

# BUT WHERE ARE THE MEN? CENTRAL-STATE PUBLIC POLICIES TO COMBAT VIOLENCE AGAINST WOMEN IN POST-AUTHORITARIAN SPAIN (1975-1999)

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In post-authoritarian Spain (1975-1999), policies against violence against women (referred to hereafter as AVAW policies) have been similar to AVAW policies elaborated in other European Union (EU) member states in recent decades.<sup>[1]</sup> Such measures have mainly been of two types: legal reforms, in order to declare violent actions against women unlawful acts which are punishable; and social services for victims of violence, for instance, refuges for battered women. In Spain, AVAW policies have reached only partial achievements because of the implementation deficit which exists in this policy area. Measures are formulated but weakly implemented. In this paper, I identify an additional problem (of lesser importance than the implementation deficit) regarding Spanish AVAW policies. Most policies are directed at victims, that is, women, but not at male perpetrators of violence, who are the cause of the problem.

The first (and longest) section of this paper describes the main AVAW policies in Spain since 1975. The second section explains that policies address mainly women, and to a much lesser extent, men. The third section presents the incomplete implementation of AVAW policies.<sup>[2]</sup>

## CENTRAL-STATE POLICIES TO COMBAT VIOLENCE AGAINST WOMEN IN SPAIN<sup>[3]</sup>

A broad definition of the phenomenon of violence against women "includes any act of verbal or physical force, coercion or life-threatening deprivation, directed at an individual woman or girl, that causes physical or psychological harm, humiliation or arbitrary deprivation of liberty and that perpetuates female subordination" (Heise *et al.*, 1994:1165). Nevertheless, for reasons of economy of space, time and research resources, this paper focuses on the study of policies directed at the following violent behaviour against adult women: rape and any other form of sexual attack, and domestic violence, that is, violence perpetrated in the family sphere. Other violent behaviour, such as forced prostitution, sexual harassment at work, genital mutilation and abuse of female children is not considered here.

As noted above, the main AVAW policies in Spain are chiefly of two types: legal reforms; and support services for female victims of violence. AVAW policies have been formulated and implemented with some delay in Spain in comparison with other Western countries. This delay was due in part to the fact that since the mid-1930s to 1975 Spain was governed by a right-wing authoritarian regime, which was notably anti-feminist.

### Legal Reforms

With regard to legal reforms, these are the most important AVAW policies in Spain. The Spanish legal system is a codified system. In common law systems (for instance, those of the United Kingdom and the United States) judges build case law, and the importance is placed on precedent. In contrast, in code law systems, judges are supposed to apply the principles of the code and laws in each particular case. The source of law is therefore not the precedent but what is written in the code and other pieces of legislation. This is why it was so important in Spain to reform the law, particularly the penal code. It defines the most reprehensible behaviour in a modern society, such as killing, raping or stealing and assigns them punishments.

In the Penal Code, the different violent acts perpetrated against women are defined as either misdemeanours (*faltas*) or offences (*delitos*),<sup>[4]</sup> and each of them is assigned a punishment (*pena*), which is lower for misdemeanours than for offences. From 1975 to 1989, sexual attacks against women were still listed under the title "offences against purity" (*delitos contra la honestidad*). Specifically, most sexual attacks against adult women different from rape were still called "indecent abuses" (*abusos deshonestos*). This terminology reflected the fact that policy-makers considered that perpetrators committed such attacks against the purity, decency or chastity of women, and not against women's freedom to decide whether to engage or not in sexual relations.<sup>[5]</sup> Besides, rape was defined in a very restricted way, because it referred only to heterosexual vaginal coitus, and not to anal or oral coitus, and

because it was established that only men could rape women. Furthermore, in all cases of sexual attacks against women (including rape), if the victim "forgave" the perpetrator, no prosecution could take place.

It is important to note that divorce was established in Spain in 1981 (Act Number 30 of July 7).<sup>[6]</sup> This meant that if the executor of violent acts against a woman was her husband, until 1981 she could not obtain a divorce, remaining therefore legally married (although perhaps *de facto* separated) to the violent husband.

A relevant reform of the Penal Code took place in 1983 (organic<sup>[7]</sup> Act Number 8 of June 25), which established that when victims of rape (not of other types of sexual attacks) forgave the perpetrators, the latter should still be punished according to the law.

It should be noted that, until 1985, abortion was a crime in Spain in all circumstances, penalised in most cases with a period of imprisonment which ranged from six months to six years, plus the prohibition of health professionals from performing their profession in private and public centres. Therefore, if a woman had been raped and became pregnant, according to the Penal Code, she had to give birth to the baby. Organic Act Number 9 of 5 July 1985, however, allows abortion in three circumstances: when the woman has been raped, when pregnancy seriously endangers the life of the mother, and when the foetus has malformations.

An important reform of the Penal Code regarding violence against women took place in 1989 (organic Act Number 3 of June 21), which instituted changes that had already taken place in other countries. Sexual attacks were no longer called "offences against purity" but "offences against sexual freedom" (delitos contra la libertad sexual). By the same token, some sexual attacks other than rape were no longer called "indecent abuses" but sexual aggressions (agresiones sexuales). Besides this, the concept of rape was expanded, to include not only vaginal, but also anal and oral coitus. Nevertheless, penetration with the penis was required in order to legally define an assault as rape. Two consequences followed immediately from this requirement: a sexual assault with penetration of foreign objects was not considered a rape; and men could rape women and men, but women could only rape men (Bustos, 1991:115; Cabo, 1993:261). From 1989 to the next reform (1995), rape, like homicide, was punished in Spain with a period of imprisonment which ranged from twelve to twenty years, and sexual aggression with a period of imprisonment which ranged from six months to twelve years. In both cases the perpetrator had to compensate the victim financially. Another point should also be remembered: rape and other sexual aggressions were offences defined in the laws independently from the marital or professional status of victims, for instance, irrespective of whether the perpetrator was the husband of the victim, or whether she worked as a prostitute (Bustos, 1991:115). Finally, the "forgiveness" of the victims of any offence against sexual freedom (and not only in the case of rape, as established in 1983), did not cancel the punishment of such behaviour.

The 1989 reformed article 425 of the Penal Code classified repeated physical domestic violence against women perpetrated by husbands or cohabiting partners as an offence, and not as a misdemeanour, as it had been legally defined in the past. "Repeated" (habitual) here meant violence which had been perpetrated at least three times (Bustos, 1991:65; Cabo, 1993:229). The offence of repeated physical domestic violence was punished with a period of imprisonment which ranged from one to six months.

Finally, since the 1989 reform, state officials (for instance, prison guards) who take advantage of the power and influence over their clients that their jobs confer to ask for sexual favours of their clients or their relatives, are punished more severely than before (López, 1992:317-323).

Another important legal reform regarding violence against women took place in 1995 (Act 10 of 23 November), with the establishment of the new penal code (the existing code was a modified version of that instituted in 1848). The word "rape" disappeared from the Penal Code. The former rape and sexual aggressions have been known as "sexual aggressions" since 1995. The definition of the formerly named "rape" was again expanded, to include penetration with objects. The attack formerly named "rape" is now punished with a lower maximum number of years of prison (twelve instead of twenty). Group sexual aggressions are explicitly defined by the Penal Code as acts committed by three or more people, and are punished with a higher number of years of prison. The punishment of the offence of repeated physical domestic violence was increased (from a period of imprisonment which ranged from 1 to 6 months to a period which ranges from 6 months to 3 years). In addition, the 1995 penal code establishes that a legal process regarding sexual aggression, sexual abuse or sexual harassment could be initiated with

an action of the prosecutor (before 1995, a complaint by the victim was required).

On 30 April 1998, the Council of Ministers approved an Action Plan Against Domestic Violence (Instituto de la Mujer, 1998), which was formulated under the direction of the main feminist institution of the central state, the Women's Institute (Instituto de la Mujer).<sup>[8]</sup> It contains propositions for measures to combat violence against women regarding prevention, education, support services for victims, health, legal reforms, and research.

Legal reforms followed the Action Plan Against Domestic Violence. On 9 June 1999 (Organic Act 14) the 1995 Penal Code and the Act of criminal indictment (Ley de enjuiciamiento criminal) were modified regarding domestic violence. The offence of repeated psychological violence in the domestic place was defined (up till then, the Penal Code only defined physical violence). New punishments for aggressors were established: the prohibition to approach the victim, to communicate with her, or to live close to her, in order to avoid a repetition of violent behaviour. This is one of the rare instances in which the state attempts to prevent the perpetration of violence, rather than to intervene after violent attacks had already taken place.

On June 1999, it was also stipulated that judges do not impose fines on violent males if this economic punishment also hurts economically the victim or her family. It should be borne in mind that the most common marital property regime in Spain is community property. Under this regime, each spouse is the owner of half of common properties, that is, of all properties and income obtained by any of the two spouses after they marry. When, in this situation, a violent husband has a fine imposed on him, he normally pays it with common properties, half of which belong to his wife. Therefore, this fine damages the financial position of his spouse, who might herself have been the victim of violence. Finally, since 1999, in some cases of potential misdemeanours (for instance, threats), prosecutors do not need the complaint filed by the victim in order to initiate a case (before, they needed the complaint).

A paramount policy established in parallel with legal reforms has been the collection of statistics of reported cases of violent attacks on women. Statistics of this type, for instance, in the case of domestic violence, hardly existed in Spain until 1983. Feminists and state feminists have urged the police and civil guard (police who work chiefly in rural areas) to collect data of reported cases of aggression in which victims have been women (Gutiérrez, 1990:129). However, it is necessary to bear in mind that the Spanish statistics on this issue, as is the case with the statistics of many other countries, only deal with reported cases.<sup>[9]</sup> In Spain, as in many other countries (Kornblit, 1994:1181), underreporting is a common phenomenon, in such a way that estimates of the real number of cases are only tentative. Nevertheless, the judiciary was urged to collect data about court decisions (sentencias) regarding cases of violence against women (Gutiérrez, 1989:9), and the same happened to the personnel who work in social services, such as refuges for battered women (Spanish Senate, 1989:12185-12187). It should be noted that even in the late 1990s all these statistics are usually incomplete and hardly comparable (Defensor del Pueblo, 1998).

To my knowledge, there are as yet no prevalence studies on violence against women in Spain available to the general public. Nevertheless, there are fragmentary data which show that violence against women is a widespread phenomenon. For instance, in 1990, almost three out of ten (29 percent) adult Spaniards of both sexes knew cases of domestic violence against women (Cruz and Cobo, 1991:107-108).

### **Services for Victims of Violence**

As for services for female victims of violence, these consist mainly of the diffusion of information about women's rights and of measures to protect victims. Diffusion of information is important because only when they are aware of their legal rights (that nobody has the prerogative to treat them violently, amongst others) can women efficiently defend themselves against assaults. It is also useful for women to know which social services and other resources are available for them if they become victims of violence. In this regard, the main state feminist institution of the central state, the Women's Institute (Instituto de la Mujer) created in 1983, has set up and administered women's rights information centres in some cities, where citizens can obtain information about women's rights in general (and not only in situations of violence), through an enquiry made in person, by phone or by mail.<sup>[10]</sup> Also, a free women's rights information phone line was set up in 1991, with the main purpose of reaching women who do not live in cities.

In addition to general information services, the Women's Institute has organised several information campaigns related to the specific issue of violence against women (Gutiérrez, 1990: 125; Threlfall, 1985:63). Two of the most recent information and awareness-raising campaigns were put into practice in Spring and Fall 1998 respectively. The former contained dramatic pictures of women who had been assaulted. The latter was promoted by the Spanish Confederation of Neighbours (Confederación Española de Vecinos del Estado Español), the Women's Institute, the Ministry of the Interior, and the Ministry of Labour and Social Affairs. The main slogan was "If he beats you, he does not love you. Love yourself! File a complaint against him! (Si te pega no te quiere. Quiérete tú. Denúnciale) (El País 14 October 1998:31).

Generally speaking, support services for female victims of violence have been set up later and are currently less comprehensive in Spain than in other countries, as happens with social services in general. If legal reforms are (on paper) fairly complete in Spain, support services for victims are still clearly insufficient (Defensor del Pueblo, 1998). The state does not always provide directly all these services for victims of violence. In many cases, the state subsidises non-governmental non-profit women's organisations which provide services for victims.

The best known service for victims are battered women's refuges (casas de acogida de mujeres maltratadas) (Instituto de la Mujer, 1986:22; Scanlon, 1990:99). The first refuges were set up in 1984, and in 1997, 129 refuges existed in Spain (Instituto de la Mujer, 1997:117).<sup>[11]</sup> In the late 1990s, there was a refuge for every 302,000 inhabitants in Spain. This proportion is still lower than the proportion recommended by a Resolution of the European Parliament in 1997: a shelter for every 100,000 inhabitants. The supply of Spanish refuges is geographically uneven, and only one region (Castilla y León) has the appropriate number of shelters according to its population (Defensor del Pueblo, 1998). Refuges are administered by the central state, local and regional governments, and organisations of civil society. As in other countries, refuges provide mainly temporary safe accommodation for female victims of violence and their children. In addition, they provide other services which range from legal advice to psychological support and vocational training, with the aim of helping them to initiate a new type of life away from perpetrators of violence.

The central state also gives subsidies to nationally based women's groups for them to develop projects for women regarding many topics, including violence. Generally speaking, in Spain the issue of violence against women had not been a priority for activists in the women's movement up to the late 1970s or early 1980s, when certain feminists "discovered" the problem of violence against women, in some cases accidentally (Threlfall, 1985:62-63). For instance, feminists from the Separated and Divorced Women's Association (Asociación de Mujeres Separadas y Divorciadas) who provided counselling and legal advice to women who wanted to initiate separation and/or divorce proceedings, found that the main purpose of many of their clients was to escape from a situation of high levels of domestic violence. In 1982, a group of women who provided direct assistance to victims of violence constituted the Commission to Investigate the Ill-treatment of Women (Comisión para la Investigación de los Malos Tratos a las Mujeres). This commission was composed mainly of social workers, psychologists and lawyers, and they started to pressurise policy makers with regard to the formulation of more AVAW measures, and to the implementation of those which already existed. Other feminist organisations which specialised in the issue of violence against women were created mainly from the mid-1980s, including the Association of Assistance to Raped Women (Asociación de Asistencia a Mujeres Violadas) or the Anti-Aggression Commission (Comisión Anti-Agresiones), but also others.

Since its establishment, one of the priorities of the Women's Institute has been the issue of violence against women (Gutiérrez, 1990:124). Approximately 10-15 per cent of the budget of the Women's Institute has been devoted to subsidising women's organisations (active in all areas and not only in violence).<sup>[12]</sup> Feminist organisations have administered refuges and other programmes and services such as emergency phone lines for rape victims, psychological support for victims of violence or training workshops for the police on violence against women. It is important to note that these very useful actions have been undertaken in some parts of the country (where women's organisations specialised in the area of violence exist), but not in others, and in some years but not in others.

Other services for women include police stations or departments within them to treat female victims of violence. Since 1988, a police station dedicated exclusively to cases of violence against women, staffed only by policewomen, exists in Barcelona. Units specialised in such cases, where some policewomen work, but which are not police stations but departments within them, have also been set up.

These units are called Services to Attend Women (Servicios de Atención a la Mujer). In 1998 these services existed in sixteen cities, and it was expected that at the end of that year new services would be set up in nine additional cities. Similar services also existed in Civil Guard Stations in fifteen provinces in 1998, and are called Teams for Women and Minors (Equipos de Mujeres y Menores) (El País 16 March 1998:31).

In sum, in Spain since 1975, the main policies to combat violence against women have consisted of legal reforms and to a lesser extent of support services for women. The former defined attacks against women as misdemeanours or crimes and assigned them the corresponding punishment. The latter try to support and protect victims.

## **MEN AND POLICIES TO COMBAT VIOLENCE AGAINST WOMEN**

In Spain, one of the problems (but not the main problem) of most AVAW measures is the fact that measures are in practice directed towards battered or sexually assaulted women. In contrast, most AVAW programmes handle violent males only at the very end of the process of implementation of policies (if at all). Let me use the case of battered women to substantiate this point. Policies against domestic violence are elaborated in a way that assumes that a battered woman has to be the active part in the solution of "her" problem. In all EU member states, she is the person who has to file a complaint, let a doctor examine her to certify injuries, go to court, and leave her home in order to protect herself from the violent batterer. The state has established a full battery of AVAW measures around her. The state has put in motion campaigns directed at her and other victims to encourage them to stop putting up with domestic attacks and dare to file a complaint; has established procedures to handle complaints; has trained doctors to certify injuries; has arranged legal processes for crimes or misdemeanours to be judged; and has set up refuges. Only at the very end of a legal process (if such a legal process ever takes place) the state deals with the violent partner. This happens when his actions are judged in court, although in most cases male batterers are absolved.

I am not arguing that policies directed at victims are unnecessary and should be abolished. On the contrary, many women are still unprotected by the state. For instance, feminists have continuously complained about the insufficient protection given by the police and civil guard on some occasions to female victims especially in the case of domestic violence. Sometimes the police or the civil guard have come too late when called, precisely because violent acts being perpetrated were against women (Cova and Arozena, 1985:36). Moreover, police and civil guards have not guaranteed the safety of women who have repeatedly been victims of violent attacks. Many of these women have finally died or become severely injured. According to the 1998 report on domestic violence made by the Ombudsman (Defensor del Pueblo, 1998), 89 out of the 91 women killed by their partners in 1997 had filed complaints of domestic violence against their aggressors. The Spanish state failed to safeguard them from the violent males who killed them (Asociación de Mujeres Juristas Themis, 1999). The point which I am making now is that in order to combat violence, policies of two types are needed: First, programmes to support and protect victims; second, measures to eradicate violent behaviour of male perpetrators. In the absence of the latter, the former is clearly insufficient.

Statistics are another example to illustrate that AVAW policies mainly deal with female victims, but hardly at all with male perpetrators of violence. Statistics chiefly reflect women suffering from violence (but not men perpetrating violence). For instance, regarding domestic violence, statistics count the number of complaints made by battered women, the number of years on average that women withstand violent attacks before daring to file a complaint, the number of women who seek refuge in a shelter, and the average number of days that they stay in refuges. Statistics usually contain much less information on violent males. For example, statistics do not tell us basic things such as how many violent males there are, or when they started behaving violently towards women.

Information and awareness-raising campaigns are another case which illustrates the point that AVAW policies are mainly directed to women (to victims). Most campaigns promoted by the Spanish state are chiefly directed to female victims of violence. All campaigns try to encourage victims to denounce aggressors. Campaigns are hardly ever directed at men, encouraging them not to behave violently against women (for instance, proclaiming that attacking women is shameful, reprehensible and intolerable behaviour).

In Spain, very few programmes for male perpetrators of violence against women exist. Some

treatment for rapists and sex offenders (but hardly any for batterers) is available in some prisons. These are very few pilot experiments, and have not been generalised to all prisons. These programmes are voluntary. The inadequacy of the design and the scarce supply of programmes for violent males have been denounced by the mass media and by many people, including professionals who at some point work with violent males, for instance, psychologists who elaborate reports on the mental health of presumed criminals to be used in court (El País 30 March 1998:Madrid 4). The denunciation by the mass media was particularly visible in 1998 with the case of the so-called "Rapist of the urban expansion area" (El violador del Ensanche), after the name of the area in the city of Barcelona where he committed the 140 sexual attacks to which he confessed. According to a legally correct decision, he was released in 1998 after 15 years of prison. The judge thought that he was still dangerous. While in prison, he had systematically refused to undertake any psychological programme for violent males (El País 18 October 1998:17).

Generally speaking, and with some exceptions, the state does not intend to prevent the perpetration of violent acts against women, but to intervene only after violence has taken place. This is one of the reasons why state actions usually centre around the victim, encouraging her to file a complaint and initiate a legal process. If the state intended to prevent the perpetration of violence, it would establish more measures directed at men, who after all are the aggressors in most cases, and are the potential aggressors.<sup>[13]</sup> For instance, the state would set up extensive programmes at schools to teach minors to solve conflicts resorting on negotiation rather than imposition and violence. The state would put in practice rehabilitation programmes for violent males and would do this in various settings and not only in prisons. The state would also be much more active in the area of mass media communications, developing actions jointly with the media regarding the prevention of violence. There are only pilot research projects of this type of measures directed to men and all of these have a voluntary, exploratory, and pilot character. For instance, in 1998 the government started to talk about prevention of violence with the mass media, especially with television (El País 15 October 1998:28).

To conclude, it is argued in this paper that the fact that AVAW measures are mainly directed at women impedes the effectiveness of policies to combat violence against women, since men (not women) are the root of the problem.

## **THE IMPLEMENTATION DEFICIT OF POLICIES TO COMBAT VIOLENCE AGAINST WOMEN**

As it has already been pointed out (Asociación de Mujeres Juristas Themis, 1999; Defensor del Pueblo, 1998; Valiente, 1996), the main problem regarding the relatively weak efficiency of AVAW policies in Spain is the deficit of implementation. Let me illustrate the weak implementation of AVAW policies in the case of the functioning of the judicial system. It has been identified as the biggest obstacle for the successful implementation of measures against perpetrators of violent attacks against women (Asociación de Mujeres Juristas Themis, 1999; Gutiérrez, 1989:42-43; Threlfall, 1985:61). Women's advocates have insistently complained about the (illegal) slowness and superficiality which have characterised the examination of victims by some forensic surgeons (Asociación Española de Mujeres Separadas y Divorciadas, 1985:23; Gutiérrez, 1989:25-26). In addition, feminists have objected to the relevant number of complaints of violent attacks against women (specially in the case of domestic violence) which are classified by judges of the lower courts as misdemeanours instead of offences, and have therefore been punished accordingly in the subsequent trial.<sup>[14]</sup> In addition, feminists have insistently complained about the proportion of cases in which violent males are not punished: for instance, 82 percent of men who had been denounced for domestic violence in the region of Madrid between 1992 and 1996 (Asociación de Mujeres Juristas Themis, 1999:43-44).

Feminists have also denounced several (illegal) practices that regularly occur in trials, practices which hinder the explicit aim of the laws of effectively protecting the victims and punishing the perpetrators of violence. First of all, as has been explained by Allison and Wrightsman (1993:171-194) for rape trials in the USA context, and by Sue Lees (1992) for murder trials in Great Britain, on many occasions a trial of violent acts against women becomes a trial of the victims. They frequently have to answer questions related to their style of living or to their past sexual activities, under the suspicion that some women (for instance, those who go out alone at night, or who frequent bars, or who do not have a permanent domicile or a stable partner, or wear certain types of clothes, or are conceptualised as promiscuous) put themselves in danger of being treated violently, since they might indirectly induce men to behave in such way. Feminists have demanded with vehemence that judges, prosecutors and lawyers

do not investigate the private life of the victims unless it is strictly necessary, since what is judged in a trial of this type is the violent behaviour of the presumed perpetrator, and not the intimate life of the victim (Instituto de la Mujer, 1985:71-72). A decision of the Supreme Court of Justice (Tribunal Supremo), that is, the highest judicial unit in all matters except those related to constitutional guarantees, in 1990, corroborated feminists' arguments, declaring that the sexual life of a victim of rape before rape takes place is irrelevant to the trial (El País 5 November 1990:29). Nevertheless, even now some judges, prosecutors and lawyers make investigations into the previous sexual life of the victim, investigations which are not at all necessary for the elucidation of the cases. In these cases, state actions to combat violence against women focus on women, even in the moment when violent actions of male perpetrators are being judged in court.

The feminist movement has also complained that prosecutors very often are not active enough in the investigation of violent acts against women before the trial takes place, and do not subsequently maintain charges against presumed perpetrators of violence (Asociación de Mujeres Juristas Themis, 1999; Baiges, 1985:11; Cova and Arozena, 1985:36). This alleged deficit in maintaining charges by prosecutors is very important, because when judges write court decisions they punish perpetrators of violence with a punishment equal or lower than the punishment demanded by prosecutors. This lack of action by prosecutors has happened in spite of repeated instructions from the attorney general of the state (Fiscal General del Estado) to be active in the prosecution of violent crimes against women - for instance, in October 1998 (El País 17 October 1998).

Another battlefield of feminists' struggles has been the investigation during the trial of the reactions of female victims of violence, specially in cases of rape. The penal code does not say anything about this matter, but in Spain, as in many other countries, it has been a widespread requirement in trials that rape victims prove that they had very actively resisted their aggressors. This de facto requirement is paradoxical, since victims of other offences or misdemeanours, for instance, robbery, did not have to prove that they had resisted the thieves. After numerous decisions by the Supreme Court of Justice which made reference to the high degree of resistance of rape victims, the Supreme Court of Justice affirmed in a decision of 1987 that rape victims do not have to prove that they have "heroically" resisted rapists, and that it was enough to show that they have been intimidated or threatened, for instance, with a knife (El País 8 October 1987:29). While the matter seemed theoretically to have been settled, feminists have complained that in many trials victims are still asked to prove that their degree of resistance to rapists was high. As a consequence of this, and the investigation of the degree of the resistance, victims have had to answer humiliating and embarrassing questions. For instance, in 1989, in a rape trial, the presumed victim was asked if the day of the rape she wore underpants. According to the president of the court, the question was necessary in order to calibrate how the alleged rapist had acted (and the victim resisted), bearing in mind that he had a knife in one hand, and with the other he had to take some clothes off the victim, a task which would have been harder or easier depending on her resistance (El País 27 June 1989:24; 28 June 1989:31).

## CONCLUSION

This paper has described the main policies against violence against women established in Spain after 1975. AVAW policies have mainly been of two types: legal reforms, which define attacks against women as misdemeanours or crimes; and services to support and protect the victims. With some minor exceptions, legal reforms are, on paper, mainly complete. In contrast, services for victims are comparatively speaking scarce and could be developed considerably. The chief problem in the policy area is the deficit of implementation of the AVAW measures already formulated. A problem of secondary, but not negligible, importance is the fact that most policies are directed at women, who are in most cases the victims of violence, but not at men, who are the perpetrators of attacks. The equivalent of fighting against violence against women with measures directed to women would be to combat anti-semitism with policies to protect Jews (rather than preventing Anti-Semites from attacking Jews), or to eradicate robbery with measures protecting the whole population against thieves (rather than making the lives of thieves really hard).

If the diagnoses of the factors that explain the limited effectiveness of AVAW policies identified in this paper are correct, the recommended future direction of policies is clear. State action in this policy area will be more efficient only when programmes which are elaborated are also put into practice. In addition, the state should undertake more measures which try to prevent violence (and therefore which are directed at men).

Two or three decades ago, feminists realised in all countries that women live in a violent world. An increasing number of activists have subsequently thought that effective resistance to the phenomenon of violence against women across countries should involve not only the women's movement but also the state (Heise *et al.*, 1994:1174). If the description of the characteristics and dynamics of this policy area made in this paper is accurate, it might be concluded that feminists' provision of direct help to the victims of violence is still going to be useful and irreplaceable in the future. This has been, in fact, the strategy pursued by women's advocates in Spain in the last three decades. It is not only that the supply of direct assistance to victims (and programmes for the population in general) has never been abandoned, but also that such programmes have flourished in recent years. It is also encouraging to bear in mind that the issue of violence against women, together with abortion, are still unifying motives for the different branches of the Spanish feminist movement to engage in joint activities, even though the movement, in relation to other issues, has usually been very fragmented.

Programmes directed towards men (the aggressors or the potential aggressors) may or may not develop in Spain in the near future. This type of programme is a thorny issue for the Spanish feminist movement. As in other countries, many strands of the movement think that the establishment of measures for men would detract from the already scarce resources for programmes for victims (mainly women). While feminists have acquired expertise denouncing violent attacks against women and administering services for victims, other people or professionals (for instance, male psychologists, or members of men's movements) may also claim expertise in the treatment of violent males. If such is the case, a material and symbolic battle around expertise in the policy area of violence against women will probably be seen in the years to come, together with other less predictable developments which will call our attention as researchers and citizens.

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#### **References**

Addis, Elisabetta 1989. "What Women Should Ask of the Law: Italian Feminist Debate on the Legal System and Sexual Violence." Harvard University Center for European Studies Working Paper Series Number 18.

Allison, Julie A. and Lawrence S. Wrightsman 1993. Rape: the Misunderstood Crime. Newbury Park (California): Sage.

Asociación Española de Mujeres Separadas y Divorciadas 1985. "Pago de emplazamientos a funcionarios de justicia." In Primeras jornadas: aplicación del Derecho y la mujer Ed. by Instituto de la Mujer, 21-23. Madrid: Instituto de la Mujer.

Asociación de Mujeres Juristas Themis 1999. Respuesta penal a la violencia familiar. Madrid: Asociación de Mujeres Juristas Themis and Consejo de la Mujer de la Comunidad de Madrid.

Baiges, Mayte 1985. "Introducción." In Primeras jornadas: aplicación del Derecho y la mujer Ed. by Instituto de la Mujer, 9-12. Madrid: Instituto de la Mujer.

Bustos, Juan 1991. Manual de Derecho Penal: parte especial. Barcelona: Ariel.

Cabo, Manuel (ed.) 1993. Manual de Derecho Penal (parte especial) I. Madrid: Editoriales de Derecho Reunidas.

Connors, Jane Frances 1989. Violence against Women in the Family. New York: United Nations Office at Vienna. Center for Social Development and Humanitarian Affairs.

Cova, Luz M. and Soledad Arozena, 1985. "Aplicación del Derecho." In Primeras jornadas: aplicación del Derecho y la mujer Ed. by Instituto de la Mujer, 35-37. Madrid: Instituto de la Mujer.

Defensor del Pueblo 1998. Informe sobre la violencia doméstica contra las mujeres (unpublished report).

El País 1978-December 1999.

Gutiérrez, Purificación 1989. "La administración de la justicia ante el problema de los 'malos tratos' en el



ámbito doméstico" (unpublished paper).

Gutiérrez, Purificación 1990. "Violencia doméstica: respuesta legal e institucional." In Violencia y sociedad patriarcal Ed. by Virginia Maquieira and Cristina Sánchez, 123-136. Madrid: Pablo Iglesias.

Heise, Lori L., and Alanagh Raikes, and Charlotte H. Watts, and Anthony B. Zwi 1994. "Violence Against Women: A Neglected Public Health Issue in Less Developed Countries." Social Science Medicine Vol.39, Number 9:1165-1179.

Instituto de la Mujer 1985. "Conclusiones de las primeras jornadas de aplicación del Derecho en relación a la mujer." In Primeras jornadas: aplicación del Derecho y la mujer Ed. by Instituto de la Mujer, 69-75. Madrid: Instituto de la Mujer.

Instituto de la Mujer 1986. El Instituto de la Mujer 1983-1986. Madrid: Instituto de la Mujer.

Instituto de la Mujer 1994. La mujer en cifras: una década, 1982-1992. Madrid: Instituto de la Mujer.

Instituto de la Mujer 1997. Las mujeres en cifras 1997. Madrid: Instituto de la Mujer.

Instituto de la Mujer 1998. Plan de Acción contra la violencia doméstica. Madrid: Instituto de la Mujer.

Kornblit, Ana Lia 1994. "Domestic Violence - An Emerging Health Issue." Social Science Medicine Vol.39, No.9:1181-1188.

Lees, Sue 1992. "Naggers, Whores, and Libbers: Provoking Men to Kill." In Femicide: the Politics of Woman Killing Ed. by Jill Radford and Diana E.H. Russell, 267-288. New York: Twayne.

López, Jacobo 1992. Manual de Derecho Penal: parte especial III. Madrid: Akal.

Scanlon, Geraldine M. 1990. "El movimiento feminista en España, 1900-1985: logros y dificultades." In Participación política de las mujeres Ed. by Judith Astelarra, 83-100. Madrid: Centro de Investigaciones Sociológicas and Siglo XXI.

Spanish Senate 1989. "Informe de la Comisión de Relaciones con el Defensor del Pueblo y de los Derechos Humanos encargada del estudio de la mujer maltratada." Boletín de las Cortes Generales. Senado May 12, Number 313:12182-12211.

Stetson, Dorothy McBride 1987. Women's Rights in France. Westport (Connecticut): Greenwood Press.

Stetson, Dorothy McBride; Mazur, Amy G. (eds.) 1995. Comparative State Feminism. Thousand Oaks (California): Sage.

Stout, Karen 1992. "'Intimate Femicide': Effect on Legislation and Social Services." In Femicide: the Politics of Woman Killing Ed. by Jill Radford and Diana E.H. Russell, 133-140. New York: Twayne.

Threlfall, Monica 1985. "The Women's Movement in Spain" New Left Review 151:44-73.

Valiente, Celia 1995. "The Power of Persuasion: The Instituto de la Mujer in Spain." In Comparative State Feminism Ed. by Dorothy McBride Stetson and Amy G. Mazur. Newbury Park (CA): Sage (forthcoming).

Valiente, Celia 1996. "Partial Achievements of Central-State Public Policies Against Violence Against Women in Post-Authoritarian Spain (1975-1995)" In Women in a Violent World: Feminist Analyses and Resistance Across 'Europe' Ed. by Chris Corrin, 166-185. Edinburgh: Edinburgh University Press.

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[1] In this paper, the words "policies", "measures" and "programmes" are used as synonymous.

- [2] This paper is largely based on an analysis of secondary literature, legislation, press files, published and unpublished political documents and seventeen in-depth personal interviews with social and political actors active in the policy area of violence against women: four members of feminist associations; a judge; a police agent; three civil guards (police agents mainly for the rural areas); a social worker; two members of the personnel who work in a battered women's refuge; a female victim of violence (rape); a forensic surgeon; a physician specialist in the examination of female victims of violence; and two lawyers specialist in AVAW legal measures. All interviews were conducted in the city of Madrid in March 1995. In order to maintain the anonymity of those interviewed, their names do not appear in this paper. The presentation of policies is an updated and revised version of the description contained in Valiente (1996).
- [3] I will concentrate on the central-state policies considered most relevant, that is, those which affect a large number of women, and/or are financed with a significant amount of public resources, and/or are specially innovative. The description of the programmes made here is by no means exhaustive.
- [4] "Offences" and "crimes" are used in this paper as synonymous.
- [5] This type of terminology also enjoyed certain currency in other countries with codified legal systems. For instance, in Italy, sexual violence was listed in the penal code under title "crimes against public morality and right living" (Addis, 1989:2). In France, sexual assaults were prosecuted according to an article of the penal code which dealt with "assaults on morals" (Stetson, 1987:163).
- [6] Divorce also existed during the democratic regime of the Second Republic (1931-1936), but it was abolished by the subsequent right-wing authoritarian regime.
- [7] According to article 81 of the 1978 Constitution, an organic Act (*Ley orgánica*) regulates, among other matters, fundamental rights and public liberties. An absolute majority of the Low Chamber, in a final vote of the whole project, is necessary for the approval, modification or derogation of an organic Act. For an ordinary - not organic - Act, only a simple majority is required.
- [8] Since the 1960s, institutions with the concrete purpose of promoting gender equality have been set up, developed (and sometimes even dismantled) in most industrial countries. In social science literature such institutions have been called "state feminist" institutions or bureaucracies. The people who work in them are described as "state feminists" (Stetson and Mazur, 1995).
- [9] The number of reported rapes in Spain was: 1,723 in 1989; 1,789 in 1990; 1,936 in 1991; and 1,599 in 1992. The number of reported sexual aggressions was: 2,502 in 1989; 2,277 in 1990; 2,282 in 1991; and 2,335 in 1992. Finally, the number of reported cases of domestic violence against women was: 13,705 in 1984; 15,681 in 1986; 15,230 in 1987; 13,644 in 1988; 17,738 in 1989; 15,654 in 1990; 15,462 in 1991; 15,184 in 1992; 15,908 in 1993; 16,284 in 1994; 16,062 in 1995; and 16,378 in 1996 (Instituto de la Mujer, 1994:92-93; 1997).
- [10] These information centres were not an original creation of the Women's Institute, because the former Subdirección General de la Mujer dependent on the Ministry of Culture, had already set up three centres, which the Women's Institute inherited. The number of centres increased steadily. In 1984 there were only three centres. In 1987, there were eleven centres.
- [11] The first battered women's refuge was set up in 1971 in Great Britain (Connors, 1989:34) and in 1974 in the USA (Stout, 1992:134).
- [12] The policy of the Women's Institute of subsidising the women's movement is described in Valiente (1995).
- [13] According to a study of the complaints of domestic violence filed in the region of Madrid between 1992 and 1996, aggressors were men in 90 percent of the cases (Asociación de Mujeres Juristas Themis, 1993:13).
- [14] As explained above, the punishment of misdemeanours is lower than that of offences.