

INTIMATE PARTNER VIOLENCE IN SPAIN (1975-2006)

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Resumen

En este artículo examino los discursos legales, sociales y culturales que, desde la caída de la dictadura, se han utilizado en España para abordar la cuestión de la violencia de género. Antes de 1997, se prestaba mucho menos atención a los malos tratos dentro del ámbito de la pareja que en la mayoría de los demás estados democráticos. Durante los últimos diez años se ha producido una inversión de esta situación. El asunto se ha convertido en un tema candente para los medios y una nueva ley ha planteado el problema desde una óptica multidisciplinar. Propongo contextualizar estos cambios y ofrecer una amplia relación bibliográfica para aquellos lectores que busquen información sobre campos más específicos.

Palabras clave: violencia de género, malos tratos dentro del ámbito de la pareja, España, medios de comunicación, cambios sociales, reforma legal

Abstract

In this article, I examine how gender-based violence has been framed in Spanish legal, social and cultural discourses since the fall of the dictatorship. Prior to 1997, far less attention was paid to intimate partner abuse than in most other democratic states. In the last ten years, this situation has been reversed. There has been heavy media coverage, and new legislation that adopts an holistic approach to the problem. I will attempt to place these changes in context and to provide extensive bibliographical information for those readers seeking information in more specialised fields.

Key Words: gender-based violence, intimate partner abuse, Spain, the media, social change, legal reform.

Introduction

Until very recently, domestic violence was a taboo subject in Spain;¹ it has

¹ In Spain, there has been controversy over the use of terminology. The *PP*, and most of the media, speak of *violencia doméstica* whilst the *PSOE*, *IU* and women's organisations speak of *violencia de género* (Rubio, 2006: 70-71). This is because the latter term stresses the structural basis of violence against women and therefore calls attention to the macro-societal factors

traditionally been considered a private matter that ought to be kept firmly behind closed doors. In the last few years, however, gender-based violence in the home has become a perennial subject in the media and readers are greeted, on a daily basis, with headlines such as ‘Los malos tratos son la primera causa de muertes entre las mujeres jóvenes’ (Gallardo, 2003), or “‘Hasta que la muerte nos separe’ acerca el drama de los malos tratos’ (LT, 2006). Lidia Falcón and Olga Campos describe the country as having ‘[...] el dudoso honor de ser uno en los que más mujeres son víctimas de la violencia machista y en los que sus instituciones menos las protegen’ (2006: 55), whilst Montserrat Comas d’Argemir i Cendra is even more categorical in her assessment: ‘[...] el problema real que afecta a la sociedad española es el de la violencia sobre la mujer. Esta es la auténtica lacra social’ (2006: 20). In this article, I offer a brief overview of how domestic violence has been construed and addressed in Spain’s recent past in order to contextualise the current maelstrom of political, legal, psychological and sociological debate.

Violence against women in the home is an international problem that is neither specific to Spain nor restricted to certain groups within Spanish society: ‘Domestic violence exists in all countries and all social classes. It is the most graphic symptom of the imbalance of power in the relationship between men and women’ (European Community, 2000: 4). The fact that the problem affects all countries and all social classes does not, however, imply that it affects them in the same ways or to the same degree. Wendy Kozol’s comment vis-à-vis socio-economic standing is equally true of

whereas the former places its emphasis on the individual offence and can therefore be seen to pathologise the isolated case rather than identify wider causes and problems; ‘El uso reiterado de la denominación “violencia doméstica” por parte de algunos pretendía difuminar el carácter sexuado de la opresión. La familia y las relaciones afectivas entre mujeres y hombres basadas en el poder, tema central para el feminismo de los años setenta, ha salido ileso de este *boom*’ (Vega, 2005: 32). Esperanza Martín Serrano has defined *violencia de género* as ‘[...] aquella que afecta a las mujeres en tanto que “mujer”’ (1999a: 34). In this chapter, I argue that *violencia doméstica* is an example of *violencia de género* and I therefore feel justified in using the terms interchangeably. Admittedly, I am addressing one particular type of domestic violence: violence within heterosexual relationships. Though such violence is not, in every case, committed by men

any category that can be abstracted in an attempt to universalise the problem: '[...] too often the argument of classlessness avoids analysis of complex social factors that shape abusive situations' (1995: 655). This article is based on the presupposition that gender-based violence in the home is an international disease that nevertheless manifests itself in many different forms. The challenge is therefore to combine a global approach with sensitivity to local peculiarities; it is my hope that this approach will allow me to diagnose specific areas of concern in the Spanish context without making a scapegoat of an entire set of social or cultural values.

In purely statistical terms, it might not initially appear that Spain has a particularly acute case of the problem. Studies suggest that domestic violence is no more prevalent than it is in other European nation-states (Gracia and Herrero, 2007: 738; Kury, Obergfell and Woessner, 2004). In 2003, a year in which the Spanish media incessantly and often rather sensationally reported the epidemic of women dying in the home, the *Centro Reina Sofía para el estudio de la violencia* produced a report that collated data on the number of femicides that occur in different international territories. The statistics for Spain indicated that there were 9.42 murders per million women. This figure was significantly lower than for most other European countries; the only exceptions were the U.K., Holland, Sweden, Ireland, Italy, and Luxembourg. The Spanish figure for the prevalence of femicides at the hands of family members was even lower and was, for example, significantly less than those registered in the U.K. (2.44 per million women as opposed to 4.36). Furthermore, in Spain, 22.8% of all femicides were committed by partners or ex-partners; this was extremely low in comparison to the international average of 37% (Sanmartín, Molina and García, 2003: 40-52).²

or suffered by women, in Spain women are the victims of 92% of violence that happens within relationships (Magro Servet, 2005: 3).

² This figure appears to be suspiciously low and is much lower than newspaper reports often suggest. As Vicente Magro Servet argues, 'En efecto, las cifras son tan variables como complejo es el fenómeno' (2005: 8). The lack of reliable statistics is a worldwide problem in the study of domestic violence; this problem is acute in Spain where the *Ministerio del Interior* only started collecting figures in 1984, and official figures to this day still often differ from those provided by women's groups. Nevertheless, in the absence of more reliable studies, we have little choice but

These figures in isolation should not be taken to imply that Spain does not have a specific and problematic relationship with domestic violence. Firstly, as will be discussed later, the number of women who die at the hands of their partners is not a reliable indicator of the extent of domestic violence. An increase in the number of deaths can be symptomatic of a transition in gender inequalities: sometimes ‘el abuso de las mujeres es un indicador de cambio de la interdependencia’ (Fagoaga, 1999: 12). Spain is not unlike other Western countries in terms of suffering from a trans-national problem, but where it has historically differed from other countries is in its systematic neglect and even justification of gender-based violence in the home. As a spokesman from the NGO, *Tamaia (Asociación de Dones contra la violencia familiar)* argues, ‘La violencia contra las mujeres no es algo particular de nuestro país; lo que sí parece de exclusividad española es la impunidad de los agresores’ (cited in Ibáñez, 2003). This historical deficit can only be understood if we take into account Spain’s tumultuous social and political past.

Socio-Historical Context

Whilst in the 1960s and 1970s, women’s groups in the UK and US began to raise the issue of domestic violence, Spain was still in the midst of a dictatorial regime whose laws enshrined the male’s authority and construed the primary (and often sole) role of women as that of the wife/mother.³ Anny Brooksbank Jones has provided a useful legal overview of this period:

Women became subject in law to ‘patria potestad’, the will and authority of the male head of the family. They were deprived of virtually all personal property rights, and subject to an institution-alised double standard which meant, for example, that until 1958 a man was legally entitled to kill his wife or daughter

to tentatively accept government statistics. The central point that there is a discrepancy between official figures and public alarm remains.

³ For a more detailed account of the role of women under Franco, see Bosch, Ferrer and Gil 1999; Folguera Crespo, 1997: 176-91; and Valcárcel, 2000.

if he caught her in the act of adultery, while his own maximum penalty was exile (IM 1992). Married women's right to work was withdrawn in 1942 and only restored in 1961, subject to the husband's agreement. Like the family, marriage acquired increased social importance in the post war years. Dowries became more common, with levels established by law. (1997: 76)

Laws both reflect and shape the societies that they are intended to regulate; this proprietorial approach to male-female relationships was symptomatic of a society in which anatomy was destiny. The pervasive influence of the Catholic Church encouraged strictly demarcated and hierarchical gender roles. Self-abnegation was considered the chief feminine virtue (Threlfall, 2005: 16). Single-sex education was compulsory and girls studied fewer academic studies than boys (Valiente, 2002: 771). An ideology that denied female autonomy bestowed power on men to control women who were thereby subject to their authority and discipline.

Given this context, it is not surprising that domestic violence was justified and/or trivialised. This tendency is epitomised in the popular proverb, 'La mujer casada y honrada, la pierna quebrada y en casa', and was also evident in popular culture. For example, Sara Montiel romanticised female subjugation in *Es mi hombre*, a very successful song that remains a karaoke favourite to this day: 'si me pega, me da igual, es natural que me tenga siempre así, por que así le quiero'.⁴ Equally, as the filmmaker Isabel Coixet recently noted, 'Las películas españolas de las 60 y 70 están plagadas de situaciones en las que la bofetada, el empujón, la paliza, el insulto, son consideradas completamente normales, graciosas' (2003).⁵

⁴ In a recent short film by Miguel G. Bergareche, the director uses Montiel's hit as the soundtrack to his video featuring a series of women of all different ages, classes and professions who have been badly beaten filmed in different locations around Madrid. Montiel herself is indicted through a shot of the album cover which has been reconfigured to show bruising on her face. This short film can be viewed on *You Tube* on the Internet.

⁵ As Coixet also goes on to say, violence against women is by no means restricted to Spanish cinema. Imma Fernández has written an excellent newspaper article on popular international films that have depicted violence against women (2004).

In theory, the Spanish Constitution passed in 1978 was one of the most liberal in Western Europe and replaced the 'patria potestad' with a constitution based heavily on individual and human rights that sought to endow men and women with equal status (Hooper, 1995: 43). As Wendy-Llyn Zaza argues, this was a necessary progression if Spain was to identify itself, and to be seen from outside, as a modern-nation state:

No es fortuito que coinciden la aceptación de la mujer y la democratización de España, ya que son acontecimientos mutuamente dependientes: simplemente, sin la "normalización" de la mujer España no cumpliría los criterios de país democrático. Por consiguiente, la mujer debidamente transformada en sujeto autónomo simboliza a España; la una libre del yugo patriarcal, la otra libre de la ideología franquista que tuvo a medio país esperando entre bastidores durante cuarenta años. (2004: 240)

However, though significant advances were made in gender relations, political rhetoric was not always matched with real (either legal or social) change. The state has been particularly negligent in its attention to women's rights in the domestic sphere. It is this deficit between the rights theoretically central to the Constitution and the reality of everyday life that led Soledad Murillo to speak recently of 'la existencia de una ciudadanía deficitaria –la de las mujeres' (2006: 53). In a 2005 report on gender-based violence in the home, Amnesty International also voiced its concern:

Although in the last thirty years Spain has undergone rapid change at the social and economic level, the ideas which shaped relationships between men and women in terms of the latter's subordination and subjection to the former have persisted and it is within the family where there is the greatest likelihood of abuse taking place. The Spanish State has not effectively faced up to this reality. Certain influential groups within society and the authorities have put the family as an institution in a position where it seems to be protected at the expense of the human rights of its members. (2005: 8)

Following this brief preamble, I will now trace some of the significant changes that have taken place in Spain, over the last thirty-one years, in the social perception and legal status of gender-based violence in the home.

Domestic Violence and the New Spanish Democracy (1975-1996)

Although feminist texts had been available in Spain since the late 1960s, domestic violence was not, as a whole, taken up as a prominent issue (Valiente, 2005b: 113). One noticeable exception was *Vindicación Feminista* (1976-1979), a journal created by Falcón (a practising lawyer and leader of the *Partido Feminista*), that ran stories on domestic violence. The problem was nevertheless ignored (consciously or unconsciously) by society at large.

This was evident in legal proceedings where judges often adopted a cavalier attitude to abuse in the home.⁶ It was also reflected in cultural discourses that continued to minimise and trivialise the effect of gender-based violence. This culture of tolerance was rarely challenged from the left-wing activists who fought for other individual and collective rights: '[...] the dogma of the time was that women's liberation was a deviation from the more urgent task of building democracy and socialism' (Threlfall, 1996: 116). Even within feminist groups, most high profile campaigning related to changes in legislation on more emblematic issues such as divorce and abortion and, above all else, economic and job parity between the sexes. This is most probably a

⁶ Falcón recounts the story of how, in the late 1970s, her legal team brought a man to trial for beating his wife and sexually pursuing his underage daughters. Despite the testimonies of family members, the man was acquitted. The prosecution feared for his family's safety and requested that he be held for a few days whilst they found a refuge for his wife and daughters; the judge's response was, 'Señoras mías, por un par de bofetadas no se puede meter en la cárcel a un hombre' (1991: 21). This general approach was also reflected in the length of time it took for antiquated laws to be abolished or amended. Sections of the 1822 Penal Code stated that if a man hit a woman, their marital status served as a mitigating factor whilst if the violence occurred the other way round, it was an aggravating factor. Legislation from 1848 considered *maltratos físicos* by a husband to be a crime of equal stature to a wife's *provocaciones e injurias*. Thus, verbal abuse by

result of the fact that the most dominant strain of Spanish feminism has traditionally had a strong Marxist bent (Valiente, 2002: 767-68).⁷

With the ascension of the *PSOE* to government in 1982, this emphasis on increasing the role of women in the public sphere increased, and the equation of female visibility and professional ascension with emancipation and equality was secured (De Grado, 2004: 33). Without wanting to downgrade the importance of equality in the workplace, this privileging of the public over the private sphere arguably re-inscribed the public/private dichotomy that international feminists fought (and fight) hard to dispel.

The 80s marked a period of time in Spanish society where somewhat paradoxically women's legal and social rights advanced at the expense of feminism. From now on, women's rights would increasingly become the preserve of mainstream party politics; this led to a general institutionalisation of feminism exemplified by the creation of the *Instituto de la Mujer (IM)* in 1983. This institutionalisation was a double-edged sword for the women's movement: 'Some would say it took over and institutionalised the movement. For others, it blew fresh winds into the movement's sails' (Threlfall, 1996: 123).⁸

Institutional feminism was undoubtedly responsible for significant advances in gender relations but it also served to co-opt the more radical aspects of the 70s women's movement. It could also be argued that the state was not responding so much to women's rights and needs but rather to their political worth as symbolic indexes of civilisation. In other words, the increase in the number of female MPs or new job

a wife was illegal whilst a husband's was not. It was not until 1983 that these historical injustices were withdrawn (Alberdi and Matas, 2002: 159-61).

⁷ It may also be indicative of the fact that feminists generally belonged to the urban middle classes. In a study of young *madrileños* of the early 1980s, Virginia Maquieira noted 'a discrepancy between the young women who were students and the young-women from working-class backgrounds who had already had experience of work. The latter group did not agree with the student girls in their outright defence of work as a means to personal autonomy, or as a way of overcoming sexual discrimination' (1989: 50).

⁸ For further discussion on the roles and merits of the *IM*, see Brooksbank Jones, 1997: 40-72; Threlfall, 1998; and Valiente, 1995.

opportunities proved that Spain was a genuine democracy.⁹ The public perception of increased egalitarianism also undermined the role of independent feminist organisations that were now seen as largely redundant and anachronistic. They were also often viewed with suspicion due to the negative image that the legacy of authoritarian segregation instantly bestowed on all single-sex organisations. Hence, as Mercedes de Grado concludes, '[...] pese al auge del feminismo institucional, muchas feministas coinciden en que en los años ochenta el Movimiento Feminista está tocado de muerte como movimiento de masas' (De Grado, 2004: 31). Feminism has retained this peripheral position to the present day.

Spain's nascent years as a democracy coincided with the first efforts by international organisations to take the issue of gender-based violence seriously. The United Nations declared 1975-1985 as the UN decade for women and, in 1980, it recognised that violence against women was, at a global level, the most under-reported crime. Increasingly the Spanish State would have to change its legislation as a result of its incorporation into the international community. With the entry of Spain into the European Community, the *IM* was made responsible for bringing laws relating to women in line with those of other member states (Brooksbank Jones, 1997: 41).¹⁰

Though there are definite problems and limitations with institutional feminism (or pseudo-feminism depending on one's perspective), it cannot be denied that the *IM* did make definite headway in addressing the issue of domestic violence. In 1984, they established an information and assessment service available for battered women alongside a twenty-four hour hotline. They produced a whole series of videos and literature aimed at making women more aware of their rights whilst also helping develop a nation-wide network of community and local women's centres. In addition,

⁹ This seems to occur in many states that make the transition from dictatorship to democracy. To cite a more extreme case, when the Afghanistan President Karzai addressed the Oxford Union on Oct 24 2007, he repeatedly used the fact that there was a strong female presence in the Afghanistan parliament to justify the claim that this country was now a fully-fledged democracy.

¹⁰ For an analysis of the costs and benefits of this for Spanish women, see González Jorge and Almarcha Barbado, 1993.

they liaised with other organisations such as the police, and fought to standardise legal and administration procedures to help ensure that women suffering violence in the home received the treatment that they were entitled to. In the 80s, the *IM* also became the first Spanish institution to systematically collect information on domestic violence in an attempt to gauge the extent of the problem.¹¹ This type of activity is particularly important in a country such as Spain where there is not a strong tradition of community of pressure groups.¹²

Changes made to the Penal Code in 1989 meant that, for the first time, a specific crime was created for habitual violence against a member of the family (Defensor, 1998: 21). In theory, this constituted a seismic shift. Unlike the UK and the US that operate common-law systems whereby the emphasis is placed on precedent, the Spanish legal system is grounded in code laws. As such, judges are meant to apply the principles contained in the Penal Code to each individual case (Valiente, 2005a: 82). Nevertheless, it is still easier to change legislation than enforce it or change underlying attitudes. Women themselves were largely unaware of their rights, mainly due to a lack of media attention, and the failure of different agencies (the police, the judiciary, social services) to provide support or information. For example, it remained a widespread belief that leaving an abusive husband constituted abandoning the home (Balda Medarde, 2006: 309). Many judges did not take the new legislation into account and there were huge legal obstacles in proving that abuse was habitual. The end result was, according to Inmaculada Montalbán Huertas, that ‘Este precepto penal estuvo cerca de

¹¹ This allowed them, for example, in 1988, to publish a dossier of press reports on men who had killed or attempted to kill their female partners. The dossier was released as an antidote to a number of sensational newspaper headlines such as ‘Matar al marido, una moda trágica’ or ‘Una ola de parricidios sacude España tras la sentencia del juicio de Ondara’ that had centred on a small number of high-profile cases where women had killed their partners (López Díez, 2002: 142).

¹² This is not to say, of course, that no such groups exist. For example, in 1983 Milagro Rodríguez Marín co-founded an organisation called *La comisión de malos tratos a mujeres* that offered psychological assistance and legal advice to women suffering domestic abuse. See Abajo, 2003 for more details. There have also been a whole series of small law firms who have worked hard to

diez años sin ser aplicado por los Tribunales españoles, salvo algunas excepciones' (2006: 102). Most men found guilty of domestic violence were charged with *faltas* rather than *delitos*, and the justice system was considered by victims to be the institution most at fault for failing to protect them (Martín Serrano, 1999b: 70, 94). This disparity between theory and practice was not however restricted to legal practices. In theory, for example, discrimination and violence against women was introduced to the school curriculum but it was virtually ignored as the teaching profession found it a difficult subject to address in the classroom (Díaz-Aguado and Martínez Arias, 2001: 305-06).

The lack of interest shown by the Spanish state, 'street-level bureaucrats' (Valiente, 1996: 179), and the general populace led Falcón to write a book, *Violencia contra la mujer*, which sought to reveal the extent of the problem.¹³ She suggests that between 1979 and 1989, 435 women were killed in Spain and that 390 of these murders were committed by the victim's husband, lover, or boyfriend (1991: 35). Hence, she argues, in terms of casualties, this is a phenomenon comparable to the campaign of terror undertaken by *ETA*. However, in her view, the widespread ignorance of the issue was largely a result of the fact that women killed in the domestic sphere posed no threat to the state and even served to bolster its foundations:¹⁴

try and help the victims of gender-based violence. For an overview of different women's groups working in this field, see Valiente, 2005b: 114-15.

¹³ The combative and iconoclastic style of Falcón's prose is unfortunate as it often serves to mask some very lucid and convincing arguments. This is not helped by her reliance on anecdotal evidence and her lack of scholarly rigour. However, when I pursued some of her claims, I was surprised by how often she was right. For example, Spanish sociologists do seem, as she claims, to have virtually ignored the issue of domestic violence. To cite just one example, in a book on the sociology of modern-day Spanish life by Amando de Miguel (Professor of Sociology from the *Universidad Complutense de Madrid*), there is a chapter titled '*A golpes: violencia y crueldad*'; in this chapter, he argues that '*El pecado español no es tanto la violencia como la crueldad, que es una dimensión más cotidiana*' (1995: 228), and refers to all categories of violence from terrorism to street crime and drugs, and yet makes no reference of violence within the family or home.

¹⁴ Monica McWilliams uses a similar argument in her discussion of domestic violence in the context of sectarian hostilities in Northern Ireland. She notes how between 1991 and 1994, according to official statistics, over 20 women were killed by their partners and how, 'This is more than one half the number of women who have died as a result of political violence over the equivalent time period. Yet, in contrast to the deaths of women resulting from the political conflict, the domestic violence incidents have received minimal attention. It is apparent that the

Cien mujeres no valen lo que una sola víctima de ETA. Mientras el orden social y la seguridad del Estado se halla en grave peligro cada vez que ETA logra una nueva víctima, las mujeres muertas por sus maridos contribuyen a mantener el mismo orden patriarcal que nuestra organización social necesita para que las mujeres sigan siendo las trabajadoras explotadas en el mundo de producción doméstico. (1991: 67)

Falcón's main argument is one shared by many international feminist theorists:

A feminist perspective on woman battering views male violence as an expression of class, race, gender, and heterosexual privilege. It is a problem rooted primarily in the structure of the social order, rather than the pathological psyches of individual men. The criminal justice system is designed to protect and reinforce the social order through punishment of individual deviants. It is, therefore, fundamentally at odds with a structural gendered analysis of woman battering. (Ferraro, 1993: 165)

Hence, to develop Falcón's analogy, all women are victims of what has been variously described as 'terrorismo patriarcal' or 'terrorismo de género' in the same way that all Spanish citizens are victims of *ETA*'s campaigns (Amorós, 2005: 25; Lorente Acosta, 2001: 42). This is because, according to the liberal democratic framework, the fear of terrorism has a detrimental effect on all citizens even if they are not directly affected; similarly domestic violence helps to maintain a social order that relegates women to a second-class level of citizenship. According to this conception, gender-based violence in the home cannot in any way be considered a private matter as the individual misdemeanour is inextricably entwined with wider social practices. Domestic violence is both the cause and consequence of gender inequalities in the public arena. Hence, there is a paradox at the core of many liberal democracies that uphold, and are upheld by, a system of oppression that stands as an obstacle to the totemic prerequisite

"public" and the "political" nature of the violence determine the response to these homicides. In the present competition for resources and attention between political terrorism and domestic terrorism, the former will always win out' (1998: 130).

of the modern western state: the conferral of basic human rights and full citizenry to all its members.

Though it would be over ten years before feminist thought on domestic violence would really begin to exert a sizeable influence on Spanish legislation, it was gaining increased credence and respectability within international organisations.¹⁵ Admittedly the idea that the state actually benefits from the subjugation of women would never be adopted; nevertheless the principle that domestic violence was a violation of basic human rights that had its roots in gender inequality entered the mainstream political arena. This recognition served to highlight that intimate partner abuse directed against women was a social phenomenon rather than an individual aberration.

In 1992, the UN included, for the first time, violence in its definition of gender-based discrimination and the 1993 World Human Rights Conference confirmed that violence against women constituted a violation of basic human rights. As a hallmark of democratic constitutions and the UN's ostensible *raison d'être* is the preservation of human rights, individual states were increasingly called upon to strengthen their efforts to curb the existence of this insidious social disease. The UN Action Platform held in Beijing in September 1995 insisted that all states should increase their efforts against all gender-based violence. Violence of this kind was unequivocally articulated as the product of inequality:

Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full potential. (United Nations, 1995: D118)

If violence against women, of which domestic violence is an important sub-category, operates as an obstacle to the development of their 'full potential', then states

¹⁵ For a more exhaustive overview of changes in international legislation and recommendations since 1985, see the section titled 'Hitos normativos a nivel internacional, europeo y nacional' in Ministerio de Trabajo y Asuntos Sociales, 2006: 11-13.

had the obligation to address this violence as an infringement of human rights rather than as a straightforward violation of the law. Similarly, if this violence is the 'manifestation of historically unequal power relations between men and women', then the state becomes responsible not only for punishing the individual offender but for making attempts to remove the gender inequalities that provide the grounds for this violence. These issues were taken on board, at least nominally, by the European Community: in 1997, the European Commission included domestic violence, for the first time, as part of the European Union's political programme and launched their three million Euro *Daphne* initiative aimed at combating domestic violence, whilst the *European Women's Lobby* created both the *European Policy Action Centre on Violence Against Women* and the *European Observatory on Violence Against Women* (European Community, 2000: 5).

Despite its EC and UN membership, in the early 90s, Spanish society had yet to acknowledge domestic violence as a problem let alone begun to debate the methods by which it ought to be addressed. However, as the decade progressed, people began to take note of the extent of this social blight. This was mainly a result of initiatives and awareness campaigns by the *IM* and smaller pressure groups; the influence of international protocol and legislation; and, perhaps most decisively, the provision of detailed statistics. For example, in April 1992 the *Institut Català de la Dona* published a study that concluded that ten percent of women in Catalonia regularly suffered domestic abuse (Gould Levine, 2004: 66). This new public exposure to a hitherto largely hidden crime, combined with the efforts of many women's groups, meant that there was a gradual, albeit insufficient, increase in the services made available to women suffering domestic abuse.

In 1991, there were 46 refuges for battered women in operation; there were 51 by 1993; and 129 in 1997 (Defensor, 1998: 57). Equally, police officers began to receive specialist training courses on dealing with violence against women. In 1988, the first police station exclusively dedicated to female victims of domestic violence was opened. It was staffed exclusively by female officers. Other stations round the country

soon began to develop women's service units. By 1998, there were 16 of these units nationwide (Valiente, 2005b: 109). In 1996, the *Centro Mujer 24 horas* was set up as an institution to offer free professional advice to women suffering domestic violence. Then, in 1997, with the Queen's patrimony, the *Centro Reina Sofía para el estudio de la violencia*, that dedicated much of its efforts to gathering information in domestic violence, came into existence.

Out of the Closet: The Emergence of a Public Discourse (1996-2006)

It was the 1996 change in government that served to push gender-based violence to the forefront of the Spanish political agenda. The *Partido Popular (PP)* reduced the funding made available to institutions such as the *IM* (Brooksbank Jones, 1997: 45), at the same time that concern was growing over the number of women being killed at the hands of their partners or ex-partners. In an attempt to respond to this mounting concern and assimilate international recommendations within Spanish legislation, in the *III Plan para la Igualdad de Oportunidades (1997-2000)*, a specific area was created for the first time to cover social intervention in cases of domestic violence (IM, 2002: 9).

However, the galvanising event in the perception of domestic violence in Spain took place in December 1997 with the death of Ana Orantes; after recounting the ill-treatment she had received throughout her forty-year marriage on a television talk show, her husband doused her in gasoline and burnt her alive. Beyond the immediate sensationalist appeal of such an event, Montalbán Huertas has suggested that this became a paradigmatic case for two reasons. Firstly, the aggressor killed his wife because she told others that she had suffered abuse; secondly, despite the fact that there was a recorded history of abuse, it had been judicially approved that they share living space (2006: 99). Hence, the media frenzy focussed not only on the brutality of Ana's death but also on the inadequacy of the legal system to protect her. In quantitative

terms, media coverage of domestic violence was now double what it had been ten years previously and triple what it had been in 1982/1983 (Fagoaga, 1999: 66).

By the end of 1997, the rapid quantitative increase in the number of deaths, combined with complaints from women's groups led the Spanish ombudsman to prepare a report on domestic violence. Their conclusions were damning. If it was not bad enough that ninety-one women had been killed by their partners or ex-partners in 1997, the reality was far worse than a superficial glance at the statistics would at first intimate:

El 98 por 100 de las víctimas muertas habían presentado denuncia y estaban separadas o en trámite de separación del agresor. Se tiene la certeza de que los datos conocidos son una mínima representación de la magnitud del problema; es la punta de un iceberg cuya dimensión real aún no se ha descubierto con exactitud. (Defensor, 1998: 33)

The ombudsman therefore raised the same issues as the tragic death of Orantes: not only the danger to women in leaving their abusive partners but also the inability of the law to protect them. This leads to the much vexed question of whether rates of domestic violence are increasing. It seems that there was a significant rise in the death-toll but if women are in most danger when they leave their partner, it may well be the case that this increase symbolises women's increased unwillingness to tolerate abusive behaviour.¹⁶ Nevertheless it is dangerous to simply characterise changes in gender relations under the rubric of triumphal terms such as women's liberation. Research desperately needs to be done on how women's participation in the public domain or the increased attention paid to issues such as domestic violence has impacted on attitudes that underpin relationships between Spanish men and women. There has clearly been an important transition but I do not believe that it is unconditionally positive or

¹⁶ Hence, a recent study concludes: '[...] creemos confirmada la hipótesis de que el uxoricidio no responde sin más a una cultura del honor, sino al conflicto que supone el confrontarse con esa otra mentalidad actual de la liberación de la mujer' (Pérez, Páez and Navarro-Pertusa, 2001). Other

progressive. Neither does the filmmaker Icíar Bollain who recently told me that she feared that the country has ceased being a ‘sociedad machista’ only to become a ‘sociedad misógina’.¹⁷

Considerations of this kind illustrate that it is too simplistic to measure the extent of domestic violence solely in terms of deaths. On the positive side, this indicates that the widespread media hysteria was not always justified, but on the negative, it suggests that there may be thousands or millions of other women who suffer abuse that are never registered in such narrow statistics. In an attempt to gauge the true extent of the problem, the *IM* would over the coming years launch a series of *Macroencuestas*.

By 1998, gender-based violence in the home was an extremely politically sensitive issue. Opposition parties blamed the governing party for the alarming rise in the number of female casualties and ex-Prime Minister Felipe González used his newspaper column to personally blame his successor José María Aznar for the number of female fatalities. The government introduced new legislation and high-profile campaigns in an attempt to address, or be seen to address, this “new” epidemic. Growing out of its subsidiary field within the ambit of equal opportunities, in 1998 there was the *I Plan de Acción contra la violencia doméstica* which was then replaced with the *II Plan* in 2001 (IM, 2002: 8-12). Though this new legislation did lead to institutional improvements (e.g. an effort to make information more readily available; increased police intervention; judicial improvements), questions were raised in terms of both its ethos and application. Most significantly, the laws were piecemeal and focussed most of their efforts on punishment rather than prevention; this approach served to further pathologize the individual and bypass wider social issues.¹⁸ Furthermore, publicity campaigns were directed at women and therefore charged them with the responsibility of preventing the crime rather than addressing the social inequalities that

recent studies from Spain have arrived at similar conclusions (Alberdi and Matas, 2002: 65-66; Lorente Acosta, 2001: 204).

¹⁷ Interview with Icíar Bollain by the author – Madrid, Dec 17 2007.

¹⁸ For a detailed description and analysis of these two laws, see Magro Servet, 2005: 99-528.

provided the grounding for this type of gender-based violence.¹⁹ In its report, Amnesty International found this focus on the victim to be particularly worrying (2005: 12). Even on their own terms, the new laws were not altogether successful: there was general scepticism as to whether legal measures were effective and/or whether they were even being correctly applied. As Ángeles Martínez, co-ordinator of the *Asociación de Víctimas de Malos Tratos* succinctly phrases it: ‘Así de claro: si vas al juzgado o a la comisaría sin la cara destrozada, te vuelves a casa con la denuncia de malos tratos y con el agresor’ (cited in Otero, 2003).

Gender-based violence’s status in the national and political agenda was also reflected in a new prominence in both academic and cultural discourses. Prior to 1997, there had been comparatively little research done on intimate partner abuse in Spain (Medina-Ariza and Berberet, 2003: 304), and it had received very little attention from the scientific community (Echeburúa, Fernández-Montalvo and Amor, 2003: 799). This situation is gradually being remedied and research has been done, for example, on the psychological treatment of male offenders (Echeburúa, Fernández-Montalvo and Amor, 2006). Research of this kind is particularly important given that Spain has traditionally lagged behind other European countries in the provision of programmes for male perpetrators of violence against women (Valiente, 2005b: 110). Even within the more specialised field of family sociology, the study of power relations between family members was severely under-developed and only began to be examined more recently under the rubric of domestic abuse (Meil Landwerlin, 1998: 193, 197).

Traditionally, domestic violence has not been addressed seriously in cultural discourses. Foreign films that have dealt with violence against women in the home have not generally been popular with Spanish audiences,²⁰ and it was not until Javier

¹⁹ The 1999 multimedia campaign, the first of its kind in Spain, was titled *Si ocultas la verdad, nadie sabrá que necesitas ayuda. Qué no te marque el miedo, marca este teléfono*. This emphasis on the victim was also reflected by the *IM*. Their first ever campaign on domestic violence was titled *Mujer, defiende tus derechos, no llores, habla*.

²⁰ This was the case with *Tina – What’s Love Got to Do With It* (1993), *Once Were Warriors* (1993) and *Nil By Mouth* (1997). All three films were markedly less successful at the Spanish

Balaguer's 1999 work, *Sólo mía*, that national cinema addressed the subject. Since then, there has been an explosion of works in all different media. This trend was particularly strong between 2001 and 2004, coinciding with the end of the *PP*'s second legislature.²¹

box-office than they were in either the UK or the US. The fact that films that directly address the issue of domestic violence have not traditionally found favour with Spanish audiences was born out in a poll conducted by the European Commission in 1999; only 15.9% of the Spanish population, against a European average 17.9%, claimed that they had heard about domestic violence through the cinema (1999: 1). This low figure is even more marked when one takes into account that Spain has traditionally had some of the highest cinema attendance records in Europe.

²¹ Domestic violence has been represented in theatre (*Comisaría especial para mujeres* (1994) written by Alberto Miralles and directed by Ángel Fernández Montesinos; *Mujeres fraguando sueños* written and directed by Francisco Domenech; *Defensa de Dama* (2002) written by Isabel Carmona and Joaquín Hinojosa, and directed by José Luis Gómez; *Algún amor que no mate* (2002) written by Dulce Chacón and directed by Eduardo Vasco; *Ellas dan la nota* (2003) written and directed by *La plataforma de mujeres artistas contra la violencia de género*; *Hasta que la muerte nos separe* (2006) written and directed by Antonio Romero); popular fiction (*El meu rival* by Jordi Baixadós (1998); *Algún amor que no mate* by Dulce Chacón (2002); *No lo llames amor* by Ángela Vallvey (2003); *Venas de Nieve* by Eugenio Fuentes (2005); *Callejón del lobo* by Desiderio Vaquerizo (2006)); popular non-fiction (*Íbamos a ser reinas (mentiras y complicidades que sustentan la violencia contra las mujeres)* (2003) by Nuria Varela; *Trátame bien - el maltrato físico y psicológico a examen (Hablan ellas: 18 testimonios de una separación)* (2004) by Esmeralda Berbel) and popular song (*Ay Dolores* by Reincidentes (2001); *Un extraño en mi bañera* by Ana Belén (2001); *Malo* by BeBe (2004); *Abre tu mente* by Merche (2004); *El clan de la lucha* by Saratoga (2004); *El club de las mujeres muertas* by Victor Manuel (2004)). Furthermore, many Spanish media celebrities have lent their voices to campaign to raise awareness of gender-based violence in the home. Following the death of Ana Orantes, the singer Cristina del Valle proposed the creation of the *Plataforma de Mujeres contra la violencia de género* as a means of raising awareness and becoming a figurehead for various women's groups campaigning for stricter laws. This group sporadically performed works on the subject such as *Ellas dan la nota* in which high-profile actresses such as Lola Herrero, Gemma Cuervo and Natalia Dicenta have appeared. At the end of 2005, the *IM* organised a photographic exhibition titled *18 segundos* at the *Círculo de bellas artes* in Madrid; the title of the exhibition refers to the fact that every eighteen seconds, a women is abused in the world, and it featured photographs by Iván Hidalgo of eighteen famous women presented as victims of gender-based violence in the home. Amongst the participants were the actresses Maribel Verdú, Aitana Sánchez Gijón, Silvia Abascal and Belén Rueda. More recently, there have been positive attempts to take domestic campaigns out of the female ghetto and target society at large. For example, in 2006, a number of footballers (Raúl, Carles Puyol, Joaquín and Fernando Morientes) participated in a television campaign in support of the *Día Internacional para la Eliminación de la Violencia contra la Mujer*. Rather than targeting victims who had been the traditional targets of such campaigns, they here addresses potential offenders and charged the wider male community with the responsibility of not allowing a culture of tolerance to exist with the slogan 'No seas cómplice de la violencia de género'. When discussing the campaign, Jorge Carretero (a spokesman from the Spanish football league) argued 'Quienes no saben vivir bajo las reglas de la convivencia y la igualdad no caben en

Bollain's 2003 film, *Te doy mis ojos*, is probably the best and most complex example of this vogue. This prize-winning and commercially successful film that focussed largely on the male offender really helped to make domestic violence a serious subject for discussion amongst the general public. It also became one of the relatively few Spanish films to gain international distribution.²² Unfortunately, not every work to deal with the subject has been as ethically responsibly or aesthetically satisfying.

In a context where a problem has traditionally been negated and/or trivialised, there are clearly positive aspects to an increased in cultural visibility. Nevertheless media representations, even if made with honourable intentions, have the potential to be harmful and counter-productive.²³ They can distort reality, reinforce existing stereotypes, lead to desensitisation and/or encourage an inappropriate response to the problem. For example, heavy media exposure has created a backlash whereby many feel that the extent of gender-based violence has been grossly exaggerated. For a long time, this was reflected in Francisco Umbral's deliberately antagonistic columns in *El Mundo*. More recently, it has been claimed that a generalised belief amongst the medical profession that the domestic violence epidemic is the product of media hyperbole has led many Spanish doctors to neglect female patients who may be suffering abuse (Redacción, 2006). Furthermore, the sensationalist approach to discussing domestic violence on *programas de corazón* has provided abusers with a new threat: 'Vas a ser la próxima que salga en televisión' (Varela, 2006: 121).

Given the heavy criticism directed against the *PP*, it is not surprising that the issue of gender-based violence in the home was central to the 2004 *PSOE* election campaign. The party's leader, José Luís Rodríguez Zapatero regularly visited women's centres and refuges, and their proposed *ley integral* became the party's 'proyecto

el ámbito de nuestro deporte. El fútbol no quiere en su gran familia a quienes no saben vivir en una, a quienes las destruyen' (cited in EFE, 2006: 50).

²² For critical readings of this film, see Cruz, 2005; Donapetry, 2004-2005; and Fernández Romero, 2004-2005.

²³ For a more detailed discussion of these questions in the Spanish context see Cruz, 2004-2005; Fagoaga, 1999; López Díez, 2002; Ramírez Alvarado, 2003; and Varela, 2006.

estrella' (Macías, 2006).²⁴ Following the *PSOE* election win in March 2004, the law was passed in December 2004 and came into operation at various stages in 2005.²⁵

The new legislation rests on the basic premise that domestic violence is the product of a patriarchal system of oppression: 'La Ley asume la tesis de que la agresión a una mujer es una violencia estructural fundada en normas y valores sociales que encuentra su fundamento en las relaciones desiguales y jerarquizadas entre los sexos' (Añón Reig and Mestre i Mestre, 2005: 35). According to this model, the problem cannot be adequately addressed at the micro level but instead requires an holistic approach that provides the necessary resources for women suffering abuse in the home whilst also working to eradicate the preconditions that provide the grounds for gender-based violence. As an official report from the *Ministerio de Trabajo y Asuntos Sociales* argues:

[...] es necesario romper el binomio víctima-maltratador, que sitúa el problema en una dimensión inter-partes, y considerar que nos encontramos ante un problema enclavado en un modelo de relaciones sociales, para así poder trabajar en profundidad en sensibilización y prevención, incluida la detección precoz en lo que se refiere a las situaciones actuales y potenciales. (2006: 8)

Hence, for example, the law contains new legislation aimed at promoting gender-equality in the classroom and curbing sexist stereotyping in the media. The act was not, however, passed without its share of controversy. Many argued that this new legislation contravened the Constitution by granting women sex-specific legal rights that violated the concept of equal rights. The primary counter-argument is that, if there is a systematic violation of human rights against a particular group in society, it is

²⁴ The proposed change in legislation had been supported by all political parties apart from the *PP* prior to 2004; the government's absolute majority nevertheless ensured that the act was not passed.

²⁵ For a good overview of the changes made in Spanish legislation by the introduction of the new law, see Boix Reig, 2005.

perfectly acceptable to introduce positive discrimination in order to counteract this injustice.²⁶ As Ana Rubio surmises:

Si las mujeres, por el hecho de serlo, están sometidas a una violencia específica, como es la violencia de género, establecer medidas, también específicas de lucha contra esta manifestación de violencia, no implica otorgar a las mujeres un estatuto jurídico privilegiado, lo que daría lugar a una situación de desigualdad con respecto a los hombres, sino establecer las garantías que hagan posible la protección y ejercicio de los derechos fundamentales en igualdad entre mujeres y hombres. La afirmación anterior lo corroboran los datos estadísticos. La datos [sic] nos dicen que las mujeres representan el 90% de las víctimas por violencia de género, que los agresores son hombres, que las denuncias no paran de crecer, así como el número de muertas. (2006: 64)

There were also complaints, albeit less vociferous, from advocates of women's rights who felt that though the law was a step in the right direction, it placed too much faith in power of judicial reform to change society, and lacked the necessary infrastructure to successfully fulfil the aims it set out to achieve (Añón Roig and Mestre i Mestre, 2005; Falcón and Campos, 2006). In more general terms, Spanish society still clearly has to address other issues related to intimate partner violence that have been sidestepped in dominant legal, political and media discourses. For example, there has been remarkably little research on, or interest expressed in sexual abuse within relationships (Calvete, Corral and Estévez, 2007; Medina-Ariza and Bereberet, 2003). Equally, there are worrying regional and socio-economic disparities between attitudes to abuse and the reporting of domestic violence (Gracia and Herrero, 2007).

It is most probably too early to assess the overall success of the new law and initial reactions have been mixed. A report undertaken by the *IM* suggests that the rates of gender-based violence in the home are still alarmingly high but are nevertheless in decline. It is estimated that, in 2006, 3.6% of the female adult population resident in

²⁶ See Ridaura Martínez, 2005 for a detailed legal analysis of why the law is constitutionally valid. Defensor del Pueblo, 1998: 18-21 also offers a good overview of the obligations that the

Spain (677,352 women) considered themselves to be victims of domestic abuse, whilst 9.6%, (1,786,978 women) suffered domestic abuse according to the legal concept of the term; in both categories, there has been a significant reduction since previous surveys were conducted in 1999 and 2002 (Sigma Dos, 2006: 17). A government assessment of the scheme has argued that, though there have been some problems with the practical implementation of new legislation and not all the autonomous regions have responded to the new demands placed upon them adequately, the scheme has in general been successful. The report claims that public confidence in services and institutions has improved, and that this has led more women to report the abuse they suffer in the home: ‘Esta progresiva confianza en las instituciones viene a significar que las víctimas de violencia de género rompen el “pacto de silencio” que caracterizaba este tipo de violencia’ (Ministerio de Trabajo y Asuntos Sociales, 2006: 82). It also highlights the positive public reaction to the law with, in December 2005, 45.1% of the population having a *buena/muy buena* opinion of the law, with this percentage rising to 76.1% amongst women (2006: 82).²⁷

Nevertheless, the fact that 62 women were killed by their partners or ex-partners in 2006 was concerning (Consejo General del Poder Judicial, 2007: 42).²⁸ Though, as previously noted, the number of deaths is not a reliable indicator of the extent of the problem, it is particularly alarming that 27.3% of the mortal victims had previously reported abuse; this was the highest percentage registered in the 2001-2006 period (Consejo General del Poder Judicial, 2007: 36). This could be taken to indicate that the law is failing to protect the very women it was designed to serve. Though there is more than an element of political opportunism in their critiques, statistics of this type provided ample ammunition for detractors from both ends of the political spectrum. The opposition leader, Mariano Rajoy, asked the government to recognise that the law ‘no

Constitution places the state under in its response to domestic violence.

²⁷ What this report does not state is that if the confidence ratings are so much higher amongst women, then Spanish men must have a worryingly low opinion of the law.

²⁸ To place the statistics in context, the figures for previous years were: 51 (2001); 52 (2002); 65 (2003); 69 (2004); 52 (2005) (Consejo General del Poder Judicial, 2007: 37-38)

funciona' (cited in Macías, 2006); Lidia Falcón and Olga Campos conclude that '[...] la aplicación de la Ley padece tantas carencias que no está cumpliendo los objetivos para los que fue aprobada' (2006: 10); whilst Juana Barrego Izquierdo (President of *La Federación de la Mujer Rural*) commented 'Puede ser que haya denuncias, pero precisamente cuando algunos están orgullosos porque existe una Ley, ¿dónde está el presupuesto para acometer todas las acciones que propone dicha ley?' (2006). Furthermore, though the legislation's holistic approach is to be praised, it is not altogether clear how effective it is in practice. There have been, for example, frequent complaints made to the specially created *Observatorio de la Publicidad* about *Telecinco's* primetime sketch show *Escenas de matrimonio*. The programme unequivocally contains the kind of base gender stereotyping that the legislation outlaws and yet, at the time of writing, no action has been taken.

Conclusion

Spain's attempts to genuinely address gender-based violence in the home are still very much in their infancy. Legal and cultural belatedness alongside the high number of women suffering from domestic violence ensure that the issue ought to remain high on the country's political and social agenda. The 'ley integral' is hardly a panacea but, irrespective of its not inconsiderable limitations, it clearly marks an important milestone in the national and international fight against gender-based violence. The first law of this kind was passed in Puerto Rico in 1989 (Asís Roig, 2005: 43), but Spain is the first European state to introduce this kind of organic legislation. For this reason, its implementation and potential effectiveness is of great interest to anyone interested in domestic violence at the national or international level. Often for very good practical reasons, Spanish social scientists have not traditionally contributed significantly to international debates and discussions (Valiente 2002: 768). It is to be hoped that in coming years this tendency will be revoked, and that resources will be made available to allow native researchers to make Spain an important case-study for the global study of intimate partner abuse.

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