

— *Monografías* —

WOMEN AND
THE LAW:
CARMEN
DE BURGOS,
AN EARLY
FEMINIST

Anja Louis



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AN EARLY FEMINIST

TAMESIS

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AN EARLY FEMINIST

This study in the interdisciplinary field of law and literature analyses the representation of law in the work of twentieth-century Spanish writer Carmen de Burgos (1867-1932). Drawing on Anglo-American legal theory and Spanish historical practice, it argues that her narratives of legal critique were used as a means of political propaganda, in which she introduced the question of women's right into the public domain. Burgos can be considered one of the most important proponents of the feminist movement in the lead-up to the Second Republic and presents a particularly interesting case study, since she combined her writing career with a political agenda. Given the remarkable similarities between Burgos's critical analysis and recent feminist legal theory, her writings are still disturbingly relevant today. This study also explores the relationship between melodrama as a genre of manichean worldviews and law as a system of binary oppositions and discusses Burgos's subversion of the former as a means to criticise the latter.

ANJA LOUIS is lecturer in Hispanic Studies at the University of Sheffield.

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When a subject is highly controversial — and any question about sex is that — one cannot hope to tell the truth. One can only show how one came to hold whatever opinion one does hold. One can only give one's audience the chance of drawing their own conclusions as they observe the limitations, the prejudices, the idiosyncrasies of the speaker. Fiction here is likely to contain more truth than fact. [...] Lies will flow from my lips, but there may perhaps be some truth mixed up with them; it is for you to seek out this truth and to decide whether any part of it is worth keeping. If not, you will of course throw the whole of it into the waste-paper basket and forget all about it.

(Woolf 1992: 4-5)

*To my parents
for letting me do everything my way.*

*To my family and my friends
who have always been there for me,
even when I didn't want them to be.*

*To my students
for teaching me so many things.*

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Introduction

Law is like love:
Romantic in concept,
but the actual practice
gives you a yeast infection
(*Ally McBeal*, 1997: Pilot episode).

Carmen de Burgos Seguí, if known at all by posterity, is mainly remembered as an author of popular novellas and, to a lesser extent, as a feminist. This study in the interdisciplinary field of law and literature aims to contribute to a reading of Burgos as a champion of first wave feminism and argues that her feminist fiction can only usefully be analysed in conjunction with her feminist essays, in particular *La mujer moderna y sus derechos* (1927a). As I shall demonstrate, the events narrated in the novellas discussed encapsulate many of the ideas presented in Burgos's theoretical works. I suggest that Burgos's narratives of legal critique were used as a means of political propaganda, in which she introduced the question of women's rights into the public domain. To this end, this introduction first contextualises Burgos's feminism and then gives an overview of her life and work. This is further contextualised by an overview of the publishing developments of which Burgos took advantage, as well as a concise discussion of melodrama as a genre. Finally this introduction also supplies an account of Spanish law relevant to this study, a discussion of the functions of law and legal subjectivity.

FIRST WAVE FEMINISM

The intellectual origins of feminism can be traced back to the Enlightenment when, for the first time in history, divine omnipotence was rejected and replaced by the power of reason. By 1789 there was a considerable amount of literature demanding equal education, equal rights to work and equal political rights for women, 'justifying these claims on the grounds that all human beings were equally endowed with reason' (Evans 1977: 15). In 1792 Olympe de Gouges' *Déclaration des droits de la femme et de la citoyenne* and Mary Wollstonecraft's *A Vindication of the Rights of Woman* were published, both basing their demand for rights on the fact that women are equally intelligent beings and thus, they argued, male dominance is arbitrary (Evans 1977: 16). The nineteenth century saw the rise of organised feminist movements in the United States and most

European countries. However, as Evans rightly points out:

Intellectual history cannot by itself explain the growth of feminism in the nineteenth century; people do not, whatever the rationalists of the Enlightenment thought, commit themselves to political action and suffer the scorn, contempt, ridicule and hatred which the feminists were forced to endure, merely out of intellectual conviction (Evans 1977: 23).

Evans, amongst others, argues that with industrialisation and urbanisation the feminist movements grew stronger, since unmarried middle-class women began to demand admission to the professions, which would guarantee them a salary corresponding to the social status of their family (Evans 1977: 23-24).¹ Furthermore, throughout Europe women became increasingly aware of the fact that they were denied basic civil rights. In most countries they did not have legal personality, i.e. they were minors before the law.² Hence it is not surprising that first wave feminism was preoccupied with legal rights, most notably the vote, although, as Evans notes, their point of departure was more immediate:

The aims of feminist movements were initially primarily economic in character. The early feminists demanded access for unmarried women to the professions and the right of married women to control their own property. They backed these demands by fighting for improvements in girls' secondary education and the admission of women to universities, in order to secure the qualifications necessary for engagement in professional activities and to attain the level of education necessary to manage their own domestic and financial affairs. As these demands were conceded, [...] middle-class women began to move into professions, above all into teaching (Evans 1977: 232).

While the aim was to become independent, the means to do this was almost entirely dependent on legal reform. Evans also suggests that the moderate and radical feminists were often so divided regarding how to achieve equality that the only focus they could all agree on, amongst the many rights they demanded, was the vote.³ Once that was achieved, the momentum of first wave feminism was lost: 'By the 1930s classical feminism in Europe, America and Australasia had come to the end of its historical trajectory' (Evans 1977: 232). Evans also notes how surprisingly similar the aims and convictions of feminists were in the different countries and explains that all feminist movements observed their fellow organisations in other parts of the world. What is more, in many countries

¹ See also Fagoaga (1985: 16), Folguera Crespo (1997: 457-461) and Franco Rubio (1982: 243-245), who argue similarly with regard to feminism in Spain.

² 'Legal personality is the sum total of a person's legal rights and duties' (Curzon 1994: 285).

³ For more details on how Spanish feminists could not agree even on the topic of the vote, see Fagoaga (1985).

international feminist organisations were founded partly to give their own movement an 'air of internationalism' (Evans 1977: 247), and, more importantly, to give themselves confidence 'in the inevitability of ultimate victory' (Evans 1977: 252). In the case of Spain, social change in general and feminism in particular were less effective than in other European countries. Geraldine Scanlon argues that the delayed arrival of Spanish feminism stems from the lack of influence of the Enlightenment period and the backlash of Catholic dogma against the egalitarian ideals of the French Revolution (Scanlon 1986: 6). She also maintains that:

las fuertes tensiones políticas y sociales en España perjudicaron el desarrollo del feminismo en el siglo xx. En otros lugares, las feministas de diferentes opiniones políticas consiguieron unir sus fuerzas para la causa de la emancipación, pero semejante colaboración fue imposible en España. [...] El movimiento se debatió, por tanto, entre la indiferencia de la izquierda y las ambiciones de la derecha, y, en consecuencia, consiguió muy poco (Scanlon 1986: 11).

Folguera Crespo distinguishes between different kinds of feminism, most importantly, Catholic, moderate and radical feminism. While the former saw the key function of women as their reproductive role, the last two fought, in varying degrees, for equal rights (Folguera Crespo 1997: 487). Mary Nash argues that, while a small number of women led the feminist struggle, the vast majority supported the status quo (Nash 1994: 155-156). Scanlon includes Burgos, alongside Margarita Nelken and Clara Campoamor, in the category of women who publicly fought for social and legal reform:

Además de la actividad colectiva de las organizaciones femeninas, hombres y mujeres exigían individualmente una reforma, destacándose en especial la actividad de Margarita Nelken, Clara Campoamor y Carmen de Burgos. Carmen de Burgos abogó por la causa de la reforma legal no sólo en sus artículos periodísticos, sino también en su labor literaria; su relato *El artículo 438* es un apasionado alegato propagandístico (Scanlon 1986:139).

Folguera Crespo also makes special mention of Carmen de Burgos and the *Cruzada de Mujeres Españolas*:

El feminismo de Carmen de Burgos se encuentra en una posición intermedia entre un feminismo burgués y un feminismo obrero. La reivindicación del derecho al voto, la igualdad en el trabajo y la exigencia del principio de igual salario para igual trabajo, serán algunos de los presupuestos incluidos en su ideario (Folguera Crespo 1997: 489).

Contextualising Burgos's work a few points can be established: firstly, regardless of the success or size of Spain's feminist movements, Burgos can be considered one of the most distinguished proponents of Spanish feminism in the

lead-up to the Second Republic. As I hope to demonstrate throughout the study, at the beginning of her career Burgos was a moderate feminist, becoming increasingly radical by the 1920s. Secondly, in line with international first wave feminism, she strongly believed in the urgency of legal reform, manifested most notably in her life-long campaigns for divorce and the vote. Finally, as President of both the *Cruzada de Mujeres Españolas* and the *Liga Internacional de Mujeres Ibéricas e Hispanoamericanas*, Burgos understood the importance of both national and international organised feminism.

BURGOS'S LIFE AND WORK

Carmen de Burgos's life was as melodramatic as her fiction. Yet, unlike her heroines who are invariably victimised women, Burgos herself was a feminist, always determining the course of her own life. The beginning of her life, however, was rather conventional. Born in 1867 into a bourgeois family in Almería, she had a sheltered and comfortable upbringing: 'En esta tierra mora, en mi inolvidable Rodalquilar, se formó libremente mi espíritu y se desarrolló mi cuerpo. Nadie me habló de Dios ni las leyes, y yo me hice mis leyes y me pasé sin Dios' (Burgos 1909a: 42). Despite her bourgeois education Burgos, from an early age onwards, ignored two bastions of patriarchal society: religion and the law. In 1882 she fell in love with Arturo Álvarez Bustos, a local journalist and poet. Despite family opposition and the fact that he was fifteen years older than her, she married him around 1883, this being the only socially acceptable form of escape from paternal guardianship. As for many of her heroines, married life was a rude awakening for Burgos. Her husband turned out to be an alcoholic who showed little, if any, respect for his wife. Due to his alcoholism, she was obliged to become the bread-winner and virtually take over his work as a typesetter on his father's newspaper. Ironically, this experience gave her both financial independence from her husband — which would later become her first stepping stone towards leaving him — and her first experience of journalism. She stayed unhappily married for seventeen years, which is, without doubt, the source of her harsh criticism of marriage in all her work and the catalyst for her life-long struggle for the modernisation of the *divorcio* legislation. During these years the couple had four children, of whom only the last survived. It was the death of her son Arturo in 1894, aged 8 months, that was the turning point in the relationship, leading her to end this unbearable situation. Since she had to do this without any family support, her only option was to educate herself. In 1894 she enrolled on a teacher training course and, after years of studying, she finally graduated as a teacher in 1900. An early example of a single mother, she soon decided to move to Madrid with her daughter in order to start a new life of self-determination.

Once in Madrid she initially supported herself and her daughter through teaching. After a few preliminary attempts with articles in *El Globo* and *La*

Correspondencia de España in 1902, in 1903 she became the first *redactora* of the newly-founded progressive newspaper *Diario Universal* and started writing daily columns in it (*Lectura para la mujer*) covering everything from fashion, health and needlework through political events to outright feminist articles. In short, the column — almost always prominently situated on the front page of the paper — informed women about everything which could possibly interest them. Writing under the pseudonym *Colombine*⁴ she quickly made a name for herself and became established as a journalist. In 1903 she caused a big stir with a survey of the divorce question, closely followed by another survey on female suffrage (1906). In 1906 she moved from *Diario Universal* to the liberal newspaper *Heraldo de Madrid*. The newspaper announced her joining as follows:

La notable escritora Carmen de Burgos, que ha popularizado el pseudónimo de *Colombine*, entra á formar parte de la Redacción del HERALDO, en cuyas columnas tratará de asuntos interesantes para la mujer. La sección *Femeninas* es una de las permanentes, creadas en el HERALDO al aumentar éste su lectura, poniéndose á la altura de los grandes diarios de Europa. [...] Por lo mismo estimamos de importancia el concurso constante de *Colombine*, y le anunciamos seguros de que él complacerá al gran público que apoya al HERALDO (*Heraldo de Madrid* 13 February 1906: 1).

She was also the first Spanish female war correspondent during the Spanish-Moroccan War (1909-1925), as well as during the First World War, which broke out while she was travelling in Europe. Burgos was often funded by government grants to extend her studies abroad and thus travelled through most of Europe, Argentina, Mexico and Cuba.

In 1906 her estranged husband died, improving her civil status from separated wife to respected widow. In 1908 she started a relationship with Ramón Gómez de la Serna which was to last twenty years until its melodramatic conclusion when she discovered that he had had a brief affair with her daughter. When they met *Colombine* was already a famous figure while the much younger Gómez de la Serna was almost unknown. They were both very active members of the literary establishment, each publishing and editing literary journals while Burgos also organised *tertulias* in her house. For many years they worked together at her home, enriching each other's work and becoming 'one of the most modern, productive relationships in Spanish literary history' (Davies 1998: 120). In 1921 Carmen de Burgos founded the *Cruzada de Mujeres Españolas* to

⁴ See Castañeda (1994: 35), where she explains that the editor of *Diario Universal*, Augusto Suárez de Figueroa gave her the job of *redactora* as well as her pen-name: 'Figueroa también decide que cambie su nombre. Nace Colombine, seudónimo que la identificará durante toda su carrera, si bien ella en nada se parece a la frágil y voluble marioneta de la Commedia dell'Arte. Carmen es fuerte, recia, emprendedora.'

demand women's suffrage and two years later she became President of the *Liga Internacional de Mujeres Ibéricas e Hispanoamericanas*. Burgos herself explains that:

En 1921, la "Cruzada de Mujeres Españolas" y la "Liga Internacional de Mujeres Ibéricas e Hispanoamericanas", convencidas de la justicia de la causa femenina y de que nada existe en la Constitución española que se oponga al voto, acudió a las Cortes a presentar su demanda y su programa de vindicación de todos los derechos civiles y políticos. Grupos de mujeres de todas las clases sociales repartieron el manifiesto por la calle y lo presentaban en el Congreso y el Senado, realizando así el primer acto público de las sufragistas españolas (Burgos 1927a: 283).

Concha Fagoaga rightly points out that, strictly speaking, it was not the first public act but the first time the suffragists went to the streets and distributed leaflets, the first time photographs of them were published in the press, and the first time that 'el Heraldo llega a calificar el acto como "el amanecer de un serio movimiento feminista" que había sorprendido a los propios diputados' (Fagoaga 1985: 153). Given Burgos's involvement in both feminist groups, it seems safe to assume that from 1921 onwards she became increasingly involved in politics, primarily through the issue of the vote. In 1930 she joined the *Partido Republicano Radical Socialista* (one of the victorious parties in the elections of the following year), only to break party discipline and support Clara Campoamor of the *Partido Radical* in favour of female suffrage. According to Davies, by the end of her life, her worldview 'was anticlerical, antimonarchist, socialist (but not marxist), and pacifist' (Davies 1998: 123). Her death in 1932 was, similar to her whole life, tinged with melodrama. While giving a public speech she collapsed with heart failure. According to newspaper reports her last words were: '¡Muero feliz, porque muero dentro del pleno triunfo republicano! ¡Viva la República! [...] Señores: griten ustedes conmigo ¡viva la República!' (*Heraldo de Madrid* 9 October 1932: 1). The *Unión Republicana Femenina* praised Burgos in an obituary and demanded public recognition of her life's work:

Una ilustre precursora de las actuales realizaciones feministas en España, ya como periodista, como escritora y como organizadora infatigable de nobles empresas femeninas, laboró toda su vida y hasta el instante de su muerte, por los derechos y por los ideales que la República ha venido a consagrar. En consideración a estos singulares méritos y a la alta categoría de escritora de la insigne mujer que acaba de rendir su último aliento en un viva a la República, la Unión Republicana Femenina, acogiendo un deseo de su presidenta, Clara Campoamor, acordó por unanimidad solicitar del Ayuntamiento de Madrid que de una calle de esta capital al nombre preclaro de Carmen de Burgos (*El Liberal* 13 October 1932: 12).

To date there is no street in Madrid named after her.

Much of Carmen de Burgos's work is autobiographical.⁵ Her sheltered Andalusian childhood, her unhappy marriage, her travels, her experiences as a war correspondent, and her feminist and Republican convictions are all fictionalised in her novellas and novels. Her total output consists of some 160 titles. This includes some 120 novels and novellas, as well as travel accounts, translations, literary criticism, books about fashion, beauty, needlework, and other manuals. Additionally, she published a vast number of newspaper articles throughout her life. At the beginning of her career she was a writer with little overt interest in feminist issues. Her first four novellas, published in *El Cuento Semanal*, were quite traditional short stories in a *costumbrista* style without feminist overtones. It is also interesting to note that her work is very varied. A woman who as early as 1903 took the divorce question into the public domain and who in 1906 introduced the debate on female suffrage to her readers, would also publish what today would be classified as self-help manuals such as *Moderno tratado de labores* (1904b), *La mujer en el hogar* (1909d), *El arte de seducir* (1916a), *¿Quiere usted conocer los secretos del tocador?* (1917e) or *El tesoro de la belleza* (1927b). One would understand the need to do so at the beginning of her career, but as the dates of publication show she published, for example, *El tesoro de la belleza* (1927b) the very same year as *La mujer moderna y sus derechos* (1927a), at a time when she was one of the most well-known writers of contemporary Spain and, according to Davies, earned 'a sizeable salary' (Davies 1998: 121). Davies also states that, due to the increased production of literature, 'authors — including women — became professionals able to make a decent living from their writing' (Davies 1998: 118). However, in the case of Burgos there was a price for this: as shown above, she had to publish works that perpetuated a female stereotype. Almost all of Burgos's fiction has female protagonists, yet apart from a few notable exceptions the heroines are, by and large, the powerless victims of a hostile male world. As we will see in the discussion of melodrama later, Burgos's representation of women characterises them as victims, which is, paradoxically, totally opposed to the vision of women presented in her feminist essays.

Burgos's life and work have to be considered against the backdrop of a fast-changing Spain. The first three decades of the twentieth century saw the transition from a monarchical system to the proclamation of the Second Republic. Due to an increasing literacy rate, the potential readership grew considerably and there was unprecedented demand for reading material, which completely redefined the relationship between writer and the reading public. Burgos took advantage for feminist purposes of one of the biggest publishing events of her time, namely the conversion of fiction into an article of mass

⁵ For an extensive overview of the entirety of Burgos's work, see Núñez Rey (1992).

consumption on an unprecedented scale through the publication of cheap popular novellas in pamphlet form, which set out to satisfy the demands of, and to educate, a growing reading public. The publishing world underwent a drastic modification and became ever more dependent on market forces. Research into this phenomenon has mainly centred on *El Cuento Semanal* (1907-1912), generally seen as the first weekly literary magazine on the Spanish market.⁶ Its publication sparked off an unprecedented number of weekly subscription series with varying success, the most important of which were: *Los Contemporáneos*, *El Libro Popular*, *La Novela Corta*, *La Novela Semanal*, *La Novela de Hoy* and *La Novela Mundial*. The contributors to these series included renowned writers (Pérez Galdós, Pardo Bazán, Picón, Baroja, Valle-Inclán, Unamuno and Benavente) as well as those whose emerging reputation and popularity were inextricably linked to the magazine (Pérez de Ayala, Miró, Martínez Sierra, Noel, Espina, Insúa, Mata, García Sanchiz and Hoyos y Vinent). Burgos was one of the first contributors to *El Cuento Semanal*; her first four novellas, *El tesoro del castillo* (1907), *Senderos de vida* (1908c), *En la guerra* (1909b) and *El honor de la familia* (1911a), were published in the above series and hence shared its enormous success. Granjel suggests that the print-runs for *El Cuento Semanal* and *Los Contemporáneos* were between 50,000 and 60,000, whereas *La Novela Corta* and *La Novela Semanal* had print-runs of between 100,000 and 200,000 (Granjel 1968a: 478, 1968b: 15). The illustrations that accompany the text assume a less educated readership, since one can almost follow the plot by looking exclusively at the pictures. The purported aim of the publishers, not only to satisfy demand but also to educate an increasing reading public, is most obviously expressed in the editorial statement 'Nuestro Propósito' in the second issue of *La Novela Corta*. José de Urquía, the editor, explains that:

Esta es la verdadera manera de hacer patria, de elevar el nivel cultural del país, de dignificar al obrero. Al obrero español, que si bien está organizado para su completa redención, le faltaba este pan espiritual. La cultura, bajo una forma no pedagógica, severa, doctrinal para la que no está preparado, sino bajo una apariencia amena o frívola, algo así como esas maravillosas comedias de Jacinto Benavente, que lo dicen todo sin decir nada.[...] Hace tiempo, los editores, a través de sus publicaciones de carácter popular — semanarios y revistas — vienen persiguiendo un noble ideal estérilmente. Poner en contacto al vulgo con los grandes escritores (Urquía 1916: 1).

Sáinz de Robles quotes Pérez Galdós (without date or bibliographical details), who allegedly summarised the whole phenomenon with the following words:

Poco, muy poco leían los españoles de mi tiempo. Una edición de dos mil ejemplares tardaba en venderse...¡que sé yo el tiempo! Y el precio de los mejo-

⁶ For an extensive analysis of *El Cuento Semanal*, see Magnien (1986).