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Legitimacy on Trial: Transnational governance, local politics, and the battle over gender-violence law in Nicaragua

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ABSTRACT

The killing and abuse of women remains one of the most serious problems confronting Latin American societies. Many countries have passed a variety of laws intended to address femicide and other forms of violence against women. Yet the implementation of these laws has been inconsistent at best. This article analyzes the case of Nicaragua, which passed a comprehensive law on gender-based violence (Law 779) in 2012. While celebrated by local women's organizations, Law 779 was subsequently weakened through a series of legislative reforms and executive decrees. This article seeks to explain why state actors in Nicaragua initially supported Law 779 and later sought to undermine it. Despite the development of transnational governance structures over the last two decades, this article demonstrates how local political conditions remain central to explaining the trajectory of gender-violence legislation, particularly in contexts characterized by a high concentration of political power. Through an analysis of Law 779, this article contributes to broader debates about the nature of state legitimacy and the potential of legal advocacy to address violence against women.

KEYWORDS: gender, violence against women, gender-based violence, Latin America, women's rights, transnational feminism, state legitimacy

INTRODUCTION

This paper examines the process by which Nicaragua came to pass its most comprehensive law concerning violence against women (Law 779) in 2012, and the contentious politics that led to its unraveling over the next two years. Among its most important provisions, Law 779 expanded definitions of violence against women, increased carceral penalties, established new protective measures for women victims, and eliminated the controversial practice of informal mediation in domestic violence cases. Although Law 779 was celebrated by local women's organizations as the culmination of decades of mobilization and advocacy, it also faced strong opposition, reflected in extensive local newspaper coverage. Between June 2012 and December 2013, more than 250 news and opinion pieces praising or critiquing Law 779 were published in Nicaragua, a rate of nearly 13 articles per month.

Amidst the heated discursive debate, feminist organizations and religious groups took to the streets—the former to demand the implementation of the law; the latter to repeal it. Just fourteen months after the original law was approved, the National Assembly passed an amended version of the law, significantly weakening protections for women victims, despite fierce opposition from the local feminist movement and international organizations. Fourteen months later, Nicaraguan President Daniel Ortega issued a decree mandating the creation of neighborhood councils to provide “family counseling” to women before going to the police, weakening the core advances of Law 779.

In some respects, the trajectory of Law 779 in Nicaragua follows a familiar pattern: grassroots pressure leads to legislative change; but, lacking sufficient resources and facing a political maelstrom, the state backtracks. One example of this pattern is the significant reduction in state funding for and access to reproductive services in the United States (Stevenson et al.

2016) as well as some parts of Latin America. In El Salvador and Nicaragua, for example, abortion is now illegal under all circumstances (Kampwirth 2008; Viterna 2012).

At first glance, the failure of state actors in Nicaragua to implement its own laws can be explained by a combination of inadequate government resources and social/political opposition. However, in order to understand why Law 779 was passed and later unraveled, we must also examine the broader transnational and regional context in which state action on gender-based violence occurred (Merry 2006). In fact, until transnational and regional feminist advocacy networks brought violence against women onto the global agenda, states took little action to address what historically has been conceived of as a “private problem” (Keck and Sikkink 1998; Tierney 1982). Only after the global “women's rights as human rights” consensus¹ emerged in the mid-1990s did many national governments begin to expand their respective laws on violence against women (Merry 2006; Moghadam 2005). For instance, the United States passed the Violence against Women Act in 1994. That same year, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará) was approved, leading to a wave of new laws in the region. The first wave of legislation on violence against women passed in Latin America in the 1990s referred mostly to “intrafamily violence” rather than “violence against women,” and did not include criminal sanctions (Friedman 2009).

Even today, most laws on gender-based violence are rarely fully enforced, leading to widespread impunity for perpetrators of such violence (Fregoso and Bejerano 2012; Staudt 2008). Given this gap between law and practice, a government's ratification of certain global agreements on violence against women may not necessarily mean that it is in fact committed to them. As Merry writes, states in which political power is highly consolidated “may contest, ignore, or adopt features of international human rights law” (2006:227). Such is the case of

¹ This consensus is by no means absolute. See, for example, Tripp (2006).

Nicaragua. In 2012, it appeared that the Nicaraguan government had taken a crucial step forward to address violence against women with the passage of Law 779. Yet over the next two years, the National Assembly and the President systematically undermined key provisions of Law 779. This paper seeks to explain why state actors first supported progressive legislation to address violence against women and later acted to substantially weaken the law's original intent. In so doing, I highlight the importance of local and regional politics, as well as some of the unintended consequences of legal activism on gender-based violence.

I make two arguments to explain why Law 779 was initially passed and later weakened. First, I suggest that the National Assembly passed Law 779 in order to keep pace with regional legal trends in Latin America concerning violence against women. Second, I contend that the subsequent derailment of Law 779 was due to (1) the Ortega government's alliance with conservative religious groups, and (2) the state's interest in preserving Nicaragua's reputation as the so-called “safest country in Central America.”² As a result, patriarchal interests and ideologies remain firmly entrenched in Nicaragua's political institutions. These findings have implications for our understandings of state legitimacy and legal advocacy.

METHODOLOGY

This paper is based on a systematic analysis of over 400 newspaper articles published in the Nicaraguan press between 2010 and 2015, publicly available government records, interviews with official representatives and volunteers of feminist organizations, and ethnographic data collected between June 2012 and December 2014.

² According to Nicaragua's National Police, the country's homicide rate in 2015 was 8.6 per 100,000, the lowest rate in Central America, and the third lowest in Latin America. The Global Peace Index (2015) also ranks Nicaragua safer than Guatemala, El Salvador, and Honduras. However, the GPI's most recent rankings show a rise in violent crime in Nicaragua. The index does not include an indicator for violence against women.

For my analysis of newspaper coverage, I used Google tools to search within the websites of the three major Nicaraguan newspapers: *La Prensa*, *El Nuevo Diario*, and *Confidencial*. The following Spanish search terms were used separately and in different combinations for each website to compile a comprehensive list of articles related to violence against women in Nicaragua: *femicidio* (femicide), *Ley 779* (Law 779), *género* (gender), *violencia* (violence), *violencia contra la mujer* (violence against women), *comisaría/s* (women’s police stations), *policía* (police), *fiscal/fiscalía* (public prosecutor), *juzgados especializados* (specialized courts), *movimiento feminista* (feminist movement), *movimiento de mujeres* (women’s movement). Once the list was compiled, I carefully read each one and categorized their content based on: (1) statements by different state officials, (2) statements by local women’s organizations, and (3) statements by religious leaders. These articles, combined with government records from the National Assembly, the National Police, and the Executive Branch, formed the basis for the construction of the timeline of Law 779’s passage and implementation discussed later in this paper.

Newspaper articles and government records were supplemented by interviews with state officials and feminist activists. Lastly, I also conducted participant observations at a women’s collective during the summer of 2012, and at a number of protests, trainings, and other events concerning Law 779 that took place between June 2012 and December 2014. A detailed list of these events is provided in Table 2.1.

In the following pages I first discuss how the concept of “gender-based violence” emerged through the advocacy of regional and transnational feminist networks, and demonstrate the impact of major international conventions and agreements on violence against women that have developed since the 1990s. I then zoom in on the Nicaraguan case, highlighting the work of

local feminist organizations, as well as major legal and institutional changes concerning violence against women. Next, I provide an in-depth analysis of the passage, reform, and undoing of Law 779. In the conclusion, I argue that the case of Nicaragua’s Law 779 demonstrates the fragility of legal gains on the issue of gender-based violence in contexts in which political power is highly concentrated. Although a combination of sustained internal and external pressure may momentarily pierce through impunity-producing structures, in the long term the alliance between high-ranking elected officials and religious elites represents a formidable barrier to the transformation of an entrenched system of gendered governance. In such a context, international pressure has little impact on local officials’ concerns about state legitimacy.

Date	Event	Location
6/16/2012	Feminist forum on Law 779	Managua
6/22/2012	Demonstration for Implementation of Law 779	Managua
7/10/2012	Neighborhood Meeting about Law 779	Managua
7/11/2012	Neighborhood Meeting about Law 779	Managua
5/28/2013	Women’s Movement Protest at Supreme Court	Managua
5/31/2013	Women’s Protest against Reform of Law 779	Managua
6/14/2013	Women’s Demonstration against Reform of Law 779	Managua
6/17/2013	Women’s Demonstration against Reform of Law 779	Managua
6/26/2013	Meeting of “Access to Justice and Violence against Women” Inter-Institutional Commission	Managua
7/1/2013	Seminar on Law 779 for Evangelical Pastors	Managua
7/10/2013	Training on Law 779 for Women Promoters	Managua
7/14/2014	Women’s Movement Press Conference on Law 779	Managua
8/14/2014	Women’s march against femicide	Managua

8/21/2014	Meeting of Gender Equity Roundtable	Managua
8/29/2014	United Nations Development Program-sponsored training for women's organizations on Law 779	Managua
10/1/2014	Inauguration of Family Counseling office	Managua
10/30/2014	Nation-wide training for women promoters and community leaders on Presidential Decree and Law 779	Managua

Table 2.1 Events attended concerning Law 779

GENDER VIOLENCE IN TRANSNATIONAL CONTEXT

Prior to the 1970s, the legal category of “gender-based violence” did not exist. There were specific activist campaigns on practices such as rape and domestic abuse, genital mutilation, and sexual slavery (Dobash and Dobash 1979; Gelles 1985; Schechter 1982), but it was not until the United Nations’ Decade for Women (1976-1985) that these issues were grouped together under the broader umbrella of gender-based violence. Beginning in Mexico City in 1975, U.N.-sponsored conferences sparked a global dialogue among women’s organizations concerning the various forms of violence against women, and led to the formation of new international institutions like the United Nations Development Fund for Women (UNIFEM) and Transnational Feminist Advocacy Networks (TFANs) (Ferree and Tripp 2006; Friedman 2003; Keck and Sikkink 1998; Mogadham 2005). Through TFANs such as the Latin American and Caribbean Feminist Network against Domestic and Sexual Violence (Sternbach et al. 1992), violence against women became an increasingly prominent issue on the global development and human rights agendas (Snyder 2006).

In 1993, the United Nations issued its Declaration on the Elimination of Violence against Women, and in 1994 the Organization of American States (OAS) approved the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará) (Bunch and Fried 1996; Charlesworth 1994). By the end of the 1990s, every country in Latin America had ratified the Belém do Pará Convention (Friedman 2009).

One of the major advances of these conventions was their definitions of violence against women (Bunch 1990). For example, the Belem do Para Convention explicitly defined violence against women as any form of “physical, sexual, and psychological” violence committed by “any person” that is “perpetrated or condoned by the State” (Article II). The 1995 Beijing Platform for Action, adopted at the United Nation’s Fourth World Conference on Women, added to this definition by specifying that violence against women included “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” Notably, this definition made violence committed against women in so-called “private” spaces a punishable offense. The Beijing Platform for Action also called upon national governments to enact legislation to punish gender-based violence in the home, workplace, and community, provide state officials with specialized training, and ratify all related international agreements (Beijing Platform for Action 1995).

One hundred and eighty-nine countries ratified these major international agreements on Violence against Women (VAW), a somewhat surprising fact since no explicit consequences existed for failing to do so.³ However, as Merry (2006) notes, there are indirect “political and economic dividends” that states may receive in return for making these kinds of symbolic

³ By contrast, the Belém do Pará Convention is seen as “hard law” because it contains specific accountability mechanisms and procedures for individual or organizational appeal when ratifying states fail to comply with their responsibilities under the Convention (Friedman 2009).

international commitments to human rights - in the form of trade relations and foreign investment, for example. In other words, countries may sign onto these agreements not necessarily because of their stance on violence against women *per se* but rather to maintain legitimacy and to mark their membership in the international community (Merry 2006).

The kind of anti-VAW legislation called for by the Beijing Platform for Action was slower to come to fruition, precisely because the failure to abide by international agreements on VAW carried no real sanctions. In theory, one might think that poorer nations with more vulnerable economies would be more susceptible to international pressures on a range of issues, including VAW, but I would argue that the case of Nicaragua, the second poorest country in the Western hemisphere, challenges this assumption. The lack of enforceable sanctions means that the global stakes, even for poor nations like Nicaragua, are lower when it comes to action to address violence against women. In the end, the configuration of political power in Nicaragua proved far more influential in shaping the trajectory of Law 779 than the weight of international agreements or statements.

As Merry (2006:228) points out, documents like international conventions “define offenses and articulate desirable standards of behavior. But they do not contain rules whose infractions result in punishment of non-compliant nations.”⁴ In countries where new legislation to advance protections for women's rights eventually did pass, cross-national research has shown that the decisive factor was not the intervention of multilateral institutions but rather the work of vibrant local feminist movements (Htun and Weldon 2012).

This points to one of the key limitations of transnational feminist advocacy—namely, as Manisha Desai (2005: 328) has observed, that it has “mainly succeeded at the level of discursive

⁴ In 2000, an optional protocol was added to the Beijing Platform for Action allows individual women or groups to submit claims of violations of rights protected under the convention.

power.” International pressure may be even less effective on the issue of violence against women because “many forms of domestic violence and sexual assault are perpetuated by private citizens rather than by states” (Merry 2006:22). Moreover, even transnational feminist groups’ main discursive achievements, such as gender mainstreaming and women's human rights, have arguably become “depoliticized and have little impact on actual policy change” (Desai 2005:328).

Thus, international consensus or pressure is a necessary but not sufficient condition for legal change to occur at the state level. Unless there are material consequences for failing to enforce international norms, and/or high levels of domestic pressure, it seems unlikely that state actors will be moved. According to Byrnes (1994), “international pressure'...is often dependent on the geopolitics of states and can only work effectively when states wish to protect or maximize their own interests” (cited in Grewal 1999:343). Furthermore, although highly mobilized feminist groups have effectively spurred progressive policy change on violence against women (Htun and Weldon 2012; Keck and Sikkink 1998), such pressure does not necessarily translate into practical changes in how the legal process is implemented by state officials (Menjivar and Walsh 2016).

Missing from much of the recent debate on the relative effectiveness of transnational advocacy (feminist or otherwise) is the role of local and regional political configurations. For example, between 1993 and 2000, every democracy in Latin America adopted a new law prohibiting domestic violence, and between 2001-2006, five countries strengthened their existing legislation (Friedman 2009). These regional waves of legislative activity suggest the importance of regional actors like the OAS, which contains an entire unit (the Inter American Commission on Women) dedicated to promoting the adoption and implementation of certain regional norms

and practices for addressing violence against women, including the Belém do Pará Convention (OAS 2016).

Yet as studies on social movements have demonstrated, states characterized by a high degree of consolidation of power are much more immune to challenges (whether external or internal) on a range of issues (Amenta et al 2010; Kitschelt 1986; McAdam 1988). Nicaragua is a clear case in point. Over the last ten years, current President Daniel Ortega (2006-present) has gradually strengthened his grip on the majority of Nicaragua's political institutions, including the National Assembly, the Supreme Court, and the Supreme Electoral Council (Kampwirth 2011). Since the 1990s Ortega has also maintained an alliance with former President Arnaldo Aleman (known as *el pacto*) and after the 2006 presidential election, he secured the support of conservative religious leaders. Yet curiously, in 2012, the National Assembly responded to feminist demands by passing Nicaragua's most comprehensive law on the prevention, sanctioning, and eradication of violence against women to date. Within two years, however, Law 779 had been substantially undermined via legislative “reform” and executive orders. This derailment occurred despite seemingly little change in either the local political structure or the mobilization of the women's movement in Nicaragua during that period.

FEMINIST ACTIVISM, GENDER-BASED VIOLENCE, AND LEGAL INSTITUTIONS IN NICARAGUA

Since the early 1990s, much of women's organizing in Nicaragua has been structured around several decentralized “issue networks.”⁵ These networks include many grassroots organizations that provided women with critical social services no longer available from the state in the wake of neoliberal economic policies imposed by the International Monetary Fund (IMF)

⁵ Prior to 1992, most women's organizing took place within the Sandinista organization AMNLAE, formed after the triumph of the Sandinista Revolution in 1979.

and the World Bank (Ewig 1999). These policies included the privatization of state-run companies and a severe reduction in the government budget devoted to public health care and public schools.

Women's groups played a critical role in dealing with the social and economic hardships created by this drastic shift. One of the most prominent of these has been the Red de Mujeres Contra la Violencia or RMCV. The Red de Mujeres Contra la Violencia is a coordinating body established in 1992 that works with dozens of smaller women's organizations across the country, organizing public forums and workshops, designing media spots, and planning public demonstrations (Delgado 2003). RMCV has also devoted considerable effort to direct legal and political advocacy. Capitalizing on the growing global consensus regarding "women's rights as human rights" discussed above, RMCV-affiliated organizations pressured the government to ratify the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará), which Nicaragua did in 1995. Subsequently, the women's movement sought to leverage these global agreements to advocate for new national laws sanctioning violence against women, a task which has proved to be much more difficult.

Prior to 1992, rape and sexual abuse in Nicaragua were defined as private offenses and physical abuse was only prosecuted if the resulting visible injuries to the woman required 10-15 days to heal (Ellsberg et al 1997). Domestic violence cases were typically settled through mediation and non-binding agreements. It was not until 1996, following a long and arduous campaign spearheaded by the RMCV, that the National Assembly passed Law 230—the first law to specifically address violence against women (Ellsberg et al 1997). Law 230 established women's right to seek protection in the case of presumed violence, expanded the definition of injurious assault to include psychological injuries, and made family ties between offender and

victim an aggravating circumstance for sentencing decisions (Ellsberg et al 1997). That same year, following the example of Brazil (Hautzinger 2007; Santos 2005), the government established new women's police stations (*comisarías*) in several major cities. Placed under the jurisdiction of the Nicaraguan National Police, *comisarías* were staffed by trained women police officers and social workers who referred cases to local women's centers for legal services and counseling, and by women medical examiners who conducted forensic examination. As of 2015, there were 162 *comisarías* nationwide (Nicaragua National Police 2015).

Feminist organizations viewed the creation of *comisarías* as a positive step toward reducing impunity and providing women victims with better legal and psychological support (Delgado 2003). However, the extremely limited state resources allocated to these fledgling institutions meant that much of the legal accompaniment, psychological counseling, and refuge-providing for victims continued to fall upon grassroots women's organizations. Between 2006 and 2012, for instance, *comisarías* received a total of 403,740 cases nationwide, an average of 187 cases per day. The monthly salary of police officers in Nicaragua is approximately \$100, which is less than half of the government's own estimation of the monthly cost of living in Nicaragua. As of this writing, most *comisarías* had been closed, supposedly due to a budget shortfall.

The lack of government resources dedicated to women's police stations was evident during my fieldwork in 2013. The *comisaría* where I conducted participant observation did not have a working bathroom or basic office equipment; only one truck was available to transport women police to investigate cases. Women clients waited in a small room, and when their name was called, they were interviewed by women police officers in rooms that lack sufficient privacy; many conversations could be heard with little effort from the waiting area.

If the police considered a woman's case to be “dangerous”, it immediately sent her to a shelter run by a women's collective. Cases were considered dangerous if a woman reported a death threat or arrived at the comisaría with visible physical injuries. In cases deemed “less serious,” police coerced women into informal (non-binding) agreements to drop their case, which often placed women at greater risk. If the violence continued following a mediation agreement, women victims often sought out feminist organizations for legal or psychological support before returning to the police (if they returned at all).

A number of difficulties have plagued the legal process in Nicaragua. First, courts outside the capital of Managua, are sparse. In the northern border town of Jalapa, for example, women must travel two hours one way to a district court in the department capital for a hearing. Second, the turnaround for forensic evaluations is extremely slow, taking up to 30 days to complete. Finally, the insufficient number of state attorneys means that many women must pay for their own lawyer if they want to pursue a claim (*El Nuevo Diario* 1/9/2011).

Feminist groups and women victims are often expected to subsidize the costs of police work. As the director of one women's center explained to me, “We have to give materials to the authorities so that the process will continue, we have to give them paper, gas, for them to go make an arrest.” Some state officials openly admitted these limitations and the need for women's organizations' support. Attorney Odette Leyton, from the Gender Unit of the District Attorney's Office, put it this way: “As an institution, we don't have capacity to provide this type of attention to victims, but we do need to be strategic allies of the organizations that can help us in the process of attending to the victims” (*El Nuevo Diario* 10/7/2010).

Compounding the lack of state resources allocated to comisarías is the lack of sensitivity shown by the women police responsible for investigating domestic violence cases. In my

interviews, feminist activists with a long trajectory in the anti-violence movement repeatedly told me that police expressed skepticism towards women's claims, belittled women's emotions, and pressured women to resolve their cases via mediation (legal at the time) rather than through filing a complaint.

These patterns were still evident in July 2013 (one year after Law 779 was passed) when I conducted participant observation at a *comisaría* in Managua. For example, one July afternoon in 2013, I accompanied Melissa, the *comisaría*'s social worker, and another officer to a nearby neighborhood to interview witnesses for a case in which a woman reported being abused by her son. When we returned to the *comisaría*, Melissa immediately told the captain, "Let me tell you something, this case is going nowhere." "Why not?" I asked. "This mother, she's going to feel bad." Without even talking to her, Melissa had decided that the woman was "going to feel bad" about potentially sending her son to jail and therefore abandon the case.

These attitudes were not confined to the district level *comisarías*, but were also echoed in the public comments of high ranking officials. For example, one female police commissioner remarked, "Women who come to file complaints are economically and psychologically dependent, with low self-esteem. They cry easily and have little confidence in their capabilities or decisions" (*El Nuevo Diario* 1/10/2011). Although it is true that women who experience abuse are often economically and psychologically dependent, focusing exclusively on the weakness and indecisiveness of women victims (rather than the causes of violence itself) only serves to reinforce local bureaucrats' skepticism of women's intentions to follow through on their own cases. Yet there were also exceptions. At least two female officers I met had been previously involved in a women's collective and maintained a friendly working relationship with members of that group. I observed this dynamic firsthand when seeking permission to conduct participant

observation in one local comisaría in Managua; to do so, I sought the guidance of one of my key informants, a feminist leader who had a strong relationship with the captain of one comisaría. Within twenty-four hours, I had received approval to conduct my research there, thanks to the friendly working relationship between the two women.

THE MAKING OF *LEY 779*

The first decade of the new millennium saw an alarming increase in femicides across Mexico and much of Central America, due in part to the increasingly violent activity of drug cartels in the region and the complicity of state actors (Fregoso and Bejerano 2010; Menjivar 2011). In 2000, for example, there were 29 femicides in Nicaragua. This number rose to 65 femicides in 2005, and 79 in 2008, according to a study conducted by the Network of Women against Violence. In 2010, there were 33,718 domestic violence claims, an increase of more than 2,000 over the previous year, according to police reports (*El Nuevo Diario* 1/10/2011). In response, local feminists in Nicaragua intensified their mobilization efforts to strengthen the country's existing laws concerning violence against women.

Local feminist organizations were concerned that Law 230 did not explicitly define “femicide” as a crime, and that protections for women who filed complaints—such as restraining orders—were weak and rarely enforced. As a representative from the Masaya Women's Collective put it: “By not sanctioning or preventing femicide, it feeds the continued committing of crimes. If we don't name the problem, we aren't going to do anything.” (*El Nuevo Diario*, 8/3/2010).

In 2010, a national feminist organization known for its advocacy for women workers, Movimiento Maria Elena Cuadra, began holding meetings with women across Nicaragua to

gather information about their experiences with the legal system. Financed by the European Union,⁶ this process ultimately involved 24 other women's organizations and culminated in the presentation of a draft law and a petition with over 12,000 signatures to the National Assembly in September 2010 (*El Nuevo Diario* 10/20/2010). The draft received support from a key member of the opposition party, Wilfredo Navarro, secretary of the National Assembly, and a member of the Liberal Constitutional Party. In a public statement, Navarro avowed: “The struggle to punish those who violate the rights of women and defend the victims of violence does not have a political color or gender. Women should not continue to be assaulted in Nicaragua” (*El Nuevo Diario* 10/20/2010).

Almost simultaneously, key actors within the judicial system such as Chief Justice Alba Luz Ramos began to express concern about the rising femicide rates and an inter-agency commission, led by the Supreme Court, was formed to study the matter. In a 2011 letter addressed to the National Assembly, Supreme Court Chief Justice Ramos explained that the commission’s objective was “to create a normative body [of law], which, *in accordance with international legislation*, would provide greater protection to women victims of violence” [my emphasis].⁷ This commission was comprised of representatives from the Public Prosecutor's Office, the National Police, the Supreme Court, the Ministry of the Family, the National Women's Institute, and the Ombudsman for Women's Rights. According to Nicaragua’s legislative records, the commission found that a number of countries in Latin America (Brazil,

⁶ The project was called “Constructing Strategies and Actions to Confront Femicide and Gender-Based Violence against Women in Central America” and was implemented by the Cristiana Romero Initiative of Germany (*El Nuevo Diario* 10/20/2010).

⁷ See Nicaraguan National Assembly Database of Laws. Online. <http://legislacion.asamblea.gob.ni/SILEG/Iniciativas.nsf/0/8f45bac34395458c062578320075bde4?OpenDocument&ExpandSection=1&TableRow=3.0#3>.

Chile, El Salvador, Guatemala, and Mexico) had recently reformed and/or expanded their legislation on violence against women, or were in the process of doing so.

Following its review of extant international law, the commission conducted its own consultation process with women from diverse sectors of society, which culminated in a draft law entitled “Integral Law against Violence toward Women.” The first draft law was initially presented to the National Assembly in January 2011. “With this law,” commented Chief Justice Ramos, “we will transcend domestic violence and address gender-based violence” (*El Nuevo Diario* 1/9/2011). Some feminist leaders told me that they believed the government's rush to draft its own law was an attempt to co-opt their own efforts, and to prevent a “victory” for the opposition. As evidence, the women pointed out that the initial draft law presented by MEC had received support from the opposition party's leadership, who helped introduce it to the National Assembly in the fall of 2010.

To undertake this project, the Nicaraguan government received substantial financial support from the Organization of Ibero-American States (OEI) and the Spanish Agency for International Cooperation for Development (AECID). The National Assembly approved Law 779 *en lo general* (in principle) in November 2011, and *en lo particular* (article by article) in January 2012 by a unanimous vote. Law 779 officially went into effect on June 22, 2012. Table 2.2 presents a summary of the legislative process culminating in the passage of Law 779.

Date	Legislative Action
4/1/2010	Inter-institutional Commission for the Study and Reform of Crimes of Violence against Women (CSRCVM) is formed
12/9/2010	Women organizations present a draft of their “Law against Violence toward Women” to legislative commissions
2/24/2011	The Commission for the Study and Reform of Crimes of Violence against Women present their “Integral Law against Violence Toward

	Women” to legislative commissions
7/14/2011	Legislative commissions present a revised and approved draft law to President of National Assembly
11/29/2011	National Assembly approves in principle Law 779 - “Integral Law Against Violence Toward Women and Reforms of the Penal Code.”
1/24/2012	National Assembly unanimously approves Law 779 article by article
2/20/2012	President Daniel Ortega signs Law 779
6/20/2012	Law 779 goes into effect

Table 2.2. Legislative Process in Nicaragua

THE CONTENT OF LAW 779

Law 779 introduced a number of new and important provisions. First, it codified femicide (the murder of a woman because of her gender) as a crime with a maximum penalty of 25 years imprisonment. Second, it typified and established penalties for other types of violence occurring in both the private and public sphere, which had not been included in previous laws, such as intimidation, harassment, patrimonial violence, labor violence, and state negligence (“action or omission”). Third, it expanded the pre-trial measures available to police and prosecutors to protect women deemed to be in high-risk situations. For example, the police were granted authority to remove the accused from the home if a woman's life was threatened and prosecutors could issue restraining orders and require the accused to pay child support, among other options. These measures could be implemented for up to twenty days since a charge was made and extended by a judge at the request of a state attorney. Fourth, and most controversially, the law eliminated the option of mediation (informal, non-binding agreements between the woman and the accused, commonly facilitated by police at the comisaría). Fifth, it established specialized

courts for cases of violence against women, presided over by trained judges. More broadly, the law made explicit that violence against women is rooted in the “unequal power relations between men and women,” and recognized it as a problem of “public health” and “citizen security.” Echoing the language of Belém do Pará, Law 779 clearly articulated the state's obligation to protect women's rights, including the right to a life free of violence (Article 2, 3 and 8).

Local feminists celebrated Law 779 and immediately began an intensive education campaign to inform women about their new rights. One activist called the law a “light of hope” for women (Field notes, 8/2014). During the summer of 2012, I attended several workshops about Law 779 facilitated by women's organizations. Women promoters (volunteer legal advocates) sat in small groups reading the law article by article, discussing particular scenarios under which it might be applied. These workshops were replicated in other neighborhoods and communities throughout Managua. Enthusiasm was building.

Yet on the day that the law took effect in June 2012, the National Assembly had not yet allocated the funds needed to implement significant parts of the new law (see Figure 2.3), including opening the specialized courts, appointing 40 new special prosecutors, and hiring 200 new forensics, psychologists, and lab specialists (*El Nuevo Diario* 7/15/2013). A year after, in July 2013, there were just 24 prosecutors for gender crimes, who had overseen 800 cases the previous year (*El Nuevo Diario* 7/10/2013). At the same time, there were just 27 delegations and 100 forensics assigned to cover Nicaragua's 153 municipalities (*El Nuevo Diario* 7/15/2013). According to Julio Centeno, Nicaragua's Attorney General, each specialized court cost USD \$60,000 per year.⁸ Chief Justice Ramos estimated that \$1 million was needed to open the new special courts (*La Prensa* 6/19/2012; 6/21/2012).

⁸ Six specialized courts were scheduled to open in 2013: two in Managua, one in Masaya, one in Leon, one in Matagalpa, and one in Puerto Cabezas (*La Prensa* 6/25/2012).

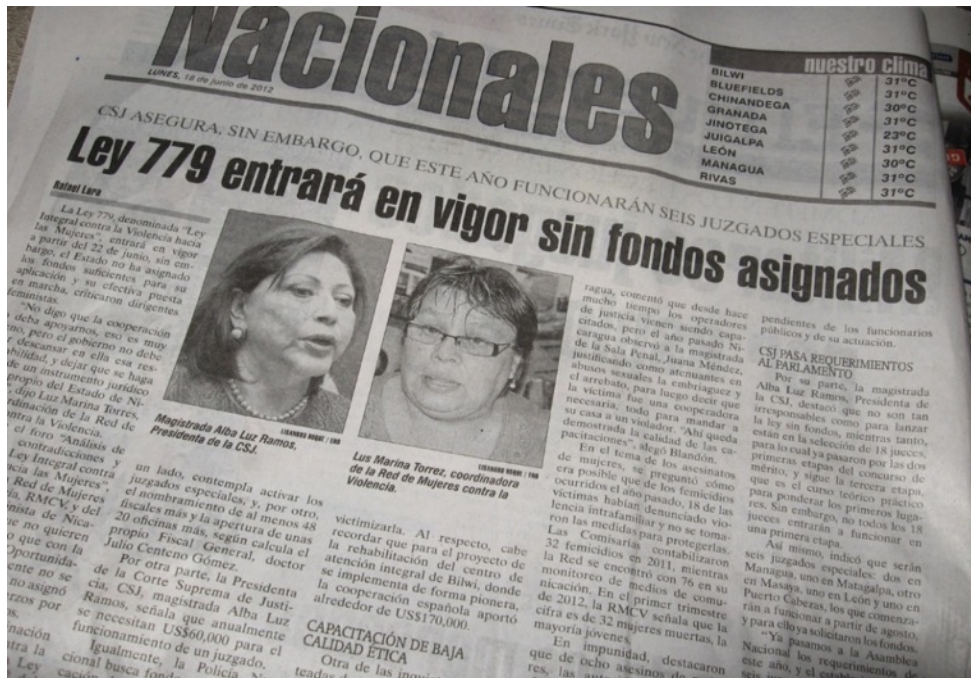


Figure 2.3 “Law 779 will take effect without assigned funds.”

Some leaders within the women's movement decried the state's lack of investment, calling Law 779 a “dead law” (*La Prensa* 7/18/2012). Street banners sponsored by the feminist movement read “Law 779 without a budget is like *gallo pinto* [a common rice and beans dish] without the beans” (Fieldnotes, June 2012). In late July 2012, there were only two specialized courts operating in Managua. By June 2013, thirteen specialized courts had opened: six in Managua, and six in the rest of the country (*La Prensa* 6/20/2013).

THE BACKLASH AGAINST THE LAW

Law 779 came under attack even prior to its implementation. Opposition was spearheaded by religious leaders across the denominational spectrum (both Catholic and

evangelical), as well as men's associations and some local attorneys.⁹ My analysis of media coverage between 2012 and 2014 suggests that opponents of the law offered three main criticisms: (1) that the law would destroy the family; (2) that it would cause more violence, and (3) that the law violated the constitutional principle of equal protection by discriminating against men.

Religious leaders were most concerned with the effect of Law 779 on family structure. Rev. Saturino Cerrato, President of the local Assembly of God Church, claimed that the Law 779 would “destroy marriage and the family” because it eliminated the possibility of mediation between the victim and the accused (*La Prensa* 4/19/2013). He also claimed that Law 779 violated the principle of “innocent until proven guilty.” Law 779 was also opposed by the local Episcopal Conference, which called it “an attack on evangelical values” that “leaves men without rights” (*La Prensa* 4/19/2013; *El Nuevo Diario* 7/24/2013). Monseñor Silvio Fonseca, from the Archdiocese of Managua, added, “[Law 779] tilts the balance towards women and leaves men unprotected.” Another bishop went so far as to call Law 779 “the new number of the beast,” a biblical reference to the end times (*El Nuevo Diario* 5/10/2013).

Just one month after Law 779 went into effect, in July 2012, a formal legal challenge to its constitutionality was filed with the Nicaraguan Supreme Court by the Association of Democratic Lawyers (ADANIC). One of the lawyers involved in the litigation was quoted in the local press, saying: “[This law] represents revenge against men, hatred of men, and the very content of the law generates this, which cannot be, because the Penal Code establishes sanctions of conduct, not people” (*El Nuevo Diario* 4/19/2013). Danilo Martinez, President of ADANIC, published various opinion pieces in the local press, arguing that “legislators should have an

⁹ Not all evangelicals in Nicaragua opposed the law. For example, during my fieldwork I attended a daylong seminar sponsored by one network of progressive evangelical churches to help pastors better understand the law and how to support women in their congregations and communities (*La Prensa* 7/1/2013).

integral perspective on violence, not a gender perspective, because violence is not exclusive to the male sex” (*La Prensa* 5/14/2014). ADANIC also organized several demonstrations in front of the Supreme Court in Managua to register their opposition to the law (*El Nuevo Diario* 5/3/2013). By prohibiting mediation, ADANIC contended, Law 779 violated the constitutional principle of equality under the law (*La Prensa* 3/21/2013). The association also offered logistical criticism against the law, such as the inability of Nicaragua's court and prison systems to deal with the surge of cases and convictions under Law 779. “Mediation for 'delitos menos graves' [less serious offenses] would prevent overworking the judicial branch and the overcrowding in the National Penitentiary System,” said one lawyer (*El Nuevo Diario* 5/1/2013). Indeed, prison overcrowding is serious issue in Nicaragua, as the country’s eight prisons have a total inmate capacity of 4,300 but the 2014 detainee population was 9,801 (UNGA 2014).

Feminist leaders and various government officials were vocal in countering these criticisms (See Figure 2.4). “This is not a law against men,” affirmed a leader of the Movimiento Maria Elena Cuadra (MEC). “It's against violence. Furthermore, men don't have any reason to fear the law because it's directed toward those who violate the rights of women, and not all men in this country violate women's rights” (*La Prensa* 2/5/2012). As headlines concerning the hundreds of men being incarcerated under Law 779 filled newspapers in 2013¹⁰, feminist leaders reiterated, “The point is not to put men in jail, it's that we as women live free of violence; only the punitive part of the law gets talked about, but no one talks about the prevention part” (*El Nuevo Diario* 4/29/2013).

¹⁰ According to Nicaragua’s National Police, between June 2012 and April 2013, 696 men were convicted under Law 779 (*El Nuevo Diario* 4/29/2013).



Figure 2.4. Women protest at Supreme Court. May 28, 2013. “Not bishops, nor priests, nor pastors, can decide about us [women]! Respect the secular state NOW!”

One of the few elected officials to openly ally himself with the women's movement was Sandinista legislator Carlos Emilio Lopez. “We should not make reforms that weaken women's rights,” he argued. “Human rights are progressive. Once you've recognized a human right, you can't go backwards....what needs to be reformed is the national consciousness” (*La Prensa* 6/20/13). Addressing the perception that all men are “suspects” under Law, some members of the judiciary emphasized that other mechanisms were available to deal with crimes like psychological violence or threats (*El Nuevo Diario* 7/15/2013). Justice Alba Luz Ramos, the president of the Supreme Court, also issued statements of support for the law—although she did not discount the possibility that Law 779 could be reformed. Justice Ramos encouraged women's organizations to maintain their public pressure on elected officials to fully implement the law.

Women responded by taking to the streets during the summer of 2013 to defend Law 779 (see Figure 2.5), and especially to oppose the possibility of re-introduction of mediation after the Supreme Court publicly stated in May 2013 that there was consensus in the Court to reform the law to allow mediation (*La Prensa* 5/2/2013). Feminist organizations that strongly opposed mediation had good reason to do so: at least 30% of documented cases of mediation agreements ultimately led to femicide (Solís 2013). Feminist leaders also contended that mediation is not a neutral encounter between two parties because women may feel subtly coerced into agreeing to whatever terms are preferred by the accused in order to avoid future violence. As a representative of the Women's Network against Violence explained, “when a woman files a complaint, it’s because her life is at risk, and it has been repeatedly demonstrated that mediation weakens the human rights of women and that a victim is not in the same conditions to negotiate with her aggressor.” Organizations like Amnesty International also publicly expressed concerns about the repercussions of reforming the law, asserting that “what fractures families is the violence perpetrated against women and children, not legislation designed to help victims escape this violence” (*El Nuevo Diario* 5/3/2013; Amnesty International 9/17/2013).



Figure 2.5 Women protest reform of Law 779. Managua. May 31, 2013.

After months of contentious public debate, in August 2013 the Supreme Court issued Sentence 18, upholding Law 779 as constitutional (Law 779 Forum, 27 August 2013).¹¹ However, the Court called upon the National Assembly to reform the law to re-introduce the option of mediation. According to the Court, mediation should be only permitted with the woman's consent, and in any case involving a first time offense punishable with less than a five-year sentence (*El Nuevo Diario* 8/27/2013). Despite the opposition of local and international human rights organizations, just 14 months after Law 779 went into effect the National Assembly overwhelmingly approved a modified law, which reintegrated mediation for first time and minor offenses. 83 representatives approved the change, four voted against, and one abstained (*La Prensa* 9/25/2013). The reform of Law 779 by such a large margin was especially surprising to some women's organizations because women comprised 40% of Nicaragua's National Assembly at that time (UNGA 2014).

The amended law permitted mediation under the following conditions: (a) the accused has no prior legal offenses, (b) the alleged crime was classified as a "minor offense" with a carceral penalty of five years or less,¹² (c) the woman agrees 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 permitted at any stage of the process, up until the moment of sentencing.

One police chief I interviewed welcomed the return of mediation. The original law "forgot about the children," he told me. Another female police officer I spoke with supported the

¹¹ Prior to the Court's official ruling, the President of the Supreme Court accused some of its members for publicly inciting opposition to the law by suggesting its unconstitutionality (*La Prensa* 3/9/2013).

¹² This designation means that some crimes involving bodily harm, threats, and child abduction, among others were now eligible for mediation (Amnesty International 9/27/2013).

return of mediation for the more instrumental reason that women's cases “would be resolved faster” (Field notes 11/2/2014).

A PRESIDENTIAL DECREE AND A LAW DERAILED

The contentious politics surrounding Law 779 did not end with the 2013 reform. Longstanding critics of the law—both secular and religious—continued to speak out; complaints ranged from the potential for overcrowded prisons due to increasing numbers of men convicted under Law 779, to the now familiar hand-wringing over the so-called destruction of the family. Women's organizations continued to protest the use of mediation in gender-based violence cases throughout 2014 via street protests as well as petitions (see Figure 2.6).



Figure 2.6 Women’s march against violence confronts police.
Managua. August 14, 2014.

In April 2014, Amnesty International noted that the amendments to Law 779 would “weaken the protections for victims, facilitate impunity for abusers and are contrary to international and national obligations to protect women’s rights” (UNGA 2014). Additionally,

when the United Nations Human Rights Council (UNHRC) convened in May 2014, member States urged the Nicaraguan delegation to reconsider the amendments to Law 779, particularly with regard to mediation (UNGA 2014). In making these statements, Amnesty International and UNHRC sought to hold the state accountable for its international commitments to address VAW. Local feminist organizations saw these interventions by human rights groups as highly significant because the state had failed to meet its obligations to protect and defend women's rights. However, the Nicaraguan officials brushed the UNHRC's concerns aside. The international criticism of the government's modifications to Law 779 were clearly not seen as a serious threat to the state's legitimacy.

In July 2014, a member of the Nicaraguan Supreme Court suggested that "Not every crime committed against a woman is femicide". This statement coincided with the recent release of a police report stating that 18 femicides had been committed during the first half of 2014, a figure far lower than the 47 cases documented by local women's organizations (*El Nuevo Diario* 7/5/2014). National police commissioner Francisco Diaz declared, "Our country continues to be one of the safest in Latin America, and the safest country in Central America" (*La Prensa* 7/5/2014).

In late July 2014, President Ortega unexpectedly issued two special decrees containing a set of new regulations for the implementation of Law 779 (Decree 42-2014 and Decree 43-2014). The regulations significantly altered the objective and legal framework of the law. First, the decrees redefined the objective of Law 779 as "to strengthen Nicaraguan families...[and] a culture of familial harmony" (Article 1, Decree 42-2014). Second, it reduced the scope of femicide (originally encompassing the killing of women in either the public or private sphere) to include only the killings of women committed in the home in the context of pre-existing

relationships. Third, these decrees shifted the responsibility for implementing Law 779 from an interinstitutional commission to the Ministry of the Family. The decrees also mandated the establishment of neighborhood-based counseling (led by religious and political leaders) for women victims as a first step to resolving “family conflict” prior to placing a legal complaint. Furthermore, *comisarias* were required to direct women who filed complaints to the Ministry of the Family with a case summary so that the ministry could provide “specialized family counseling” (Article 10, Decree 42-2014).

The presidential decrees fundamentally altered both the content and intent of the original law—and explicitly contradicted the Belém do Pará Convention, ratified by Nicaragua. Yet the Supreme Court publicly expressed its support for the new regulations. For example, Chief Justice Alba Ramos said that “the regulations aren't modifying any of the penal types established by the law” (*La Prensa* 8/23/2014). Justice Ramos also suggested that the changes in the definition of femicide (i.e. limiting it to cases in which there is a pre-existing relationship between the victim and the accused) were irrelevant because crimes not prosecuted as femicides would proceed under the charge of murder, which carried just as severe of a penalty (*Confidencial* 8/13/2014). These remarks were a clear departure from earlier statements Justice Ramos had made justifying the constitutionality of the law and its importance as an expression of Nicaragua’s adherence to international agreements like CEDAW and Belém do Pará.

Local feminist groups were outraged, calling the decree “atrocious” and a “monstrosity” (Fieldnotes 8/14/2014, 8/21/2014). In a press release, the Women's Network against Violence argued that “machista violence transcends the private sphere; its roots are sociocultural, motivated by misogyny, and inequality” (*Confidencial* 8/13/2014). At a press conference just two weeks after *decretazo* (a term used by some activists to refer to the monumental decrees

issued by President Ortega), one local feminist leader remarked: “This is how machismo and authoritarianism manifest themselves in the executive branch. Above the political constitution, international conventions, the national legal framework, and institutional commitment contained in the law.” (Fieldnotes, 8/14/2014). At another meeting of a gender roundtable, one woman commented, “The little that we’ve won, we’re losing.” “How can a decree be above the law?” another pondered aloud. “This state is perverse,” said a third (Fieldnotes 8/21/2014). One cartoon published in *La Prensa* that month dramatically captured the sentiment of local feminists; the drawing featured President Ortega standing over a tombstone labeled “Law 779,” saying, “I killed her because she was mine” (See Figure 2.7).



Figure 2.7 “I killed her [Law 779] because she was mine.”

Feminist organizations took these concerns from crowded conference rooms into the muggy streets of Managua. One August afternoon in 2014, shortly before dusk, I joined dozens of women gathered at an iconic rotunda near the capital's former commercial center to march toward the National Assembly. Dressed in black and carrying small candles and posters with photos of women victims, they walked in single file down the center of a historic boulevard that leads to the city's recently redeveloped lakefront. Yet as we approached a major intersection, we encountered a line of men, including police officers and others dressed in dark blue polo shirts

and Sandinista baseball caps, blocking our way (See Figure 2.6). The women clustered in small groups talking in hushed tones about what might happen—several discussed the likely possibility that President Ortega himself had ordered the men to prevent the march from reaching its destination. Meanwhile, women leaders of the march argued with the police, trying to convince them to let us through. “Why can't we pass through? We have the right to freely mobilize,” one woman shouted. “This is proof that our rights are being violated!” But to no avail. The police stood their ground and refused to let us march any further. After about fifteen minutes, we turned around (Fieldnotes 8/14/2014).

Protests continued throughout the fall of 2014, though more sporadically. Most of the feminists' organizational energy was focused on hosting workshops for other women's groups from around the country to discuss the proposed changes to the law, and how to fight them. For example, at several events I attended, local feminist lawyers explained to the women promoters in attendance that the presidential decree was unconstitutional because it superseded the legal authority granted to the president. Feminist leaders also argued that these decrees were contrary to international conventions on gender-based violence, and that the implementation of a family counseling system would complicate the legal process for women victims. These events also served to generate new ideas and opportunities to collect signatures for petitions challenging the constitutionality of the presidential decree. As one woman put it, “in the face of illegality, we have to use legal arguments.”

On September 30, 2014, feminist organizations organized a rally in front of the Supreme Court in Managua where they presented their official petitions for judicial review. The very next day, I attended the inauguration ceremony for the Ministry of the Family's new counseling office at a *comisaría* in Managua. When I arrived at the *comisaría* that morning, the formerly tall grass

surrounding the building had been freshly mowed and colorful banners such as “In love there is no fear” were being hung under a small white tent nearby. In attendance were representatives from the National Police, the Women's Comisaría, the Ministry of the Family, as well as a number women volunteers who work with the comisarías. One official welcomed everyone to the “comisaría of the family and the community” (a clear discursive change from its official institutional name, which is Comisaría of Women and Children). After a short series of speeches, the captain of the comisaría invited those in attendance to come inside and tour the comisaría’s updated facilities, which had been freshly painted with bright green and peach hues and decorated with balloons. One wall featured a series of posters celebrating the family. One poster said, “A family united in the love of Christ lasts forever. Give God control of your family today and always.” Another featured a black and white drawing likening the ideal relationship between parents and children to the Father, the Son, and the Holy Spirit, known in Christian theology as the Holy Trinity (See Figure 2.8 and 2.9).



Figure 2.8. Bulletin board at a women’s police station in Managua. Translation: “A family united in Christ will remain forever. Allow God to take control of your family today and forever.”

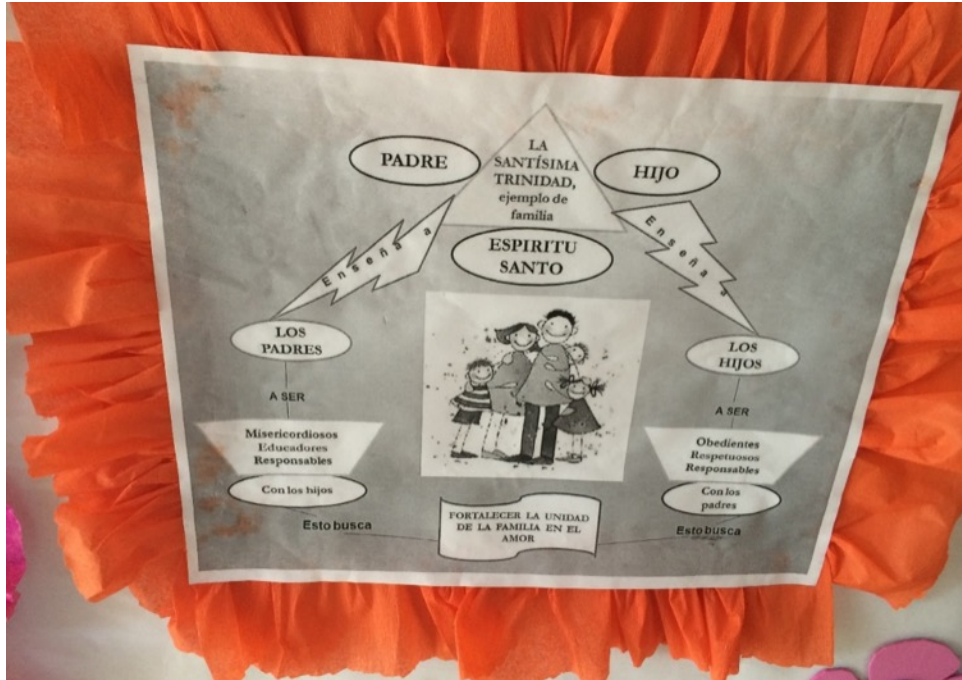


Figure 2.9 Bulletin board at comisaría in Managua. Translation: “The Holy Trinity: Example of Family. Parents: To be kind, educators, responsible with children. Children: To be obedient, respectful, and responsible with parents. This will strengthen the unity of the family in love.”

Several weeks following the inauguration of the family counseling office at the comisaría in Managua, the World Economic Forum released their annual Gender Gap Report, ranking Nicaragua 6th in the world behind Iceland, Finland, Norway, Denmark, and Sweden (BBC 10/28/2014). The Gender Gap Report compares the “average man” and the “average woman” in four areas: (1) economic participation and opportunities, (2) access to education, (3) health and life expectancy, and (4) political participation. While women's rights advocates were surprised by this ranking, President Ortega heralded the news as confirmation of its apparently successful

efforts to promote gender equality, maintaining the illusion that Nicaragua is more progressive and safer than most of its Central American neighbors. In fact, the methodology of the Gender Gap Report has been criticized for not taking into consideration the situation of women across countries, only within them (BBC 2014). In the United Nations' Gender Inequality Index, for example, Nicaragua ranks 90th.

The actions of the National Assembly, Supreme Court, and Ortega administration between 2013 and 2015 highlight the fact that the state is not a monolithic entity with one set of goals or interests. For much of 2011 and 2012, the Supreme Court and the National Assembly took clear steps to advance women's legal rights by proposing, approving, and defending Law 779. However, in 2013, the tides turned with the mobilization of conservative opposition to the law, leading to an abrupt about-face by the Ortega administration, and later by the court and elected representatives. The swiftness of this turn was enabled, to a large extent, by the consolidation of power in the hands of President Ortega and his allies since 2007 when Ortega assumed the presidency. Ortega's party, the FSLN, holds a majority in Nicaragua's National Assembly, and the courts are now stacked with sympathetic judges who have gone so far as to rule the country's constitutional ban on re-election inapplicable to Ortega, enabling him to run in and win by large margins three consecutive elections (2007, 2011, and 2016). Moreover, Ortega has developed powerful alliances among both religious and economic elites in Nicaragua. To appeal to the former, he has adopted a "family values" message and continues to oppose abortion (currently outlawed in Nicaragua). To appease the latter, he has encouraged substantial foreign investment in high-profile projects such as a controversial interoceanic canal whose outcome is still uncertain (Fendt 2015). At the same time, President Ortega and his wife, now Vice-President, Rosario Murillo, have maintained high levels of public support due to several popular

social welfare programs financed with substantial assistance from the Venezuelan government. Ortega's popular support and high level of institutional control have thus made him relatively immune to international pressures on a range of issues, including VAW.

Given this milieu, I argue that the Nicaraguan government initially approved Law 779 because it was a politically expedient way for the administration to symbolically express its commitment to gender equality, particularly given the previous legal advances on violence against women in Latin America. Later, however, facing significant backlash from his own conservative religious allies, Ortega embraced pro-family ideologies to justify changes to Law 779. These changes have drastically curtailed the possibilities for fighting violence against women and may place more women's lives at risk.

Even more troubling, President Ortega and his political allies have sought to marginalize the voices of women who continue to document femicides and demand justice in the face of rampant impunity. Nowhere is this more clearly exemplified than in the recent case of the closure of a radio station run by a feminist organization in the northern border town of Jalapa. *Voz de la Mujer* (Voice of Women) was one of the few sources of information for women in the surrounding rural villages, but the station was inexplicably shut down by the Nicaraguan Telecommunications Institute (Telcor) in May 2015. Telcor's official reason for confiscating *Voz de la Mujer*'s equipment was that the station was broadcasting on an unauthorized frequency. The station has yet to reopen as of this writing (*La Prensa* 6/4/2015, 11/13/2015). More recently, on International Women's Day in March 2016, women police officers dressed in riot gear were sent to block the path of a demonstration planned by local women's organizations (*La Prensa* 3/9/2016). Incredibly, the Ortega government has sought to silence women's voices and obstruct

women's rights while simultaneously claiming that Nicaragua is the “safest country in Central America.”

CONCLUSION

The analysis of the controversies surrounding Law 779 sheds light on the gendered underpinnings of state power and legitimacy, as well as the efficacy of legal activism on the issue of violence against women. Despite the rise of “global governance” (Finkelstein 1995; Meyer and Prugl 1999) over the last thirty years, and the proliferation of international institutions shaping world economic and social policy, national and regional political dynamics still matter enormously, particularly when it comes to gender-violence law and policy. Although some have argued that state legitimacy rests on (at least discursive, if not practical) adherence to global agreements, this paper revealed the limits of external, global-arena pressures, at least when it comes to violence against women. Unlike defaulting on free trade agreements or loans, failing to uphold international conventions on gender-based violence carries few if any tangible consequences. When governments fail to repay their international creditors, they become economic pariahs, denied further monetary assistance. But when states fail to uphold the most basic of rights for women (the right to a life free of violence), they are subjected to little more than a strongly worded letter (Amnesty International 2013; UNGA 2014). The notion of “legitimacy” within the hierarchy of global governance, then, is clearly gendered. By this I mean that the ramifications for states which do not act upon their discursive and/or legal commitments to gender equality are virtually non-existent compared to the catastrophe that awaits any government that challenges the current neoliberal economic order (Argentina and Greece being just two recent and well-known examples). Despite a global discourse that proclaims the

importance of women's rights and empowerment, in practice, women's bodies remain in crisis (Sutton 2010).

In the absence of effective international accountability mechanisms, regional and especially local political conditions take on added significance in influencing how gender-based violence laws are passed and implemented. In Nicaragua, the combination of external and internal pressure to promote laws protecting women was able to pierce through the impervious wall of impunity, but only momentarily. Almost immediately after the enactment of the law, the powerful alliance between President Ortega and conservative religious leaders (both Catholic and evangelical) led to the rollback of what is arguably one of the most progressive laws for women ever passed in Nicaragua. In doing so, opponents of the law relied on a religiously-infused discourse that centered “family unity” over women’s right to a life free of violence. Yet they also managed to mobilize a spurious yet effective counter legal argument about “equal opportunity” and “discrimination against men” that proved convincing even outside of religious circles. This was evidenced by numerous opinion pieces published in the Nicaraguan press throughout 2013 and 2014 echoing those same concerns.

The fact that laws addressing violence against women are so politically vulnerable and easily repealed in a relatively “safe” country like Nicaragua raises a number of broader questions about the effectiveness of legal activism and advocacy (defined as the pursuit of legal change). Legal strategies have become one of predominant methods employed by feminist organizations both in the United States and many parts of Latin America to address the problem of gender-based violence (Bumiller 2008; Friedman 2009). Such an approach relies on a number of assumptions about women’s needs, government capacities, and the ability of law to produce social change. In the case of Nicaragua, opponents of women's rights sought to exploit legal

weaknesses and perceived contradictions in an otherwise well-intended law, providing seemingly “neutral” political grounds for its reform by state actors.¹³

Yet as has been amply documented, states use laws to control and oppress marginalized populations far more often than they employed laws to liberate them (Haney 2012; Rambo 2009; Smith 2005; Yuval-Davis 1997). In Nicaragua, the State remains a complicit actor in the perpetuation of violence against women, via harassment, threats, and physical abuse, as well as through the indifference and neglect that normalizes the mistreatment of women throughout society. Relying on such a State to also be the guarantor of justice for women subjected to abuse is an unresolved tension that the trajectory of Law 779 in Nicaragua brings to the forefront.

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¹³ In this case, the supposed violation of the constitutional principle of “equal opportunity” for men accused of abusing their female partners.

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Legitimacy on Trial: Transnational governance, local politics, and the battle over gender-violence law in Nicaragua

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ABSTRACT

The killing and abuse of women remains one of the most serious problems confronting Latin American societies. Many countries have passed a variety of laws intended to address femicide and other forms of violence against women. Yet the implementation of these laws has been inconsistent at best. This article analyzes the case of Nicaragua, which passed a comprehensive law on gender-based violence (Law 779) in 2012. While celebrated by local women's organizations, Law 779 was subsequently weakened through a series of legislative reforms and executive decrees. This article seeks to explain why state actors in Nicaragua initially supported Law 779 and later sought to undermine it. Despite the development of transnational governance structures over the last two decades, this article demonstrates how local political conditions remain central to explaining the trajectory of gender-violence legislation, particularly in contexts characterized by a high concentration of political power. Through an analysis of Law 779, this article contributes to broader debates about the nature of state legitimacy and the potential of legal advocacy to address violence against women.

KEYWORDS: gender, violence against women, gender-based violence, Latin America, women's rights, transnational feminism, state legitimacy