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What Does Labour Law Have To Say About Especially Vulnerable Women Victims?

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Abstract

There is a pronounced breach of *gender* in this field that leads vulnerable women, at times, to greater exclusion from the labour market, and at other times, to the submerged economy, to labour segregation, and also to poverty. As a result, working relations reveal their weaknesses. The *especially vulnerable victim* is a concept that has arisen within the United Nations in 1985. The first thing that we should identify are the women that suffer this situation, as it is there where the Law is called on to introduce legislative measures that combat these circumstances. Consequently, vulnerable women are turned into a group object treated in the singular to achieve their social and labour integration, an end that will principally be achieved, thanks to labour integration and the protection of the Social Security Regime (shifting this study to the social branch of Law).

Key words: vulnerable women victims, anti-discriminatory law, social exclusion, social inclusion, European Union policies, female marginalization, female work.

1. MAIN DIFFICULTIES OF FEMALE EMPLOYMENT AND VULNERABILITY¹

In a general way, women in the world of work are more vulnerable than men, have higher unemployment rates –that are also more prolonged over time, with greater long-term unemployment– and they have lower rates of activity and of job occupancy than men². When they access the labour market, the work they do is more precarious than men and, as is very well known, in jobs requiring lower qualifications, hence the remarkable inequalities in salary between men and women (which in Spain are still

¹ A previous version of this *IRLE paper* will be published in the upcoming book: *Guarantees and Rights of the Specially Vulnerable Victims in the Legal Framework of the European Union*, edition Tirant lo Blanch, Valencia, 2013 (ISBN: 978-84-90335994).

² MTIN (Gazette of the Ministry of Work and Immigration) data from September 2011: the unemployment rate of women (21.3%) of men (20.6%); the employment rate of women (53.1%) and of men (67.4%); the employment rate of women (41.8%) of men (53.6%). Spanish national statistics make no distinction between temporary employment rates for men and women. These data have to be analyzed with the prism of the employment crisis that we are experiencing in Spain that has meant greater loss of male employment than has been the general trend in recent years.

between 26% and 22% less for women). These differences are appreciable both in salaried and self-employed work, however few or insufficient incentives may be observed to break with this historic tendency, even more lacking in self-employed work.

Upon close examination, we detect a weak legislative approach in labour and social security regulations and they are, to a certain extent fragile, precarious and insufficient for the regulation of certain sectors, precisely there where the employment of women predominates (in which recognition not only of the presence of direct but also of multiple discrimination assumes importance). A clear example in Spain is found in the recent integration of home-care workers through a special system in the General Regime of Social Security, given a long transitory period and it continues without covering unemployment payments for those in this sector, constituted by a majority of women. Thus, it may be seen that the legislation itself, on certain occasions, may be a cause of discrimination. That difference in treatment is also appreciated (even today) in approaches to the settlement of labour conditions through collective negotiation in sectors with high female employment. One need do no more than compare annual working hours and other aspects of scheduling time at work (hours, working days, their distribution, etc., salary-related questions, professional position, the regulation of professional promotion, notable differences in working conditions, sometimes with regard to leisure and sometimes with regard to the possibility of the effective exercise of certain rights, etc). The differences that are noted are, in fact, approached from the Law as discrimination on the grounds of gender (accessible through a particular legal language, some erudite words and a conceptual categorization against discrimination: equality of treatment, direct and indirect discrimination, discrimination by association, orders to discriminate, harassment, retaliation, reasonable accommodation, positive action...). The International Community has contributed to this approach, very particularly Directive 76/207/EEC³, in Community Law (although its first impulses were received thanks to the worthy pronouncements of the ECJ, bulwark and *manager* of the European anti-discriminatory legal network currently in force).

Nevertheless, it can not be affirmed that these conditions convert (all) women into “victims” in the labour world. The legal order is called on to intervene in various situations outside the field of labour relations and the world of work. Labour regulation under these circumstances is expected to act as an umbrella, in order to grant special cover to the victim and to avoid greater social marginalisation (or, at least, to reduce levels of exclusion and/or distancing). Nor may any approach to these questions be

³ Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women. 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. Council Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes. Directives 92/85/EEC on the protection of pregnant workers who have recently given birth or are breastfeeding and 96/34/EEC parental leave (not amended). These seek to avoid unfavourable treatment at work based on these circumstances or situations, equality has to be real and not only formal. Directive 96/97/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes. Directive 97/80/EC on the burden of proof in cases of discrimination based on sex and Directive 98/52/EC on the extension of Directive 97/80/EC on the burden of proof in cases of discrimination based on sex to the United Kingdom, 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. In force today on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

made without forgetting that Labour Law, in its different stages of development, has looked at female work through the prism of protectionism and morals (prohibition on night-time work⁴, prohibition on work in the mines⁵). This has been linked to an important legal myopia of female work, called today, in the prevailing globalized language: invisibility of the work of women. Faced with that stance from the past, modern Law offers a sort of legal *maternalism* (which today begins to identify itself and criticize itself after an analysis of the measures introduced and, in consequence, of the real effects that these produce⁶, on occasions they originate a rebound effect, with contrary and even, iniquitous achievements –at times- for their purposes).

2. LAW IDENTIFICATION OF VULNERABLE WOMEN

We pass from the examination of *topos* and now move down to the level of vulnerability. There is a pronounced breach of *gender* in this field that leads vulnerable women, at times, to greater exclusion from the labour market, and at other times, to the submerged economy, to labour segregation, and also to poverty. Thus, working relations reveal their weaknesses. The first thing that we should identify are the women that suffer this situation, as it is there where the Law is called on to introduce legislative measures that combat these circumstances. Thus, vulnerable women are turned into a group object treated in the singular to achieve their social and labour integration, an end that will principally be achieved, thanks to labour integration and the protection of the Social Security Regime (shifting this study to the social branch of Law).

The especially vulnerable victim is a concept that has arisen within the United Nations in 1985, and that was generalized in Spain's area of regional influence through the Council Framework Decision of 15 March, 2001, on the Standing of Victims in criminal proceedings; the aforementioned term is closely linked to the person that is harmed criminally. Although the above-mentioned Framework Decision does not define who they are⁷, other more recent texts, bring us closer to a definition of the protected person⁸. The notion of *especially vulnerable victims* pays attention to young children,

⁴ Thus the Night Work Convention of the ILO (revised) (women) of 1948, denounced by Spain in 1992.

⁵ Convention of the ILO on underground work (women) of 1935, denounced by Spain in 2008.

⁶ In September 2011, the ECJ pronounced on the subject of domestic violence, in reply to a preliminary question raised by the Court of Tarragona, in relation to the distancing of the victim willingly or unwillingly, the regulation may be examined today in opposing terms contrary to those introduced in article 18 of the proposal for a Directive of 2011 in relation to victims. Joined Cases C-483/09 and C-1/10 24 September 2010.
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=109603&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=80473>

⁷ The references in the Criminal Code currently in force are found under art. 148, 153 –physical violence in the family setting-, 171.4 –threats with malice that do not constitute a crime-, 172.2 (these first mentions were incorporated in Organic Law 1/2004). Additionally, more recently the same precept appears in art. 177 bis with regard to the trafficking of human beings, in relation to the vulnerability of the victim, which identifies especially vulnerable victims on the grounds of illness, disability or a similar situation, that identification is reproduced in similar terms that are repeated in arts. 180, 184 in relation to offences against liberty and sexual indemnity, the last of which regulates the offence of sexual harassment. Art. 173.2 on degrading treatment refers to people who because of their special vulnerability are placed in custody or care in public or in private centres. Once again, responses to the vulnerability of the victim are in art.188.1, on prostitution-related crimes and art. 318 bis on crimes against the rights of foreign citizens by supporting illegal trafficking or illegal immigration and, finally, art. 607 bis crimes against humanity when human trafficking takes place for the purposes of sexual exploitation.

⁸ For example, Directive 2011/99/EU, of 13 December, on the European Protection Order.

the elderly and mistreated women. As a more extensive concept, the term also includes other subjects⁹: immigrants, people with disabilities, servants, the sick, members of ethnic minorities, those that suffer acts of violence of very different sorts or whose inherently personal legal goods are harmed, which are in the same network of the dignity of the person, and which perhaps may be extended to those people that suffer discrimination because of their personal characteristics.

In the context of the aforementioned regulation, the scope of Labour Law falls within the law on the protection of victims (from an extensive outlook¹⁰) and their relatives in relation to safety and the protection of privacy. Although it raises and goes beyond the specificities of protection foreseen in criminal proceedings, it affects the scope of the legal system at work and Social Protection. Or even, in reference to the rights of assistance, these can move beyond strictly criminal limits and include the actions of social assistance. This approach is repeated in subsequent community texts. Thus a good number of the measures adopted for the female victim of gender violence, or more recently, those outlined for the victims of terrorism, comply –or at least are oriented towards- that same purpose of protection. The legal labour-related measures define the possibility of suspension of the work contract, reorganization and flexibility of working hours, transfers, even opting for voluntary termination of the labour agreement with the right to receive unemployment benefit¹¹ or, equally, ending self-employed status in other cases.

The notion of especially vulnerable victim, if it relates to women, is predominantly linked to gender violence, situations of exploitation and human trafficking (also to labour exploitation –servitude in domestic work-), or those that are passive subjects of offences against sexual freedom. But other groups should not be forgotten if one is a woman, for example, in the context of multiple discrimination, where a special feature of vulnerability¹² is added to the condition of being a woman. Thus, for example, women and ethnic background, women and religion –normally not a majority-, women and disability, women and exclusion, and women and marginalisation.

⁹ An analysis on the scope of the notion of *especially vulnerable victim* in VIDAL FERNÁNDEZ B. (2008), “The Status of the victim in criminal proceedings in the European Union” in M. de Hoyos Sancho, *Criminal Proceedings in the European Union: essential guarantees* [bilingual Spa/Eng edition], Lex Nova, pp. 217 and ff. Vulnerability is associated with age (hence young and old), sex or other circumstances. It includes factors from multiple sources, impossible to group together with certainty, fragility of the individual (physical or mental), presence of situations that generate such fragility, suffer acts of violence (family, terrorism, organized crime). The author understands that, the category covers: underage minors, people with disabilities, victims of gender and domestic violence, immigrants, victims threatened by terrorism, drug traffickers and organized crime. Especially vulnerable insofar as the victim is in an unprotected situation. It involves people in need of special protection (also of legal protection).

¹⁰ Art. 8 of the hurried Framework Decision of 2001.

¹¹ Organic Law 1/2004, gender violence, and Law 29/2011, of 22 September on Recognition and Integral Protection of Victims of Terrorism (right to reorder time of work and geographical mobility, a reduction in working time with reference to public employees –needed specific legislation to define it-, transfer extends to the right of the spouse as a preferential right, inclusion in active employment policies compatible with the person’s former situation. It also contemplates the inclusion of a specific programme within the employment plan, measures also include supporting start-up activities for self-employment).

¹² The fact of overlap, intersection or concurrence of various discriminatory causes characterizes this discriminatory category, generating a specific form of discrimination. (In this respect, see art.7 of the former draft bill for a Law on equal treatment). It discriminated for example on the basis of the condition of the woman, the ethnic origin and disability or age.

In 2004, Organic Law 1/2004 on integrated protection against gender violence, identified the female victim of gender violence as especially vulnerable. Enlarging that concept, some years later, Organic Law 3/2007, on effective equality between men and women detailed circumstances of special vulnerability for women who belong to minorities, migrant women, and women living with disabilities. Art. 14.6 of Organic Law 3/2007 fine-tuned the concept, pointing out that women that belong to minorities, migrant women, children, women with disabilities, elderly women, widows and female victims of gender violence (as the precept refers to the criteria of action for public authorities with respect to these especially vulnerable women, it also indicates that public authorities may equally adopt measures on positive action). Likewise, the legislator highlighted, in 2007, the importance of attending to double discrimination suffered by women (although the regulation does not define the meaning of this concept). As may be seen, following this quick summary, the concept of the vulnerable woman is an indefinite concept.

The Institute of Women (today part of the Ministry of Health, social policy and equality among others, of the Ministry of Employment) identifies certain situations of vulnerability for women in direct relation with social exclusion (as we shall see that perspective appears to have borrowed from concepts coming from the European Union), and classifies: 1. women inmates and ex-inmates, 2. women prostitutes and victims of trafficking, 3. women drug users, 4. elderly women, 5. women at the head of monoparental families (in their correct non-sexist language in Spanish these families are referred to as “*monomarentales*” to emphasize the fact that the immense majority of monoparental families are headed by women). The conception of victim that social laws employ even distances itself from the criminal area, insofar as these include perpetrators of offences: women inmates and ex-inmates.

In very similar terms, certain Regional Communities, when establishing measures to promote employment, identify vulnerable groups as: women victims of gender violence, people with disabilities, ex-inmates, rehabilitated drug users, users of solidarity programmes, immigrants, members of ethnic minorities, and other marginalized people or at risk of social exclusion (example taken from the Andalusian legislation¹³). But they broaden the spectrum when they offer social assistance and integrate women inmates and ex-inmates, female migrants, young mothers in situations of social risk, and prostituted women and victims of trafficking with the purposes of sexual exploitation, women in other situations of social risk, integrated attention to women victims of sexual violence, and integrated legal attention to women victims of economic violence (also taken from Andalusia¹⁴). Besides, different regional laws that regulate situations of gender violence have also introduced ‘especially vulnerable victim’ as a term. Thus, in Castile and Leon, Law 13/2010, of 9 December, on gender violence, incorporates new aspects to the extensive polychromy of especially vulnerable women relating this notion to what are called added risk factors, such as *trafficking and sexual exploitation, a degree of disability, the condition of being a woman and an immigrant, and includes difficulties of access to resources from the rural environment, or any other circumstance that might aggravate the risk or the vulnerability of women, such as belonging to ethnic minorities, and it also incorporates specialities on the grounds of*

¹³ Decree 149/2005, of 14 June, which regulates incentives for long-term employment contracts.

¹⁴ Order of 22 February 2010, which sets out the regulatory bases for the approval of funds from the *Instituto Andaluz de la Mujer* [Andalusian Institute of Women] to non-profit entities working with women at risk of social exclusion.

age for women of 75 years old or when they suffer from mental illness¹⁵. There is a very broad landscape that makes it difficult to circumscribe the concept of vulnerable woman. On other occasions, regional Laws on equal opportunities refer to the social insertion of women living in situations of social exclusion, although they do not identify what these are, or only partially, for example, as monoparental families or prostituted women¹⁶, but without using an express reference to especially vulnerable women.

3. LEGAL ACTIONS TO ERADICATE SOCIAL EXCLUSION. THE SPANISH EXAMPLE

Having identified the female face of vulnerability, it is worth going into some of the responses of the Law to combat that social marginalisation or exclusion. The United Nations refers on numerous occasions to the *feminization of poverty*.

The responses offered by Labour Law constituting a complex network of a miscellanea of measures and actions, are an extensive range of legal and political instruments¹⁷. At the risk of overlooking some, we could summarise them as follows:

1. measures that cover the contractual relation in a miniscule way, providing guarantees for protection and flexibility, which is the prototypical case of labour law contemplated for the victims of gender violence, (which since the labour reform of 2012 have been extended to victims of terrorism), measures previously commented on in this text: such as a possibility of suspension of the work contract, rescheduling of the working day and flexible working hours, transfer and even the possibility of voluntary termination of the labour relation, with the right to draw unemployment benefit¹⁸ -or equal the end of the activity for the self-employed worker-.
2. other measures revolve around employment policy; paths to labour insertion, active employment policies, access to employment consultancy services, and placement, in general thanks to personalized training-labour itineraries for people that, as a general rule, do not access regulatory training courses– the most recent reforms of Law 56/2003, on employment¹⁹-. A priority is regulated in these provisions, for their participation in training courses²⁰.

¹⁵ Arts. 36 to 40 of Law 13/2010 on gender violence.

¹⁶ Arts. 28 and 29 of Galician Law 7/2004, of 16 July, on equality.

¹⁷ Often accompanied by campaigns on social awareness, targeting women and society in general. With a general nature and from the influence of social policies of the community, employment is related to a mechanism of social inclusion and a strong fight against social exclusion, among others see, RODRÍGUEZ-PIÑERO Y BRAVO-FERRER M. (2002): “Empleo y exclusión social”, Relaciones Laborales, nº 10, p. 121, vol 1, Editorial la Ley.

¹⁸ Organic Law 1/2004, of 28 December on integral protection against gender violence and Law 29/2011, of 22 September, on Integral Recognition and Protection of victims of terrorism.

¹⁹ Article 19 (viii) of Law 56/2003, on employment, in reference to priority groups so that specific programmes are designed aimed at promoting the employment of people with special difficulties for integration on the job market, among whom women, people with disabilities or in situations of social exclusion and immigrants, as well as long-term unemployed, people older than 45 years old, who have a training deficit (modification introduced in February 2011) and further reforms and preferences are introduced in Law 56/2003 with the unfinished labour reform of 2012 (in two of its phases of February and July, definitively approved by Law 3/2012, of 6 July), very especially those directed at victims of terrorism.

²⁰ Art. 5.3 of Royal Decree 395/2007, of 23 March, which regulates the subsystem of professional training for employment.

The steps taken to promote employment by the Regional Communities are brought to a halt in the face of situations of social exclusion²¹.

3. incentives to create employment contracts: in the form of discounts on Social Security payments –additional payments for temporary work of an exceptional nature also becomes a particularity²², which reduces the business costs of Social Security in a significant way- or reductions are allowed in the payments for self-employment of so-called entrepreneurs (*vulgus* self-employed workers).
4. other measures impact on social protection²³: transference of social services –faced with unemployment, coverage of the most marginalized through active job-seekers allowances²⁴ -created in 2006- and minimum “job-seeker²⁵” incomes, today known as “*rentas de ciudadanía*” [citizen’s income]. In this case, they offer assistance through social handouts or help.
5. on certain occasions, actions are preferred that affect professional training, with a view to the qualification of vulnerable people, so as to improve their access to the labour market, as well as secondary professional training for their reintegration on the labour market.
6. and those measures are also protective that bring together a specific form of protection of a procedural nature: a paradigmatic example being the new precautionary measures incorporated in the recent Law 36/2011 of 10 October, in regulation of social jurisdiction – and others²⁶. However, on occasions it is a

²¹ As an example, the Catalan Law 17/2002, of 5 July, which sets out, when detailing the functions of its employment service, under its management of actions to promote employment, special attention to groups at greater risk of social exclusion (which may be consulted in art. 7.1.i of the aforementioned Law).

²² For example, 1500 Euros per year for victims of terrorism over four years, and in the case of temporary contracts, 600 Euros per year throughout the life of the contract, these grants were introduced by Law 3/2012, of 6 July.

²³ A closer look at them all, among others, FARALDO CABANA C (ed.) and others (2010): *Cuestiones actuales sobre el trabajo de las mujeres y su protección social*, Tirant lo blanch, Valencia.

²⁴ In September 2011, 189,000 people received this form of support (data MTIN), of whom 24,791 were foreigners.

²⁵ As an example the Law of the Basque Country 18/2008, of 23 December, for guarantees on income and social inclusion, a pioneering regional community in Spain in the introduction of these incomes set up a decade ago by Decree 198/1999, of 20 April.

²⁶ The month of August is taken as a working month to institute actions arising from the recognised rights of female victims of gender violence in OLI/2004 (art.43.4 LRJS), and for swifter proceedings the requirement for pre-trial conciliation or, if necessary, a preliminary complaint when protective remedies sought against gender violence are not necessary (arts. 64 and 70.3 LRJS), the nullity of disciplinary dismissal with discriminatory motives being declared when it affects “*worker victims of gender violence due to the exercise of the rights of reduction or reorganisation of their working hours, geographical mobility, changes in their place of work, and suspension of the labour relation in the terms and conditions recognized in the Statue of Workers*” (art. 108.2 b) LRJS and equally objective dismissal (122.2 d LRJS), incorporates the special modality of urgent and preferential processing of conciliation of personal, family, and working life for cases of requests for the rights of victims of gender violence –reduction of working day, reorganisation of time at work, adaptation of working hours, setting flexible working hours... it being possible to accumulate the claim for damages due to refusal and delays and to request precautionary measures (art. 139.2 LRJS) such as “*the suspension of the relation or the exoneration to service provision, the transfer of the post or the workplace, the reorganization or reduction of work time and any others that tend to preserve the effectiveness of the sentence that may be delivered, including, if necessary, those that might affect the supposed attacker or violator of the rights or liberties that are*

question of precautionary measures, which can imply anticipated evidence which brings with it the right of improper or undue use of the judicial system, in that phase.

8. These actions are completed by the design of a policy of social inclusion at different levels of territorial administration, which encounter three features that contribute to underprivileged groups: (1) inequality, (2) marginalization, and (3) poverty. The measures are put in place through particular programmes of social insertion for groups that are socially excluded or at risk of exclusion, grounded in the perception that social insertion is a resolute and effective measure to combat the social exclusion of the most vulnerable people in society.

The Regional Communities in Spain carry out these activities in accordance with their competences for social assistance (art. 148.1.20^a CE). Almost all of them have developed specific regulatory instruments, legislation on social services, and they grant assistance, for example, in the form of subsidies²⁷.

The present-day crisis has expanded the population at risk of social exclusion and the socially excluded²⁸. However, starting with groups implies using the static model of carefully labelled “groups” and the assumption of situations of exclusion; however, the assumption has normally been compared with reality –usually by referring to statistical data or figures: lack of social participation, deficit of citizenship, persons absent from the labour market-.

9. One peculiar type of firm is the social insertion firm, launched in 2007 –regulated by Law 44/2007-. The Employment Law of 2003 for people at risk of social exclusion points out that “their employment will be promoted through insertion firms²⁹”. This measure has been reinforced in the 2012 reform for some collectives, among others for people with disability.

In the Spanish legal order, over the period between 2001 and 2006, the so-called temporary “insertion” contract existed, which given its weak effectiveness as an integration measure for certain groups in the world of work, was subsequently repealed

the object of the intended safeguards, under which circumstances the latter should be heard” (art. 180.4 LRJS) measures that are also regulated for protection against attack. Art. 286.2 uses the expression gender violence in the workplace –directly related with circumstance of harassment-, a concept that goes much further than the one in Organic Law 1/2004.

²⁷ In Castile and Leon, by Law 16/2010, of 20 December or Decree 90/2005 of 12 of April, in Extremadura.

²⁸ There is no single consensus over who these people are; for example, in Castile and Leon those in a situation or at risk of social exclusion are identified, *as is the case, among others of those receiving Guaranteed Citizenship Income [Renta Garantizada de Ciudadanía equivalent to long-term unemployment benefit], homeless people, gypsies, ex-prisoners, unemployed persons over 45 years old and with social problems, young people from the child protection system and young people in a situation of or at risk of social exclusion* (art.1.3 of Order FAM/404/2011, of 5 April).

²⁹ Art. 25.1 f) of Law 56/2003, when identifying areas of active employment policies (modified by Decree-Law 14/2011, of 16 September and amended again in the labour reform of 2012, both in Royal Decree-Law 3/2012 and in the later Law 3/2012, of 6 of July). Thus, the situation of women victims of gender violence has especially to be taken into account and, for people living with disabilities, the possibility of employment in ordinary jobs or in protected jobs in Special Employment Centres. All these measures are currently under review, in order to introduce more resolute measures in the integration of people with disabilities in the workplace.

by Royal Decree-Law 5/2006 and Law 43/2006, and its end purpose substituted, in part, by the regulation of insertion firms³⁰, through the aforementioned Law 44/2007.

Insertion firms are permitted a special temporary employment contract in the regulation currently in force, known as a *temporary contract for the promotion of employment by insertion firms*, regulated in article 15 of Law 44/2007. The norm contains a similar working regulation for the disabled, for which it refers to the provisions in DA 1st of Law 43/2006, but it excludes from its application the contents of sections 1, 2, 5 and 6 given that these regulations are specifically designed for the employment of disabled people.

The temporary contract for the promotion of employment by insertion firms is linked in these cases to the establishment of an insertion plan for those who may be employed as workers in these insertion firms, who are considered people in situations of social exclusion, a condition that has been accredited as such by the public social services (it concerns, as art. 2 of Law 44/2007 points out, recipients of minimum insertion incomes or those that cannot access them, young people of up to 30 years in age from young offenders centres, or young people, who being over 16 years old, are detained in specific centres under the Law of criminal liability of minors, prisoners in prisons whose penitentiary grade allows them to access a job –other than the special labour relation for convicts-, those freed on probation and ex-inmates, drug dependent persons, or people with addictive behaviour if they are in rehabilitation, and those other people that are in alternative accommodation or from the services of social prevention and insertion).

In this case, the specialities refer to firms which will offer the service, necessarily one of the aforementioned insertion firms. If so advised by social services, the duration of the contract may be less than twelve months, when a move to an ordinary firm is envisaged in the worker's job career plan within that time below the minimum established for the temporary employment promotion contract. The duration of any extension to the contract, if the maximum permitted term of three years is not used up, has to be at least equal to the initial duration of the contract, as a general rule of twelve months. In addition, since the approval of Law 27/2009 an insertion firm may as an exceptional employ a worker again within two years after the previous contract, if the earlier insertion process had ended in failure, or if the circumstances of exclusion reoccurred, provided that the public social service considered it advisable, in view of the circumstances of the worker. In the other cases, people who had already been employed by these insertion firms over the past two years may not be given employment with them again.

10. All the above-described measures may include all types of complementary actions included in the circle of so-called social responsibility³¹.

³⁰ For an analysis of these companies and their function of social integration in PÉREZ YÁÑEZ R. M. (2008): "La inserción social a través del trabajo. A propósito de la Ley 44/2007, de 13 diciembre, para la regulación del régimen de las empresas de inserción" Relaciones Laborales, n.º 11, p. 1007 and ff., vol. 1, Ed. La Ley.

³¹ We may find clear legal calls, for example in art. 5 of Law 5/2011, of 29 March, on social economics, with references to solidarity in frameworks such as "local development, equality of opportunities between men and women, social cohesion, the insertion of people at risk of social exclusion, the creation of stable and quality employment, the conciliation of personal, family, and working life and sustainability", when determining which will be the underlying principles of social-economic entities.

The present-day crisis makes certain situations of exclusion more prominent and it increases the population living on the brink of poverty, but it also outlines its female face (placing vulnerable woman in a special case).

In summary, the measures adopted by the Labour Law may be seen as the necessary reaction to Social Law. These measures, introduced by Labour Law, begin with the idea repeated within the European Union of work as an element of social integration, complemented afterwards by social protection (the role of social services is also important, for example, in the social insertion firm). Thus employment activity is seen as a means to leave marginalization, in order to help the *victim* obtain economic resources that are needed to live (often to survive, which takes us back to the historical concept of so-called laborious poverty) and/or provide economic independence.

4. THE ARTICULATION OF ANTIDISCRIMINATORY LAW AS A LAW OF SOCIAL INCLUSION

We can not ignore the relation between the vulnerable victim who suffers violence, ill-treatment, and abuse and emerging areas of Law. Broader views of its subjective element are necessary from the current perspective of social Law, which include marginalized and underprivileged people in their scope of application (expressly contemplated in the norms). The response of social Law is to integrate people, and in particular, with regard to this study, to integrate vulnerable people.

If we analyze these questions through the prism of antidiscriminatory Law, this right should not be exclusively identified with protective actions (and nothing else), but at the moment, our legislators focus this right –as a priority- on this point. It plays a dual role with regard to social exclusion: 1. preventive, if there is a well grounded risk of vulnerability; 2. reparative, once having noted the vulnerability. The new function of the antidiscriminatory regulations is applied with a view to achieving social inclusion. It responds to both social exclusion/social inclusion³².

In the employment field, the European Union, incorporates multiple instruments of social inclusion through the antidiscriminatory Directives (Directive 2000/43/CE, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Directive 2000/78/CE, establishing a general framework for equal treatment in employment and occupation, Directive 2006/54/CE, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Directive 2010/41/EU of the European Parliament and the Council of 7 July 2010, on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC). Equal treatment is a right of the person and the various manifestations of discrimination have to be fought wherever they occur.

³² In order to analyse the protection that social Law has developed, it is advisable to dismiss the concept of the victim, enshrined in the field of criminology, in as much as it is a question of a Person that suffers harm because of third party guilt or because of fortuitous causes. Is that person vulnerable because: the person might be injured or harmed, physically or morally. In this field, we have to limit ourselves to the female victim of gender violence or of other crimes (closely linked to her condition as a woman). It is worth examining the reaction of social law to gender violence or mistreatment. The criminal conviction will not be central to social Law, because it anticipates measures (with the new Law of social jurisdiction of 2011, for example, incorporating precautionary measures, referred to *ut supra*).

Also, art. 21 of the Charter of Fundamental Rights of the European Union prohibits discrimination and among the legally reproachable attitudes of discrimination it mentions, in the first place, discrimination on the grounds of sex.

The concept of victimization, which appears in antidiscriminatory directives on employment, obliges Member States to introduce measures for the protection of workers against dismissal or any other unfavourable treatment by the employer in response to claims against the firm or the exercise of judicial actions that require compliance with the principle of equality, thus art. 24 of Directive 2006/54/EC. Directly in relation with art. 17.1 *in fine* ET and with the guarantee of indemnity –recognised by Spain’s Constitutional Court in Judgments 7/1993 and 55/2003-. The antidiscriminatory directives also contain requirements to compensate the victim of discrimination for harm, indemnification which, in addition, has to be effective, proportionate and dissuasive, in other words proportionate measures. In community law, this indemnification is designed as a sanction for in compliance with antidiscriminatory legislation.

Reference is made to disadvantages, socially excluded, and marginalized people, and to those living in spheres of poverty, in the terminology of the European Union. The Community option is to promote active measures of inclusion, in particular their integration in the labour market, see in this sense art. 153.1 h) TFEU (complemented under letter j) dedicated to the fight against social exclusion. It includes economic resources from its different structural funds to achieve this (through the FSE). There also exists a set of (transverse) policies on social integration, all of which are founded on access to resources, full participation of citizens, and equal treatment. Hence, they speak of inclusive labour markets, as (it is presumed that) employment offers resources for a life with dignity. Original community law likewise demands income support to combat social exclusion, in direct relation with art. 34 of the Charter of Fundamental Rights of the European Union, in relation to the right to social support to guarantee a dignified existence for those without sufficient resources.

Any policy measure on inclusion within the European Union (and its Member States) looks to the promotion of equality between men and women and the promotion of equal opportunities. Community action requires studies on the disadvantages and the specific needs of vulnerable groups. It calls for social protection measures that, through income support, link up with training and employment, for support that is directed at the integration of those affected. The interest of the Community is not only evident in inclusion in the job market (through the employability of the affected person and access to employment), but also in keeping excluded people in employment (continuity of employment, protection of non-intermittent working lives). Their purpose is poverty prevention (also labour poverty, the poverty of those that are in employment, but are in precarious employment). Personalized support is demanded on occasions thanks to employment plans –job searches- and in employment –protected employment, seen as a vehicle for the incorporation of disadvantaged people-, raising social awareness of an inclusive employment market, support at places of work –reasonable reorganization of the workplace to avoid discrimination-.

Not only should the legislator adopt these practices, but they should also apply in areas of collective negotiation (so often collective agreements only repeat legal requirements). However, employment measures (legal and conventional) are not enough at times in themselves and supporting services are needed (specialized and personalized

employment services –as has been said-), access (transport), adequate infrastructure, qualification and requalification of the workers (in order to acquire professional competences), possibility of promotion (which fights against the glass ceiling as much as the sticky floor) and continuity of employment (conservation, maintenance), as well as changes in employment (job mobility).

We may ask ourselves why situations of poverty occur, how people come to be in them, and stay in a perennial state of poverty, some of the essential related circumstances, some with the world of work and others, with women that lead to situations of poverty: prolonged unemployment (long duration that affects women more than men), but also the fact that ageing equates with greater poverty, or recognising that poverty has a female face (in the words of the UN). The policy of insertion fights these situations. One vector of employment policy extends precisely to social inclusion (the Spanish Law on employment serves as an example). The fight against unemployment in vulnerable groups and of the socially excluded is a challenge of contemporary society (which is why our legislations include regulations that permit exceptional payments for temporary work with a view to inclusion in the labour market... but the economic support that is granted should not be of equal measure to that contemplated for stable employment, because it would incline the balance towards permanent precariousness of excluded or marginalized groups, although Spanish regulations have yet to take note of this error in its application). European Union legislation focuses on poverty, inequalities, their effects on people from other latitudes and different religions. It has always taught that the initial steps to avoid marginalized groups in the population are access to training and the fight against academic failure. The integrative role of the firm is also of importance, because of its social utility, which can be introduced into any firm – however small- nowadays in the context of its social responsibility and legal demands (including non-discrimination³³).

Today, the problem is not only one of labour poverty (work with salaries that do not permit the dignified subsistence of the person and their families), people in vulnerable situations form part of the hidden work, particularly if that work done by women increases (work at home, domestic employees, to mention only two examples), highly marginal sorts, absence of coordination between social security payments for part-time work and the right to welfare benefits, etc. Once again, we should stress the invisibility of female work, which is often nothing other than the blindness of institutions and business towards a marginalized reality of labour: the ignored –or the hidden- work of certain women in certain sectors, sheltered at times by employment and Social Security legislation.

5. ASPECTS OF FEMALE MARGINALIZATION THAT COMPLICATE INTEGRATION

It may be seen from community documents that ethnic minorities are victims of discrimination, exclusion, segregation, and stigmatization. With respect to the women

³³ The Commission indicates: “Responsible recruitment practices, involving in particular non-discriminatory practices, could facilitate the recruitment of people from ethnic minorities, older workers, women and the long-term unemployed and people at disadvantage. Such practices are essential in relation to achieving the European Employment Strategy objectives of reducing unemployment, raising the employment rate, and fighting against social exclusion”. Green Paper Promoting a European framework for Corporate Social Responsibility para. 29 (Consulted July 2012) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0366:FIN:EN:PDF>

who are members of ethnic groups, their vulnerability is also evident at times only because of belonging to the ethnic group and, at (so many) other times, linked to that because of being victims of violence, human trafficking, and poverty. Their situation is a disadvantageous one not only in comparison with other women, but also with men of the same ethnic minority. The European Union affirms that they are more vulnerable to social exclusion (extreme violations of human rights, trafficking and coercitive sterilization³⁴) and experience special difficulties over access to employment, which reflect difficulties with integration.

Taking a look back, we can see a latent frustration in the measures proposed in different legal orders and in good measure those introduced, or simply speaking of failure in the fight against social exclusion (which we hope will be momentary), which joins with the actual curtailment of action against social exclusion generated by the current crisis (economic, employment, financial, public debt, etc.).

However, we do find multiple references in various legislations to women as members of vulnerable groups in relation to employment, social inclusion, and other similar manifestations; hence the idea of legal protection. Up to what point? Does it have to stop at the limits laid down by legal paternalism, because once this incorrect way of regulating legal norms is put aside, the so-called “legal maternalism” is born and nobody has yet circumscribed its limits. What are they? Legal regulation presents legal shortcomings and excesses. If regulations of this second type are observed they would be conducive to the maternalistic conception. It is worth asking whether it is essential to exercise the new protectorate of women in terms of the Law.

The European Union sets out actions for vulnerable people, dedicates itself to those at risk of poverty, and regulates actions and plans for social inclusion; first, through the Lisbon strategy, and today with the strategy known as Europe 2020. From its numerous documents, it may be seen that on this issue it approaches a direct relation between social inclusion and European employment policy (European employment Strategy). And also with what has been initiated in Lisbon and renewed in the so-called renovated social agenda³⁵ that pursued the fight against poverty and social exclusion. Thus the social agenda anticipates an integrated strategy of active inclusion for those people who are more disadvantaged, such as the unemployment, people with disabilities, elderly people and women. Its objective is to promote help to obtain an income and access to employment, services, the information society, education, and training.

The European Union also uses the terms vulnerable groups, in its examples of which appear children, youth, homeless people and immigrants. Vulnerability is shown in direct relation with situations of poverty. The young experience special dangers, above all if their situation is precarious, if they are especially vulnerable and at risk of exclusion, for which reason the fight against social exclusion through policies of integration are incentivized. Following the signs of the female face of vulnerable people

³⁴ Whereas Clause N of the Report on the social integration of women belonging to minority ethnic groups (2010/2041 INI), of 30 June 2010, Committee on Women’s Rights and Gender Equality. Consulted July, 2012 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2010-0221+0+DOC+XML+V0//EN>

³⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Renewed social agenda: *Opportunities, access and solidarity in 21st century* [COM(2008) 412 final – Not published in the Official Journal].

in the reports on equality between men and women³⁶, the Union recalls these points: women of an older age continue to be more exposed to poverty than men, in addition, the heads of monoparental families usually suffer multiple disadvantages and are especially vulnerable to social exclusion.

6. EMPLOYMENT AS A RESPONSE FOR THE PROTECTION OF VULNERABLE PERSONS FROM THE EUROPEAN UNION

Insertion is related to the European strategy of employment (today included in the new strategy known as Europe 2020). This objective is enlivened throughout the Title of the TEU dedicated to employment, with a specific mention in its text to the fight against exclusion and how it envisages forms of cooperation to favour the integration of people excluded from the job market, through the adoption of minimum provisions at community level. A complete community policy on the fight against exclusion is enshrined in its social policy, employment policy acting as its implementing arm. The measures to stimulate the employment of the socially excluded are the natural channel towards the achievement of that inclusion. Numerous concrete expressions may be found throughout the directives on employment agreed within the European Union (in the form of Council Decisions). Complete interrelations between equal opportunities and the fight against discrimination (the female element enters here). It is only possible to achieve social integration through access to employment, although not only access but also maintenance in employment (and moving towards equal working conditions between those included and those excluded, in social and labour contexts).

Having interiorized the breadth of the community dimension of this reality of social inclusion, and become aware of the extension of our approach to the term victim, and defined the necessary measures for social inclusion, each member State first introduces these actions through its programmes of action for employment, and then through its plans for national reforms that always affect this field of the fight against social exclusion.

The vulnerable groups in the fight against discrimination are understood to be children, women, minorities, and all those worthy of special protection. The common policy on immigration indicates that they are potentially vulnerable groups (women, children, unaccompanied children). In particular, human trafficking, whatever its motive (sexual or labour exploitation), constitutes a fundamental violation of Human Rights. Given that it particularly affects vulnerable groups such as women and children, the European Union has defined its action around objectives aimed at protection, to protect the victims of trafficking.

Among the community actions to take action against vulnerability, the most prominent of them all is the programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme: Daphné III (2007-2013³⁷). Today, Europe 2020, is the European Union plan to create employment and generate growth in forthcoming years, up until 2020, among the basic objectives of which is “inclusive growth” (incorporates advantages for citizens and the weakest regions), together with “intelligent growth” (based on knowledge and new

³⁶ Periodic reports from the Council on equality between women and men.

³⁷ Decision 779/2007/EC of the European Parliament and the Council of 20 June (OJ EU series L 173, of 3 July). The women covered are victims of violence and in danger of becoming victims of violence.

ideas), and “sustainable growth” (focused on protection of the environment). The Europe 2020 strategy pursues increased participation in the labour market³⁸. The European Union has set as an objective an occupation rate of women and men aged between 20 and 64 years of 75 % by 2020. To do so, States members should stimulate participation in the youth labour market, elderly workers, workers with low qualifications and immigrants in an irregular situation. National policies should above all promote the principles of *flexisecurity*, worker mobility, and conciliation of professional and family life, to contribute to this aim. The States members will have to foresee early measures for the integration of young people and vulnerable groups in the labour market. Here it may be seen that neither employment policy, nor professional training, which work in favour of social inclusion, are strangers to these marginal situations. These measures should also mean that employment becomes more attractive, above all in the case of workers with poor qualifications, guaranteeing workers’ salaries that are at the same time compatible with price stability and the development of productivity. Finally, the States members will have to promote self-employment and an entrepreneurial spirit. In addition, they will have to assist work employment, in the health care sector and so-called “green” employment.

Centring on the objective of the fight against social exclusion, the Europe 2020 strategy promotes social inclusion and the fight against poverty, so that at least 20 million people no longer face the risks of poverty and exclusion over the next ten years. In consequence, the States members will have to lend special attention to the employment of people a greater distance from the labour market. The measures adopted will have to support self-autonomy and permit, at the same time, the fight against the poverty of workers. National policies will have to guarantee open, accessible, sustainable, and quality services, also in the social context. In addition, they will seek modernization and viability of their systems of social protection and retirement. Finally, the States members will support the social economy and social innovation; they will promote equal opportunities and the fight against discrimination. We may also find actions in this sense in the community programme for employment and social solidarity - Progress (2007-2013)³⁹. Another document of interest is the Recommendation of the Commission 2008/867/EC, of 3 October 2008, on the active inclusion of people excluded from the labour market⁴⁰.

³⁸ With regard to Council Decision 2010/707/EC of 21 October 2010, on guidelines for the employment policies of the Member States [OJ L of 24.II.2010], OJ EU series L n° 308 of 24 November 2010.

³⁹ Decision n° 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity – Progress, OJ EU series L 315, of 15 November 2006. Today Decision 283/2010/EU of the European Parliament and of the Council, of 25 March 2010, establishing a European Progress Microfinance Facility for employment and social inclusion - Progress, OJ EU series L 87 7 April 2010. The new instrument of microfunding –Progress– should finance: business creation or independent activities by people excluded from the labour market and people that have no access to the traditional credit market.

⁴⁰ OJ EU series L 307 of 18 November 2008.

7. OUR MEASURES

Having described the panorama of actions projected in the European Union, we have to point out that the flow of internal legislation responds in practically all ways to the requirements and influence of international institutions. The development of community measures has also been greatly influenced by measures adopted within the United Nations. The labour measure in support of social inclusion with the most important implications finds its reference in the regulation of insertion firms, incorporated into Spanish national law through Law 44/2007, previously cited in this article, thanks to which plans for social integration are put in place to achieve the “normal” integration of people in situations of social exclusion. Nevertheless, normative action stops here, however the social protection made available to women victims is very broad, although more incisive measures are still lacking that respond, for example, to victims of different degrees of moral-labour harassment, sexual harassment, on the grounds of gender related to their situation of marginality and inclusion and defenceless in the face of those attacks on the dignity of the person that constitutes the different expressions of discriminatory harassment and other forms of intimidation in the workplace.

As made extensively clear in other sections of this work, the legal function has to be integrated in relation to the vulnerable person, as a bridge for their incorporation into the world of work and for its facilitation, including flexible measures for some decisions that affect the labour relations of the vulnerable person (such as in the case of transfers, suspension of a contract, etc. of the victims of gender violence and victims of terrorism).

8. THE LEGAL EXPRESSION OF PROTECTION

If we move down to the legal sphere, we can find significant differences in the protection of victims. One factor taken into consideration by the legislation has been women, hence the first complete protection for the female victim of gender violence. Today, however, similar examples are found for victims of terrorism, without gender differences (with identical provision for measures and actions), Law 29/2011, of 22 September on the Integral Recognition and Protection of Victims of Terrorism and the recently approved labour reform of 2012 through Law 3/2012, of 6 July. These legislations guarantee the possibility of geographical and functional mobility, the rescheduling of working hours and in the case of victims of terrorism, they include the obligation for active employment policy plans to contemplate a section aimed at victims in adequate conditions for their physical and psychological needs. The measures will permit those that are considered victims of gender violence or that have suffered terrorist actions not only to be able to continue with their professional activities but also to follow new training courses to gain employment under conditions of quality. As for victims of gender violence, the new regulation aimed at victims of terrorism introduces measures on Social Protection and even covers specific rights for promotion at work in the case of vacancies.

The greater part of the measures introduced in Spain to combat the social exclusion of women, a small number of which are mentioned below, are supported through European Social Fund co-financing, although the economic resources are also drawn, on other occasions, from the recently created European Integration Fund, in particular for attention to immigrants and people belonging to ethnic minorities.

Likewise, measures may be mentioned in support of the integration of women in the labour market over the last decade, initially contained in the *Plan Nacional de Acción para el Empleo* (PNAE-2004) [National Action Plan for Employment] and afterwards in the programme of Reforms. Some of their examples have been the CLARA Programme, directed at women in situations or at risk of exclusion to increase their employability through the completion of personalized plans for labour insertion and social integration. Equally, specific programmes are introduced for the insertion of women victims of violence in the labour market. The CLARA programme is concerned with the insertion of women who find themselves in situations of social exclusion or (in periods immediately before that) at risk of exclusion. These women are offered courses that facilitate their employability, attending to their “special difficulties for labour insertion”, they are trained thanks to courses or other training programmes aimed at obtaining the necessary qualifications for employment. This specific programme is directed at the following groups of women: victims of gender violence, heads of nuclear families, people over 45 years without qualifications, young people belonging to ethnic minorities, immigrants, women with disabilities, inmates. (Set in motion with specific Programmes in the Autonomous Regions, hence the so-called plan Dike in Castile and Leon). This action belongs more to employment policy, as an integrated and personalized plans for social and labour insertion that responds to the specific needs of each women is prepared and their starting point is taken into account. (The *modus operandi* is developed through an interactive methodology, with a gender perspective, which works on personal/professional aspects of participant women through different actions directed at increasing their self-esteem, occupational training, labour mediation and insertion in the employment market).

We should also point to the importance that the eradication of social exclusion has at the level of the fight against the trafficking of human beings with the purpose of sexual exploitation, covering specific measures for women victims of prostitution⁴¹ (2009 – 2011). It includes these victims of trafficking for the purpose of sexual exploitation among the beneficiary collectives of training programmes for employment. The funds or the assistance are normally channelled through specialized organizations. The Programme’s ambitious project included fixing an economic package that guaranteed the subsistence of the victims during the time of reflection, or their possible return to their country of origin if they so request. The measures put into practice have almost always been the concession of grants to protective measures and social help for victims of trafficking for the purpose of sexual exploitation, once again highlighting the importance of training actions in the fight against social exclusion. In the same way, the international norms specifically refer to the assistance and protection of victims of human trafficking⁴².

Where immigrants are concerned, we may point out that thanks to the Fund in support of the integration of immigrants, the social integration of women immigrants found in a situation of special vulnerability is facilitated, especially if they are also victims of

⁴¹ Consulted July, 2012 at <http://www.migualdad.es/ss/Satellite?blobcol=urldata&blobheader=application%62Fpdf&blobheadernam el=Content-disposition&blobheadervalue1=inline&blobkey=id&blobtable=MungoBlobs&blobwhere=1244653025136 &ssbinary=true>

⁴² Council of Europe Convention on action against trafficking in human beings (ratified by Spain and in force since 2009).

gender violence, prostituted women, and victims of human trafficking for the purpose of sexual exploitation. It is worth highlighting Royal Decree 557/2011, of 20 April, on the subject of immigration, which develops the Regulation on Foreigners contained in art. 59 bis LOEx (guaranteeing their maximum protection and the assistance of victims of trafficking), a text which incorporates a procedure for the concession of residency permits and permanent work under exceptional circumstances (in its two modalities: collaboration with the authorities and with regard to the personal situation of the victim). This aspect also appears regulated for victims of gender violence through a provisional residency and work permit⁴³. Over recent years, the migratory phenomena of women has increased, many women immigrants are hidden from the census (because the two factors of migration and trafficking overlap), the legal measures in support of their regularization are an efficient (and almost the only) mechanism to avoid their marginalization and exploitation.

In relation to disability and women, the percentage of women is much higher than that of men than have been recognized as disabled, according to our statistics, (perhaps it is directly related with the greater longevity of women). People with disability suffer a special dramatic and tragic discrimination, as they continue to be ignored and sidelined outside of society. In Spain, the Spanish strategy on Disability has recently been approved for 2012-2020, which has given us a new legal framework that to a great extent reiterates the forms of action that have been developed to date and, in addition, the labour reform of 2012 incorporates a commitment to pay special attention to these situations with a view to their labour inclusion.

Finally, it is worth remembering that the advanced age in women is a condition that on certain occasions is turned into an element of vulnerability. Age drags women towards power, social isolation, lower income than men –as the years pass by-, when she remains in active employment and almost always when she stops work, as the pension payments she receives very often correspond to the holder of a pension and the woman does not receive them as a joint holder, who is not the woman. Hence, we shall finish with two more than well known, but in combination tragic expressions: poverty comes with age and poverty has a female face.

⁴³ Art. 59.2 b) determines the possibility of obtaining a residency permit and a five-year period of independent and other provisions, arts. 131 to 134, cover access to temporary housing and work because of exceptional circumstances, in parallel los arts. 135 to 139 fix the possibility of temporary residency permits and work because of exceptional circumstances because of collaboration between organized networks and, in particular, arts. 140 to 146 in relation to temporary residency and work because of exceptional circumstances for foreign victims of human trafficking.