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La Violencia Íntima: International and Local Responses to Domestic Violence in Nicaragua

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Author: Katherine Mesner-Hage

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LA VIOLENCIA ÍNTIMA

International and Local Responses to Domestic Violence in Nicaragua

By Katherine Mesner-Hage

Honors Thesis in International Studies
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Advisor: James von Geldern
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ABSTRACT

This paper looks at the legal and social advocacy dimensions of domestic violence in Nicaragua and internationally. The first chapter constructs a paradigm for conceptualizing domestic violence as an international human rights violation and then considers the Nicaraguan legal and judicial system according to that paradigm. The second chapter discusses international social advocacy networks that address violence against women and their relationship to feminist organizing against domestic violence in Nicaragua. Chapter three narrows in scope, presenting a case study of the Colectivo de Mujeres 8 de Marzo, a women's organization in Nicaragua. The final chapter explores the limitations of current theory dealing with the implementation of international norms in domestic contexts.

INTRODUCTION

I. Background: Domestic Violence in Nicaragua

Domestic violence is so deeply entrenched in Nicaraguan society that when you ask Nicaraguan women about it, many will nod and say matter-of-factly, “la vida es dura”: life is hard. In a country where patriarchy is reinforced and legitimized by the ongoing presence of *machismo*, and where Catholic conservatism plays a powerful role, intimate violence has traditionally been condoned or ignored through sexist social norms and the sanctity of the family. Although efforts to address this problem, both legally and socially, are becoming more visible as Nicaraguan society confronts the taboo surrounding violence against women, domestic violence remains endemic to Nicaragua and overwhelmingly occurs with impunity.

In 1996, a study entitled *Candies in Hell: Women’s Experiences of Violence in Nicaragua* was published, revealing the prevalence and scope of domestic violence in Nicaragua. It estimated that 52 percent of women who had ever been married had suffered partner abuse. One-third of the women who admitted abuse also reported to being raped by their partners. In fact, a considerable overlap was found between physical, emotional and sexual violence, with 21 percent of ever-married women reporting all three kinds of abuse. However, a shocking 80 percent reported that they had never sought help outside the family for the abuse and only 14 percent had ever reported the violence to the police.¹

¹ It is quite possible that these statistics are conservative since domestic violence is chronically underreported and still carries social stigma.

To put these statistics in global perspective, it should be noted that Nicaraguan women's experience with domestic violence, while severe, is far from unique. A 2000 UNICEF publication indicates that one-quarter to one-half of all women have suffered physical abuse by an intimate partner. Research in Chile revealed that a shocking 60 percent of women involved in a relationship for two years or more had been abused; thirty-eight percent of Korean women reported having been beaten by their spouses in the past year (Family Violence Prevention Fund). The list could go on and on. Even more disturbing, a World Health Organization report, *World Report on Violence and Health* (2002), reports that 40-70 percent of female murder victims are killed by an intimate partner. This is not solely a phenomenon of the developing world, either: a woman is physically abused by her intimate partner every nine seconds in the United States (UNICEF 2000). Further, the incidence of reporting domestic abuse across the globe is consistently low, as in Nicaragua. Thus, the WHO report contends powerfully that, "violence against intimate partners occurs in all countries, all cultures and at every level of society, without exception" (24).

Leaving statistical evidence behind, let me offer a brief overview of how Nicaragua's changing social and political contexts have shaped domestic violence as a public issue. The 1979 popular revolution in Nicaragua overthrew the entrenched Somoza dictatorship and brought the leftist Sandinistas to power, opening critical space to discuss issues like gender equality, women in the workforce, and reproductive rights. The Sandinista ideology held that the liberation of women was an important tenet, and indeed many issues of critical importance to women were addressed under their watch, such as abortion, divorce and leadership positions in political organizations. However, scholars

generally agree that these policies were poorly implemented and that women's issues were subservient to the political vision of the revolutionary government; as such, an autonomous women's movement did not emerge until the post-revolutionary phase, which began in 1990 after the electoral defeat of the Sandinistas (Ewig 1999; Metoyer 2000; Isbester 2001).

In 1990, a conservative coalition headed by Violeta Chamorro was ushered in to power and moved away from the Sandinistas' liberal stance on women. Chamorro repeatedly stated that she was not a feminist but a "traditional woman" concerned with home and family; further, her campaign was silent on the question of women's liberation and equality (Metoyer 2000: 46). Ironically, it was in this context that it became possible for women's advocates to separate themselves from the state, to confront machismo publicly, and to challenge the taboo surrounding violence in the home. Today, Nicaragua boasts one of the most robust women's movements in Latin America. Since its first campaign in 1992 entitled "breaking the silence," the movement has had impressive success in influencing Nicaraguan institutions. Its achievements include the creation of separate police stations for women and children, legislation penalizing sexual and domestic violence, and state recognition that violence against women is a crime against public order and a matter of state responsibility.

It is thus important to note that the legal and social dimensions of domestic violence in Nicaragua, as I examine them in this paper, operate within conflicting and overlapping contexts: that of a patriarchal and conservative society on one hand, and a thriving, progressive women's movement on the other.

II. Methodology

It is clear that domestic violence is a profoundly systemic and widespread problem, a near universal (though certainly not uniform) experience for women. This paper accepts that statement as its starting point; it then moves further to situate domestic violence, or rather, *responses to* domestic violence, within social and institutional contexts, and to ground it in the cultural and political specificity of the state of Nicaragua. A few critical questions arise from this endeavor: how, for instance, can institutional mechanisms like law respond to violence that is socially embedded and occurs behind closed doors? How does a society or social movement develop (or adopt) a discourse that rejects domestic violence and facilitates resistance and/or reform? What do these processes look like at a practical level?

These questions are particularly interesting with respect to Nicaragua because the country only recently incorporated domestic violence as an issue of concern to both society and the state. The Nicaraguan women's movement began campaigning around the issue of domestic violence in 1995 and a law was successfully passed criminalizing domestic abuse in 1996. The roles of the law, of state servants and of civil society, among others, are still being negotiated around the issue of domestic violence in Nicaragua, and thus present fodder for new and important analysis.

This project took shape while I was living in Nicaragua in 2007 and conducting research on the legal and social dimensions of domestic violence in Managua, the country's capital. I gathered data by reviewing legal text and judicial procedural documents, as well as by conducting numerous interviews with judges, lawyers, activists

and victims. Several weeks of participatory observation at a women's organization, the Colectivo de Mujeres 8 de Marzo, also informed my research. This included sitting in on victim complaints, reviewing client files, accompanying staff attorneys to court, and occasionally sitting in on public hearings. While I conducted a few formal interviews with the women at the Colectivo, I received the most valuable information from them through casual conversation and interaction.

My field-research generated a great deal of interesting material, but it also made its intellectual limitations clear. Foremost of these was the isolated nature of my research. Thirty years ago this might have seemed irrelevant given the specificity of my topic, but in today's interconnected world it seemed a critical shortcoming. In light of a burgeoning international human rights movement, which encompasses not only norms and aspirations but also legal documents, and an increasing trend toward transnational social movements (often called global civil society), the ability of the international arena to influence, shape, or merely contextualize, national policies and/or social action merits considerable and serious attention.

I thus situate my research, both intellectually and in reference to a larger field of scholarship, in two important ways. First, while there has been a significant amount of analysis devoted to the emerging international human rights culture and a global civil society, very little scholarship applies the concepts behind those developments practically or examines how they play out in national contexts. Secondly, there is a dearth of research on Nicaragua and still less on domestic violence in the country. None to my knowledge takes up the legal question, since Nicaragua's law against domestic violence is still relatively new. Thus, my academic and personal goal is two-pronged, in both

content and purpose. My first aim is to address the unique understanding of and response to domestic violence in Nicaragua, in the hope that illuminating its practical successes and shortcomings provides an initial foundation for eventual reform and positive change. Secondly, I aim to contribute to the lack of viable research or theoretical models devoted to the nuanced relationships and flows, materially and discursively, between the international sphere and national contexts, in this case Nicaragua.

In a broad sense, this paper probes the concepts of legal and social protection of women internationally, as well as how that plays out at the micro level, using domestic violence and Nicaragua as lenses. In order to do so, I employ a layered approach. My first chapter addresses the legal portion of my research, starting broadly and then narrowing. It begins with international human rights law as it applies to violence against women, and more specifically, how it has changed to incorporate an understanding of domestic violence as a human rights violation. I then construct a theoretical paradigm of state responsibility as it might apply to situations of domestic violence, which I subsequently apply, practically, to the findings of my field research in Nicaragua.

Chapter Two applies a similar approach to civil society, beginning with a discussion of the transnational women's movement and offering theoretical frameworks for understanding the role of international activism at the local level. It then examines certain aspects of Nicaragua's women's movement to probe the links between domestic and international activism, exploring continuities and tensions. Chapter Three presents a case study of the Colectivo de Mujeres 8 de Marzo, the organization with which I conducted my field research, offering a more nuanced picture of domestic violence resistance in Nicaragua. Chapter Four reflects on the preceding chapters, questioning the

utility of existing theoretical models and offering a new paradigm for understanding the global-local links of women's human rights law and activism.

CHAPTER I:

From International Human Rights Law to Law 230:

Criminalizing domestic violence, constructing state accountability

I. Introduction

Gender-based violence is a new addition to the international human rights culture, and by extension, the legal framework of human rights. Numerous scholars have addressed the legal, theoretical and practical implications of designating gender-based violence as a human rights violation (Merry 2006; Bunch 2006; Boerefijn 2005).

Violence against women did not play a notable role in the 1975 and 1980 global women's conferences; even the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the watershed 1979 document on women's rights, did not take up the issue. It was not until 1989 that the committee monitoring the implementation of CEDAW developed a definition of violence against women and delineated it as a human rights issue (Merry 2006).

Domestic violence is a clear manifestation of gender-based violence and represents a violation of core principles of the human rights vision: the inherent dignity and worth of all individuals, the right to freedom from fear, and the equality of men and women (Universal Declaration of Human Rights, Preamble). However, it has been extremely difficult to conceptualize domestic violence as a human rights issue under international law. This designation is important because it implies a commitment on the part of states to adhere to standards of conduct, and gives legitimacy to international

organizations and civil society to pressure states that violate those standards.

This section begins by examining the obstacles that have impeded the conceptualization of domestic violence within the human rights agenda. It then turns to look at changes that have made an analysis of domestic violence as a human rights issue possible and constructs a paradigm for state responsibility. In light of that paradigm, the Nicaraguan legal framework and judicial system is discussed and analyzed.

I. Problems with Classifying Domestic Violence as a Human Rights Issue

The primary factor that has prevented domestic violence from being understood as a human rights issue is embedded within the structure of international law. International human rights law was developed according to Western political theory and the concept of negative rights, as a means to protect individuals from potential restrictions of freedom perpetrated by the State (Peterson 1990). International human rights law thus serves a dual function: it delineates the rights and freedoms of individuals and, by extension, limits states from encroaching on those rights and freedoms. The international human rights movement has established itself as a watchdog of states' behavior in upholding human rights standards. This has confined international human rights law to the public sphere, and more specifically, to the direct actions of states, thus limiting its applicability to domestic violence. In other words, international human rights law is conceptualized according to a public-private dichotomy.² Taking this distinction at its core, state responsibility has traditionally been confined to actions that occur in the public sphere.

² The public-private dichotomy is considered to be "a fundamental ordering principle of western culture" and hence, of international law. See V. Spike Peterson, "Who's Rights? A Critique of the 'Givens' in Human Rights Discourse," *Alternatives XV* (1990): 315-316.

and that are perpetrated by individuals acting under the auspices of the state or with the apparent authority of the State (Brownlie 1990: 435). According to this principle, the actions of private individuals are entirely outside the scope of international human rights law and beyond the reach of state accountability.

Feminist critique of law and the nation-state has evolved in large part through discussion and deconstruction of the public-private dichotomy (see MacKinnon 1989; Charlesworth, Chinkin and Wright 1991; Carole Pateman 1989). Carole Pateman has even written that the dichotomy is “ultimately, what the feminist movement is about” (Pateman 1989: 143). Charlotte Bunch, who emerged from this tradition, argues that the public-private dichotomy has not only kept women’s rights separate from human’s rights, but has also served to justify female subordination and a lack of state action (Bunch 2005). She bases her argument on the assumption that violence against women is profoundly political within the context of a gendered, hierarchal and dichotomized state.

Moreover, human rights organizations working within the confines of gender-neutral international human rights law may actually normalize the practice of relegating women to the private sphere. Thomas and Beasley argue that such organizations have historically allowed social or cultural justifications to deter them from reporting restrictions on women, and thus, in the absence of a direct challenge to state relegation of women to the private sphere, the application of international human rights law can reinforce the social concealment of violence against women (1993: 40).

II. Constructing Domestic Violence as a Human Rights Issue

Understanding domestic violence within a human rights framework has become possible only over the last twenty years. This is due to two fundamental changes. First, a greater proliferation of knowledge and awareness about domestic violence on the international stage; second, an expansion of the concept of state responsibility with respect to international law and human rights.

Intense activism by nongovernmental organizations (NGOs) and a series of international conferences on women in the 1980s and 1990s heightened consciousness about gender-based violence and provided a framework for understanding violence against women as a human rights issue and not as a private affair (Merry 2006: 2). In 1985, the participants of the international women's conference in Nairobi, Kenya recognized that violence against women "exists in various forms in everyday life in all societies. Women are beaten, mutilated, burned, sexually abused and raped...National machinery should be established in order to deal with the question of violence against women within the family and society" (Report of the World Conference, para. 258).

The Nairobi report, along with growing pressure from women's rights activists, spurred a UN Commission to conduct extensive research on domestic violence statistics and analyses. The UN report³ that resulted helped to bring attention to the scope and nature of domestic violence on a global scale, though its findings have been significantly expanded upon since (see Schuler 1992). More recent scholarship now relies upon several axioms of domestic violence: that it is not unusual in private family life, that the

³ Connors, Jane Francis. "Violence Against Women in the Family." New York: United Nations (1989).

vast majority of crimes committed against women occur in the home, and that domestic violence is endemic to all societies (Schuler 1992: 1). These developments have helped to delineate domestic violence as a relevant and appropriate concern of the international human rights community, to the extent that the 1993 UN Declaration on the Elimination of Violence against Women (hereafter the "UN Declaration") explicitly specified that violence against women is perpetrated in both public and private life (UN Declaration 1993, Article 1)

Growing awareness about domestic violence has coincided with a reconceptualization of state responsibility in international law, a change that has had a significant effect on the human rights culture. The concept of state responsibility has shifted from a limited paradigm focused on the state as an actor to one in which the state is accountable for breaches of international law committed by non-state actors in so far as the state's failure to protect and/or prosecute amounts to complicity (Thomas and Beasley 1993: 41). The link between state responsibility and private action is forged by the concept of "due diligence." Due diligence, in the context of international law, refers to what a responsible state 'ought' to do in a situation under normal conditions with its best practicable and available means, with a view to fulfilling its international obligations. In case law and literature the concept of due diligence is progressively accepted as an appropriate standard to which states can be held responsible for violations of human rights committed by private individuals if the state fails to adequately protect the victims from such acts or to sufficiently respond to them (Puig and van Boven 2005: 64).

The trend toward broader acceptance of this approach was sparked to a significant degree by the international human rights movement's efforts to respond to the

phenomenon of death squads in Latin America in the 1970s and 1980s. Kenneth Roth, a longtime human rights activist, reflects that even when there was strong evidence linking death squads to governments, the human rights movement could not rely exclusively on a theory of government agency and action, and thus adopted an argument structured around *complicity* (Roth 1994: 329). The due diligence standard was officially articulated within a similar context. In the *Velásquez Rodríguez* case of 1988, the Inter-American Court of Human Rights found that the Honduran government was accountable for the detention and subsequent disappearance of a Honduran student because it had not exercised due diligence in preventing the act or punishing the individuals responsible. The Court held that:

...an illegal act which violates human rights and which is not initially imputable to a State (for example, because it is an act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or respond to it as required by the Convention [the American Convention on Human Rights]... The State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation... (*Velásquez Rodríguez* case, para. 172-174).

The UN Declaration reiterates this position in direct reference to violence against women, declaring that states should exercise due diligence “to prevent, investigate, and, in accordance with national legislation, punish acts of violence against women, *whether those acts are perpetrated by the State or by private persons*” [my emphasis] (UN Declaration 1993, Article 4(c)).

It is clear that acts of violence against women, which includes domestic violence, are increasingly entering the public sphere, and more importantly, are falling within the scope of state responsibility according to human rights standards. The question, then, is

how a paradigm of state responsibility might be constructed according to the parameters of domestic violence as a human rights violation. I would like to address this issue briefly before turning to the case of Nicaragua. First of all, the fact that a state may be held accountable for the actions of private individuals does not mean that the standard is identical for when the actions are perpetrated by the state directly. On the contrary, the threshold of responsibility is considerably higher and requires not only a systematic failure to prosecute on the part of the state but also evidence that prosecution is carried out in a discriminatory fashion. To quote Thomas and Beasley, "Nonprosecution of the crimes of private individuals becomes a human rights issue (assuming no state action or direct complicity) *only* if the reason for the state's failure to prosecute can be shown to be rooted in discrimination along prohibited lines," such as race, color, sex, etc. (Thomas and Beasley 1993: 42). Thus, in the case of domestic violence, a state would have to be engaging in systematic nonenforcement of national domestic violence laws while *continuing* to enforce other criminal statutes (thus engaging in *de facto* sex discrimination in enforcement of law) in order to be held responsible under international human rights law.

Kenneth Roth makes an interesting comparative argument based upon the International Covenant on Civil and Political Rights, emphasizing and expanding upon the concept of nondiscrimination. Articles 2, 3 and 26 of the Covenant outline three critical and interrelated state obligations, respectively: to uphold the rights set forth irrespective of protected statuses, to ensure the equal right of men and women to enjoy the rights set forth, and to equality before the law. Collectively, these provisions require that any effort a state might make to combat private violence must proceed in a

nondiscriminatory fashion. In more specific terms, as Roth states: “whatever level of resources a state decides to devote to enforcing criminal laws against private acts of violence, it must ensure that crimes against women receive at least as thorough an investigation and as rigorous a prosecution as crimes against men. Lesser attention constitutes not only a violation of the antidiscrimination provisions of the Covenant but also evidence of the complicity needed to make out a substantive violation” (1994: 334-335); that is, a violation of due diligence.

Roth’s argument is important because it makes a case for how a state might be held responsible for domestic violence without a definitive statement on its obligations respecting private acts and individuals. Even if a state is *not* required to concern itself with private assaults, the nondiscrimination provision of Article 26 is not tied to particular rights secured in the Covenant (as are 2 and 3), but rather mandates “equal protection of law” in *all* respects. Thus, Article 26 can be used to address not only discriminatory enforcement of human rights but also discriminatory enforcement of any criminal law. If a state deems that the Covenant’s protection of security of person (Article 9) and its prohibition of inhumane or degrading treatment (Article 7) do not apply to domestic violence, acts of abuse could still be deemed a human rights violation according to the preceding argument.

Having situated domestic violence within the context of international human rights law, I would like to turn my attention to how Nicaragua has received and responded to the documents and principles in question. Moreover, I will broadly assess the country’s current laws and institutions to see if and how they reflect international norms concerning violence against women.

III. Nicaragua's Legal Framework

This section discusses the relationship between the state of Nicaragua and the international human rights regime, with respect to legal status. What documents has Nicaragua ratified related to violence against women? Have its international obligations translated into domestic reform at the legal and institutional level? In-depth analysis of Nicaragua's domestic violence law will appear later in this chapter. My goal here is to outline Nicaragua's legal framework in broad strokes, keeping international human rights in mind and highlighting tangible links between symbolic documents and national change. A general legal picture will be provided, though my focus will be on those issues that pertain directly to violence against women.

National Law

The Political Constitution of Nicaragua, which entered into force in 1987, provides for the equality of individuals before the law and for the protection and enjoyment of their political rights, without discrimination on the grounds of birth, nationality, political views, race or sex. The State is legally required to eliminate obstacles to Nicaraguans' effective participation in the country's political, economic and social life. The core of the Constitution has remained stable since its inception, though it has undergone two reforms since then; most recently the powers of the National Assembly were expanded in 2005.⁴ New legislation takes the form of additions to one of the six codes: civil, civil procedure,

⁴ The constitution was drafted under the revolutionary government of the FSLN, though it was not politically radical and set up a system based on the separation of powers and the protection of civil liberties. This helps to explain how the document has retained its integrity in spite of significant changes in the Nicaraguan government.

penal, criminal procedure, commercial and labor. The Penal Code (CPP), in force since 1974, establishes criminal misdemeanors and offenses punishable by law. The guidelines and procedure for Nicaragua's domestic violence law can be found within the CPP.

The last fifteen years have seen an explosion of legislation and reform related to women and children in Nicaragua. Law No. 320 of 1999 established, within the National Assembly, a Standing Committee on Women, Children, Youth and the Family. During the period 1999-2002, that Committee was the driving force behind the adoption of a host of laws concerning motherhood and children : (a) Act on Breastfeeding Promotion, Protection and Support and on the Regulation of the Sale of Breastmilk Substitutes; (b) Act on the Organization of the National Council for the Comprehensive Care and Protection of Children and Young Persons and the Office of the Children's and Young Persons' Ombudsman; (c) Act for the Promotion of the Comprehensive Development of Young Persons; and (d) revision of the draft Family Code.

The state has also devoted considerable attention to the specific problem of violence against women. Law 150 of 1992 criminalized rape and other sexual offenses and Law 230 criminalizing domestic violence followed four years later. In addition, the National Plan of Action for the Prevention of Domestic and Sexual Violence (2001-2006), adopted in 2001, was a public policy instrument to promote and guide actions to prevent and eradicate violence against women, children and adolescents. It was legally grounded in a 2000 Presidential Decree, which set up the National Commission on Violence against Women, Children and Young Persons.

Notably, measures have also been taken to enhance women's access to the justice system. The Comisaría de la Mujer y la Niñez, or Women's and Children's Precincts, is

one such development. It was created in 1993 to bring attention and resources to sexual and domestic abuse against women and children. As of April 2007, there were 25 such precincts in Nicaragua. The Comisariás are considered a specialized department of the police and they work somewhat independently. The Supreme Court has also established a National Gender Commission in the judicial branch and worked to mainstream a gender perspective in the Code of Criminal Procedure reform process, particularly with regard to gender-based violence. This last measure has had several important results: an assessment of evidentiary procedure in cases of domestic or sexual violence against women, the development of a protocol for dealing with offences involving domestic abuse and sexual aggression, and the training of a multidisciplinary team (comprising officials of the National Police, public defenders, female judges, Institute of Forensic Medicine staff and NGO representatives) in implementing the protocol and the content of a course on forensic psychology, with emphasis on domestic and sexual violence (CEDAW Report 2007). This multidisciplinary approach is enormously important for criminalizing domestic abuse because of its legal, social, psychological and physical dimensions.

International Law

The Nicaraguan Institute for Women, a part of the executive branch, submitted its annual report to the committee monitoring the implementation of CEDAW in 2007. In it, the writers affirmed that all individuals are entitled not only to the rights written in Nicaraguan law, but also those enshrined within the regional and international human rights documents to which Nicaragua is party (Report 2007: 9). Particularly relevant to this paper is Nicaragua's ratification of the Convention on the Elimination of All Forms

of Discrimination against Women (CEDAW) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).

The ratification of an international convention is not in and of itself significant if the ratifying state does not take steps to implement the convention's standards within domestic law. Nicaragua was one of the first countries to ratify CEDAW in 1981, but it was another ten years before rape was officially criminalized and fifteen before a law was passed regarding domestic violence. Are we to believe that CEDAW was unsuccessful in effecting change at the national level? The answer is more complex. To begin, Nicaragua's history must be accounted for. The Sandinistas were fighting the *Contras* throughout the 1980s, a prolonged and brutal war that took many lives, drained the government's budget, and together with the American embargo, caused the economy great harm. Given the instability of this period, it is unsurprising that society was not concerned with international conventions. The explosion of activity, both legal and social, in the early 1990s lends additional support to this theory.

Perhaps more importantly, it is crucial to remember that CEDAW was silent on the question of violence against women. It was entirely focused on equality and discrimination, issues that were already being progressively addressed under the Sandinistas. During the eleven years in which they were in power, the Sandinistas established the Statue of Rights and Guarantees for legal equality between men and women, supported the establishment of AMNLAE, a national women's organization, and encouraged women's participation in the economy and social aspects of society (Chuchryk 1991: 146-148). The issue of violence, particularly violence committed inside

the home, was muted within the context of a patriarchal leadership, a women's movement that was at best semi-autonomous, and a society imbued with revolutionary rhetoric that judged all concerns subordinate to the political and economic goals (Isbester 2001; Metoyer 2000). Thus, women's rights were conceptualized within a limited framework in Nicaragua *and* the international human rights movement, though in distinct historical contexts.

In the 1990s, international attention to violence against women was expanding rapidly as Nicaragua's autonomous women's movement was getting off the ground. Indeed, the women's movement is interestingly linked to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the Inter-American Convention), a relationship that speaks to the convergence and subsequent achievement of feminist goals at the national and international level. The Network of Women against Violence in Nicaragua devoted their 1994 campaign to violence and made it their goal to get the state to ratify the Inter-American Convention. They organized a network of petition centers and mobilized thousands of volunteers, particularly students, to garner local support and pressure the state. They ended up with over 30,000 signatures and the state acceded (Delgado 1993). This victory then became the basis for the movement's campaign a year later to demand a specific domestic violence law, a reform the state was now obligated to provide under the terms of the Convention. Thus, we can find the roots of law 230 in a transnational, nonbinding document.

The following section hones in more specifically on domestic violence, engaging Nicaragua's legal system and judicial process with respect to Law 230. The conclusion

will then reflect on that case study in the context of the previously constructed paradigm for state responsibility.

IV. Domestic Violence within Nicaragua's Legal Framework⁵

Nicaragua's domestic violence statistics are striking: recall that over 50 percent of women who had ever been married reported being abused in a 1996 study. Social and legal remedies for victims of domestic violence have been slow to develop, however. Nicaragua passed its first domestic violence law (Law 230) in 1996, which took the form of reforms to the Código Procesal Penal (CPP). Law 230 established eleven measures of protection for women in violent households, giving judges the ability to order weapons removed from the house or to prohibit the aggressor from coming within a certain distance of the victim (Nuevo Código Procesal Penal de Nicaragua 2002, Article 167). The law also, notably, recognized psychological violence as a crime, a progressive step in classifying violence against women. Prior to the law's passage, only physical injuries with *visible* manifestations were illegal (Ellsberg, Liljestrand and Winkvist 1997: 86).

The passage of Law 230 was a victory in and of itself, requiring tireless lobbying, a massive letter-writing campaign, and the support of several women in the legislature. In theory, it provides a solid foundation for victims of abuse in that it officially criminalizes domestic violence, lays out procedural guidelines for handling complaints (Title II, Chapters 1-7), delegates responsibility to police and national ministries where relevant (Title III, Chapters 1, 6-8), and states the rights of the victim (Title III, Chapter 5: Article

⁵ Most of the information for this section was collected during a period of field-research conducted by the author in Nicaragua from March-May 2007. Some names are included and others have been kept confidential, depending on the wishes of each informant.

110). Moreover, the establishment of measures of protection (analogous to restraining orders in the United States) is a necessary legal option for victims of abuse. Women's advocates in Nicaragua with whom I spoke were unanimous in their opinion that the measures were one of the most significant achievements of the law, if not the most significant. One women's activist stressed that since women who try to leave violent partners are often continually harassed by the abuser, protection measures are most powerful in their bestowal of legitimacy on the concept of female-initiated separation. A man may ignore his partner's decision to leave, she suggested, but he will be harder pressed to ignore the decision of members of the police and judiciary (Interview, 4/20/07). Another activist encapsulated the benefits of the protection measures as the ability of women to "control their own victimization" (Interview, 4/19/07).

The law is more problematic in its classification of acts of domestic violence and the procedural implications that result from those classifications. Law 230 and the CPP in general operate according to a distinction in Nicaraguan law between *delitos* and *faltas*. In general terms, a *falta* refers to a less serious crime than that implied by a *delito*. A *delito* would describe violent assault, for instance, while a *falta* would be assigned for cases of theft of other such minor offenses.⁶ If a woman chooses to file an official complaint of domestic violence (*poner la denuncia*), the Public Ministry is required to assess the case and give recommendations on whether the violence should be classified as a *delito* or a *falta* ("Ruta para Salir de la Violencia").

These distinctions are incredibly important because they determine the path on which a complaint will go. A *falta*, because it is considered less severe, generally goes to

⁶ I will maintain the use of Spanish for these terms since there is no direct translation in English.

mediation (“mediación”) instead of court. Mediation is established within the CPP (Title II, Chapter 2: Article 56) as a means to resolve problems legally, but without going to court in the formal sense. The CPP stipulates that mediation is appropriate for cases designated as *faltas* and this is usually the recommended recourse. A judge who works in Managua and deals primarily with *faltas* described mediation as an alternative solution to conflict that results in compromises between victim and aggressor. Though there are no available statistics, he estimated that about 80 percent of the cases of *faltas* that he sees are domestic violence situations, an indication not of the high rate of mild abuse but of the overwhelming categorization of *all* domestic abuse cases as *faltas* (Interview, 4/19/07). That is unsurprising given the threshold required for a domestic violence case to be classified as a *delito*. Judicial manuals state that a woman must have suffered so severely that the result was loss of a body part, hearing, eyesight, or other form of permanent injury in order for the abuse to rise to the level of a *delito* (Arrieta 1996). Thus, almost all incidents of domestic violence classify only as a *falta* and are resolved through mediation.

The implications of the classification system are far-reaching because a designation of *falta* will signify minor sentences for abusers, if any. A judge I spoke with emphasized that “the penalties need to be proportional to the crimes,” something he rarely sees in domestic abuse cases (Interview 4/19/07). Perhaps more importantly, the use of mediation essentially removes domestic violence from the same legal playing field as violent crime committed against men. Mediation treats the parties involved as equals, an attitude that disregards the asymmetrical power dynamics inherent in abusive relationships. A lawyer who worked at the Colectivo de Mujeres told me that the system

of classification defined domestic violence in terms of “power and inequality” and that the legal language used was a powerful justification for domestic abuse (Interview, 4/19/07). Another women’s activist echoed this sentiment: “The problem with the use of *falta* is more than a problem of discourse; it is an issue of how domestic violence is conceptualized by the state and by the law. Right now, the law says that violence against women is not important” (Interview, 4/20/07).

It is clear that the classification system and use of mediation is highly problematic, practically and intellectually. The women I spoke with, and the male judge as well, were adamant that the current system is double flawed; at the surface level because it does not met out appropriate sentences, and more fundamentally because it is representative of the sexism still embedded within Nicaraguan society and institutions.

V. Conclusion: the Nicaraguan Case Study in International Context

It is interesting to reflect upon the Nicaraguan legal and procedural system for handling domestic violence within the context of the first three sections of this chapter. The question of whether domestic violence can ever enter the realm of state responsibility has been given slight attention, and mostly theoretical attention at that. While the purpose of this paper is not to make a case against the state of Nicaragua for its violation of gender-based human right standards, I think it is valuable to consider what that case might look like. It was mentioned above that a state must demonstrate systematic nonenforcement of national laws in a discriminatory fashion before it can be considered accountable for the actions of private persons. Keeping that in mind, consider the

following argument.

The classifications written into Nicaraguan law (i.e. the *falta/delito* dichotomy) translate into *de facto* nonenforcement through the use of mediation as a replacement for criminal court and the subsequent reduced or nonexistent sentences meted out to abusers. Further, the fact that violent assault between men is classified as a *delito* but not domestic violence against women amounts to discrimination on the basis of gender. It follows that the state of Nicaragua has failed in its duty to prosecute men who abuse their partners in accordance with the internationally accepted standards of gender-based violence. Though the direct perpetrator of the abuse is a private individual, it is an arm of the state (the Public Ministry) that assigns domestic abuse a label and thus a potential remedy; a remedy which is administered unequally based on sex and which provides legal legitimacy for undermining the severity of domestic violence.

A human rights approach makes the above argument possible and puts the Nicaraguan legal system in a broader, international context. That said, two limitations should be noted. First, the paradigm I have constructed to incorporate domestic violence is not a legal given, though I believe human rights law is clearly moving in that direction, toward greater inclusion of “private” issues. Second, making an argument that Nicaragua could be responsible for not prosecuting domestic violence doesn’t mean that standard is enforceable. Not only is human rights law generally unenforceable, domestic violence is certainly not a top priority of the international community in holding states accountable for breaches of human rights standards.

So then why is this research important? In the context of Nicaragua, it points to critical flaws in the Penal Code with respect to classification and procedure that need to

be addressed. Clearly, law 230 is an important first step, but it is not sufficient. The classification system must be reformed and domestic violence must be redefined in keeping with general standards of assault. The question of mediation is an interesting one. Its current use as a sexist replacement for criminal court undermines the severity of domestic violence and violates women's rights to a fair trial and equality before the law. That said, the concept of mediation merits further study to see whether, if implemented correctly, it could offer a positive alternative to traditional criminal court. The defining characteristic of domestic violence, that is the intimate tie between victim and aggressor, is also the greatest barrier to its criminalization. Women in all countries, Nicaragua included, refuse to report domestic violence or recant their statement after doing so because they are still emotionally involved with their abuser. Economic dependence only deepens the scope of this problem. Thus, alternatives that focus on responding to the particular challenges of partner violence over meting out punitive sentences are worth exploring.

The relevance of an international perspective lies in the fact that human rights frameworks, though unenforceable, can be incredibly important in inspiring, shaping and legitimizing reform at the domestic level. The use of an international treaty by the Nicaraguan women's movement to pressure the government into passing Law 230 is exemplary. It indicates that transnational and domestic social movements can be mutually enforcing, playing off one another for support, strategy and legitimacy. Further, a strong case must be made that international legal documents are not static, nor are they a symbolic entity of the international elite. Nicaraguan women's creative use of the treaty for their own benefit suggests that international human rights law has a potentially

dynamic role to play in local contexts. It raises questions as to whether international legal documents are primarily important because of their legal component, or whether they signify more as carriers of discourse and legitimacy. These questions, through a discussion of the role of Nicaraguan civil society and its links to the international system, are the topic of my next chapter.

CHAPTER II:

Advocacy, Discourse, Mobilization: Domestic Violence and Civil Society

I. Introduction

The previous chapter addressed the legal framework of domestic violence, in the context of international human rights as well as the Nicaraguan legal and judicial system. Changes in international law have made it possible to conceptualize domestic violence outside the private sphere and even, in certain instances, to view states as complicit when they do not exercise due diligence. Nicaraguan law has also begun to recognize domestic violence, though serious problems persist in both conceptualization and implementation. Legal remedies for domestic violence, however, cannot be considered in isolation. Law, from the international to the local level, develops and subsequently functions through a complex and dynamic network of social movements and organizations.

This chapter will consider the social/civil society aspect of human (women's) rights and more specifically, of domestic violence activism. I will look first at the international dimensions of advocacy concerning violence against women and then turn to my case study of Nicaragua to assess the role of civil society in dealing with domestic violence. The purpose of this chapter is threefold: to evaluate international social mechanisms for addressing domestic violence (or more generally violence against women); to discuss the case of Nicaragua with respect to its women's movement and, more specifically, how that movement has addressed domestic violence; and finally, to locate continuities between the international and domestic spheres and to analyze the

relationship between international human rights and the local contexts in which they operate.

II. Globalizing Women's Rights

Historical Background

The previous chapter addressed the progression of international human rights law and norms that allowed gender-based violence to be considered a human rights violation. I will only briefly review it here. Gender-based violence was not a major issue in the 1975 and 1980 global women's conferences, although it received a cursory mention in the 1980 document (Copenhagen document, 1980). The Nairobi conference in 1985 stated that reducing violence against women was important, but in the context of peace rather than gender issues. Although CEDAW was silent on the subject, the committee monitoring its implementation developed a recommendation against violence, which was expanded in 1992 to identify gender-based violence as a form of discrimination and hence a human rights violation. It also specified that, in keeping with the concept of due diligence, prohibitions against violence were not restricted to action by or on behalf of the state, thus encompassing domestic abuse (General Recommendation No. 19, 1992).

Gender-based violence rose in prominence within women's activist circles as well as with respect to the larger human rights agenda. At the 1993 UN Conference on Human Rights in Vienna, activism from international women's NGOs drew significant attention to the question of violence against women (see Schuler 1992). A worldwide petition campaign had garnered over 300,000 signatures from 123 countries and pushed

violence against women to the center of the conference's agenda (Merry 2006: 22). The document produced at the end of the conference, the Vienna Declaration and Programme of Action, officially recognized the human rights of women as "an inalienable integral and indivisible part of human rights" (Vienna 1993). It also called for the elimination of gender bias in judicial processes and appointed a Special Rapporteur on violence against women. Two years later, at the UN Conference on Women in Beijing, violence was a centerpiece of the platform, one of four issues given special attention (Keck and Sikkink 1998: 166). Indeed, the progression in the 1990s was so rapid that Aili Mari Tripp argues that by the end of the century, violence against women had become the most important international women's issue and the most dynamic human rights concern globally (Tripp 2006: 63)

The inclusion of domestic violence as a human rights issue was due in part to social and national movements in the 1970s that mobilized state law to redefine and criminalize domestic violence and also to provide shelters and support groups for victims. The push for such reform came from grassroots feminist movements in diverse countries such as the United States, Brazil and the Virgin Islands (Merry), but was largely confined to national or local strategies to protect women and critique male dominance. Eventually, these isolated reform efforts became globalized through NGO activism and UN participation. In this way, a major concern of global feminism became a recognized issue in the international human rights movement. I turn now to a discussion of the role of the global women's movement in this transformation.

Defining the Movement

How do we define the global or transnational women's movement? Is it defined by the actors that compose it or by the goal sought? Is it possible that women from all corners of the globe could agree upon a common purpose? Is the movement organizationally cohesive or a loosely connected assemblage of disparate parts? These questions, along with many others, are not dissected nearly as often as nondescript phrases like 'transnational activism' or 'global civil society' are thrown out. What, then, constitutes a movement with global dimensions and how does it operate?

Margaret Keck and Kathryn Sikkink's seminal 1998 work *Activists Beyond Borders*, provides an excellent starting point. They propose the phrase "transnational advocacy networks," which they define as "networks of activists, distinguishable largely by the centrality of principled ideas or values in motivating their formation" (1) and "characterized by voluntary, reciprocal, and horizontal patterns of communication and exchange" (8). Actors might include international and domestic NGOs, local social movements, foundations, and certain branches of governments. The relationships among these actors are complex and diverse, but at the core is the exchange and mobilization of information (2). The goal of these networks is to change the behavior of states and international organizations, which is achieved through the creation of strategic discourse or 'framing,' and the promotion of norm implementation (2-3). Further, networks make available resources, discourses and support for "new actors in domestic political and social struggles" (1), increasing and strengthening local channels to and participation in the international system. This last point, alluding to the relationship between the international sphere and national movements, is critical and will be examined in the context of Nicaragua later on in this chapter.

Keck and Sikkink's definition is useful for grounding the global women's movement conceptually and practically. In particular, it is important to highlight the centrality of the exchange of information among actors. The facility of transnational communication fosters the exchange of ideas and creates linkages that can be sustained without direct collaboration, a formative and unique characteristic of global movements today.⁷ Keck and Sikkink's emphasis on 'framing' or discourse creation is also crucial with respect to the global women's movement; indeed, their analysis of how the concept of violence against women was created as a unifying category is important. However, they largely ignore the implications of the intimate relationship between the creation of 'issue' categories and the creation of knowledge.⁸ It is beyond the scope of this project to seriously engage that question, but it should be noted that signifiers within the feminist vocabulary that we take for granted (domestic violence, acquaintance rape, female genital mutilation) are in fact normatively and contextually constructed (see Ferree 2006).

Keck and Sikkink trace today's women's networks back to the abolitionist movement of the 1800s and the subsequent campaign for female suffrage. These movements, they argue, provided an early foundation for transnational activism centered around particular issues, such as late nineteenth and early twentieth century campaigns against foot binding and female circumcision (57-59). Keck and Sikkink also point out that both the abolitionist and suffrage movement were discursively and practically constructed around an individualist framework, an important precursor to the rights-based language of today's movements (76).

⁷ See Jan Jindy Pettman (2004) for an analysis of transnational feminism within the context of international politics and globalization, including the implications of the post 9/11 War on Terror.

⁸ I refer to knowledge creation in the broad Foucauldian sense, acknowledging that discourse affects our understanding of a given topic and mediates our ability to relate to it meaningfully.

More recently, international organizing on women coalesced in the 1960s and early 1970s, coinciding with the drafting of the Declaration on the Elimination of Discrimination against Women and the subsequent convention, CEDAW, as well as greater participation and organizing by the United Nations on women's rights. Indeed, the contemporary history of international women's organizing is often summed up with a list of the major international conferences that have been held in the last thirty years. This is an overly superficial analysis, although there is merit to the argument that links between Western feminists and activists in the developing world became solidified during the U.N. Decade for Women, 1975-1985, thus sparking mobilization on a global level (Nelson 1994).

Finally, in categorizing transnational women's activism on the issue of violence against women, it is useful to make the distinction between women's movements and feminism. Although the two are often used interchangeably, they denote distinct agendas. The former constructs women as a particular interest group but addresses diverse issues that may or may not focus prominently on gender. Elisabeth Friedman, for instance, identifies the Madres de la Plaza de Mayo in Argentina as the genesis of the Latin American women's movement, although those women came together in the context of political struggle against dictatorship (Friedman 1995). By contrast, a feminist movement is defined by its active role in challenging women's subordination to men and the construction of gender. In Myra Ferree's words, "feminism is a goal" (2006: 6-7).

The organizations and networks I discuss may or may not be "feminist" according to a standard definition or they may not choose to identify as such. In Nicaragua for instance, there was a feeling among many women's activists during the revolution that to

identify as a feminist was self-isolating and ultimately counterproductive to the broader political goal for social justice.⁹ While that changed to some degree after the revolution, many women still choose not to identify themselves as feminists or find the question largely irrelevant. It is not the purpose of this paper to assess whether certain participants in civil society (at the international or national level) are feminist. I am concerned with how those participants conceptualize violence against women, specifically domestic violence, and how they employ methods of resistance.

Discovering Violence Against Women¹⁰

It is essential to historicize and contextualize the rapid rise of gender-based violence within international women's activism. Many factors played a role in this process, including new and problematic relationships between women of the West and the developing world. As previously mentioned, CEDAW focused solely on discrimination and equality and did not include provisions on violence against women. The "discrimination frame," as Keck and Sikkink put it (168), reflected the rights-based roots of Western feminism and did not necessarily resonate with concerns of women's movements in the developing world. Indeed, the Mexico women's conference in 1975 highlighted deep divisions among women's groups as to which issues were most important. Western women stressed that discrimination was paramount, while women from developing countries contended that development and social justice, though they

⁹ Violeta Delgado, a prominent women's activist in Nicaragua and former executive director of the Network of Women against Violence, has spoken eloquently about how the tension between feminism and revolution played out for her personally. See the interview with her in *Envio Magazine* (1992). Isbester (2001) also discusses this phenomenon in depth.

¹⁰ I borrow this phrase from Margaret Schuler (1992), which highlights the relationship between the choices and priorities of activist discourse and the centrality of particular issues.

affected men as well, were most pressing for women (Keck and Sikkink 170).¹¹ The platform for action that resulted focused on achieving better education, greater employment opportunities, equality in political and social participation, and increased health and welfare services for women (Fabiani 2000).

It is important to note that this period, often referred to by theorists as second wave feminism, also took place within the context of anti colonial struggles around the world and greater international attention to the feminization of poverty and women's role in development (Pettman 50). This global climate, together with the publicity of the U.N.'s Decade for Women, fostered the Women in Development Movement (WID).¹² Margaret Schuler writes, "for the first time ever, researchers seriously studied women's roles and their contribution to socioeconomic development processes" (1992: 2).¹³ The issue of women and development dominated the agendas of international women's conferences in Copenhagen (1980) and Nairobi (1985) where activists explored ways to increase women's productive participation and socioeconomic status. By the mid 1980s, however, there was growing disillusionment that WID was effecting change at the surface instead of the roots. As Schuler notes, "The disappointing results of programs to overcome constraints to women's economic participation forced many to revise their analysis of the roots of women's marginalization" (3).

¹¹ The relationship between Western and non-Western feminism has been extensively analyzed and critiqued in the last twenty years. Third World feminist scholars have criticized First World feminist scholarship and activist strategies for viewing Third World women through a Westernized (and even colonial) lens, arguing that their work is based upon the assumption that individualism and Western socio-political modernization are liberating forces across the globe (Grewal and Kaplan 1994; Mohanty 1991).

¹² WID was later changed to Gender and Development (GAD). Kate Young (1997) argues that the change to GAD is significant and has more transformative potential because the focus shifts to gender and can thus account for the power hierarchies and social constructions embedded within.

¹³ Influential examples of this research include Ester Boserup's (1972) groundbreaking research on women in African agriculture, and other studies throughout different regions (Bourque and Warren 1979; Acharya and Bennett 1981).

Frustration over the efficacy of WID played a role in the conceptual shift within the international women's movement from development to violence. Charlotte Bunch, head of the Center for Women's Global Leadership at Rutgers University, suggests that issues of violence offer clearer possibilities for activism: "sometimes deceptively, sometimes usefully, you feel like you can do something about it. There are everyday things you can do about it, from wherever you are" (quoted in Keck and Sikkink, 171). Bunch hints at another important characteristic of activism against violence; that is, the sense that violence against women is universal, an experience that is lived by all women, though not necessarily in the same way. The 1995 Beijing Platform for Action that emerged from the fourth major world conference, for instance, states boldly: "In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture" (Platform for Action 1995, para 112). The statement is not contentious, as research has empirically supported the universal nature of gender-based violence. What should be noted, however, is the broadness of the category "violence against women," such that many diverse practices are united into a single issue.

By the 1970s women had already mobilized around many of the important issues surrounding violence. In the United States, the emergence of research indicating the prevalence of rape (Griffin 1979) and greater awareness about domestic violence led women to organize to educate the public and change policies (Schuler 1992; Merry 2006). Moreover, female genital mutilation was being resisted on national terms in Africa, as was dowry death in India and sexual slavery in Europe and Asia (Keck and Sikkink 171). There is also significant scholarship indicating that women were on the

front lines of resistance to militarism and dictatorship in Latin America, including the rape of torture of female political prisoners (Jacquette 1987; Schuler 1992). The creation of the category of violence against women brought together these previously disparate movements and campaigns, a shift that was by no means accidental or inevitable. As Keck and Sikkink astutely note: “it was neither obvious nor natural that one should think of female genital mutilation and domestic abuse as part of the same category. The category ‘violence against women’ had to be constructed and popularized before people could think of these practices as the ‘same’ in some basic way” (171-172).

Once the category was born, it stuck. Why? For one thing, violence contravenes basic and entrenched tenets of human rights, including the rights to life and bodily integrity. In this sense, the concept of violence provides a safe and stable framework for understanding a myriad of issues related to women. I would also argue that employing a trope of violence is discursively effective in that it implicitly connotes an oppositional figure: an entity *responsible* for the violence, whether it be the state, patriarchy, men or communal norms. A dichotomy between victim and aggressor is embedded within the discourse of violence, thus facilitating language that unproblematically defends the rights of the victims and condemns the actions of the perpetrators.

Keck and Sikkink acknowledge the practical and strategic benefits of this shift, namely that finding a common denominator greatly aided in attracting allies and building networks to expand the reach and power of the movement. They also suggest, though, that the theme of violence captured the attention and imagination of women worldwide. It acknowledged and encouraged a feeling of unity about an experience that is often deeply personal for women. As one Latin American activist expressed it: “the violence theme is

very evocative. No woman can help but feel that is her own. I don't think any one of us can say that she has never felt violence against her. It crosses all our lives" (quoted in Keck and Sikkink 172).

Importantly, the focus on violence against women within international advocacy circles ushered the concept of private violence into the sphere of human rights. Though some violence against women is perpetrated by the state—such as rape as a tool of ethnic cleansing in Bosnia and Rwanda or as a instrument of subordination in prisons—the vast majority is perpetrated by private individuals within the home or community.

International attention to violence against women thus required a rethinking of the public/private divide, a change that has had profound effects on the way domestic violence is conceptualized and resisted at the international and domestic level.

III. Localizing Human Rights

Constructing a Framework

In Human Rights and Gender Violence, Sally Engle Merry addresses a crucial but understudied topic: how international law and norms concerning violence against women can be translated into local contexts. Her major case studies do not include Nicaragua, or any Latin American country for that matter, and as an anthropologist she is primarily concerned with how culture interacts with international human rights. Nevertheless, she offers several useful concepts for this project.

Merry characterizes the “global-local interface” (7) as discussion and contestation between cultures. Her concept of culture is nuanced and she rejects both cultural

relativity and cultural hegemony. In the context of international human rights, she sees culture not as a barrier to implementing certain standards but rather as a “context that defines relationships and meanings and constructs the possibilities of action” (9). Her central argument follows that human rights must be framed in local terms in order to be effective. This point is an important counter to the notion that human rights can simply be plucked from one place and dropped into another, as well as to the argument that non-Western cultures are simply incompatible with human rights. However, Merry’s argument is limited in that it views culture as the sole arbiter of human rights implementation. There is no acknowledgement of structural barriers, which can be equally powerful as those related to culture, if not more so. The presence of widespread poverty, weak infrastructure, poorly funded civic activity, and unstable institutions all play critical roles in the negotiation of human rights in developing countries. Merry’s failure to account for this ignores an important dimension of the process of local incorporation of international norms.

Despite that limitation, Merry’s discussion of how ‘transplanting’ human rights occurs is valuable. She asserts that transplanting institutions and programs is achieved through a two-step process of “appropriation and translation” (135). Appropriation refers to the practical task of taking ideas or programs developed by activists in one setting and replicating them elsewhere. It requires knowledge of approaches in other countries and, very often, the funds necessary to implement them (135). I would add to this the appropriation of concepts and discourses, which may have less obvious transnational links but is crucially important.

Translating human rights into local contexts has three parts, according to Merry's framework. First, new language is created that draws on images, discourses, stories, and symbols that resonate with local narratives and beliefs. This brings back the concept of 'framing.' The frame is an interpretive package surrounding a core idea, developed with a target audience in mind (Ferree 2003: 308). The question of framing exposes an interesting paradox of translating human rights. That is, if local social movements frame human rights to be compatible with the local status quo, transformative change is impossible. It is only the capacity to challenge and disrupt existing power relations—within the state, society, community, or even the family—that will allow human rights to be imported meaningfully.

The second stage is the adaptation to existing social, legal and institutional structures. Merry notes that that the adaptation is mutual; that is, the country's structures also change as they negotiate the arrival of new ideas or practices (136). The third and last step is the redefinition of the target audience. This occurs to varying degrees depending on the context. Merry offers the example of China adapting discourse about domestic violence to accommodate the fact that such abuse exists within multiple family relationships in China, not necessarily intimate ones. In countries with high rates of teen pregnancy, like Nicaragua, this might mean expanding the audience for a campaign on sexual health, for instance.

Merry makes a final point about the process of human rights translation that is essential to remember. She writes: "even though programs are translated into new contexts and framed in culturally specific ways, they are never fully indigenized. They retain their underlying emphasis on individual rights to protection of the body along with

autonomy, choice, and equality, ideas embedded in the legal codes of the human rights system” (137).

The issue of how deeply human rights concepts resonate in local contexts is an important one. If the local packaging of an idea is mostly superficial—as Merry suggests it often is (137)—how does that influence the way we conceptualize activism about that idea? Is it even possible or valuable to categorize the components of local struggle as ‘foreign’ or ‘indigenous’? These questions will be examined as I turn to a discussion of how activism against domestic violence in Nicaragua is tied to international networks. The Nicaraguan women’s movement will be explored in much greater detail in the following chapter; for now my intention is place its work on domestic violence in international context.

Transplanting Women’s Rights in Nicaragua

Nicaragua’s experience combating domestic violence is linked to regional struggles and accomplishments in Latin America as well as the influence of the international women’s movement. These linkages are, as Keck and Sikkink note, characterized by the flow of information, discourses and funding. However, resistance to violence against women in Nicaragua is also deeply rooted in a national tradition of grassroots mobilization. This dynamic combination of factors operates in overlapping and mutually enforcing ways.

The driving force behind advocacy on violence against women in Nicaragua has been the Network of Women against Violence. Their formation and use of activism reveals a great deal about how the movement’s campaign on domestic violence is dually

rooted at home and abroad. The Red de Mujeres contra la Violencia (Network of Women against Violence), was formed in 1992 as the women's movement split apart and reformed around particular issues or causes (Ewig 1999). It began as a network of twenty loosely connected organizations. This model had become the norm for political action in Latin America, a response to increasing diversity in make-up and purpose within Latin American women's movements (Ellsberg et. All 1997: 84). The Latin American and Caribbean Feminist Network against Domestic and Sexual Violence, created in 1990, embodied this regional trend, as well as the heightened attention to gender-based violence at international women's conferences in the preceding decade. Garcia-Fogarty (2000) argues that, in fact, the development of Latin American women's networks has been tightly linked to the U.N. system since the first Mexico City conference in 1975, which he cites as the impetus for the organization of the first meeting of Latin American Feminists in Colombia in 1981 (37-38). Nicaragua became one of the strongest national members of the Latin American and Caribbean Feminist Network when its newly formed network against violence joined in 1992 (Garcia-Fogarty 2000).

This regional and international climate likely influenced the development of the Network of Women against Violence (NWAV), particularly the recent precedent of feminist organizing in Latin America and the fact that discourse focused on violence against women had taken hold in international and regional circles by the early 1990s. Moreover, this connection to transnational women's activism has remained an integral part of NWAV's work and identity, manifesting itself in a variety of ways.

To return to Merry, NWAV has 'appropriated' various tools with which to combat violence against women. Since its inception, the Network has made a conscious

effort to align itself (at least imaginatively) with the international movement by organizing annual campaigns around November 25, the U.N. international day for the elimination of violence against women (Envio, April 2003). They have also drawn on language that resonated outside the borders of Nicaragua: “breaking the silence” was the name of their first national campaign in 1992, a slogan associated with the American feminist movement of the 1960s and 1970s, which sought to bring rape and domestic violence into the public sphere.¹⁴

In 2001, the Network made the decision to draw on the shared experience of gender-based violence in their campaign. As a response to the Nicaraguan police force, which was continually uncooperative with issues related to violence against women, particularly domestic violence, NWAV launched a campaign based on the murders of the women in Juarez, Mexico and the larger issue of femicide (WCCN 2003). The slogan for that year was “I’m a female citizen; I demand to live without violence.” The slogan is unspecific to Nicaragua and, in the context of the campaign’s focus on Juarez, connotes a *global* (or, at the very least, a nonspecifically Nicaraguan) female citizen demanding her right to live free from violence. The campaign thus draws on and appeals to a transnational consciousness as well as a human rights framework.

The Case of the Wisconsin Coordinating Council on Nicaragua

At a more material level, the Network engaged in serious collaboration with an American organization to bring about the first domestic violence shelters in Nicaragua. The Wisconsin Coordinating Council on Nicaragua (WCCN) was created in 1984 when a

¹⁴ The phrase is, in fact, still used to raise awareness about rape and domestic violence, particularly within the so-called “Take Back the Night” campaign in the United States focused on sexual violence.

disagreement arose within the Wisconsin Partners of the Americas regarding its sister state relationship with Nicaragua.¹⁵ The rift occurred when leftist citizens of Wisconsin disagreed with the Partners' position of not opposing President Reagan's policies toward the Sandinista government. The WCCN began to collaborate with Nicaraguan civil society, succeeding in establishing what Clare Weber calls "an alternative foreign policy merging activist challenges in the United States and development aid in the form of nationwide sister city projects (2002: 49). Projects supported by WCCN aided Nicaraguan communities in building schools and housing, digging wells, and achieving a host of other social and economic goals in the vision of the Sandinista revolution.

After the electoral defeat of the Sandinistas in 1990, the WCCN turned its attention to supporting the emergent autonomous civil society in Nicaragua. Recognizing the particularly harsh gendered effects of neoliberal economic policies¹⁶, the WCCN developed the Women's Empowerment Project. In 1990, organizers from WCCN visited several women's NGOs in Nicaragua, including the Colectivo de Mujeres 8 de Marzo, to assess the needs and interests of Nicaraguan women and the possibilities for collaborative work (Weber 2002: 52). It was through this interaction that the idea to open a domestic violence shelter in Managua was born. The women at the Colectivo had recognized the desperate need for a shelter in Nicaragua and turned to WCCN for all the information and guidance they could provide. The WCCN sent shelter "experts" from the United States to

¹⁵ Chilsen and Rampton (1988) trace the development of the sister city project that began with the Wisconsin-Nicaragua sister state relationship in 1964 under the Partners of the Americas program established by President Kennedy. Partners of the Americas promoted the political aims of the Alliance for Progress, which stated that its aims were to implement democratic institutions, economic development and social justice. However, during the Cold War the Alliance for Progress shifted its focus to issues of national security, and was eventually closed down in 1969. The sister city and sister state relationships between the United States and Latin America continued.

¹⁶ See Metoyer (2000) for a discussion of how the post-1990 economic reforms negatively impacted women.

Nicaragua while a representative from the Colectivo, Xiumara Herrera, toured the United States to study its shelter programs. Interestingly, Herrera came away unsatisfied by what she saw. Commenting on the underlying attitude of the shelters, she noted that “the woman is professionally viewed as an individual and is not socially located in a society where gender inequalities exist, where discrimination exists. The impression I have of the shelters is the individualization of the problem...Here [in Nicaragua], we are trying to work on the issue as a political fight of raising awareness in the community” (quoted in Weber 2002: 54).

This reflection rings true in the sense that violence in Nicaragua is not approached as individual pathology but as a function of social structures that enable men to abuse women. In my own experience, when Nicaraguan women talk about domestic violence they unanimously do so through the lens of *machismo*, which they see as the social basis for male violence. While there has been considerable effort in the United States to eradicate the notion of blaming the victim or attributing violence to the behavior of individual men, the social response to domestic abuse does not originate within the community, as it does in Nicaragua. As Herrera astutely point out, the victim is conceptualized and treated as an individual.

The relationship between the WCCN and the Nicaraguan women’s movement also raises the issue of financial support. Clare Weber’s case study of the WCCN notes that:

While the exchange of information was at the forefront of the work between WCCN and the Inter-collective, financial support from the WCCN was a necessary component. Originally, the March 8 Inter-collective requested funds from WCCN to support the women’s shelters in Managua. The WCCN limited its contribution and requested that the Inter-collective send a group to the United

States to raise money. Negotiating this agreement was difficult—the WCCN had limited resources and the Inter-collective assumed otherwise (55).

This scenario speaks to the fact that the vast majority of women's NGOs in Nicaragua are dependent on external funding. The newfound autonomy of the women's movement from the Sandinista leadership in 1990 came at the expense of a loss of state funding; not only was the Chomorro administration considerably more socially conservative than the Sandinistas but the neoliberal model it espoused also demanded a tightening of the state budget (Ewig 1999: 80). Since that time, Nicaraguan NGOs have relied on international organizations and feminist networks, foreign governments, and foundations for financial support.¹⁷

This financial reality denotes an important factor within Merry's concept of appropriation, as well as adding another dimension since international bodies are more likely to fund projects that are familiar to them and fit within the international human rights framework. Thus, the decisions made about which practices or projects to appropriate and which discourses to utilize, must be considered within the context of financial dependency. Consider also that although the relationship between the Collective and the WCCN was a unique example of collaborative exchange in many ways, the financial component challenges the horizontal model espoused by Keck and Sikkink. Weber highlights that this was a challenge for WCCN, not only in terms of their own

¹⁷ While this support has been essential for the survival of civil society, it has also been used as an excuse by the government to attack progressive women's activism. In 1997, President Arnaldo Aleman launched a vicious attack on foreign aid to Nicaragua, asserting that NGOs under the influence of foreigners were the cause of Nicaragua's poverty (Liberal Alliance 1996). One of his first targets was the Nicaraguan Women's Institute (INIM), which he denied status as an independent state agency and subsumed under the newly created Ministry of the Family. The Ministry was charged with promoting the nuclear family, whose purpose was stated as procreation (*La Boletina* 1997); this irrespective of the fact that the majority of Nicaraguans do not live in such an arrangement (Lancaster 1992). Aleman also initiated legislation to tighten the reigns of state control over NGOs, though protest from Nicaraguan organizations managed to mediate the effect of the law (Kampwirth 2003: 138-139).

financial limitations, but also with respect to their central mission of creating and sustaining a relationship on equal and reciprocal terms (51).

The Domestic Violence Campaign

The Network's campaign against domestic violence importantly illustrates the process of translating international discourse and norms into locally meaningful action. This section discusses the early campaign against violence undertaken by the Network, with an emphasis on methods of resistance in social and political context. It then turns to the campaign of 1994-1996 and the links between efforts to ratify an international Convention and to pass Nicaragua's own domestic violence law.

The goal of the 1992 campaign, "breaking the silence," was to talk openly about violence against women and, in doing so, to force Nicaraguan society to recognize it as a serious problem. The network's awareness raising campaign first took traditional forms such as public forums, TV and radio messages and marches through the streets of Managua. When that didn't work, the network activism took a drastically different route. Reflecting on the history of the organization, Violeta Delgado, its former executive secretary, recalled: "The longest-serving members of the Network remember that we went around daubing messages such as "The man who lives here beats his woman" on the walls of houses" (Envio). This technique, which utilized public shaming and literally forced people to confront the issue, speaks to how domestic violence (and resistance to domestic violence) is conceptualized within Nicaragua.

The women who work at the Colectivo I studied, though they fault the attitudes of men in positions of power, regard the state as relatively gender neutral. When they

conceive of domestic violence systemically—that is, as a system of oppression instead of isolated incidents—it is the idea of the Nicaraguan nation defined by the concept of *machismo* that resonates. Activists and victims of domestic violence with whom I spoke essentialized Nicaragua when they spoke of the prevalence of domestic violence, always pointing to *machismo* as the nation's defining characteristic concerning violence against women. The rationale went something like: men who beat women are *machista*; they are not condemned for beating their wives because most Nicaraguan men are *machista*; society implicitly condones this behavior because it is *machista*; thus Nicaragua is *machista* and this is why women are beaten. Factors like the lack of economic opportunity for women or the sexist attitude of the Catholic Church, a powerful social force, were hardly ever mentioned.

The cultural strength of the concept of *machismo* and the extent to which Nicaraguan women identify with it, provide the context for both understanding domestic violence and forming a resistance to it. The tautological reasoning I outlined above whereby *machismo* is equated with domestic violence frames women's personal and social understanding of domestic violence. There is a deep sense of shared identity that results since domestic violence is not attributed to particularly violent men and unlucky women, but rather to an organizing principle of Nicaraguan society. Across distinctions of class, race, levels of education, vocation, and geographic location, I found overwhelmingly that Nicaraguan women deeply identified with the concept of *machismo* and used it as a critical reference point for personal and social identity. It was used as an all-encompassing explanation of social problems, vented over and flung accusatorily at husbands and boyfriends in conversation with other women, and sometimes merely

tossed out with a shrug and a shake of the head: *si, es la culpa de machismo* (It's machismo's fault).

In this sense, Nicaraguan women's concept of society and even nationhood is deeply tied to gender and sexism in a way that unites them and separates them from men. Moreover, the recent revolutionary history of Nicaragua informs their understanding of grassroots, direct action; public defenders popularized during the revolution were remobilized by the women's movement to not only paint doors but also knock on them and raise awareness among all sectors of society (Dolan 1995). These tools, foreign to women's activism in the United States, are a powerful reflection of how domestic violence (and active resistance to it) are situated within Nicaragua.

This example of activism is deeply rooted in Nicaragua's specific history and social context. Nevertheless, the framework for passing a national domestic violence law was first negotiated on international terms. Recall from Chapter One that the women's movement mobilized in 1994 to pressure the state to ratify the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (also known as the Belem do Para Convention) before it turned its energies to national legislation.

The language of the Inter-American Convention provided a powerful tool in the fight against domestic violence, especially given the serious limitations of CEDAW. It stated explicitly that states must "include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary" (Article 7(c)). It even contained specific reference to the need for

protection orders, a crucial element for victims of domestic abuse, declaring that states must “adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity” (Article 7(d)). Moreover, it drew particular attention to violence committed within the “family or domestic unit” (Article 2(a)), including psychological violence (Article 1).

The Network jumped at the strategic possibilities embedded within the Convention; these were significant given the clarity and strength of the language used and the political currency it carried having been already ratified (or in the process of ratification) by thirteen states in the Organization of American States (OAS)¹⁸, including neighboring Guatemala, Honduras and Costa Rica. The Network organized a national network of petition centers and mobilized thousands of volunteers, collecting around 30,000 signatures in a month. This was quite a feat, given that the Network at that point consisted of a single room in the Puntos de Encuentro Foundation (Envio 1992). The Network sought to bring the Convention down to the grassroots level and relate it meaningfully to social and political issues. They created a badge with the message, “I want to live without violence” and handed it out to all volunteers to wear when they canvassed the city. Violeta Delgado, former executive director of the Network, remembers that

The badge was an important way to raise consciousness. A badge bearing the message “I want to live without violence” pinned onto a shirt or a student rucksack so it travels around with its owner is more effective than a sticker on a car or a poster on a wall. If it’s on your person, it both reveals and motivates a personal commitment. The badge helped get young people of both sexes

¹⁸ Bahamas, Barbados, Bolivia, Brazil, Costa Rica, Dominica, Ecuador, Guatemala, Honduras, Panama, St. Kitts, St. Lucia, and Venezuela all ratified the Convention between 1994 and 1995 (Data from the Inter-American Commission on Women).

interested in the messages, proposals and analyses produced by the women's movement related to violence against women. While they [volunteers] may not have known the convention's exact words, the population clearly picked up on the idea that they were signing to ensure the existence of laws aimed at stopping the many forms of violence exercised against women (Envio 1992).

The campaign was a success in two important ways. Nicaragua ratified the Convention in December of 2005 and domestic violence legislation was passed only a year later. This demonstrated a concrete link between the international system and Nicaragua's struggles, something that resonated with many women given the active participation of everyday citizens in both campaigns. Allow me to cite Delgado again:

[The link between]...international and national affairs was a great lesson for us. There were a number of world conferences at the time, including the 1994 Cairo conference and the 1995 Beijing conference on women. We were able to use Law 230 to bring the lives of Nicaraguan women closer to these great international colossi, proving that such events and international conferences can represent something more than just meetings of haughty ladies in ties, involving expensive trips and hotels. It showed that international commitments could have a great affect on our lives, both positive and negative. In Nicaragua we saw how in just a year the Belem do Para Convention translated into a national law that immediately put an important tool into the hands of judges and lawyers. It was an enormous victory.

Identifying the connection between the Convention, Law 230 and U.N. conferences requires a transnational consciousness that most Nicaraguan women do not possess.

However, Nicaragua's strategy to ratify an international document at the grassroots, and to carry that energy over to a national campaign, connected many women to the significance of the process in a very real way.

Perhaps more importantly (and certainly more practically), the success of the ratification campaign created powerful momentum within the women's movement. Capitalizing on the interest and enthusiasm generated by the national campaign, the Network organized a national meeting on the issue of violence against women and invited all the organizations and people that had participated. The meeting was a turning

point, resulting in the opening of the Network's doors and a broadening of its reach. It would no longer be 20 organizations exclusively made up of women or people that identified as feminist, but rather a conglomerate of any committed organization or woman in agreement with the Network's mission and objectives. The only thing required, in addition to this commitment, was for the organizations that joined the Network to send a female representative (personal interviews 4/11/07; 4/20/07).

Emboldened by the success of the previous year, the recently expanded Network turned its attention to the lack of a specific law penalizing domestic violence. The rest of the year was devoted to drafting a proposal and consulting different women's organizations throughout the country. Relying on their skillful organizing abilities, the Network once again based the campaign around collecting signatures to pressure the National Assembly. To their advantage, the study *Candies in Hell* (1996) came out during this time, providing empirical evidence for the network's claims about the prevalence of domestic violence. The study turned out to be crucial; it not only legitimized the network's campaign, it also had an impact on how effective social activism was conceptualized. As Violeta Delgado wrote, "this positive linking of a research study and a legal struggle turned out to be an exemplary experience in Latin America. We even received special recognition because it demonstrated how research can be used as an instrument for bringing about change and influencing public policy" (Envio 1992).

Though the study provided a critical foundation for the Network's main argument—that domestic violence was a problem that could not and should not be ignored—the actual process of drafting a bill engendered numerous debates. Given the size of the Network and its commitment to democratic decision-making, these were

difficult to resolve. One of these concerned whether the Network should work towards a new, specific law or, conversely, advocate reforms to the existing Penal Code. A brief recounting of this issue speaks to the depth and complexity of the Network's commitment to fighting domestic violence and the methods they employed to do so.

Numerous women I spoke with relayed this dilemma to me and I have constructed it according to their accounts. The benefits of a specific law penalizing domestic violence would have to go further than punishment; it would have to include prevention and attention policies, and clearly define women as the subject to be protected and strengthened. There were very real concerns, though, that a specific (and hence isolated) law might, in one woman's words, "be restricted to the paper it was written on," without the resources needed to implement it (4/24/07). A Penal Code reform, on the other hand, would simply introduce new articles into the code to prevent and penalize domestic violence, minimizing the focus on gender-based violence but providing an immediate and grounded instrument for judges.

There was also concern that choosing Penal Code reform might lead to prosecution of women as well, since women commit violence against their children. Recognition of this reality generated a great deal of debate and reflection within the Network, because while "we believe that intra-family violence is rooted in violence against women, we also know that women are responsible for transmitting forms of control through violence" (Luz Marina, 4/16/07). Eventually however, collective reflection led the Network to draft reforms to the Penal Code, believing this was ultimately the best way to achieve change at both the legal and institutional level.

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Within the context of Merry's framework for understanding the translation of human rights according to local dynamics, the recent history of the Network provides much food for thought. I have traced links based on official products of the international community (such as the Inter-American Convention), symbolic discourses about human rights and the shared experience of gender-based violence, grassroots collaboration in the case of the Collective and the WCCN, and financial flows that are often overlooked yet constitutive of global relationships. Clearly, the international system can and does interact with local struggles to protect women's rights and, as I have shown, in ways that transcend mere symbolic or superficial exchange.

Equally central to my argument, however, is the contention that the influence of international structures is selectively and intentionally reformed according the particular needs of women's activists, as well as the national, social, and political context in which they operate. Whether we are referring to Xiumara Herrera's critique of American domestic violence shelters compared with the communitarian experience of domestic violence in Nicaragua, the mass mobilization of popular defenders and students to raise awareness and pressure a stagnant state, or the use of public shaming; it is undeniable that Nicaraguan women have asserted a great deal of collective agency in their struggle against violence, choosing to utilize the resources of women, organizations and ideas within their borders as well as beyond.

CHAPTER III:

The Colectivo de Mujeres 8 de Marzo:

Grassroots feminism in NGO form

IV. Introduction

Things work a little differently in Nicaragua. I had already learned this by the time I came to the Colectivo de Mujeres 8 de Marzo to volunteer and conduct field research. I had grown accustomed to chickens on public buses, beverages in plastic bags, electricity shortages at 3pm, and the curious paradox of Managuan life where everything seems to rush by but no one is ever in a hurry. The Colectivo had its own set of quirks, at least in comparison to nongovernmental organizations in the United States: a high level of chaos that pervaded the organization's atmosphere, afternoon *telenovelas* that played on the television in the main room and captured everyone's attention, and an utter lack of formality between women working at the Colectivo and women using their services. However, it was a particular incident I witnessed one afternoon that reshaped how I understood the work of the Colectivo and where I located it in the context of Nicaraguan society.

It was a scorching hot day in April. I was chatting inside with the secretary and one of the lawyers when Luz Marina, the organization's director and a formidable woman, burst through the door yelling *Ven, ven! Todos afuera!* (Come, come! Everyone outside!). I jumped up with the other women and ran into the street. I could see a crowd of women gathered half a block away, shouting and struggling to restrain a man who was waving a

belt around violently and yelling obscenities at the women. The women from the Colectivo ran to join the fight while I got only close enough to watch. One of the lawyers from the Colectivo emerged from the crowd then, running toward me with her arm around a young woman I had never seen before. The young woman was holding a hand to her face and she appeared to be crying. They disappeared into the Colectivo but the struggle on the street continued.

“What’s going on?” I whispered to a neighbor who had emerged from her house to observe the drama. Shaking her head in disgust and gesturing toward the man, she said, “That man was beating his girlfriend. They live around the corner, I know the girl. He was hitting her with his belt! Can you imagine? She started running up the street and he followed her with his belt. Drunk fool! Luckily the women here (she gestured toward the Colectivo) were outside when it happened and came to help. *Que Barbaridad, no?*” I nodded my agreement.

At this point, a male neighbor had come to the women’s aid and they successfully restrained the abusive boyfriend. They hauled him off the street and into the Colectivo, informing him that he would stay put until the police came to retrieve him. He continued to give them trouble so one of the women fetched a machete to keep him in line. Luz Marina, the organization’s director who had rallied help, shouted to one of the women inside to call the police. The call was short; I heard the secretary speak angrily, than slam down the phone. “What happened?” I asked, “Are they coming?” She shook her head. “No, not anytime soon! In a half hour maybe!”

One of the lawyers saw this as an excellent opportunity to educate me and drew me aside. “This is a perfect example of how the police act, do you see? Still, they do not see

domestic violence as important. They say, ‘this is a matter for the family.’” Meanwhile, Luz Marina had taken over the phone and, with no shortage of strong language, informed the police that she would not stand for this kind of behavior. Apparently she was persuasive, for a police car arrived within ten minutes and took the man away. The lawyer continued, “We have to pressure them constantly, and even then we are not always successful. Today, yes. Tomorrow, maybe not. It should not be like this, understand?” I did.

It is worth recounting that single event at such length because it resonates deeply with many of the problems and complexities surrounding the criminalization of domestic violence in Nicaragua: the wide range of roles assumed by civil society organizations like the Colectivo, the problematic attitude of institutional bodies like the police, and the perceptions of female activists about their work and the challenges they face therein. Why do female professionals with law degrees jump up from their desks to restrain abusive men in the middle of the street? Why was I the only one flinching when Carmen, a young woman I had come to know well, retrieved a machete to intimidate the man into submission? Why did it take two phone calls to bring the police when an entire neighborhood, including an NGO, had witnessed his crime?

When I began my research I saw the Colectivo as a *means* to access to the judicial process and relevant institutions behind the domestic violence law, as well as an avenue into the personal experiences of many dedicated women’s activists. My primary interest, however, was law; civil society would only be addressed as it was tangentially related. This slowly changed as I delved deeper into the practical implications of the law and became immersed in the life of the Colectivo. As I reviewed my notes each evening it

was hard to miss the reoccurring theme: there was a gap between my examination of legal and judicial documents and my daily observations, conversations and interviews. Theoretical legal implementation was severely problematized by the delito/falta classifications; the stated responsibilities of the police didn't match up with what I saw; real domestic violence hearings looked quite different from the official protocol I had read. Each time I stumbled upon one of these gaping holes in the system I was inevitably led back to the Colectivo and its partner organizations under the umbrella of the Network of Women Against Violence. It seemed that these women were filling in all the gaps when it came to domestic violence and they were doing it in whatever way necessary. I needed to redefine my notion of NGOs in the Nicaraguan context and look more deeply at the transnational network that supposedly linked entities like the Network of Violence Against Women to the international system of human rights law and advocacy. Across what distance did that network stretch and what was getting lost along the way?

V. Contextualizing Field Research, Locating the Colectivo

Chapter One discussed the transformation in international human rights law and the consequences for conceptualizing domestic violence as a human rights abuse. It also illustrated important links between international and local (Nicaraguan) reform concerning violence against women. Chapter 2 set aside legal mechanisms, discussing the development of a transnational women's movement and its links with the women's movement in Nicaragua, particularly with respect to gender-based violence. I asserted, primarily via Keck and Sikkink (1998) and Sally Engle Merry (2006), that there are

discursive, financial and material flows between the international human rights system and Nicaragua, and that these flows converge and become illuminated at the intersection of legal norms and civil advocacy.

My task in this chapter is to take a magnifying glass to that intersection and examine it within the microcosm of Nicaraguan society. To this end, I will look closely at one women's organization in Managua, the Colectivo de Mujeres 8 de Marzo (the Colectivo), where I had the opportunity to observe and work for a month and to conduct interviews. I address it at this juncture because it speaks to the messiness and enormous complexity between the theory I have presented in previous chapters and the reality of criminalizing domestic violence in Nicaragua. Even Chapter Two, which moved considerably beyond the realm of the abstract, addressed the Nicaraguan women's movement in broad strokes.

It is a gigantic leap from discussion of international law and transnational civil society to analysis of one small nongovernmental organization in Nicaragua. Thus, it is important to question how that analysis fits within the larger project and how the broader themes of human rights and civil society interact with the localized and experiential specificity of the Colectivo. The answer is somewhat of a paradox. A reliance on theoretical claims and/or sweeping statements about countries, social movements or cultural norms allows for macro analysis, provocative comparisons across borders, and extrapolation. This is a familiar framework for scholarship that attempts to identify how international norms are implemented in the context of the sovereign state (Merry 2006; others). A micro case study, on the other hand, cannot reasonably claim to do any of those things, but it is the only route to access *a* specific, experiential, and nuanced reality. The former gives us neater formulations, as in Keck and Sikkink, but the latter provides

deeper, if more limited insight into what words like *implementation* and *empowerment* mean when they are separated from human rights documents or theory and operationalized within Nicaraguan society.

VI. Background

The women's movement in Nicaragua is a dynamic and powerful force today, possibly the strongest of its kind in Latin America (see Isbester 2001; Richards 2003). Scholarship has treated the movement as belonging to two distinct eras, the first under the revolutionary Sandinista government and the second in the years since their electoral defeat in 1990. Moreover, there is a general consensus that, although the Sandinista revolution called attention to women's issues, those issues were subservient to political ideologies and thus the women's movement did not gain autonomy and strength until the post-revolutionary phase (Ewig 1999; Isbester 2001; Metoyer 2000). This shift can be described as one from cooption under the Sandinistas to autonomous remobilization after 1990.

Christina Ewig notes that issues of critical importance to women were addressed under the Sandinistas, such as abortion, divorce and leadership positions in political organizations; however, many of the new laws "that might have changed patriarchal relations were implemented poorly, if at all" (82). The prominent women's organization at the time, AMNLAE, was a product of the Sandinista leadership, blurring the line between state and civil society and forcing the organization to conform to the Party line. Issues like domestic violence were relegated to the private sphere and considered

irrelevant by the patriarchal power structure of the FSLN, leading a former Sandinista feminist activist to comment: ““Sandinismo was revolutionary...in society, in the socialization of property. But in private life, women were property. It wasn't revolutionary in this sense, within the family’” (quoted in Ewig 82).

Nevertheless, the organization of women both during and after the revolution is particularly significant to the later growth of NGOs and community activism. The woman-headed household as an economic and social reality during the devastating years of the Contra War positioned women to take active responsibility for meeting all the needs of the family (Beneria 1996). The difficulty of meeting these needs continued to be acute when the war ended because Violeta Chomorro came to power and instituted Structural Adjustment Policies (Metoyer 2000). This economic experience, coupled with the collective experience of feminist activism during the revolution, led many women to organize their communities (Aguilar et al. 1997).

The first alternative women's NGO emerged in 1988 when a group of professional women started the Colectiva Masaya. The objectives were to provide direct health services to women, such as family planning and screenings for cervical cancer. They also wanted to create a space for women to discuss issues and become informed (Ewig 84). Then, increasing disillusionment at the lack of autonomy in the women's movement led some of the AMNLAE leadership to resign in 1989, forming the beginning of the post-Sandinista women's movement. Though AMNLAE has been extensively criticized for its subservience to the FSLN leadership, it is important to note that the organization laid crucial building blocks for the autonomous movement that emerged later. Through AMNLAE's political mobilization, women gained initial experience in social movement

organization; further, the women's centers and groups that formed as part of AMNLAE's base later constituted the beginning of an autonomous network (Ewig 1999: 81).

AMNLAE was ultimately constraining for Nicaraguan feminism, but it must be credited for its role in turning women into citizens and activists.

Since 1990, the women's movement has dispersed into decentralized networks based around issues such as health, reproduction and violence; it is also significantly more oppositional toward the state (Ewig 80-81). The Network of Women Against Violence is one of the largest and most active of these networks. From a modest base fifteen years ago of twenty organizations, it has since expanded rapidly to include over 150 women's groups and hundreds of individual women from all over the country (Ellsberg et. all 1997). Indeed, nongovernmental organizations (NGOs) have become the core of feminist activism in Nicaragua as the dispersion of the women's movement occurred simultaneously with greater institutionalization.

The shift to a NGO model where organizations like the Colectivo form the backbone of civil society is not unique to Nicaragua. Sonia Alvarez (2004) traces the evolution of feminist movements in Latin America and her central argument resonates with Nicaragua's history. She contends that since the 1980s women's movements have undergone a distinct "professionalization" or "NGO-ization" (122). She sees this change as a strategic response to the wave of democratization in Latin America and the return of electoral politics, a dislocation that made possible greater confrontation with the state. The political stabilization of the region thus spawned a shift from radical feminism to a focus on gendered policy reform. In this context, broad-base movements splintered off

and regrouped around particular issues, succeeding in lobbying the state for reforms like greater female political participation and legislation against violence (122-123).

VII. Understanding the Colectivo de Mujeres 8 de Marzo

From Activism to Service

Advocating Reform: the nineties

The Colectivo de Mujeres 8 de Marzo is a prominent example of the transformation of Nicaraguan civil society. The shift in the women's movement from AMNLAE under the Sandinistas to networks of NGOs today has led to a reconceptualization of purpose and, subsequently, changed the primary function of the movement. I would characterize this shift, which is evident in the Colectivo, as one from activism to the provision of services. I will look briefly at the work of the Colectivo in the 1990s after its creation before turning to the findings of my recent field-research.

The Colectivo has played a leading role within the Network of Women Against Violence since its inception in 1992, particularly in the campaigns against rape and domestic violence in the early and mid-1990s. Maureen Dolan and Marcela Pineda credit the Colectivo with devising new strategies to raise awareness and combat domestic abuse, including the use of popular defenders to forge community networks of resistance and create an urban base of support for the movement (Dolan 1995: 152). These defenders are exemplary of grassroots action: they went door to door, made themselves visible in police precincts, and distributed material that broke the taboo surrounding

domestic violence and openly encouraged women to seek help if they were victims of abuse.

Dolan offers an important term for understanding these early efforts of the *Colectivo*, *sociojuridico* (152). The term, which would translate as social-judicial, implies attention to the social dimensions of legal issues. Indeed, the *Colectivo* recognized early on that domestic violence could not be addressed from an exclusively legal angle given its entrenched social causes, manifestations, and stigmas. Of particular importance was the economic reality. In a society where few women enjoy economic independence from male partners, there was immediate concern that the prospect of leaving an abusive home (and the breadwinner), would seem impossible for women. In response, the *Colectivo* sought allies at the national and international level and successfully established the first domestic violence shelters in Nicaragua (Weber 2002).

The campaigns of the Network of Women Against Violence and the *Colectivo* in the 1990s, as discussed in the previous Chapter, were indicative of a mass movement as opposed to an institutionalized one. The kind of mobilization the newly autonomous movement was capable of was due to the legacy of civil society during the revolution, which although dependent on the state, emphasized mass participation and community networking.

This is somewhat problematic for Alvarez's analysis of Latin American feminism. Her identification of the professionalization of the movement can be seen in Nicaragua as NGOs under the umbrella of the Network of Women Against Violence took the reins after 1990. However, Alvarez clearly distinguishes the reform/policy-based focus of the current NGO model from the grassroots feminism of the past. These distinctions were not

so clear-cut in Nicaragua. To be sure, the ushering in of the Chamorro government signaled a shift in the feminist agenda toward concrete policy change: legislation for rape and domestic violence and the creation of a separate women's police station, for instance. That development did not entail an abandonment of grassroots activism, though. Popular defenders, street marches, and community mobilization were not rejected in favor of policy reports and government lobbying, but rather incorporated into the new goals of the movement. Even now, although the women's movement has moved closer to institutionalization, Nicaragua presents challenges to the traditional NGO model.

After Reform: the Colectivo today

My recent experience with the Colectivo familiarized me with the kind of work it engages in today, which I divide into two main categories: education and service, with the latter encompassing logistical and legal service. The educational aspect of the Colectivo's work is reminiscent of the 1990s when advocating for social change was preeminent. One of the organization's primary goals, as related to me by its director, is to educate women about their rights and their options (personal interview, Luz Marina, 4/5/07). Toward this end, the Colectivo produces pamphlets and brochures that state women's rights to live free of violence and/or describe how to file a domestic violence or rape complaint in simple, straightforward language. They also, in cooperation with the Network of Women Against Violence, launch public campaigns about particular issues. The most recent of these was a campaign to protest a 2006 law that banned all abortions, even in cases of rape or where the woman's life was judged to be at risk (Law 603). This

campaign was still going on in the Spring of 2007, though it was losing steam after a year of no progress in overturning the law.

The Colectivo's educational activities also include traveling to conduct workshops in small towns, given the lack of information and consciousness in rural Nicaragua (which, it should be noted, makes up the majority of the country). Representatives from the Colectivo, including young women volunteers, speak to rural women in an informal setting about health, violence, reproductive rights, and other concerns. This work, though important, is a constant uphill battle. An activist related to me once, concerning these workshops, "You think it's hard in Managua to implement the law? There is no law in the *campo* [countryside, rural area]. Those women don't even know there is one, and even if they did, what use would it be? They work hard enough just to live and to feed their children." I inserted here that legal institutions must be incredibly difficult to access. She responded, "No access to police and the courts? *Chica*, they can barely get to a hospital!" She paused for a moment. "It is good that we talk to them and let them know what we are doing here and how things are changing. But it is hard, *very hard*" (Juanita, 4/10/07).

The women who work at the Colectivo consider educating women to be an important part of their job, and it is something they do indirectly all the time. However, the provision of services constitutes the majority of the Colectivo's work. I differentiated earlier between logistical and legal services. By logistical services, I refer to the daily interactions and/or activities at the Colectivo between employees and clients that does not involve (at least directly) legal proceedings. The primary example here is coordinating child support. Indeed, the majority of the women who visit the Colectivo came not to

seek legal redress against violence, but rather to pick up biweekly or monthly payments of child support. The Colectivo files claims on women's behalf when husbands or boyfriends abandon the family and then coordinate the collection and distribution of payment. One day a week, the Colectivo took on a strange atmosphere as a constant stream of men came in to drop off envelopes of cash and women arrived to pick them up. New women came in occasionally to take advantage of this service, sometimes with the father of their children in tow.

Other logistical services facilitate the Colectivo's legal cases, such as providing transportation to and from the municipal court. One morning I arrived at the Colectivo in time to see two of the lawyers climbing into a truck. They yelled to me to come along so I jumped in. I assumed we were heading to the court to file papers or conduct a similar, administrative task. However, I soon realized that we were driving out of the city in the opposite direction of the court. Half an hour later we arrived in a small, poor neighborhood on the outskirts of Managua. A girl of eleven or twelve emerged from a small house with an older man and two adolescent boys. The girl climbed in with us and the men piled in the back of the truck.

At this point, completely baffled, I turned to Virginia, my advisor at the organization, and asked what was going on. She explained to me that a male neighbor was sexually harassing this young girl and the family wanted to invoke a restraining order¹⁹ against him before the harassment escalated to abuse. Virginia had taken the girl to the police the week before but they informed her that a guardian must be present to file a complaint. Her parents worked all day but they had found an uncle to accompany her. The

¹⁹ Restraining orders, or *medidas de seguridad* as they are known in Spanish, were introduced in Nicaragua with the domestic violence law, *ley 230*.

adolescent boys were her older brothers and had come along for moral support. I didn't need to ask why we were driving across the city to pick them up; they were too poor to take a taxi and the nearest bus stop was a long walk from their house and there was no line that went as far as the court, which was inconveniently located outside the city.

This anecdote may seem insignificant but it illustrates the context in which the Colectivo operates and the relevance of seemingly minute details like transportation. The concept of 'logistics' for these women signifies far more than administrative tasks; it constitutes the reality of answering to a population mired in poverty. The women at the Colectivo know that the law is flawed and that many institutions remain patriarchal; but they are also acutely aware of the daily barriers of women's lives and how this affects basic accessibility. Nicaraguan women are constrained by poverty, maternal responsibilities, lack of time, and social and familial expectations. The Colectivo cannot ameliorate their poverty, and it is a slow process to change social attitudes, but simply providing transportation or pulling strings with the police bureaucracy may make a world of difference in whether a woman decides to stick with her decision to file a complaint. The day I rode along in the truck may have prevented the sexual abuse of a young girl; moreover, it allowed her family to feel empowered in spite of their poverty. One of the brothers of the girl said to me that day, "I would kill him [the neighbor], you know? But if we can get this thing [the retraining order], it is a good thing. Now he will know that if he comes near my sister it is not just the family he will face but a judge as well. It is good to have that kind of thing behind you" (Luis R., 4/15/07).

Amidst the difficulties of facilitating access, the Colectivo manages to provide legal advice and support to women who choose to follow through with a complaint. They fill

out all necessary paperwork, compose legal documents, procure representation and/or represent women themselves. Even when directly involved with a case, however, the women at the Colectivo tend to serve more as facilitators, maneuvering between the institutions involved in the process. This is crucial because the process is complex and dispersed with poor communication between each participating sector. Bringing a domestic violence complaint to court (or mediation, as is generally the case) involves the police (and/or the women's precinct²⁰), the prosecutor's office, the medical branch of the prosecutor's office that conducts physical and psychological exams, and the Public Ministry (Nicaragua Penal Code). Women may wait for hours to speak to someone, only to be told they haven't filled out the right document or need to start over with another branch/individual/institution, etc.

I camped out in the local police station one day to observe how it functioned. I came quickly to the conclusion that, to put it bluntly, it didn't. It was a one-room building with a handful of officers attending to an overflowing waiting area. I met a woman there whose situation perfectly summed up the difficulty of working with the police. Her boyfriend had broken her arm, badly, and I could tell she was in enormous pain. She had come a week before to file a complaint, waited for four hours, and then been told she needed medical proof: x-rays. She had spent the week procuring the x-rays and had come back to wait, praying she would not be sent away again. If she encountered another obstacle, she told me, she was done trying. When I left several hours later, she was still waiting.

²⁰ Officially, the *Comisaría de la Mujer y la Niñez*, or Women's and Children's Precinct. It was created in 1993 to bring attention and resources to sexual and domestic abuse against women and children. As of April, 2007, there were 25 such precincts in Nicaragua. The *Comisarias* are considered a specialized department of the police and they work somewhat independently.

Visiting the police station with women from the Colectivo, however, is a different experience. Necessary documents are obtained in advance if possible. The women are familiar with the police staff and, if pushy enough, can reduce a wait to a mere half hour. Moreover, they sit in while the complaint is filed to make sure things go smoothly and that the woman understands the proceedings and the next step in the process. The Colectivo's presence transforms a nearly insurmountable obstacle into a manageable one.

Is there a model that fits?

The Colectivo's inception as an organization reflected larger changes within the women's movement and the national political arena in the 1990s, namely a push toward institutionalization and greater confrontation with the state regarding policy reform. However, the organization has also seen a shift in function within the last ten years, a change I characterized as one from advocacy to service. I attribute this primarily to the success of the movement. Advocacy and social mobilization from 1990-1996 led to rapid results, including the creation of a separate police precinct to deal exclusively with violence against women and children and the passage of legislation that criminalized rape and domestic violence. Thus, the need for gender-based reform that galvanized the newly autonomous movement was met within a short span of time. Acquiescence from the state on these issues did not mean the myriad of problems facing women had been solved, and indeed, the preceding paragraphs indicate there is still an enormous amount of work to be done; but the reforms did necessitate a new conceptualization of the goals of the movement. The question was no longer, how do we achieve this? It was: how do we turn policy reform into concrete change for women?

This struggle is one being confronted by feminist NGOs throughout Latin America as victories are legislated and won and the days of robust activism or social mobilization seem to have passed. Alvarez (2004) argues that Latin American NGOs must be understood as hybrids, possessing a nascent “technical-professional” identity that operates alongside grassroots advocacy of a more distinctly feminist nature. She characterizes the movement-based work as having a more informal organizational structure and a large but volunteer-based membership that tackles a wide variety of topics affecting women; the NGO work, conversely, is more pragmatic and reform-oriented, often producing reports and conducting projects to influence policy (126). The goals of each are not mutually exclusive and indeed can operate in an overlapping and reinforcing manner. Alvarez contends, however, that this hybridity is threatened because the movement-based work of NGOs is being continually undermined as the technical-professional aspect becomes more prominent (130).

I assert that the Nicaraguan model, if indeed there is one, does not fit Alvarez’s framework and challenges the discursive and practical distinction between ‘NGO’ and ‘movement.’ A glance at how the work of the Colectivo has changed since 1990 might conclude that, in keeping with Alvarez’s model, greater institutionalization with NGOs has resulted in an abandonment of the grassroots methods of the early 1990s such as marches and community networking. However, a closer analysis like the one I have offered above, suggests that such an analysis is too simplistic. I would liken the Colectivo in some sense to what McCarthy and Zald (1973) termed “social movement organizations” in that, while they may operate independently and professionally, they also form the building blocks of a broader social movement (cite). Beyond this, it is also

important to note that the end of a radical feminism or mass membership-based movement in Nicaragua is not necessarily synonymous with the death of grassroots action. I would argue, in the context of the Colectivo's strong ties to the community and its history of urban mobilization, and more crucially, its commitment to deal not only with problems of policy and institutions but also real women and real life in Nicaragua, that the Colectivo has institutionalized without losing its roots.

CHAPTER IV:

Conclusions and Reflections

I. Introduction

At this stage, having discussed the legal and social dimensions of domestic violence in Nicaragua and put those concepts in international context, it is now necessary to ask: so what? In the same way that Chapter Three required a rationale for such a microanalysis within the larger project, here it is important to address the broader question of why and how the various pieces, scattered throughout the preceding three chapters, fit together.

This project was conceived in Nicaragua in light of a tremendous social problem, that of domestic violence. My aim was practical before intellectual. How was the law written and how did it function? Did women have access to it? My findings were, in some sense, specific and isolated. I devoted lengthy discussion to the *delito/falta* classifications and the use of mediation as flaws of the Nicaraguan Penal Code as well as judicial procedure. I critiqued Nicaragua's patriarchal institutions, from the police to individual judges, as an impediment to full realization of the law. I detailed the variety of ways in which the Colectivo and similar organizations aided victims of abuse and served as mediators between society and the state.

Upon my return, I began to reposition my research and consider its larger implications. As a student of human rights law and advocacy, it was important to situate my fieldwork in Nicaragua with respect to those frameworks. How did the difficulties of

criminalizing domestic violence in Nicaragua line up next to the challenges of expanding international human rights law? Did women's international human rights apply to the violence committed against them in their homes, and if so, did it have any applicability in Nicaragua? What was the relationship between international advocacy and Nicaraguan advocacy; was there continuity in the practical and theoretical conception of 'women's rights'?

The purpose of international human rights law and transnational advocacy is to effect change at the local level. In the absence of a world state, global norms represent only ideals and aspirations, which are consequently snatched up by advocacy networks in order to publicize information, frame issues for general consumption, and put pressure on states from above and below. Law and advocacy are mutually reinforcing at the international level; law helps entrench the rights and values that advocates have long been fighting for and advocates point to law to further legitimize their work. We expect this relationship to 'normalize', so to speak, the language and purpose of human rights and to strengthen the channels between the local and the international, so that states are politically pressured to adopt progressive change and local social movements are greater equipped with the tools to fight from within the state.

I do not deny that these links exist; indeed, at times they operate in very important ways. Chapter One and Two illustrated the variety and complexity of international-local interaction in both the legal and social spheres. Clearly, responses to domestic violence in Nicaragua are intimately tied to norms, discourses, flows of power, and change at the transnational level; simultaneously, a host of factors unique to Nicaragua mediate those responses. This dynamic interplay is essential for understanding how the concept of

women's rights is incorporated and adapted around the globe, yet it has often been overlooked. Instead, narratives of Western human rights hegemony, cultural relativism, and socio-political binaries dominate. The latter two have emerged in response to the former, and with good reason. Third World feminist scholars have rightly criticized First World feminist scholarship and activist strategies for viewing Third World women through a Westernized (even colonial) lens.

There is merit to the argument that white Western feminism has largely been based upon the assumption that individualism and Western socio-political modernization are always liberating forces across the globe (see Bulbeck 1998; Grewal and Kaplan 1994; Mohanty 1991). The result, though, has often been a push to the other extreme, where there is no value to an 'imposed' human rights framework. Problematically, this theoretical approach ends up denying Third World women agency. In an age of globalization, the influence of forces that supercede national borders, particularly Western forces, is undeniable. Rejecting this reality in favor of an indigenous or pure culture/society is close to impossible in today's world of open economies, flows of people and goods, and the dominance of global discourses, the latter of which can penetrate even the most closed and isolated country; moreover, and especially pertinent to this paper, such a rejection implicitly positions Third World citizens as passive recipients of Western human rights. The notion that human rights, to some extent, function as the language of a modern Western hegemony is undeniable. It must be recognized, however, that countries, social movements, political struggles, and even individuals mold and remap the significance and utility of the human rights system on varying terms.

The question of agency is central. The impetus for focusing my field research in Nicaragua on law, as opposed to an array of other angles relating to domestic violence (which, I might add, are generally more studied), was the desire to position Nicaraguan women who suffer from domestic abuse as potential agents instead of merely victims. Studies surrounding the causes of domestic violence and the response of state and civil society are enormously important, yet they end up spinning a web of research *around* what is ultimately most important: the women who are abused and how/if they see a way out of the violence. This project does not provide a direct window to those women, who are the only ones capable of speaking about their experience, but it does try to contextualize the concept of resistance to domestic violence in Nicaragua. Though my chapters are segregated according to whether they address 'legal' or 'social' frames of resistance, those pages should also have made clear that such distinctions are quite blurry.

It is the intersection and overlap of law and advocacy, together with the dynamic relationship between global and local forces, that define the process of criminalizing domestic violence in Nicaragua and create meaning for methods of resistance in national and international terms. The Inter-American Convention, for instance, was dually powerful in Nicaragua as a source of discourse on the one hand and a source of legal legitimacy on the other. Its language shaped the campaign of the Network of Women against Violence to demand a law criminalizing domestic violence, and its status as an instrument of international human rights law, though largely symbolic, lent it the credibility the Network needed to use it as leverage against the state. The Network, and the greater Nicaraguan women's movement, is still more nuanced. Its decision to push for ratification of the Convention is not sufficiently explained as a local movement

adopting international norms. The Network itself is rooted in international attention to violence against women, regional formation of advocacy networks, and Nicaragua's history of mass mobilization and activism at the grassroots. It adopted language from the international arena, but not necessarily with the same meaning, as evidenced by the example of painting doors to publicly shame abusers. Even the ratification of the Convention was, to some extent, a means to an end. The symbolism of international human rights took on concrete dimensions when the Network successfully pressured the state to live up to its commitment under the Convention and pass a Nicaraguan law against domestic violence. That law now hovers in the gap between the state of Nicaragua and its civil society, possessing all the trappings of an institutionalized norm with protection of the state yet being supported tenuously by a women's movement fighting against *machismo*, poverty, weak institutions, and the maddeningly slow pace of social change.

The scope of this project is both overwhelming and specific, ranging from the evolution of international law to the details of the Nicaraguan penal code. The preceding paragraph hints at the enormous messiness of stepping back and surveying this project as a whole. The links I have fleshed out, whether between law and advocacy, international and domestic law, or Nicaragua's women's movement and a transnational women's movement, are both obvious and abstract. That is, recognizing that such connections exist does not provide a clear answer as to their significance, theoretically and practically, or even a justification for the intellectual pursuit of revealing them. Why put Nicaragua in dialogue with international human rights law and transnational activism? Does it make

sense, intellectually, to alternate between micro and macro perspectives, as I have done throughout this paper?

To some extent, these questions that probe my somewhat unusual methodology form the crux of this project. As I stated early on, one of the motivations for this paper was the seeming dearth in scholarship on Nicaragua's relationship to the international human rights system, as well as more generally the practical implications of human rights implementation in domestic contexts. In an attempt to address this gap, my approach has been layered; different theoretical models have been introduced, though none adopted wholesale, and much of my analysis has shied away from theory entirely. The following sections discuss different aspects of this project with the aim of providing cohesion to the preceding chapters and reflecting on what the project as a whole contributes.

II. ...y que significa la Nicaragua?

At this juncture, having extended the discussion far beyond the borders of Nicaragua, it is time to bring the analysis full circle. It was important to me, when I began this project, to stay rooted in my field research. This meant returning to my interviews and observatory notes at every stage of the process to ensure that the experiential quality of domestic violence resistance in Nicaragua never ceased to be the central reference point. In Chapter One, it was essential that my broader examination of international law did not eclipse the specificity of my legal research in Nicaragua, where the *delito/falta* classifications and use of mediation are not insignificant details but rather the crux of how domestic violence criminalization plays out. Chapter Two narrowed to hone in on

and situate the Nicaraguan women's movement, but the sharp turn in voice and style in Chapter Three that shed much of the theory and transnational perspective of the previous two chapters is most indicative. This shift, which embodies my unconventional methodology, was absolutely critical to the goal of building the project around Nicaragua instead of the other way around.

The conclusions to be drawn in this respect, as I see them, are twofold. To start, there are very concrete lessons to be learned from my fieldwork concerning legal reform of the penal code and judicial system. A balance must be struck between attention to the gendered aspects of domestic violence and the need for legal continuity and equality before the law. The use of mediation and problematic classification system clearly undermine domestic violence, lending credibility to advocates who claim domestic violence should be legally equated to all other forms of. Indeed, as it stands now, the law is structured to reinforce discrimination by drawing distinctions based on the identities of aggressor and victim. On the other hand, the some women's advocates cringe at the thought of drawing legal equations irrespective of gender, arguing that law *blind* to gender can be equally problematic. The main criticism of mediation is not the theory behind it—indeed as I mentioned in Chapter One it may represent a viable alternative to the traditional judicial system—but rather the fact that in Nicaragua it treats aggressor and victims as equals, an equation fundamentally at odds with the power dynamic embedded within intimate abuse. The Network of Women against Violence, having achieved the passage of law 230, must turn its efforts to pushing for further reform. If it does not, the law will retain enormous limitations that will prevail even as society

continues to confront and reject domestic violence and women are more equipped with the consciousness and tools to leave violence homes.

At another level are the institutional barriers that frame my research in Nicaragua, from a weak and ill-equipped police force to the many obstacles that arise from widespread poverty. These barriers are so deeply entrenched that it is impossible to speak of domestic violence law without including them, a reality that informs every aspect of the work of the Colectivo and similar organizations. Scholarly work on human rights, as exemplified by Merry's book, often views 'culture' and 'society' as the sole arbiters of human rights implementation. From Latin America to the Middle East, male dominance over women is cited as the primary, and sometimes the only barrier to achieving women's rights. This is certainly an important factor in Nicaragua, but it does not operate alone as an impediment to progressive change regarding violence against women. The presence of widespread poverty, weak infrastructure, poorly funded civic activity, and unstable institutions all play critical roles in the negotiation of women's rights in developing countries, Nicaragua among them. Merry's analysis, though it employs case studies, only examines countries' negotiation of international human rights in the context of U.N. conferences and other international gatherings, thus relying heavily on countries' *excuses* for noncompliance, which are often culturally based. The practical nature of implementing laws and institutions compatible with women's rights is untouched.

Nicaragua is case in point that such a framework is inadequate. Even as attitudes change slowly in the country, allowing women greater autonomy from men and breaking the taboo surrounding domestic abuse, fundamental obstacles remain. Recall the woman in the police station who was waiting for hours to report her broken arm; and the young

girl and her family being picked up and driven to court because a taxi was out of the question; and the members of the Public Ministry that classify domestic abuse and *faltas*; and the judges that advise mediation. The culture of *machismo* is threaded through these barriers to some extent, but it is not constitutive of the challenges facing Nicaragua; indeed, only a small part of the fight against domestic violence is occurring on the so-called 'culture' front. Scholarship on human rights and transnational activism that does not delve below the surface of cultural differences will be woefully unprepared to understand how processes of incorporating human rights at the national and local level are occurring.

III. Critiquing Theory, Moving Forward

Throughout this paper, I have relied on the important contributions of scholarship concerning transnational activism and the implementation of international human rights in local contexts, both critical themes in my research. Margaret Keck and Kathryn Sikkink's notable work on transnational advocacy networks and Sally Engle Merry's scholarship on the process of transplanting international law on violence against women into locally specific contexts both provide excellent frameworks. Keck and Sikkink's work grounded the conceptualization of international women's activism, lending a language and historical framework to make sense of a seemingly abstract entity. Merry, for her part, digs deeply into the question of how cultures adopt and mold international discourses to fit local narratives, avoiding essentializing claims to complete 'internationalization' or 'localization' of human rights, so to speak.

The books that established these ideas were groundbreaking at the time. The concept of transnational advocacy has been expanded upon since the late 1990s as our so-called ‘global civil society’ has blossomed. Merry’s book, which came out in 2006, is still, to my knowledge, unmatched in the depth of its attention to both specific case studies *and* overarching theory. My analysis rests to some extent upon both these theories, particularly Merry’s basic methodology, yet it also calls certain aspects of them into question and enters new territory.

Keck and Sikkink describe transnational advocacy networks as “reciprocal and horizontal” in nature (8), an attribution I appreciate because it acknowledges the active participation and influence of local and national networks in the developing world. Indeed, the types of relationships to which Keck and Sikkink refer are exemplified by the collaboration between the Inter-Collective and WCCN, where the substance and method of resistance to violence was dually rooted in Nicaraguan and American activism. The result of that transnational connection demonstrated its hybridity: the Western institution of the domestic violence shelter melded with the Nicaraguan communitarian concept of violence against women.

That said, the case of the WCCN also indicated the unavoidable financial dynamics embedded within transnational networks, a factor in no way unique to that specific relationship. Leaving the poverty of most Nicaraguans behind, it cannot be overemphasized the extent to which restrictions on state spending have strangled the public sector. When I left Nicaragua in May of 2006, primary school teachers in Matagalpa were on a hunger strike to protest stagnant, pitiful wages; emergency room doctors burned contracts for television cameras with a similar complaint. While these

activities caused many agitated rants against the government, there is no getting around the fact that the government's hands are tied in so far as IMF policies exercise extreme restraints on budgetary discretion. A state that can barely pay its teachers and doctors will be hard pressed to find a penny for civil society. Add to that a dearth of foundations and native philanthropists and it is easy to see why Nicaraguan NGOs are wholly dependent on international funding.

This reality is a serious challenge to the notion of horizontal and reciprocal interaction, or at least a modification of that notion. It does not nullify the existence of horizontal, reciprocal relationships between the developed and developing world; on the contrary, I would maintain that the project of the Collective and the WCCN is aptly characterized as such. Nevertheless, Keck and Sikkink's cursory attention to financial flows is problematic. Even where the process of transnational activism is negotiated on mutually beneficial and participatory terms, as it was in Nicaragua, the underlying effects of a financially asymmetrical relationship cannot be ignored. The pursuit of particular projects, adoption of certain discourses, and organization of local actors may all be influenced by the preferences of donors, whether those preferences are explicit, implied or merely imputed. Sonia Alvarez's analysis of the institutionalization of Latin American feminism, discussed in Chapter Three, comes to mind. The move away from grassroots mobilization to the structured organization of the NGO may have also been influenced by the emergent need for (and greater availability of) international funding. Conforming to the international model would have made Latin American feminist activity more appealing to donors, particularly in the 1970s and 1980s when Cold War fears of socialist revolution would have colored American perceptions of popular movements.

The lack of attention to the financial component of transnational advocacy networks is, in some respect, representative of a greater failing in Keck and Sikkink's work. They state quite broadly that networks play an important role in making available resources, material and otherwise, to "new actors in domestic political and social struggles" (1) with almost no further discussion as to what that interaction looks like. Granted, Keck and Sikkink's goals are more theory oriented than they are grounded in a region or particular issue area, and this is not necessarily a shortcoming. However, if the purpose of these networks is to effect change at the national level, which Keck and Sikkink acknowledge, how can we meaningfully discuss them in isolation of the relationships they form with regional, national or local social movements/organizations?

This question brings me back to the point I made in Chapter Three concerning the tradeoffs of different methodologies. Keck and Sikkink offer an important starting point for understanding transnational activism, structurally and historically, but it cannot take us much further. Their book is a blueprint of sorts, which can be held up next to the nuance and complexity of research like my own and tweaked to conform, but its capacity to add depth to analysis is limited. International human rights scholarship must take a hard look at this reality and question the tenet that has continued to characterize its research, that is the propensity to begin theorizing at the international level and then turn inward. Keck and Sikkink provide the term framing to describe the process of packaging ideas to create meaning, a critical factor in advocacy at all levels. I would extend that idea to scholarship itself in so far as situating case studies in the context of predetermined theory offers a limited discourse and conceptual library for understanding those case studies.

The methodology I explored in this project offers an alternative by starting locally and then looking outward to the international dimensions, that is by using Nicaragua as a focal point instead of as an example. The question of how the international system plays out in states and communities has been asked too many times and the answer is too often a list of ratified documents and new institutions; it is time to reverse the terms of the discussion and ask how the specificity of states and communities leads to unique and dynamic relationships with domestic and transnational actors.

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