Gendered Carceral Logics in Social Work: The Blurred Boundaries in Gender Equality Policies for Imprisoned and Battered Women in Spain

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Abstract

This article uses feminist critical analysis as a conceptual framework in order to reflect upon the carceral drifts adopted by gender equality policies in Spain. This issue has been deeply analyzed in the American context, and we believe it is relevant to bring the experiences of other contexts into discussion, such the Spanish one, where the welfare state has been affected by the 2008 global financial crisis. With the aim of adding to the discussion and making a contribution from feminisms and social work perspectives, this work carries out a comparative analysis on carceral policies addressed to women, on the one hand, and, on the other hand, on protection policies for women victims of gender-based violence. Based on our fieldwork in Andalucia (Spain) for more than 10 years, as well as on legal and programmatical text analysis, we question the alleged control/protection separation, highlighting the existence of gendered carceral logics in both contexts. We highlight the social control to which women are subject and for which subjects women to the image of a "good victim" on the one hand and a "good mother" on the other.

Keywords

carceral feminism, feminist social work, gender-based violence, women in prison

This work is the result of shared discussions between two authors, about our research and social interventions in Andalusia. Valenzuela-Vela works with female prisoners enrolled in reintegration processes, and Alcázar-Campos works with female victims of gender violence.

Despite the distinct sites and subjects in our research, during our discussions, we were struck by the commonalities. In this article, and based on the interventions and research undertaken with female victims of gender violence and female prisoners, respectively, we examine State co-optation of the discourse on women's rights as a strategy for controlling vulnerable populations.

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Although the "punitive turn" of public policies is a familiar theme in social sciences (Wacquant, 2010), we focus on two understudied dimensions. First, we show the punitive turn in state discourse on women's rights, which contributes to the consolidation of criminal justice as a control apparatus (Bumiller, 2008; Coker, 2001; Gottschalk, 2006; Halley, 2008). Second, we examine the specific way social control is exercised for women, where fitting the image of "good mother" and "good victim" plays an important role, since they are required to fit both images in order to access certain features or benefits of the so-called welfare state. In sum, our research takes place in a neoliberal context, following the David Harvey's definition of neoliberalism (Harvey, 2007), with a punitive turn, in which we will highlight how this context is expressed in interventions with women in different situations of vulnerability, such as women victims of gender violence and women in prison, where these interventions are designed from the punitive approach, obscuring their role of social protection.

Theoretical Framework

Social sciences call attention to the "punitive turn" of public policies. International (Garland, 2001; Wacquant, 2010) and national works (Avila Cantos & Malo de Molina Bodelón, 2010; García García, 2013) pay attention to the disciplinary and punishment logics for impoverished populations and identify a neoliberal logic in social policies.

This analysis has been put forward, primarily in the United States, since the beginning of the 21st century, being this coincident with the moment when the punitive turn first emerged, and more recently in the Spanish context (see Ávila Cantos & García García, 2013; Avila Cantos & Malo de Molina Bodelón, 2010). In their research, Ávila Cantos and García García (2013) reflect on central transformations in social policy on the neoliberal path, namely, "the shift toward an ever-increasing police-like approach in the management of the population" (p. 60). In the same way of these authors, we also invite readers to consider, metaphorically, that just as in medicine, the approach to epidemics is not so much to cure everyone but to limit the disease so that it does not spread and neoliberal social intervention is not about eliminating instability and precarity from populations or solving their problems but about locating it, avoiding its extension, and keeping it within the limits of "tolerability." Connecting with these discussions, our goal is to contribute to the debate about which is the role of public policies (social control vs. social protection). Taking input from feminisms and social work, this article compares two spaces: one defined as social control (the prison system) and the other as social protection (shelters/Violence Against Women (VAW) services). One of our aims is to challenge this supposed dichotomy.

We take up Bumiller's (2008) work about sexual violence in the United States where she shows the complementarity between "welfare" structures such as social services (what she calls "therapeutic state") and the penal system. According to the author, we state that this complementarity is based on the way these two areas create a space to disenfranchise and victimize women in new ways. Both serve as strategies of control and scrutiny to poor women and other disadvantaged groups.

At the same time, we revisit the debates, produced in particular by Anglo-Saxon legal studies, on the interactions between gender/government and feminism/governance, which gives rise to terms such as governance feminism, carceral feminism, femocrats, and so on. As legal scholar Halley (2018, p. 3) points out, each of them "focuses on a specific governmental form that feminists have found to be at least somewhat hospitable," that is, the different ways in which feminist demands are placed on government agendas. Halley (2018, p. 3) describes governance feminism as, "any form of state, state-like, or state-affiliated power is, we presuppose, capable of being influenced and guided by feminists and feminist ideas." In her analysis, she highlights how, for governance feminism, women are a homogenous group and their economic, social, and racial differences are not taken into

account, since gender discrimination is taken to be a single and ubiquitous phenomenon. But, in this article, we believe it particularly relevant to refer to the term used by Bernstein (2007) in her criticism of how first-world feminists have collaborated in maintaining the control and enforcement structures exemplified in what she terms "carceral feminism," which is "a vision of social justice as criminal justice, and of punitive systems of control as the best motivational deterrents for men's bad behavior" (Bernstein, 2005, p. 58).

We must address several problems in the analysis of what carceral feminism is. The first is the term used by Bernstein herself when talking about "carceral feminism" because, and as Halley, Kotiswaran, Rebouché, and Shamir (2018) suggest, we are facing what Rittich (2004) calls "selective engagement" with feminist ideas by the State. This selection is made by the public authorities as a result of debates on party political agendas and therefore means that the outcomes sometimes cannot be described as feminist, in spite of having their origin in feminist demands. Outcomes take the form of measures in which victimization and identity are prerequisites for legal intelligibility, and questions regarding the cost of such strategies are overlooked by feminist movement. Although we are aware of this issue, combined with the plurality of feminisms, we still argue that the concepts of governance feminism and carceral feminism are of use to us in our reflections on social intervention. Utility is based on how we can problematize our interventions in order to reflect if they are directed to empower women, questioning the whole system or, on the contrary, to maintain and contain the transformations. In other words, are our interventions feminist?

To do this, we can find some background on debates about the punitive turn (carceral feminism) and the preeminence of governance feminism postulates in the United States in the 1990s, such preeminence voiced particularly by the progressive wing of the anti-violence movement (Maguigan, 2003; Mills, 1999). In the United States, what gave rise at the beginning of this century was the articulation of an anti-gender violence and anti-criminalization feminism that opened the doors to wide-ranging criticism of the feminist focus on criminalization (Rojas, Kim, & Bierria, 2011; Sokoloff & Dupont, 2005). Criticisms of criminalization since then have thus aligned themselves along a number of political stances concerned about "excessive trust in the criminal justice system" (Dasgupta, 2003, p. 10), identifying the forms that favor the punitive turn of feminism such as carceral feminism (Bernstein, 2007, 2012) and calling for an analysis of responses to gender violence which join forces with prison abolitionist proposals (INCITE! Women of Color Against Violence, 2007; Rojas et al., 2011). Similarly, abolitionist movement reveals how, in the neoliberal context, punitive responses to social issues, such as the obligation to fill-up a criminal complaint, are posited as individualistic and depoliticized, aligned with, or at least not questioning, a structural dynamic characterized by the dismantling of the welfare state and the growth of the carceral state (Brown & Halley, 2002; Bumiller, 2008).

In the context of the Spanish State, the history of the interaction between the feminist movement and the State commences, for our purposes, when Franco's dictatorship finishes and democracy starts in year 1978. Several authors have thought about the role of the feminist movement during the transition between dictatorship and democracy (Agustín-Puerta, 2003; Folguera Crespo, 1988, 2012; Nash, 2012; Uría-Ríos, 2009) and about the "institutionalization of feminism." This refers not only to the inclusion of feminist ideas and women participating in the movement within institutions but how, and in what way, such ideas have been co-opted by the State after the reinstatement of democracy. Although it is true, as Gil (2011) asserts that from the feminist movement and from feminist academia, there is a feeling of discomfort with the institutionalization of feminism. Such discomfort is expressed, on the one side, as a feeling of apathy and the loss of political credibility and, on the other side, in form of reflections or isolated actions by some women's groups. It has only been during the last few years that some authors, revising the new feminisms (Gil, 2011) and "the feminism that didn't arrive to power" (Uría-Ríos, 2009, p. 1), have made some criticisms of the trend to include feminist demands in public policies. The first criticism is connected to the fact that

institutions turn around what is visible and what is invisible, visibilizing and invisibilizing some issues and groups in the feminist agenda (Gil, 2011). And the second one would be how, through grants given to women associations, the State has created a wide female clientelism and desideologized such associations (Uría-Ríos, 2009). This process also results in some homogenization of feminism that groups like "Other Feminist Voices" have protested against since the beginning of the 21st century, reclaiming for the feminist movement the independence of institutions and the recovery of its freedom-seeking (Uría-Ríos, 2009). In sum, "Official feminism bases all its activity in institutional policy, in legislative reforms and, surprisingly, in penal protection" (Uría-Ríos, 2009, p. 199). This is the same activity that some feminist scholars are denouncing in the United States as governance or carceral feminism.

Feminist criminologists have also criticized the excessive involvement of the judicial system in "women's affairs." Human rights lawyer Serra Perelló (2018) suggests that the emphasis on punishment should not divert attention from the State's obligations to prevent, remedy, and ensure nonrepetition. In the words of legal scholar Elena Larrauri (2011), when we examine policies directed at women: "there is little investment in anything that can change female poverty, dependency, and insecurity, but there are a great many criminal laws for protecting women (Coker, 2001)" (p. 5).

In sum, our main point in this article, in line with the approach of the previous authors, is that, also in Spain, there is a "selective engagement" with the feminist ideas by public policies. There are some ideas, particularly those more punitive and directed to protect women by criminal laws, that have been transformed in public policies, while there are others, more freedom-seeking and transformative, that have been remained outside public policies.

Method

For me, Valenzuela-Vela, my link with the penitentiary area dates back to 2013 when I did an internship in Albolote (Granada) Penitentiary Center as part of my studies for a degree in social work. I continue to have a link with this establishment, where I am conducting weekly workshops with female inmates. The work presented in this article is part of a more extensive doctoral thesis which I began in 2016 and on which I am still working. The research aims are, firstly, to look at the ways in which the Spanish Penitentiary System is involved in the reintegration process for female inmates and how the State combines "resocializing" and control functions in a context of stigmatization and exclusion. Secondly, it explores the experiences, resistance techniques, and agency that women develop during this process.

To take a closer look at the women in prison situation, during the first stage (May 2016 to May 2017 and then January 2019 to the present), I carried out interviews and participant observation on women in semi-open regimes serving sentences in the Social Integration Center (hereinafter referred to as CIS), women in semi-open regimes but not attending CIS, women on probation, and women who have been released. I have also held discussions with different professionals, both working in the Center and working for Non-Governmental Organizations (NGOs), who have direct or indirect contact with these women.

For me, Alcázar-Campos, working in protection systems for female "victims" of gender violence led me to wonder about which public policies were being developed, why it was an area arousing so much interest compared to others, such migrant women, and what the characteristics of the women entering the system were. My scrutiny of the social care offered to female victims of gender violence in Andalusia will therefore have two components. Firstly, and as I did in a previous paper (see Alcázar-Campos, 2013), it will draw on the experience gained over more than 15 years as the technical coordinator in the Comprehensive Care and Shelter Service for female victims of gender violence and their children. My experience not only gave me access to the daily experiences of these women and children but also to the opinions of professionals and enabled me to have an input in

some of the proposals for public policy measures over the period in question (1995–2010). Secondly, taking this knowledge as a reference and complementing it with the analysis of public policy measures (laws, plans, and programs), I examine the protection system implemented in Andalusia and use previous notes and experiences to make a critical analysis of laws and regulations, which will be treated as cultural texts for comparison with the reflections arising in professional practice. Data collected through my personal and participant observation, mainly in one of the Shelters, were registered in a personal diary during several years (from 1995 to 2010) in an intermittent way. Also, I documented a number of (20) informal conversations with the professionals working in the network of Shelters. These informal conversations were registered in a personal diary too. In sum, I have been part of the transformation of the system, I have had several meetings with politicians, I have revised several laws, including Andalusian law about gender violence, before they were approved, and so on. Finally, for this article, I have analyzed, using discourse analysis methodology, plans and laws related with gender violence and I have encoded the information from observations and conversations according to different categories, such as what are the difficulties and strengths identified by professionals in these plans, taking as my analysis framework the criticisms made by feminisms of the punitive turn of institutional responses.

This article is the result of sharing discussions about our research combined with social intervention experiences: Valenzuela-Vela with women who have been in prison and Alcázar-Campos with female victims of gender violence, both of them in the Andalusian context. The way in which we have held our discussions and shared our research and experiences is connected with our different interests and trajectories. Discussions about the feminist movement and its different implication for women in prisons or victims of gender violence have guided our reflections. Also, when we thought about the programs and laws directed to both collectives and their social visibility, we asked ourselves several questions. Why is one group, women victims of gender violence, very visible and the other one, women in prisons, so invisible? Are the programs and laws directed to both collectives different? What are their connections? Can we trace some connections between the public policies directed to protect women and the others directed to punish them? In which way do both public policies share a particular vision of what it is to be a woman?

All of these questions have guided our reflections about our two case studies, but since there is so much information to work with, like chronic exclusion lives, we have selected two main categories to analyze them: the good victim and the good mother, as we will show in the next section. Our selection is based on connections between the two cases on some specific ways to control women. In our review of literature about social control, this specificity was not frequent.

Case Studies: Social Intervention With Gender Violence and Women in Prison

As we said before, one of our questions was: Why is one group, women victims of gender violence, very visible and the other one, women in prisons, so invisible? Keeping that in mind, we begin this section by presenting some context for our work, context shaped by public policies directed to women who are victims of gender violence, in one case, and in prison, in the other.

Public policies provide the context for social interventions. These public policies can be understood as cultural texts (Fries & Facio, 1999; Pedone, Agrela-Romero, & Gil Araujo, 2012) and are expressed fundamentally by means of two tools: legislation and planning instruments.

Public policies play a central role in articulating a particular worldview in four ways: first, configuring an institutionalized discourse, which becomes dominant, about any real situation (also true for the two cases addressed in this article: female prisoners and victims of gender violence); second, placing them on the political agenda; third, constructing and defining the problems

attributed to particular collectives; and, finally, drawing up and imposing explanations and solutions (Agrela-Romero, 2004).

For these four reasons, an analysis of public gender policies in the Spanish context is essential for gaining an in-depth understanding of the exclusion-control-domestication processes to which women are subject; in other words, the processes of social control exerted through public policies. And, also an analysis of the ways in which governance feminism, understood like the predominance of punitive policies, plays a part in this. Such analysis of public policies is of particular relevance in the case studies chosen for scrutiny in this article because, in both of them, the social problems in which social work intervenes are defined by laws.

Referring to Gender Violence

If we focus on gender violence, we can trace a path connecting the influence from the feminist movement to the debate about the different changes in the legislation about gender violence (Carballido González, 2007). A path that started with the different plans and finished with the present *Law 1/2004 of 28 December on measures for comprehensive protection from gender violence* (Boletín Oficial del Estado n° 313, December 29, 2004; hereinafter referred to as *Law 1/2004*). Authors like Bustelo Ruesta (2004); De Miguel Alvarez (2003); Ferrer and Bosch (2007); and Gil-Ruiz (1996) have all showed these connections between feminism and the legislatives changes about gender violence. This process culminated with *Law 1/2004*, passed by consensus between all the political parties in the House of Representatives and one of the main banners of the term of then President José Luís Rodríguez Zapatero (Socialist Party).

However, after 15 years, since the law was passed, the emphasis made in criminal complaint and the limitation of the gender violence definition to the violence executed by the partner (man) have led critics by some feminist legal scholars, like Maqueda Abreu (2009), to consider the disparity between legal definition and social reality in this area.

Influence of the legislation in social problems appears, for our case of study, in two laws: the Law 1/2004, as we mentioned, and the *Law 7/2018 of 30 July amending Law 13/2007 of 26 November on measures for the prevention of and comprehensive protection from gender violence in Andalusia* (BOJA, n 148, August 01, 2018; hereinafter referred to as *Law 7/2018*). Both laws define what they consider gender violence to be differently, although in their introductions ("exposiciones de motivos" in Spanish) that express the philosophy of the law, they do agree in stating that gender violence is violence against women based purely on their gender. The first law, *Law 1/2004*, specifies that gender violence is "violence which, as a manifestation of discrimination, inequality and power relationships held by men over women, is exercised against the latter by individuals who are or were their spouses, or individuals who have been in relationships with them although not necessarily living under the same roof" (BOE n° 313, 2004, art. 1). That is to say, it limits gender violence to the sphere of partner relationships, narrower than the United Nations definition, in an attempt to restrict its scope which, as we shall see, the Andalusian *Law 7/2018* opens up, primarily as a result of a reform last July. In this respect, the Andalusian legislation is more ambitious than state legislation, *Law 1/2004*. In the first place, the Andalusian law not only makes provision for minors but also for other groups for whom the female victim of gender violence holds guardianship or custody and who live in the violent environment and also for mothers whose sons or daughters have been murdered in a form of vicarious violence. And, in the second place, with respect to identifying acts of violence, Andalusian law is not limited solely to those acts committed in the partner or ex-partner relationship domain, regardless of whether they live under the same roof or not.

In the context of Andalusia, this means that we have a situation where two different meanings of what gender violence means coexist, one more limited in scope and the other wider, and both with limitations. And neither of them takes account of other gender identities (Bonet i Martí, 2007) but

rather are based on a binary idea of heteronormative societies. In addition, we can see that there is a lack of an intersectional approach to gender violence because women who are defined as victims are placed in a homogenous group.

Furthermore, there is some consolidation of the care and punitive systems where Gender Violence Courts, Women's Centers, and the Comprehensive Care and Shelter Service are the institutions primarily responsible for providing protection for these women (see Alcázar-Campos, 2013, for more information about the last resource). The relationship between both systems is clear, and it is to relate the existence of the requirement for a criminal complaint to have been filed, or a report from the prosecution service to have been submitted, in order for a woman to be considered a victim of gender violence. In consequence, a woman will only be able to claim her rights as a gender violence victim through the penal system (with the exception of admission to an emergency shelter).

In sum, the context of the social response to gender violence has a clearly punitive turn since it prioritizes the filing of a criminal complaint and must face new challenges in adapting a fairly consolidated care system to new issues (since the definition of gender violence has been widened by the *Andalusian Law 7/2018*). But, let us now consider how this turn is expressed, using as a category the construction of the idea of the "good victim."

The Good Victims

Women's shelters appeared in Spain in the 1980s as the result of feminist mobilization and became increasingly consolidated during the 1990s, culminating with the *Law 1/2004*. However, and as Kim (2015, p. i) suggests in the American context, over the 14 years that this law has been in force, we have seen "both social movement success and the paradoxical alignment of feminism with increasingly punitive carceral policies." And at the same time, there is "an expanding carceral state, eventually resulting in blurred boundaries between civil society and the state and the domination of the field by criminal justice institutions and carceral political logics" (Kim, 2015, p. i).

In the specific case of the Comprehensive Service, this drift toward punitive logics can be seen primarily in the introduction in 2009 of the requirement to file a criminal complaint in order to be eligible for accommodation in a women's shelter. This had not been necessary until then, and I recall our resistance to it and the objections we presented to the Regional Government of Andalusia Women's Institute, to whom the Service reported at that moment. Set out below are my reflections at that time:

> Today the Institute called us; they've sent us the draft regulations for the internal regime in the Centers so that we can make our proposals. This draft is in response to the demand that Centers have been making for a long time, because we professionals often feel that "our hands are tied" when we have to punish certain types of behavior in the Shelters. However, the fact that it establishes the mandatory requirement to file a criminal complaint in order to be admitted to the Shelters, although not for admission to Emergency Shelters, is making us very uneasy. We are wondering, what will happen to the women who are admitted to Emergency Shelters, but who don't want to file a criminal complaint and have nowhere else to go? We are going to ask for this requirement to be changed, but we aren't holding out much hope. (field diary, March 2009)

As this comment shows, the questions we raised in the Comprehensive Service about it being mandatory to file a criminal complaint had to do with practical considerations, such as how to deal with a situation where a woman has nowhere to live when she leaves the Emergency Shelter, rather than political considerations such as how ethical is it for the State to force women to enter the punitive machinery. In our perspective, this has to do with the fact that in practice, if thinking does

not have recourse to theory, actions are usually limited to the specific situations that we as social workers are required to solve.

Finally, on July 21, 2009, the Regional Government of Andalusia Official Gazette published the *Order of July 6, 2009 approving the regulations for the internal regime in Centers run by the Comprehensive Care and Shelter Service for female victims of gender violence and accompanying minors in their charge in the Autonomous Community of Andalusia* (BOJA, n 140, July 21, 2009). In it, article 8 of Title IV on the system for admitting and discharging users establishes that, except for admission to Emergency Shelters, in order to report violence suffered, women have to show a copy of the criminal complaint. This has consequences on the operation of the Comprehensive Service, such as altering the work dynamics of the Emergency Shelters, which provide accommodation only for 1–2 weeks, are centers only for short stays. However, for women who did not want to file a criminal complaint but, at that moment, had nowhere other than the Women's Shelter to go for secure accommodation, the duration of stay has to be longer than 1 of 2 weeks. So who are we talking about here? We do not intend to describe an exhaustive profile, but we would like to give some examples of situations where certain women did not want to file a criminal complaint, and how this led to longer stays in the Emergency Shelter and changes to options for leaving it:

> I particularly remember the case of Toñi (not her real name), a female gypsy from the north of Granada with two children aged 7 and 9 years old at the time she was admitted to the Shelter. Toñi was admitted to the Emergency Shelter without having filed a criminal complaint and, although she was informed of the advisability of doing so and of the consequences of not doing so, including not being entitled to admission to a Women's Shelter, she decided not to. Her reasons had to do with the fact that her family, her parents but above all her siblings too, continued to live in the same municipality as her husband and she was scared that if she filed a criminal complaint, it would be they who suffered the consequences. They lived in a small municipality and were not only neighbors but also distantly related, and this made Toñi feel that the risk of attack and reprisals against her family was very real. She decided not to file a criminal complaint and stayed in the Emergency Shelter until moving out to live with a female cousin living in a different town.

> I also remember Salma (not her real name), a Moroccan woman who, although she had been living in Spain for 5 years, still did not have a work permit and her residency permit depended on staying married to her husband (a Spaniard). Salma was admitted to the Emergency Shelter with her three children aged 3, 6, and 8 years old and initially decided not to file a criminal complaint because she was scared that she would be deported from Spain because she did not have residency on her own account but rather as a "dependent" of the alleged abuser. Salma left the Emergency Shelter to go and live with a female friend (personal diary, November 2000).

This last situation was changed by the Reform in 2009 of the *Organic Law 2/2009 on the Rights and Freedoms of Foreigners in Spain and their Social Integration* (BOE, n 299, December 12, 2009), which made it legal to apply for residency on humanitarian grounds as victims of gender violence. All women who have filed a criminal complaint for gender violence can apply in this way and, consequently, can obtain a Protection Order, or a Prosecution Service report, or a conviction for the abuser. Note that all of the foregoing are granted at the judge's discretion, not automatically. Prior to 2009, these women risked leaving the police station not only having filed a criminal complaint for gender violence but also with a deportation order.

These and many other cases are examples of numerous situations in which women, for different reasons, do not want to file a criminal complaint. That this is a requirement not only for admission to Women's Shelters, which is what we are addressing here, but also for the recognition of their rights as "victim" is problematic in itself, not only as we commented above in practical terms but also in terms of models of social work intervention. First, these models are based on the concept of victim,

that is, "they focus on the victimized nature of women, requiring state intervention and protection when their natural protectors, their parents and husbands, stop doing so" (Macaya, 2017, p. 94). Second, they create an itinerary (Dodier and Bardot, 2009, quoted in Casado-Neira & Martínez, 2016, p. 881) from the institutional apparatus that women approach as a way of escaping violence. This itinerary is difficult to step outside of and the consequences of doing so are harmful, turning women back into victims (Casado-Neira & Martínez, 2016). On the one hand, victimization implies passiveness, and on the other, it reduces the problem to the level of the individual.

Women in Prison: The Good Mothers

Regarding female incarceration in Spain, there are some considerations to be made. On the one hand, it must be acknowledged that, just as in the international context, female incarceration is characterized by a lack of tailored care. This lack is explained away on many occasions by the low number of female inmates compared to their male counterparts and by the moralization, discipline, and control exerted over women since they are considered to be doubly transgressive (they have broken both the law and the mandates of gender). On the other hand, the unequal situation of female inmates noted (Almeda Samaranch, 2017; Añaños-Bedriñana, 2017; De Miguel Calvo, 2017; Juliano, 2009; Navarro Villanueva, 2018; Yagüe Olmos, 2012; among others). According to Mapelli, Herrera, and Soldi (2013), this inequality relates to several problems. Firstly, the physical spaces set aside for women, which are generally spaces left over in male macro-prisons; secondly, control exerted through homogenization and overmedication; thirdly, the creation of treatment programs based on the same premises as those designed for male prisoners; fourthly, prisons making no provision for accommodating the complexities inherent to pregnancy or maternity in prison; in fifth place, work opportunities in prison that are unequal, scarce, and biased by gender preconceptions (catering, childcare, or dress-making); and lastly, the disproportionate number of Roma female and immigrants in prison, which has to do with the alliance between the penal system and factors of racist and classist discrimination.

As per the actual situation of female inmates' gender violence (as connected to case study I), several issues are to be drawn attention to: firstly, the scarce data available (Carlen & Tombs, 2006; Cruells, Torrens, & Igareda, 2005; De Miguel Calvo, 2008) and secondly, the overrepresentation of female prisoners in comparison with the overall population gender violence figures. For instance, 50% of the Andalusian women in prison interviewed by Mapelli et al. (2013) admitted to having been victims of gender violence before being incarcerated.

Lastly, it should be acknowledged that these women, while serving the final part of their sentence and once they have been released, will face harder exclusion than they would before incarceration. Then, the "perverse integration" category developed by Alba Zaluar (2004, quoted in Ojeda, 2013) could be reintroduced, in the sense of how, after experiencing such confinement, these women are compelled to return with a violent partner because there is nowhere else they could go. In such situations, their priorities are to be with their children, to have a home, and, even in some occasions, going back to prison is not perceived as a real problem.

All of this notwithstanding, at the public policy level, we must acknowledge the progress made in the Spanish State over recent years to increase the visibility of female inmates (Ballesteros Pena & Almeda Samaranch, 2015; Navarro Villanueva, 2018) and increased awareness of the inequality and discrimination which exists throughout the penitentiary system. On the one hand, there is the *Organic Law 3/2007 of March 22 on effective equality for women and men* (BOE, n° 71, March 23, 2007), which covers the double discrimination and particular vulnerability to which female prisoners are exposed. On the other, in April 2009, the *Program of Actions for the equality of women and men in penitentiary centers* (General Secretariat of Penitentiary Institutions, 2009) was implemented. Among its objectives was to tackle the inequality that female inmates in Spanish

prisons have been experiencing for years. However, this program ceased in 2011, no assessment of it has been published, and "although some of its measures remain in place, no new measures to promote equality in the penitentiary environment have been introduced" (Francés Lecumberri, 2015, p. 485). Ballesteros Pena and Almeda Samaranch (2015) claim that it was a short-lived program with no analysis of outcomes, inconsistent in some areas and insufficient in others.

Similarly, analyses of the *Organic Law 1/79 of September 26 General Penitentiary* (BOE, n° 239, October 05, 1979) and of the *Royal Decree 190/1996, of February 9, to approve Penitentiary Regulations* (BOE, n° 40, February 15, 1996) reveal the lack of care for female inmates, their invisibility, and the lack of a specific vision in this area (Almeda Samaranch, 2004; Ballesteros Pena & Almeda Samaranch, 2015; Francés Lecumberri, 2015; Yagüe Olmos, 2012). Both texts scarcely refer to women at all, only making provisions that "refer exclusively to the areas of work, health-care and the punishment framework—all of them solely in relation to pregnancy—and to the situation of mothers with children" (Francés Lecumberri, 2015, p. 476). In other words, women are represented in these documents in their condition as child bearers, without making any other provision for their particular needs.

It is also remarkable that there has not been a debate within the feminist movement in the Spanish context after the advent of democracy, about prisons and the place of women inside them. Only in recent years, and with the impetus of scholars that are also activists, have there been some critical voices denouncing the situation of women in prisons (see, for instance, this blog: http://redmujer esycarceles.blogspot.com/2017/01/ana-lopez-cano-doctoranda-en-el.html).

Through our analysis of the public policy measures described above, we argue that although public policy measures translated into laws and programs do acknowledge the existence of these problems (lack of care for female inmates and their gender specificity, in a more lukewarm fashion inside prison), they impose a set of conditions which, we argue, are connected to the punitive turn of public policies. In this case, we are going to show this turn using the category of "being a good mother," analyzing how it is used and rewritten by women, and also professionals, in prison:

> I recorded a conversation with a professional in my field diary on one of my visits to the CIS. She mentioned to me that women follow different paths after leaving the CIS, that they move away and their arrival and attendance in CIS is lower than that of men (the last check in June 2018 on the CIS showed that there were eight women attending, but over one hundred men). She explained this by saying that the system somehow "benefits" women because it is more usual for them to be in semi-open or released regimes due to their work as family caregivers. (field diary, January 2018)

The semi-open regime and use of the electronic tagging device is imposed more on women than men (Otero González, 2012). According to national data from the General Secretariat of Penitentiary Institutions (July 2019), 25% of women deprived of liberty were in semi-open regime, compared to 15% of men, despite the fact that the total percentage of women in penitentiary facilities is only 7.65% (compared to 92.35% of men).

Such decisions have to do with penitentiary policy. Specifically, the *Royal Decree 190/1996*, although making few references to women and their needs (and using masculine articles and pronouns throughout), does explicitly mention in article 82.2 on the semi-open regime that for:

> female inmates in grade 3 regime, when it is proved that they cannot obtain paid employment externally but it is stated, and confirmed beforehand in a report from the relevant social services, that they will effectively be performing household duties in their home, these duties shall be considered as external employment. (BOE n° 40, 1996, art. 82.2)

As the professional interlocutor explained, this means that women who exercise their role and duties as caregivers are more likely to serve the final part of their sentence on probation wearing an electronic tagging device. These are a means of electronic control, that is, part of a set of electronic systems used by Penitentiary Institutions to make remote checks on the whereabouts of persons for whom they are responsible. Art. 86.4 of the *Royal Decree 190/1996* makes provision for a specific form of serving a sentence in the open regime, substituting the minimum duration of incarceration for use of electronic or other adequate control systems (Department of Penitentiary Institutions). Regarding what she described as something beneficial for women, we argue that it could be interpreted quite differently as a reward for women's role as caregivers and mothers. At this point, we question the role of the public policies for women benefit and highlight their role to reproducing and reifying the gender roles.

As laid down in the *Royal Decree 190/1996*, and mentioned in the European report "Women, Integration, and Prison" (Cruells, Torrens & Igareda, 2005), the family relationship is an indicator of social ties that is taken into account when granting exit permits or grade three regime. This gives rise to several problems: On the one hand, it discriminates against people who have no home or family, meaning that they cannot enjoy the permits or third grade and, on the other, the importance given to the family at the end of the penalty contrasts with the lack of support that they receive for supporting their family, both before they committed the crime, when many of them are in at-risk situations (such as being single parents), and during their time in prison (Cruells & Igareda, 2005).

However, the Spanish Penitentiary System not only gives special importance to the family but to the role of mother and caregiver inside the family. Although research by Bachman, Kerrison, Paternoster, Smith, and O'Connell (2016, p. 212) reveals "that motherhood rarely functioned as a turning point per se that activated desistance," there is no agreement on this aspect. There are works quoted by Bachman et al. (2016, p. 213) that argue that women with children are more likely to decrease their offending behavior compared to women without children (Giordano, Seffrin, Manning, & Longmore, 2011; Kreager, Matsueda, & Erosheva, 2010; Uggen & Kruttschnitt, 1998). On the other hand, other works have found mixed results regarding motherhood and desistance (Giordano, Cernkovich, & Rudolph, 2002; Michalsen, 2011), while others have found no impact (Robbins, Martin, & Surratt, 2009; Stalans & Lurigio, 2015), and still others have highlighted the compounded strain that motherhood places on an already tenuous reentry journey that follows prison release (Brown & Bloom, 2009; Kubiak, Kasiborski, Karim, & Schmittel, 2012; Leverentz, 2014) (cited by Bachman et al., 2016, p. 13).

The responsibility of female prisoners for family care can thus sometimes become a demand and form part of the judgment regarding their future direction. Under the criterion of "benefiting" women, penitentiary policy creates strategies for producing and controlling a female profile of women suitable to be in society and sustain the system. This reward for caregiving is a demand at the same time. We should ask ourselves, and what about women who are not mothers and do not assume the role of caregivers? Maria (not her real name), a 21-year-old woman with whom I had numerous conversations in the CIS, told me that she only had 1 month left until completing her sentence and, although she was in the grade three regime, was still in the CIS and would not be able to leave until she had served her whole sentence. She was not a mother, she was not from Granada, and she had no nearby family links.

Women who do not fit this profile are often subject to value judgments by the bodies in charge of penitentiary centers and prison inspection judges as regards their not taking on the role of a mother. This has significant consequences in the reports that decide on their penitentiary classification and on whether they are granted grade three and/or probation (Cruells & Igareda, 2005). So a model of the ideal reintegrated woman might be being created (Bello Ramírez, 2013): mother, caregiver, wife, who decides to put her past behind her and shows herself to be repentant and guilty. This model reminds her that she must not forget her role and must make up for lost time to rid herself of the label

of "bad mother." Certain strategies relating to maternity, care, passiveness, and domesticity for women enable them to stop being seen as "risk individuals" (inmates) and start being seen as "good mothers" and "good women." As anthropologist Juliano (2009) points out, it is paradoxical that to become a "good mother," you may have to be a "bad woman." We would add that it is more a case of being a "good mother" to try to get rid of the label of "bad woman."

Conclusions

Throughout this article, we have made a (partial) analysis of public policies for equality in Spain and the ways in which the State has co-opted the equality discourse to control vulnerable populations. For this purpose, we included two study cases: female inmates in a semi-open regime and female victims of gender violence. We argue that it is crucial to reveal the ideological and gender representations that underlie institutional texts and public policies, since these are what provide the lines of action and intervention for the populations to whom they are directed.

In the case of penitentiary policy, the legal framework promotes formal equality but, except as regard the separation of sexes inside prisons or the consideration of special situations (almost exclusively maternity), it makes no provision for specific gender-related needs or differences.

But more serious still, even measures that are understood as benefiting these women construct a view of female inmates that reproduces the traditional gender stereotypes of mothers, wives, caregivers, and so on. These discourses impose an order on reality and generate social action practices (Agrela-Romero, 2004).

As regard to policies on female victims of gender violence, we are facing what we consider to be a worrying relationship between the mechanisms of punishment and protection. Relationship made by law (*Law 1/2004*) is a clear example of the consolidation of criminal justice as a control apparatus and of the social system's submission to the control system. In other words, it is an example of the strategies of control and scrutiny to poor women. Thus, filing a criminal complaint is a requirement of the punishment system which permits the activation of the social system, which creates the ideal of a victim who relinquishes all her control of the process to the State and its agents. This creates situations of exclusion and/or difficulties in protection systems when friction arises between punishment and protection mechanisms. A clear example of this is the situation of undocumented female immigrants in which the specific nature of situations to which gender violence can give rise is not taken into consideration. Further, from our point of view, the act of filing a criminal complaint must be understood as a right and not as an obligation. However, in fact, the criminal complaint has become the component that validates what women report as being true and real, determining, as well, the rights laid down in different public policy measures.

In conclusion, we argue that both cases can be of use to us for thinking about what we call the "communication channels" between protection and punishment. One of them shows how penitentiary policy focuses on turning the "criminal" woman into a domesticated mother and wife and adopting passive, obedient behavior (Bhavnani & Davis, 2007), and the other shows how only the ideal victim, the victim who files a criminal complaint and follows the legal process, is believed and deserving of help from the welfare system. All this reflects a vision of social justice as criminal justice (Bernstein, 2005) and a way to perform gender with poor and disadvantaged women. There is still a lot of work to do and it is our intention to continue debating about how care and punitive policies intersect, specifically asking and reflecting about categories like race or social class, from a feminist perspective. In the process we can reflect, for instance, on how the social and punitive policies construct an ideal victim in terms of race and social class, on what is the agency of women "overassisted" or "overcontrolled," and on what the role of the professionals of social work is while they are developing social and punitive policies. Besides, we continue to reflect on whether the

histories of gender violence become all but irrelevant once someone is characterized as a perpetrator? How do the policies carceral feminists have advocated for affect women convicted of crimes?

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