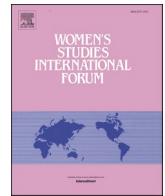


Contents lists available at [ScienceDirect](https://www.sciencedirect.com)

Women's Studies International Forum

journal homepage: www.elsevier.com/locate/wsif

Theorizing the penal state: The darkside of gender regimes in the case of Spain

Ana Ballesteros-Pena^{a,*}, María Bustelo^a, Amy G. Mazur^b^a Complutense University of Madrid, Spain^b Washington State University, United States, and LIEPP, Sciences Po, Paris, France

ARTICLE INFO

Keywords:

Spain
Gender Regimes
Violence
Penal State
Southern Europe
Punishment
Prison policies
Women in prison
Intersectionality

ABSTRACT

The goal of this article is to contribute to ongoing efforts to strengthen gender regimes theory by proposing a new sub domain within the institutional domain of violence that brings in the penal state – any part of formal politico-administrative structures that arrests and incarcerates women. Based on interdisciplinary research on gender, crime and punishment that shows the importance of understanding the penal state for women's rights and gender equality, the operational definition of the penalty sub domain is proposed and developed in a case study of prison reform and gender equality policy in Spain. The concept development case study not only helps to define and empirically identify the seven dimensions of the new sub domain. It also provides the opportunity to make a larger theoretical reflection of what penalty issues mean for the application of gender regimes theory more broadly speaking and future comparative studies of gender equality, prisons and gender regimes.

1. Introduction

This article seeks to add to the complex and shifting nature of gender regimes theory to respond to the calls for mapping, conceptualizing and theorizing change that were made for this special issue. It draws attention to a part of gendered transformation that has only been recently put on the analytical radar of research on gender, policy and the state – gendered dynamics of the “modern” state that incarcerates men as well as women. The central argument is that a focus on the penal state – any part of formal politico-administrative structures that arrests and incarcerates women- should be considered as a subdomain within the institutional domain of violence alongside the domains of polity, economy and civil society. The major goal of this article is twofold: 1) to propose the new sub domain of penalty with its seven dimensions and 2) to present the case study of prison reform and gender equality in Spain to develop and empirically map out the new concept to ultimately show what it brings to theorizing gender regimes theory in future comparative analyses.

As the article argues, the inclusion of this subdomain makes gender regimes theory more complete by addressing a major institutional domain that manages, obstructs, and navigates gender equality and in doing so, contributes to ongoing efforts to complexify gender regimes theory. Other crucial, yet neglected forms of violence, like

institutionalized state violence, are brought to the fore by adding this new sub domain (Walby, 2009; see also Lombardo & Alonso, 2020, Shire & Nemoto, 2020, Walby, 2023; among others).

The case study of Spain demonstrates that the dynamics of the penal state, an integral part of any “modern” polity, constitute the dark side of gender regimes due in large part to the highly closed nature of the penal state where established gender norms reign, feminist mobilization from civil society is minimal, principles of gender equality are muted, and dominant regimes of inequality are the norm. The importance of the different levels of politics and the need for a multi-level approach is also revealed in the Spanish case study (Lombardo & Alonso, 2020; Walby, 2020) through combining macro analysis of policy and state action with more situated explorations that dig into the actual functioning of complex sub systems of actors and their impact on individuals. This comprehensive multi-level approach unveils the crucial role of actual practices in place at the micro level and hence allows gender regimes theory to better capture the complexities and (often) paradoxical mechanisms of social change.

The first section of the article discusses how a rich interdisciplinary scholarship has addressed the silences of research on gender and the state. Next, the case for the inclusion of the penal state in gender regimes theory is made and the new concept's operational definition presented with seven different dimensions. In the last section, these seven

* Corresponding author.

E-mail address: aballe05@ucm.es (A. Ballesteros-Pena).

<https://doi.org/10.1016/j.wsif.2023.102743>

Received 26 October 2022; Received in revised form 22 April 2023; Accepted 24 April 2023

Available online 30 May 2023

0277-5395/© 2023 The Authors. Published by Elsevier Ltd. This is an open access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>).

dimensions are further developed and empirically mapped out in the case study on prison reform and gender equality in Spain. The conclusion builds from the lessons learned from Spain for empirical theory building by discussing how to include this new subdomain in gender regimes theory and presenting the comparative research agenda to study the penal state as a part of the varieties of gender regimes project.

2. The view from interdisciplinary research on gender, crime and punishment

2.1. *The silence on gender, crime and punishment in research on gender, politics and the state*

All countries around the world deploy a variety of punitive and coercive practices that are gendered and that disproportionately impact ethnic and racial minorities, economically deprived populations and non-nationals. Despite the significant advances in theorization on gender and the state as well as the emergence of a body of work on gender equality policies in western democracies, systematic empirical focus on gender, punishment and the criminal justice system has been largely absent in these areas of study (Ballesteros-Pena & Bustelo, 2023).

To be sure, feminist comparative policy analysis has explored the policy process by considering different sectors for feminist policy intervention, such as political representation, equal employment, reconciliation, reproduction, or sexuality. Scholars in this area have also developed a fruitful body of conceptual tools and empirical research covering design and formulation of policies (Bacchi, 1999; Lombardo et al., 2009; Lombardo et al., 2013; Verloo, 2005; Verloo & Lombardo, 2007), including the role of the women's movements and gender policy agencies (e.g., McBride & Mazur, 2010), and the importance of alliances among feminist actors across movements, institutions and academia (e.g., Woodward, 2004). Studies on implementation and impact of gender equality policies (Bustelo, 2017; Ciccio & Lombardo, 2019; Engeli & Mazur, 2018; Lombardo & Bustelo, 2022; Mazur, 2017; Tildesley et al., 2022) have more recently offered a step forward in the research agenda on gender, policy, and the state. Similarly, while scholarship on state feminism (Kantola, 2006; Mazur, 2002; McBride & Mazur, 1995; Walby, 2009, 2020) has contributed to better understanding the gendered nature of the State and its impact on the functioning of democratic societies, there is a lack of theorizing on the role that gender plays in institutions and practices of detention and incarceration and their broader impact on social transformation and the quality of democracy.

Given the silences on gender, crime, and punishment issues, on one hand the theoretical, empirical, and conceptual insights from this body of work cannot be extended to the institutions and policies that comprise the penal state. On the other hand, the dynamics of gender, crime and punishment policy are not considered in theory-building efforts on gender, policy, and the state. Recent attempts to address this gap (Ballesteros-Pena & Bustelo, 2021, 2023) are just in their beginning stages and much research needs to be conducted and pursued to develop an analytical framework from a comparative perspective that does dialog with this heretofore understudied area.

One of the notable exceptions (along with Haney, 2000) to the resounding silence on the penal state, has been Walby (2009)'s earlier work on gender regimes theory as she includes the criminal justice system as a component of the institutional domain of polity. While a significant step forward, this contribution still does not fully address the role of the penal state in the construction of gender regimes because, among other aspects, the analysis of the criminal justice system in the context of gender regimes theory tends to focus on women as victims/survivors of crimes, especially gender-based violence, rather than as objects of penal measures themselves. Furthermore, globalization has modified certain trends of penal power through the increasing use of detention of migrants and asylum seekers, with rising rates in the detention of women (GDP, 2019) in the Global North as a response to international mobility.

We argue throughout this paper that gender regimes theory would benefit significantly from the introduction of a subdomain within the domain of violence where the penal power of the State is analyzed in a comprehensive manner as it interacts with the other four domains. This new subdomain can complement the current analytical framework by shedding light on one of the bleakest areas of State action fully intertwined with the effects of the "regimes of inequality (Walby, 2009 and 2020)." Globally, most women in prison are affected by extreme conditions of poverty, are members of racial minorities, ethnic and indigenous communities or are foreigners. Black feminist scholars (Collins, 1998; Crenshaw, 1991) have unveiled how the intersection of gender and race shape the experience of black women in the social world. Walby identifies multiple intersecting regimes of inequality, including those associated with gender, ethnicity, class, sexual orientation, age, and disability (Walby, 2009) in line with the growing literature on "intersectional" approaches to inequality (e.g., Mügge et al., 2018). The integration of the subdomain of the penal state will help to make visible the disproportionate impact of structural inequalities in those behind bars and the specific forms this multiple discrimination adopts.

Looking ahead to new ways in which penal power is being shaped, practices of containment of international mobility are being increasingly used in the Global North. The presence of women in migrant and refugee movements is rising due to the feminization of migration and poverty and the impact of wars, conflicts, and discrimination laws in their countries of origin. Migrants and asylum seekers are being detained, contained, controlled, and deported through detention centers and subjected to other non-custodial measures. Thus, the term "punishment" should be fundamentally adjusted to include the proliferation of "bordered forms of penalty" (Bosworth et al., 2018: 46). The research on criminology of mobility and border issues (Aas, 2014; Aas & Bosworth, 2013; Bosworth et al., 2018) has also focused on the gender-specific impacts of border control and immigration detention policies in migrant women and asylum seekers (Abji, 2016; Esposito et al., 2020; Gerard & Pickering, 2014). Although in our paper we will focus on prison policies, future developments of this case study and others must include a broader approach to the penal state that integrates the reconfiguration of penal power in the context of recent increased responses to international mobility.

Thus, for the theory of gender regimes to be able to adequately understand social change in the global era as well as to adequately identify paths to social transformation that reduce structural inequalities and increase the depth of democracy, the subdomain of the penal state has the potential to add a missing but crucial part to the theory.

2.2. *Interdisciplinary research: findings and conceptualization.*

A rich and promising scholarship has emerged on crime and punishment coming from feminist areas of study outside of the study of gender, politics and the state that informs this articles proposal of the new penal state sub domain.¹ Particularly, we draw on the contributions of punishment and society scholarship and feminist criminology. Founders of punishment and society understand the "penality" realm (Garland & Young, 1983), following Foucault, as a "specific institutional site" (Garland & Young, 1983: 21), key to understanding structural change in the wider social order (Simon & Sparks, 2013:6). Prisons are viewed as institutions of power and social control with broader effects in population and governance (Simon & Sparks, 2013: 6). Punishment is, thus, an "overdetermined, multifaceted social institution" (Garland,

¹ Haney (2000) had already argued in favor of a broader coordination between feminist interventions into jurisprudence, criminology, and welfare state to contribute to feminist theory. In her work, she defended the importance of an interdisciplinary feminist dialog on the state that could benefit from the different approaches to state gender regimes, offer by, at least, the three scholarships mentioned.

1999:1) that must be analyzed with a multidimensional interpretative approach. Moreover, since the 1970s, feminist criminologists have highlighted the gendered nature of criminal offending and victimization, as well as of the institutional responses to these issues. They also document widespread discrimination of women in the criminal justice system (Renzetti, 2013).

Within this body of research, studies have explored the construction of women as penal subjects as well as the characterization of gender penal regimes within prison, paying attention to the shape and evolution of women's criminality. Going beyond the study of incarceration rates, where women systematically occupy a marginal position because they are a minority within prison population, studies paid attention to the institutional practices and their impacts on reproduction of gender stereotypes. The pioneering work of Carlen (1983) zeros-in on the central characteristic of the penal regulation of deviant women: "discipline, medicalise and feminise" (Carlen, 1983). From this highly gendered vantage point, breaking the law is framed as a masculine behaviour; thus, women who commit crimes are not only transgressing the law (legal norms), but also violating core norms about femininity (social norms) (Almeda, 2002; Carlen & Worrall, 2004: 2). As such, the disciplinary regime of the prison and the subsequent interventions are driven by historically determined notions of normative femininity and the role that women must play in the society.

From a historical perspective, authors such as Bosworth (2000) and Almeda (2002), for the French and Spanish cases, respectively, find Foucauldian explanations (Foucault, 1975) for the change of forms of punishment- from physical punishment to disciplinary surveillance- insufficient to explain women's punishment. For them, deprivation of liberty had been a constant during the Ancient Regime and control and discipline were its central features, showing lines of continuity. This analysis offers interesting nuances in our comprehension of the evolution of gender regimes, particularly, from pre-modern to modern. The focus of these institutions were women who deviated from their assigned role. This deviation, therefore, leads to the development of the marginalized or "morally dubious" activities of women who were seen as vagrants contravening the expectations about being a "good woman". (Almeda, 2002) Institutions of confinement historically worked for bringing back women to the assigned roles associated with the domestic and the private worlds typical of pre-modern gender regimes. Despite country variations and the transformation of gender roles, the reinforcement of normative models of femininity and gender stereotypes are still present in the operation of penal institutions.

Much of the emphasis on the work done by criminologists and punishment and society scholars has been located in revealing discrimination against women and the gendered nature of punishment and penal regimes (Bertrand, 1998; Bosworth, 1999; Carlen, 1983; Gelsthorpe, 1989; Heidensohn, 1985; among others). Persistent discriminations and prejudices embedded in penal policies and prison programmes as well as gender and racial biases and prejudices have been also pointed out (Ballesteros-Pena, 2017, 2018; Goodkind, 2005, 2009; Haney, 2010; Hannah-Moffat, 2000, 2001, 2010; Kaye, 2012; McCorkel, 2003, 2004; McKim, 2014; Owen et al., 2017; Turnbull & Hannah-Moffat, 2009; Wyse, 2013), along with the specific challenges to the incorporation of gender equality and to the pursuit of gender transformative goals (Ballesteros-Pena & Bustelo, 2023).

As comparative work in this area has shown, although penal ideologies travel globally, the punishment regime of each country is determined by historical punitive trends that intersect with new characteristics and changes, including traditional and contemporary assumptions about gender. The level of permeability of the prison system to external ideas, such as those coming, for instance, from the polity or civil society domains affect the capacity and direction of potential changes in gender penal regimes. However, beyond country variations, traditional ideas about the punishment of women persist in the functioning of prison institutions. Transformative modern projects for penal institutions retain a lingering domestic aftertaste.

Studies that pay particular attention to the implementation of women-centered initiatives or gender-specific programmes and penal reform for women (Carlen & Tombs, 2006; Hannah-Moffat, 2000, 2001; McCorkel, 2003; Moore et al., 2017) argue that well-intentioned efforts to create penal regimes that address "women's needs" miss the complicated relationship between designated ideals and penal policies (Ballesteros-Pena, 2018; Hannah-Moffat, 2001). Penal regimes for women, despite their therapeutic initiatives and the introduction of community sanctions (Carlen & Tombs, 2006; Malloch, 2017), do not forgive punitive and oppressive tendencies (Carlen & Tombs, 2006; Hannah-Moffat, 2001) but develop "thera-punitive rhetoric (Carlen, 2002, 2005)". In some countries, such as Spain, as we show below, reform efforts interact with traditional patterns of punishment, such as strict discipline and obedience (Ballesteros-Pena, 2018), and end up reinforcing norms about women's established domestic roles, in what have been called the "strategy of re-domesticity" (Ballesteros-Pena, 2017). Regardless of the rehabilitative philosophy that underlies the prison system, the understanding of gender inequality and discrimination against women is underpinned by the fact that carceral institutions have punitive exclusionary goals. Furthermore, as Kruttschnitt and Gartner (2005) assert, institutions retain gender-biased understandings about women's criminality, ideals about femininity and women's needs and their solutions.

Thus, for the theorization of the gender regimes, the introduction of the penal state can alter the understanding of social transformation as well as highlight interdependencies that lead to adjustments and/or nuanced explanations about the development of gender regimes. The specific nature of prison institutions, due to their punitive and oppressive features, and the involuntary participation of women (Hannah-Moffat, 2001:195), limits the capacity of this subdomain to develop gender regimes that are indisputably social democratic or progressive. The interactions with the domains of polity and civil society will result in regress or nuances in previous categorizations. As Hannah-Moffat pointed out more than two decades ago "There is a complicated relationship between ideals and penal policies" (Hannah-Moffat, 2001:5). And this relationship must be teased out in research that combine the macrolevel, including incarceration rates, with empirical explorations of the actual functioning of these institutions, as proposed below.

But it is not only gender-based discrimination that affects women. Other "regimes of inequality" also affect disproportionately women in prison. Most of women prisoners are touched by economic deprivation, are members of indigenous and racial communities and/or foreign nationals. For instance, indigenous groups represent more than 50 % of women prisoners in Canada,² black women are disproportionately detained in the US as well as trans persons (Rosenberg & Oswin, 2015), around 25 % of women incarcerated in Spain are Roma (Barañ Team, 2001) and close to 30 % are foreign nationals (Ballesteros-Pena, 2020). Stereotypes of different racial groups also inform practices of intervention with certain groups of prisoners (Ballesteros-Pena, 2020). Thus, the characteristics of gender regimes within the penal system are overwhelmingly shaped by the interaction of different regimes of inequality. All of this contributes to expand the structural inequalities that prevent social transformation into deeper democracies that have social justice as its primary goal. These structural inequalities that are embedded in the prison system prevent the possibility of developing gender regimes that genuinely pursue the reduction of gender, along other, inequalities.

This body of research from punishment and society and feminist criminology has provided fuel for the argument to treat the penal state as a subdomain that contributes to understanding the role that penal measures that target those women considered "underserving", "deviant", "excluded" and "others" play in the different varieties of gender regimes. While promoting gender equality seeks to expand

² Office of the Correctional Investigator, 2021. <https://www.oci-bec.gc.ca/nt/comm/press/press20211217-eng.aspx>.

rights, empower disadvantaged groups, and eliminate discrimination, extending this agenda to include incarceration systems introduces new dilemmas in feminist policy analysis arising from the relationship between those who view these groups as “deserving” and those who see them as “undeserving”.

3. Bringing-in the penal state as a new subdomain.

3.1. Why the penalty subdomain is needed.

Both in the Global North and Global South, women are increasingly being subjected to carceral measures (GDP, 2019; Penal Reform International, 2021). Despite the evidence of the ineffectiveness of prison to solve structural problems, the institution is resistant and so is constantly subject to initiatives of reform (Carlen & Tombs, 2006). Our argument is that gender regimes theory will increase its potential to understand historical and future social transformations if a subdomain of penal power of the State is introduced within the institutional domain of violence. A subdomain that, apart from considering incarceration rates, disentangles the ways in which women have been and are being punished over time, shed light on its gender impacts, and expands our understanding of the interactions of regimes of inequality. This domain sheds light on a social arena that has been traditionally ignored and made invisible in both feminist theorization of the State and feminist comparative policy analysis. However, it is particularly important because it will put at the centre of the dark side of all gender regimes; that is, the controversial and sometimes not so comfortable discussion about how we treat women and their rights as socially constructed criminals in democratic modern societies.

This subdomain differs from how the domain of violence is currently conceptualized in its consideration of women as “deviant” and “others”, although women can be highly affected by forms of gender-based violence, including those coming from the State. And it is also separated from the polity domain in gender regimes theory because the governance of the “underserving” adopts distinctive dynamics that results in a system less prone to the exchange of ideas and to the democratic discussion and participation.

The violence domain has focused on inter-personal violence and organized military violence (Walby, 2009: 65). This definition does not fully cover the state apparatus in charge of deploying punishment and, in doing so, the theory of gender regime is missing a comprehensive analysis of the most damaging structural inequalities where democratic societies are rooted. Moreover, the configuration of the domain of violence prominently considers women and minorities as survivors of forms of interpersonal and military violence, but we need to also identify how the penal state acts upon women as recipients of practices of penal power, for instance, in their role of law breakers or irregular migrants. This two-sided, and certainly contradictory vision of women as victims and offenders by the penal system appears as an interesting domain to further develop gender regimes theory.

In this purview, current theorizations of violence (Davis et al., 2022) that integrate gender-based violence and state violence within the same framework, which includes the criminal justice system and its impacts of marginalized groups of population, can help us to advance our understanding of the state strategies to regulate violence within the theorization of gender regimes and its futures (Walby, 2023; see also the Koçabıcak, 2023). Specifically, a systematic and comparative exploration of the penal state as a subdomain within the violence domain, instead of within the domain of polity as in Walby's approach, could advance current theorizations of the ways to respond to gender-based violence within pre-modern and modern forms of gender regimes. This could potentially enrich our understanding of the effectiveness of state and non-state responses to gender-based violence, their implications, and the role of punitive responses to solve current social conflicts in contemporary societies. In this purview, the criminal justice, policing, immigration detention, etc. are in of themselves forms of structural

institutional violence that have systematically targeted the most excluded groups of society. This approach has the potential to shed light on the future role of the criminalization of violence in gender regimes theory as a response to violence (Walby, 2023) and to modify the role that the polity and civil society might place in the alternative governance of violence and crime.

The incorporation of this subdomain could also broaden the discussion by questioning “criminalization” and punitive responses as effective mechanisms to reduce social inequality, in a broad sense, and to eradicate gender-based violence. The subdomain of the penal state differs from the domain of violence in that it has not included a systematic analysis of state violence. Thus, we propose placing the Weberian assumption of the monopoly of the legitimate violence, used in Walby's theorization, at the centre of the debate and show how this state violence is shaped by race, gender, class, sexuality among others (Davis et al., 2022). By pointing out the structural common roots of different forms of violence and how both gender-based violence and state violence are differently experienced by marginalized groups, may lead the identification of actual regression in gender regimes and the presence of this obscure realm of the state action and its intersectional character.

The polity domain is focused on entities that govern, its modern form is democratic and is approached by 10 points that characterize the depth of democracy. Penal power, however, entails the repressive power to punish, to restrict freedoms and to deport populations. It is concerned with governing the “unruly”, the “others”, the “undeserving”. Moreover, the ways in which these populations are governed differ widely and by nature from other areas of governance. Considering the penal state can substantially alter the understanding of varieties of gender regimes. This penal state constitutes an autonomous subdomain that can more overtly resist social transformation towards more democratic systems. The interactions between the domain of polity and the subdomain of the penal state may show how the governance of the prison system will alter previous analysis of the depth of democracy. The exploration of the capacity and impact of civil society in creating projects and social visions in this realm will help to locate the intrinsic obstacles of the penal state to social creativity and transformation and its capacity to adapt and accommodate alternative emancipatory projects.

Moreover, the proliferation of mechanisms to criminalize, detain, deter, and deport those considered the “others of the others”, migrants and asylum seekers, is fundamentally altering the understanding of justice in Western democracies. These new forms of the penal power have to be analyzed within this subdomain, because the different treatment of nationals and foreigners, even in the most social democratic gender regimes, is increasing social inequalities, thus, activating regress from more advanced varieties of gender regimes.

In sum, bringing-in the penal state forces researchers to look beyond the current theorization of the modern gender regimes. The coercive nature of the penal state, which entails an intrinsic force towards the domestic (Walby, 2020), and the pervasive presence of structural and intersectional inequalities, might raise issues about the most progressive forms of gender regimes. When introducing the penal state in the gender regimes theory, premodern domestic aspects adopt a more prominent role. While different forms of gender regimes within the penal state subdomain in different countries can be identified, all of them may coexist with a more or less intense presence of domestic features. The final shape will vary depending on the uneven combination of the different components. For exploring these dynamics, we propose a set of seven dimensions (Fig. 1) and apply them to the case of Spain. Future case studies should combine incarceration rates with more in-depth analyses of the set of dimensions proposed to capture the mutations and uneven evolutions of the subdomain. This comprehensive approach will unveil the complexities and paradoxes that emerge in gender regimes transformations.

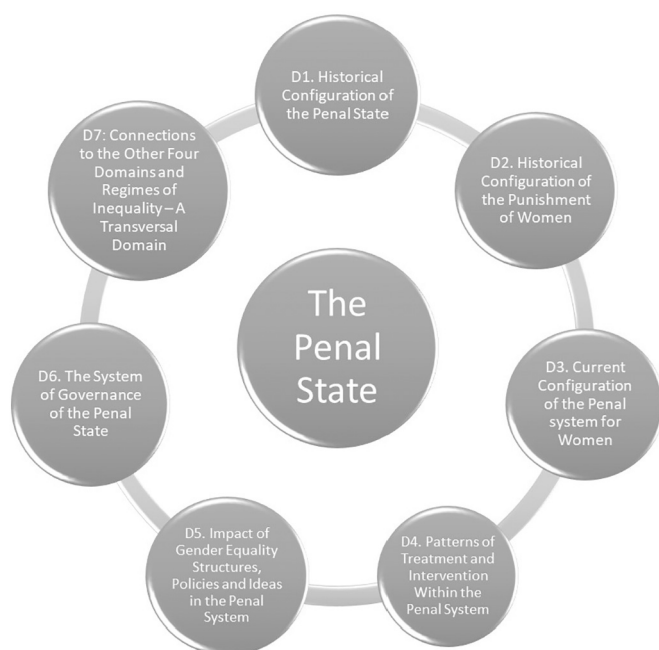


Fig. 1. Dimensions of the penal state as subdomain.

3.2. Operational definition: the seven dimensions of the penal state

The subdomain of the penal state includes the set of institutions, practices and rationales that deploy punishment, such as the criminal justice system, comprising both prison facilities but also measures that can be implemented at the mid-point between prison and society in the community (such as parole, probation, or community sanctions). The set of measures that focus on the detention, control, supervision and deportation of migrants and asylum seekers in the global era is also included in this conceptualization, including both confined spaces, such as detention facilities, but also the so-called “alternatives to detention”. In the Spanish case study, we will focus on the prison system, however, further research should expand the subdomain to other penal practices and to be applied to different countries. As Fig. 1 shows, there are seven dimensions of this new subdomain. They not only show the determinants and dynamics of the concept but provide a roadmap for future research on this subdomain within the violence domain which is first developed and applied in the case of Spain.

4. Mapping the dark side of gender regimes: the dimensions of the penal state in Spain

The case of Spain provides fruitful analytical terrain for theory-building. First, it has already been investigated in the context of gender regimes theory by Lombardo and Alonso (2020). Hence, this analysis builds from the lessons learned from the general analysis of Spain's gender regime. Secondly, its penal state has some interesting features for mapping out the dimensions of this subdomain. Spain has one of the highest rates of female incarceration within the EU, a tendency that has persisted over time. Additionally, it is one of the few countries that has applied gender equality policies specifically within prison settings. Furthermore, the presence of ethnic groups and foreign nationals in the prison system is significant.

Regarding the gender regime, Spain has been traditionally placed in the middle of a continuum between domestic and public gender regimes, albeit closer to a public regime (Lombardo, 2017). Recent advances in the theorization of gender regimes have allowed to incorporate the notion of “conservative” types (Gottfried & Shire, 2022; Shire & Nemoto, 2020), associated with countries like Spain with a recent

authoritarian legacy, that captures state policies that promote traditional gender roles, such as family and reproductive policies that treat women only as mothers (Lombardo & Alonso, 2020). Furthermore, as Lombardo and Alonso (2020) observe, different parts of Spain at different levels are driven by different gender regimes. At the same time, the country is characterized by a rapid development and consolidation of women's and equality machineries promoting gender equality at different levels of government (Bustelo, 2016). Recent austerity policies are leading to a shift in the Spanish gender regime towards a more neoliberal public form, but not a regression towards a more domestic gender regime (Lombardo, 2017). This is partially thanks to the struggles of intersecting feminist and civil society for maintaining the components of a more public gender regime (Lombardo, 2017), in a country with a traditional lack of participation of feminist and women's movements in gender policies (Bustelo, 2016). A recent comparative analysis of polity and civil society's factors in Spain and Italy focused on gender-based violence (Lombardo et al., 2023) identifies a more favourable context for the public and progressive gender regime in Spain. Key factors explaining this are, within the polity: the political party system and the party in power; the erosion of familism; the depth of democracy, the role of state feminism and velvet triangles; and the federalism. And within the civil society: the more state-oriented type of women's movement, the less strength and formal political support of anti-gender movements and more progressive public attitudes about gender roles. The functioning of the subdomain of the penal state in Spain and its particular interactions with polity and civil society domains will nuance previous typologies.

4.1. Dimension 1: historical configuration of the penal state

This first dimension implies tracing back continuities and discontinuities that can have an impact on the current shape of the criminal justice system. For instance, what are the institutions that historically have served punishment purposes, how have they evolved and what are their main features including, the level of severity of the punishment and the practices implemented, the relative openness to the free society, the understanding of the goal of the prison and of the populations inside. All these legacies are historically determined in each country and introduce particularities in the contemporary configuration of the penal regime.

In the case of Spain, the extraordinary length of the recent dictatorial period (from 1936 to 1975–1977), along with a political transition lead by the dictatorial elites, contribute to identify the Spanish polity as a model of late democratisation (Brandariz-García, 2018). The penal history of the first third of the 20th Century shows that the ideal of social rehabilitation had never been implemented, due to, among other reasons, material, and human deficiencies (Gargallo & Oliver, 2013). After 1936, Franco's dictatorship promoted a model of rehabilitation based on obedience, discipline, and personal improvement. The predominance of religious orders is constant in the prison history of Spain since the Ancient Regime. And this is perhaps seen more clearly when looking the history of women in prison (Almeda, 2002; Hernández, 2013).

After the end of the dictatorship, modern democratic penitentiary policy has inherited the inertia from the extensive authoritarian period. Although the rehabilitation prison model has been included in law (General Prisons Act, 1979), research in the field has shown that it was not implemented in subsequent decades (Gómez & Lorenzo, 2013). Thus, the main features of the evolution of the penal system in Spain may lead to its characterization as a penal post-dictatorial model, more severe and punishment-focused (Brandariz-García, 2018). In terms of gender regimes theory, the penal state subdomain maintains strong links with premodern forms.

4.2. Dimension 2: historical configuration of the punishment of women

The characteristics of the penal regimes for the treatment of women behind bars have differed from the ones imposed to men (Carlen, 1983).

The configuration and evolution of prison systems may include for example the specific practices of intervention and the discursive gendered representations of the goal of the punishment. Some of these trends are visible today due to the persistence of certain blockages, which are difficult to reverse because of the resistance of the prison system to introduce structural changes. And they also holdback with new developments and attempts to reform creating specific assemblages to institutions, discourses, and practices.

In the case of Spain, confinement centres for women have been characterized by a daily routine based on discipline, domesticity, and morality (Almeda, 2002). This had the aim to punish women for a twofold transgression: from the criminal law (crime deviation), but also from the regulation of femininity (social deviation) (Almeda, 2002). These elements have persisted over time within custodial settings and show certain continuities with the institutions of confinement during the authoritarian regime. Because of this it is difficult to identify a clear path from the pre-modern to the modern gender regime marked using prison as a predominant form of punishment.

Despite the process of modernization of prisons in Spain, including the adoption of resocialization goals, women's incarceration continued operating in the same fashion until the last decades of the 20th Century (Almeda, 2002; Hernández, 2013). Thus, the following characteristics historically shaped women's treatment in prison. First, discipline through the imposition of strong routines and control of conducts, closely surveilled by authorities, traditionally linked with the Catholic Church, which gave a prominent role of the religious organization within women's prisons. This fundamental legacy placed the gender regime of the prison close to a more conservative variety (Shire & Nemoto, 2020). Second, a moralistic approach, which connected crime and sin. The third and final characteristic is the dominance of the domesticity model with a rhetoric of separation of the public and private sphere linked with the image of the perfect mother and spouse (Nash, 2004: 40). This clear resonance with the present as well as the past, once again placed the gender regime within the prison subdomain much closer to a premodern, domestic and conservative type, particularly when compared to other parts of the polity examined by previous research on Spain.

4.3. Dimension 3: current configuration of the penal system for women

For understanding the role of the penal state within the varieties of gender regimes, we need to also identify the current components in operation. In this regard, we need to have a clear picture of the existing infrastructures for the imprisonment of women through investigating the following issues, first regarding the structures that imprison women:

- if prisoners are confined in women-only prisons or in specific units within bigger prisons with a majority of men;
- if there are mixed units where men and women live together; or facilities specially for mothers with children or entire families, where trans persons are placed;
- if prisoners within the facilities are segregated by legal status, race and ethnicity;
- and the geographic location of the facilities: inside urban areas, in far locations; if semi-open or open prisons are in operation.

And secondly, with regards to the women's prison population itself.

- the sociodemographic and criminological profile of women in prison;
- the incarceration rate of women and its evolution;
- what are the crimes they commit;
- what is the length of the sentences;
- and what is the weight of ethnic and racial groups, non-nationals and trans persons and, what is their socioeconomic level.

For the case of Spain, Figs. 2 and 3 show, during the period 1985–2000, the number of women in prison moved from 784 to 3316,

meaning an increase of the 800 % (2012: 37),³ which led to the complete saturation of the detention facilities. This increase was reversed in 2010 when numbers started to slightly decrease, as a result in the reduction in the length of the sentences linked to drug trafficking, among other factors that affected the system as a whole. These factors are more linked to the economic recession rather than a particular ideology of the party in government (for a broader analysis, see Brandariz García, 2017), which contradicts for this domain the role attributed to this factor in the analysis of Lombardo et al. (2023). Despite the limited numbers in comparison with men (Fig. 2), Spain has consistently been the leader in female imprisonment rates in comparison to men rates in EU (7.4 %, only behind Latvia, 8.6 %; Czech Republic, 8.3 %; Hungary, 7.8 %; and Malta, 7.6 %) with a significant part of that female population including foreign nationals (28.5 %⁴) and the Roma women.⁵ This reflects the interaction of multiple structural inequalities in prison population and how criminalization disproportionately affects ethnic and national minorities.

Over time, scholars in different disciplines have highlighted several issues regarding women in prison and gender inequalities. These include the impact of “macro-prisons”, which limit social and family contacts as they are located far from cities, the clear minority representation of women (Almeda, 2002), the overrepresentation of and discrimination against certain groups of women prisoners, such as foreigners (Miranda et al., 2005; Ribas et al., 2005; Ruiz-García & Castillo-Algarra, 2014) and the Roma (Barañ Team, 2001), and the particularities of drug users (De Miguel Calvo, 2016). Others have highlighted difficulties related to motherhood and children (Gea et al., 2014; Yagüe, 2006), the gendered impacts of new programmes (Ballesteros-Pena, 2017, 2018), specific vulnerabilities affecting transgender prisoners (Urta Grimal, 2017), the reinforcement of traditional gender roles (Ballesteros-Pena, 2017), and problems with training and socio-labour integration after women are released from prison (MIP Project, 2005), among others.

In Spain, women normally serve their sentences in the so-called Macro-prisons where they occupy a unit or two and the rest of the prison is occupied by men. Within these prisons there are some examples of units where men and women live together, at least two in the country, and one unit where families can live with their children under 3, one in the country. Women with children can be in External Units for Mothers (3), if they fulfill certain conditions, in Internal Units, just 2 in the country and in Dependent Units (run by NGOs outside the prison) only 1. As a result, they have to decide whether they want to serve their sentences close to their homes or bring their child with them, due to the lack of internal units. There are only four women-only prisons in the country.

The General Prisons Act (1979) briefly mentions women and the reference is related to the condition of mothers and with regards to specific attention to maternity care, which connects the gender regime within this subdomain with conservative forms. Regarding the profile of

³ The prison system in Spain is very centralized. The central level has maintained the control over prison policies in almost all regions except for two: Catalonia, since 1984, and the Basque Country, since May 2021. We have not carried out a systematic analysis of the dynamics between the national and the regional level in this paper. This will be the focus of the GEIPP project (2023–2025)-MSCA COFUND, led by the first author. Limited conclusions can be anticipated in the case of the Basque Country due to the recent transference of competencies. Regarding Catalonia, our hypothesis is that the issue of women in prison has neither been of primary attention of the feminist movement or the feminist state apparatus. Despite a rhetoric in favor of gender equality, the intrinsic characteristics of the penal state hinder transformation to more public forms, although the future analysis will show the particularities in this evolution.

⁴ Data from the General Secretariat for Penitentiary Institutions www.institucionpenitenciaria.es.

⁵ The only study carried out in Spain estimated that 25 % of women prisoners were Roma when their proportion in the general population is just 1,4 %. Source: Barañ Team (2001). *Mujeres gitanas y sistema penal*. Madrid: Metyel.

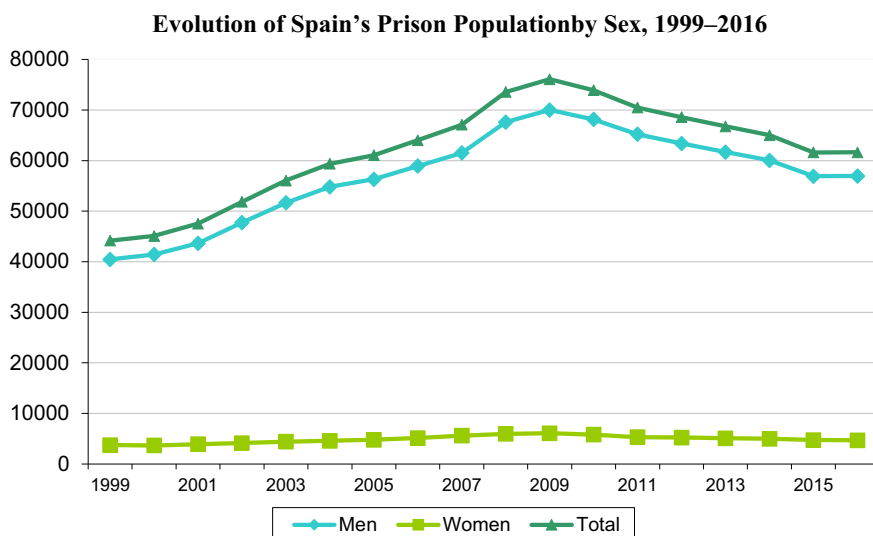


Fig. 2. Evolution of Spain's prison population by sex, 1999–2016.

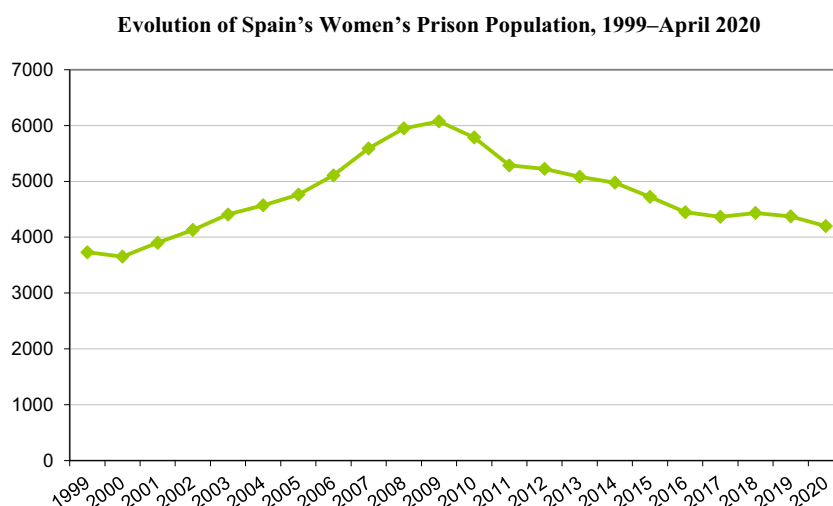


Fig. 3. Evolution of Spain's women's prison population, 1999–April 2020. Source: SGIP, Ministry of the Interior, 2020.

the women in prison, 64 % of them are sentenced because of two crimes: robberies and similar activities (37 %) and drug trafficking (27 %) (SGIP, 2022). Data collected between 2013 and 2014, showed that close to 75 % of women prisoners were mothers with an average of 2.7 children each, a significant percentage of solo parent families (Ballesteros Pena & Almeda, 2015).

4.4. Dimension 4: patterns of treatment and intervention within the penal system

Different countries have adopted more “rehabilitative” or “incapacitating” systems that evolve over time and interact with broader tendencies and global travelling. These systems are implemented through a set of programs, interventions, activities that differ depending on the philosophy adopted, but also in interaction with historical trends. The specific actions put in place are also underpinned by assumptions, stereotypes, and expectations about gender roles. The analysis of the penal state should capture the key components of daily interventions, for instance, if they are focused on individual characteristics of the person, are paying more attention to improving education, job opportunities, etc. To what extent does there exist a segregation in the activities offered

to women and men and what is the rationale behind it? Is penal reform legislation incorporating a particular treatment of women prisoners that is different for men and, if so, what are the main aspects identified?

In Spain, the traditional characteristics of the treatment of women prisoners have persisted in contemporary era. For instance, training activities as well as paid and unpaid jobs continue reproducing gender roles. The emphasis of cleaning and taking care of the spaces of the prison is higher in the case of women. At the same time, paid jobs inside (including those dependent of companies from outside the prison that are carried out by prisoners inside) show gender segregation and inequalities. For example, the jobs manufacturing products to companies from outside with better salaries are normally developed by men. Along with these continuities in treatment, some initiatives implemented within prison settings have resulted in the combination of traditional and new patterns of punishment within this subdomain. One main measure that was implemented since 2004 was the so-called “Respect Modules” programme. This programme sought to create a ‘normalised’ environment that enabled the implementation of intervention addressing individual and social needs (see Ballesteros-Pena, 2018, for further analysis). However, the analysis of the characteristics and functioning of this programme has led to the identification of a “re-domesticity

strategy" (Ballesteros-Pena, 2017). Additionally, some components that seek to contribute to self-autonomy and independence coexist with an emphasis on obedience and discipline (Ballesteros-Pena, 2018). And in the implementation of these programmes, social constructions of the good and bad prisoner also play a role in eligibility and can be informed by ethnic and racial stereotypes about the Roma prison population (Ballesteros-Pena & Almeda, 2015) and Latin American prisoners (Ballesteros-Pena, 2020). At the same time, other examples of interventions, such as the design and implementation of a family mediation pilot programme shows again the dominance of the frame that portrays women in more traditional roles in the domestic sphere. Thus, attempts to displace the gender regime to more public forms are hindered by these forces that push back the evolution towards more conservative forms where intersectional inequalities are plain to see.

4.5. Dimension 5: impact of gender equality structures, policies and ideas in the penal system

Although with limited impacts, in certain times the gender inequalities and discriminations suffered by women in the penal system have captured the attention of policymakers and the gender equality machineries of the State. There are different examples around the world of countries that have designed reform initiatives trying to create prison systems and programming that are gender-sensitive and address issues of gender equality and women's rights. The gender regimes that emerge from the penal system will be partially shaped by the specific ways in which the introduction of gender equality initiatives takes place. In this sense, it is important to identify:

- the main actors that have played a role in the process;
- the discourses about gender and women's needs;
- the mechanisms designed and their political approach (specific actions, gender mainstreaming plans);
- to what extent these mechanisms have been put in place;
- and the main impacts in terms of gender transformation in the penal system and society more generally.

In Spain, despite the rapid development and consolidation of gender equality policies and machineries (Bustelo, 2016), their role in prison reform has been quite limited. The unprecedented boost to gender equality policies in Spain with the victory of the Spanish Socialist Workers Party (PSOE) in the 2004 elections (Bustelo, 2016) drew more public and political attention to gender inequalities inside prison. However, this turn has been much more limited than the advances in other areas of the public action. The General Secretariat of Penitentiary Institutions (SGIP) approved a Gender Equality Action Programme in November 2008 to address the situations and circumstances that perpetuate the discriminatory treatment of women in the penal system.

The development of gender equality policies in the prison system could be identified as a relative shift towards a more public gender regime, in line with other analyses carried out for the entire country (Bustelo, 2016; Lombardo, 2017). However, the gender frame analysis of the content of these programmes as well as the political situation after 2011 contradicts this hypothesis. Ballesteros-Pena and Bustelo (2021) identify two dominant gender policy frames in the adoption process of the Gender Equality Action Programme in Spain that can help to explain the lack of feminist progress: the domesticity frame and the victimhood frame. The domesticity frame is predicated on the image of women prisoners in their traditional roles as mothers and family caretakers. The victimhood frame emphasizes women's lack of autonomy and low self-esteem, linked to their supposed 'fragility' and 'dependency', which is taken to explain why they frequently become 'victims' of gender-based violence and sexual abuse. Both tend to maintain the gender regime closer to the domestic or conservative end of the continuum.

The operation of these quite conservative policy frames is also complemented by the lack of attention to women's prisons in 2011,

coinciding with the return of the conservative Popular Party (PP) to power, showing the fragility of the advances in this area. In the following years, while some of the programme's measures continued, the implementation of gender equality initiatives within the penitentiary system was stalled, and interest in women prisoners was minimal. Ultimately, this limited role of the gender machineries and the feminist movement in the development of gender equality policies in prisons explains the lack of change in this regard (Ballesteros-Pena & Bustelo, 2021, 2023), which contradicts the stronger role played in other domains, as explained by Lombardo et al. (2023).

4.6. Dimension 6: the system of governance of the penal state

In general terms, the subdomain of the penal state is one of the opaquest of the polity in action. With variations between countries, the capacity of civil society, including feminist groups, to intervene in the formulation, implementation or monitoring of actions is very limited, in part because we talk about a group of practices with a highly coercive and repressive component – the dark side of state action. However, structures of governance of this subdomain have to be identified in order to assess the variation in the role of different governmental and non-governmental institutions in the functioning of the prison system as well as their capacity to influence the evolution of this subdomain.

In Spain, the prison system has been an area particularly close to the public, exemplified by traditional difficulties to get access to data on facilities for research or to develop activities. Additionally, the capacity of different actors to participate in the design, implementation and elaboration of public policies has been also limited. The closed nature of this arena and the lack of exchange with the ideas of the outside can help to understand the limits to gender equality policies on the inside, the content of them and the deficiencies in the implementation of the measures (Ballesteros-Pena & Bustelo, 2021). Civil society's involvement in prisons – especially the involvement of the feminist and women's movement – has been limited and poorly articulated in Spain. This coincides with one of the features of State feminism in Spain as well, which is limited collaboration between the women's policy machineries and civil society-based women's movements and groups. (Bustelo, 2016). At the same time, women's movements have not mobilized around set-backs in prison reforms addressing gender equality in the same way they did on gender equality policy more broadly speaking (Lombardo, 2017). The coercive nature of the penal power hinders the potential dynamics of participation. Furthermore, the contradictions between women's rights and the removal of women's rights when they are imprisoned makes it difficult for feminist movements and activists to rally behind gender equality efforts in prison.

The nature of the subdomain of the penal state also creates a great distance from other areas of public governance because of the specific patterns and populations targeted. For this reason, this subdomain cannot be absorbed by the polity domain, although – with some nuances- some path dependencies can be identified. For instance, it is true that the progressive governments, including the one currently in office, tend to introduce some measures that, at least, introduce a rhetoric of more openness and collaboration of the prison system. However, the different components of the penal apparatus, including the structures of governance of each prison setting as well as its bureaucratic organization, can be much more resistant to change. This reluctance and the nature of the penal power maintains the prison system close to pre-modern/conservative varieties of gender regimes and the role of the political party is much more limited, conversely to other analysis (Lombardo et al., 2023).

4.7. Dimension 7: connections to the other four domains and regimes of inequality – a transversal subdomain.

Finally, connections to the other four institutional domains in gender regimes theory should be traced. On a practical level as the analysis of

the Spanish case shows so far, this can be mostly done in mapping out each of the six dimensions. For instance, the analysis of the dimension 6, brings to the table the links with other two institutional domains: civil society and the polity. The traditional closure of the penal system and the nature of the punitive power have been highlighted as key factors in the understanding of these relations. In Spain, this has led to a limited engagement of the civil society, particularly the feminist movement, in the prison system. Furthermore, the particularities of women prisoners, most of them part of highly excluded groups, problematize their inclusion in the mainstream feminist agenda.

Regarding the polity domain, it means that the depth of democracy within the prison system is very limited in comparison with other areas of governance. The economic domain in the prison system is translated, for instance, in the labour market that exists inside. In the analysis of dimension 4, the domestic nature of some of the jobs was highlighted and also the segregation in its distribution, which again displaces this subdomain towards domestic/conservative forms. Finally, we have located this subdomain within the domain of violence because the prison system can be a manifestation of state violence (both legitimized and not). Also, most incarcerated women have experienced trauma and abuse (Beichner & Hagemann, 2022). Conversely to the protection of survivors of gender-based violence outside (effective or not), the prison system (re)produces different forms of violence against women and intensify its impacts. In the case of Spain, some studies (MIP Project, 2005) estimate that close to 90 % of women in prison have been victims of some form of gender-based violence. The intersection of structural violence and gender-based violence with this subdomain can nuance the analysis of the violence domain within gender regimes theory and the understanding of changes in its varieties.

Furthermore, in our application of this set of dimensions to the functioning of a particular country and the subdomain of the penal state, we need to pay specific attention to the interaction of the different “regimes of inequality”. As indicated, they play a significant role since the penal subdomain affects disproportionately women who are poor, from underrepresented racial and/or ethnic groups as well as foreign nationals, etc. In each country, the combination of these different inequalities can be quite different since they unfold in specific historical and contemporary patterns of that context. In the case of Spain, as previously mentioned, poor and excluded groups, foreign nationals and racial minorities, such as Roma population are disproportionately represented within prison population.

5. Conclusions: lessons learned, next steps and comparative research agenda.

This article has argued that gender regimes theory will highly benefit from the introduction of the subdomain of the penal state within the domain of violence; an area that has been traditionally obscured and that could have significant implications to the gender regimes theory. This is because it shows the soft dark, domestic and pre-modern underbelly of gender regimes that otherwise might be located more towards the modern and public end of the gender regime continuum. As recent research on theorizing gender regimes has also shown, any macro picture of gender regimes at the national level must be nuanced by the complexities of the existence of varieties of gender regimes within each national setting and institutional domains— across different arenas and at different levels of the state.

The discussion of the dimensions of the penal state subdomain in general and a close empirical look at them in the case of Spain, provides a strong argument for how this subdomain is different and distinct from the current theorization of violence and how it interacts with all of four domains. Of course, this inclusion of the penal state should not only be brought into gender regimes theory but in all feminist analysis of gender policy of the state, given that on one hand its inclusion brings an entirely different set of political dynamics compared to other areas of gender equality policy and structures and, on the other, that this research has

thus far completely neglected the penal state in terms of its gendered nature and its implications on gender equality more broadly speaking.

The empirical mapping of the dark side of the Spanish gender regime shows how the legacy of the authoritarian regime has created a major blockage or “gender-biased path dependency”⁶ that has been difficult to shake. The prison system retains highly gendered norms that reinforce private roles as mothers and contribute to systems of intersectionality that mean that more women prisoners are from underrepresented groups like Roma and the poor and that transgendered individual are mistreated. The gender equality machineries and women's movements also seem to be prisoners of these same gender-biased path dependencies. Gender equality programmes end-up being highly gender-biased promoting the same domestic and moralistic views of all women prisoners. Feminist movements and actors, typically mobilized around blockages in women's rights outside of the prison walls, are either not involved or highly distant from promoting the rights of women prisoners or improving their situation. The long reach of the Spanish dictatorship has kept the arena around prison reform and the treatment of women in prison highly closed to outside influence as well.

Our analysis is just a first step limited to the Spanish case. Clearly, it is necessary to carry out a similar empirical mapping exercise for as many countries as possible across the globe, obviously a long-term endeavor that is indicative of the “slow science” of feminist approaches to social science more generally (Mazur, 2020). There are a host of comparative questions that emerge about how the different national contexts play out in terms of the gender-biased path dependencies that were evident in the Spanish case, particularly in comparison to stable democratic countries with strong traditions of gender equality policies and state feminism. But also, it is crucial to carry out research on the penal state in emerging/non-democratic and non-western settings where gender regimes theory has already been put to the test (Bose, 2023; Koçabicak, 2023; Moghadam, 2023). One hypothesis is that there is a strong legacy of premodern forces in this subdomain across quite different countries across the globe, which again puts into question any macro notion of a clear development towards pre-modern regimes to modern regimes. However, this legacy has to be examined in its interactions with changes implemented over time to see the resulting forms the penal state adopts.

Another critical area in which to conduct further research, even in the case of Spain is to investigate the “shadow carceral state” – particularly in the area of immigration detention and women's rights, which unfolds outside of the parameters of the criminal justice system and is directly related to transnational forces of immigration. Questions of the engagement of feminist movements and gender equality machineries are raised here given that the institutional arena is in immigration and border control and not the domestic prison system. Indeed, in conducting research on this relatively new development of the penal state, it will shed more light on the dark side of gender regimes in postindustrial setting, which has involved putting mothers in cages and separating them from their children.

In conclusion, while there is much work to be done through slow and methodical science, gender regimes theory would greatly benefit from bringing on board this subdomain. Its inclusion would contribute to the increasingly complex nature of the theory- which has taken on complexity from the start, and in so doing, it would allow the theory to more comprehensive, reliable, and valid. Furthermore, we hope that this first step will be a diffusion of bringing issues of penalty into other areas of the study of gender, policy and the state. And in turn, this would

⁶ Based on feminist critiques of path dependency and institutionalist theories that had completely missed or even purposefully ignored “gendered logics of appropriateness of institutions (Chappell, 2006)” that perpetuates dominant norms, gender biased path dependency has been identified as a major roadblock for achieving meaningful gender equality reform in action (e.g., Mazur & Engeli, 2020).

empower, energize, and even give a home to researchers who are taking on this neglected area showing that better understanding the dark side of gender regimes can only move forward theory building and research.

Funding

Ana Ballesteros-Pena would like to acknowledge that this project has received funding from the Programme for Attracting Talent (Community of Madrid) and the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No 847635.

Acknowledgements

We wish to thank Sylvia Walby, Karen Shire, and Heidi Gottfried for the inspiring workshop on *Future of gender regimes: implications for theory and practice* they organized in Berlin in April 2022 and for their and all participants' helpful feedback to our paper. The paper was also presented at the Geypo Seminar Series in May 2023 and greatly benefited from the feedback received. We also thank editors and anonymous reviewers for their valuable insights and suggestions.

References

- Aas, K. F. (2014). Bordered penalty: Precarious membership and abnormal justice. *Punishment & Society*, 16(5), 520–541.
- Aas, K. F., & Bosworth, M. (2013). Preface. In K. F. Aas, & M. Bosworth (Eds.), *The Borders of punishment: Migration, citizenship, and social exclusion* (pp. vii–xii). Oxford: Oxford University Press.
- Abji, S. (2016). 'Because deportation is violence against Women': On the politics of state responsibility and Women's human rights. *Social Politics: International Studies in Gender, State & Society*, 23(4), 483–507.
- Almeda, E. (2002). *Correct and punish: The yesterday and today of women's prisons*. Barcelona: Edicions Bellaterra.
- Bacchi, C. (1999). *Women, policy and politics: The construction of policy problems*. SAGE Publications Ltd.
- Ballesteros-Pena, A., & Almeda, E. (2015). Políticas de igualdad en las cárceles del siglo XXI: Avances, retrocesos y retos en la práctica del encarcelamiento femenino. *Praxis Sociológica*, 19, 161–186.
- Ballesteros-Pena, A. (2017). Re-domesticity and female imprisonment in the spanish penitentiary system: Respect modules. *Revista de Sociología*, 102(2), 261–285.
- Ballesteros-Pena, A. (2018). Responsibilisation and female imprisonment in contemporary penal policy: "Respect modules" ("Módulos de Respeto") in Spain. *Punishment and Society*, 20(4), 458–476.
- Ballesteros-Pena, A. (2020). The prison trajectories of foreign national women in Spain: Intersections of citizenship, gender, race, and social class. *Critical Criminology*, 28, 243–258.
- Ballesteros-Pena, A., & Bustelo, M. (2021). *Gender equality policies confined: Adopted and implemented frames in the criminal justice system in Spain, paper presented in the ECPR General Conference, 30 August-3 September online*.
- Ballesteros-Pena, A., & Bustelo, M. (2023). Gender equality in prison reform in Spain: A gender-biased closed policy system prevents real change. *European Journal of Politics and Gender*, 6(1), 23–39.
- Barañi Team. (2001). *Gypsy women and criminal system*. Madrid: Metyel.
- Beichner, D., & Hagemann, O. (2022). A global view of women, prison, and aftercare: A call for reform. *Violence Against Women*, 28(8), 1788–1808.
- Bertrand, M. A. (1998). *Prisons pour femmes*. Montréal: Les Éditions du Méridien.
- Bose, C. (2023). *Regional gender regimes in the global south: An empirical approach*. This issue: Women's Studies International Forum.
- Bosworth, M. (1999). *Engendering resistance: Agency and power in women's prisons*. Aldershot: Ashgate.
- Bosworth, M. (2000). Confining femininity: A history of gender, power and imprisonment'. *Theoretical Criminology*, 4(3), 265–284.
- Bosworth, M., Franko, K., & Pickering, S. (2018). Punishment, globalization and migration control: 'Get them the hell out of here'. *Punishment & Society*, 20(1), 34–53.
- Brandariz García, J. A. (2017). ¿Historia de dos continentes? Análisis comparativo del reciente descenso de la población penitenciaria en EE.UU. y España. *Studi sulla Questione Criminale*, XII(1-2), 151–169.
- Brandariz-García, J. A. (2018). An enduring sovereign mode of punishment: Post-dictatorial penal policies in Spain. *Punishment & Society*, 20(3), 308–328.
- Bustelo, M. (2016). Three decades of state feminism and gender equality policies in multi-governed Spain. *Sex Roles*, 74, 107–120.
- Bustelo, M. (2017). Evaluation from a Gender+ perspective as a key element for (re) gendering the policymaking process. *Journal of Women, Politics & Policy*, 38(1), 84–101.
- Carlen, P. (1983). *Women's imprisonment: A study in social control*. London: Routledge & Kegan Paul.
- Carlen, P. (Ed.). (2002). *Women and punishment* (1st ed.). London: Willan.
- Carlen, P. (2005). Imprisonment and the penal body politic: The cancer of disciplinary governance. In A. Liebling, & S. Maruna (Eds.), *The effects of imprisonment* (pp. 421–441). Willan: Cullompton.
- Carlen, P., & Tombs, J. (2006). Reconfigurations of penalty. *Theoretical Criminology*, 10(3), 337–360.
- Carlen, P., & Worrall, A. (2004). *Analyzing women's imprisonment*. London: Willan Pub.
- Chappell, L. (2006). Comparing political institutions: Revealing the gendered 'logic of appropriateness'. *Politics and Gender*, 2(2), 223–255.
- Ciccia, R., & Lombardo, E. (2019). Care policies in practice: How discourse matters for policy implementation. *Policy and Society*, 38(4), 537–553.
- Collins, P. H. (1998). It's all in the family: Intersections of gender, race and nation. *Hypatia*, 13, 62–82.
- Crenshaw, K. (1991). Mapping the margins: intersectionality, identity politics and violence against women of color. *Stanford Law Review (Special Issue: Women of Color at the Center: Selections from the Third National Conference on Women of Color and the Law)*, 6(July), 1241–1299.
- Davis, A. Y., Dent, G., Meiners, E. R., & Richie, B. (2022). *Abolition. Feminism. Now*. Haymarket Books.
- De Miguel Calvo, E. (2016). Women, drug use and imprisonment. *Intersectional Approach, Política y Sociedad*, 53(2), 529–549.
- Engeli, I., & Mazur, A. (2018). Taking implementation seriously in assessing success: The politics of gender equality policy. *European Journal of Politics and Gender*, 1(1–2), 111–129.
- Esposito, F., Matos, R., & Bosworth, M. (2020). Gender, vulnerability and everyday resistance in immigration detention: Women's experiences of confinement in a Portuguese detention facility. *International Journal for Crime, Justice and Social Democracy*, 9(3), 5–20.
- Foucault, M. (1975). *Vigilar y castigar: Nacimiento de la prisión*. 1979. Madrid: Siglo XXI.
- Gargallo, L., & Oliver, P. (2013). Desarrollo y colapso del penitenciarismo liberal. In P. Oliver (Ed.), *El siglo de los castigos. Prisión y formas carcelarias en la España del siglo XX* (pp. 15–62). Barcelona: Anthropos.
- Garland, D. (1999). Editorial: Punishment and society today. *Punishment & Society*, 1(1), 5–10.
- Garland, D., & Young, P. (Eds.). (1983). *The power to punish*. London: Heinemann.
- GDP. (2019). *International women's day: Focusing attention on the abuses women suffer in immigration detention*. <https://www.globaldetentionproject.org/international-womens-day-2019> (accessed 22 December 2021).
- Gea, M. J., Domínguez, M., & Sádaba, I. (2014). *A shared conviction a case study on penal control*. Madrid: Tierradenadie editores.
- Gelsthorpe, L. (1989). *Sexism and the female offender*. Aldershot: Gower.
- Gerard, A., & Pickering, S. (2014). Gender, securitization and transit: Refugee women and the journey to the EU. *Journal of Refugee Studies*, 27(3), 338–359.
- Gómez, G., & Lorenzo, C. (2013). Redención y represión en las cárceles de Franco. In P. Oliver (Ed.), *El siglo de los castigos. Prisión y formas carcelarias en la España del siglo XX* (pp. 63–100). Barcelona: Anthropos.
- Goodkind, S. (2005). Gender-specific services in the juvenile justice system: A critical examination. *Affilia: Journal of Women and Social Work*, 20(1), 52–70.
- Goodkind, S. (2009). 'You can be anything YouWant, but you have to believe It': Commercialized feminism in gender-specific programs for girls. *Signs: Journal of Women in Culture and Society*, 34(2), 397–422.
- Gottfried, H., & Shire, K. (2022). Beyond old divides: Changing gender regimes in Germany and Japan (unpublished). In *Varieties of gender regime workshop Berlin*. May.
- Haney, L. (2000). Feminist state theory: Applications to jurisprudence, criminology, and the welfare state". *Annual Review of Sociology*, 26.
- Haney, L. (2010). *Offending women: Power, punishment, and the regulation of desire*. Berkeley: University of California Press.
- Hannah-Moffat, K. (2000). Prisons that empower: Neo-liberal governance in Canadian Women's prisons. *British Journal of Criminology*, 40(3), 510–531.
- Hannah-Moffat, K. (2001). *Punishment in disguise: Penal governance and Federal Imprisonment of women in Canada*. Toronto: University of Toronto Press.
- Hannah-Moffat, K. (2010). Sacrosanct or flawed: Risk, accountability and gender-responsive penal politics. *Current Issues in Criminal Justice*, 22(2), 193–215.
- Heidensohn, F. M. (1985). *Women and crime*. Londres: Macmillan.
- Hernández, F. (2013). Cárceles de mujeres del novecientos: Una práctica de siglos. In P. Oliver (Ed.), *El siglo de los castigos: Prisión y formas carcelarias en la España del siglo xx*. Madrid: Anthropos.
- Kantola, J. (2006). *Feminist theorize the state*. Basingstoke: Palgrave.
- Kaye, K. (2012). Rehabilitating the 'drugs lifestyle': Criminal justice, social control, and the cultivation of agency. *Ethnography*, 14(2), 207–232.
- Koçbıçak, E. (2023). *The causes and the consequences of the patriarchal state: Evidence from Turkey*. This issue: Women's Studies International Forum.
- Krutttschnitt, C., & Gartner, R. (2005). *Marking time in the Golden State: Women's imprisonment in California*. New York: Cambridge University Press.
- Lombardo, E. (2017). The spanish gender regime in the EU context: Changes and struggles in times of austerity. *Gender, Work & Organization*, 24, 20–33.
- Lombardo, E., & Alonso, A. (2020). Gender regime change in decentralized states: The case of Spain. *Social Politics: International Studies in Gender, State & Society*, 27(3), 449–466.
- Lombardo, E., Alonso, A., & Ciccia, R. (2023). *A southern European model? Gender regime change in Italy and Spain and the interplay of polity, civil society and gender-based violence*. This issue: Women's Studies International Forum.
- Lombardo, E., & Bustelo, M. (2022). Sexual and sexist harassment in Spanish universities: Policy implementation and resistances against gender equality measures. *Journal of Gender Studies*, 31(1), 8–22.
- Lombardo, E., Meier, P., & Verloo, M. (Eds.). (2009). *The discursive politics of gender equality: Stretching, bending and policymaking*. London: Routledge.

- Lombardo, E., Meier, P., & Verloo, M. (2013). Policy making. In G. Waylen, K. Celis, J. Kantola, & S. L. Weldon (Eds.), *The Oxford University Press Handbook on Gender and Politics* (pp. 677–700). Oxford, UK: Oxford University Press.
- Malloch, M. (2017). The imprisonment of women in Scotland: Restructure, reform or abolish? In L. Moore, P. Scraton, & A. Wahidin (Eds.), *Women's imprisonment and the case for abolition: Critical reflections on corston ten years on* (pp. 71–87). London: Routledge.
- Mazur, A. (2002). *Theorizing feminist policy*. Oxford University Press.
- Mazur, A. G. (2017). Toward the systematic study of feminist policy in practice: An essential first step. *Journal of Women, Politics & Policy*, 38(1), 64–83.
- Mazur, A. G. (2020). Feminist approaches to concepts and conceptualization: Towards better science and policy. In S. Crasnow, & K. Intemann (Eds.), *2020. Handbook of feminist philosophy of science* (pp. 381–393). Routledge.
- Mazur, A. G., & Engeli, I. (2020). The search for the elusive recipe for gender equality policy: When implementation matters. *French Politics*, 13(1–2), 3–27.
- McBride, D., & Mazur, A. (Eds.). (1995). *Comparative state feminism*. Thousand Oaks, CA: SAGE.
- McBride, D., & Mazur, M. G. (2010). *The politics of state feminism: Innovation in comparative research*. Philadelphia: Temple University Press.
- McCorkel, J. (2003). Embodied surveillance and the gendering of punishment. *Journal of Contemporary Ethnography*, 32(1), 41–76.
- McCorkel, J. (2004). Criminally dependant? Gender, punishment, and the rhetoric of welfare reform. *Social Politics*, 11(3), 386–410.
- McKim, A. (2014). Roxanne's dress: Governing gender and marginality through addiction treatment. *Signs: Journal of Women in Culture and Society*, 39(2), 433–458.
- MIP Project. (2005). *Women, Integration and Prison Analysis of the Processes of Socio-Labor Integration of Women Prisoners in Europe (MIP)*... <https://cps.ceu.edu/research/mip>. (Accessed 22 December 2021).
- Miranda, M. J., Martín, M. T., & Vega, C. (Eds.). (2005). *Offenses and borders*. Madrid: Editorial Complutense.
- Moghadam, V. (2023). *Gender regimes, politics, and the world system: Comparing Iran and Tunisia*. This issue: Women's Studies International Forum.
- Moore, L., Scraton, P., & Wahidin, A. (2017). *Women's imprisonment and the case for abolition: Critical reflections on the Corston ten years on*. London: Routledge.
- Mügge, L., Montoya, C., Emejulu, A., & Weldon, S. L. (2018). Intersectionality and the politics of knowledge production. *European Journal of Politics and Gender*, 1(1), 17–36.
- Nash, M. (2004). *Mujeres en el mundo: Historia, retos y movimientos*. Madrid: Alianza Editorial.
- Owen, B., Wells, J., & Pollock, J. (2017). *In search of safety: Confronting inequality in Women's imprisonment*. Oakland: University of California Press.
- Penal Reform International. (2021). Global prison trends 2021. <https://www.penalreform.org/global-prison-trends-2021/> accessed 31 March 2022.
- Renzetti, C. M. (2013). *Feminist criminology*. London: Routledge.
- Ribas, N., Almeda, E., & Bodelón, E. (2005). *Tracking the invisible foreign women in prisons*. Barcelona: Anthropos.
- Rosenberg, R., & Oswin, N. (2015). Trans embodiment in carceral space: Hypermasculinity and the US prison industrial complex. *Gender, Place & Culture*, 22(9), 1269–1286.
- Ruiz-García, M., & Castillo-Algarra, J. (2014). Experiences of foreign women in Spanish prisons. *Journal of Offender Rehabilitation*, 53(8), 587–599.
- SGIP. (2022). *General Report 2021*. Madrid: Minister of Internal Affairs.
- Shire, K. A., & Nemoto, K. (2020). The origins and transformations of conservative gender regimes in Germany and Japan. *Social Politics: International Studies in Gender, State & Society*, 27(3), 432–448.
- Simon, J., & Sparks, R. (2013). Introduction: punishment and society: the emergence of an academic field. In J. Simon, & R. Sparks (Eds.), *The SAGE handbook of punishment and society* (pp. 1–20). SAGE Publications Ltd.
- Tildesley, R., Lombardo, E., & Verge, T. (2022). Power struggles in the implementation of gender equality policies: The politics of resistance and counter-resistance in universities. *Politics & Gender*, 18(4), 879–910.
- Turnbull, S., & Hannah-Moffat, K. (2009). Under these conditions: Gender, parole and the governance of reintegration. *British Journal of Criminology*, 49, 532–551.
- Urra Grimal, D. (2017). Transgression behind bars: Factors of vulnerability in Barcelona's prison system'. *Athena Digital*, 17(2), 175–200.
- Verloo, M. (2005). Mainstreaming Gender Equality in Europe. A frame analysis approach. *The Greek Review of Social Research (Special issue: Differences in the framing of gender inequality as a policy problem across Europe)*, 117, 11–34.
- Verloo, M., & Lombardo, E. (2007). Contested gender equality and policy variety in Europe: Introducing a critical frame analysis approach. In M. Verloo (Ed.), *Multiple meanings of gender equality: A critical frame analysis of gender policies in Europe* (pp. 21–51). Budapest: Central European University Press.
- Walby, S. (2009). *Globalization and inequalities*. London: Sage.
- Walby, S. (2020). Varieties of gender regimes. *Social Politics: International Studies in Gender, State & Society*, 27(3), 414–431.
- Walby, S. (2023). *Authoritarianism, violence, and varieties of gender regimes: Violence as an institutional domain*. This issue: Women's Studies International Forum.
- Woodward, A. (2004). Building velvet triangles: Gender and informal governance. In T. Christiansen, & S. Piattoni (Eds.), *Informal governance in the European Union*. Cheltenham: Edward Elgar.
- Wyse, J. (2013). Rehabilitating criminal selves: Gendered strategies in community corrections. *Gender and Society*, 27(2), 231–255.
- Yagüe, C. (2006). *Mothers in prison: History of women's prisons through their maternal side*. Comares: Granada.

Ana Ballesteros-Pena is a Marie Skłodowska-Curie Research Fellow (UNA4CAREER COFUND) at the Complutense University of Madrid (UCM) where she leads the GEIPP project *Gender Equality and Intersectionality in prison policies: a multi-governed analysis*. She is a member of the GEYPO (UCM, Spain) and ECRIM (University of A Coruña, Spain) research groups. Previously, she has been the PI of the Marie Curie Project *Governmigration* on immigration detention in Spain and Canada. Her main research lines include gender and punishment, prison policies, migration and border control and gender equality policies. Recent publications can be found in *Theoretical Criminology*, *European Journal of Politics and Gender* and *Critical Criminology*.

Dr. María Bustelo is Associate Professor of Political Science and Public Administration, she co-directs the Excellence Research Group GEYPO “Gender & Politics”, with Emanuela Lombardo, and is the Director of the Master on Evaluation of Programmes and Public Policies at the Complutense University of Madrid (UCM). She has been the European coordinator of the Horizon 2020 SUPERA project (Supporting the Promotion of Equality in Research and Academia), and a National research R+D project on Equality Policies in Spanish Universities, 2018–2022), and is currently the PI at UCM of another Horizon 2020 project, the UniSAFE (Making Universities and Research Organisations Safe from Gender-Based Violence, 2021–2024). From 2018 she is an expert member of the Gender Group (*Mesa de Género*) at the Spanish Ministry of Universities. She has several publications on gender policies, evaluation theory and methodology, and evaluation from a gender perspective.

Amy G. Mazur is CO Johnson Distinguished Professor of Political Science at Washington State University and Associate Researcher at LIEPP, Sciences Po Paris. Her most recent books include: *Gender Equality and Policy Implementation in the Corporate World: Making Democracy Work in Business* edited with Isabelle Engeli (Oxford University Press, 2022) and *Gender and the Coercive State: Feminist Penalty Policy Across the Globe*. Edited with Ana Ballesteros-Pena and María Bustelo. (Palgrave Macmillan, 2024). She has been co convening the Gender Equality Policy in Practice network since 2013 with Isabelle Engeli and editing *French Politics* since 2019. In 2021–22, she conducted mixed method research to produce the guide, *Institutional Mechanisms for Gender Equality as Critical Actors: A Guide for Success in the OSCE* (2023), for the Office of Democratic Institutions and Human Rights of the Organization of Security and Cooperation of Europe.