

## EQUALITY, DIFFERENCE AND ALL THAT JAZZ The Infamous Debate and a Spanish Take on It

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This article analyses the work of Spanish feminist writer Carmen de Burgos (1867–1932) focussing on her essay entitled *La mujer moderna y sus derechos* [The Modern Woman and Her Rights]. It is theoretically informed by the current 'equality versus difference' debate, and hopes to demonstrate how equality feminism at the time of de Burgos sometimes resists its own politics and slides into difference feminism. To this end, the legal discussion is supplemented by recourse to Thomas Laqueur's *Making Sex* (1992) which argues, amongst other things, that medical discourse in the nineteenth century 'created' biological difference in order to legitimate legal difference between the sexes'. In order to put de Burgos's feminist writing into the legal context of her time, the analysis is also extended to two legal writers who were contemporaries of hers: José Francos Rodríguez and Miguel Romera Navarro.

Women have always been defined in relation to men: women are inferior or superior, equal or different, always in relation to men. While current feminist legal scholarship largely concentrates on the contemporary debate, the historical example of Spain shows that these competing principles have dogged feminist politics since the nineteenth century. This article will analyse the example of Spanish feminist writer Carmen de Burgos (1867–1932), focusing on her essay entitled *La mujer moderna y sus derechos* [The Modern Woman and Her Rights].<sup>1</sup> It is theoretically informed by the current 'equality

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<sup>1</sup> Carmen de Burgos, if known at all by posterity (in or outside of Spain), is mainly remembered as an author of popular novellas and, to a lesser extent, as a feminist. Starting her career around 1900 as the first Spanish female newspaper journalist, she soon became well known for her daily columns in Madrid's liberal press, achieving notoriety when she organised public surveys on the question of divorce in 1903 and female suffrage in 1907, respectively. She also took advantage of one of the biggest publishing events of her time, namely the conversion of fiction into an article of mass-consumption on an unprecedented scale, which set out to satisfy the demands of, and to educate, an increasing reading public. This article is part of a wider study which aims to contribute to a reading of de Burgos as a champion of first-wave feminism. The question of female suffrage is mainly discussed in her feminist essay *La mujer moderna y sus derechos* [The Modern Woman and her Rights] (1927), which is — at some 350 pages — Carmen de Burgos's most comprehensive and most mature theoretical work.

versus difference' debate,<sup>2</sup> and hopes to demonstrate how equality feminism at the time of Carmen de Burgos sometimes resists its own politics and slides into difference feminism. To this end, the legal discussion is supplemented by recourse to Thomas Laqueur's *Making Sex* (1992) which argues, amongst other things, that medical discourse in the nineteenth century 'created' biological difference in order to legitimate legal difference between the sexes. After examining de Burgos's equality politics, this article analyses her rebuttal of the assumed biological differences in general and of women's inferior intelligence in particular. It also reviews her campaign for female suffrage in the light of both her equality politics and her own difference discourse. In order to put de Burgos's feminist writing into the legal context of her time, the analysis is also extended to two legal writers who were contemporaries of hers: José Francos Rodríguez and Miguel Romera Navarro.<sup>3</sup>

### De Burgos's Equality Feminism

Carmen de Burgos's writing career coincided with a time of unprecedented social change in Spain. Her life spanned the late nineteenth and early twentieth centuries and her work reflects the dramatic transition from a monarchical system to the proclamation of the Second Republic in 1931 with laws and policies which could be considered among the most modern in Europe.<sup>4</sup> Although, for the first time in Spanish history, women organised themselves in a variety of organisations with varying degrees of feminist objectives, in comparison to other European countries Spanish feminism was less effective. The historian Mary Nash argues that, while there were a small number of women who led the feminist struggle, the vast majority supported the status quo.<sup>5</sup> Amongst those women, Carmen de Burgos might be considered one of the most distinguished proponents of Spanish feminism in the lead-up to the Second Republic. As a fervent believer in equal rights, she can be viewed as a champion of international first-wave feminism. De Burgos was president of the *Cruzada de Mujeres Españolas* (Cruzade of Spanish Women) and the *Liga Internacional de Mujeres Ibéricas e Hispanoamericanas* (International League of Iberian and Spanish American Women), both of which mobilised in favour of women's rights. In her own life and work, the struggle for equality

<sup>2</sup> For a good introduction to the 'equality versus difference' debate, see Vogel (1995), pp 111–127.

<sup>3</sup> José Francos Rodríguez (1862–1931) was a politician and writer, Minister of Justice from 1921 to 1923, then life senator and member of the Real Academia Española. For further details see *Enciclopedia Universal Ilustrada Europeo-Americana. Apéndice* (1931), p 526. Miguel Romera Navarro (1888–1954) studied law, philosophy and literature in Madrid. From 1909 until 1910, he was Secretary of Moral Sciences and Politics in Madrid's Athenaeum. In 1912 he moved to the United States and was, from 1921 onwards, Professor of Spanish literature at the University of Pennsylvania. For further details, see *Enciclopedia Universal Ilustrada Europeo-Americana*, tomo 52 (1926), pp 201–202.

<sup>4</sup> Graham (1995), pp 99–116.

<sup>5</sup> Nash (1994), p 151.

manifested itself most notably in her life-long campaigns for divorce and the vote.

While today difference feminism bases its theoretical opposition to equality feminism on the historical evidence that equal rights have furthered the feminist cause only up to a point, equality feminism in the early twentieth century was based on a very different legal situation. Nicola Lacey explains that:

One of the beauties of early liberal legal feminism was the relative simplicity of its politics: essentially, its politics were not oppositional, except at the level of challenging men's self-interest. Its analysis was the quintessential expression of the philosophical discourse of modernity; its ideology was liberal; and, on the assumption that that liberal ideology was widely shared, its strategy was simply to appeal to the good faith of those in political and legal power. Doubtless, given the strength of those interests and the short supply of good faith, this in itself was rarely an effective approach. But, in principle, there was an easy and very direct inference from theory or analysis to policy or strategy. And this was highly sympathetic for feminism, which has always affirmed the intimacy of theory and practice.<sup>6</sup>

The controversy today revolves around the reductive and simplistic notions of formal equality, and those who support difference feminism call for a more differentiated position. The current form of difference feminism comes at an historical time and place when formal equality has already been achieved. First-wave feminism, however, struggled within a very different context, using the notion of equal rights to remove legally imposed discrimination. The law was blatantly gendered and overtly handed privileges and power over to men. It was important, as a first step, that these legal privileges were removed: the campaign for female suffrage, for equal rights in marriage, the right to divorce, single mothers' rights, to name but a few, were all politically important. The reality of women's lives at the time of de Burgos was that of curtailment of rights, and equality feminism was seen as progress, as an achievement of justice. As we will see later, equality discourse at the time of Carmen de Burgos was promoted by progressive, liberal and modern legal theorists. Unlike today, when equality feminism is decried for its reductionism, in the early twentieth century the discourse of equality argued that there was no difference between men and women, so why should there be a different set of rights based on sex? Equality in the early twentieth century meant quite simply the attainment of rights, while difference meant discrimination. As discussed in more detail below, dominant legal discourse openly opposed any changes in rights on the grounds of women's supposedly natural difference. Women were constructed as being different, and this supplied the necessary justification to give them fewer rights. De Burgos's writing serves as a pertinent reminder of how this dominant difference discourse, with its agenda of protectionism, was

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<sup>6</sup> Lacey (1998), p 195.

used as a patriarchal tool and how important it was for these early feminists to identify such political tactics. As Nicola Lacey rightly points out:

Since the ancient disadvantages and exclusions which had marked the legal status of women had generally been justified in terms of supposedly 'natural' characteristics and incapacities, the interpretation of many, if not most, of these differences as social constructs — as matters of gender rather than of 'given' sex — assumed a distinctive political importance.<sup>7</sup>

What is most noteworthy throughout *The Modern Woman and Her Rights* is that de Burgos considers law a crucial component of feminist strategies, identifying the legal system as a means of both social control and social change. Positive law, she argues, lags behind the evolution of custom which has advanced much further than law. De Burgos describes law as reactive, following social change rather than being instrumental in it:

Customs have changed a lot in favour of women. What is needed now is that the legal codes are updated in line with custom, so as not to try to dictate life through rigid texts ... [Historically] the influence of custom disappeared and only written law remained in force, serving as a hallmark to brand women as slaves for so many centuries. Now the liberty that has already been achieved in custom has to be guaranteed by law.<sup>8</sup>

In order to appease those opposed to feminism, she tries to clarify that feminism wants equality between men and women and would by no means include 'the idea of female hegemony'.<sup>9</sup> De Burgos demands equal rights for women based on their inalienable rights as citizens of a society. However, she also immediately qualifies this by assuring the reader that: 'By no means did I want to indicate with those words a desire for reversal of gender roles, and particularly not the aspiration for equality that nature would make impossible.'<sup>10</sup> While pushing for equal rights, de Burgos here shows an awareness of the impossibility of complete equality and thus brings difference into the debate. In a less than clear statement, she seems to put forward an assimilationist viewpoint — interestingly, not in order to argue for difference from a standpoint of strength, but simply in order to appease potential male critics who might take the easy line of attacking complete equality for reasons of biological impossibility. As an outstanding proponent of Spanish first-wave feminism, and at a time when difference meant discrimination, it is not surprising that de Burgos chose equality feminism as her theoretical basis.

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<sup>7</sup> Lacey (1998), pp 189–190.

<sup>8</sup> De Burgos (1927), p 8. The translations of this and all subsequent quotations are mine.

<sup>9</sup> De Burgos (1927), p 9.

<sup>10</sup> De Burgos (1927), p 9.

While being aware of gender differences, her method of argumentation always implies that these should not make a difference in terms of treatment or rights.

### Biological Difference

In his ground-breaking book *Making Sex* (1992), Thomas Laqueur demonstrates how medical discourse throughout history is but one long narrative of rationalisations and circular arguments. According to Laqueur, scientists started looking for biological differences when the establishment of difference became politically important. The French Revolution, with its promise of a new social order, suggested to women that they could achieve civil and personal liberties, and thus created a new feminism as well as an anti-feminism.<sup>11</sup> Never before had male supremacy been so publicly challenged and it is no coincidence that biological differences were created in the aftermath of this revolutionary change. Laqueur explains that:

Structures that had been thought common to man and woman — the skeleton and the nervous system — were differentiated so as to correspond to the cultural male and female. As the natural body itself became the gold standard of social discourse, the bodies of women — the perennial other — thus became the battleground for redefining the ancient, intimate, fundamental social relation: that of woman to man. Women's bodies in their corporeal, scientifically accessible concreteness, in the very nature of their bones, nerves, and most important, reproductive organs, came to bear an enormous new weight of meaning. Two sexes, in other words, were invented as a new foundation for gender.<sup>12</sup>

The most well-known moral anthropologists of the French Revolution wrote about family matters, arguing that corporeal differences demanded the social and legal differences of gender in the new Napoleonic Code.<sup>13</sup> The Spanish legal codes were modelled very closely on the French examples and are therefore full of gender differences. It is noteworthy here that, in Spain, liberal legal writers like Romera Navarro also situate the advent of feminism as a political movement precisely within the aftermath of the French Revolution, thus prefiguring Laqueur's observations.<sup>14</sup> Ornella Moscucci argues that science played a crucial role in the rise of liberalism, because its methods seemed to be the only secure way of replacing the 'false' notions of human nature derived from religious speculation with a secular, value-free knowledge of society and nature.<sup>15</sup> With its allegedly certain and objective scientific methods, medicine attempted to prove that claims for equality 'were based on profound ignorance of immutable physical and mental differences

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<sup>11</sup> Laqueur (1992), p 194.

<sup>12</sup> Laqueur (1992), pp 149–150.

<sup>13</sup> Laqueur (1992), p 196.

<sup>14</sup> Romera Navarro (1910), pp 155–156.

<sup>15</sup> Moscucci (1993), p 3.

between the sexes and that these, not legislative whim, determined social division of labour and rights'.<sup>16</sup> Laqueur calls this a 'radical naturalisation' — that is, the reduction of women to their biology. For the first time in medical history, biological facts were used to demonstrate that women were slaves of their bodies. The crucial tactic here is a kind of cultural synecdoche using a part to symbolise a whole:

What mattered was the mode of argument itself, the move from sex to gender, from body to behavior, from menstruation to morality. The actual content of purported sexual differences varied with the exigencies of the moment.<sup>17</sup>

In a synecdochic move from female sexual organs to women *per se*, biology was used to explain women's different behaviour. According to Laqueur, this radical naturalisation did not itself logically entail any particular position for women in society. In order to achieve the exclusion of women from citizenship at a time when women were getting more politically active, patriarchy needed to make sure that women remained in the private sphere. According to the Spanish cultural critic Cristina Enríquez de Salamanca, this was achieved by means of a collaboration between the legal discourse and a more general cultural discourse. The legal discourse prescribed a domestic model for women by creating a set of laws for marriage, but according to Enríquez de Salamanca this is only part of the patriarchal strategy. She advocates the view that, parallel to the legal discourse creating a 'different and discriminated subject', there was a cultural strand creating an 'angel of the house' discourse in order to strengthen the patriarchal agenda of keeping women in the private sphere.<sup>18</sup> De Burgos also strongly opposed this 'angel of the house' discourse, identifying it as a subtle form of domination:

In pathetic fashion it was proclaimed that nature determines the mission of the two sexes: man shall work, woman shall not be anything but mother, the angel of the house, union of grace and beauty ... Invoking maternity in order to maintain slavery implies extraordinary cynicism and an inexplicable ignorance of the space required by the activity of women who have not been mothers, or widows or wives who, having raised and educated their offspring, once their maternal mission is finished, have energy that requires application.<sup>19</sup>

The creation of a legal difference discourse at the time of Carmen de Burgos was based on the fact that women were biologically different and therefore perceived as inferior. Hence one of de Burgos's main aims in *The Modern Woman and Her Rights* was to publish a profound critique of the dominant discourse of difference. In order to argue convincingly that different

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<sup>16</sup> Laqueur (1992), p 207.

<sup>17</sup> Laqueur (1992), p 216.

<sup>18</sup> De Salamanca (1998), p 219.

<sup>19</sup> De Burgos (1927), p 13.

legal subjectivities were based on false medical 'facts', deconstructing medical discourse was fundamentally important. It gave the vital counter-evidence needed to dismantle a legal system that was based on supposedly natural facts and therefore appeared to be reasonable and legitimate.

As noted above, Moscucci illustrates how nature instead of religion had to define the social place of men and women. The cultural critic Geraldine Scanlon similarly argues that, as soon as the influence of religion subsided as a source of anti-feminism, male dominant discourse needed to find another source to replace it. She aptly observes that the advantage of scientific discourse was that 'the majority of women were not sufficiently educated to spot the lacunae in scientific arguments'.<sup>20</sup> Both Scanlon and Catherine Jagoe convincingly demonstrate how, in Spain, there were the same strategies of cultural engineering at work as described by Laqueur and Moscucci.<sup>21</sup> Both illustrate the utmost importance that medical discourse ascribed to physiological differences between men and women, in particular the functions and the weight of the brain. Unsurprisingly, then, de Burgos attempts to deconstruct these fallacies and goes to great lengths to produce evidence to counter dominant scientific discourse which allegedly proves the inferiority of women. I am not concerned with proving that de Burgos's medical narrative is scientifically more sound than that of the dominant medical community of the time. What interests me here is that de Burgos's counter-arguments raise enough reasonable doubt about the truth claims of dominant medical discourse for the latter to become highly questionable. It follows then that, to quote Thomas Laqueur, 'the body could prove almost anything and hence almost nothing at all'.<sup>22</sup> By drawing attention to this, de Burgos deconstructs the power of medical discourse in order to disallow it as evidence. Her strategies are twofold: first, she gives a broad overview of scientific 'evidence', only to display its arbitrariness; and second, she enumerates enough counter-evidence to show that the creation of difference need not necessarily mean the inferiority of women. Difference discourse used by men is refuted by de Burgos while her own difference discourse attests to a view which could be termed 'different but equal'. While showing how easily women's superiority could be proven, de Burgos insists that such a facile struggle for supremacy enriches no one:

Women's differences, in terms of superiority, are meaningless: such as having a higher waist, shorter limbs, smaller zygomatic bones as well as smaller mastoid and styloid processes, less marked crests, less well-defined superciliary arches, a thin and sharp outer upper eye socket, a smaller mouth and the nose rarely aquiline, longer cilia, clearer sclera, a smoother complexion, more rounded limbs ... To argue arbitrarily, as men have done, women could invoke in these differences signs of superiority: shorter arms, a smaller, well-formed lower jawbone ... and

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<sup>20</sup> Scanlon (1986), p 162.

<sup>21</sup> Scanlon (1986), pp 159–194. See also Jagoe et al (1998), pp 305–367.

<sup>22</sup> Laqueur (1992), p 217.

the facial angle more open, which indicates a higher elevation of the vault of the skull.<sup>23</sup>

De Burgos here echoes dominant medical discourse which produced similar passages examining medical features almost arbitrarily to prove that women are inferior to men. As a committed equality feminist, it is not only the same rights for women that she demands, but also equality for men. While being aware of women's biological difference, in this particular passage she maintains a position that does not elevate the feminist cause to higher grounds of female superiority. On the topic of the vote, de Burgos will change her position. Denise Riley, in her brilliant book *'Am I that Name?'*, suggests that British feminism of the 1920s and 1930s was characterised by a 'nervous hesitation between 'equality' and 'difference', or a search for the fragile median position which saw women as 'different but equal'.<sup>24</sup> According to Riley, this was mainly due to the questionable appeal of equality as a political strategy of winning the vote.<sup>25</sup> As noted below in the section on the vote, de Burgos's work similarly fluctuates between her self-professed equality feminism and her discourse of difference.

De Burgos repeatedly attacks the arbitrariness of phallographic arguments and her main point of criticism is the notion that women's intelligence is supposedly inferior to that of men. Dissecting male medical discourse which endlessly measures the female brain in order to prove women's inferior intelligence, de Burgos points out the one glaring omission in male argumentation: the obvious necessity to put anatomical data into relative terms. The anatomical structure of the female brain as well as its weight differs from the male brain. In absolute terms, the male brain is heavier than the female, which could be interpreted as proof of more intelligence. However, in relative terms, the result is the exact opposite:

So the difference in favour of men is as follows: 0.300 encephalon, 0.094 cerebrum and 0.006 cerebellum. The difference is precious little, but even so it is not an absolute difference. There is no allowance for height. If one makes a comparison proportionate to height, as equity demands, the cerebrum of women is bigger than that of men.<sup>26</sup>

Again she calls for gender equity, in this case in terms of anatomical correlations, which need to be part of the equation.<sup>27</sup> Calling for gender equality and arguing against the latest medical research which supports difference, she concludes:

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<sup>23</sup> De Burgos (1927), p 29.

<sup>24</sup> Riley (1988), p 62.

<sup>25</sup> Riley (1988), p 55.

<sup>26</sup> De Burgos (1927), p 32.

<sup>27</sup> Equity is here used in its more colloquial meaning of natural justice, since this is what the original term *equidad* signifies.



It is monstrous to give sexual characteristics the importance that Freud gives them, so that they permeate and subordinate everything. In the realm of thought, in the freedom of action, in the egalitarian sphere of justice and law, sex should not have any importance.<sup>28</sup>

As we have seen, Carmen de Burgos, as a proponent of equality feminism, strongly opposes dominant difference discourse which uses biology as evidence to justify patriarchal agendas. Here she stays true to her equality politics. As the following section will show, her use of difference discourse changes radically concerning female suffrage.

### The Vote

In 1931, Spanish women obtained the right to vote after a long struggle for female franchise. There have been various interpretations on how successful Spanish feminism was as a political movement to obtain the vote. Fagoaga, in her excellent study *La voz y el voto de las mujeres* [Women's Voice and Vote], suggests that there was a long struggle culminating in the franchise in 1931, while Helen Graham argues that 'women's formal political emancipation was being implemented in 1931 "from above" in order to deliver the principles of republicanism rather than achieved "from below" by dint of women's grass-roots mobilization'.<sup>29</sup> A detailed discussion of Spanish female suffrage is beyond the scope of this article. My prime intention here is to analyse the political tactics that were used in the debate about the vote. Denise Riley argues that the struggle towards political emancipation — philosophically and strategically — exposes the fluctuations of the category 'woman' and it is upon these fluctuations in *The Modern Woman and her Rights* that I am focusing.<sup>30</sup>

De Burgos demands female suffrage in order to further feminist aims. She clearly believes that the vote for women, of necessity, results in a more active role in society. Interestingly, while calling for suffrage, she slides uncomfortably into a difference discourse. Sustaining her argument by quoting the French feminist Abbadie d'Arrast at length, she promotes difference feminism:

Who can doubt ... that women's deeds are above all altruistic? These deeds are inspired by superior interests, interests of the family, of work, of safety, of protection of the child; women, above all, want to establish a physical and moral hygiene in the bosom of a society that they wish to regenerate, purify and cleanse for the safety and education of the child. Their motherly eyes judge the environment ... they want the vote for love and for unselfish reasons. Their work will be the work of women and not a bad reproduction of men's work ... They will attack

<sup>28</sup> De Burgos (1927), p 34.

<sup>29</sup> Graham (1995), p 101. See also Fagoaga (1985); Capel Martínez (1982).

<sup>30</sup> Riley (1988), p 68.

pornography, alcoholism and vice, because they and their children are victims of the evil of our time.<sup>31</sup>

While the attainment of equal rights — and in this particular case the vote — was de Burgos's ultimate goal, the explicit discourse used here is that of claiming moral superiority — that is, creating difference instead of equality. The use of difference discourse was heavily criticised by de Burgos when biological difference was created in order to justify male supremacy. Yet she did not seem to oppose it as a tactic of equality feminism. Hence difference when creating female inferiority was 'politically incorrect', while difference when creating female superiority was not only condoned but also applauded. As Laqueur argued, the fact that liberalism used a difference discourse to justify women's lack of rights initiated a feminist discourse of difference as a counter-reaction. Feminists like Olympe de Gouges, in her famous *Déclaration des droits de la femme et de la citoyenne* (1792), also uses the body, hence creating her own discourse of difference. Woman, she argues, is 'le sexe supérieur en beauté, comme en courage dans les souffrances maternelles', clearly determining women's mission in life through their bodies.<sup>32</sup>

One of the more gratifyingly stupid rationalisations of male dominant discourse is the topic of military service. The postulation that women should not be given the vote because they do not participate actively in the defence of their country is refuted easily by Romera Navarro, who appeals to the internal logic of the argument: he argues that if women, because of their supposedly natural incapacity to serve in the armed forces, should not be given the vote, all other citizens who are 'naturally' incapacitated should not be able to vote either. Using internal logic and the principle of equality, Romera Navarro demands that if corporeal differences are used to deny an innate right, then by sheer logic this ought to apply to all citizens with corporeal differences, such as illness, lack of height, and so on. Hence, by establishing a discourse of equality, Romera Navarro lays bare the inconsistency in the use of dominant difference discourse.<sup>33</sup>

Francos Rodríguez and de Burgos, however, answer the creation of dominant difference discourse with their own version of positive difference. In a synecdochic move from maternal reproductive functions to a social utility principle, women became natural suppliers of soldiers. Francos Rodríguez explains that:

Women do not defend their fatherland with arms, but by means of maternity. To fulfil such august duty they ... shed blood and endure pain. And in contrast to this, when the hour comes to decide whether the flower of a nation's manhood should be sacrificed to a state commitment, to a government decision, the vote of those women, who

<sup>31</sup> De Burgos (1927), p 265.

<sup>32</sup> De Gouges (1993), p 204.

<sup>33</sup> Romera Navarro (1910), p 179.

have already given up their own lives to provide as many lives as required to fill the ranks of the army, is utterly dismissed.<sup>34</sup>

De Burgos goes even further when she melodramatically states that:

The argument that they do not contribute with their blood is absurd. In times of war, women, as has already been proven, do their fair share, face danger and suffer pain as men do. Left with only their maternal mission, women have devoted their lives to it. Their whole focus rests on their love for their children and therefore this love is more passionate. Women have only been left with their sons and they are snatched from their arms. That is why women suffer more than men.<sup>35</sup>

The logic here appears to be that, because women's main social function is motherhood and their whole life revolves around it, women actually suffer more during wartime than men. As such, de Burgos's own difference discourse plays dangerously into the hands of dominant difference discourse. In this particular passage, she colludes with patriarchal arguments by admitting that women's only social role is motherhood. However, to be fair to de Burgos, and looking at the entirety of her work, she propagates a more active role in public life for women, while not denying their role as mothers. My concern here is not that de Burgos dangerously plays into the hands of patriarchy by believing in the value of motherhood. It is rather that, by creating her own difference discourse of melodramatic proportions — as in the example above — she evokes the very stereotype she tries to escape from: that women are inextricably, and emotionally, linked to their reproductive functions and hence, according to male dominant discourse, cannot reasonably perform public office. As such, to my mind, on this particular issue of military service Romera Navarro's strategy of equality discourse to combat dominant difference discourse works more effectively and succeeds through logical reasoning.

As already mentioned, the legal writers in favour of equality feminism played the morality card. Writers like Romera Navarro and Francos Rodríguez argued on two levels: first, it is the natural right of any citizen to be able to contribute to society; and second, it is in society's interest to integrate women as active agents of change. It was not only considered a female right to participate in public life, but also women's duty to add traditional female virtues to political life.<sup>36</sup> Playing the morality card was by no means an uncommon thing to do in the struggle for female franchise. In his book entitled *The Feminists*, historian Richard Evans explains that:

The feminists abandoned their original position of asserting the absence of any innate differences in reason or ability between men and women and retreated to a position in which innate differences were not only accepted but were also made the basis for feminist demands. The

<sup>34</sup> Francos Rodríguez (1920), p 230.

<sup>35</sup> De Burgos (1927), p 281.

<sup>36</sup> Romera Navarro (1910), p 210. See also Francos Rodríguez (1920), pp 199–206.

argument had long been present in feminist propaganda that women's moral behaviour was superior to men's. ... Women's moral superiority was now thought to be inborn, a consequence of their function as mothers. The suffrage was demanded so that women could help curb immorality and disorder not by education and moral suasion but by legal enforcement and government coercion.<sup>37</sup>

Looking at the historical examples Evans gives, we can conclude that the female franchise was enacted earliest in those parts of the world where it was most needed — that is, in Australasia and the American (Mid)west. One example is the American state of Wyoming, which gave women the vote in 1869, although there was no feminist pressure to do so. Evans explains that the measure 'was intended to both attract women to migrate there and to impose order on the conduct of elections and court cases, where the presence of women, it was felt would inhibit the drunkenness, corruption and disorder.'<sup>38</sup>

William Evan argues that one of the conditions for successful social change is that the advocates of such change make reference to other countries where the law has already been successfully implemented.<sup>39</sup> Therefore, it comes as no surprise that these early examples of female franchise were used by Francos Rodríguez, Romera Navarro and de Burgos to add empirical evidence to their cause.<sup>40</sup> Carmen de Burgos quotes state governors at length in order to give historical examples of successful implementations of female suffrage. They reassure those who doubt the use of female suffrage that, first, it does not make women more corruptible and, second, women have a moralising effect on politics. Her quoting of the words of a state governor of New Zealand is particularly telling: 'We have conclusively proven that to mark a name on a ballot paper once every three years does not mean that women lose their gracefulness, beauty and love for their domestic duties. On the contrary, the vote of women is moralising.'<sup>41</sup> Here the absurdity of counter-arguments — for instance, that women would lose their femininity through the vote — is wittily heightened by ironically creating a correlation between the act of marking a ballot paper and feminine beauty.

As we have seen, the concepts of equality and difference change meaning according to the legal reality at a particular time and place. To campaign for equality at a time when inequality was enshrined in the law seems as obvious a strategy as today's call for a much more differentiated approach. Nevertheless, it should be noted that de Burgos's equality feminism, as much as that of progressive legal writers like Francos Rodríguez and Romera Navarro, resisted its own politics and slid into difference discourse in order to further its aims. As Laqueur argues, and as de Burgos's particular historical example confirms,

<sup>37</sup> Evans (1977), p 233.

<sup>38</sup> Evans (1977), p 214.

<sup>39</sup> Evan (1990), pp 288–291.

<sup>40</sup> See Rodríguez (1920), pp 207–218; Romera Navarro (1910), pp 197–209; De Burgos (1927), pp 301–319.

<sup>41</sup> De Burgos (1927), p 319.

by rejecting the dominant difference discourse, feminists created their own difference discourse which portrayed women as morally superior. The issue for de Burgos here was not that women's bodies were superior because of their reproductive functions, as some strands of today's difference feminism suggest. It was rather that women's social role as mothers makes them morally superior, since they tend to be more altruistic. What is more, the idea of female altruism was positively used as an argument by de Burgos. Suffrage was not only seen as an advantage for women in general, but also for mothers in particular in order to educate their children better. Motherhood was the distinguishing factor and this issue was used by everybody: male-dominant discourse used it to establish the 'angel of the house' concept to keep women in the private sphere, while equality discourse used motherhood as a proof to argue that women's involvement in the public world was advantageous to society. The latter argument is not uncommon in today's difference feminism, with its debates about women's caring functions and how these could change the fabric of society. However, using arguments of moral superiority stemming from motherhood, and hence biological difference, at a time when women did not yet have the safe haven of at least formal equality (no matter how debatable the latter may be) could be seen as a questionable tactic, since it could play all too easily into the hands of the opposition. In conclusion, then, I agree with Nicola Lacey that one of the beauties of early liberal legal feminism was the simplicity of its equality politics. However, as this article has demonstrated, the issue was, as always, more complex than its label suggests. Equality politics and, in this particular instance, female suffrage were achieved by explicitly bringing a variety of difference discourses into the debate. Equality feminism quite simply resisted its own politics and slid into using the tactics of difference, sometimes dangerously so.

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