



Violence against women and legal justice in Latin America: Advances and Challenges

Pamela Neumann
Post-Doctoral Fellow
Tulane University



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Research shows that 1 in 3 women have experienced some form of physical or sexual violence in their lifetime (World Health Organization 2013). Of particular concern in Latin America are the rampant rates of femicide, which has spurred a wave of new laws that expand definitions of violence against women and introduce new protective measures and specialized institutions to assist women in situations of relationship violence. However, this attention to the definitional, procedural, and punitive aspects of laws has failed to stem the tide of violent crimes against women in many parts of Latin America and impunity rates remain extraordinarily high. Prior studies have suggested that this is due to under-resourced or improperly trained officials. However, my research uncovered other problems beyond resource deficiencies that merit closer attention. Drawing on ten months of ethnographic research and in-depth interviews, this brief summarizes the main challenges that women face when seeking legal justice in cases of domestic violence in Nicaragua. One key recommendation to address these challenges is to ensure that every woman has access to free and informed legal counsel in order to more effectively navigate the criminal justice system.

In Nicaragua, like several other countries in Latin America, domestic violence cases are handled by specialized women's police stations (*comisarías*) staffed entirely with *female* police, psychologists, and social workers. By creating an all-female institution, the Nicaraguan government sought (1) to encourage greater reporting of gender-based crimes (under the belief that women would be more likely to report crimes to another woman) and (2) to minimize re-victimization of women seeking redress by streamlining agency procedures and referral systems (Jubb et al. 2008). Legislation passed in 2012 also established special prosecutors and tribunals to adjudicate gender-based violence cases. The United Nations, the European Union, and other international organizations have provided substantial financial support and technical assistance to these institutions, including police, forensic specialists, prosecutors, and judges.

Despite this infusion of external resources, two sets of issues consistently arose in my research. The first concerns the bureaucratic structure and organizational culture of the police force. For example, although *comisarías* in Nicaragua offer a dedicated space for women to make legal claims, they also tend to marginalize gender-based violence cases within the police force's overall operations because the personnel in the gender-violence unit are less well-compensated than comparable units, leading to high turnover rates. Moreover, the normalization of sexual harassment and other forms of gender discrimination within male-dominated law enforcement remain a serious problem that impacts public perceptions of police legitimacy, and in turn,

women's willingness to report incidents of gender-based violence. These trends remain despite the existence of an all-female law enforcement office in Nicaragua. The solution is not, therefore, to simply place women in certain police roles, but to address the underlying institutional and political norms that continue to marginalize domestic violence cases and prioritize "family unity" over women's safety. In order to address these problems, stronger internal and external accountability mechanisms for police, prosecutors, and judges are necessary. Vesting an independent ombudsmen's office with greater substantive investigative authority and resources to hold these officials accountable would represent a critical step in the right direction.

The second set of issues has to do with women's practical ability to access legal rights and protections. In my interviews, I found that some women were reluctant to place a legal claim against a partner or ex-partner because they were heavily dependent on that individual's income to support their family. Other women explained to me that they lacked the resources or job flexibility to make repeated visits to the police or prosecutor's office to follow up on their cases. Still others were unaware of the exact protections the law afforded them, making it easy for officials to dismiss their claims and/or for their assailants to use the law against them. However, women with access to a legal advocate from a local women's organization were much more likely to have their cases advance to the courts compared with women who confronted these processes alone. Having a legal advocate enhanced the legitimacy of the women's case in the eyes of state officials and strengthened the resolve of women to pursue their cases despite various setbacks.

These obstacles are not unique to Nicaraguan women; lower-income, indigenous, and Afro-descendent women across Latin America face similar difficulties in accessing legal rights. Expanded legal definitions of gender-based violence, harsher carceral penalties, and institutional capacity-building are thus not enough to guarantee women's substantive access to legal justice, particularly lower-income women. Greater attention must be paid to the diverse needs and priorities of women experiencing relationship violence, especially those women who are economically disadvantaged and/or racially marginalized. In practice, such a focus would mean that all women survivors would have access to free independent legal counsel provided by women's grassroots organizations or NGOs. Creating or expanding such programs would be a worthy investment for national and international development organizations.

CONTACT:

Pamela Neumann
Tulane University
pneuman@tulane.edu

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