

## RESEARCH ARTICLE

# Gender equality in prison reform in Spain: how a gender-biased, closed policy system prevents real change

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This article aims to understand what happens when gender equality policies cross prison walls – a challenging domain that has traditionally been invisibilised and ignored in the scholarship on gender and politics. By analysing the formulation and post-adoption phases in Spain, four main conclusions are drawn: first, the formulation phase has been highly impacted by the absence of the feminist movement and gender experts, resulting in the adoption of traditional views about the nature and needs of women; second, the lack of knowledge about, or disagreement with, the goals of the public policies activates forms of resistance that block attempts to advance; third, the ideas included in policy documents can be ‘fixed’ in the implementation phase and can eventually shape future courses of action; and, finally, the persistent absence of the feminist movement in the post-adoption phase results in the lack of opportunities to change the course of action towards a more transformative path.

**Key words** Spain • prison • gender equality policies • implementation • adoption • feminist movement

### Key messages

- The prison system has been absent in feminist policy studies scholarship.
- Certain characteristics of the prison system pose specific challenges to gender equality policies.
- Practitioners’ disagreement with the goals of gender equality policies activates forms of resistance.
- The role of the feminist movement in the adoption and post-adoption phases greatly impacts the configuration of prison policies.

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## Introduction

Advanced democracies, guided by such core values as non-discrimination and social justice, must guarantee real action to stop the (re)production of gender inequalities.

This is true in every context and especially so for vulnerable groups at high risk of social exclusion. Women in prison are one of these groups. Yet, the gender discrimination they experience has traditionally been ignored by feminist and gender scholars, as well as policymakers committed to gender equality.

In contrast to the fruitful body of knowledge on gender equality policies across multiple fields, very little is known about the struggles and challenges of the adoption and post-adoption phases of gender policies in the prison system. Analysis of the gendered nature and impacts of penal policies has come from other fields, such as scholarship on punishment and society, as well as the field of criminology. Since the 1970s, researchers in these disciplines have studied discrimination against women in the prison system and the gendered nature of punishment (see, among others, [Carlen, 1983](#); [Heidensohn, 1985](#); [Gelsthorpe, 1989](#)). They have unveiled the persistent forms of discrimination and gendered prejudices embedded in penal policies and prison programmes (see, among others, [Hannah-Moffat, 2001](#); [McCorkel, 2004](#); [Haney, 2010](#); [Owen et al, 2017](#); [Ballesteros-Pena, 2017, 2018 \[2017\]](#)). Some policy-oriented studies have proposed solutions to improve conditions for women in penal facilities through alternative rehabilitation pathways ([Bloom et al, 2003](#); [Player, 2014](#); [Gelsthorpe and Russell, 2018](#)) that consider the social issues of poverty and abuse, women's strengths, adequate treatment, recovery and support services ([Covington and Bloom, 2007](#)). Although these works emphasise the key role of political will, appropriate funding and management ([Gelsthorpe and Russell, 2018](#)), they have barely studied the policy process.

This article takes the case of Spain to explore this issue with a twofold purpose. First, it contributes to bridging a gap in the scholarship on gender and politics by analysing a domain that has traditionally been invisibilised and ignored. We show how the particularities of the prison system pose specific challenges for the development of gender equality policies and how these struggles are affected by the evolution of the penal field in each jurisdiction. The possibilities of adopting and implementing transformative gender goals are limited due to both a lack of permeability (of both ideas and actors) of the prison environment and limited opportunities for the exchange of ideas. Second, we demonstrate how the ideas included in key policy documents (Spain's Gender Equality Action Programme between Women and Men in the Penitentiary Field, hereinafter referred to as the Gender Equality Action Programme) have been highly impacted by the absence of key actors in the adoption of these documents, such as the feminist movement and gender experts. By doing so, we offer new insights for the analysis of both the formulation of gender equality policies and the post-adoption phase, which have led to the adoption of ideas and frames that are far from pursuing transformative goals. At the implementation level, amid multiple and contradictory positions expressed by relevant actors, research reveals that there is a lack of recognition of the existence of gender inequality and discrimination in the penal field by some practitioners and political authorities. The existence of stereotypes in diverse gender frames, as well as the lack of recognition of gender inequality, can activate dynamics of opposition. This minimises or neutralises potential progress on gender equality. The persistently limited role of the feminist movement and gender experts in this phase also helps us understand why limited gender equality outcomes have been achieved.

Feminist scholarship on policy analysis has flourished in parallel with the development of gender policies since the early 1970s in Western post-industrial democracies ([Lombardo et al, 2013](#); [Mazur, 2017](#)). The first decades of studying

gender equality initiatives focused on the design and formulation of policies through research projects examining discourses, debates, problem definition and policy frames (Engeli and Mazur, 2018). More recently, some scholars (Mazur, 2017; Engeli and Mazur, 2018) have pointed to the need to expand the scope of the analysis to include the post-adoption phase and, more concretely, the implementation phase. This phase had been neglected by feminist policy studies for decades, despite the public policy literature having proposed a rich and interesting focus on implementation since the 1970s (among the pioneers are Derthick, [1972]; Pressman and Wildavsky, [1973] and Bardach, [1977], while Lipsky, [1980] is also important as a representative of the second generation of bottom-up implementation studies).

Despite a growing body of literature, the penal field and, particularly, the prison system have been completely absent in feminist policy scholarship. In part, this is due to the infrequent and uneven formulation and implementation of gender equality policies in the penitentiary field in global terms. The main examples of gender equality initiatives come from Anglo-Saxon countries, such as Canada (TFFSW, 1990), the UK (Corston, 2007) and the US (Bloom et al, 2003). In Spain, some academic research and reports began to emerge in the late 1990s (see, among others, Almeda, 2002; Manzanos and Balmaseda, 2003; Miranda et al, 2005; MIP Project, 2005; Andalusian Ombudsman, 2006). However, it was not until the end of the first decade of the 21st century that governmental attention was paid to the gender inequality and discrimination faced by female prisoners by virtue of the general expansion of gender equality policies in Spain. To act on this matter, in November 2008, the government of Spain approved the first Gender Equality Action Programme. Despite this delay in policy action, thus far, no systematic analysis of the formulation or implementation of gender equality policies in the penal field has been developed in the burgeoning literature on gender equality/feminist policy analysis. Although some lessons (conceptual or practical) from other domains can be transferred and adapted, we argue, following Walby (2005: 328):

rather than generalizing across all gendered domains within a country, it is important to consider the specificities of each domain, and the nature of its links to other domains to understand the development of gender mainstreaming. Each domain is likely to have its own institutional history and have been subject to different types of gender equality policy and politics.

In the same vein, McBride and Mazur (2010) show that variations in the patterns of state feminism are better explained if the analysis focuses on a sector rather than on a country. Thus, the purpose of this article is to ‘open up the black box of gender policy implementation’ (Engeli and Mazur, 2018: 124) in the penitentiary field. We argue that prisons are a domain in which formulating and implementing gender equality policies involves very distinctive constraints due to several factors. These include: the traditionally closed nature of the prison system in the public eye; its isolation from society; the nature of power and the interventions developed; power imbalances; understandings of the population who are subject to interventions; and the limited possibilities for outside actors to engage with the system.

The article proceeds as follows. In the next section, we provide notes on the article’s methodological approach. We continue by offering insights on the particularities of

the prison system that explain the specific struggles surrounding the implementation of gender equality policies. Next, we contextualise the Spanish case, offering a brief historical review of the situation of women and policies implemented in democratic Spain, paying particular attention to the Gender Equality Action Programme. We then focus on analysing how ideas have shaped the implementation process. We first describe the participation of different actors in the adoption phase and the gender policy frames that emerge within policy documents. Thereafter, we analyse the way in which dynamics of participation have continued to take effect in the implementation phase and the impact of policy frames on the implementation phase. Finally, we explore the extent to which ideas have mattered throughout the entire policy process.

## Notes on methodology

The data used for this article come from fieldwork conducted between 2013 and 2014 in the context of PhD research by Ana Ballesteros-Pena, under the supervision of María Bustelo in its final period. This research offers a sociological and criminological analysis of gender equality policies in the Spanish prison system, taking the novel Respect Modules programme as a case study.<sup>1</sup> For the purposes of this article, we analysed policy documents, reports and laws, in addition to conducting 27 interviews. These engaged four politicians (one of whom was interviewed twice) who were in charge of the Spanish prison system at different points in time, alongside practitioners working within three prisons with women's units. The interviewees included one lawyer, three psychologists, four social educators, one social worker, 12 team managers in charge of different areas (one of whom was interviewed twice) and two other staff members. We analysed this information using critical frame analysis (CFA), a methodology that aims to uncover and study different representations of the problem of gender inequality and solutions enshrined in policy documents (Verloo and Lombardo, 2007).<sup>2</sup> Atlas.ti software was used to carry out the analysis.

## Context

### *The prison as an environment for gender equality policies*

Despite jurisdictional differences, there is a certain agreement within Western societies that prisons are considered a space separate from society, wherein persons who have committed crimes are confined for a certain amount of time (or indefinitely). Within the space of the prison, disciplinary power (Foucault, 1979) is predominant and articulated through a variety of practices and instruments. Several scholars have highlighted the gendered character of the prison (Bosworth, 1999; Hannah-Moffat, 2001). Historical analyses have shown the contemporary characteristics of women's incarceration in the first institutions for confinement in Western societies in the 17th century (Bosworth, 2000). Sociological and criminological research reveals that social practices in prisons today reproduce normative gender identities, with different impacts on women and men. According to Carlen (1983: 18), who has studied women's prisons since the 1980s, 'in general, the motto of those charged with the penal regulation of deviant women has been "discipline, medicalise and feminise"!'.

This triple dimension is understood as follows: (1) the constant anxiety of the state regarding women's role within the family and society, as well as the notion that prisons must reduce the damage inflicted on families and society; (2) the characterisation of women as weaker, both physically and mentally, than men; and (3) the belief that breaking the law is a masculine behaviour, so women who commit crimes are transgressing not only the law (legal norms), but also femininity (social norms) (Carlen and Worrall, 2004: 2).

In her analysis of one of the only experiences of a women-centred approach to the prison system, Hannah-Moffat (2001: 5) concludes:

well-intentioned benevolent efforts to improve the conditions for women prisoners and to create a penal regime that addresses historically specific understandings of women's needs reproduces and obscures complex and ambiguous relations of power, and further, that prisons are remarkably flexible institutions that absorb, adapt, and accommodate a variety of competing and sometimes contradictory rationalities. There is a complicated relationship between ideals and penal policies.

As such, alongside the more or less attenuated presence of the persistent historical trends of women's imprisonment discussed earlier, the prison environment creates the framework for the formulation and implementation of gender equality policies.

Although separated from society, prison institutions are connected to it through different interactions and initiatives, such as through families, non-governmental organisations (NGOs), lawyers or intervention programmes, among others. Yet, the nature of this connection is always mediated by the punitive nature of prisons. In addition, the goal of keeping prisoners separate from society significantly limits the possibilities for exchange with other areas of public policy, including gender equality policies. Specifically, the dynamic background of knowledge and practices on gender inequality, which constantly evolves and produces interactions and dialogue between different areas and social actors, has scarcely crossed prison walls. Unlike the key role of feminist alliances, coalitions and velvet triangles (Woodward, 2015) between state and society actors (Squires, 2005; Verloo, 2005; Walby, 2005; Mazur, 2017; McBride and Mazur, 2010; Engeli and Mazur, 2018), the highly closed and controlled nature of the prison policy sector precludes these coalition politics from taking place at all.

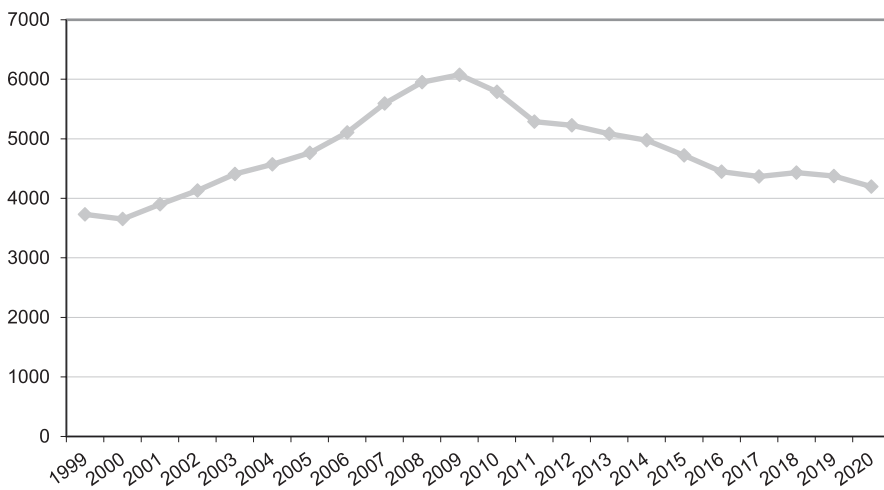
When we consider the possibility of formulating and implementing gender equality policies, the fact that we are dealing with an institution created to punish must not be ignored. Regardless of the more or less rehabilitative philosophy that underlies the prison system of each jurisdiction, the understanding of gender inequality and discrimination against women is traversed by the fact that prison facilities confine those who have been separated from society for committing a crime. As Hannah-Moffat (2001: 195) points out, 'the feminization of penal regimes does not forgive their punitive and oppressive tendencies, especially when we consider that the subjects of the regimes are involuntary'. Furthermore, and conversely to McBride and Mazur (2010), we argue that penal regimes have particular characteristics in each jurisdiction and have evolved in a different manner. More than the commonalities of prison environments, analysis and reflections must consider the elements in place at a specific time and in a specific country.

### *The evolution of gender equality policies in the prison system in Spain*

On the one hand, the history of women's incarceration in Spain has been characterised by silence on the issue of women in the penitentiary system, often justified by the small number of women prisoners compared to men. On the other hand, it is characterised by the ways in which the punishment of women has historically been deployed. Moralisation, discipline and control have been the axes of intervention vis-à-vis women prisoners, who have been considered transgressive in a twofold sense – not only as transgressing the law, but also as transgressing gender mandates. The role that the Catholic Church has historically played in women's penitentiary institutions must also be considered (Almeda, 2002). The legal framework that regulates Spain's prison system consists of the Prison Act (*Ley Orgánica General Penitenciaria*) 1/79 of 26 September 1979 and the Penitentiary Regulation (*Reglamento Penitenciario*) of 1996 that develops the act. This legal framework reflects the invisibility of women prisoners in the penitentiary system (Almeda, 2002: 151). The only articles that address women focus on obstetric needs, pregnancy and women's role as mothers.

During the 1980s and 1990s, women's presence in Spain's prison system increased significantly. Between 1985 and 2000, the number of women prisoners increased by 800 per cent, rising from 784 prisoners in 1985 to 3,316 in 2000, according to official statistics (Yagüe, 2012: 37). This tendency changed in 2010 due to, among other factors, a shift in the Penal Code that reduced the length of sentences for drug-trafficking offences, as well as an increase in the deportation of undocumented migrants from prison.

**Figure 1:** Evolution of Spain's female prison population, 1999–April 2020



Source: Statistics from the General Secretariat of Penitentiary Institutions (SGIP), Ministry of the Interior: <https://www.institucionpenitenciaria.es/es/web/home/fondo-documental>.

During the 1990s, some notable initiatives were implemented following complaints from external bodies, such as the ombudsperson. The number of places in prisons started to grow, women were incarcerated in new prisons (in line with a new design known as the 'macro prison') and new women-only centres were built. In tandem, inadequate departments were closed and some departments were customised to respond to maternity issues in prisons (Yagüe, 2012: 38–9). Despite these efforts,

the penitentiary system continues to discriminate against women. Under a so-called ‘gender-neutral’ model, women’s departments were designed in a similar fashion to other entities, and, in principle, both women and men had access to the same job opportunities, training and leisure. These new prisons obscured a ‘universal’ male model design based on men’s characteristics and needs.

Since 1992, collaborative work between the penitentiary services and the Woman’s Institute – and, at times, its regional (autonomous community) counterparts – led to the implementation of specific activities to address the situation of women in the penitentiary system and incorporate a gender perspective. Although these activities achieved some progress, a comprehensive approach to women’s imprisonment in Spain was still lacking.

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 over-representation of and discrimination against certain groups, such as foreigners (Miranda et al, 2005; Ribas et al, 2005; Ruiz-García and Castillo-Algarra, 2014) and the Roma population (Barañí Team, 2001; 2007); and the particularities of drug users (De Miguel Calvo, 2016). Others have highlighted, among other things: difficulties related to motherhood and children (Gea et al, 2014; Yagüe, 2006); the gendered impacts of new programmes (Ballesteros-Pena, 2017, 2018 [2017]); specific vulnerabilities affecting transgender prisoners (Urra Grimal, 2017); the reinforcement of traditional gender roles (Ballesteros-Pena, 2017; Valenzuela-Vela and Alcázar-Campos, 2020); and problems with training and socio-labour integration after women are released from prison (MIP Project, 2005).

With the election of the centre-left Spanish Socialist Workers’ Party (PSOE) in 2004 and the designation of a new team in the Directorate General of Penitentiary Institutions, changes were introduced. These began with the implementation of treatment programmes, the promotion of open prisons and efforts to strengthen relations with third sector organisations, affecting the entire penitentiary system. During this period, there was also a proliferation of gender equality policies in Spain, which materialised in the adoption of important legal texts. These include the Organic Law 1/2004 of 28 December on ‘comprehensive protection measures against gender violence’, the Organic Law 3/2007 of 22 March for the ‘effective equality of women and men’ and the 2008–11 Strategic Plan for Equal Opportunities. The first two pieces of legislation mention vulnerable groups, or groups at risk of social exclusion, and the need to pay special attention to these groups, of which women in prison could form a part. However, they do not explicitly mention women prisoners, unlike other groups, such as migrant women and women with disabilities. By contrast, the Strategic Plan for Equal Opportunities explicitly names women prisoners or former prisoners as among groups at high risk of social exclusion. In parallel, in 2007, the Comisión Mixta de los Derechos de la Mujer y de la Igualdad de Oportunidades (Parliamentary Committee of Women’s Rights and Equality of Opportunities) began debating the situation of women in prisons and demanded that the government promote equal opportunities between women and men within penitentiary institutions.<sup>3</sup>

During the second tenure of the PSOE government (2008–11), this request was acted upon. Building upon this policy framework, the General Secretariat of



Penitentiary Institutions (SGIP) approved a Gender Equality Action Programme in November 2008 that includes more than 120 actions with a twofold, explicitly declared objective: first, its actions aim to address the situations and circumstances that perpetuate the discriminatory treatment of women in the penal system; and, second, they seek to contribute to breaking the social and personal barriers that women face by enabling them to take advantage of their time in prison. Key initiatives implemented in the following years included:

- the formation of the Technical Commission – comprising academics, civil servants, experts and NGOs – to monitor, support and prioritise the measures included in the programme;
- the promotion of legal changes, such as the amendment to the Criminal Code that reduces the length of sentences for drug trafficking;
- the development of new custodial facilities (and the revision of current facilities), with the aim of incorporating a gender perspective, enabling adequate classification and providing equipment tailored to women's needs;
- the generalisation of some programmes and the attempt to offer the same quality of services to men and women;
- increased attention to survivors of gender-based violence through the *Ser mujer* (To Be a Woman) programme;
- the implementation of a family mediation pilot programme to facilitate relationships between mothers and children, as well as to prepare for a return to the family environment;
- the creation of external units for mothers<sup>4</sup>; and
- the design and implementation of a system of indicators to assess differences between women and men in their daily lives, and the opportunities provided within prisons (Yagüe, 2012).

While this first Gender Equality Action Programme was approved by the SGIP, the measures it included were meant to be prioritised by the Technical Commission. It represented a general framework to promote gender equality, and non-compliance with its lines of action did not involve sanctions. The Technical Commission was in charge of the development of monitoring and evaluation tools, which were explicitly mentioned in the programme but not compulsory. The minutes of the commission's meetings reveal the evolution of some of the initiatives implemented. However, no formal evaluations of these initiatives were conducted. As such, no published information exists on the degree of implementation, or the results achieved, by the aforementioned actions.<sup>5</sup>

This first Gender Equality Action Programme ended in 2011, coinciding with the return of the conservative Popular Party (PP) to power. In the following years, while some of the programme's measures continued, the implementation of gender equality initiatives within the penitentiary system was paralysed and interest in women prisoners decreased considerably. The programme was replaced by a very limited number of measures that were included in the 2014–16 Strategic Plan for Equal Opportunities. At the end of 2017, the Woman and Equal Opportunities' Institute (formerly the Woman's Institute) and the SGIP agreed on a set of measures to promote gender equality between women and men in the penitentiary sphere in 2017 and 2018.



## The ‘story of ideas’ in action during the post-adoption phase

### *The adoption process: critical absences and gender policy frames*

Different actors’ participation in the formulation of public policies is a critical part of promoting gender equality and incorporating the voices and demands of different groups affected by these policies. Several authors (Verloo, 2005; Walby, 2005; Engeli and Mazur, 2018) have paid particular attention to the participation of the women’s movement in policy development. The Gender Equality Action Programme did not follow these patterns. Instead, it was elaborated almost exclusively by the SGIP, with the collaboration of the Ministry of Equality<sup>6</sup> through the Woman’s Institute. In general, Spanish public policy development has not been characterised by a participatory approach that involves civil society in gender equality policies (Valiente, 1995; Bustelo and Ortals, 2007). This is especially pronounced in the domain of criminal policies. Academia is represented both in the diagnosis of the problem and in its prognosis. As a result, some studies and analyses by feminist scholars were used to diagnose the problem of gender inequality in prisons. However, there is no evidence that feminist scholars were involved in the formulation of the programme. The feminist movement and women’s organisations, as well as the voluntary sector and civil society in general, were decidedly absent from the programme’s formulation.

Unlike other European countries, such as the UK, civil society’s involvement in prisons – especially the involvement of the feminist and women’s movement – has been limited and poorly articulated in Spain. Working in the context of prisons using a critical approach, as the feminist movement does, continues to be challenging. In recent decades, particularly during the tenure of Spain’s two socialist governments, public authorities promoted civil society’s participation in the penitentiary sphere. During these years, increased collaboration with third sector organisations emerged as an important advancement in the sphere of penitentiary policy. The emphasis placed on their work and the priority accorded to these organisations resulted in the creation of the Penitentiary Social Council and local penitentiary councils. However, participation was limited to organisations that delivered specific programmes or services within prisons. In this regard, it is important to note that very few women’s organisations are involved in prison activities, and their involvement is limited in scale. The imbalance of resources (Engeli and Mazur, 2018), which affects feminist groups particularly intensely, has a negative impact on possibilities for their involvement in participatory bodies. In recent years, the feminist movement – through groups of activists and the alliance between activists and academics – has begun to create informal networks that showcase the reality of women prisoners and advocate for their rights. Yet, these networks remain a minority of the outside actors who are directly involved in policy design. Nonetheless, women prisoners were partially involved in the elaboration of the Gender Equality Action Programme, according to interviews conducted for the research. Workshops were organised with women prisoners to elicit their opinions on the structure of prison units and their needs. Despite this, the options and mechanisms for the participation of civil society, including feminist groups and women prisoners, are highly impacted by the imbalance of power that still exists in the context of penal enforcement. Furthermore, the risks of the co-optation of ideas for different goals, as well as obscured power relationships (Hannah-Moffat, 2001) within punitive institutions, must be placed at the core of the analysis.

The CFA by Ballesteros-Pena and Bustelo (2021) identifies four gender policy frames emerging from the adoption process of the Gender Equality Action Programme in Spain: (1) a numbers frame, which suggests that the problem of gender inequality does not exist within prisons; (2) a domesticity frame; (3) a victimhood frame; and (4) the frame of individuals as productive members of the economy and society. The numbers frame is sustained by the assumption that the differences between women and men in prison are chiefly based on the lower percentage of women prisoners among the total population of prisoners. According to this formulation, if women constituted half of the prison population, they would be in the exactly the same situation as men and no problem would exist. In this case, equality is understood as ‘sameness’ (Hannah-Moffat and Shaw, 2000: 21; Squires, 2005; Verloo, 2005; Walby, 2005; Verloo and Lombardo, 2007). The domesticity frame is predicated on the image of women prisoners in their traditional roles as mothers and family caretakers. This image is built in a uniform manner, wherein ambiguity and diversity have no place. The victimhood frame emphasises 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. The frame of individuals as productive members of the economy and society is built on the view of imprisoned women as individuals with a wide range of needs – personal, professional, emotional and related to family. These needs should be ‘fixed’ to allow women to become socially active individuals by assuming their socially ascribed roles of mothers, wives and independent self-sufficient subjects through training and employment.

An intersectional approach was almost entirely absent in the programme’s formulation. While different groups are mentioned several times – including women who are foreign nationals, women with disabilities and young women – the approach is decidedly vague and general. Other groups are not considered at all, such as gender and sexual minorities, including lesbian, gay, bisexual, transsexual and intersex (LGBTI+) persons, and the Roma population, who, according to the few studies conducted on this ethnic group in Spain (Barań Team, 2001; 2007), represent 25 per cent of the country’s prison population.

### *The post-adoption phase: the persistent exclusion of actors and implemented measures*

Responsibility for the actual implementation of measures included in the Gender Equality Action Programme rests with prison staff – guards, directors, psychologists, lawyers and social workers, among others. They represent the principal human resources in place within a prison setting. During interviews with prison staff, most revealed a variety of visions of gender inequality, anecdotal knowledge of the Gender Equality Action Programme and irregular engagement. This is reflected, for instance, in the answer of one prison team manager when he was asked about differences between women and men in prison: “I don’t see them, initially, I don’t see differences. The inmate [man or woman] who wants to do something, who wants to take advantage of the time in prison ... I believe there is no difference.” Others regard discrimination as a matter of numbers and as ‘something from the past’ that has been overcome by new infrastructure. As one interviewee put it: “New centres, with better facilities for all, the units designed are all the same, and women don’t get the worst of it. Women’s situation gets better because the infrastructure has been improved.”

In addition to implementation by prison staff, political support (at the highest level) for gender equality initiatives also represents a critical aspect, especially due to the strongly vertical organisation of the penitentiary system. When politicians deny the existence of gender discrimination, this affects policy support for the implementation of gender equality initiatives, as reflected in the words of one interviewee: “I have the perception, and this is a matter of fact after 30 years of working in this field, that women receive attention even with positive discrimination; just because they are fewer [of them], they receive more attention.”

All of these attitudes can have a direct impact on prison staff's engagement with gender equality policies, participation in training and commitment to the actions promoted by these policies. Therefore, at the implementation level, overt or implicit disagreement with policies can activate dynamics of opposition, leading to the minimisation or neutralisation of potential progress towards gender equality in the criminal justice system. This can be identified by analysing the small group of staff members who are involved in specific projects, such as the professionals in charge of the *To Be a Woman* programme. Their capacity to generate real shifts that impact the entire institution is extremely limited.

Other actors' involvement in the daily life of prisons, particularly third sector associations and other civil society organisations, involves a 'double path'. On the one hand, the prison system may request the assistance of a well-versed service organisation to support a specific group of the prison population that is in need, such as drug users, prisoners with mental health issues and others. On the other hand, by using public or private resources, an organisation can submit an application to implement a project (such as a training, sport or education-related project) in a prison. Few examples exist of advocacy groups or feminist groups being allowed to develop regular programmes in prisons. [Engeli and Mazur \(2018\)](#) highlight the need to consider resource imbalances when analysing the involvement of different groups in the implementation phase. In the case of penitentiary policies, power imbalances are especially key. Incorporating this concept requires us to consider the particularities of punitive power and the strong hierarchy of the prison system. The ability to advocate for certain improvements or to denounce discrimination is intertwined with the fact that access to prisons may be restricted on the basis of the content or mechanism used to undertake an intervention. In terms of resources, the location of correctional facilities in remote areas and the time and economic constraints that this perpetuates can limit possibilities for implementing initiatives in prisons.

Alongside the implementation of measures, the monitoring and evaluation of public policies can be an interesting mechanism for fostering empowerment through inclusive policies ([Engeli and Mazur, 2018](#)). As noted earlier, the Technical Commission was created within the framework of the Gender Equality Action Programme. This drew together representatives of different government departments (such as the Woman's Institute and the Department of Justice), penitentiary institutions (including political representatives and prison staff), scholars and a limited number of civil society organisations (five of the commission's 26 members). The commission did not specifically include women's or feminist groups, and it only held three meetings between 2009 and 2011. As its main task was to prioritise measures included in the Gender Equality Action Programme, the scope for negotiation or expanding the issues covered was highly limited. While participants in both the first and the last meeting of the Technical Commission highlighted the need to develop specific programmes

for migrants, the Roma population and drug users, none of these recommendations was translated into practice. This is also connected to the lack of diversity within the organisations involved. Very few organisations worked for, or represented, women. Representatives of the LGTBI+ community, the Roma community, foreign nationals, women with disabilities and women with mental health issues were entirely absent from the commission. As a result, the voices and demands of diverse women and feminist groups were barely heard during the implementation process.

Both the gender policy frames and different actors' roles in the implementation phase shaped the principal measures implemented in the context of the Gender Equality Action Programme. Considering the main initiatives prioritised in the post-adoption period, a line of continuity is apparent between the adoption and post-adoption phases. This can be explained by the primary role played by the SGIP in the adoption and the post-adoption phases. In terms of the numbers frame, a system of indicators (called SINDISCRIP) was developed regarding the differences between women and men in prisons. The domesticity frame was translated into practice through the design and implementation of a family mediation programme, which sought to restore ties between children and other family members, alongside the expansion of the external units for mothers. The victimhood frame was addressed through the *To Be a Woman* programme, which sought to reduce women prisoners' vulnerability to gender-based violence. Finally, the frame of individuals as productive members of the economy and society was put into practice by prioritising such programmes as *Respect Modules*. These programmes sought the creation of a 'normalised' environment that enables the implementation of interventions that address individual and social needs (for further analysis, see [Ballesteros-Pena, 2018 \[2017\]](#)), paired with the *Medio abierto* (Open Prison) programme that offers prisoners the opportunity to serve part of their sentence outside prison.

However, the implementation and continuity of these measures has been uneven. For instance, SINDISCRIP offered Spain's first snapshot of the differences between women and men in prison across different areas – such as health and education – using specially elaborated indicators and statistical information from prisons ([Del Val and Viedma, 2012](#)). However, SINDISCRIP's authors questioned the quantity and quality of this information. We have found no evidence of the use of these indicators by prison staff or authorities after that first study, as well as no evidence of the improvement of statistics over time. The family mediation programme was implemented as a small-scale pilot, and there is no evidence of its expansion or continuity. By contrast, the *To Be a Woman* programme, the *Respect Modules* and the Open Prison programme have continued to operate.

## Conclusions

This article contributes to opening the 'black box' of gender equality-related penitentiary policies by using the case of Spain to analyse the ways in which ideas have impacted the policy adoption and implementation phases. First, we have argued that, unlike other sectors, certain characteristics of the prison system create a challenging environment for the development of gender policies. The complex power relations involving the institution of the prison, prisoners, civil society organisations and other public departments, the punitive character of the institution, and its hierarchical organisation, discipline, exclusion and limited openness to the rest of the society,

among other factors, result in clear limitations when attempting to advance gender equality. Furthermore, we have explored different actors' role in both the formulation and the implementation phases. In the adoption process, the SGIP played a primary role, and the absence of women's organisations, feminist organisations and gender experts in this phase was highly remarkable. This process resulted in the lack of consideration of the voices and demands of the women's and feminist movement. The penitentiary sector's characteristics limit the active involvement of civil society in the policy process, specifically groups with limited resources and power. This helps to partially explain the dynamics of the adoption process and the gender policy frames included in key policy documents. Our analysis has also shown that a similar dynamic persisted in the implementation process. On the one hand, the daily life of the prison institution depends on prison staff, who do not always share or believe in the ideas and initiatives promoted by gender equality policies, generating dynamics of resistance. On the other hand, the complex role of civil society and the quasi-absence of the feminist movement, the women's movement and representatives of other key groups curtails their opportunities to express multiple diverse voices and demands.

As a result, no signs of 'inclusive policy empowerment' exist. The feminist and women's movement had no role in the design, monitoring and evaluation of the Gender Equality Action Programme, either as a whole or at the practical level of implementing initiatives in the prison environment. This impacted the entire process and clearly influenced the outcomes achieved by gender equality policies. The fragility of the adoption and implementation phases, the final content of the measures implemented and the limited possibilities for challenging future developments are connected to the dynamics that accompanied the process as a whole. Thus, the adoption process neither offered opportunities to incorporate voices and demands in order to pursue transformative goals, nor opened up space for modifying the course of action.

The outcome of the process analysed can be located between what [Mazur and Engeli \(2018\)](#) call 'gender neutral' and 'gender accommodation',<sup>7</sup> with no indication of real 'gender transformation' taking place. Some resources were mobilised for the Gender Equality Action Programme's implementation, and tasks were assigned to a unit within the SGIP. Yet, gender issues represented a small part of the unit's portfolio. Therefore, even if some 'policy outputs' were achieved, the process did not result in real outcomes. Despite the genuine intention of combatting gender discrimination against women in prison, the way in which the fight against discrimination was framed rested on traditional views of women's nature and needs. This reflects a lack of exchange with the dynamic evolution of feminist ideas in contemporary Spanish society, contributing to 'gender reproduction' (accommodation) rather than 'gender transformation'. As a result, these traditional views became 'fixed' during the implementation phase, which risks laying the foundations for the future reproduction of these views.

In summary, the mobilisation of multiple points of view during the adoption phase was extremely limited due to the absence of key actors, such as gender experts and civil society organisations, particularly the feminist movement. This resulted in the adoption of frames that are far removed from gender-transformative goals. During the implementation phase, two trends emerged. First, resistances to the implementation of gender equality goals arose, either because prison staff did not share these goals or due to the 'fixing' of the ideas adopted in the Gender Equality Action Programme

and, presumably, of future paths that do not contribute to reducing gender inequality in a transformative manner. Second, the persistent absence of civil society and feminist groups in the implementation phase hindered possibilities for changing these tendencies in the post-adoption phase.

Ultimately, the intrinsically coercive nature of the prison environment creates significant obstacles to more inclusive models of democracy. Society as a whole is still far from feeling involved in the needs, rights and reality of women prisoners – neither is it in those affecting male prisoners. In recent years, feminist and women's movements in Spain, allied with scholars, have started to pay attention to this sphere and to include women prisoners' rights within the scope of their advocacy. Guaranteeing the presence of gender experts, feminist groups, prisoners' advocates, women prisoners and former prisoners in the diagnosis would be a starting point for future developments.

## Notes

- <sup>1</sup> The qualitative research involved visits to three correctional facilities: a women-only facility; a correctional facility that currently has only one women's unit; and a facility with two units for women. The fieldwork included interviews, non-participatory observation and attendance at some of the events organised in these prisons. In addition to interviews with prison staff, 86 women prisoners were interviewed. For more details, see [Ballesteros-Pena \(2017; 2018 \[2017\]\)](#).
- <sup>2</sup> Due to this article's word limit, we cannot provide a comprehensive description of the CFA methodology. For details, see [Verloo \(2005\)](#), [Dombos et al \(2012\)](#) and [Verloo and Lombardo \(2007\)](#).
- <sup>3</sup> This request and the Gender Equality Action Programme only affect prisons under the administration of the central government. Catalonia is the only region in Spain with full competencies regarding the prison system. As such, it designs and implements its own public policies in this field.
- <sup>4</sup> These are facilities created outside prisons for women serving sentences and their children, which aim to reduce the number of children living in prisons.
- <sup>5</sup> With the exception of the 'To Be a Woman' Programme, which has been evaluated and a final report published.
- <sup>6</sup> The Ministry of Equality is currently known as the Ministry of the Presidency, Relations with Parliament and Equality.
- <sup>7</sup> [Mazur and Engeli \(2018\)](#) distinguish four levels of gender transformation: (1) 'gender neutral', wherein the policy is symbolic and, as such, fails to transform gender relations or does not even attempt to do so; (2) 'gender row back', whereby equality policies work against the promotion of gender equality; (3) 'gender accommodation', whereby the policy accommodates or compensates for traditional gender relations; and (4) 'gender transformation', when the policy achieves real changes in gender and sexualised norms.

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## Conflict of interest

The authors declare that there is no conflict of interest.

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