Intersectionality and Domestic Violence Policies:

A Comparative Study of Scotland and Spain

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GENDER-BASED VIOLENCE

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Since the 1970s, European countries have begun to accept that governments must intervene in people's private lives when it comes to combating domestic violence. This is a long and complex process which involves many actors. There is a demand to develop policies against domestic violence and to analyse and criticise the problem in order to find possible solutions. However, in Europe, there are many interpretations and different analyses of the issue, as well as different strategies to fight against domestic violence, some of which are influenced by the different political contexts of each country. This paper first explains what is meant by domestic violence and provides some brief statistics to contextualise the situation and the victims suffering from domestic violence. Second, it will continue by adding European framings of violence and how gender inequality, identified as a critical problem, has been implemented in government policy frameworks. Third, it examines how different governments address domestic violence, this paper will draw upon European Union, Scottish and Spanish policies, by examining universal frameworks such as power relations, gender identities, and gender inequalities. In addition, it demonstrates how domestic violence arises from a structural problem within the framework of stereotypes and gender roles, and how patriarchism is linked to it. Finally, domestic violence was linked to Crenshaw's concept of intersectionality with the objective to identify how future domestic violence interventions might focus on intersectional inequalities.

Before moving on to the discussion, we need to clarify the terms we are using: Intimate personal violence, or domestic violence, emanates from the socially accepted figure of the male as the dominant. This includes many forms of physical violence, sexual violence, and a range of coercive controls and behaviours of intimidation and possession (Harne and Radford, 2008). For this reason, governments and organisations are developing policies to reduce and prevent the problem of domestic violence and to address male perpetrators. Many of them try to create a protective environment by providing support to increase safety and reduce harm or even strengthen economic support for families (IHPL, 2019). However, even developed countries such as Scotland, with a population of more than 5 million, struggle with IPV, as they recorded 64,807 incidents of domestic violence in 2021-22 (Scottish Government, 22). On the other hand, Spain recorded 8,240 victims of domestic violence in 2021 (INE, 2021).

The continuing challenge in the European Union to eliminate and reduce violence against women is to address new, intersecting forms of oppression in the political, public and private

environment of individuals. Various comparative studies about the development of feminism in European countries have shown that organisations are working on the creation of equality policies for women who have suffered or are suffering from domestic violence (Stetson and Mazur, 1995). It is possible that the universal framing of domestic violence has pushed governments towards policy action, as more and more feminists recognise that women's specific experiences and needs are situated at a crucial point for coming up with effective policy solutions (Montoya and Rolandsen, 2014). As gender inequality is a complex and contested issue, so is gender inequality in domestic violence. This influences the different interpretations and analyses on this issue, and a common consensus is never reached, nor a diagnosis (Lombardo and Bustelo, 2007). Many countries have different strategies for dealing with domestic violence, but these are usually shaped by the national political context (Lombardo and Bustelo, 2007:18). Each government adopts its policy framework on domestic violence, so it is an issue that is interpreted differently by different actors (such as feminists, academics, activists and other policy actors).

As mentioned earlier, this paper examines European policies to address domestic violence, particularly those of Scotland and Spain, and shows how these policies are underpinned by theoretical frameworks, political influences and social factors. In Europe, most countries have taken sustained action to support victims. On the one hand, for example, many countries have shelter houses to help women separate from their abusers and start a new life, but in Austria, the abuser is expelled directly from the home. However, in the European Union, policies to combat violence against women are based on 'soft' measures, which is due to the fact that it has no official competencies to deal with this issue (Deschouwer and Jans, 2007: 236). Surprisingly, as the European Parliamentary Research Service (EPRS) explains, 'the EU currently has no specific binding instrument to protect women from violence' (Shreeves and Prpic, 2019: 7). This slowly creates a space for a policy which will not be filled by academic research and proven evidence but by political lobbyists. Subsequently, the EU began to recognise violence against women as a human rights issue. In 2011, the Istanbul Convention (also known as the Convention on Preventing and Combating Violence against Women and Domestic Violence) was developed. This calls for states to criminalise psychological violence when the act is intentional and seriously affects the victim's integrity through acts such as coercion or threats (Article 33). This convention was created specifically to support women and is classified as a violation of HR and a form of discrimination (McMahon and McGorrery, 2020: 15).

Although the United Kingdom has not ratified the Istanbul Convention (McMahon and McGorrery, 2020), Scotland has established a powerful benchmark against domestic violence, which laws and policies are considered to bear many of the hallmarks of successful feminist 'constitutional activism' (Mackay, 2010). This means that several activists in the movement in Scotland mobilised around their human rights and gender identities and sought to bring their proposals into the constitutional reform process. Lombard and Whiting (2018: 28) also argue that Scotland is unique in putting the issue of domestic violence on the public and political agenda and introducing the term 'domestic abuse'. In their new so-called 'gold standard', the Scottish Parliament passes the Domestic Abuse Bill 2018 with the implementation of the *Equally Safe* Policy, which criminalises coercive control and domestic violence. This policy fights against the violation of women's human rights which have arisen from gendered power relations, social control, and men's abuse of power (Mackay, 2010: 371) and, as we will discuss later, highlights the problem of social hierarchies.

Moving to the domestic violence policy in Spain, the adoption of specific legislation to combat family violence began in 2004. Spanish legislation took a comprehensive approach to address gender-based violence through protective and preventive measures (Christofi et al., 2017: 19). As in other policies, domestic violence in Spain is not treated as a private matter within the household, but as a violation of human rights that affects the entire population. This policy, adopted in 2004 and recognised as *Ley Orgánica 1/2004 Medidas de Protección Integral contra la Violencia de Género* (Comprehensive Protection Measures against Gender Violence), aims to intervene promptly to enforce equality values and finish with the violence against women, which is mainly perpetrated in relationships in which there is a situation of asymmetry between the male and female figures (Calvo, 2006: 119). The Spanish government believes that this type of policy must be developed as a whole with educational policies, as it explains that education for equality between men and women should be one of the purposes of the Spanish education system.

All the policies presented in this paper and their development concerning violence against women seem to be linked to gender, implying that women are affected by violence only because they are women. However, the framework of the policies should always link the forms of violence with the historically unequal power relations between men and women. As it has been

evidenced that there is a strong negative correlation between the level of domestic violence and social, economic and cultural inequalities between the genders (Gillespie, 2016: 4). These external phenomena with broader social formations embed domestic violence behaviours deeply into forms of power and oppression that include patriarchy, sexism, misogyny, transmisogyny, heteronormativity, whorephobia and homophobia. As Fu (2015: 51) argues, the fundamental problem is that we find a socio-culturally constructed classification in which all these behaviours are included, creating a hierarchical model.

This is reflected in the Scottish policies whose ongoing debates about interventions in private relationships have led to a neoliberal approach to gender relations, in which inequities in the private sphere are rarely challenged. This separation between the public and private spheres can obscure how governments and organisations shape gender relations and restrict the potential to address both spheres. Overall, this gender segregation, which entails gender hierarchies, is evident in the labour market and work patterns, with resultant impacts on income and domestic violence resources (Hearn and McKie, 2010:9). The same is true for Spanish Policy, which assumes that domestic violence against women is not just an isolated problem resulting from individual problems, such as couple discussions. Rather, it manifests a structural problem, resulting from the inequality in society between men and women that lay under the construction of rigid gender roles, stereotypes and identities (Lombardo and Bustelo, 2007: 84). This has also been built from the private scope to the public and it also finds the problem of this kind of violence rather than from an individual problem but is rooted in the unequal structural relationships of power between genders, which is known as an androcentric constructed hierarchy, or patriarchism. (Lombardo and Bustelo, 2007:88). There is also a recognised difference in access to various economic resources, as well as sexualised tasks and spaces (Lombardo and Bustelo, 2007). Perhaps, in the 2000s, a dominant framework *'Violencia Doméstica'* (Domestic Violence) was created that mitigates the gendered dimension against women, obscuring the patriarchal component of violence and transforming it into a more gender-neutral concept (Lombardo and Bustelo, 2007: 87).

While Spain and Scotland have interpretative frameworks directly linked to the gendered attribution of domestic violence, other countries mostly included frameworks without explanations linked to gender, both in the diagnosis and in the solutions (Lombardo and Bustelo,

2007). Roggeband (2012: 800), for example, argues that his analysis of Dutch and Spanish domestic violence policies shows a change in the diagnostic frames and its implications for the solutions proposed by the government. He showed that the policy outcomes and responses from Spain are doing a gradual improvement, while in the Netherlands there is a regression.

One of the recognitions that domestic violence policies are starting to give, since the 80s, it's the wider vision of the excluded individuals, which are at the intersection of different inequalities (such as ethnicity, sexual orientation, functional diversity, and age...). Also, it has been recognised that although there is much evidence to support the importance of a universal domestic violence framework, another empirical reality of domestic violence is that the experiences of different women are qualitatively different (Montoya and Rolandsen, 2014: 536). This universalising approach has been fundamental in the mobilisation of scholars, activists and politicians to address the policy needs of women from diverse backgrounds and circumstances (Crenshaw, 1997 cited in Montoya and Rolandsen, 2014: 536).

Nevertheless, this has regained new vitality from Crenshaw's (1989) analysis of structural and political intersectionality. This concept of intersectionality pretends to highlight the privileges of some individuals and the exclusion that appears when not much attention is given to individuals situated in the middle of diverse inequalities (Lombardo and Verloo, 2013: 12). Crenshaw (1991: 1245) observed the dynamics of structural inequalities during her field study located in minority communities in LA. In most cases, women who seek protection because they have been victims of violence are unemployed and a good number of them are poor. For example, many women of colour, are burdened by poverty, childcare responsibilities, and lack of professional qualifications. This shows that action against domestic violence policies should start being developed in a way they could adapt where the systems of race, gender and class domination converge (Crenshaw, 1991: 1246). Moreover, an inclusive approach could help address the needs of the most vulnerable women. Scholars point to how the movement against domestic violence has shaped public, academic and activist perceptions of the issue. And this has effectively structured and influenced the policy goals and policy outcomes of the movement's work (Nixon and Humphreys, 2010: 139). Almeida and Durking (1999) also argued that there are many challenges today in calling for a more nuanced collective framing of domestic violence, such that more attention should be given to the intersections of 'race, gender, class and

disability', together with empirical evidence (both quantitative and qualitative research) that has the strength to understand the impact of social divisions on women's experiences of domestic violence (Nixon and Humphreys, 2010).

If we accept a more intersectional approach for future domestic violence policies, we would be able to shift from a monolithic analysis of patriarchal oppression to one in which the diverse ways of discrimination and oppression manifest themselves in the lives of women are recognised (Nixon and Humphreys, 2010: 143). Furthermore, the development of serious anti-violence policies requires making all forms of violence and intersections between inequalities more visible, working within a framework that keeps its focus on gender, how violence is caused and how intersectional inequalities affect (Hearn et al., 2016: 553). Although the complex relationship between violence, power and inequalities is rarely explicitly expressed in policy, Hearn et al. (2016: 554) also showed that it is possible to unite all power relations into a single policy and argue for 'the need to acknowledge that each social division has its ontological base'. Looking at our selected countries, the Spanish Policy recognises the rights of the victims with a heterogeneous vision, and it reflects the possibility that the victim's situation coexists with intersectionalities that imply potential sources of social exclusion. However, the *Ley Orgánica 1/2004* only sees women as the only capable subject to put an end to domestic violence. Especially because all the protection and restraining orders are conditioned by reporting to the police forces (Lombardo and Bustelo, 2007: 89). Further, this policy, due to its specific definition of gender violence as that which is directed at women the mere fact of being so, and the contemplation in the law of positive actions, gives rise to a different punishment between men and women for the same crime of domestic violence (Lombardo and Bustelo, 2007: 91).

In contrast, the Scottish policy takes an intersectional approach, which assumes that women who have protected characteristics are at higher risk of experiencing violence and abuse, often due to persistent prejudice and structural barriers in the society that lead to inequality. The government includes sexual orientation, gender identity, minority ethnic minorities, and disabled or older women more vulnerable to exploitation and coercion, as well as high levels of harassment, and social isolation. All of this will, in the end, contribute to high levels of vulnerability and increased difficulties in accessing services. Perhaps, the implementation of the

Equally Safe policy recognises that any form of abuse including situations where there are balances of power that go beyond gender and minority status will be a key requirement for their future work on preventing violence against women (COSLA, 2020: 20).

The construction of policy discourses that fights against domestic violence represents the problem of violence against women. Both Scotland and Spain, unlike countries such as Austria or the Netherlands, have created opportunities to promote a gendered analysis of domestic abuse, which had a notable impact on policy and practice. As explored, it is vital to not lose this unique approach of gender-neutral ideas when adopting a gender analysis for policy development. What is not neutral is to say that women and men experience in the same way. This is because coercive control, power relations, men's abuse of power, and patriarchy are issues that are inherent in the problems of our social hierarchies. It also looked at whether policies should include the issue of gender segregation and how labour market and work patterns have had distinctly an impact on resources for domestic violence resources. Nixon and Humphreys, 2010), suggest that the dynamic nature of the fight against more useful domestic violence policies requires continuous revision and adaptation of framework policies. This will achieve a more accurate reflection of the experiences of survivors of domestic abuse. Overall, domestic violence requires the engagement of multiple agencies, and the response to it should not be seen as a generic policy, as we have seen in the case of Scotland and Spain which each have similar interpretive frameworks, such as links with gender attribution, but which are not a usual thing. Finally, this paper highlights the importance of implementing an intersectional approach to our domestic violence policies to be able to change from a patriarchal system to a more diverse one, in which discrimination and oppression in women's lives are recognised and punished.

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