Spain: More Rights, but the Obstacles Remain

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Introduction

‘I regret having filed a complaint, because my family would not have found out and I would still be in the position I am in now: alone, without any help, working like a Trojan so that my children and I can get by.’

Testimony of Laura (real name withheld), interviewed by Amnesty International in April 2006.

Since 2002, Amnesty International has produced a series of reports seeking to encourage the Spanish government to address the issue of gender-based violence from a human rights perspective and to bring its legislation and policies into line with United Nations standards. The organisation has taken a keen interest in the drafting and progress of the Ley Orgánica de Medidas de Protección Integral contra la Violencia de Género (Basic Law on Comprehensive Protection Measures to Tackle Gender-Based Violence, hereafter referred to as Comprehensive Law) and has made recommendations during its passage through parliament.

Despite the improved protection of rights of women facing gender-based violence, Amnesty International has also observed several shortcomings of the Comprehensive Law, such as the limited protection afforded by the Law in cases of gender-based violence within intimate relationships; the failure to include a provision on the right of victims to obtain redress; the failure to review the juicios rápidos (fast-track trials), a type of proceeding that could foster impunity; and the failure to include an explicit provision on the victims’ right not to be present on police or court premises at the same time as their assailants.

* This article is based on a report of Amnesty International entitled: España: Más derechos, los mismos obstáculos published in June 2006 (Spain: More Rights, but the Obstacles Remain).

1 Basic Law 1/2004 of 28 December (BOE no. 313 of 29 December 2004).
On the first anniversary of the full entry into force of the Comprehensive Law (the law came into force on 29 January 2005 with the exception of the sections relating to Tutela penal y judicial (criminal protection and judicial protection), which came into force on 29 June 2005), Amnesty International was interested to see how the measures introduced by this law had been effectively implemented. During the first year, some of the measures provided for in the Comprehensive Law have been adopted, including the creation of the Delegación Especial del Gobierno contra la Violencia sobre la Mujer (special government office dealing with violence against women), the establishment of Juzgados sobre violencia contra la Mujer (courts specialising in cases of violence against women) and the Observatorio Estatal de Violencia sobre la Mujer (National Observatory on Violence against Women), and the appointment of a Fiscalía contra la Violencia sobre la Mujer (Public Prosecutor’s Office dealing with Violence against Women).

Amnesty has also identified several obstacles that women who are victims of gender-based violence face in defending their rights. As mentioned above, there are some very important issues not covered by law, but there is also a lack of territorial uniformity in the institutional response to gender-based violence. Examples are: the continuing difficulty of early detection of violence, the lack of assistance for women in the area of health, the lack of accessibility and quality control of resources to provide victim support and the patchy provision of comprehensive assessment units to serve the administration of justice. These problems will be discussed below in more detail.

In a report entitled España: Más derechos, los mismos obstáculos published in June 2006 (Spain: More Rights, but the Obstacles Remain), Amnesty International – using the testimonies of women who are victims of gender-based violence, professionals in the field and representatives of organisations working with these women in eight autonomous communities – has analysed how Spain’s response to gender-based violence has changed since this law came into force, in a year which has produced more murders than the year before: in 2006, 67 women died at the hands of their partner or ex-partner. It is important to underline that the responsibility of states to exercise due diligence in defending women’s rights does not stop at the legislative stage, but continues until such rights become a reality.

**Continuing Inadequacies in Spain’s Response to Gender-Based Violence**

After the adoption of the Comprehensive Law, there continues to be a lack of territorial uniformity in institutional response to gender-based violence. This has serious consequences for the guaranteeing of minimum standards of assistance, protection and justice for victims.

The lack of material and human resources is an enduring factor in every link of the chain of agencies responsible for assistance, protection and justice in the face of gender-based violence. The budgetary allocation to enable the measures

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2 The complete report is available in Spanish at www.es.amnesty.org/nomasviolencia.