (60.7%), among manual workers (mostly women) 54.9%.
[9] Data from 2019, Spain (source: https://www.ine.es/dyngs/IOE/es/operacion.htm?numinv=63013).

	DURING THE WORKING TIME			
	Total	Minor	Major	Fatal
TOTAL	562.756	557.863	4.332	561
MAN	404.603	400.420	3.658	525
WOMAN	158.153	157.443	674	36

The addition of a gender perspective to occupational risk legislation in Spain must be accompanied by other measures such as those related to Labour Inspectorates and Occupational Safe and Safety Services:

- Having gender and OSH included in the national OSH strategy and work programme.
- A stepwise approach can be taken starting with gender mainstreaming and then expanding this to cover all diversity areas.
- Key drivers are legal obligation or general ministerial policy and commitment from the top level in the OSH authority.
- Having access to general mainstreaming tools and collaboration with equality experts.
- Developing and implementing the process and activities over time, including by working groups and forums, communication, and feedback mechanisms.
- Recognising that some staff may have misconceptions or be reluctant to embrace the issue and supporting them.
- Awareness-raising, training, and practical tools for inspectors to use in their daily work. Embedding gender issues in training for new inspectors.
- Setting objectives and evaluation.

Mainstreaming gender externally into the delivery of services and internally into the working conditions of staff. Integrating it across all activities: inspection, research, and campaigns. (Work, 2014)

Recommendations proposed

Taking into account that women´s working conditions are likely to be considered safer than men´s, there is a lack of gender perspective in the national regulations that stipulate the minimum that a job has to accomplish in terms of health and safety labour conditions, the potential challenge in terms of policy making could be addressed by these four points:

1. **Taking into account the potential gender bias in the consideration of occupational accidents, data should be compiled segregated by sex and occupational sector**. Public health studies should also take into consideration issues related to women's living and working conditions, as well as their daily overload, the double working day or the use by many women of cleaning products with potentially sensitizing chemical components. If these studies are only based on the needs and problems of the groups that are usually the most favoured, policies based on these data, although apparently aimed at the entire population, will end up increasing inequality. (Valls-Llobet, 2009,2020)
2. **Traditionally there has been an underestimation of the risks of jobs performed by women, which should be considered in risk assessments and in the training of**

workers and middle management. For example, in noise exposure, the assessment criteria should also be reviewed. Although noise exposure in industry massively affects men, in occupations such as teaching, catering, call centers or hospital emergency rooms, women are exposed to high noise levels that cause ringing in the ears and voice disorders due to the need to raise their voices. Medium and high noise levels are associated with circulatory diseases and occupational stress. (Trade Union Institute of Labor, 2006). Also the safety limit values of many substances used in several sectors (agricultural, chemical…) are based on male standards and should be reviewed as well as the the design of personal protective equipment.

3. **Musculoskeletal disorders, which are mostly suffered by women, are very difficult to detect and diagnose**. This fact should be taken into consideration when developing specific legislation for the assessment and measurement of musculoskeletal risks considering gender-disaggregated standards. With regard to exposure to ergonomic risks, both EU-OSHA and the European Trade Union Institute (ETUI) suggested the need to incorporate new evaluation criteria to reflect typically female problems such as exposure to vibrations in the manufacturing industry, which affects 30% of employed women, repetitive movements or lifting people (care and sanitary activities). For example, as regards lifting, many more men (43%) than women (25%) have to move heavy weights at work. However, when it comes to lifting or moving people, the prevalence of risk is much higher in women (11%) than in men (5.8%).

4. **The higher prevalence of back pain in women and the difficulty of diagnosis mean that specific protocols for its detection and differential diagnosis should be established as a health priority**, especially in primary care, where most women are referred to and where, on most occasions, they end up on medical leave with a non-professional origin, without primary care staff having the necessary capacity and adequate budget to be able to diagnose the causes of the pain and detect its possible professional origin.

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Contact

International Labour Organization
Route des Morillons 4
CH-1211 Geneva 22
Switzerland

Research Department
E : researchcourse@ilo.org

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