

# Aspirational Laws as Weak Institutions: Legislation to Combat Violence against Women in Mexico\*

Mala Htun<sup>†</sup> and Francesca R. Jensenius<sup>‡</sup>

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In the past four decades, governments around the world have embraced principles of gender equality. Democratic transitions, feminist movements, international norms, lobbying by politicians, partisan competition, technocratic decision making, regional and global diffusion, and varying combinations of these and other factors have pushed countries to grant women and other marginalized groups equal rights and greater recognition. Their efforts have resulted in the granting of new rights, reform of laws, and adoption of policies in many areas, including violence against women, maternity and parental leave, presence in political decision making, egalitarian family law, abortion, reproductive health, and workplace equality. Changes in the past four decades amount to a “rights revolution” in the name of gender equality (cf. Epp, 1998, Skrentny, 2002).<sup>1</sup>

One of the areas where the most change has been made *on paper* in Latin America is legislation related to violence against women (VAW). Normative and conceptual changes on VAW have been codified in bodies of international law, such as the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (the Belém do Pará Convention), as well as in the national legislation of different countries. In the 1990s, some 14 countries adopted legislation on domestic or intrafamily violence. Then, in the early 21st century, many Latin American countries adopted “second generation” laws to prevent and punish additional forms of VAW (such as economic violence), and provide services to victims, within the context of addressing women’s broader cultural and social

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<sup>†</sup>Professor of Political Science, University of New Mexico. E-mail: [malahtun@unm.edu](mailto:malahtun@unm.edu)

<sup>‡</sup>Senior Research Fellow, Norwegian Institute of International Affairs. E-mail: [fj@nupi.no](mailto:fj@nupi.no)

<sup>1</sup>Not all countries have adopted every policy, however. There is significant cross-national variation in the timing and extent of change (see [Htun and Weldon, 2018](http://Htun and Weldon, 2018)).

subordination.

Feminist and human rights movements have heralded these legal changes as achievements in women's advancement, and a significant amount of research has examined the conditions giving rise to such legal and policy reform (see, e.g., [Weldon, 2002](#), [Smulovitz, 2015](#), [Htun and Weldon, 2012](#), [Franceschet, 2010](#)). At the same time, many provisions of VAW laws are poorly implemented and weakly enforced. The gap between the letter of the law and the actual practices of social actors and state officials raises concerns about whether legislation on violence against women is merely another weak institution.

In this chapter, we argue that laws on VAW are part of a broader category of *aspirational* rights, which aim to change society. Aspirational rights do not reflect societal changes already achieved, but project a vision of an ideal and future democratic, inclusive, and egalitarian society. Laws on VAW are aspirational in that they attempt to change status hierarchies that privilege men and masculinity and subordinate women and femininity ([Fraser and Honneth, 2003](#); [Weldon, 2002](#); [Htun and Weldon, 2012](#)). In so doing, these rights confront deeply entrenched social norms guiding the behavior of citizens as well as state officials. Aspirational rights can therefore not be expected to have immediate effects, nor will it be possible to 'activate' them overnight.

We explore the ways in which VAW legislation in Latin America, as well as aspirational rights more broadly, can be characterized as weak institutions. In the introduction to this book, Brinks, Levitsky, and Murillo argue that some laws and regulations remain weak because they maintain the *status quo* (irrelevance), keep changing to conform to the interests of powerful actors (instability), or are the result of different forms of noncompliance (when people ignore the institution). They distinguish between noncompliance *from above*, including weak state capacity and deliberate choices by state officials not to enforce the institution, and noncompliance *from below*, which involves societal resistance to, or non cooperation with, the institution.

Based on evidence from Mexico, this chapter argues the institutional weakness of VAW legislation is attributable to a combination of deliberate official choices (noncompliance from above) and societal resistance (noncompliance from below). In spite of two decades of institutional development to combat VAW, the perpetrators of violence keep violating, the victims of violence do not report abuse, and state officials, who are also embedded in society, tend to resist implementation of the law. Unlike other cases studied in this volume, however, patterns of societal resistance are not just a matter of strategic decisions or principled disobedience. Rather, people fail to comply because the laws confront ideas and practices that

are normalized, and behavioral patterns that may take a long time to change. Noncompliance is the product of sticky social norms. Many accept the social hierarchies conductive to violence and believe that intimate partner violence is primarily a private matter that should not been discussed publicly.

In this chapter, we develop the idea of VAW as an aspirational right by drawing on data from the Mexican National Survey on the Dynamics of Household Relations (ENDIREH) from 2011. This survey of more than 150,000 women across Mexico contains questions on ideas about and experiences of different forms of violence; reactions to violence; and experience with actions taken by state institutions such as the courts, police, health services, and municipal governments. We use the survey responses to evaluate the degree of compliance with the 2007 Law on Women's Access to a Life Free from Violence, and complementary state-level legislation, on the part of violators, victims, and state officials. Since the survey respondents are all women, we present data on the experiences of violence and reactions as reported by victims of violence – indirectly also getting information about the actions of violators and state officials.<sup>2</sup>

Our analysis demonstrates that noncompliance is pervasive: a striking number of women report different forms of violence originating from their intimate partners, including physical abuse. Though most women know about their legal rights to a life without violence, many of them are unable or unwilling to step forward to claim their rights when such rights have been violated. Significant numbers of women seem to excuse and normalize intimate partner violence. Even among women who state that they consider violence to be wrong, many believe it is a matter that should stay in and be resolved by the family. This noncompliance may also be strategic, since denouncing an intimate partner carries significant emotional, financial, and personal risk. We see evidence of noncompliance with the law by state authorities too. Among those women who do report physical abuse to the authorities, a large minority say that the state authorities they approached did nothing about their complaint, and a few say that the state authorities humiliated them.

Our analysis also shows that the likelihood of being a victim of violence, of reporting violence, and knowing about the law, varies significantly across social groups. In other words, VAW legislation is *de facto* a weaker institution for some women than for others. Different groups of women are more and less knowledgeable about their rights, and have different access to resources that allows them to claim their rights. This intersectional perspective serves

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<sup>2</sup>In this way we treat the surveyed women both as respondents and as *observers* of the behavior of their violators and state officials (cf. [Calvo and Murillo, 2013](#), p.856; [Levitsky and Murillo, 2009](#), p. 129, fn. 6).

as a reminder of the importance of considering heterogeneity in the analysis of institutional weakness, and allowing for the possibility that institutions can be weak for some people in some contexts and strong for others in other contexts.

The chapter proceeds as follows. In section 1 we define the concept of aspirational rights. Then, we characterize the right to be free from VAW as an aspirational right, distinguish it from other types of legal gains made by women in Latin America, and discuss how aspirational rights can be seen as weak institutions. Section 2 sketches the evolution of Mexican laws on VAW. Section 3 introduces the survey data we use and presents findings demonstrating the major law-practice gap in violence against women. Section 4 concludes with thoughts about the uneven institutionalization of the women’s rights revolution.

## 1 A life free from violence as an “aspirational right”

Our objective in this chapter is to explore challenges to the enforcement of aspirational rights, with a focus on VAW legislation. We understand institutions as “humanly devised constraints that structure political, economic, and social interaction” (North, 1990), and institutionalization as the process by which these constraints take hold in society. As Brinks, Levitsky, and Murillo discussed in the introduction, institutions can also be thought of as “a set of rules that structures human behavior around a particular goal,” and the strength of institutions can be evaluated by looking at their ability to change societal outcomes.

Legislation on violence against women seeks to modify society’s *status hierarchies*, or patterns of cultural value that elevate men and masculinity and subordinate women and femininity (Fraser and Honneth, 2003; Ridgeway, 2001). Under the terms of the status hierarchy, men are worthy of rights, respectable, and normative while women are cast as the “other” and lacking in value. VAW is attributable not only to individual pathologies like aggression or alcoholism but to cultural patterns and values that subordinate women as a status group. These underlying values and assumptions enable violence against women in the home and in the street, by intimate partners, family members, bosses, co-workers, and strangers (Heise, 1998; Weldon, 2002; Htun and Weldon, 2012; True, 2012; Garcia-Moreno et al., 2006; MacKinnon, 1991).

The process of deconstructing and reconstructing status hierarchy is long and difficult. It may take generations. In this context, one purpose of new legislation on VAW is to cultivate, foster, encourage, and lend legitimacy to the ongoing struggle for social change. VAW legislation also establishes guidelines for the behavior of state actors to improve their

handling of episodes of violence and their treatment of people who have experienced violence. This top-down responsibility for change is symbolically important; it can also deter violations and provide an incentive for victims to report violations.

We conceptualize the right to a life free of violence as an *aspirational* right.<sup>3</sup> Aspirational rights project a vision for social change; they aim to push society in a democratic and egalitarian direction. They are “expressive” laws that uphold fresh meanings and paradigms of social interaction, unsettling old equilibria and orienting people toward new patterns of behavior (Geisinger, 2002; McAdams, 2000).

Our concept of aspirational rights differs from some previous usage. Many scholars distinguish between “aspirational” rights, which are not enforceable, and “justiciable” rights, which can be claimed in court (on the distinction between aspirational rights and justiciable rights, with coding criteria, see Jung et al., 2014, p. 5). Historically, social and economic rights (such as the right to education, health care, housing, water, food, and so forth) have been categorized as aspirational, while civil and political rights (such as freedom of speech and religion, the right to due process, the right to vote, etc.) were seen as justiciable. For example, countries that ratify the International Covenant on Civil and Political Rights must enforce such rights immediately, whereas those that ratify the International Covenant on Economic, Social, and Cultural Rights must commit themselves only to *work toward* their realization (Harvey, 2004; Wiles, 2006, p. 109). This historical distinction is less relevant today. Over the course of the 20th century, not only have social (and economic and cultural) rights become increasingly common in national constitutions, they are also more likely to have justiciable status (Jung et al., 2014).<sup>4</sup>

Nor does our understanding of aspirational rights map onto the distinction between negative and positive rights or liberties. In Berlin’s classic distinction, negative rights protect individuals from constraints or obstacles on autonomous action (like “hedges” or “shields”), while positive rights refer to the possibility or opportunity to realize a certain purpose, usually made possible through entitlements or expenditures. Holmes and Sunstein (2000) criticize the negative-positive distinction as incoherent, and conclude that, since all rights require resources to be realized, all rights are positive. Rights pertaining to VAW is a good example of their argument since – though the right to be free from violence amounts to

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<sup>3</sup>Right, here, is defined as a “legitimate claim.” This definition contrasts with the Weberian one used by, among others, Brinks (2008, p. 19), who defines a right as “an increase of the probability that a certain expectation of the one to whom the law grants that right will not be disappointed.”

<sup>4</sup>The mechanism of the *tutela*, for example, enables individuals to demand in court that the government protect their rights.

a “shield” against assault and abuse – most countries seek to realize this right through proactive measures such as training for law enforcement, support for victims, and public education.

We do not consider aspirational rights to lack enforceability. They can be enforced, at least in theory. Rather, the key characteristic of aspirational rights is their depiction of a reality with a different set of social norms and practices. Such rights are goal posts, stakes in future developments, and guides to the process of social change. They intervene in existing distribution of social power on the side of marginalized and vulnerable citizens (cf. [Brinks, 2008](#)).

VAW legislation is aspirational because it aims to orchestrate a radical transformation in the underlying, institutionalized patterns of cultural value that define men and women, and masculinity and femininity, in hierarchical relations, not to mention the constitutive and exclusionary power of these binary categories (see [Butler, 2004](#)). The existence of VAW legislation signals the achievement of a normative and discursive consensus among diverse sectors of society that violence should be eradicated, that ending VAW requires recognition of women as equals, and that women’s bodies, ideas, names, and practices should be included in notions of the “universal,” the “nation,” and “humanity.” These ideas about VAW and women’s status are also socially desirable for elites: they are well established in international human rights law and the discourse of democratic legitimacy. Civilized states, and state actors that want to participate in the global community, need to uphold them, at least rhetorically ([Frias, 2013](#); [Towns, 2010](#); [Frías, 2010](#); [Htun, 2003](#); [Keck and Sikkink, 1998](#)).

The aspirational quality of VAW does not characterize all rights won by women as part of the “rights revolution.” Unlike other women’s rights issues, changing laws on VAW did not require defeating an entrenched opposition, as it was not perceived directly to contradict the tenets of religious doctrine. Reform on other issues which involved conflicts between the government and religious institutions, such as divorce and abortion, were possible only when governments were willing to confront ecclesiastical authorities ([Htun, 2003](#)). Nor did change on VAW require state-sponsored socioeconomic redistribution. Unlike publicly-funded parental leave and child care, which involve state action to shift the respective roles of state, market, and family for social provision, reform of VAW legislation did not involve the mobilization of Left parties against business opposition ([Htun and Weldon, 2018](#)). In these other cases, legal change took a while to accomplish, and, by the time it was achieved, the law caught up with social practices that had already been established. VAW laws are aspirational in that that legal change *precedes* social change.

## 1.1 Aspirational rights as weak institutions

Open to popular participation and keen to cultivate legitimacy, many new democracies enacted aspirational rights and other legal norms that were far more egalitarian and progressive than actual social norms and practices (Brinks and Botero, 2014; Frías, 2014; Levitsky and Slater, 2011). Though aspirational rights usually reflect a broad consensus about values and principles appropriate to a democratic society, they have “ideational rather than material roots” and they may therefore “rest very lightly and uneasily on the surface of society” (Brinks, 2008, p. 4). Often, rights that aim to combat inequality, reduce marginalization, and promote inclusion, were introduced in response to international norms and pressures. They responded more to the moral appeals than to the actual power of subordinate groups (Frias, 2013; Brinks and Botero, 2014; Towns, 2010; Frías, 2010; Levitsky and Murillo, 2009). Aspirational rights haven therefore been talked of as weak or “window dressing institutions” that “power holders have an interest in keeping [...] on the books but no interest in enforcing” (Levitsky and Murillo, 2009, p. 120).

In their contributions to this volume, Amengual and Dargeant, and Holland, suggest that weakness of institutions – including laws on VAW as well as provisions against child labor, pollution, regulations of worker health and safety, protection of public spaces from squatting and invasion, etc. – primarily stems from strategic calculations. State actors choose to avoid the costs associated with enforcement. Amengual and Dargeant, for example, argue that “standoffish” states may be deliberately indifferent to social problems and the laws intended to solve them, particularly when enforcement brings little political gain. In a context of competing demands on resources, state actors elect to avoid the costs of reallocating resources and alienating groups that benefit from non-enforcement. Under such conditions, “social pressures are required to overcome [state] indifference” and impose costs for non-enforcement (Amengual and Dargeant, this volume).

Holland’s analysis of coercion gaps portrays a collective conspiracy not to enforce the law, particularly when the poor bear the brunt of enforcement. Even when politicians and citizens generally agree that a particular law serves the public interest, they may oppose the application of sanctions against violators. For example, laws against squatting promote rational, longer-term urban planning and may thus improve service delivery to the poor. But in the short term, enforcing the law by evicting squatters inflicts visible misery on poor families, and looks bad to voters. Holland notes that three-quarters of Bogotá residents surveyed condemned squatting, while one-half found evictions to be too harsh. She concludes that there may not be a “coherent, stable societal preference” against which to judge the

efficacy of institutions (see Holland, this volume).

As this suggests, weak institutions are not just a matter of weak state capacity or ineffectively formulated legislation. Noncompliance with institutions involves resistance on the part of state and societal actors. Amengual and Dargeant suggest that resistance involves a strategic response to power asymmetries: state officials choose to enforce when actors are powerful enough to impose costs for non-enforcement. Holland shows that people may not want, or at least be ambivalent about, the enforcement of punitive laws. In this chapter, we show that societal resistance may involve another dimension: sticky social norms. People's habituated behavior is a major factor behind noncompliance with VAW legislation. Sticky norms produce contradictory perceptions of violence: people condemn violence while simultaneously normalizing and excusing it. This fraught normative terrain informs women's beliefs about experiences of violence, their decisions to make reports to state authorities, and the ways that police officers, social workers, prosecutors, and medical personnel treat victims.

The objective of aspirational rights is to fashion new norms. Aspirational rights are therefore by construction weak institutions, and characterized by a large gap between the law and social practices. In the case of legislation intended to prevent, punish, and eradicate violence against women, institutional weakness may manifest itself in at least five ways.

First, noncompliance with the spirit of the law may be pervasive. Though the law condemns and stipulates punishments for violence, specifies that survivors are to be treated a certain way, and mandates the creation of systems of prevention and treatment, women may continue to experience violence in both the public and private sphere.

Second, there may be a discrepancy between what the law considers "violence" to be and the concept of violence according to social norms. Hardly anybody believes that "intimate partner violence" is a good thing. However, people may not consider forced sexual encounters to be "violence" because they consider it the obligation of a woman to sexually satisfy her partner. They may also perceive mistreatment to be justified if a woman talks back to her partner and fails to do what he says, since men are supposed to be in charge. For example, Mexican civil laws on marriage historically upheld both of these aspects of marital power ([Htun, 2003](#); [Frias, 2013](#)).

Third, even when a woman is deeply concerned with the violence she experiences, she may have been socialized to believe that violence is a normal part of intimate relationships. The idea that intimate partner violence is a family or private matter, and not a public concern, has deep historical roots in many parts of the world. In Latin America, criminal codes

had historically privatized and condoned violence against women. Under the Philippine Ordinances, which the Portuguese brought to rule colonial Brazil, “honor” was considered a juridically protected good, the defense of which was an exculpatory factor in serious crimes. Therefore a man who murdered an adulterous wife in order to protect his honor was not subject to criminal penalties (Barsted, 1994). Even after the criminal code was reformed formally to remove the honor defense, it continued to be used by defense lawyers and accepted by juries into the late 20th century (Project, 1991). The persistence of beliefs that VAW is a matter of private shame and not a public violation imposes an enormous hurdle to reporting, which many people – especially women in a sexist society – are too ashamed or unwilling to bear.

Fourth, women may choose to under-report violence because they fear the consequences of reporting. Women may be afraid that reporting violence and the penalties that might ensue will undermine the financial well being of their families and put their relationships with other family members and neighbors at risk. The costs of enforcement are borne not only by the aggressor who gets thrown in jail. The woman who reports also incurs costs, as she risks disbelief and demeaning treatment by the authorities, retaliation, and getting ostracized by her family and community (Frías, 2010, p. 546). Many people judge that it is in their interest not to report tend to minimize the importance of violence that they experience. Complying with the law is seen to be worse than contributing to its violation.

Finally, when women do come forward to report they may be met with either no action or ridicule by legal and social service authorities that results in their revictimization. Law enforcement authorities often fail to take claims of partner violence seriously, and have even advised women to have sex with their violent partners in order to resolve the conflict. Most of the dozens of practitioners interviewed by Frías (2010, p. 546), for example, reported that intimate partner violence is reduced to a matter of sex. These responses show that local-level state officials themselves are embedded in a culture condoning violence against women.

In other cases, non-response may be attributable to “standoffish” state officials that acknowledge VAW as a problem, but fail to take action because they see little to be gained by doing so. Women victims of violence have not been an organized constituency able to deliver rewards on election day. Only when the media, feminist movements, and human rights groups raise the cost of non-enforcement by helping voters to see the extent of unsolved crimes, state coddling of violators, poor treatment of victims, and so forth will they make moves toward enforcement. This dynamic seems to describe the history of state action against *femicídios* (homicides committed against women) in Chihuahua, when massive civic

mobilization raised the cost of doing nothing, as well as state action against violence in Veracruz (see more below). The “standoffish” perspective also explains why the contemporary #metoo movement compelled many prominent men in the public and private sectors to resign their positions in the face of allegations of sexual harassment and rape. In the context of high public attention and the mobilization of women as voters, consumers, and investors, doing nothing became too costly.

In any given context we may observe one or several of these manifestations of VAW legislation as a weak institution. What is more, though aspirational rights might be weak institutions overall, they may not be *equally* weak for all social groups. The efficacy of rights typically varies according to the resources of claimants and the extent of state investment (Brinks, 2008; Brinks and Botero, 2014; Levitsky and Murillo, 2009). People who claim their rights typically need to have resources that enable them to engage the legal system, hire lawyers, produce legally-relevant facts, travel to court, take time off of work, and so forth (Brinks, 2008; Brinks and Botero, 2014; Galanter, 1974). Marginalized citizens, who by definition lack power and resources, require networks of support to compel state actors to enforce their rights. Over time, gaps among women may even grow, as women with more resources are in a better position to take advantage of changes in the law and access to social services than their more disadvantaged counterparts (cf. Galanter, 1974). We should therefore expect to observe that women with more education and resources both to be less likely to be victims of violence and more willing to report violations.

By conceptualizing VAW legislation as an aspirational right, we have suggested that it is weak by construction. But after a while, even if aspirational rights have succeeded in bending social norms, they may still be perceived as weak if they achieve the type of “taken-for-granted” status that sometimes happens to rules and regulations that change social norms (see the introduction on this point). In thinking about the institutional strength or weakness of such legislation, it is therefore crucial to evaluate them in a long-term perspective, focusing not on the counterfactual case of the world without this legislation today, but rather on a world without this legislation altogether.

## 2 Law and Policy to Combat VAW in Mexico

The global feminist movement began to raise awareness about VAW in the 1970s, around the time of International Women’s Year and the global women’s conference held in Mexico City in 1975. In Mexico, feminists demanded the first legal reforms in 1978, which would have

redefined rape and provided targeted services to victims (Stevenson, 1999). Beginning in the 1980s, some states established centers to receive victims of violence. Following a scandal of over a dozen rapes perpetrated by bodyguards working in the Mexico City Attorney General's office, a coalition of feminist NGOs pushed for more services and for changes in legislation. During the presidency of Carlos Salinas (1988–1994), the government began to take action on rape. Under existing legislation, the maximum penalty for rape was five years, and a rapist could pay a fine to avoid going to prison (Beer, 2016). Pushed by a coalition of women federal deputies allied with the feminist movement, Congress reformed the criminal code to increase penalties for rape, to broaden its definition, and to reform archaic components of the law such as the requirement that a woman be “chaste” in order to be raped (Lang, 2003, p. 75).

The same alliance between feminist groups and women in congress pushed for another series of reforms later in the 1990s at the federal level and in Mexico City, including the criminalization of marital rape, affirmation of women's right to be free from violence, and the inclusion of violence as a ground for divorce (Beer, 2017). The criminalization of marital rape marked a major normative victory, for previously, many groups assumed that sexual relations constituted a woman's marital obligation. Following the example set by the Federal District, between 1996 and 2006, 29 of 32 states adopted legislation to combat intra-family violence.<sup>5</sup>

This “first generation” of laws were focused almost exclusively on domestic or intra-family violence, not on the range of phenomena we today think of as “violence against women” (cf. Weldon, 2002). And they were contradictory, aiming on the one hand to protect the sanctity of the family (a nod to conservatives) and on the other, to apply state power to protect vulnerable family members from abuse (Frías, 2010). Their goal was not a normative shift so much as an effort to help victims, adopt prevention programs, and to channel conflict resolution through administrative procedures rather than the criminal justice system, and therefore further the goal of family unity. Indeed, the need to protect the family as the “origin of the social community” was the declared objective of the law in some states (Frías, 2010, pp. 543-45). In practice, state officials from the Department of Family Development charged with implementing violence prevention programs viewed their mandate in similar terms: rather than viewing violence as a crime, they saw it as a conflict they needed to overcome by reconciling the partners (Frías, 2010; Lang, 2003).

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<sup>5</sup>This legislation involved the administration of social assistance, not modifications to civil or criminal codes. The new laws regulated the actions of state agencies with regard to the prevention of family violence and assistance to victims (Frías, 2010, p. 544).

As movement toward inter-party competition, civic participation, and public dissent accelerated over the course of the decade of the 1990s, the state's approach to VAW (and other issues emphasized by feminists) changed. Under the influence of the feminist movement and feminist legislators primarily from Left parties, state discourse on the family became less centered on the conservative discourse of family unity. It emphasized the plurality of types of Mexican families, the need to recognize the individual rights of family members, and a more egalitarian division of domestic responsibilities ([Lang, 2003](#), pp. 81-82). In the Federal District, ruled by the opposition Leftist PRD after 1997, official discourse on VAW shifted: no longer were women referred to as "victims," but rather as "women who experience situations of violence," in order to preclude social stigmatization and to emphasize their capacity for autonomous choices ([Lang, 2003](#), p. 83).

Starting in the 1990s, the northern city of Ciudad Juarez suffered a wave of *femicidios* (femicides, or murders of hundreds of women), which brought worldwide attention to the problem of violence against women in Mexico. Human rights organizations widely condemned the state's failure properly to investigate the crimes, tendency to blame murder victims for their plight, its lack of transparency and accountability, and the poor treatment of victims' families ([International, 2003](#)). Families of victims appealed to the Inter-American Commission of Human Rights, and then the Inter-American Court, which found that the government's negligence contributed to a climate of impunity which encouraged more violence ([Beer, 2016](#)).

By the second half of the first decade of the 21st century, regional and international intervention, feminist activism, and public outrage spurred additional governmental actions. The federal congress adopted a law to prevent and eliminate discrimination in 2003 and a law on the equality between men and women in 2006. Then, in 2007, three women legislators from the Leftist PRD party and the centrist PRI party authored and proposed comprehensive legislation on VAW. The "General Law for Women's Access to a Life Free from Violence" was then approved under a presidential administration governed by the rightist PAN party. Unlike the first generation laws on violence, this legislation recognized multiple forms of violence in public and private spheres including physical, psychological, sexual, economic, institutional, community, and femicide, as well as family violence. The law was meant to coordinate and support, across different states and local governments, efforts to prevent, punish, and eradicate VAW. It required states to revise their legislation on VAW to conform to federal standards within a six month window and established a system to monitor their progress.

By 2010, all of Mexico's federal units had issued some form of new legislation, though with varying levels of enthusiasm (Ramírez and Echarri, 2010, p. 30). Beer's case studies (Beer, 2017, pp. 522–24) show that in most cases, alliances of feminist groups and women politicians from center and Left parties constituted the impetus behind the legislation, with some exceptions. In Chihuahua, site of the horrific episodes of femicides, a woman politician from the rightist PAN party promoted VAW legislation, which was adopted the year before the federal law. Guanajuato, which was also governed by the PAN, was the last state to adopt VAW legislation (in 2010). Women from the PAN were divided: some sponsored VAW legislation, while others led the opposition to it (Beer, 2017, p. 523). Beer's quantitative analysis across states reveals that neither the partisan composition of the legislature nor the share of seats held by women was associated with more and less comprehensive legal approaches. However, the strength of the feminist movement was significantly correlated with the comprehensiveness of state-level legislation and its implementation (Beer, 2017, p. 529, Table 3) conforming to Weldon and Htun (2012, 2018) and Weldon's (2002) cross-national findings about the correlates of VAW legislation across countries.

The new legislation contains mechanisms to raise the costs of non-enforcement. The system of *alertas de violencia de género* (gender violence alerts) is meant to publicly announce episodes of non-enforcement and to put local and state authorities on notice. Either they take action to protect women and punish aggressors, or risk further public shaming, which could carry an electoral cost. In Veracruz, public outrage and media attention put pressure on the state government to change its approach from actively ignoring numerous episodes of rape to attempting to enforce the law (Krauze, 2016). At the same time, feminist movements successfully compelled the federal government to issue a gender violence alert, in which the Interior Ministry (Gobernación) commanded the state authorities to take various measures to prevent more violence, including increased security patrols in public spaces and public transport, video surveillance, better lighting, as well as services to victims and longer term strategies to promote cultural change (de Gobernación, 2016).

### 3 Survey data on compliance with VAW laws

To gauge the compliance with, and enforcement of, the 2007 Law on a Life Free from Violence and similar state-level legislation, we look at data from the Mexican National Survey on the Dynamics of Household Relations (ENDIREH) from 2011. This survey was designed and implemented by National Institute of Statistics and Geography (INEGI) in collaboration with

the National Women's Institute (INMUJERES), with the purpose of learning more about the prevalence and forms of violence against women in the home and at their work place. The survey asked questions that were meant to capture various forms of violence, including physical, psychological, sexual, and economic abuse. The forms of violence covered in the survey correspond to the different types of violence contemplated by the 2007 gender violence Law.

For this survey, some 128,000 households were sampled from across Mexico, 4,000 in each of the country's 32 states. The sample was chosen to be representative of each state, and also to be representative of urban and rural areas across the country.<sup>6</sup> In each of the sampled households, one key person was asked to respond to questions about all the individuals living in the household. This was done to identify all women aged 15 or older, and each of these women were then interviewed individually. The final sample interviewed individually consisted of 152,636 women, of which 87,169 were currently in a relationship, 27,203 had previously been in a relationship, and 38,264 were single. These women were asked a range of questions about their work, living conditions, and personal lives, with an emphasis on their experiences of discrimination and violence.

While previous papers using these data have focused on the overall prevalence of violence against women in Mexico (Villarreal, 2007; INEGI, 2013), our main concern is to use the survey responses to get a sense of variation in noncompliance with the 2007 gender violence law among perpetrators, victims, and state officials [OK?].

### 3.1 Physical domestic abuse in Mexico

All the women surveyed for the ENDIREH who were in a relationship, or who had been in a relationship at some point, were asked a series of questions about treatment by their intimate partner. Of these women, 49% (56,035) responded affirmatively to having experienced at least one of the 30 forms of violence, harassment, or poor treatment included in the questionnaire.<sup>7</sup> Strikingly, 19% of women (21,450) reported having been victims of *physical domestic abuse* – including been kicked, hit, shot at, or forced into sexual relations.<sup>8</sup> When we further restrict this to women who had experienced physical abuse at the hand of their partner *in the previous year* (2010–11), the number was still close to 7%.

There was geographic variation in the prevalence of women who reported experiencing

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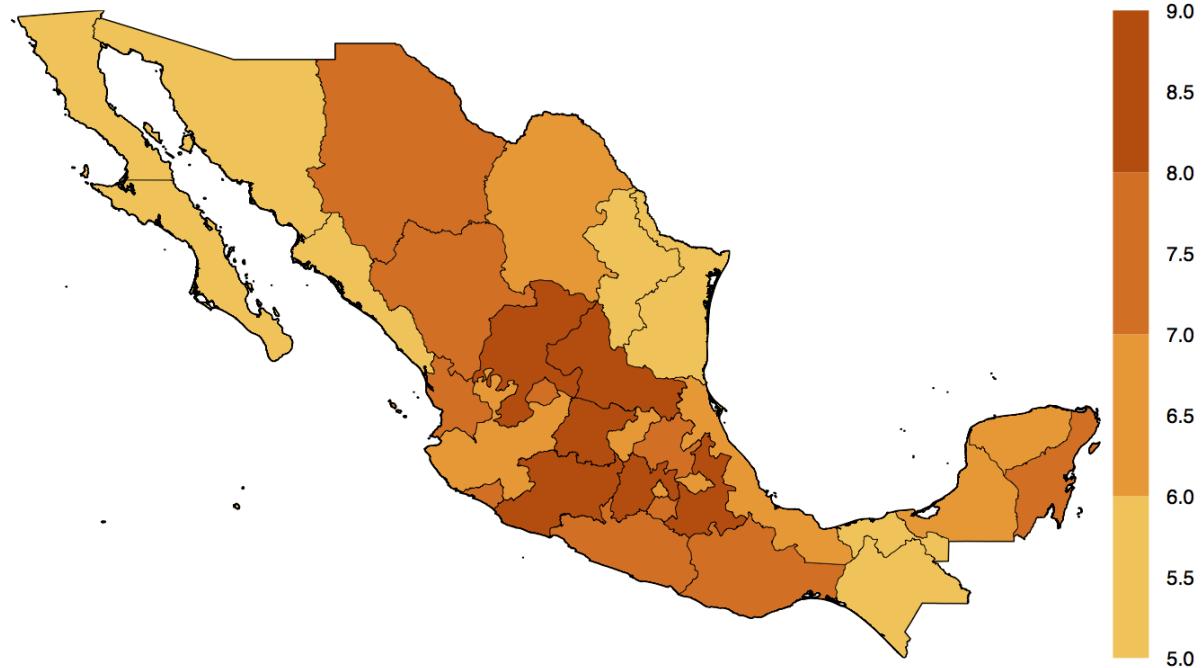
<sup>6</sup>For further information about the survey methodology, see [URL] [www.inegi.org](http://www.inegi.org).

<sup>7</sup>All 30 subquestions of question 6.1 in the survey for women in a relationship.

<sup>8</sup>Subquestions 20–30 under question 6.1 in the survey of women in a relationship.

violence. Figure 1 shows the share of women reporting experiences of physical domestic abuse during the previous year across the different Mexican states in 2011. As we can see, the state-level values range from about 5% in Baja California and Baja California Sur to more than 8.6% in the state of Mexico, Zacatecas, and Guanajuato.

Figure 1: Percentage of women interviewed for the ENDIREH 2011 reporting physical abuse at the hand of their husband or partner in the previous year

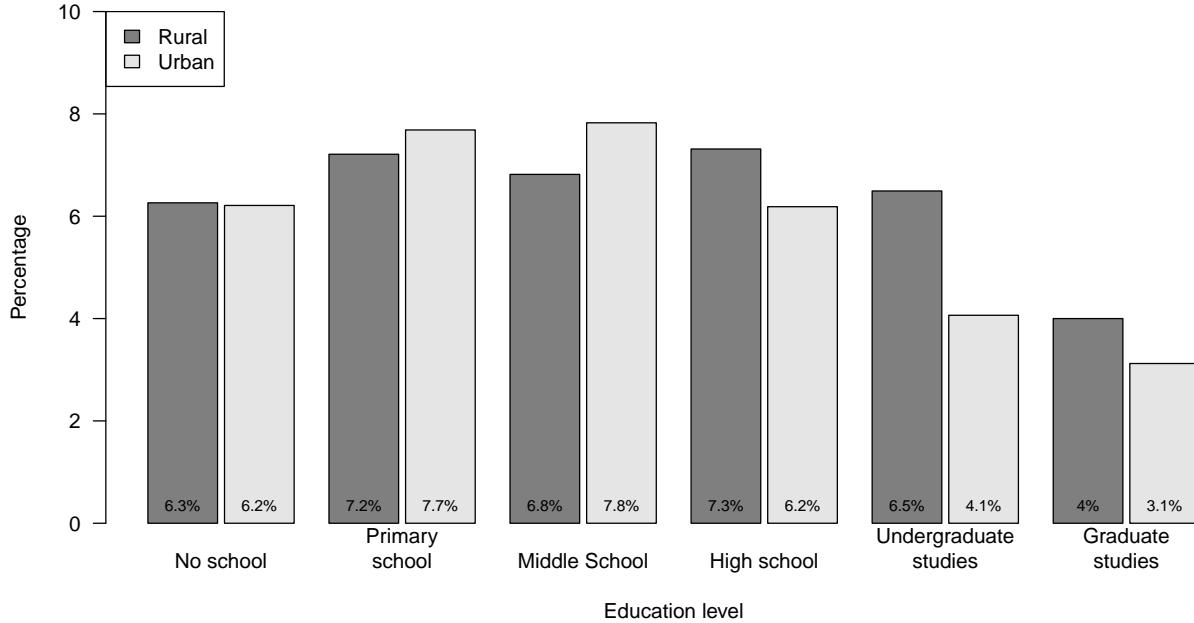


The share of women reporting physical domestic abuse also varies by groups of women. Figure 2 shows the percentage of women who said they had experienced physical domestic abuse in the previous year, subdivided by the education level of the women and whether they lived in an urban or rural area. The figure shows clear differences, although perhaps not as large as one might have expected. Whereas between 6 and 8 percent of women with little education said they had experienced physical domestic abuse in the previous year, the number was about 3 percent among women with graduate degree living in an urban area.

### 3.2 Attitudes toward physical intimate partner abuse

The survey allows us to explore social norms through responses to questions probing attitudes about violence. As expected, almost all (98.6%) the respondents in the survey agreed that women have the right to a life without violence and that women have the right to defend

Figure 2: Percentage of women interviewed for the ENDIREH 2011 reporting physical domestic abuse, by education level and place of residence



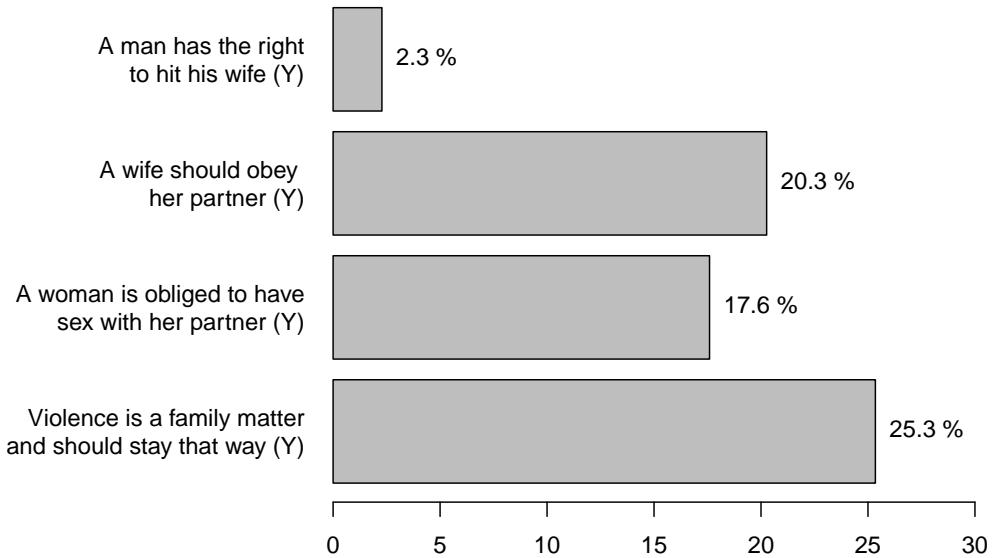
themselves if they are subjected to violence (99.2%). But the responses diverge more when questions become more specific, as shown in Figure 3. Only 2.3% of the women answered affirmatively to the statement that a man has the right to hit his wife. However, more than 20% of the surveyed women said they think that a wife should obey her partner in anything he wants, and 17.6% responded affirmatively to the statement that a woman is obliged to have sex with her partner.

This is consistent with our theoretical discussion of how “violence” may mean different things for different people. The 2007 VAW law classifies many types of aggressive and demeaning behavior as violence, including the multiple ways that a man may command his partners to obey his will and chastise her for failing to do so. The fact that many women simultaneously condemn violence while endorsing women’s subservience shows that social norms surrounding VAW are far from straightforward.

These responses also provide supportive evidence that the notion of domestic abuse as a private matter is still strong. More than a quarter of the surveyed women say that if there is an incidence of violence in the family, it is a family matter and it should stay that way (“*Si hay golpes o maltrato en la casa es un asunto de familia y ahí debe quedar?*”).

To what extent are attitudes about violence being a family matter associated with women experiencing abuse? Table 1 shows the output from multivariate models of experiences

Figure 3: Social norms and attitudes toward violence among women interviewed for the ENDIREH 2011 (percentages of women responding affirmatively to the statements)



of violence on attitudes towards violence being a family matter. The models are multi-level logistic regression models with individual respondents nested in federal states and in rural/urban areas (and in the primary sampling unit in Model 4). The outcome variable is a dichotomous indicator for whether or not the respondent had experienced physical domestic abuse in the previous year.

In Model 1 we include only the response to the question about domestic abuse being a family matter as an explanatory variable. We see that responding affirmatively to this question is strongly associated with being a victim of violence. Model 2 also includes a dichotomous indicator of familiarity with the 2007 gender violence law, since knowledge of the law may be considered a necessary condition for claiming one's rights according to the law. As expected, people familiar with the law are less likely to be victims of violence. Model 3 and 4 also includes some additional control variables: an ordinal indicator for the education level of the woman (the levels are provided in Figure 2), a dichotomous indicator for whether the woman had worked in the previous year, her age, and a dichotomous indicator for whether she or her partner (for those with a partner) spoke an indigenous language. According to these models, women with less education, working women, and younger women were more

prone to violence. The indicators for perceiving violence as a family matter remains a significant predictor of violence even when these other variables are included.

Table 1: Multi-level logistic regression models of individual characteristics of women who experienced physical domestic abuse by their partner 2010–11

	Model 1	Model 2	Model 3	Model 4
(Intercept)	−2.7*** (0.0)	−2.5*** (0.0)	−0.9*** (0.1)	−1.0*** (0.1)
Violence is a family matter	0.2*** (0.0)	0.2*** (0.0)	0.2*** (0.0)	0.2*** (0.0)
Knowledge of law		−0.2*** (0.0)	−0.3*** (0.0)	−0.3*** (0.0)
N	114,372	114,372	114,158	114,158
Controls			Y	Y
State and R/U random effects	Y	Y	Y	Y
PSU random effects				Y

### 3.3 Reporting physical intimate partner abuse

Many victims of abuse – in Mexico and elsewhere – fail to report their experiences. Reporting involves significant social, economic, and emotional risk and historically, has led to few positive outcomes for victims. Few complaints of domestic and sexual violence, as well as sexual harassment, in Latin America have actually ended up in formal prosecutions, let alone sentences for the aggressors (Lang, 2003, p. 77). The Inter-American Commission on Human Rights reported that half of all verdicts in VAW cases end in acquittals, and the Latin American Committee on the Defense of Women’s Rights (CLADEM) claims that 92 percent of femicides go unpunished in the region. Amnesty International calculated that of the approximately 74,000 sexual assaults in Mexico, prosecutors received only about 15,000 complaints and, out of the cases brought to court in 2009, only 2,795 resulted in a conviction. Most VAW cases are concluded through out-of-court settlement practices such as conciliation or mediation, in violation of the spirit of the Inter-American convention which stipulates that VAW is a human rights violation. When cases do go the court, judges and prosecutors often question victims about their morality and sexual practices (Htun et al., 2014). Women also often end up dropping charges. Women who are financially dependent on their partners, for example, may desist due to fear for their livelihood were their family breadwinners to end

up in jail. Past experiences with women claimants who have dropped charges increases the likelihood that police officers will not take other women seriously (Frías, 2010, p. 546).

In order to facilitate reporting and reduce its costs, Mexico's 2007 gender violence law and its counterparts in the states attempted to make it easier to report and to increase the quantity of services available to victims. The more places that a victim can seek assistance and make claims, for example, the more likely it is that her or his rights will be protected (Smulovitz, 2015). As the result of governmental and non-governmental actions in Mexico, the number of sites have grown dramatically. In Mexico City (D.F.) for example, there are more than a dozen *types* of places where women can go to seek recourse after experiencing gender violence, and most of these agencies and organizations have multiple sites across the city (see Ramírez and Echarri, 2010, pp. 80-81).

The ENDIREH 2011 survey does not allow us to look at conviction rates, but it does allow us to look at how many women claim to have reported the violence they experienced to state authorities. As reported above, about 7% (7,817) of the surveyed women said that they had experienced physical domestic abuse in the previous year. As shown in Figure 4 28.5% (2,228) of these women said they had reported it to some authority (of a list including the police, Family Welfare office (DIF), women's agency, and so on).

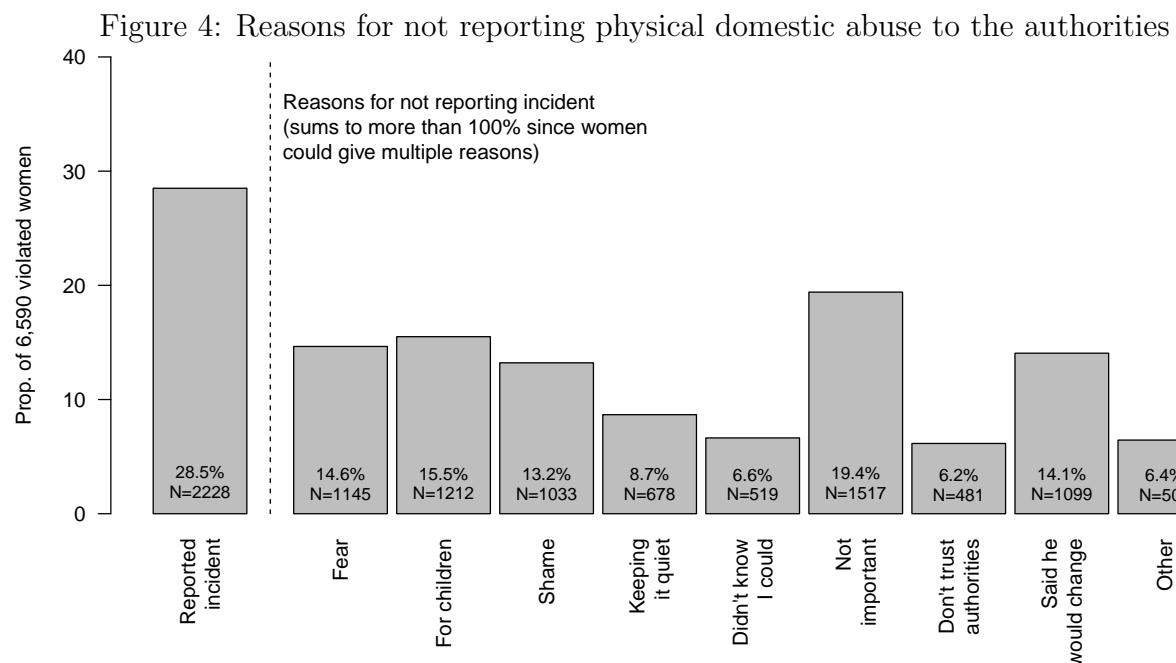


Figure 4 also shows an overview of the reasons women gave for not reporting episodes of violence and abuse. Out of the 7,817 women who had experienced physical domestic abuse

in the previous year, a substantial number said they did not report it out of fear (15%), for the sake of their children (16%), shame (13%), or because they wanted to keep it quiet (9%). A striking number of women (19%) also said they did not report the incident because it was “not important.” All these responses show that social norms compel women not to report. In particular, the fact that 19% of women deem episodes of violence “not important” suggests a normalization of violence that is clearly inconsistent with spirit of the law. The responses also suggest that a lack of knowledge of the law (7% saying “Didn’t know I could”) and a distrust of the authorities (6%) are important explanatory factors.

Table 2: Multi-level logistic regression models of individual characteristics of women who said they had reported violence they experienced 2010–11

	Model 1	Model 2	Model 3	Model 4
(Intercept)	−0.9*** (0.1)	−1.1*** (0.1)	−1.2*** (0.1)	−1.2*** (0.1)
Violence is a family matter	−0.4*** (0.1)	−0.4*** (0.1)	−0.3*** (0.1)	−0.3*** (0.1)
Knowledge of law		0.3*** (0.1)	0.3*** (0.1)	0.3*** (0.1)
N	7817	7817	7804	7804
Controls			Y	Y
State and R/U random effects	Y	Y	Y	Y
PSU random effects				Y

These stories of a lack of action on the part of state authorities are also reflected in the survey responses. Of the 2,228 women who had said they had reported an incident of physical domestic abuse to some authority in the previous year , 62% said the authorities had treated them well, 4% said they had been treated badly or ridiculed, the rest, some 34% said the authorities had done nothing. The fact that some one third of women felt the state did nothing about their claims of violence contribute to climate of impunity that discourages reporting.

The patterns in figures 3 and 4 show that perceptions of what constitutes violence, a normalization of violence, and the idea that domestic abuse is a private rather than a public matter constitute important sources of resistance to laws on VAW on the part of the public and by state officials.

Social norms, knowledge of legal rights, and personal characteristics can explain variation in reporting rates too. Table 2 shows multi-variate patterns of the characteristics of the women who reported incidents of physical domestic abuse in the previous year. The model specifications are the same as the ones reported in Table 1, but here the outcome variable is a dichotomous indicator for whether or not a woman had reported an incident of physical domestic abuse by her partner. The sample is the subset of women who had experienced physical domestic abuse in the previous year. Here we can see how women who said they considered intimate partner violence to be a family matter were considerably less likely to report the violence they experienced. Women knowledgeable about the 2007 gender violence law were more likely to report the violence. Those who had worked in the previous year were also more likely to report. Here, neither education level, age, nor being from an indigenous family came out as significant predictors.

## 4 Conclusions

Latin America’s new gender violence laws are aspirational rights: they aim to transform centuries-old norms and practices that endorse and privatize violence against women. Legislation and public policies enacted at the national and state level in many Latin American countries have accepted feminist analyses attributing the frequency, acceptability, and normality of violence against women to the status hierarchy – “institutionalized patterns of cultural value” (Fraser, 2007) – that value men and masculinity and denigrate women and femininity. The new laws recognize that violence is a violation of human rights, that the state has the responsibility to prevent, punish, and eradicate it, and that violence is a product of

women's cultural subordination.

VAW legislation is a weak institution: noncompliance is widespread. Our survey data show that violence against women is pervasive and that little is reported. However, non-compliance owes not just to low state capacity or standoffishness. Entrenched social norms informing the behavior of citizens and state officials also play a role. Though most women are opposed in principle to violence, many also justify it under some circumstances, minimize its importance, feel afraid, and consider violence a family matter that should not be brought to public attention. In many cases, state authorities do not treat women well when they do report, which reinforces the norm of non-reporting. However, we also see that among individuals whose beliefs align more with the letter of the law, gender violence is less frequent.

By construction, aspirational rights like legislation against gender violence are weak institutions. The large gap between social practices and legal provisions exists at their origin. The institution exists in order to produce change in slow-moving social norms. Aspirational rights give legitimacy to the demands of social movements, provide activists with tools and resources to compel state officials to enforce the law, and offer “focal points” to destabilize existing equilibria and orient actors toward new forms of behavior (McAdams, 2000). As Lisa Baldez argues in the case of the global Convention on the Elimination of All Forms Against Women (CEDAW): it is a *process*, not a policy (Baldez, 2014). As a result, aspirational rights should be evaluated by their success after a few decades, rather than after a short period of time. Aspirational rights enable, but do not guarantee, the conditions of their enforcement.

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