

When Laws Are Not Enough:

Violence against Women and Bureaucratic Practice in Nicaragua

Pamela Neumann, Ph.D.

Post-Doctoral Fellow

Tulane University

Abstract

Despite the passage of numerous laws in Latin America, impunity in domestic violence cases remains a serious concern throughout the region. This article draws on feminist theories of the state to analyze how the routine practices of low-level state bureaucrats impact women's experiences navigating legal institutions in urban Nicaragua. Drawing on ten months of ethnographic fieldwork and in-depth interviews, I show how, contrary to theories of representative bureaucracy, the increased presence of women officials within state institutions does not improve most women's treatment by police or prosecutors. Rather, only when women have access to specific forms of social capital are their cases granted legitimacy by state actors. This article illustrates the routine practices by which gendered governance operates, as well as how feminist organizations disrupt patterns of bureaucratic indifference by assuming the banner of legitimacy that is rarely afforded to women victims themselves. These findings raise critical questions about the efficacy of traditional legal and bureaucratic strategies for eliminating violence against women, and suggest that one key alternative is to strengthen the capacities of civil society organizations that provide accompaniment to women victims.

Introduction

Laws passed to advance women's rights have significantly expanded over the last two decades, including many specifically aimed at preventing violence against women (Htun and Weldon 2012). Eleven countries in Latin America now have legislation that criminalizes femicide and establishes special protections for women victims of domestic violence (ECLAC 2014). Still, rates of violence against women—and impunity for these crimes—remain disturbingly high throughout the region (Boesten 2012; Fregoso and Bejarano 2010; Hautzinger 2007; Hume 2009; Menjivar 2011; True 2012). Research shows that the uneven and ineffective application of laws is often due to inadequate state resources, or a lack of appropriate training for state officials (Martin 2005). However, the extent to which laws and policies are applied or enforced is also shaped by the decision-making of local actors (Alderden and Ullman 2012; Santos 2005). Due to their close proximity to women throughout the legal process and their high levels of discretion, “street-level bureaucrats” (Lipsky 1983) like police and prosecutors play a pivotal role in both the process and outcomes of women's legal claims (Chaney and Saltzstein 1998). As both gatekeepers and mediators, the daily decisions of these state actors shape women's experiences of citizenship by affirming or denying their access to legal rights and protections (Orloff 1993). How these officials' everyday practices impact women's experiences during the legal process therefore merits closer attention.

With these concerns in mind, this article draws on feminist theories of the state to analyze women's experiences navigating legal institutions in urban Nicaragua. Drawing on ten months of

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ethnographic fieldwork and in-depth interviews, I analyze how the routine practices of state officials impact women victims in their quest for legal justice. Although theories of representative bureaucracy suggest that the increased presence of women within state institutions should improve how women are treated by state actors, my findings suggest otherwise. Rather, only when women victims have access to specific forms of social capital are their cases granted legitimacy by state officials.

Recent years have seen an increase in ethnographies of the state (Auyero 2012; Gupta 2012), yet little is known about the gendered impacts of everyday state practices in many areas of the global South. By analyzing state bureaucracy from the bottom up, this article shows how the State's quotidian practices, or what Lisa Brush (2003) calls the “gender of governance,” operate to reproduce impunity despite the fact that the face of the bureaucracy is a female one. In doing so, this article makes three main contributions. First, previous studies of the decision-making of state actors in domestic violence cases identify variation along three main axes: victim, suspect, and case characteristics (Alderden and Ullman 2012; Logan, Shannon, and Walker 2005). The present study extends this body of scholarship through a focus on process, rather than “processed people” (Desmond 2014). The object of analysis here is the power-laden relational dynamics at work in women's interactions with the state rather than the attributes of the individuals involved. Second, it intervenes in scholarly debates about representative bureaucracy, showing how women-only institutions do not necessarily improve conditions for women victims (Meier and Nicholson-Crotty 2006; Paxton, Kunovich, and Hughes 2007). Finally, it contributes to feminist theorizing about the state (Fraser 1990; Haney 2000; Kim-Puri 2005) in the global South by illustrating the routine practices by which gendered governance operates.

Bureaucracy, Gender, and the State

Max Weber (1946) famously observed that one of the central features of “bureaucratic rationality” is that it operates “without regard for persons”. In making this assertion, Weber emphasized the apparently de-personalized actions of bureaucrats, whose decision-making was based on abstract principles rather than individual particularities. Yet in practice, the state is hardly a faceless apparatus. To the contrary, countless individuals and micro-level interactions in multiple spaces shape our understandings of “state action” (Auyero 2012; Gupta 2012). The state is not a monolithic structure, but rather a historically contingent and fragmented set of entities, which is constituted at both the institutional and the interactional level (Haney 1996).

In deconstructing the contours of state power, feminist sociologists have long argued that the state is a gendered and gendering institution (Alvarez 1990; Brown 1992). That is, the state reflects, upholds, and reproduces the unequal distribution of rights, resources, and power between men and women in society (Connell 1987). Yet at times, it also undermines established gender regimes through the creation of new laws, policies, and institutions that expand women's rights (Frias 2013a; Mirchandani 2006). This fundamental tension—between the state's promise and its perils—underlies much of the scholarship on women and the state over the last several decades (for a review, see Haney 2000).

Early feminist theorizing depicted the state as a powerful “enforc[er] of a patriarchal social order.” (Haney 1996:760). As Catherine MacKinnon's (1989:161) famously wrote, “the state is male in the feminist sense: it treats women how men see and treat women.” MacKinnon

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argued that the liberal state, while claiming to be rational, objective, and neutral, in fact upholds “private patriarchy” by maintaining an artificial division between the public and private spheres which perpetuates women's economic dependence on men (Gordon 1990). Other scholars challenged this view of the “institutionalization of male subjectivity” (Haney 2000:645), arguing that women's experiences are not homogenous but are also shaped in significant ways by race, class, and sexuality (Crenshaw 1991). Moreover, state actors do not respond solely to “male interests,” but to economic interests as well (Waylen 1996).

Over the last two decades, the rise of global institutions such as the United Nations and the International Monetary Fund has compelled national governments to respond to new kinds of international pressures (social and economic) in order to maintain their legitimacy (Keck and Sikkink 1998). Promoting women's rights has become one of the key benchmarks used by global institutions to measure development. As Sally Merry (2003:962) writes, “Appearing to promote the human rights of women by ratifying treaties is critical to economic development since it marks the nation as modern and suitable for foreign investment.” In addition to treaties, numerous governments also passed their own laws expanding women's rights (Merry 2006).

Legislative victory rarely signals the end of the story, however. The uneven implementation of laws underscores the need to understand the multiple interests and actors at work within the state, to which there are varying degrees of access depending on the point of entry or demand being made (Kim-Puri 2005). Analyzing these micro-level interactions lends important insight into the dimensions of state power. As Cecilia Santos (2005:8) points out, “agents of the state have multiple and contradictory interests as both state actors and social actors embedded in a particular political, economic, and cultural formation.” Therefore, understanding conflicts between different arms of “the state” requires examining the decisions of individual

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bureaucratic actors whose actions may either reinforce or undermine its officially stated aims.

The diverse responses of state officials' to women's demands are often based on their particular diagnosis of what women's actual needs are, a process Nancy Fraser (1990) called “the politics of need interpretation.” Writing about welfare policy, for example, Fraser (1990) argued that state officials' responses to women's needs are often colored by a juridical, administrative, and technical orientation that exacerbates the problem of women's dependence upon men by treating women as dependent clients rather than as rights-bearing citizens.

State actors engage in similar forms of “need interpretation” on the issue of violence against women. Historically, women's claims concerning domestic violence were framed as a “private problem,” and left unaddressed by the law (Dobash and Dobash 1979; Tierney 1982). However, the rise of a “global system of law” (Merry 2003) including the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (1979) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1994) led to significant changes in state bureaucracies dedicated to violence against women around the world. In the United States, what began as a shelter movement for battered women expanded dramatically into a complex web of service-provision involving various degrees of collaboration (and/or conflict) between community organizations and government agencies (Lehrner and Allen 2009; Reinelt 1995) with the passage of the Violence against Women Act (1994). In Latin America, a similar longstanding grassroots effort by feminist organizations to provide women victims with legal and psychological support, while simultaneously advocating for improved legal protections, eventually led to the creation of specialized institutions like women's police stations (Nelson 1996) and domestic violence courts/tribunals (Macauley 2006), staffed by female officials. The creation of these all-women institutions in Latin America represented a

dramatic change in local law enforcement, which had been an almost exclusively male purview prior to the early 1990s.

In seeking to explain the state's disparate treatment of women victims, scholars have generally focused on individual attributes (Robinson and Chandek 2000; Sokoloff and Dupont 2005) or police and prosecutorial demographics and attitudes (Alderden and Ullman 2012; Gover, Paul, and Dodge 2011; O'Neal, Tellis, and Spohn 2015). If theories of representative bureaucracy are correct, increased female presence in traditionally male-dominated institutional spaces should lead to improvements in women's rights. However, studies show mixed findings on this question (Kennedy 2014; Paxton, Kunovich, and Hughes 2007). The present article revisits this classic question of representation in the context of state practice in Nicaragua.

Notably, very little of our understanding of bureaucracy has been developed from cases outside the United States or western European nations (for exceptions see Auyero 2012; Gupta 2012; Hansen and Stepputat 2001; Yang 2005). Scarce still are studies devoted to the gendered impacts of state practice in post-colonial contexts (though see Molyneux and Dore 2000). This is a critical gap because, as feminists across the disciplines have long argued, knowledge is both embodied and embedded, culturally, socially, and politically (Mohanty 1984). That is, it is intertwined with the “real, material realities of concrete human beings” (Harstock 1983:304). Rather than universalize women's experiences with the state, this study zooms in on the everyday practices of low-level state actors in relation to differently situated women in order to illuminate the everyday dynamics of gendered governance in Nicaragua.

Violence against Women and the Law in Nicaragua

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In Nicaragua, studies indicate that 1 out of 2 women experience some form of violence during their lifetime (Ellsberg et al 2000). Since 1997, domestic violence cases (including physical, sexual, psychological, and patrimonial violence) have fallen under the jurisdiction of specialized police stations known as *comisarías de la mujer* (hereafter *comisarías*) which are staffed entirely by women police investigators, psychologists, and social workers (Jubb 2008). Today there are 162 *comisarías* in Nicaragua, each of which receives an average of 60 new cases per month (Sirias 2014). There are seven *comisarías* in the capital city of Managua, and one in the capital of each province as well in most major cities and towns, though the number of officials assigned to semi-rural offices is far lower.

In 2012, the Nicaraguan legislature passed the country's most comprehensive piece of legislation regarding violence against women to date, the Integral Law against Violence toward Women (Law 779). Law 779 criminalized femicide (the killing of women on the basis of their gender), expanded the definition of violence toward women to include psychological violence and the destruction of women's property (patrimonial violence), and established penalties for negligent actions by state officials. Importantly, the law eliminated nonbinding mediation agreements as a legal option for dealing with domestic violence cases. Previously, local police had frequently resorted to mediation, which meant inviting both victims and perpetrators to the police station to "work out their differences," rather than conduct an official investigation. Law 779 also established specialized courts for cases related to gender-based violence, and expanded women's police stations' jurisdiction to include alimony cases.

Although Law 779 was heavily supported by local women's organizations, it came under immediate attack from conservative and religious leaders in Nicaragua, leading the Supreme Court to reform the law in August 2013. Then, in July 2014, current President Daniel Ortega

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issued a decree establishing neighborhood-based counseling for women victims as a first step to resolving “family conflict” prior to placing a legal complaint. Under the reformed law, mediation between victims and perpetrators was once again permitted, under the following conditions: (a) the accused had no prior legal offenses, (b) the alleged crime was classified as a “minor offense,” (c) the woman agreed of her own volition to mediate, (d) no previous mediation has occurred between the two parties, and (e) mediation is conducted and documented by the attorney general's office or a judge. Mediation between the two parties is now possible up until the moment of sentencing, and is especially common when the accusation is for psychological violence or failure to pay child support.

In addition to defining specific crimes and their carceral penalties, Law 779 outlines the responsibilities of various institutions along the “route to justice”. When women arrive at a *comisaría* to place a complaint, they are first interviewed by a police investigator and, if necessary, by a psychologist. If a woman has physical wounds, she is sent to the Institute of Legal Medicine (ILM) for a medical evaluation, which when completed, is delivered to the district police. If the police determine that a woman is in immediate danger, the police can issue protective measures, such as a restraining order, for up to twenty days (Article 24). These protective measures may be modified or extended by a court order (Article 26). If the police detain the accused within twelve hours of the alleged crime, the police have twelve hours to gather evidence and send it to the prosecutor's office where a formal accusation is made and criminal charges are filed (Article 49). These cases typically proceed through the judicial process within a month or less.

If no protective measures are issued, the case proceeds along a longer timetable. Following the women's initial statement, a police officer and state social worker interview

witnesses to compile evidence for the case. This process can take four to six months, or longer. When evidence compilation is complete, the police send the case file to the district attorney to be reviewed; from there, it is forwarded to the central prosecutor's office where criminal charges are filed. The prosecutor's office can issue restraining orders or arrest warrants at any time. After drafting the official accusation (stating the exact crime of the perpetrator), the prosecutor's office sends the case to another office which distributes cases to the appropriate courts. Some municipalities have specialized tribunals for domestic violence cases, but most do not; currently there are just 17 specialized courts nationwide (Garcia 2015). Carceral penalties range from six months to a year for psychological violence, and up to twenty-five years for rape or murder.

The legal process that women follow is rarely as straightforward as this brief description suggests. Nor does the presence of exclusively female police investigators and prosecutors tend to favor women victims. In many instances, the decisions of these bureaucratic actors complicate, stall, and undermine women's attempts to escape the violence perpetrated against them.

The remainder of this article is structured as follows. Following an overview of my methodology and a brief ethnographic snapshot of the *comisaría*, I identify four routine practices of female state officials that impeded women's access to legal justice: (1) pressure to mediate, (2) shifting the burden of investigation, (3) arbitrary procedures and technical language, and (4) taking the side of the accused. Next, I demonstrate how women's experiences differ when they are accompanied by a legal advocate. The article concludes by discussing the gendered consequences of these state practices and the limitations of legal strategies for eliminating violence against women.

Methodology

This article is based on ten months of ethnographic research and interviews conducted in three phases between June 2012 and December 2014. During the first phase of the project (June-August 2012), I conducted participant observation and interviews with members of a local feminist organization which offers support services to women victims of gender-based violence in Managua, the capital city. In the second phase of the project (June-July 2013), I conducted ethnographic research and informal interviews in a local women's police station, the first and primary point of contact with the state for women victims of violence. In the third and final phase of the project (July-December 2014), I interviewed 38 women (ages 21 to 55) from five different provinces who had been through various stages of the legal process within the last two years, as well as police (2), lawyers (4), psychologists (3), and other representatives of the judicial system (2). When possible, I also accompanied women to the Institute of Legal Medicine, the Public Prosecutor's Office, and the courts in order to directly observe their experiences in these spaces. All names and certain case details have been altered to protect the identities of respondents.

Women interviewees were recruited with the assistance of local feminist organizations. Interviews focused on the situation(s) that had led women to seek help from state authorities and the sequence of events that followed, including interactions with the police, prosecutor's office, and/or judges. To analyze interview data, I used open and focused coding (Emerson, Fritz, and Shaw 1995), paying particular attention to women's descriptions of and reactions to state officials' practices. Because of substantial delays at various points in the legal process, and changes in women's own circumstances, it was not possible to identify a final outcome in all cases. Thus, the present analysis is primarily focused on how women experienced these bureaucratic processes from their own point of view.

Setting the Stage: A Day in the Comisaria

It was a busy Tuesday morning at a women's police station in Managua in June 2013. In the back office, Reyna, a short heavy-set policewoman, interviewed two women. In the front waiting area, Marta waited to see if her son who had been detained by the police last night could be released. On the wooden bench near the sign-in table sat Irene with her restless 8-year old daughter on her lap, watching a soap opera while waiting to give her statement about an assault against her last night. The lawyer, Sara, entered carrying a stack of dog-eared manila folders for Nadia, the captain (*Capi*, they call her). Wanda strode past me in her blue uniform and trademark black boots; she's one of the few policewomen who carried a gun.

That morning I walked into a heated dispute between Melissa, the social worker, and Reyna, a policewoman. Melissa was concerned that no one had gone to see a woman who had come to place a complaint several days earlier. Melissa was adamant that someone should go find out what's happening. "This woman has problems, and the other one doesn't want to come," observed Reyna. "But she's not going to come," protested the social worker. "It's the cycle of violence," interjected the lawyer Sara, who to this point had sat silently. "And you," said Melissa, speaking to the policewoman, "are trained, and you know that this is how it is." Suddenly the captain walked in and informed them that another policewoman was going out to investigate. "Maybe she'll forget about it if someone goes to visit." "She's not going to forget about it, she has problems" The lawyer chimed in again, this time her tone sharper, "If she didn't have problems, she wouldn't be here." "Calm down," says Reyna with a smile. "The day is just starting." Reyna stood up, stretched, and walked out. Once out of earshot, Melissa asked, "Why don't the police ever put themselves in the shoes of the woman? Never."

In the vignette above, the policewoman is skeptical that the woman “with problems” is worth her time, while the social worker is frustrated with what she views as the failure of the policewomen to “put themselves in the shoes of the woman.” Their interaction highlights some of the tensions and disagreements that arise among state actors in dealing with domestic violence cases. However, the concerns expressed by the social worker and the psychologist in the *comisaría* were rarely shared by female police or prosecutors, whose practices frequently minimized, delayed, or denied women's access to legal justice. The state practices analyzed below were common among respondents regardless of the type or duration of violence women experienced, or their geographic location.

State Practices during the Legal Process

I. Pressure to Mediate: “*You don't want him to go to jail—work it out!*”

Persuading or obligating women to mediate with their partner or ex-partner is perhaps the most common practice employed by state officials, usually the police, to delay or avoid conducting an investigation. Police justify this practice by saying that women are “indecisive,” “don't know what they want,” “aren't ready to leave their partner,” “will just retract their complaint tomorrow.” These kinds of remarks indicate that officers view the investigation of cases in which woman may or may not actively pursue the process to its completion as a waste of time. However, police also preemptively encourage mediation regardless of women's expressed intentions. At least once a day over the course of two months, I observed a woman who came to the *comisaría* with the intention to file a complaint, but left without doing so.

Maura, 30, lived with her abusive partner David for nine years. She finally summoned the resolve to go to the police after an incident in which “he practically killed me.” After giving her

testimony at the comisaría, they “lost” her documents for several weeks and then mysteriously found them. To Maura's surprise, soon afterward she received a phone call asking her to return to the comisaría for a mediation session.

The captain told me, 'you don't want him to go to jail, you want your son to be taken care of, so work it out. You've been together a long time, find a solution.' She even gave us an office so that we would talk, but I was afraid....

At the time this mediation occurred, it was prohibited by law. In spite of this prohibition, I repeatedly observed similar interactions between police and women clients in Managua during the summer of 2013. One policewoman commented, “We try mediation three times, and if it doesn't work, then we start investigating.” Such delays in the investigation process often put women at greater risk. In Maura's case, the police's insistence that she try to “work it out” exposed her to further violence. She explained:

The first day [after the mediation] was fine, but then [David] started doing horrible things. He turned off the water, I couldn't bathe my son. He told me I couldn't be involved with our family business, but he didn't give me or my son a dime to eat.

With the situation worsening, Maura went to the central office of the comisaría, where a female official helped her move her case to the district attorney's office. As we will see later, however, this was hardly the end of Maura's troubles.

Mediation is inherently problematic in domestic violence cases because of the gendered power imbalance and women's fears of exacerbating the situation if they do not agree to negotiate with the perpetrator. Yet authorities regularly pressure women to “kiss and make up” rather than pursue a criminal case, particularly when women show signs of emotional distress. Through this practice, state officials decide which women are worthy of claiming their rights and which are not, which women are “legitimate” victims and which are not.

II. Shifting the Burden of Investigation: *“Call me if you see him”*

A second common practice of state officials is to ask women to produce their own evidence against the accused. This can take a number of forms, including expecting women to provide photos, videos, or other physical evidence to support their testimony. It might also involve hand delivering police summons to a partner, or paying for an official's transportation to ensure she comes to the neighborhood to interview witnesses. For example, when the female prosecutor gave Olivia, 38, a copy of the written complaint the policewoman had created for her case, Olivia noticed that certain critical details were missing from the account. When she mentioned this, the female prosecutor asked her to rewrite her entire testimony, which Olivia did in painstaking detail. Later, as we sat drinking soda on her patio, Olivia showed me the twelve page hand-written document, explaining, “I have to do it, otherwise I might lose the case.”

In Diana's case, the burden of producing evidence meant being asked to track down the very man who had threatened her life. Diana, 31, began to have conflict with her partner Ricardo in 2011. Initially, she went to the police where the two reached an agreement via mediation, but when the situation did not improve, Diana decided it was time to separate. Ricardo began stalking Diana, trying to convince her to get back together. These threats came to a head when Ricardo broke into her house in July 2013. Fortunately for Diana, her son was there and Ricardo fled, knife in hand.

Officers quickly arrived on the scene, chased Ricardo down and took him into custody—but they told Diana that they could not hold him because of a medical issue. Instead, Diana was obligated to accept another mediation, after which “he kept bothering me, he came to my house, supposedly to see his daughter, but it was to scream [at me].” He also stalked her at a local market, where Diana sells fruit. Terrified, Diana returned to the comisaría to file another

complaint. As we sat together in the office of a local women's center one sunny morning, she recounted the events of that week:

The first time, I spent the entire morning [at the comisaría] with my cousin and no one talked to me. The next day...they took the complaint, but they said 'we can't find him'. I gave them an address, but the police said, 'you have to help me, if you see him, call me.'

Diana's experience illustrates how police shift the burden of investigation onto women victims, paradoxically expecting women to place themselves in harm's way before they receive state protection. Two days later, Ricardo attacked her again, wounding her so severely that she was rushed to the hospital. The next day, a female officer and a psychologist from the comisaría arrived to take Diana's testimony. It took a life-threatening injury for state authorities to spring into action. Less than a month later, Ricardo was sentenced to 12 years in prison.

III. Arbitrary Procedures: “I Make the Rules Here”

A third way that state officials delay action, discouraging women from pursuing their claims, is through the use of seemingly arbitrary procedures and technical language. For example, in Maura's case, when her ex-partner locked her out of the house, the police refused to help her regain access because, according to them, “we can't break locks.” Even after Maura explained that all of her and her child's possessions were inside, the female prosecutor advised her to “wait until the case went to court” because “he could humiliate you again.” Although the prosecutor had the legal authority to execute an order for Maura to re-enter her home accompanied by law enforcement, it was only after extensive pleading that she did so. Then, when Maura took this document to the comisaría, they refused to help her. She recalled:

I took the document to the police, and the captain wasn't there, only the second in command. I gave her the paper, and she says to me, 'wait...the captain isn't here, and I have to consult with her.' I waited three hours. Finally, they said, 'ok, let's take you back to your house.' [When we arrived] the house was closed. The police knocked and no one

answered. They said, 'look, we can't do anything.' And I said, 'why not, if I have this order from the prosecutor?' 'Because we can't break locks,' they said.

In Maura's case, the policewomen refused to help her regain entrance to her house for the arbitrary (and legally dubious) reason that they were not allowed to break locks. Even with an explicit court order, the policewomen insisted they could not act until high ranking women officials from the comisaría got involved, enabling Maura to reenter her home months later.

Such arbitrariness is not confined to cases like Maura's, however. Consider Veronica's description of her experience visiting the prosecutor's office:

I went to the office alone, after talking to my lawyer friend. I listened carefully to how he talked so that I could talk the same. There are only fifteen numbers every day. I went in the dark at 5am to stand in line until 8am to get a number. One day there's one person and the next time there's someone else, so I had to retell the same story over and over. [They said to me], 'why don't you memorize the dates, in what language do I have to tell you?' I told [the female official], 'you're asking me dates I don't remember. I'll memorize them, but I didn't think that was important. What is important is that [my daughter] eats, right now she has no shoes.' [The official] said, 'well, I'm in charge here, I make the rules, that's why I'm here.'

Veronica visited the district attorney's office numerous times over the course of eight months as she tried to secure child support for her daughter who was born with disabilities due to abuse inflicted upon her by her ex-husband Geraldo while she was pregnant. Through conversations with a lawyer, Veronica became aware that there exists a different way of speaking, a distinct vocabulary, that must be mimicked in order to be taken seriously by state officials. Despite her efforts to do so, however, the female official admonished Veronica for not having all of the right information at her fingertips, and reminded her who is in charge: "I make the rules here". In this case, the "rules" meant that the ongoing hardships she had experienced at the hands of her ex-husband had to be "translated" into a formal chronology of specific incidents which for Veronica were one continuous reality shaping her day-to-day life. In the mystifying procedural language of

the bureaucracy (Ferguson 1984), the facts that Veronica considered most relevant to her own situation—her daughter's lack of nourishment and footwear—were deemed irrelevant.

The female prosecutor's firm insistence that Veronica recall certain dates seems especially arbitrary when paired with her comments about other documentation that Veronica provided to substantiate her case. As ominous clouds gathered in the sky above us, and her three year old daughter played quietly nearby, she explained:

I had already met all of the requirements. Birth certificate, witnesses, everything. Everything certified, bank statements. And then [the female official] asked me why I had gone to the bank to pay for copies of several monthly statements. 'Who told you to go pay the bank? You don't have to do that—we just need you to think about whether your partner paid you or not.' But this is more valid than if I just came up with some number by hand. With the bank it's certified, it's a credible institution.

As we saw earlier, female police investigators and prosecutors eagerly welcomed any evidence that women could provide to reduce state officials' workload. In this instance, however, the exact opposite occurred. Employing an opaque bureaucratic logic, the female prosecutor questioned Veronica's decision to go to the bank, saying a hand-written summary of money her ex-husband had given her would have been sufficient. It is precisely this kind of arbitrary and contradictory decision-making about what counts as evidence (isn't a certified document better than a hand-written guess?) that provokes confusion and frustration among women like Veronica who are pursuing legal claims. Moreover, the use of unfamiliar terminology erects barriers to women's understanding that state officials rarely take the time to explain in more commonsensical ways. One lawyer from a women's center put it to me bluntly: “They're talking about witnesses and hearings and prosecutors when some women can barely write their own name.” This lawyer's comment highlights the fact that poor women with low education levels are especially disadvantaged within a legal process that is full of unfamiliar jargon and confusing procedures

(Cole 2001; Frias 2013b).

IV. Taking the Side of the Accused: “You’re going to jail for a long time”

Up to this point, we have seen how state officials delay and/or subtly evade their responsibilities to women seeking legal justice. Sometimes, though, officials reject any obligation to the victim by taking the side of the accused—or even another bureaucrat, as the following field note from a prosecutor's office in Managua illustrates.

Olivia and I entered the cramped waiting area. The lawyer, a tall woman wearing a purple blouse and black slacks, tried to dispatch with each person quickly. Finally, she addressed Olivia, who began to explain why she was there. “Another lawyer sent me to Legal Medicine to get a document and they told us that it had already been sent here.” The lawyer cut her off, saying they would look for it, and that we should wait outside. Back inside, twenty minutes later, Olivia asked again if they found her file. “It’s not here, it must be at the comisaría,” the lawyer says. I interjected. “Can’t we just go ask them if they have it? The lawyer looked at me suspiciously, and called in a female detective who escorted me to another room. Later, the detective came in and said, “That woman [Olivia] is trouble. She’s yelling at the poor attorney. I’d like to put her in jail.” (Fieldnote, 11/4/2014)

In the vignette above, the detective sympathizes with the state attorney and describes Olivia as “trouble”. While the detective did not actually put Olivia in jail that day, incarcerating women victims was not always an idle threat.

Recall our last encounter with Maura, who finally regained access to her house after her ex-husband locked her out. Shortly thereafter, a group of male police appeared on her doorstep. Visibly shaken, Maura described what happened next:

The police said, ‘when are you going to get in the patrol car, bitch?’ From the second I got in, the officer was interrogating me.

When the boss showed up, he says, ‘you know, you committed a serious crime.’

I said, ‘how?’

‘You broke into that house, your ex sold it. How old is your son?’

'Five years old'.

'Poor thing, his mother is going to prison for a long time.'

The policemen took Maura to a cell where she would spend the night. “When I entered the cell area, the first thing they did was have me take off all my clothes. They took everything.” Not only was Maura's legal re-entry into her home questioned by these policemen, she endured a humiliating night in jail for allegedly breaking and entering. In the process, the violence committed against her was erased and exacerbated as she was accused of being a criminal herself—and worse, berated for supposedly abandoning her own son.

The belittling and erasure of the harm women experience extends from the police station into the prosecutor's office and the courtroom as well. To illustrate this, we return to Veronica's struggle to secure alimony from her abusive ex-husband Geraldo. After eight months she finally got a court date—but that is when, according to Veronica, the “most magical of everything” happened. She arrived at the courtroom like usual, where she met the female prosecutor who she told me was very nice and promised to win her case. “This guy, he pays or goes to jail.” But then the prosecutor told her, “I'm going to lie to the judge, that I made a mistake, that this isn't your file, to give you time to go to the police to place a complaint, so there is an arrest warrant.” Veronica was confused, but she told me she realized later the delay was so that her ex-husband had time to quit his job in order to avoid paying child support. She explained:

The next time, when I got to court, [Geraldo] was already inside, the judge was talking to him and the prosecutor. When they saw me, all serious, they changed their tone, looking at me from head to toe. They laughed, didn't call for silence or order or anything. So my lawyer looks at me and says, 'He already won. Let it go.'

The judge ruled that because Veronica's ex-husband was supposedly unemployed and had debts, he did not have to pay child support, despite having disfigured Veronica's face and caused

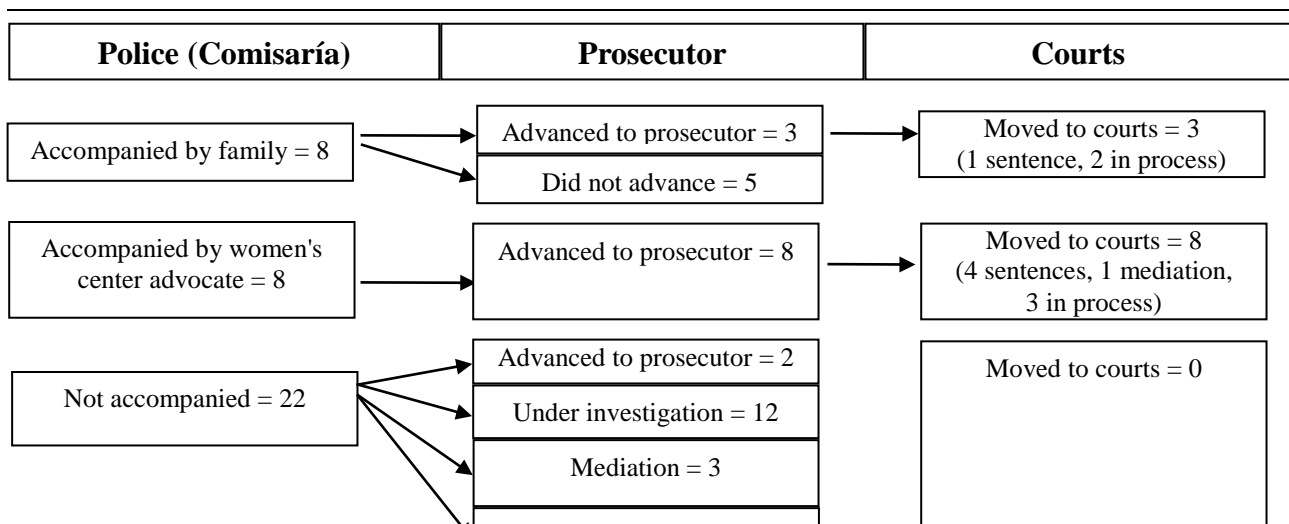
permanent disabilities to his daughter. This inexplicable ruling was facilitated by the explicit decision of the prosecutor to take the side of the accused.

Legitimacy and Justice: The Difference an Advocate Makes

The actions of low-level bureaucrats in the Nicaraguan criminal justice system contribute to impunity—not to mention trauma, frustration, and economic hardship—for women experiencing domestic violence. However, there was at least one condition under which women's cases received more systematic or rapid attention: if she began *and continued* the legal process accompanied by a knowledgeable legal advocate, particularly a representative of a local feminist organization (for comparable findings, see Frias 2013b and Sagot 2005).

Figure 1 provides a summary of women's case trajectories analyzed in this study. Of the total (N=38), 22 women were unaccompanied during their legal process, and none of their cases advanced to trial. By contrast, 8 women were accompanied by family members, and 3 of those cases eventually advanced to the courts. Most strikingly, of the 8 women who were accompanied by a legal advocate from a local women's center, all 8 cases proceeded to trial, with 4 ending in sentences favorable to the woman victim. To better understand how and why these legal advocates made such a difference, this section considers three emblematic cases.

Figure 1. Respondents' Legal Institutional Contact (N=38)



First, consider Carmen's situation. Following an altercation with her ex-partner in 2013, Carmen was immediately referred to a local women's center in Managua. With the (cost-free) support of the center's attorney, Carmen's case proceeded relatively rapidly (two months) from the comisaría to the courts. Yet at a key moment in the trial, there was a deliberate attempt to prevent her legal advocate from entering the courtroom. In that moment, her ex-partner's lawyer began to pressure her to mediate/reconcile rather than await the judge's ruling. Recalling that day in the courtroom, Carmen said:

They took me to the witness room, but they didn't let [my lawyer from the women's center] in. I was alone. And then [the accused's] lawyer came in, and proposed a mediation. I asked, 'where's my lawyer, I'm not going to talk about this with you.' But I got nervous...

Alone and under pressure, Carmen eventually agreed to a suspension, in which her ex-partner admitted to hitting her and agreed to pay alimony for their two year old son. Carmen's case illustrates the invaluable role that legal advocates plays in women's quest for legal justice—and how quickly things can unravel in their absence.

Similarly, Angela, 52, persisted in her legal claims against her husband due to the emotional support and information she received from a local women's group in León. Angela was married for over 30 years, and endured over a decade of physical and psychological abuse before she finally decided to go the comisaría in 2013. The police immediately referred her to a local women's center for therapy. “I didn't know anything about the law before,” she told me as we sat in a small office with the fan whirring in the background, “but here the women have

oriented me...the night before my hearing I felt ill because I didn't know how I was going to respond to [the judge's] questions. But in the end it was a joy because [the women's center] were there with me.” At the time of our interview, Angela was still awaiting the judge's sentence in her case, but unlike most women I interviewed, she had only positive comments about the police and the female prosecuting attorney assigned to her case. “[The lawyer] told me, 'don't be afraid,' because [my husband] has been threatening me. I felt very supported.” Given the general indifference that characterizes many women's interactions with local bureaucrats, Angela's experience is a notable exception, attributable at least in part to the involvement of a local women's center in her case.

Women like Angela who had the opportunity to participate in group and individual therapy, and/or to meet with another attorney or advocate/promoter, during the legal process, were also less frequently deterred by bureaucratic setbacks than other women I interviewed who lacked such support. Take Lucia, for example. When her ex-partner hit her, she sought advice from her friend Gina, a trained volunteer from a women's center. Gina encouraged her to go to the police, which she did. However, because her ex-partner worked inside the court system, Lucia encountered a seemingly endless series of delays, such as having to resubmit documents because the prosecutor misspelled her name. But Gina's encouragement kept Lucia going. As I sat in the women's center one morning with both women, Lucia explained:

I was thinking about hiring a lawyer, and I went to Gina, and she said, 'no, I will help you. I was in a seminar with a judge.'...she called the judge and he told her he was going to treat mine like a special case. With Gina they're treating me a lot differently.

Gina's intervention in Lucia's case enabled her to get a court order for alimony payments, something she had been fighting to receive for over a year.

Together, the cases of Carmen, Angela, and Lucia demonstrate that the most valuable

resource a woman possesses when placing a legal complaint is the social capital that lends legitimacy to her case and enables her to successfully navigate the legal process. For low-income women confronting an indifferent or hostile bureaucracy, legal advocates serve at least four specific, crucial functions. They (1) shoulder legal costs, (2) provide technical information, (3) offer encouragement and emotional support and (4) act as witnesses to potential state misconduct. Ultimately, by signaling to authorities a higher degree of resolve and information about the legal process, these advocates add to the perceived legitimacy of a woman's case and alter how women are subsequently treated. This was true across various case profiles, including physical, psychological, and economic violence.

Having a legal advocate at the *comisaría* is clearly beneficial, yet during my fieldwork, I observed that the vast majority of women arrived alone or with a female family member. Many women I met indicated that they were not aware of the services that local women's centers provided, or where such centers were located. On the other hand, the staff at several centers told me that due to high demand and limited organizational capacity, it was not always possible to take on every woman's case. Women's access to legal accompaniment was contingent upon their geographic and relational proximity to networks of trained volunteer promoters.

Seeking Justice from the State: Implications

The everyday practices of state actors in Nicaragua's legal system examined in this article reveal several key dimensions of gendered governance. The first is the sorting of women into "legitimate" and "illegitimate" victims. This sorting process is based not only on the particularities of a woman's case (such as the type of violence she experienced), but also on her presentation of self. For example, women who expressed visible emotion (e.g. crying) were

frequently taken less seriously by state officials, coerced into nonbinding mediation agreements, or sent away altogether. Social class also played a role in this sorting process, with poorer and less educated women (including those who seemed less informed about the law) subjected to condescending if not outright discriminatory treatment by female state officials. Initially, most women I interviewed had little information about their legal rights or what kinds of resources exist to support them; those who did not receive psychological, legal, and financial assistance were least likely to pursue their case when obstacles arose.

A second important gendered consequence of these bureaucratic practices is the ways in which women victims were expected to do the work of the state. It was not uncommon for women seeking justice to spend their own money, or pool together funds with neighbors, to pay the costs of standard police work (e.g. copies, gasoline). Moreover, policewomen rarely followed up on a woman's case unless she returned to the *comisaría* multiple times to check on the investigation. This practice clearly disadvantages women with limited resources; it also deters some women who are employed from pursuing their cases out of fear that they may lose their jobs for missing too many days of work. For other women, to even have a chance at accessing justice meant putting their very lives at risk. As a result of these practices, many women are left feeling disenfranchised and discouraged from pursuing legal solutions in the future.

The fact that these practices were common among female officials in Nicaragua is somewhat surprising, given that women's increased participation in historically male institutions is thought to improve outcomes for women. However, this idea rests on the assumption that the actions and decisions of female state actors will be different “because they are women” rather than taking an intersectional approach that recognizes the multiple positions these female officials occupy, as well as the political and institutional constraints they face. Within the

gendered hierarchies of the Nicaraguan police force, for example, women officers at the comisaría occupy a marginalized and tenuous position. In their quest for legitimacy and status, these female officers arguably seek to differentiate themselves from less privileged women (those seeking help) in order to preserve their relative power and symbolic position. In the end, regardless of individual characteristics or interests, the routine gendered, power-laden practices of state actors analyzed above reveal how the male subjectivity remains institutionalized among female law enforcement officials.

At the same time, this article has also shown how established patterns of gendered governance can be disrupted. In this study, the presence of an informed advocate tangibly altered women's experience of the legal process, and at times, also produced a more favorable outcome. This finding suggests that gendered hierarchies within the state are not immutable but may shift in response to changing interactional dynamics. Introducing additional actors, particularly trained advocates for women seeking help, into the institutional environment allows for qualitatively different experiences of the legal process to unfold. One explanation for these shifting dynamics may be that the presence of a legal advocate alters the perceived legitimacy of women's cases in the eyes of state officials by symbolically signaling a woman's commitment to the legal process. Another possibility is that the presence of a legal advocate introduces an additional measure of accountability for state actors, leading them to invest more energy in such cases.

The central takeaway here is that law itself is not enough—representation to ensure its implementation matters. Furthermore, it cannot be assumed that the representation of a woman victim provided by a (male *or* female) state attorney is sufficient to guarantee women's access to legal justice. This is because, following the conceptualization of the State outlined at the start, state actors juggle multiple interests, not merely those of a woman subjected to abuse. Hence,

access to free, informed counsel is critical, especially for poor women with lower education levels, or those who lack other sources of social capital, such as kin or friendship networks (Dominguez and Watkins 2003; Fugate et al 2005). Expanding access to legal advocates would not only benefit women who have suffered relationship violence, but other disadvantaged populations as well.

While significant, the findings presented here are nevertheless limited and suggest several avenues for future inquiry. First, this research was based on a relatively small, non-generalizable sample of women from the Pacific Coast and central highlands of Nicaragua. The experiences of Afro-descendent and indigenous women in Nicaragua, and those of women in other Latin American countries with different legal procedures and political or institutional configurations, are likely to differ in key ways from those analyzed in this study. Second, the majority of my study informants were low-income women. This may reflect the demographics of the areas where I conducted my research; it may also suggest that middle and upper class women engage in different kinds of help-seeking behavior in cases of domestic violence. Finally, although I conducted extensive direct observation in the *comisaría*, my access to courtroom spaces was more limited, meaning that I relied primarily on women's own accounts of their interactions with judges and other court officials.

Looking ahead, this research suggests the need to look more closely at processual dynamics in explaining the disparate treatment of women victims of relationship violence. Tracing the intricacies of legal and bureaucratic processes across time and space, rather than solely focusing on individual and case characteristics, has the potential to expand our understanding of the gendered dynamics of state power (Baiocchi and Connor 2008; Joseph, Mahler, and Auyero 2007). At the same time, it is essential to identify the mechanisms by which

bureaucratic practices may be changed. Examining the conditions under which external actors or particular kinds of courtroom communities successfully influence quotidian interactions between individuals and state officials may ultimately help to close the seemingly intractable gap between the ideals of law and bureaucratic practice.

For scholars and activists alike, the most fundamental question of all is how best to eradicate violence against women. In the past, some feminists were highly skeptical of becoming entangled with the state apparatus, which has been and continues to be highly complicit in perpetuating violence against women. At times, the power of the state can be channeled toward the advancement and protection of women's rights; however, an exclusive focus on the content of laws and penalization misses the fact that numerous women lack the resources and representation to exercise these rights. It is not enough, therefore, to inscribe women's rights in treaties and laws. We must also look for ways to dismantle the underlying social and economic conditions that enable violence against women to continue in the first place.

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