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Gender-based Violence and the Mediatization of the Law

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Abstract

This paper focuses on a global social conflict, gender-based violence, that only in Spain caused the death of over one thousand women between 1997 and 2018. From a legal linguistics perspective, we examine the concept of gender-based violence as well as the effects of the mediatization of the law (Hepp / Hjarvard / Lundby 2015: 314–324). We hypothesise that gender-based violence is the ultimate social consequence and surface effect of heteropatriarchal values, beliefs, basic assumptions, and ideals which are at the core of this dominant cultural paradigm based on power and domination, and for this reason resilient to change, as illustrated by the emergence of the latest development of gender-based violence: cyberviolence against women. The questions we discuss are: can linguistics help to better understand the overarching concept of gender-based violence? Which roles do the news media play concerning gender-based violence? How do the news media and the law interact with each other? And which are the effects of this interaction? Our methods include *Natural Semantic Metalanguage* (NSM) (Wierzbicka 1972, 1996; Goddard 1998; Wierzbicka / Goddard (Eds.) 2002; Wierzbicka / Goddard 2014) and a multidimensional approach to the analysis of heteropatriarchal culture consisting of four interrelated levels: (a) gender as a value dimension, (b) ideology, (c) social practices, and (d) discursive practices.

Keywords: gender-based violence, legal linguistics, mediatization, law

I. Introduction

This paper analyses a global social conflict, gender-based violence, that only in Spain caused the death of over one thousand women between 1997 and 2018, an alarming figure that surpasses the number of people killed by the terrorist group ETA in its more than fifty years of activity in that country. The conflict arises from the clash of two opposing transnational cultural paradigms: one based on power and domination (Heteropatriarchy), the other on solidarity and equality (Feminism). Gender-based violence has been in societies in the world around us since ancient times, but this social phenomenon was not made visible until it was categorised as an object of protection by the law. The Organic Law 1/2004, of December 28th, on Comprehensive Protection Measures against Gender Violence¹ in Spain, at the time with no legal precedent in the European Union, must be given the credit for having

¹ http://noticias.juridicas.com/base_datos/Admin/lo1-2004.html [Last access 14/07/2018].

categorised gender-based violence and created comprehensive protection measures whose purpose in theory is to prevent this type of violence, punish the perpetrators, give assistance to the victims, and ultimately eradicate this social scourge.

From a legal linguistics perspective, we examine the overarching concept of gender-based violence as well as the effects of the mediatization of the law. We hypothesise that gender-based violence is the ultimate social consequence and surface effect of heteropatriarchal values, beliefs, assumptions and ideals which are at the core of this dominant cultural paradigm based on power and domination and for this reason resilient to change, as illustrated by the emergence of the latest development of gender-based violence: cyberviolence against women. We discuss these questions: Can linguistics help to better understand the overarching concept of gender-based violence? Which roles do the news media play concerning gender-based violence? How do the news media and the law interact with each other? And which are the effects of this interaction? Our methods include *Natural Semantic Metalanguage* (NSM) and a multidimensional approach to the analysis of heteropatriarchal culture consisting of four interrelated levels: (a) gender as a value dimension, (b) ideology, (c) social practices, and (d) discursive practices.

II. Gender-based violence in the Spanish law

In the Preliminary Title, Section 1. Object of the Law, of the Organic Law 1/2004, of December 28th, on Comprehensive Protection Measures against Gender-based Violence, we learn that gender-based violence is the object of protection of this law in Spain:

- 1) The purpose of this law is to act against violence which, as the manifestation of a situation of discrimination of men against women, of inequality between men and women, and of a power-based relationship between men and women, occurs between former or current spouses or partners, whether, or not, the perpetrator shares or has shared the same residence with the victim².
- 2) This law establishes comprehensive protection measures whose purpose is to prevent, punish and eradicate this violence, and to give assistance to the victims of this type of violence³: women, their children, and minors subject to their protection or custody.

² This is a translation of the source text in Spanish: “La presente ley tiene por objeto actuar contra la violencia que, como manifestación de la discriminación, la situación de desigualdad y las relaciones de poder de los hombres sobre las mujeres, se ejerce sobre éstas por parte de quienes sean o hayan sido sus cónyuges o de quienes estén o hayan estado ligados a ellas por relaciones similares de afectividad, aun sin convivencia.”

³ This is a translation of the source text in Spanish: “Por esta ley se establecen medidas de protección integral cuya finalidad es prevenir, sancionar y erradicar esta violencia y prestar asistencia a las mujeres, a sus hijos menores y a los menores sujetos a su tutela, o guarda y custodia, víctimas de esta violencia.”

- 3) The gender-based violence referred to in this law includes all acts of physical and psychological violence, including sexual assaults, threats, coercion or arbitrary deprivation of liberty⁴.

It is a well-known fact that language does not only describe the world around us, but it also creates reality. The text of the Organic Law 1/2004 describes different types of domestic violence inflicted on women by their spouses or partners, e.g. physical, psychological and sexual, and it also includes the legal statement that this specific type of violence is the effect of several interrelated causes, e.g. discrimination, inequality, and asymmetrical power relations between men and women. In doing so, lawmakers are not only describing the existence of gender-based violence within the family or domestic unit, but they are also creating a reality in which women's and children's fundamental rights are violated and consequently they must be protected by law. Although the Organic Law 1/2004 opens the path to the legal treatment of gender-based violence, it does not explain the reasons for the phenomenon but rather focuses on the surface effects on women's lives in the domestic unit.

Since the Organic Law 1/2004, of December 28, on Comprehensive Protection Measures against Gender-based Violence entered into force on June 29th, 2005, eight hundred and twenty women have died in Spain⁵. This alarming figure shows that far from being eliminated, gender-based violence is, in fact, an ingrained social scourge in Spain and in societies around the world, and therefore extremely difficult to eradicate. On the other hand, many feminist lawyers argue that the application of the law has never been successful because there has never been a genuine political interest in the eradication of this blight. What was initially considered a promising and hopeful law for the protection of women's rights (Torres 2014: 641–655) has proved, in fact, to fail for some major reasons: (a) lack of government resources for the implementation of the law and for the protection measures for women (Torres 2015); (b) lack of a gender perspective in the professional training of the legal practitioners that must apply the law; since judges are not free from social prejudice and stereotypical knowledge about gender social roles, it is often the case that the victim is sadly revictimised by the court; (c) the victim withdraws the claim she brought in to the court for fear of reprisals from the perpetrator or moved by sympathy for him; and (d) lack of investment in educational programmes in equality in the school, in the workplace, and in the living community as a whole.

In 2018 the Government in Spain announced the reform of the Organic Law 1/2004 for purposes of meeting the agreements reached in the government pact against gender-based violence at the Congress of Deputies in September 2017. The reform of the law will eventually involve some substantial modifications. One of them is related

⁴ This is a translation of the source text in Spanish: “La violencia de género a que se refiere la presente ley comprende todo acto de violencia física y psicológica, incluidas las agresiones a la libertad sexual, las amenazas, las coacciones o la privación arbitraria de libertad.”

⁵ Portal Estadístico. Delegación del Gobierno para la violencia de género. <http://estadisticasviolenciagenero.igualdad.mpr.gob.es/> [Last access 08/10/2018].

to the concept of gender-based violence. To this effect the new definition of gender-based violence will be borrowed from the Istanbul Convention (The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence)⁶, ratified by Spain on April 10th, 2014. This convention is based on the understanding that: "...gender-based violence against women shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately." (Art. 3, Istanbul Convention, 11.V. 2011). Moreover, the reform of the law will also imply the inclusion of the types of negative acts set out in the Istanbul Convention: civil consequences of forced marriages (Art. 32), psychological violence (Art. 33), stalking (Art. 34), physical violence (Art. 35), sexual violence, including rape (Art. 36), forced marriage (Art. 37), female genital mutilation (Art. 38), forced abortion and forced sterilisation (Art. 39), and sexual harassment (Art. 40).

III. A linguistic perspective of the overarching concept of gender-based violence

Here we raise the question: Can linguistics help to better understand the overarching concept of gender-based violence? To answer this question, we will take two different, but at the same time complementary, paths: *Natural Semantic Metalanguage* (NSM) (Wierzbicka 1972, 1996; Goddard 1998; Wierzbicka / Goddard (Eds.) 2002; Wierzbicka / Goddard 2014) and a multidimensional approach to the analysis of a culture.

1. Approaching gender-based violence through Natural Semantic Metalanguage (NSM)

NSM is a method of semantic decomposition that incorporates elements of cognitive semantics. It consists of three major principles. The first principle theorises the existence of semantic primitives, e. g. a semantic core or reduced number of basic words that are indefinable and translatable lexical universals across languages. The second principle of NSM states that there exists an essential irreducible grammar that governs how semantic primes may be combined in a language. The third principle of NSM claims that the meanings of words can only be understood by means of other words and that it is convenient to describe complex meanings in terms of simpler ones. The NSM method also includes universal or near-universal semantic molecules, annotated as (m) in the semantic scripts. These are words that are necessary to build upon to explicate other words. A semantic analysis in the NSM method results in a reductive paraphrase called an explication that captures the meaning of the concept explained. Since gender-based violence is a multifaceted concept, we will divide

⁶ <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e> [Last access 13/07/2018].

it into smaller relatable categories of meaning. These are: (a) gender, (b) sexism, and (c) violence against women. Gender refers to a biological difference between men and women, while sexism refers to a cognitive element of discrimination driven by the presupposition that men are superior to women, and violence against women refers to the subsequent negative social acts that some men do against women. In what follows we will look at the NSM explication of each of these semantic categories in turn in further detail.

The NSM explication of Gender consists of two steps: (1) everybody knows that there are two kinds of people; because there are two kinds of people's bodies, and (2) people of one kind are men (m), people of another kind are women (m). The first step shows the scientific knowledge that biological sex is classified according to the two standard anatomical forms. Every human being primarily identifies with one specific gender or another. The second step names these two categories: kind of person men and kind of person women. It is important to note that the use of "one kind" and "another kind" does not favour any of these two kinds of people over the other.

The NSM explication of Sexism⁷ embraces six steps: (1) everybody knows that there are two kinds of people, because there are two kinds of people's bodies, (2) people of one kind are men (m), people of another kind are women (m), (3) some people think like this: "I know some things about these two kinds of people, (4) one of these kinds of people can't do many good things like people of the other kind can do many good things", (5) people think: "It is very bad if someone thinks like this", and (6) because of this, something very bad can happen to someone of this kind. The first two steps refer to a biological classification of sexes. The third step announces the cognitive scenario, while the fourth step indicates that sexism is grounded in stereotypical knowledge, e.g. "men are strong", "women are weak", and by social expectations about social behaviour, e.g. "men are rational", "women are too emotional". It implies the superiority of one sex and the inferiority of the other sex, and consequently promotes social inequality and discrimination between one sex and the other. The fifth step is a negative social evaluation of sexism. And the last step indicates the potential negative consequences for the target.

The NSM explication of violence against women⁸ can be described in four steps: (1) X did something very bad to Y, (2) when X did this, it was like X was thinking at the same time: "Y is very bad", "Y is not like me in any way", "it is like Y is below me", "it is like Y is not a person like me", (3) because of this, I can do anything to Y, and (4) people think: it is very bad to do something like this. The first step is an event. Gender-based violence implies performing a negative act against the target. The intensifier emphasises the severity of the act. The second step introduces the prototypical cognitive scenario, e.g. X's negative assessment of Y, X's disassociation from Y,

⁷ This semantic script is borrowed from Stollznow (2017: 322).

⁸ This semantic script draws on the semantic script of dehumanise by Stollznow (2017: 145).

X's superiority over Y, X has devalued Y's worth as human being. In the third step, the agent feels justified in treating the target in an inhumane manner. X has a mental license to mistreat, hurt or abuse Y. The fourth step indicates that violence can result in severe consequences for the target who is mistreated in some way, e. g. physically, psychologically, sexually, etc. This final step is a negative social evaluation of this type of violence.

Through *Natural Semantic Metalanguage* we have attempted to offer a semantic definition of gender-based violence, breaking it into three relatable concepts: (a) gender, (b) sexism, and (c) violence against women. The semantic analysis performed allows us to reach the conclusion that gender-based violence arises from a sexist view of gender, rather than from biological differences between men and women, in which women are thought to be socially inferior to men.

2. A multidimensional approach to the analysis of heteropatriarchal culture

For purposes of analysis, we use a multidimensional model of analysis consisting of four main interrelated levels: (a) gender as a value dimension, (b) ideology, (c) social practices, and (d) discursive practices. The model is graphically shown in Figure 1.

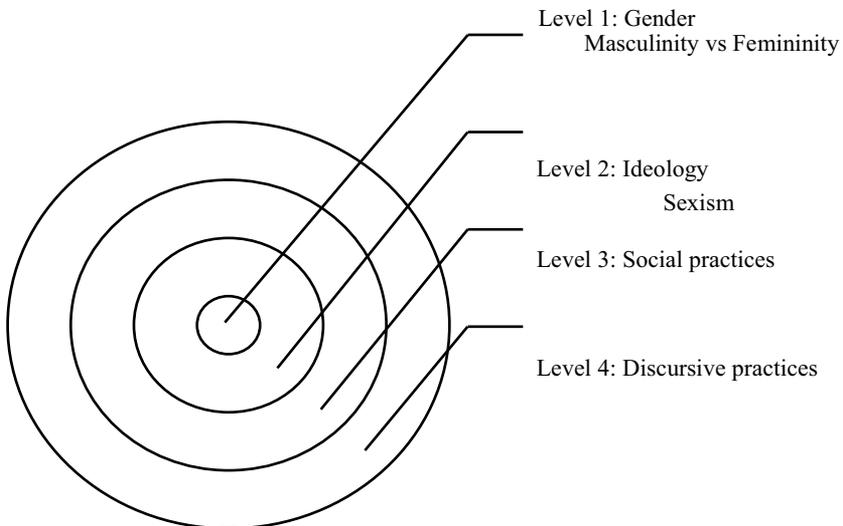


Figure 1: Manifestations of a culture at different levels of depth

In the next subsections we will refer to each of these interrelated levels of analysis in turn in further detail.

a) Level 1: Gender as a value dimension

At the core of a culture, one may find *values*, a category that we borrow from the field of social psychology. Values are "...broad tendencies to prefer certain states of affairs over others." (Hofstede 2003 [1991]: 8). These values are related to five universal dimensions that refer to five basic problems of social life which any society must cope with in relational communication but for which solutions may differ from one culture to another. One of the five basic social problems identified by Hofstede (2001 [1980]) in his empirical research was *Gender*. This was explained as a value dimension that spans a continuum from one opposite extreme (*Masculinity*) to another (*Femininity*) along which cultures may show different degrees of orientation towards one direction or another of the continuum. According to Hofstede:

Masculinity stands for a society in which gender roles are clearly distinct. Men are supposed to be assertive, tough, and focus on material success; women are supposed to be more modest, tender, and concerned with the quality of life. Femininity stands for a society in which social gender roles overlap: Both men and women are supposed to be modest, tender, and concerned with the quality of life. (2001 [1980]: 297)

A categorical social division between sexes is at the core of heteropatriarchy and permeates the other layers or levels of this dominant cultural paradigm, e. g. ideology, social practices and discursive practices, as we will see in the next three subsections.

b) Level 2: Ideology

Ideology refers to the integrated system of values, basic assumptions, beliefs, ideas, ideals and principles of a culture. They cannot be directly seen but they filter into the other more visible layers of a culture, e. g. social practices and discursive practices. In the field of social psychology, Hofstede (2003 [1991]), drawing a parallel with computer programming, defined culture as the "collective software of the mind". In his words:

Every person carries within him or herself patterns of thinking, feeling, and potential acting which were learned throughout their lifetime. Much of it has been acquired in early childhood, because at that time a person is most susceptible to learning and assimilating. As soon as certain patterns of thinking, feeling and acting have established themselves within a person's mind, (s)he must unlearn these before being able to learn something different, and unlearning is more difficult than learning for the first time. (2003 [1991]: 4)

In the above quote we learn the way people are, though in a rather unconscious way, mentally programmed since early childhood, as well as the difficulties involved in changing people's patterns of thinking, feeling and behaving once these have been programmed in their minds. From early childhood our mental programming starts with the family; it continues in the school, in youth groups, in the workplace, and reaches the living community. Heteropatriarchy programs people's minds regarding their gender roles so that their patterns of thinking, feeling and behaving meet socio-cultural expectations about the traditional stereotyping of social roles on the basis of

unnatural sexual division. Feminist studies (Hartmann 1976: 137–169) draw our attention to heteropatriarchy as a culture of domination whose ideology is based on sexism, because it proclaims the supremacy of the male gender and heterosexuality over other genders and sexual orientations raising social inequality and sex-based discrimination. This ideological worldview of society was promoted through colonialism, by means of which the colonising countries achieved hegemony over the rest of the world, eliminating other gender systems along with other ways of understanding society, gender or eroticism.

c) Level 3: Social practices

According to Marxist feminism, heteropatriarchy rests not only on the family context but also on all the social structures that make it possible to control women's labour and reproduction power (Hartmann 1976: 137–169). In fact, heteropatriarchy reaches the highest political levels of society, that is, the State and all its Institutions, from where the relations of domination imposed by the model are legitimised and backed by laws (Olsen 1990). Under the heteropatriarchal model the State guarantees through an economic system based on this ideology, the dependence of women on a family male figure throughout life (father, brothers, husband, partner, etc.), preventing their full development and even their full recognition as full-fledged citizens. The discrimination of women against men is something inherent in the heteropatriarchal model, because it consecrates a living system that assumes a heteronormativity outlining the roles of men and women in society. For example, one of the main foundations of heteropatriarchy is the normalisation of the ideal family structure. This reinforces the stereotyping social role of men providing wealth and support to the family. The sexual division of labour, the gender wage gap, and the glass ceiling serve to reinforce a man's dominance over his wife or partner for life (Olsen 2018a).

The cinema industry is another illustrative example of heteropatriarchal social practices, as shown in the reduced number of movies directed by female directors, the substantial wage gap between male and female actors, and the phenomenon of sexual harassment (Olsen 2018b) that was made visible thanks to the media coverage of the #MeToo movement in social networks in 2018 related to the sexual harassment affair involving North American film producer Harvey Weinstein.

d) Level 4: Discursive practices

Discursive practices refer to the way in which heteropatriarchal meaning is produced and understood. Male dominance over women is shown in numerous discursive practices that contribute to spread gender inequality. One on them is sexism in the news media (Bengoechea Bartolomé 2002a: 621–642, 2002b: 643–656, and 2003). There are numerous ways the mass media broadcast patriarchal beliefs, ideas and thoughts, e. g. negative coverage of sexual violence, the promotion of gender binaries, and the unceasing discussion of women's appearances and body image.

To illustrate the latter aspect, let us consider, for example, the sexist headline that appeared in the section *Gente & Estilo* of the Spanish conservative daily *ABC* of June 9th, 2018 presenting the new government team in Spain: *El guardarropa de las ministras de Pedro Sánchez*⁹. The headline was accompanied by an image in which the eleven female ministers of the new government team headed by President Pedro Sánchez are dehumanised by way of portraying them as manikins.



Figure 2: Headline in *ABC*

Significantly the article was signed by a female journalist. This paradox confirms the idea that women are also culturally programmed in heteropatriarchal values, beliefs, and basic assumptions. Therefore, they are not free from reproducing stereotypical knowledge about the social roles, behaviours and attitudes that are thought to be socially appropriate for men and women. The publication of the article in the daily *ABC* triggered off a heated social debate on the urgent need to eradicate sexism in the language of the news media (Bengoechea Bartolomé 2000a: 33–58, 2011: 35–53, and 2015). The article must be analysed in the context of the presentation of the Spanish Socialist Workers' Party (PSOE) governing team that replaced the previous executive team, after the motion of censure against President Mariano

⁹ Translation into English: *The wardrobe of the female ministers of Pedro Sánchez*.

Rajoy was successful in June 2018. A significant feature of the new governing team is the fact that for the first time in Spanish history, the number of female ministers clearly surpasses that of male ministers. Consequently, the article could have highlighted the unprecedented fact in the European Union that eleven out of the seventeen ministries of Pedro Sánchez's executive team are headed by women; it could have informed the public about the academic qualifications, education and experience of the female ministers; or it could have even attracted the reader's attention to the high responsibilities the eleven women have in the new government, in fact, Deputy Prime Minister, Ministry of Equality, Ministry of Finance, Ministry of State Planning and State Administration, Ministry of Health, Ministry of Environment, Ministry of Employment, Ministry of Trade, Ministry of Tourism, Ministry of Defence, Ministry of Justice, and Ministry of Education. However, the result, as we know, was quite different. The article focuses on the wearing apparel of the female ministers in the new governing team. From a linguistic perspective, the headline is encapsulated in a nominal group. The theme is the noun *guardarropa* [wardrobe] whose semantic meaning refers to a collection of wearing apparel. The preposition *de* [of] indicating ownership links *guardarropa* to *las ministras* [the female ministers], and the second preposition *de* [of] also indicating ownership links *las ministras* [the female ministers] to *Pedro Sánchez*. Consequently, the pragmatic meaning of the headline confirms the social stereotyping of women as mere decorative objects in public life. In addition, the headline degrades the female ministers when it favours a relationship of power and dominance between them and the Chief of the executive team, e. g. *de Pedro Sánchez* [of Pedro Sánchez]. As anticipated by the headline and accompanying image, the content of the article evaluates the female ministers' body images and highlights the hits and mistakes in their way of dressing, at the same time it markets certain well-known cosmetic and clothing brands. Predictably, the *guardarropa* [wardrobe] of President Pedro Sánchez is not news.

Apart from the press, one can find examples of sexist language in the writing of the law (Olsen 1999; Bengoechea Bartolomé 2011: 15–26); in the writing of textbooks (Bengoechea Bartolomé / Simón Díaz 2010: 188–211); and in language use in general (García Pascual / Catalá González 1995; Calero 1999), etc. For example, the layman in the street can also contribute to ensure the permanence of gender binarism by means of using sexist language such as the so-called *piropos* and *micro-machismos*. Whereas the *piropo*, a characteristic linguistic feature associated to a type of male speech in Mediterranean cultures, refers to the shouting by a man of a flirtatious remark or compliment to a woman that is walking down the street, e. g. “estás más buena que el pan” [“you look hot”]; the *micro-machismo* expresses naturalised thoughts, attitudes and comments that can be made by both men and women, though involuntarily, and do their bit in securing permanence of sexual binarism in the society, e. g. “you should be a little more feminine”, “boys don't cry”, etc.

Sexism in language is also present in digital media. Danet (2013: 641) draws our attention to the interaction of gender with culture online. She specifically discusses the way in which patterns of women's subordination tend to be reproduced online as it

occurs in the discursive phenomenon of *flaming*, e. g. the expression of negative emotions and hostile language in online forums. Other discursive practices are overtly aimed at expressing male dominance over women. Such is the case of the use of Whatsapp as an instrument of control by some male youths over the lives of their girlfriends. Through the malicious use of this technological application, the offender can monitor the life of the target victim and control her social contacts, body appearance, way of dressing, etc. Violence does not begin with aggressions but with behaviours of domination and abuse that are so normalised in the culture that female youths are not aware of them. In this respect, the regional government of the Community of Madrid has launched a special social programme called *No te cortes*¹⁰ for the prevention of gender-based violence in adolescence. The main aims of this social programme are to help female youths and their families to identify situations of mistreatment and abuse perpetrated by their boyfriends, as well as provide them with the necessary guidance to resolve the problem.

A current development of negative discursive practices is cyberviolence against women through computer-mediated communication (Herring / Stein / Virtanen 2013: 3–54). Digital media can be the medium of expression of the language of discrimination against women (Stollznow 2017), e. g. insult, abuse, denigrate, vilify, offend, threat (Shuy 1996 [1993]: 97–117; Muschalik 2018), defame (Tiersma 1987: 303–350; Shuy 2010), harass (Shuy 2005: 99–106; 2012), etc. Additionally, digital media have given rise to the emergence of digital genres (Georgakopoulou 2013: 695–715; Giltrow 2013: 717–737) that can be used as weapons by the perpetrators against the target victims, as shown in the works by Eggington (2008: 249–264); Hancock / Gonzalez (2013: 363–383); Heyd (2013: 387–409); and Gill (2013: 411–436). Some of these new types of cybercrimes that are disproportionately committed by men against women are *psychological cyberbullying*, *sexual cyberbullying*, and *sexting*. Cyberbullying refers to the act of compulsively sending unwanted emails or text messages to the target victim. Sexual cyberbullying is related to offending the target victim online with unwelcome sexually explicit messages, threats of violence or hate speech. And sexting is the sending of sexually explicit images or messages via mobile phone or the internet without the permission of the author who shared them with the perpetrator privately.

Through the multidimensional approach to the analysis of heteropatriarchal culture we have shown that gender-based violence is not grounded in biological differences between men and women but rather in sexism, a cognitive element of discrimination driven by the presupposition that men are superior to women, which is propagated through ideology to the surface social practices and discursive practices in modern societies.

¹⁰ http://www.madrid.org/cs/Satellite?c=CM_InfPractica_FA&cid=1354194793001&lang=es&pagename=ComunidadMadrid%2FEstructura [Last access 13/07/2018].

IV. The mediatization of the law

From the 1980s the news media in the Western world have experimented a significant change concerning the role they play in modern societies. As described by Hjarvard (2008: 120) in his comprehensive account of the institutional development of news media, one can differentiate three major stages: (a) the 1920s, (b) from the 1920s to the 1980s, and (c) from the 1980s to the present time. In the 1920s, the press was fundamentally an instrument of propaganda of the political power, e.g. the party press, and its major purposes were persuasion and agitation motivated by specific interests in the institution. From the 1920s to the 1980s, the traditional news media (press, radio and television) evolved progressively to a cultural institution providing public service and representing various institutions in the public arena. Since the 1980s the news media (traditional media and the emergent digital media) has become a relatively independent institution characterised by its professionalism.

On looking at the institutional development of the news media, we learn that before the 1980s these were dependent on the political power. Since media organisations needed the support of the political power to survive, the news media were basically owned by this power and subsequently, all media contents were under its control. However, since the 1980s this relationship of vassalage between the news media and the political power has to a certain extent upturned. At present, whereas the political power is becoming more and more dependent upon the media, the news media is gaining more and more independence from the political power; however, this does not mean that the news media are free from ideological influence, as shown earlier. While this is true for the traditional news media, it is more so for the emergent digital media because with the advent of the new technologies of information and communication, the dissemination of news has gone through a democratisation process, e.g. anyone can disseminate information online (Hjarvard 2008: 367).

The revolution in the news media has given rise to a debate in media and communication research involving two concepts of German origin: mediation (*Vermittlung*) and mediatization, (*Mediatisierung*) (Hjarvard 2008; Lundby (Ed.) 2009; Livingstone 2009: 1–18; Hjarvard 2013; Hepp 2013: 1–18; Suet Nie / Peng Kee / Latiff Ahmad 2014: 362–367; Deacon / Stanyer 2014: 1032–1044; Lundby (Ed.) 2014). Mediation, as Hjarvard (2008: 114) explains, affects both the message and the relationship between the sender and the receiver; however, it will not, in the long term, transform social practices or discursive practices. In contrast, mediatization, as argued by Hepp / Hjarvard / Lundby (2015: 314–324), is part of a paradigmatic shift within the media and communication research. It can be defined as a “...meta process by which everyday practices and social relations are increasingly shaped by mediating technology and media organizations” (Livingstone 2009: 3). Mediatization encompasses the interrelationship between the media and historical changes in any institutional process (Hepp 2013) giving rise to semiotic, narrative and institutional transformations (Howitt 1998; Lundby (Ed.) 2009 and 2014; Peleg / Bogoch 2012: 961–978).

We use the term mediatization to refer to the increasing dependency of society upon media and its logic, e. g. the construction of reality as portrayed by the news media. More precisely, we refer to the action or process whereby the mass media comes to influence the law, specifically gender-based laws. The questions we raise here are: Which roles do the news media play concerning gender-based violence? How do the news media and the law interact with each other? And which are the effects of this interaction in the law?

Basically, the news media can either reinforce or transform public opinion about the global social phenomenon of gender-based violence. On the one hand, the news media can, for example, reinforce sexism by framing family violence, sexual assault and sexual harassment using a recurrent theme of co-responsibility for the violence. Such narratives, according to Eastael / Holland / Judd (2015: 103–113), could hinder feminist aims of protecting women's rights and improving access to justice. On the other hand, news media can transform public opinion by denouncing violence against women; raising social awareness about gender-based violence as reflective of male dominance, sexism and misogyny; transforming public opinion; and urging legal changes.

Currently, the law and the news media are viewed as agencies of policing with shared goals such as bringing about social order, justice and peace. As instruments of social reform, news media and the law focus on social failure and what needs to be done to achieve success (Ericson / Baranek / Chan 1991). But they also interact in thought-provoking and productive ways. Fundamentally, the news media play a decisive role in shaping legal reforms concerning gender-based violence, and they serve not only as a vehicle of transmission of new laws and legal changes to the people, but also as an instrument of social evaluation and control of sexism in courtroom decisions, miscarriages of justice, and ultimately of the effectiveness of the law. This interaction is evidenced by the prevalence of justice stories in the news. In what follows we will illustrate the mediatization of the law through four paradigmatic cases having an impact in legal reforms related to gender-based violence. The first two cases concern the Spanish context, while the last two refer to the United States and have a transnational scope.

1. The case of Ana Orantes and the creation of the Organic Law 1/2004, of December 28th, on Comprehensive Protection Measures against Gender-based Violence

The murder of Ana Orantes by her ex-husband on December 17th, 1997, after she had been interviewed on TV and given a dramatic account of the way she had been systematically abused and injured by her ex-husband, marked a turning point in public opinion about the social problem of domestic violence in Spain. After this tragic event, the issue of domestic violence gained relevance for its disturbing social consequences and was foregrounded in the news media (Bengoechea Bartolomé 2000b: 9–22). Since then gender-based violence has become a central topic of social, polit-

ical and legal debate broadcasted in the news media. For example, from 1998 to 1999, the news media disseminated the fight of feminist organisations in Spain against gender-based violence and made public their claims for a comprehensive law for the protection of the victims of gender-based violence, e. g. women and children. Significantly, in the general election campaign held in 2000, all parties included the project of a comprehensive law against gender-based violence in their political agendas. The news media played a central role in broadcasting such political debates, as well as in raising social awareness about the problem. In December 2001, the PSOE registered their proposal for a comprehensive law against gender-based violence in the Congress of Deputies. Nevertheless, the proposal was not successful, because the members of the right-wing party voted against it. The ever-increasing number of women killed by their spouses, in fact, seventy one in 2003¹¹, together with the dissemination of this social scourge in the news contributed to the presentation of a new law proposal by the Socialists in 2003. This was finally passed by an absolute majority in the Congress of Deputies, and was, in fact, the embryo of the Organic Law 1/2004, of December 28th, on Comprehensive Protection Measures against Gender-based Violence. Another effect of the mediatization of the law was the revision and modification of the Spanish Penal Code (PC), specifically the reinforcement of penal sanctions when the perpetrator of psychological or physical mistreatment is a man and the victim is a woman, and these are former or current spouses or partners, whether, or not, the perpetrator shares or has shared the same residence with the victim (Art. 153 PC). The effects of the mediatization of the Organic Law 1/2004 can also be seen in the latest modification of the PC (the Organic Law 1/2015 of March 30th). The lawmaker justifies the reforms because of the need to reinforce the special protection measures that the PC provides the victims of gender-based violence with, as well as to adapt the law to the Istanbul Convention (The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence). Some of the most important changes that affect gender-based violence are, for example, the reinforcement of the penal sanctions for insults in cases involving this type of violence (Art. 173.2); and the inclusion of two new crimes: *stalking* (Art. 172b), which involves the usage on the part of the perpetrator of a variety of strategies to regain control and dominance on the target victim and *sexting* (§ 7 Art. 197), e. g. the dissemination of intimate images obtained with consent of the victim but without authorisation for their dissemination.

2. The case of La manada¹² and the revision of sexual offences in the Spanish Penal Law

The brutal gang rape of an eighteen-year old girl during the festivities of San Fermín in the city of Pamplona, in July 2016, the irregularities of the subsequent trial of

¹¹ Portal Estadístico. Delegación del Gobierno para la violencia de género. <http://estadisticasviolenciagero.igualdad.mpr.gob.es/> [Last access 014/10/2018].

¹² Translation into English: The herd.

the five perpetrators, and the controversial judgment released by the court¹³ unleashed a plethora of responses and processes by several actors including social activists, women's organizations, and the highest ranked political functionaries to name just a few. The course of action is still in motion and the news media have played a key role in the whole process of public transformation: the news media (traditional but mostly digital) have not only been a vehicle of transmission of this viral piece of news but also an instrument of social revolution and control of the court ruling decisions in cases of gender-based violence involving gang rapes. The judgement 38/2018 released by the Court in Navarre has raised two mayor controversies. The first one concerns the type of criminal offence perpetrated by the defendants. The complaint filed by the prosecution accused the five men for the crime of *sexual aggression* (Art. 178 PC); however, the court judgment condemned them for five continuing offences of *sexual abuse* aggravated by carnal access (Art. 181.3 & 4 PC), which involves a lower penal sanction than sexual aggression. The Court in Navarre understood that the five men used their situation of prevalence over the victim rather than intimidation or violence, which according to the PC must be present in a sexual offence for this to be interpreted as sexual aggression. The second one is related to whether, or not, the victim consented. Whereas the defendants' lawyer argued that the victim never said "no" explicitly, drawing on the sexist assumption that when a woman does not say "no" she means "yes"; the prosecutors claimed that the victim's submissiveness to the perpetrators' vicious sexual demands must be interpreted within the context of pressure she was put by them. In other words, she did not react violently against them because she was in a state of shock and totally helpless. The mediatization of Judgment 38/2018 resulted in a social revolution all over Spain with thousands of people demonstrating against the verdict, holding placards in which one could read "Yo sí te creo!"¹⁴ and demanding the expulsion of the magistrates of the Court in Navarre from the judicial career. However, it must be clarified that technically speaking the verdict was well-founded. The problem, in fact, was the writing of the sections of the PC concerning sexual offences. The ultimate effect of the mediatization of Judgment 38/2018 has been the government's decision¹⁵ to revise the types of sexual offences in the Penal Law from a gender perspective. For this purpose, a social *ad hoc* advisory committee with equal number of male and female magistrates has been set up. They will have to discuss, for example, issues such as the differing perceptions men and women have in relation to *rape* (Ehrlich 2010: 265–280) or the different pragmatic implications *intimidation* and *violence* may have for men and women. It is also obvious that the formula a woman should use for giving, or not,

¹³ *El Plural* of April 26th, 2018 shared with the readers through Google Drive a pdf containing the complete judgment of the Court in Navarre, in fact, 370 pages. https://www.elplural.com/sociedad/documento-lee-aqui-la-sentencia-completa-de-la-manada_126896102 [Last access 16/07/2018].

¹⁴ Translation into English: I do believe you!

¹⁵ *el diario.es* of April 24th, 2018 https://www.eldiario.es/politica/PP-Ciudadanos-Unidos-Podemos-Codigo_0_765373697.html [Last access 16/07/2018].

consent to sexual intercourse must also be deliberated. In this respect, Vice-president of the Spanish Government Carmen Calvo¹⁶ has made a controversial proposal. She has suggested that wrong interpretations on the part of the court concerning a woman's consent to sexual intercourse could be avoided by way of inclusion in the PC of the statement: When there is no explicit "yes" on the part of the woman, the act must be interpreted as sexual offence.

3. *The case of Harvey Weinstein and the ME TOO bill in the United States Congress*

Soon after the sexual misconduct allegations against one of the most powerful Hollywood film producers, Harvey Weinstein, the #MeToo movement, which had been created by American social activist Tarana Burke¹⁷ back in 2006 to help victims and prevent cases of sexual assault and harassment, spread virally in October 2017 as a hashtag used on social media in an attempt to demonstrate the widespread prevalence of sexual violence against women, especially in the workplace¹⁸. In the eyes of gender studies experts, this social phenomenon is considered a modern version of a feudal lord's right to bed a servant girl inherited from patriarchal societies in the Middle Ages. Specifically, some men still think they have a socially protected right to compell sexual services from the women who work for them. As a result of the #MeToo movement and its subsequent media coverage, cases of sexual assault and harassment have been unveiled and disclosed worldwide. Far from being confined to specific ambits such as the show business, sexual abuse is, like the rhetorical image of *fog* in Charles Dicken's *Bleak House*¹⁹, everywhere: Sports²⁰, Military²¹, Church²², Law²³, Politics, Governments²⁴, etc.

¹⁶ *El Confidencial* of July 10th, 2018 https://www.elconfidencial.com/espana/2018-07-10/gobierno-manada-codigo-penal-si-no-hay-victima-violacion-abuso-sexual_1590520/ [Last access 16/07/2018].

¹⁷ Tarna Burke on why she created the #MeToo movement – and where it's headed by Chris Snyder and Linette López in the *Business Insider* of December 13th, 2017. <https://www.businessinsider.com/how-the-metoo-movement-started-where-its-headed-tarana-burke-time-person-of-year-women-2017-12?IR=T> [Last access 12/10/2018].

¹⁸ #MeToo Hashtag Becomes Anti-Sexual Harassment and Assault Rallying Cry by Elizabeth Chuck in the *NBC News* of October 16th, 2017 <https://www.wowt.com/content/news/MeToo-Hashtag-becomes-anti-sexual-harassment-and-assault-rallying-cry-451145033.html> [Last access 12/10/2018].

¹⁹ The Project Gutenberg eBook. *Bleak House*, by Charles Dickens (1853). <http://www.gutenberg.org/files/1023/1023-h/1023-h.htm> [Last access 15/10/2018].

²⁰ Sexual abuse in sports: the most notorious case by AFP in the *Mail Online*, published on December 7th, 2017. <https://www.dailymail.co.uk/wires/afp/article-5157511/Sexual-abuse-sports-notorious-cases.html> [Last access 14/10/2018].

²¹ Why Military Women Are Missing from the #MeToo Movement by Antonieta Rico in the *Time* of December 12th, 2017. <http://time.com/5060570/military-women-sexual-assault/> [Last access 13/10/2018].

In the media coverage of the #MeToo movement, there has been widespread discussion about the social barriers victims of sexual abuse must overcome to bring a complaint at work, such as the pre-employment agreements, e.g. non-disclosure agreement (NDA) or confidential agreement (CA), the employee is required to sign as a condition of employment. These agreements, considered illegal by social activists, prevent employees from talking about their jobs publicly or taking disputes (including sexual harassment claims) to arbitration or legal proceedings. Other barriers victims must overcome are, for instance, the lack of clear internal reporting mechanisms together with the absence of effective and proactive disciplinary measures. Additionally, victims must also run important risks such as fear of victim shaming, social stigma, not being believed, reprisal or even job loss. By way of illustration, it was reported in the *New York Times* of November 19th, 2017 that a person who makes a sexual harassment complaint at work in France is reprimanded or fired 40% of the time, while the accused person is typically not investigated or punished²⁵. Moreover, the results of the Equal Employment Opportunity Commission report of 2016, published in the *Reuters* of November 10th, 2017, let people know that although between 25% and 85% of women workers in the United States admit having experienced sexual harassment at work, few ever report the incidents, most commonly due to the fear of reprisal²⁶.

Unquestionably, the mass media has assisted the #MeToo movement in promoting a culture of respect towards women, zero tolerance and no impunity for the perpetrators of sexual assaults and harassment in the workplace. However, in our view, one problematic aspect of the media coverage of the #MeToo movement is related to the fact that, more often than not, the mass media have distracted public attention from the real social problem by disclosing the case as a self-contained soap opera and

²² Roman Catholic Sex Abuse Cases. News about Roman Catholic Church Sex Abuse Cases, including commentary and archival articles published in *The New York Times*. <https://www.nytimes.com/topic/organization/roman-catholic-church-sex-abuse-cases> [Last access 13/10/2018].

²³ Brett Kavanaugh confirmed to Supreme Court amid widespread outcry over sexual assault allegations by Mithili Sampathkumar in the *Independent* of October 6th, 2018. <https://www.independent.co.uk/news/world/americas/us-politics/brett-kavanaugh-confirmed-supreme-court-justice-senate-donald-trump-christine-blaisey-ford-a8572201.html> [Last access 14/10/2019].

²⁴ Westminster sex scandal: Theresa May calls for 'culture of respect'. In the *BBC News*, December 6th, 2017. <https://www.bbc.com/news/uk-politics-41881125> [Last access 14/10/2018]. #MeToo allows victims at European Parliament to speak freely by Christelle Guibert and Justine Salvatroni, EURACTIV, 10th October 2018. [Last access 14/10/2018].

²⁵ 'Revolt' in France Against Sexual Harassment Hits Cultural Resistance by Alissa Rubin in *The New York Times* of November 1, 2017. <https://www.nytimes.com/2017/11/19/world/europe/france-sexual-harassment.html> [Last access 12/10/2018].

²⁶ Despite #MeToo, U.S. workers fear speaking out about sexual harassment by Sebastien Malo in the *Reuters* of November 10th, 2017. <https://www.reuters.com/article/us-usa-women-sexcrimes/despite-metoo-u-s-workers-fear-speaking-out-about-sexual-harassment-idUSKBN1DA0NY> [Last access 12/10/2018].

focusing on the perpetrator, who is usually a high profile public figure. However, as previously discussed, gender-based violence against women is only a surface effect of sexism, an ideology that is deeply ingrained in the collective software of the mind of many people who have been mentally programmed, though in a rather unconscious way, in heteropatriarchal cultural values since early childhood. Consequently, over-emphasis on specific individual media cases has to a certain extent blurred the prevailing social picture and defer action, e.g. raising awareness and promoting social debate on the systems that have enabled workplace sexual abuse for so long, as well as discussing policies and meaningful changes to institutional norms that would help those regular anonymous workers who have or are currently experiencing sexual misconducts.

The media coverage of sexual harassment has contributed to the making of the ME TOO bill in the United States Congress²⁷. This was proposed by the Democrats as an amendment to the Congressional Accountability Act of 1995. The purpose of the bill is to change the way the legislative branch of the United States federal government deals with sexual harassment complaints. For example, the bill would ensure future complaints could only take up to 180 days, rather than months, to be filed; it would require Representatives and Senators to pay for their own harassment settlements; and the Office of Compliance would no longer be allowed to keep settlements secret. Under the influence of the media coverage of the #MeToo movement, the European Parliament has reiterated its 2014 call on the European Commission to propose a transnational strategy, including a draft law with binding instruments to protect women against any form of gender-based violence²⁸ in the European Union. After one year of the #MeToo movement, one would expect that the wave of outrage on social media had been enough to promote relevant changes in the dominant culture. However, the reality could hardly be more different. #MeToo has already experienced a severe backlash: the confirmation of Judge Brett M. Kavanaugh's nomination to the Supreme Court of the United States amid widespread outcry over sexual assault allegations.

4. Judge Brett M. Kavanaugh's confirmation hearing

President Donald Trump nominated controversial Judge Brett M. Kavanaugh to become an Associate Justice of the Supreme Court of the United States on July 9th, 2018, filling the vacancy left by the retirement of Anthony Kennedy. The Senate Judiciary Committee began Kavanaugh's confirmation hearing on September 4th. Soon after the process had begun, Kavanaugh was accused of having sexually assaulted a woman while he was a student in an elitist boy's school thirty six years be-

²⁷ <https://www.telegraph.co.uk/news/2018/12/13/metoo-victory-us-congress-politicians-change-sexual-harassment/> [Last access 20/04/2019].

²⁸ Zero tolerance for sexual harassment and abuse. European Parliament, October 25th, 2017. <http://www.europarl.europa.eu/unitedkingdom/en/media/news/2017/october17/harassment-debate25-10-17.html> [Last access 14/10/2018].

fore. *The Washington Post* of September 16th revealed the identity of the alleged victim of an attempt of gang rape, Professor Dr. Christine Blasey Ford²⁹. On September 17th President Trump was interviewed by the BBC News which broadcasted his words of support to Kavanaugh: “He is one of the great intellects and one of the finest people that anybody has known.”³⁰ The Senate Judiciary Committee postponed its scheduled confirmation to allow both Dr. Ford and Judge Kavanaugh to respond. In the interim, two other women alleged separate instances of sexual assault by Kavanaugh and his school mates. In the process, Dr. Ford had to undergo a polygraph test that confirmed she was telling the truth. Predictably, Judge Kavanaugh denied all accusations against him but did not have to undergo a polygraph test. Both Kavanaugh and Ford were questioned by members of the Judiciary Committee and the sex crimes prosecutor on September 27th. The session was broadcasted and with it the usual social prejudices against victims of sexual harassment and rape were uncovered. Specifically, the issues at stake were related to the veracity of Dr. Ford’s testimony and her revictimization in the confirmation hearing. For many, the fact that the 27th hearing was structured as a *he-said/she-said* contest evidenced there was no genuine interest in knowing the truth about Dr. Ford’s accusation. As we know, women have long struggled to be believed in such contests, especially when the accused is a high profile man with power and privilege. President Donald Trump mocked the testimony of Professor Ford, specifically the gaps in her memory about the sexual assault that had taken place in 1982 and blamed her for having ruined the social prestige and reputation of a highly respectable man³¹. On the other hand, in the opinion of many legal practitioners, Judge Kavanaugh’s verbal attacks, anger, interruptions, and refusal to answer questions showed lack of judicial temperament and challenged his qualifications as nominee. Despite strong social opposition, on October 6th the Senate finally voted 50–48 to confirm Kavanaugh’s nomination to the Supreme Court. The media coverage of this case has prompted a national discussion regarding the lack of a protocol for examining sexual harassment and assault claims that surface during a confirmation hearing, and has also contributed to stress that there is compelling and urgent need to create new laws and improve policies to protect and seek justice for victims of sexual assault and harassment in the United States.

²⁹ California professor, writer of confidential Brett Kavanaugh letter, speaks about her allegation of sexual assault by Emma Brown in *The Washington Post* of September 16th, 2018. https://www.washingtonpost.com/investigations/california-professor-writer-of-confidential-brett-kavanaugh-letter-speaks-out-about-her-allegation-of-sexual-assault/2018/09/16/46982194-b846-11e8-94eb-3bd52dfe917b_story.html?noredirect=on&utm_term=.96265e115f4d [Last access 13/10/2018].

³⁰ *BBC News*, September 17th, 2018. <https://www.bbc.com/news/av/world-us-canada-4555514/trump-on-kavanaugh-one-of-the-finest-people> [Last access 13/10/2018].

³¹ Republicans deplore Trump mocking Brett Kavanaugh accuser in *BBC News*, October 3rd, 2018. <https://www.bbc.com/news/world-us-canada-45736951> [Last access 14/10/2018].

V. Conclusions

From a legal linguistics perspective, in this paper we examined gender-based violence, a global social conflict having millions of victims all over the world and considered a State problem in Spain, a modern democratic country in the European Union. The conflict arises from the clash of two opposing transnational cultural paradigms: one based on power and domination (Heteropatriarchy), the other on solidarity and equality (Feminism). As discussed earlier, gender-based violence was not made visible until it was categorised as an object of protection by the law, e. g. the Organic Law 1/2004, of December 28th, on Comprehensive Protection Measures against Gender Violence. We looked at the weaknesses of this law, specifically its short-sighted vision of the problem when the lawmaker reduces the overarching concept of gender-based violence to domestic violence. Linguistic analysis indeed helped us to gain insight into the much broader and complex social phenomenon lying under the surface level. More precisely, using the semantic method *Natural Semantic Metalanguage*, we offered a comprehensive semantic definition of gender-based violence by means of breaking it into three relatable semantic categories: (a) gender, (b) sexism, and (c) violence against women. Findings from the semantic analysis show that violence against women is the effect of sexism, a cognitive element of discrimination driven by the presupposition that men are superior to women. Additionally, the multidimensional approach to the analysis of heteropatriarchy supports the idea that gender-based violence is not grounded in biological differences between men and women but rather in sexism which, propagated through ideology, permeates the social practices and discursive practices of societies in which heteropatriarchy is the dominant cultural paradigm. Consequently, it can be concluded that gender-based violence is a cultural artefact of heteropatriarchy.

At present, the law and the news media are viewed as agencies that work for the establishment of social order, justice and peace. These can interact in thought-provoking and productive ways that we call mediatization, e. g. the process whereby the mass media comes to affect the law. This paper illustrated processes of mediatization of the law by means of four paradigmatic cases related to the social phenomenon of gender-based violence. The national media coverage of the case of Ana Orantes changed public opinion concerning violence against women in Spain and gave rise to the creation of the first law in the European Union protecting women's rights, e. g. the Organic Law 1/2004, of December 28th, on Comprehensive Protection Measures against Gender-based Violence. The international media coverage of judgment 38/2018 in the case of *La manada* has widely contributed to the transformation of public opinion about rape victims (Ehrlich 2010: 265–280) and urged the revision and modification of the types of sexual offences in Spanish Penal Law. The global media coverage of the #MeToo movement has also raised social awareness about the magnitude of the problem of sexual abuse, encouraged a transnational debate on sexism and gender-based violence against women, and promoted the creation of new laws for the prevention of sexual harassment such as the ME TOO bill in the

United States Congress. Nonetheless, Judge Kavanaugh's confirmation hearing has sadly demonstrated how deeply entrenched heteropatriarchal values are in so-called modern societies. Continuing engagement with the media is necessary to ensure community understanding of gender-based violence and the harm that sexist portrayals and narratives in the news media may cause. These may pose a threat to the advance of an emergent and hopeful cultural paradigm based on equality. However, for this new social order to succeed, political involvement in the eradication of the global conflict of gender-based violence should be genuine and firm.

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