



The Limits of the Law: Women, Violence, and Legal Ambivalence in Nicaragua

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Abstract

This article analyzes the experiences of Nicaraguan women victims of domestic violence as a lens for developing a theoretical concept I term legal ambivalence. I define legal ambivalence as the process by which women experience hesitancy or reluctance about if, when, and how to pursue legal claims in response to situations of relationship violence. Drawing on eight months of ethnographic fieldwork and 38 in-depth interviews, I demonstrate how women’s legal ambivalence is produced through a combination of socio-cultural factors like family support, gendered expectations of women, and economic dependence on a male partner, and women’s everyday interactions with state officials and the ways that the law itself is used against them. Building on decades of critical feminist scholarship highlighting the limitations of legal frameworks for addressing gender-based violence, my findings illustrate how contextual constraints, quotidian practices, and the gendered structure of legal institutions contributes to women’s reluctance to resort to the law.

Keywords Violence · Gender · Law · Ambivalence · Nicaragua

Introduction

The waiting room at a women’s police station [comisaría] in Managua (Nicaragua’s capital city) was empty when Liza walked in one muggy July afternoon in 2013. That day, Liza, 53, was wearing a long black skirt, platform shoes, and bright red lipstick. Liza looked around and asked me, “Are they open?” “I think so,” I replied, “just sign in over there,” gesturing to a black notebook on a small table in the corner. She did so, then sat down next to me. I introduced myself and asked Liza if this was the first time she had come to the comisaría. “No,” she said. “I was here last Sunday to file a complaint.” Liza explained she had also come to the comisaría once over

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a year ago, but she eventually left without talking to anyone because of the long wait. For seven years, Liza and her partner Raul had rented a small room together in northeast Managua. They both made a living as part-time security guards.

Liza told me she had suffered numerous incidents of physical and sexual abuse over the last few years. In part, she blamed it on Raul's drinking habits. "It's the booze—it changes him. He hits me, he rides me like a horse, and I have to take it or it only gets worse," she said, fighting back tears. Once, she told me, she gave him a pill which she thought would make him throw up if he drank, but "it didn't do anything. Later he asks forgiveness—he doesn't remember what he did. I don't know why this keeps happening," she said.

Because the *comisaría* had not been open on the previous Sunday, Liza was assisted that day by someone else from the district police office, who sent her to the Institute of Legal Medicine for a forensic evaluation. The results were supposed to have been sent back to the *comisaría* within three or four days, but over a week had passed, and her file hadn't arrived. Liza gingerly touched her right temple, still visibly bruised where Raul had hit her the week before. "I have nowhere to hide except the bathroom," she told me, her voice quivering.

Twenty minutes passed as we sat in the waiting room. Liza glanced at her watch worriedly. "I left while he was sleeping, without making lunch," she explained. Soon Captain Salazar, the female police officer in charge, appeared. "Are you here to place a complaint?" she asked. Liza repeated her story to the captain. "When did you go to Legal Medicine?" the captain asked. "Last Sunday," Liza replied. Captain Salazar shook her head and looked at me as she lightly caressed Liza's shoulder. "The women come on Sunday, when it hurts, and then they forget and don't come back," the captain said. Liza sighed. "It's true," she responded, "but this is the first time I could get away from work. If he knew I were here, he would kill me." The captain went back to her office and returned a few minutes later carrying a bulging manila folder. "It's not here," she told Liza. Liza stood up and looked at me knowingly, her eyes watering. "See? I guess I will go back to Legal Medicine tomorrow." I stood up and gave her a hug. As she walked out the door, she gave me a long glance. "*Ya sabes.*" *You already know.* Another delay—just what Liza expected.

By the time I met Liza, I had already spent weeks conducting fieldwork at a women's police station in Managua, where I met dozens of women who were seeking some kind of resolution to an abusive relationship with a partner. And by then, a pattern was emerging. Women like Liza who had endured months if not years of physical, psychological, or sexual violence had finally decided that enough was enough. At great personal risk, these women sought help from the *comisaría*, an all-female branch of the Nicaraguan police originally established in the 1990s staffed by police investigators as well as psychologists, social workers, and legal aides. Once there, however, women's hardships were far from over. Women seeking legal assistance were frequently met with indifference, skepticism, and even hostility from state officials. This treatment left many women discouraged and disillusioned about the legal process.

Policewomen told me that women did not consistently follow up on their cases due to "indecisiveness" or their high level of "emotional dependence," common discourses identified by researchers of domestic violence (Villalón 2010; Sweet 2021).

For example, one morning, a young woman named Hanna walked into the *comisaría*, visibly distraught. When Captain Salazar saw Hanna, she said, “Go get some psychological help, and when you are empowered, when you know what you want, come back and place your complaint” (Field notes, 7/5/13). In this case, crying was not interpreted as a normal expression of vulnerability in the face of painful and even life-threatening circumstances, but instead as grounds for dismissing her as unprepared for the rigorous and prolonged ordeal of going to court. In the captain’s eyes, what Hanna needed was counseling, and to become “empowered” before she would be ready to seek legal support.

By contrast, another day, a tall, muscular woman in her late 20 s named Fatima, stormed into the *comisaría* cursing loudly. Several weeks earlier, Fatima told me, she had placed a complaint against her ex-boyfriend, but he was still out on the streets, and had attacked her again several nights ago. Fatima told me that she fought back, injuring the man, who later pressed counter charges against her. That morning, Fatima had come to get her case number from the police so that a local feminist organization would help her with her case. “They’re a bunch of *fresas* (snobs) who work here,” Fatima muttered, as she paced the waiting room impatiently. Soon she left with her case number in hand. Fatima’s comment about “*fresas*” reflected her perception that the female officials working at the *comisaría* held condescending attitudes toward women like her who arrived seeking help.

Ambivalence and the Structure of Social Relations

Research has shown that many women have complex emotional connections to their abusers, which may contribute to fear, doubt, and uncertainty about reporting such violence to authorities (Felson et al. 2002; Frías 2013; Grose and Grabe 2014; Heise 1998). However, this kind of analysis risks “locating the ‘problem’ more in the women themselves than in the sociocultural and legal systems they confront.” (Frohmann and Mertz 1994, 834). As Goodmark (2012, 62) accurately notes, “The failure is not with the woman but with the sources of help purported to be available to them.” During my fieldwork, I observed that women’s seeming reluctance to pursue a criminal case against a violent partner was often driven by various social and economic constraints—and subsequently exacerbated by confusing, frustrating, and time-consuming interactions with state officials.¹ In the case of Liza described above, it was a work schedule which did not allow her to take off the four hours or more required to visit the *comisaría*. In other cases, it was a woman’s lack of sufficient income or alternative housing which led her to request a restraining order or alimony instead of placing criminal charges. At times, pressure from family members prevented women from leaving or reporting an abusive situation. And in other

¹ In this respect, there are some parallels between Nicaraguan women’s experiences with the legal justice system and those uncovered by Auyero (2012) in his study of the experiences of people seeking social and administrative services in Argentina.

instances, women's interest in legal action was dampened when they realized how the law itself could be (or was) used against them.

Rarely did these different constraints operate in isolation, however. For example, women in abusive relationships frequently confronted both economic hardship and family pressure, leading them to drop their case. At the same time, the relative importance of each of these dynamics to each woman was also contingent upon the kinds of interactions women had with state officials as their cases unfolded. In some instances, women's skepticism toward the law preceded interaction with police or prosecutors; at other times it was reinforced or even produced by state authorities who subtly pushed women toward some options over others, or intentionally foreclosed certain alternatives entirely.

Each of these examples points to the various ways in which the ambivalence of women toward the law and legal solutions is "built into the very structure of social relations" (Merton 1976, 4). Robert Merton originally developed the concept of sociological ambivalence to explain how individuals deal with the incompatibility within and between certain social roles and statuses, their definitions and demands. Within his typology, sociological ambivalence can take several different forms. In some instances, ambivalence is inherent to a single social position or role (such as a therapist who must simultaneously be detached yet emotionally available). In other cases, sociological ambivalence results from conflicting interests that emerge due to a particular combination of social positions (for example, a woman who is both a member of the paid labor force as well as a caregiver to her children). Still other forms of ambivalence result from either the contradictory cultural values within a society or the gap between "culturally prescribed aspirations and socially structured avenues for realizing these aspirations" (Merton 1976, 11).

Feminist sociologist Smith (1974, 9) made a similar argument, arguing that the "basic organization of women's experience...displays for them the structure of the bifurcated consciousness." In her analysis, Smith observed that men historically have had the privilege of operating in an abstract or conceptual mode of action and consciousness, because their physical and bodily needs were attended to by women (in the form of sexual and reproductive labor). Women, meanwhile, have been forced to learn and operate by the unspoken norms and codes of a social order constructed by and designed for (White) men, while also simultaneously dealing with the concrete, everyday tasks pressed upon them within the sexual division of labor. Throughout their daily lives, women are expected to suppress their own needs, desires, and emotions in order to meet the demands of others, principally men. This dynamic produces numerous tensions for women, leading to what Smith (1974) describes as the bifurcation of consciousness. This bifurcation of consciousness is reproduced as women struggle to reconcile the contradictions between their personal experience and the organization of the social world around them.

Smith's analysis makes clear is that ambivalence itself is a gendered phenomenon, and it is also a racialized one. For example, in analyzing the identity formation of Black people, W.E.B. DuBois (1903) developed the concept of "double consciousness" to explain how Black people are trained to "look at themselves through the eyes of others" in a racialized society (2; see also Itzigsohn and Brown 2015).

Smith’s “bifurcation of consciousness” and DuBois’ “double consciousness” are similar conceptually insofar as they both explain how the identities and actions of marginalized people are structured by a system of power relations dominated by Whiteness and patriarchy.

Building on these insights, in this article I seek to unravel a particular form of sociological ambivalence that manifests itself in the lives of Nicaraguan women—namely, *legal ambivalence*. I define ‘legal ambivalence’ as women’s hesitancy or reluctance concerning if, when, and how to pursue legal claims. This legal ambivalence is produced not merely by cultural norms or gender role expectations, as Merton emphasized; it is also driven by the socio-economic context in which violence occurs, the gendered structure of legal institutions, and the everyday interactions women have with state officials within them. With this conceptualization, I specifically adopt the *women’s point of view* à la Dorothy Smith in order to further the work of other scholars who have analyzed how the gendered logics of social institutions reproduce inequalities (Smart 1989; Martin 2005). Moreover, *legal ambivalence* differs from *legal cynicism* (Kirk and Papachristos 2011) in the sense that women usually view laws and legal tools as legitimate, but experience tensions and contradictions in their attempts to make use of them. These tensions and contradictions manifest themselves via the daily interactions that women have with family members, partners, and state officials—before, during, and after a legal process is set in motion. Legal ambivalence does not preclude women from attempting to make use of legal tools to resolve situations of violence, but it does shape their perceptions of the legal process, and which options (if any) they pursue, which in turn can shape legal outcomes. In short, legal ambivalence is a gendered reluctance to resort to the law² that may *precede* interaction with the legal system but can also be *produced* and/or *reinforced* during such interactions.

Gender, Politics, and the Law in Nicaragua

Before delving into the specific contours of women’s legal ambivalence, it is important to set the stage with a brief discussion of the Nicaraguan political context, with a particular focus on feminist activism, policing, and the law. Since 2007, Nicaragua has been governed by Daniel Ortega of the *Frente Sandinista de Liberación Nacional* (FSLN), the revolutionary party which overthrew a 40-year dictatorship in 1979. Historically, the political ideology of the Sandinistas centered on the idea that addressing economic inequality (through education, land reform, and health care access) would inevitably lift the condition of women as well (Molyneux 1985). Women’s participation in the Sandinista Revolution was welcomed and encouraged; however, after the FSLN’s electoral defeat in 1990, the decision by some women’s organizations to declare their autonomy from the Sandinistas led to tensions between the two groups (Lacombe 2014). When allegations of sexual abuse by Daniel Ortega

² I thank one of the reviewers for this phrase.

came to light in the late 1990s, these relationships grew even more contentious (Delgado 2003; Kovaleski 1998).

During the 1990s (while the FSLN was not in power), the first legislation addressing domestic violence was passed and women's police stations were established (Jubb et al. 2008). There were also concerted efforts to professionalize the Nicaraguan police force and separate it from the FSLN (Orozco 2015). Meanwhile, Ortega never gave up on his goal of returning to power. In the lead-up to the 2006 presidential election, Ortega sought to win over former political foes by publicly aligning himself with the local Catholic Church and promising to sign a total ban on abortion if elected, which he later did (Kampwirth 2008).

Following Ortega's return to power in 2007, some feminist leaders remained hopeful that the FSLN could be persuaded to enact legal reforms that would benefit women. One of the cornerstone pieces of legislation that women's organizations mobilized for was a new law addressing gender-based violence; this legislation (Law 779) eventually passed in 2012. Under Law 779, the definition of gender-based violence was expanded to include psychological and economic abuse, mediation (informal resolution of domestic violence cases) was prohibited, pre-trial detention of suspects was mandated, and new special prosecutors and courts were established specifically to handle gender-based violence cases. But, almost immediately after Law 779 was passed, it encountered fierce resistance among conservative and religious leaders in Nicaragua (Neumann 2018). Between 2012 and 2014, Law 779 was substantially weakened, first via legislative reform (re-introducing mediation as a legal option that police could facilitate), and later via executive order (circumscribing the definition of gender-based violence and incorporating family counseling into the *comisariás*) (Jubb 2014).

Throughout this contested political process, Nicaraguan feminists vigorously defended the law. At one press conference I attended in 2014, for example, one woman declared "The law is a light in these feminist battles, at both the international and local level. It's a light of hope to guarantee that women are treated, in the framework of human rights, like human beings." In defending Law 779, feminist leaders in Nicaragua repeatedly emphasized the responsibility of the Nicaraguan state to abide by supranational legal norms and conventions, such as the 1979 United Nations Convention on the Elimination of Discrimination against Women (CEDAW) and the 1994 Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará), to which the Nicaraguan government is a signatory. They also often highlighted the Nicaraguan Constitution's provisions intended to ensure the equal protection of women under the law. Grassroots feminist organizations also sought to educate women about the protections of Law 779 through neighborhood workshops, many of which I attended between 2012–2014. Women's organizations also organized numerous public protests related to Law 779; at those protests, the issue of impunity for crimes against women was a constant theme.

Immediately following the passage of Law 779, thousands of women filed complaints for crimes of intimidation/threats of violence. According to Nicaraguan police reports, there were 6,135 such complaints filed in 2013 and 5,992 in 2014. The large numbers of legal complaints for these newly codified crimes suggests

that—initially, at least—many women had at least some expectation that the legal system would address their claims.

Legal Institutions and the Feminist Critique

While Nicaraguan feminists have frequently sought to marshal legal arguments to defend women's rights, around the globe, there is a vigorous feminist debate over whether and to what extent law can in fact be a tool of liberation for women (Smart 1989; Brown 1995; Bumiller 2008; Gruber 2020; Haney 2010; INCITE! 2006; MacKinnon 1989; Richie 2012). Some feminist theorists have argued that law reflects social relations and obscures inequality by imposing a certain presupposed universality, rationality, and objectivity on the world. Western jurisprudence privileges the individual as the primary subject or bearer of certain universal rights. However, this premise becomes problematic when one considers that an individual's capacity to exercise such rights in practice depends on one's social position (race, class, gender, sexuality, nationality, etc.). As Brown (1995, 162) points out, "the liberal subject is a man who moves freely between family and civil society," but "a women's right to be an individual is curtailed by her identification with the family." As feminist sociologists and legal scholars have long demonstrated, women of color in the United States face intersecting structural barriers in the efforts to exercise their legal rights (Crenshaw 1991; Menjívar and Abrego 2012); similarly, in Latin America, a pigmentocracy (Telles 2014) that privileges light skin over dark skin influences how Afro-descendent, indigenous, and darker skinned mestiza (mixed-race) women are treated by legal institutions (Boesten 2012).

Another way that law can be problematic is in how it determines what constitutes evidence, or what makes a claim "true." Law's pursuit of so-called 'objectivity' tends to elevate intellectual rationality and abstract reasoning over subjective experience and emotion, the latter two of which are frequently associated with women. Women victims who display the "wrong" kind of emotions are often deemed less credible, leading legal institutions and organizations (including those that provide legal services) to de-prioritize their cases or ignore them altogether (Schuster and Proppen 2010; Spohn and Tellis 2012; Sweet 2021; Villalón 2010). Claims made by women of color in the U.S. and Afro-descendent and indigenous women in Latin America are also often met with more skepticism due to the ways in which Black and brown bodies have been commodified, racialized, and sexualized since the colonial era (Alcalde 2010; McClintock 1995; Richie 2012).

In its pursuit of neutrality and abstraction, laws also adopt static categories that fail to capture tensions and contradictions in people's ordinary lives (Villmoare 1999). For example, the adversarial system (plaintiff vs. defendant) assumes the existence of two "sides" which are mutually exclusive not only regarding innocence and guilt, but also in terms of interests, goals, or priorities. In cases of gender-based violence, for example, although most women's primary goal is to regain a sense of safety in their everyday

lives, they may not necessarily agree that incarcerating their partner is the most appropriate means of doing so (Richie 2012; INCITE! 2006).

The Road from Here

Following a discussion of my data and methods, I analyze the socio-cultural expectations (such as women's role in the family) and economic conditions (such as dependence on a male partner) shaping Nicaraguan women's ambivalence toward the legal system. I then analyze women's experiences within the legal process itself in order to show how specific interactions impacted their attitudes and decisions about further legal action. In this latter portion, my main argument is that state actors are often complicit in the production of the very ambivalence and supposed lack of commitment they attribute to women victims of violence. At the same time, some women experience situations in which the structure of the law itself is used against them (through various kinds of threats and counter-demands). In the final section, I recount one woman's story at length to illustrate the myriad issues Nicaraguan women confront when deciding when and how to approach the state in order to escape an abusive partner—and what happens when they do. The paper concludes with a discussion of the implications of this research for our understanding of legal and punitive solutions to gender-based violence.

Methodology

This article is based on eight months of ethnographic data and in-depth interviews conducted between June 2013 and December 2014 in Managua, Nicaragua. During June and July of 2013, I spent between two to six hours a day conducting participant observation in a local women's police station (WPS) and wrote detailed fieldnotes at the end of each day. At the time of my research, WPS were the main place in Nicaragua where women could report domestic violence cases.³ The WPS where I conducted my fieldwork was staffed by nine women officers, as well as a social worker, psychologist, and legal aide. My observations included interactions in the waiting room, private offices, and the break room, as well as at special events like community outreach fairs. I also engaged in many informal conversations with officers and other staff about their work.

During 2013 and 2014, I also conducted in-depth interviews with 38 Nicaraguan women who sought assistance from the police or other legal actors/institutions due to a situation of relational violence. Thirty-two of these interviews took place in Managua, and six in other provinces around the country. Most women who participated in this study were recruited with the assistance of local feminist organizations that provide legal and/or mental health services for women victims of domestic

³ Women's police stations were shut down by Nicaragua's president Daniel Ortega in 2016 and later reopened in 2021.

violence. A few were women I met at the WPS. Although some women shared extensive details of the harms their partners or ex-partners had inflicted upon them, my main goal in the interviews was to understand the broader context of women's everyday lives and how that influenced when and why they approached legal actors for help, and what happened once they did so. Through open-ended questions, I sought to better understand women's perceptions of particular legal actors as well as the kinds of obstacles they encountered and how those obstacles impacted their ability to achieve the desired resolution of their situation. Following the established principles of standpoint theory (Smith 1974), my primary focus was understanding women's own point-of-view about their experiences.

I conducted all interviews in Spanish, transcribed them verbatim and subsequently translated them into English. I used open and focused coding to identify the main themes in women's narratives (Emerson et al. 1995). Taken together, these narratives offer important evidence to illustrate how the social production of women's legal ambivalence is accomplished.

Socio-Cultural Expectations and Economic Pressures

"I endured so many humiliations for my children," Fiona told me one afternoon as we sat in the waiting room at the *comisaría*. Fiona lives in Managua with her three children (ages 13, 11, and 2) and her husband Guillermo, who drives trucks for a living. Fiona worked part-time in the *maquilas* making clothes, and she and Guillermo attended a local evangelical church. Nine months ago, Fiona came to the *comisaría* to place a complaint against Guillermo. "He told me that I'm worthless, old, ugly, 'only whores go out like this' [gesturing to the sleeveless green blouse and knee-length black denim skirt she was wearing]. After the incident, they had "sort of made up" and she hadn't pursued the case. But the verbal abuse continued, and Fiona was back to file a new complaint. "I'll never forget his words. I might not be crying on the outside, but inside, I'm hurting. He's the father of my children, but I'm the one who has paid for everything," Fiona said tearfully. The emotional toll of her husband's abuse was too much to bear.

"Aguántalo" [Put up with it]. It's a phrase that Nicaraguan women have heard over and over. Evelyn, 32, is no exception. "My mom is from another era, that when you get married, it's 'til death do you part'," she told me as we sat in a tiny curtained off room in her neighbor's home. It was suffocatingly hot that day and Evelyn spoke quickly and angrily while the fan whirred in the background. "When he hit me the first time, we had just gotten married. I didn't have any support from my family." After she and her partner had a child, things only got worse. "Our marriage fell apart. We didn't love each other—we just stayed together for the girl [their daughter]." Evelyn worked part time at a small food stand at a local university, but most of their household income came from her partner. "He always said, if we divorced, my daughter and I wouldn't have the same economic privileges he gave us [before]."

Fiona and Evelyn both endured years of spousal violence before finally deciding to go to the police. Despite the passage of a highly progressive law addressing violence against women in Nicaragua (Law 779), seeking help from the police is a step that many women never take. In part, this is due to deeply engrained social and cultural expectations. Not only are women expected to maintain the role of primary caregiver within the family, but they are also expected to follow the example of long-suffering female role models like the Virgin Mary, revered by the influential Catholic Church. As a result, women in Nicaragua are rarely encouraged to place their own needs, interests, or well-being before their partner or children. One lawyer I spoke to at a local woman's center in Managua put it this way: "The woman becomes invisible. She's thinking about her children, her husband if he has a profession. Everyone except herself."

When Juanita, 23, walked into the *comisaría* one summer day in 2013, she was thinking about her 18-month-old daughter. Juanita had been separated from her ex-boyfriend Hector for months, but he kept stalking her. The day that I met her, Juanita had come to the *comisaría* because Hector showed up drunk at her house the night before, demanding she let him in. But, sitting in the waiting room at the *comisaría* that day, Juanita felt conflicted about reporting him. "He gives me money for diapers, milk, and food for our daughter, but he doesn't understand. I don't want anything to do with him anymore," she said. Complicating matters was Hector's mother, who had a heart condition. "I feel bad," Juanita told me. "He's the only one of his mother's sons here in Nicaragua—all the rest are abroad," she explained, as we sat in the waiting room with her younger sister. Juanita didn't want Hector to go to jail, she said, because she knew Hector was the only one nearby to take care of his mother. Juanita wanted Hector out of her life, but she also recognized how critical his financial support was for his mother and their daughter.

These tensions were common among women I met during my fieldwork. Roberta, a 27-year-old woman from León, had been with her partner Saul since she was fifteen. Two years later, after she had her first child, the violence began. She had her second child in 2004, and "it was always the same, he never changed," Roberta told me as we sat in a small gazebo on an unusually humid morning in October. A decade passed and the abuse continued. Finally, in July 2013, Roberta went to the police to demand a restraining order and child support. "I put up with it for my children, because I didn't want to go begging in the streets with them," Roberta explained. She knew that her meager income from selling tortillas would not be enough to provide for the four of them, but she didn't know where else to go. "If I went back to my mom, it would be a lot. Three children and me. I couldn't do it. There was nothing to do but bear it," Roberta concluded with a sigh. For low-income women like Roberta, the arrest of their partner could mean a loss of income, forced change in housing, or even homelessness.

Even when women did have family support, going to the police meant assuming new material burdens. Paula is a 31-year-old woman from Masaya, a mid-sized city about an hour south of Managua. She fell in love with husband Luis because she said he was "humble and hard-working." Everything was going fine, she said, until they moved in together after the birth of their son, who was now 4 years old. Years earlier, Luis' parents had offered them a small piece of land on which they

built a small home using thick black plastic and scraps of wood. “The problem is, he drinks,” Paula told me as we sat together outside in her sister’s shady patio, “and when he drinks he gets violent.” Often, he would take the money Paula had earned as a pre-school teacher and spend it on liquor.

When Paula questioned Luis about another woman she had seen him with, he slapped her across the face. “I told my mother, and she always said, don’t punish yourself, *hija*, leave him, but I always went back to him. He got down on his knees and asked forgiveness, and I believed he was going to change.” This pattern went on for seven years, but Paula never went to the police. The last time, though, was different. “It’s not the bruises that hurt as much as the words that wound the soul,” she reflected somberly. Just two weeks earlier, Paula told me, Luis had come home at 3am, pounding on the door, screaming at her to let him in. “He started yelling, ‘get up, you are a fat good-for-nothing, the bitches I sleep with are better than you.’” Tears streamed down Paula’s face as she repeated these devastatingly cruel words to me. “The things he said to me destroyed me inside.” The next morning, she grabbed a sack just as she always did to go to the market and walked three kilometers to the nearest *comisaría* alone. Despite the enormous pain Luis had caused her, when the police told Paula that they would detain Luis for 48 h, Paula objected. “It’s of no use to me if he’s in jail,” she said. “What I want is for him to work so he can support our child. If he misses a day at the *maquila* (factory), they will fire him.”

As the foregoing examples have demonstrated, socio-cultural expectations connected to family and economic considerations frequently deterred women victims of partner violence from seeking help from the police. Once they did so, however, these concerns were often compounded by the kinds of encounters they had with police and other state actors.

Inside the Legal System: Material and Institutional Barriers

Two main issues confronted women who entered the legal process. First, police and prosecutors regularly asked women to do investigative tasks for them that required both time and money. Second, and relatedly, women had to make many lengthy and last-minute appearances at the *comisaría* or the prosecutor’s office, which curtailed their ability to maintain stable employment. Over time, these material constraints and institutional barriers discouraged some women from pursuing legal remedies to their situation—and raised even deeper doubts about whether the system could help them at all. The examples discussed in this section demonstrate that women’s ambivalence toward the law does not unfold on the head of a pin—rather, it emerges through a convergence of multiple factors, including the (in)actions of state officials and the gendered organization of the institutions supposedly created to help them.

When I met Dana, a middle-aged woman from Managua, she told me she was back at the *comisaría* for the second time this week. Several days earlier, she had filed her complaint and then gone to Legal Medicine for forensic evaluation. Today she had come with her 16-year-old son, who was going to give testimony as a witness, but she wasn’t sure who to talk to. “But I don’t want them to put him [her

husband] in jail, because he's diabetic," she added. "I just want him out of the house." Soon a policewoman approached Dana to inform her that the investigator for her case was at a training for the next two days, so she could wait for the captain or come back next week. "I don't want to wait 'til next week," Dana told me. "My son can't come back then, he's working." When two hours passed with no sign of the captain, Dana and her son left.

Like most women I interviewed, Dana did not go to the police with the goal of incarcerating her partner; she simply wanted him out of her life. In addition, Dana's experience illustrates some of the institutional barriers that shape women's access to justice. For example, Dana was expected to maintain a high level of flexibility in order to accommodate the arbitrary scheduling demands of state officials. At the same time, Dana's ability to pursue her case was also constrained by the work schedule of her son, a critical witness. State officials in Nicaragua often justified their skepticism toward women victims by contending that women were indecisive about legal action, but a closer look reveals that material constraints played a critical role in some women's decisions to alter or temporarily abandon their claims (see Villalón 2010 for similar findings in the case of Latina immigrants).

Maria, a 28-year-old woman from Managua, encountered a similar situation. After separating from her partner Felipe in 2012, she decided to place a claim for child support. "My idea is not that they send him to jail, but that he supports me, that he fulfills his obligations, the rights that my children have," she told me. When he refused to pay, Maria went to the police. When her case finally reached the prosecutor's office in 2013, the prosecutor told her that she needed proof of Felipe's income, whether he was paying social security, and if he had any additional assets like property or vehicles. "They want me to go to the mayor's office to see if he has some kind of business. But I can't know this, ever." Maria told me, as she believed that information would not be accessible to her. By the time I met Maria in 2014, she was discouraged. "I felt cheated, that I've been doing this for nothing," she said. "Why even seek out these people [the police] if they aren't going to help?" Maria was also frustrated because the demands of the legal process had complicated her ability to hold a job. "For two and a half years I haven't been able to get a stable job because I have to be ready at any moment. The lawyer could call me anytime, or the prosecutor, or the police, so I can't get a stable job because I can't be asking for time off all the time." Before, Maria worked at the cafeteria of a local university; since beginning the legal process, however, she had "gotten by" washing or ironing clothes, "to be free when they need me," she explained.

Maria wasn't the only one who felt like she had wasted her time chasing justice. In 2012, Estefane, a 32-year-old woman from Managua, decided to file a claim for child support for her three children after her criminal case against her ex-husband, Arturo, was stonewalled by the *comisaría*. "I went every day, waiting all day. I would leave my house at 5am and get home at 2 pm," she told me. "I almost lost my job." After months of this routine, Estefane gave up on her alimony case in 2013. As we sat on a large rock outside her neighbor's house, she told me, "It's not worth it. I've wasted too much time there."

Veronica, a 42-year-old woman from Managua, also opted for child support rather than file criminal charges against her ex-husband Kevin. When he refused to

pay, she went to the police; under Law 779, failure to pay alimony was considered a criminal offense for which men could be incarcerated for up to two years (El Nuevo Diario 2017). Recalling her experience in court, Veronica told me, “I didn’t want to become a millionaire through this man. I didn’t want him to go to jail. I already forgave him for everything he did to me. Every time I see his face it reminds me of how he disfigured mine. Nobody heals that,” she said, her voice shaking. At the end of the trial, she asked to speak to the judge. “I don’t come here asking for my rights, I just want you to help me. I’m tired. I’m sick. As a mother, I tell you, I just want you to help me,” she pleaded. But the judge was unmoved, and ruled that Kevin was innocent. Meanwhile, the months-long legal battle cost Veronica her former job, so she started selling enchiladas on the street. Veronica’s case illustrates how even when the law is textually intended to support women victims, it is undermined by judges and other officials who fail to apply it, leaving women more disillusioned and destitute than before.

Recall Fiona, who we met earlier in the waiting room at the comisaría. After we had been talking for thirty minutes, Captain Salazar came out of her office. “What are you here for?” she asked Fiona. “To file a complaint,” Fiona replied. The captain invited Fiona back into her office, and fifteen minutes later the two women came back out. When I asked her what happened, Fiona said, “[The captain] took my complaint and said she’s going to send both of us a citation to appear next Monday so we can work it out.” She smiled. “That’s good, right?” she asked me expectantly.

Just minutes earlier, Fiona had recounted for me the verbal violence to which her husband had repeatedly subjected her and asked whether I thought the police could help her. Pulling out my pocket copy of Law 779, I had explained to Fiona that psychological violence is now a crime and requiring mediation was no longer legal. Yet a few minutes later, when the Captain told her that she was going to schedule an appointment for her and her husband to “work it out,” Fiona seemed excited and relieved. Although I did not witness her conversation with the captain, it is notable that Fiona entered the comisaría with one intention (to place a complaint) and left with another (to wait for a notification from the comisaría for a mediation session). The following week, when Fiona didn’t appear at the comisaría, I called her to find out what happened. She told me she was still waiting for the appointment citation from the captain to arrive. We never crossed paths again.

Fiona’s case illustrates how state officials channel women toward certain courses of action and away from others. What law enforcement derisively labels “indecisiveness” or emotionally driven decision-making is in fact a socially produced form of legal ambivalence that develops out of both the structure of “the law” (that is, how legal institutions are organized) and women’s everyday experiences with police and prosecutors. Katia’s case further underscores this point.

Katia, a 34-year-old woman from Masaya, filed a complaint against her ex-husband Oscar because he was threatening her. “He followed me to work, he hit me on the bus, he stopped me on the street, things he had never done.” Katia’s case languished for months at the comisaría. “It was long, I went, they gave me another appointment, they say, oh, the psychologist isn’t here. There was always some excuse why they couldn’t see me,” Katia told me. The police finally issued a warrant for Oscar’s arrest, but Oscar disappeared for six months, then suddenly re-appeared late

one night, banging on her door and yelling at her. Katia went to the prosecutor, but for naught. “[The prosecutor] said if he wasn’t following orders, I had to bring proof, photos, and I was like, I can’t be taking photos. What, I’m going to say to him, stop so I can take your picture?” Faced with this dangerous request, Katia stopped going to the prosecutor to check on her case. Then, a month later, she received a notification for a court hearing. When she arrived, however, one of the staff told her that Oscar had already appeared, and that the case for psychological violence was closed. Katia did not understand. “They only waited for him, but I’m the victim. It’s like they are defending him and not me,” she told me as we sat in a small office at the women’s center where she had come for help. When I asked her if she might try to appeal, Katia shook her head. “I don’t feel motivated to denounce him anymore, because it’s not worth it. I’d have to be dead to prove it,” she concluded warily.

Each of the women described above paid a financial, emotional, and bodily price for seeking legal justice. For precariously situated women in Nicaragua, it was no small thing for them to risk their employment or income in a process that rarely turned out in their favor. Recognizing the added burden that they would face if their partner were incarcerated, many women opted instead for child support claims—but they frequently faced the same kinds of obstacles (e.g. demands to produce evidence, inexplicable delays) in those cases as well. Thus, socio-cultural expectations, economic considerations and interactions with state officials all contribute to women’s feelings of legal ambivalence. But that was not all. Women also had to contend with the possibility of retaliation by their partner or ex-partner, including threats, intimidation, and the use of the law against them.

The Gendered Structure of the Law: Retaliation and Counter-Demands

All Roberta wanted was a little support from her ex-husband Saul to help take care of their three children. What she got instead was a prolonged custody battle. In July 2013, after separating from Saul, Roberta filed a claim for alimony. When her case finally reached the court in February 2014, the judge awarded custody of the children to Saul. “In court, I was accused of abusing my children,” Roberta said, “but it wasn’t like that. He was the one who was mistreating me.” During the fall of 2013, as Roberta was trying to figure out the legal process, Saul was gathering evidence to use against her with the help of the police. “The police sent me from one place to another, giving him time to find evidence against me. He came to my house with two police officers, looking for evidence. If the police didn’t have gas to see about my case immediately, how do they have gas for these games?” Roberta asked, turning to her sister who had joined her for our meeting at a local women’s center in Leon, a small city an hour north of Managua. Neither Roberta nor her children were ever given a psychological evaluation, despite the death threats she had received from Saul. Roberta’s sister Leona shook her head. “The day that my husband hits me, I’m going to take the machete myself until he dies, until they take me to jail,” she declared at the end of our interview. “There is no law.”

Katia was also afraid of losing her children. After her criminal case against her partner Oscar was stymied in the courts, she went to a local women's center in Masaya to get help filing for child support for her six-year-old daughter. But then, she said, "Oscar sent me a document saying he was going to take my daughter away. He said if he gives her money, he has a right to see her, but I don't want that to happen." Given Oscar's history of violence toward her, Katia was understandably afraid that he might also mistreat their daughter. "I want him to support the girl, but that he leaves me in peace, that he doesn't bother me anymore." The day that I spoke with Katia at the women's center, she was distraught and unsure of whether to continue with the child support claim. "I'm afraid to go through with it, because later he might try to take my daughter away from me," she said, trying to regain her composure.

In addition to custody issues, another concern that confronted women I interviewed was property ownership. When Evelyn decided to go to the police in September 2014, they took her statement and asked her to return the following day for a psychological evaluation. "I went back the next day, but they said they were busy. I asked if they could remove my husband from the house, and they said no, because the house was his," she recalled. According to Evelyn, the police never came to her home to investigate. "They denied my complaint saying there was a lack of evidence, but they didn't even come to the house. I don't know what they wanted. I arrived with bruises and everything." Evelyn decided to file for divorce instead—and was still in the middle of that process when we met in November 2014. A few weeks earlier, though, she had another argument with her partner, and Evelyn had gone back to the police. "I said, 'so I'm going to wait until this man kills me?'" This time, the police came to the house to investigate, but did not detain her husband. I asked Evelyn if she had considered moving somewhere else temporarily. Evelyn shook her head. "Until the divorce is final, I can't leave. He could place a legal claim against me for child abandonment."

Roberta, Katia, and Evelyn's stories highlight some of the ways in which fear of the law impacted women's everyday lives and decisions about legal action. Women were deterred from legal strategies not only because they feared physical and/or psychological retaliation from their partners, but also because they were afraid of how the law itself might be used against them, whether directly or indirectly. As discussed earlier, law is a gendered institution, one in which men are the default knowers, enforcers, and bearers of rights. Thus, one risk was that a woman's ex/partner might bribe or somehow convince a (male) police officer, prosecutor, or judge to take his side over hers. Another risk was that a woman's ex/partner would file a counter-demand seeking custody of the children in order to avoid paying child support to the woman. A further risk, present in Evelyn's case, was the possibility of losing her home. Whether or not their ex/partners acted on their threats (and regardless of what the law actually stated), women's perceptions of these risks impacted how they viewed the law's potential to help them, further contributing to their legal ambivalence.

Carmen in Court: Interactional Dynamics and Legal Outcomes

I first met Carmen at a support group for women victims of violence sponsored by a women's center in Managua. Carmen, 36, and her two children lived in a small yellow house on a shady street in northeast Managua. When she was 19, Carmen married her high school sweetheart Joel. At first, Carmen worked as a secretary, but after her daughter Sara was born, she resigned. That's when their relationship started to change, Carmen told me. "He started to earn more money when he became a manager. He started coming home later and later...And then he started to hit me." Carmen found a lawyer (a family friend) and filed for divorce. A year and a half later, the divorce was finalized. With her father's help, Carmen eventually scraped enough money together to go back to school to study finance, and later took a position at a local bank.

Through her job at the bank, she met another man, Luis, and they began seeing each other. Carmen welcomed Luis' attention, and after several months together, she became pregnant. Then Luis began exhibiting controlling behaviors, like demanding that Carmen call him with a separate cell phone. Shortly after her son was born, Carmen discovered that Luis was married and had been lying to her. When she tried to break it off, Luis refused, and started showing up at her house to try to see his son. On one of these occasions, a confrontation ensued, during which Luis hit her as her eldest child looked on, terrified. The next day, Carmen went to the *comisaría* to report the incident. The forensic evaluation confirmed that she had suffered physical and psychological violence, but because "none of the neighbors wanted to talk," the complaint was sent to the prosecutor with only the testimony of Carmen and her daughter.

Two months later, Carmen's case was given a court date. As the trial progressed, Carmen thought it was going well. "The judge could see that I was a healthy person, that I took care of my children." But then Luis didn't show up for one of their court dates, and the judge did not issue a warrant. She noticed that all the staff around the courthouse seemed to know his name. Her lawyer warned her, "This judge is biased. We need to do something." On the last day of the trial, Carmen's legal advocate was prevented from entering the courtroom, and Luis' attorney began pressuring her to accept a mediation rather than wait for the judge's sentence.⁴ "I was afraid and alone," Carmen told me.

In the end (July 2014), Carmen agreed to a suspension, in which Luis admitted what had happened, but did not have to serve prison time. Instead, the judge issued a restraining order and ruled that Luis would pay 2,000 córdoba (about USD\$100) a month in child support.⁵ However, from July until November 2014, Luis only paid Carmen half of what the judge ordered. Meanwhile, Carmen struggled to find stable

⁴ At this point, mediation had been re-introduced as part of the reformed law (Law 779), with slightly more formal requirements.

⁵ This was a provisional sentence in the penal court. Carmen had another case pending in family court for custody of her son, where the judge later raised the monthly alimony payment to 3,000 córdoba (about \$150).

employment, putting significant strain on her household. “Last month my son was sick. I spent 300 córdoba (about USD\$15) on tests and medicine, and Luis didn’t give me anything,” she told me. Not only that, but Luis also continued to appear unexpectedly at Carmen’s home, demanding to see his son. “It’s traumatic for me and my baby,” Carmen commented, as she flipped through a stack of dog-eared legal papers. For most of 2014, Carmen continued to attend the same women’s support group.⁶ She said that had it not been for her psychologist there and the support of her father, she didn’t know what she would do.

Carmen was able to leave her first relationship because, unlike many other women I interviewed, she had family support (including economic assistance from her father) to do so. However, in attempting to pursue a legal claim against her second partner, both the *structure of the law* and the *interactional dynamics of the court* ultimately worked to Carmen’s disadvantage. In terms of the structure of the law, the lack of witness testimony (the unwillingness of neighbors to get involved with what is commonly perceived as a ‘private matter’) weakened her case. In addition, the law did not ensure that Carmen’s case was handled by a judge with no prior relationship to her abuser. Regarding the interactional dynamics of the court, the defense lawyer was permitted to pressure Carmen into agreeing to a resolution she felt was not the best outcome for her or her children. The sequence of events that unfolded that last day in court led Carmen’s resolve to waver; her momentary sense of ambivalence ultimately changed the entire legal outcome of her case, thereby enabling Carmen’s abuser to continue to harass her.

Women’s Ambivalence and the Limits of the Law

Decades of scholarship have highlighted both the inadequacy of legal solutions to gender-based violence, and some of their unintended consequences (Kim 2020). Much of this research draws on analyses of the U.S. political and legal system. The experiences of Nicaraguan women recounted in this article provide important evidence from Latin America about how law operates as a gendered institution in a social and political context characterized not by mass incarceration but rather by widespread impunity (Walsh and Menjivar 2016).

In Nicaragua, the legal rights and protections afforded to women have always held a precarious position, even under leftist governments like the Sandinistas (Kampwirth 2008; Lacombe 2019; Neumann 2018). As mentioned earlier, in post-revolutionary Nicaragua, women’s contributions were welcomed as long as they aligned with the political ideology of the FSLN – an ideology that prioritized class-based interests over gender-based ones. Since returning to power in 2007, President Daniel Ortega has slowly consolidated his power over Nicaragua’s political and legal institutions, including the legislature, the judiciary, and the police force – and has engaged in increasingly violent tactics to quell popular dissent (Morris 2018).

⁶ When I visited Carmen again in March 2016, she told me that there was no longer any funding for the women’s center’s psychologist and pro bono attorney who had been helping her.

Ortega's influence over key institutions has undeniably contributed to the minimization of women's complaints concerning gender-based violence; as Orozco (2015) put it, "the police now answer to Ortega". However, the gendered ideologies buttressing the minimization of domestic violence extend beyond any single political leader; rather, they point to how particular socio-cultural expectations and assumptions about women are deeply embedded in Nicaragua's legal institutions.

The actors within these institutions (police, prosecutors, judges) do not stand outside gendered norms and ideologies – rather, they are products *of* and participants *in* the very same system of social, economic, and legal relations that routinely denies the validity of women's diverse experiences, constrains the choices available to them, and then proceeds to blame women for their own conditions and decisions. Together, this process contributes to the social production of women's legal ambivalence. With this concept of legal ambivalence, I refer to a gendered reluctance to resort to the law that is driven by a combination of material, ideological, relational, and institutional factors: economic vulnerability, family pressures, fears of retaliation, and interactions with law enforcement officials (police/prosecutors/courts). Women's legal ambivalence *precedes* contact with the legal justice system and can also be *produced* and *reinforced* by it. However, making a legal claim does not necessarily mean that a woman did or does not experience ambivalence about that decision.

The narratives of women in this study underline the importance of treating socio-cultural expectations of women, economic precariousness, the structure of law, and everyday interactions with state officials *not* as isolated or distinct factors but rather as components in a *system* that works together to produce legal ambivalence among domestic violence victims. For example, although family pressures and economic hardship may inhibit some women more than others from approaching the state, the gendered (and classed) assumptions and quotidian practices of state officials that they confront when they do so remain remarkably similar. Even the seemingly exceptional cases of Fatima (who successfully obtained the information she needed from the police) and Carmen (who persisted to the end of a trial) demonstrate the difficulty of overcoming these systemic obstacles and constraints. Thus, although the components outlined here may not always intersect in the same manner in every woman's case, they all contribute to the production of legal ambivalence.

The social and economic consequences of legal action were myriad for women victims of relationship violence in this study. Some lost what little social support they had, while others encountered even more precarious financial situations. Within the legal system, women were confronted with unfamiliar and time-consuming processes and procedures that discouraged many of them from continuing. Even the most seemingly determined women (like Carmen) articulated a wariness about what engaging in legal action had cost them in terms of other relationships, work opportunities, and emotional well-being, among other potential consequences. In many cases, the cascading impacts of legal action served to reinforce women's legal ambivalence.

Although this concept of legal ambivalence emerged out of research in the Nicaraguan context, it may be useful to understanding women's interactions with the state in other geographic, legal, and political contexts as well. Socio-cultural norms, such as the expectation that women sacrifice their own well-being "for the sake of their children," are ubiquitous and may contribute to some women's reluctance to pursue legal avenues in cases of abuse (Rhodes et al. 2010). Concerns about victim-blaming (whether by family, friends or institutional actors) can likewise discourage women from making legal claims (Sweet 2019). Finally, the perceptions of unresponsiveness and bias among police and judges uncovered in this study are hardly unique to Nicaragua; in the U.S., the widespread high-profile killings of Black men by police undoubtedly shape some women of color's willingness to report relationship violence (Decker et al. 2019).

Although it can be useful to analyze the characteristics of *individual women* who do or do not go to the police for help in situations of partner violence, we can and should pay greater attention to relationship between the ideological (e.g. beliefs about roles of women and acceptability of violence), interactional (e.g. the system of family relations) and institutional levels (e.g. everyday practices of police) to better explain the various constraints that impact women's decision-making about when and how to resort to the law, as well as the variation in outcomes when they do. For example, we know that low income women are structurally disadvantaged within the legal system, but that is compounded by the fact that many of these women are predisposed to think about their obligations to their family in particular ways due to socio-cultural expectations; once they enter the legal system, it becomes that much harder to persist within it precisely because many women victims confront state actors with gendered assumptions and legal processes that are opaque at best and hostile at worst.

At the policy level, the legal ambivalence present in the narratives of Nicaraguan women suggests that rather than focus solely on putting better laws on the books or their degree of enforcement/ application, more attention is needed to the social and economic conditions that deter many women from pursuing legal action in the first place. As feminist scholars and activists of color have argued for decades, law provides a means to punish, but not to address the intersectional forms of social and economic oppression that enable the normalization of violence against women (Davis et al. 2022). The legal system in Nicaragua – as in the United States and many other parts of the world—presents women with limited, often dichotomous, options. Poor women in particular face a seemingly impossible choice: either report their abusers and risk extreme economic hardship or continue to endure abuse and risk losing their life.

In the United States, the gendered and racialized features of law and legal institutions and their consequences has led some scholars and activists to advocate for an abolitionist strategy (Davis et al. 2022). Meanwhile, in many parts of Latin America, the primary focus has been on demanding that states implement existing laws concerning violence against women in a fairer and more thorough manner (García Del Moral 2020). Greater scholarly dialogue and comparative research putting these divergent perspectives in conversation would help us better understand when and why some women victims of domestic violence pursue

legal action (or not), and how women’s experiences with the legal process can be improved. Across the globe, women’s lives are depending on it.

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