

Comparing policy interventions on domestic violence in Latin America: criminalization, female empowerment and male engagement



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A large, intricate geometric pattern composed of various colored triangles and polygons, including shades of blue, red, green, yellow, orange, pink, and dark green. The pattern is symmetrical and resembles a stylized star or a complex floral design.

PAPER N°3 - GENDER EQUALITY

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One United Nations Plaza
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Background Paper prepared for the Regional Human Development Report for Latin America and the Caribbean 2016

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Published for the
United Nations
Development
Programme
(UNDP)

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Introduction



Introduction

The main goal of this paper is to categorize and compare the policy interventions that derive from current legislation adopted in Latin America to curb domestic violence (as of August 2015).

Worldwide, violence against women by an intimate partner—or domestic violence—is one of the most common forms of violence against women.² A recent World Health Organization (WHO) compilation of all available global data estimates that 30% of all ever-partnered women have experienced physical and/or sexual intimate partner violence. The prevalence was highest in the African, Eastern Mediterranean, and South-East Asia regions (about 37%), with the Americas reporting the next highest prevalence (30%) (WHO, 2013).

Policy-making on domestic violence began in most countries by the late 1980s and early 1990s, only after women’s movements managed to introduce the issue into the policy agenda, both domestically and internationally (Bush, 1992; Davies, 1994; Elman, 1996; Weldon, 2002; Htun and Weldon, 2012). Internationally, violence against women was acknowledged as a human rights violation for the first time in 1993 at the United Nations World Conference on Human Rights in Vienna.³ By then, only in few countries violence against women had become a matter of policy intervention (for example, Australia, Canada, the United States, Costa Rica, France, Ireland, Israel, and New Zealand—see Weldon, 2002). Since then, governments around the world have taken important steps to address domestic violence, and violence against women in general, as a public issue. The following year, the United Nations Commission on Human Rights appointed a Special Rapporteur on violence against women.⁴ That same year the Organization of American States (OAS) hosted the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women in Belém do

Pará, Brazil. This Convention, also known as Convention of Belém do Pará, emphasized the need to facilitate women equal access to the judicial system, to penalize perpetrators, and to provide restitutions to the victims.⁵ In 1995, violence against women was a central issue in the United Nations Fourth World Conference on Women in Beijing—known informally as the Beijing Women’s Conference. The resolutions from these last two conventions have become important reference points for women organizations in Latin America pushing for improvements in the government responses to violence against women.⁶

The main goal of this paper is to categorize and compare the policy interventions that derive from current legislation adopted in Latin America to curb domestic violence (as of August 2015). The sources of information for this report are current relevant legislation on domestic violence (or family violence) and violence against women; government reports for international conventions’ follow-up reports (mainly the United Nations Beijing Women’s Conference and OAS Convention of Belém do Pará); official government websites (for example, women’s national institutes, the national statistics offices, and the public prosecution offices); country or regional reports on policies on violence against women (for example, by the United Nations or the WHO), and academic studies on the implementation of policies on domestic violence.

In this paper I will map out these policies on three main aspects: whether they resort to conciliatory measures or they prioritize the criminal prosecution of the aggressor; whether they have provisions for the empowerment of female victims, and whether they

engage men in policies to prevent further violence. Next, I will discuss briefly the available comparable information on the prevalence of domestic violence in the region. Then, I will present the findings on the three main dimensions of government action on

domestic violence. Finally, I will attempt a comparative evaluation on the progress made by Latin American countries on policy interventions regarding violence against women by an intimate partner.





The problem: domestic violence rates in Latin America



The problem: domestic violence rates in Latin America

Latin America stands out as the region where women's movements have been very successful in pushing for legislation on this issue. Nowadays, all Latin American countries have enacted and/or reformed legislation in order to condemn domestic violence, or intimate partner violence, and have made progress in the implementation of a variety of measures for curbing it—for example, the provision of services to victims (legal aid, counseling, shelters, crisis centers, etc.), or the creation of specialized units dealing with these cases (for example, courts, police forces, or public prosecution offices). Nevertheless, these efforts have not been matched with similar attempts to acquire more accurate and systematic information on the prevalence of the problem they are trying to solve.

Among the instruments available to governments to measure the prevalence of intimate partner violence (and violence against women more generally), the “gold standard” for reliable data is a stand-alone specialized survey with the required ethical and safety measures for this type of research—that is, trained female interviewers, who collect data in a private space in a non-judgmental manner, interviewing one woman per household, in the absence of male partners—; and the provision of referrals if necessary (WHO, 2013, p. 33). In Latin America, only five countries have implemented surveys that approximate this standard: Chile, Costa Rica, Ecuador, Mexico, and Uruguay. Of

them, only Mexico has repeated the survey (see table 1). An alternative way in which countries have acquired information from representative (female) population samples is by including a module on domestic violence in an existing survey (usually dedicated to investigate women's health issues). In Latin America, 12 countries (with only Ecuador having also a specialized survey) have relied on this approach (see table 1).

Compared to a specialized survey, the use of a module on domestic violence has the disadvantage of having a more limited set of questions and strategies to enhance disclosure—thus it is more likely to underreport the prevalence of intimate partner violence (Bott et al., 2012, p. 2). However, in most countries (except for Panama and Venezuela) these surveys have been conducted as part of larger regional projects—the Demographic and Health Surveys (DHS) or the Reproductive Health Surveys (RHS) (see table 1). Therefore, the modules on domestic violence use a similar set of questions to measure the prevalence of this type of violence, unlike specialized surveys, which use measurement instruments so different from each other that do not allow straightforward cross-country comparisons. As table 1 shows, two of the largest countries in the region, Argentina and Brazil, lack to this day a household-based population survey on domestic violence.⁷

TABLE 1

Latin American countries with information on domestic violence prevalence from representative population-based surveys using household face-to-face interviews

Country	National survey specialized on domestic violence		National survey with a module on domestic violence	
	Name	Year	Name	Year
Bolivia			Encuesta Nacional de Demografía y Salud ^a	2003 2008
Chile	Encuesta Nacional de Victimización por Violencia Familiar y Delitos Sexuales	2012		
Colombia			Encuesta Nacional de Demografía y Salud ^a	1990 1995 2000 2005 2010
Costa Rica	Encuesta Nacional de Violencia contra las Mujeres	2003		
Dominican Republic			Encuesta Demográfica y de Salud ^a	2007 2013
Ecuador	Encuesta de Relaciones Familiares y Violencia de Género	2011	Encuesta Demográfica y de Salud Materna e Infantil ^b	2004
El Salvador			Encuesta Nacional de Salud Familiar ^b	2002-2003 2008
Guatemala			V Encuesta Nacional de Salud Materno Infantil ^b	2008-2009
Honduras			Encuesta Nacional de Demografía y Salud ^a	2005-2006 2011-2012
Mexico	Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares	2003 2006 2011		
Nicaragua			Encuesta Nicaragüense de Demografía y Salud ^b	2006-2007
Panama			Encuesta Nacional de Salud Sexual y Reproductiva	2009
Paraguay			Encuesta Nacional de Demografía y Salud Sexual y Reproductiva ^b	2008
Peru			Encuesta Demográfica y de Salud Familiar ^a	2004-2005 2013
Uruguay	Primera Encuesta Nacional de Prevalencia sobre Violencia Basada en Género y Generaciones	2013		
Venezuela			Encuesta Demográfica de Venezuela	2010

Source: Prepared by the author based on data from Alméras and Calderón Magaña (2012), Bott et al. (2012), UN Women (2011a), and author's corroboration and updating with the countries' statistical offices official websites.

^a Demographic and Health Survey (DHS).

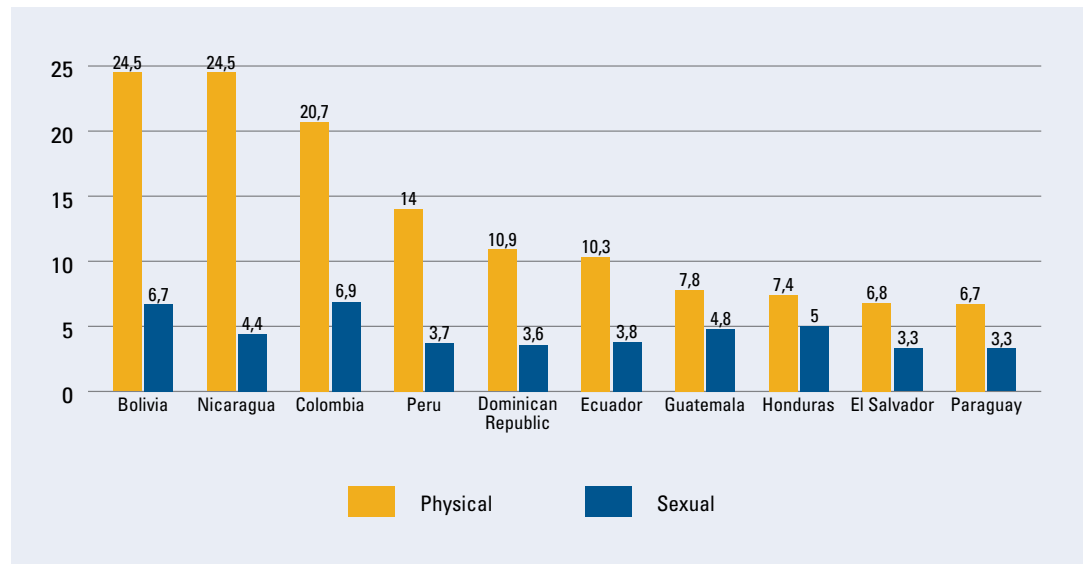
^b Reproductive Health Survey (RHS).

Figure 1 shows prevalence rates of domestic violence (physical and sexual) of ever partnered women in the Latin American countries that have undertaken a survey as part of a DHS or a RHS project, between 2003 and 2009. As the figure shows, 7% to 25% of ever partnered women in those ten countries reported to have experienced physical violence in the last 12 months (the cross-country average is 13.4%). About 3% to 7% (average = 4.6%) reported to have experienced sexual violence by their current or former partner in the same period. Figure 2 shows the percentage of women who reported ever having experienced physical or sexual violence by an intimate partner.⁸ Measured this way, rates of physical domestic violence ranged from 8% in Nicaragua (in 2006-2007) to 52% in Bolivia (in 2003), with a cross-country

average of 28%. The average rate of women who had ever suffered sexual violence by an intimate partner in these countries was 11% of ever partnered women —varying between 15% in Bolivia (2003) and 5% in Dominican Republic (2007). It should be noted that these surveys do not measure emotional abuse by an intimate partner, as specialized surveys do, which has been found to be one of the most frequent forms of intimate partner violence. The main reason for excluding this form of violence is that there are currently no standard measures of emotional or psychological violence (for example, controlling behaviors or being humiliated or intimidated) as well as no agreement on where to draw the threshold between “unkind” behavior and abuse (WHO, 2013, p. 10).⁹

FIGURE 1

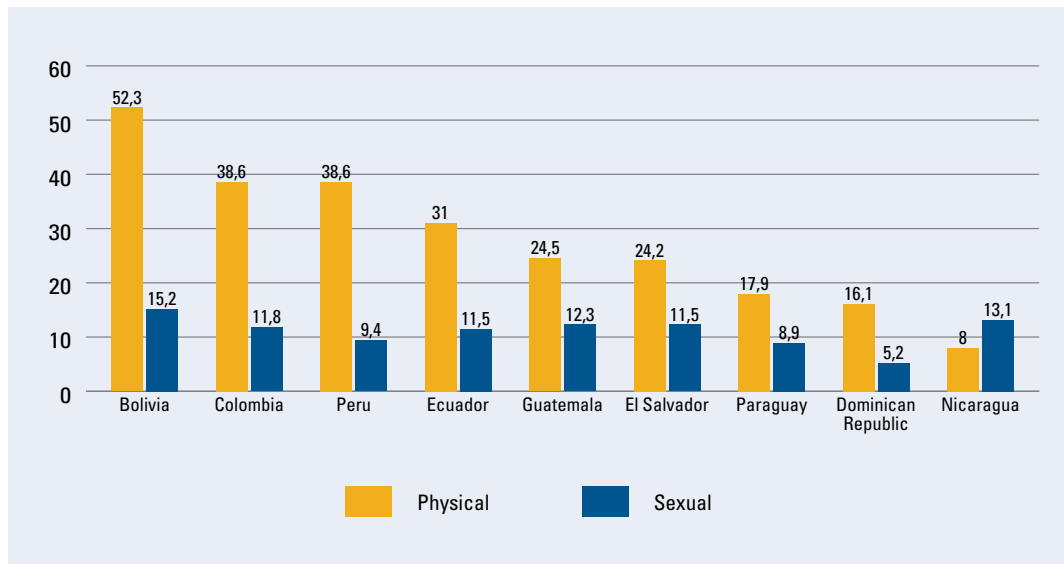
Women who reported physical or sexual violence by a partner in the past 12 months among women ever married or in union (percentages) in Latin America, 2003-2009



Source: Prepared by the author based on data from Bott et al. (2012, chapter 3).

FIGURE 2

Women who reported physical or sexual violence by a partner ever among women ever married or in union (percentages) in Latin America, 2003-2009



Source: Prepared by the author based on data from Bott et al. (2012, chapter 3).

Another important data source on intimate partner violence is the records from government agencies that are likely to have contact with women experiencing this form of violence (for example, the police, hospitals, shelters, and the public prosecution office and courts). Although these statistics are not a representative measure of prevalence (as only a small portion of victims of domestic violence reach out to these agencies for help), they provide a more nuanced picture of the nature of this form of violence¹⁰ and of the needs of women who experience it, thus allowing for improvements in government interventions. Also, they are a key input in the evaluation of the implementation of these policies. Finally, if they are recorded using standardized procedures, they allow inter-agency collaborations, which is not only cost-effective but also potentially lifesaving. Unfortunately, even when the relevant legislation dictates the creation of national databases for violence against women cases, Latin American countries are still considerably behind this ideal scenario of systematic, accessible record holding of service provision to victims of violence against women (ECLAC, 2015, p. 46).

The scarcity of reliable, systematic information on the prevalence and different expressions of domestic violence becomes more acute when we focus on women from minority groups, particularly rural and indigenous women. On the one hand, many population surveys lack questions on ethnic identification, as well as modifications to the instruments that are sensitive to the different cultural contexts. When the domestic violence modules of health surveys include questions aimed at identifying indigenous women, these questions are not always comparable—for example, surveys in Guatemala, Paraguay, and Peru ask for the language spoken at home, while in Ecuador it asks for the interviewee's self-identification (see figure 3).

On the other hand, government agencies dealing with victims of domestic violence, when available, are usually concentrated in urban centers, thus women from rural communities are required to travel long distances to get to them. Even for indigenous women living in the cities, reaching to these agencies would require having access to other “cultural” resources such as knowledge of the dominant language both spoken and written (due to the absence of interpreters) or having

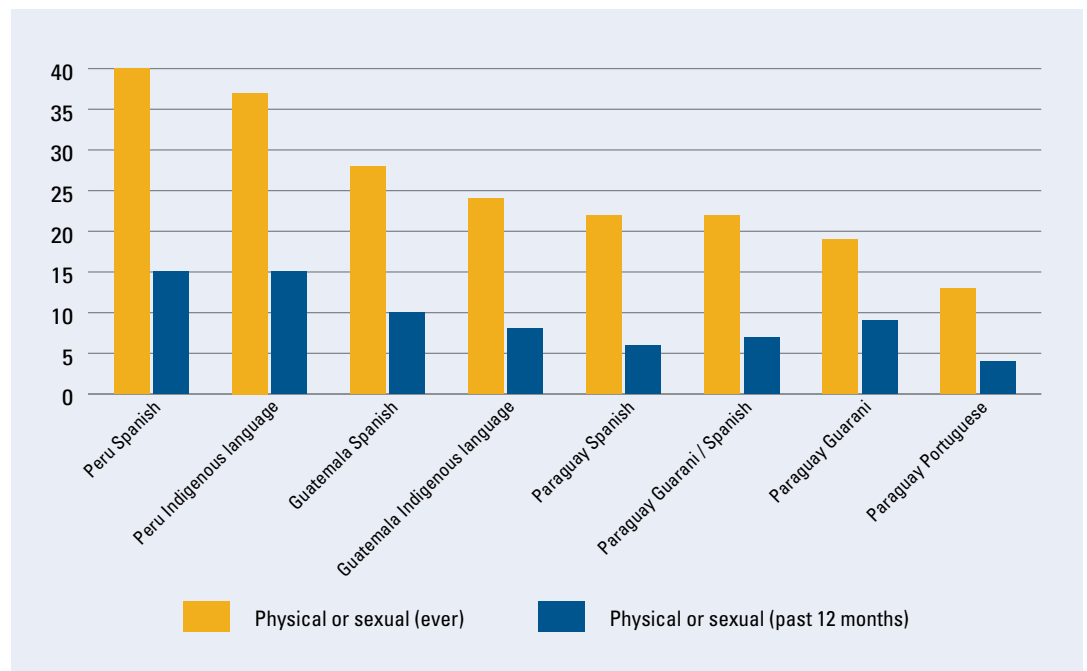
an official identification (GIZ, 2014, p. 5).¹¹ Also, women seeking help outside the indigenous community (especially in the official justice system) are likely to face disapproval by relatives and community members who reject outside intervention for cases of “conflict within the family” (Sieder and Sierra, 2010, p. 11). Therefore, women experiencing domestic violence, when they seek help, are likely to do so via their communities’ justice systems (see section 2.2 in this document).

Figure 3 shows the available information on prevalence of physical domestic violence among women, according to the language

spoken at home (Guatemala in 2008-2009, Paraguay in 2008, and Peru in 2007-2008). According to this information, the percentages of women who speak an indigenous language that have experienced physical or sexual violence by their intimate partner are relatively similar to those among women who speak the country’s majority language. In other words, even if limited, these comparable data support the increasingly founded claim that intimate partner violence cuts across the ethnic, racial, and socioeconomic differences among women.

FIGURE 3

Partnered women, 15 to 49 years old, who have experienced physical or sexual violence by an intimate partner in the past 12 months or ever according to the language spoken at home (percentages) in Guatemala, Paraguay, and Peru, around 2008



Source: Prepared by the author based on data from ECLAC (2013a, p. 74, graph 19).



The solutions: criminalization of domestic violence and its alternatives



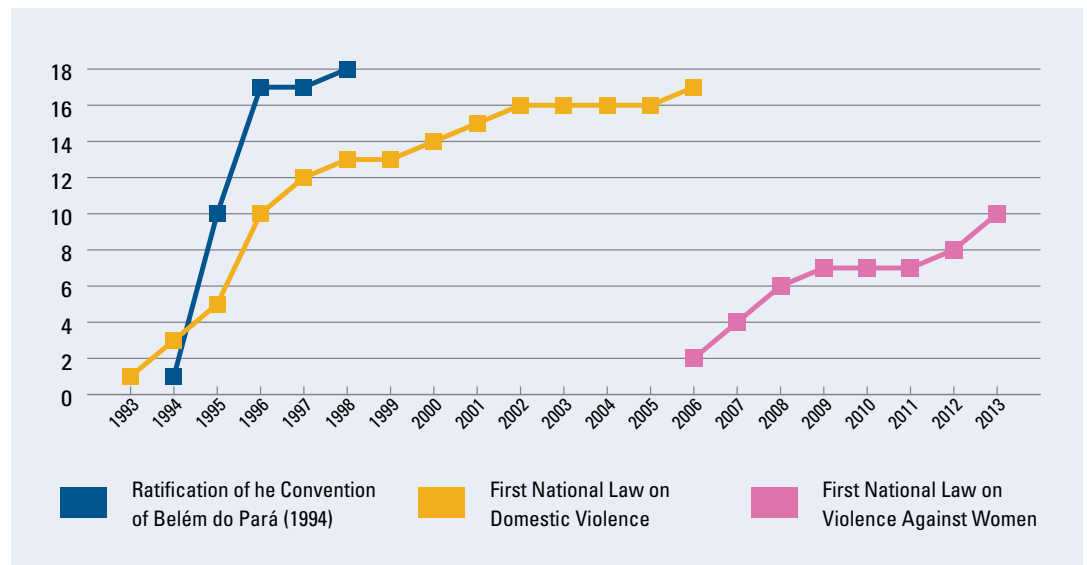
The solutions: criminalization of domestic violence and its alternatives

Since the mid-1990s, all countries in Latin America have made legal reforms and enacted new legislation condemning domestic violence and, in some cases, violence against women in general. Figure 4 shows the cumulative number of countries that have enacted a special national law on domestic (or family) violence and/or a special national law on violence against women

since 1993. All Latin American countries have a current national law on domestic violence (except Mexico). Also, ten countries have issued new laws that address other forms of violence against women — such as sexual assault, violence at work, institutional violence, and gender-based female homicide (femicide).

FIGURE 4

Yearly cumulative count of Latin American countries that have enacted their first law on domestic family and/or a special law on violence against women, 1993-2013



Source: Prepared by the author based on data on the Convention ratification consulted in Organization of American States (OAS), Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belém do Pará”. Signatories and Ratification. Available at: <http://www.oas.org/juridico/english/signs/a-61.html> [access on July 15, 2015]. For national laws, the information comes from the author’s own search in countries’ official sources (mainly their National Congresses). The initial search was made through the Legal Research Institute [Instituto de Investigaciones Jurídicas, Navegador Jurídico Internacional]. Available at: <http://historico.juridicas.unam.mx/navjus/> [access on July 30, 2015].

These laws, together with the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1993) —ratified by all countries by 1998— and the OAS Inter-American Convention on

the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará, Brazil, 1994), constitute the main legal framework for policy-making on domestic violence in the region (see table 2).

TABLE 2

Surveys, teams involved, and a short description of matching/imputation needed

Country	Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979	Ratification of the Convention of Belém do Pará 1994	National Law on Domestic Violence (or Family Violence) First Law/Latest Reform	National Law on Violence Against Women First Law/Latest Reform
Argentina	1985	1996	1994	2009
Bolivia	1990	1994	1995	2013
Brazil	1984	1995	2006	2006
Chile	1989	1996	1994/2010	
Colombia	1982	1996	1996/2000	2008
Costa Rica	1986	1995	1996/2011	2007/2011
Dominican Republic	1982	1996	1997	
Ecuador	1981	1995	1995	
El Salvador	1981	1996	1996	
Guatemala	1982	1995	1996	2008
Honduras	1983	1995	1997/2014	
Mexico	1981	1998		2007/2011
Nicaragua	1981	1995	1996	2012
Panama	1981	1995	2001	2013
Paraguay	1987	1995	2000	
Peru	1982	1996	1993/2014	
Uruguay	1981	1996	2002	
Venezuela	1983	1995	1998	2006/2007

Source: Prepared by the author based on data on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratification, consulted in UN Women, Convention on the Elimination of All Forms of Discrimination against Women. State Parties. Available at: <http://www.un.org/womenwatch/daw/cedaw/> [access on July 15, 2015]. Data on the Convention of Belém do Pará ratification was consulted in Organization of American States (OAS), Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belém do Pará”. Signatories and Ratification. Available at: <http://www.oas.org/juridico/english/signs/a-61.html> [access on July 15, 2015]. For national laws, the information comes from the author’s own search in countries’ official sources (mainly their National Congresses). The initial search was made through the Legal Research Institute [Instituto de Investigaciones Jurídicas, Navegador Jurídico Internacional]. Available at: <http://historico.juridicas.unam.mx/navjus/gob/> [access on July 30, 2015].

Note: The bold type is used to emphasize laws for which there is also a regulatory law. In all cases, except for Chile (where a 2005 law abolished the 1995 one), this is all current legislation.

Nowadays, all Latin American countries have legislated violence against women by an intimate partner. These laws coincide in recognizing several forms of domestic violence—physical and psychological by all of them, followed by sexual by the majority (13), and economic or patrimonial by some (8). Moreover, they all acknowledge relationships outside marriage, as well as former or non-cohabitating

relationships. In most countries domestic violence was legislated as one variant of violence within members of the family, so that the focus of protection is not only women, but also all members of the family—whose relationship may derive from kinship, marriage, or adoption, as far as the fourth degree (see table 3). Still, these wider definitions of family do not yet extend to include same-sex relationships.¹²

TABLE 3

Legal definition of domestic violence in Latin America, 2015

Country	Who is protected?	Physical	Psychological	Sexual	Economic	Recognizes non-marital relationships	Does not require current cohabitation
Argentina	Women	✓	✓	✓	✓	✓	✓
Bolivia	Women	✓	✓	✓		✓	✓
Brazil	Women	✓	✓	✓	✓	✓	✓
Chile	Family	✓	✓			✓	✓
Colombia	Family	✓	✓			✓	✓
Costa Rica	Family	✓	✓	✓	✓	✓	✓
Dominican Republic	Family	✓	✓			✓	✓
Ecuador	Family	✓	✓	✓		✓	✓
El Salvador	Family	✓	✓			✓	✓
Guatemala	Family	✓	✓	✓	✓	✓	✓
Honduras	Women	✓	✓	✓	✓	✓	✓
Mexico	Women	✓	✓	✓	✓	✓	✓
Nicaragua	Women	✓	✓	✓	✓	✓	✓
Panama	Family	✓	✓	✓		✓	✓
Paraguay	Family	✓	✓	✓		✓	✓
Peru	Family	✓	✓			✓	✓
Uruguay	Family	✓	✓	✓	✓	✓	✓
Venezuela	Family	✓	✓			✓	✓
Total	Women = 6 / Family = 12	18	18	13	8	18	18

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography).

Note: In most countries where the protection is extended to all family members, the family is defined by kinship, marriage, or cohabitation. The exception is Chile, where only kinship and marriage are accepted as criteria for defining the family unit, and Costa Rica and El Salvador, where adoption is also accepted as defining criterion.

2.1 The criminal justice response to domestic violence

Following a worldwide trend, the legislation on domestic violence in Latin America has codified domestic violence as a criminal offense. Even in countries where domestic violence is not defined as a separate offense in the criminal code, the perpetration of crimes involving intimate partner violence (mostly sexual or physical violence) is an aggravating circumstance that increases the penalties associated to these crimes (see table 4).

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This move towards the “criminalization” of domestic violence could be interpreted as

TABLE 4

Domestic violence in the criminal codes of Latin American countries, as of September 2015

Country	Year of reform of criminal code ^a	Is domestic violence classified as a separate crime?	When not a separate crime, is domestic violence an aggravating circumstance for other crimes?
Panama	1995	Yes	
Uruguay	1995	Yes	
Honduras	1996	Yes	
Colombia	1997	Yes	
Dominican Republic	1997	Yes	
Mexico	1997	Yes	
El Salvador	1998	Yes	
Brazil	2004	Yes	
Chile	2005	No	Yes ^b
Venezuela	2006	No	Yes ^c
Costa Rica	2007	No	Yes ^d
Guatemala	2008	No	Yes ^e
Peru	2008	No	Yes ^f
Nicaragua	2012	Yes	
Bolivia	2013	Yes	
Ecuador	2014	Yes	
Paraguay	2014	Yes	
Argentina		No	No

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography).

^a Except for cases in italics, which refer to instances of enactment of legislation that defined new crimes related to violence against women but did not reform the criminal code. See notes c, d, and e.

^b Law 20066 reformed the Criminal Code (art. 400) to incorporate the aggravating circumstance to the crime of physical abuse [lesiones corporales] when committed against a member of the family. This law also introduced the crime "regular abuse" [maltrato habitual], defined as the physical or psychological violence against any member of the family (not in the Criminal Code).

^c Law on Violence Against Women [Ley Orgánica sobre el Derecho de las Mujeres a una Vida Libre de Violencia] classifies as crime different forms of violence against women, both in the public and private sphere. Domestic violence is an aggravating circumstance for the crimes of physical and sexual violence.

^d Law 8589 classifies as crime different forms of violence against women, both in the public and private sphere. Domestic violence is an aggravating circumstance for the crimes of physical assault [maltrato], emotional violence, restrictions to self-determination, threats, rape, sexual assault, sexual exploitation, and different forms of economic and patrimonial violence.

^e Decree 22 introduces the crime of violence against women, which includes violence by an intimate partner. The penalties vary for physical, sexual, psychological, or economic violence.

^f Law 29282 reformed the Criminal Code (articles 121-B and 122-B) to incorporate the aggravating circumstance of family violence for the crimes of serious and minor assault [lesiones graves y lesiones leves].

a successful attempt by the women's movement to influence not only legislation in their countries but international conventions on the issue. Feminism conceives violence against women as one of the most damaging expressions of the gender imbalance of power. Thus, from their early mobilization, activists deemed as necessary the state's intervention to restore such balance. The couple's permanent separation and the punishment of

the perpetrator seem the most appropriate policy to achieve that goal. The international conventions, to which all these countries have subscribed, also prescribe this approach (see table 5 for a comparison of government interventions).¹³

The majority of Latin American countries have implemented provisions aimed at strengthening the criminal prosecution of domestic violence. As it will be described in

more detail later, most countries have made prosecution of domestic violence mandatory, upon knowledge of an incident. Also, most countries have introduced mandatory arrest policies, and all countries but one (Dominican Republic) have created (at least for some states or regions) specialized police units, public prosecution offices, and/or courts to deal with domestic violence cases. Moreover, all countries have introduced civil procedures for granting protection orders or other forms of protective measures for victims of domestic violence (see section 2.2 in this document).

However, the expectations placed in the criminal justice system to address the problem of violence against women in the region have not been met in practice, for the most part. Reasons for this disappointing outcome are varied. First, there is anecdotal but ubiquitous evidence that a great proportion of government agents responsible of the implementation of this legislation remain bias against cases of domestic violence —either perceiving them as not serious enough or not at all an issue of prosecution (IACHR, 2007; Morrison and Biehl, 1999). Second, there is enough systematic evidence of the lack of capacity of the criminal justice systems in the region to deal not only with an increase in the number of cases for prosecution, but also with the technical and procedural challenges they bring along. Latin America stands out as a region suffering from a general crisis in the procurement of justice (Domingo and Sieder, 2001; Méndez, O'Donnell and Pinheiro, 1999). Thus, even when the police, the prosecutors, or the judges are willing to implement the law, they usually face inadequate institutional and material conditions to do so. Third, partly as a result of the previous reasons, women victims of violence are wary of reaching out to government agencies for help —hence the low reporting rates of violence against women. Even when they file a complaint, many victims of domestic violence ask for dropping the charges or stop cooperating with the prosecution (Buzawa and Buzawa, 2012). The lack of government trust is even more pronounced —and justified— among vulnerable sectors of the female populations, such as poor, rural, and indigenous

women (GIZ, 2014; López and Fenly, 2013; Sieder and Sierra, 2010). Together, all the previous reasons could explain the low conviction rates for cases of domestic violence (and violence against women in general).¹⁴ Fourth and last, it should be mentioned that half of the countries in the region still allow for mediation or conciliatory mechanisms in their current legislation and either recognize or do not regulate the jurisdiction of rural or indigenous authorities in this matter (see section 2.2). Therefore, the existence of these diversions (specially when not regulated) may affect the incentives of government agents to either initiate or carry out the prosecution.

This report aims at mapping out the different policies that Latin American countries have implemented in order to improve the criminal justice system response to intimate partner violence. Nevertheless, due to the lack of information, it will not provide evidence of the effectiveness of such approach to curb domestic violence. An assessment of the impact that criminalization has had on the prevalence of domestic violence in these countries is beyond the scope of this document. However, based on recent research done in the United States, a country that has the oldest and strongest criminal policies dealing with domestic violence in our continent,¹⁵ this review covers policies aimed at indirectly improving the efficacy of criminal interventions by increasing victims' collaboration with the prosecution (see section 2.2). Also, it includes provisions regarding the rehabilitation of perpetrators as well as some promising educational programs for the general male population. Depending on their design, these policies could potentially improve the effectiveness of the criminal system by reducing recidivism (see section 2.3 in this document).

Next, I will review in more detail the way Latin American countries have transitioned to the criminalization of domestic violence and the degree to which they coexist with other intervention alternatives. Table 5 suggests a comparative framework of government interventions on domestic violence based on their intended goals. By “policy interventions” I mean interventions by a legally sanctioned authority in situations of

domestic violence, with the purpose of at least one of the following: i) protecting victims from the aggressors; ii) deterring future violent behavior by aggressors;¹⁶ iii) making perpetrators accountable for their actions, and/or iv) providing restitution to the victims.¹⁷ Based on the revision of the literature on domestic violence policy-making, I have identified three main categories of policy interventions in cases of domestic violence: i) criminal prosecution; ii) civil court proceedings (for example, protection measures), and iii) restorative justice mechanisms (for example, conciliation or mediation, community conferencing, or peacemaking procedures).

Table 5 summarizes the expectations about the goals that could be achieved with each policy type. At a minimum, the expectation of all interventions is to stop violence. Victim's safety could also be accomplished by

all, depending on whether the intervention includes provisions of protection of victims (see table 5 notes). By design, criminal prosecution involves some form of offender's accountability mechanism (for example, fines, community service, treatment programs, or incarceration). Also by design, the agreements resulting from restorative justice mechanisms are not legally binding, so they cannot hold perpetrators accountable if they break the agreement. Finally, restitution to victims—although not necessarily in material terms—is one of the main goals of restorative justice solutions. Restitution to victims in the form of compensation for losses sustained as a result of the violence (for example, property losses, payment of medical costs or legal fees, or compensation for loss of work) could also be part of criminal or civil court mechanisms.

TABLE 5

Types of policy interventions in domestic violence cases^a

Goals Intervention	Criminal prosecution	Civil court proceedings	Restorative justice mechanisms
Victims' safety	? ^b	Yes	? ^b
Future violence deterrence	Yes	Yes	Yes
Perpetrators' accountability	Yes	No	No
Victims' restitution	? ^c	? ^c	Yes

Source: Prepared by the author based on data from Hart (1997) (list of goals of legal interventions in domestic violence cases).

^a "Yes" indicates basic expectations by any design; "No" indicates a goal that is not into consideration when designing that intervention, and the question mark indicates that the goal could be fulfilled if other complementary measures were taken.

^b When they coexist with other policy measures such as mandatory arrest (in the case of criminal prosecution), and protective or restraining orders. In the case of restorative justice solutions, they would need to have mechanisms to identify situations in which avoiding separation of the couple could put the victims in danger.

^c When they include provisions for compensation to the victims (either via the civil courts or as a part of the sentencing in a criminal court).

As mentioned before, all countries (but Argentina) have introduced legal reforms to either make domestic violence a crime or an aggravating circumstance of existing crimes (see table 4). Moreover, in all countries, including Argentina, the punishment for violence against women by an intimate partner is likely to include incarceration (see table 6). Prison sentences vary widely according to the seriousness of the assessed injuries, as well

as the type of violence (with sexual violence carrying the longest sentences). The length of the sentence could start at less than a month and go as high as 22 years. However, we lack regional statistics on frequency and length of the average prison sentences for domestic violence charges. But if we compare the minimum jail time that could be sentenced, when it is sentenced, we could compare how "tough" the law is with this type of violence.

TABLE 6

Penalties for domestic violence criminal and non-criminal convictions in Latin American countries, as of September 2015^a

Country	Minimum prison sentence ^b	Penalties in addition to, as an alternative to, or as a diversion from incarceration				Penalties for non-criminal charges	Restitution
		Rehabilitation programs	Fines	Temporary arrest	Community service		
Guatemala	5 years						Mandatory
Peru	3 years	Additional					At judge's discretion
Bolivia	2 years	Alternative/ Additional ^c (mandatory)	Alternative ^d	Alternative ^d	Alternative ^d	Fines and temporary arrest	Mandatory
Panama	2 years	Additional / Diversion ^e		Diversion ^e	Additional		Mandatory
Colombia	1 year						
Dominican Republic	1 year	Additional	Additional (mandatory)				Mandatory
Honduras	1 year					Community service	Mandatory
Nicaragua	1 year	Additional (mandatory)					
Paraguay	1 year	Additional					
Uruguay	8 months						Mandatory
Venezuela	6 months	Additional (mandatory)			Diversion ^f		Mandatory
Costa Rica	6 months						
El Salvador	6 months	Additional					At judge's discretion
Mexico	6 months	Additional (mandatory)					Mandatory
Brazil	3 months	Additional					
Chile	2 months	Additional	Additional (mandatory)				Mandatory
Ecuador	1 month		Additional (mandatory)				Mandatory
Argentina	3 days						At victim's request

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography).

^a Countries are presented in descending order by minimum prison time. Average minimum sentence is one year. Unless otherwise specified, the additional penalties are left to the judge's discretion.

^b For domestic violence or for crime aggravated due to domestic violence (the smallest of all possible sentences). The exceptions are Chile—the minimum sentence is for "regular abuse" [maltrato habitual]— and Argentina—it shows the smallest sentence of the minimums set for the different types of violence that could be exerted by an intimate partner (3-60 days for psychological violence, 7-30 days for physical assault, and 3-5 years for crimes against sexual integrity).

^c According to Law 1674 (1995) attendance to therapy is an alternative to incarceration, but according to Law 348 (2013) it is a mandatory additional penalty (cannot replace other sanctions).

^d If not a repeat offender, and the prison sentence is less than three years (or at least half of the prison time has been served), it can be replaced by fines, weekend arrest, or community service.

^e If prison sentence is between two and four years, it can be replaced by a weekend arrest and attendance to therapy.

^f If not a repeat offender and prison sentence is less than 18 months, the sentence can be replaced by community work.

As table 6 shows, the minimum conviction for domestic violence can be as high as five years in Guatemala and as low as three days in Argentina (see table 6 notes for the Argentinean case). The average minimum sentence is one year. In addition to jail time, a sentence for domestic violence in most countries (11) includes the attendance of the accused to a rehabilitation program —although only four (Bolivia, Nicaragua, Venezuela, and Mexico) make it mandatory. Also, in three countries (Dominican Republic, Chile, and Ecuador) the accused is obliged to pay a monetary fine —which in some cases is earmarked to fund victim centers (Chile) or for reparations to victims (Ecuador). In some countries, a community service can be done in addition to the prison sentence (Panama), as a substitute to time in prison (Bolivia and Panama), or as the penalty for non-criminal offense (Honduras). In a few countries the law allows for alternatives to or diversions from incarceration in criminal charges: Bolivia (if not a repeat offender and the sentence is less than 3 years); Panama (if prison sentences is between 2 and 4 years), and Venezuela (if not repeat offender and prison sentence is less than 18 months). Finally, in almost all countries (13) the law indicates the inclusion of victim's restitution in the sentencing for domestic violence, which is mandatory in most of them (see table 6).

Evidently, these differences in the penalties set by legislation for domestic violence are meaningless without further information on actual convictions (how many prosecutions end with a conviction and how long are they on average), or whether they make a difference on recidivism or future prevalence. So far, we lack systematic information on conviction rates for domestic violence in the region but the few data available indicate that they are still low (IACHR, 2007). Nevertheless, we can look at variation across countries in the implementation of additional provisions that are likely to have an impact on the efficiency of criminal prosecution. These

provisions aim at improving the prosecution of domestic violence cases by either “neutralizing” the potential bias of government agents interacting with the victims (for example, restraining their discretion or introducing formal procedures); adapting the procedures to the particularities of these cases (for example, specialized police units, prosecutors and/or courts), or improving the engagement of women with the criminal justice system (for example, on-site provision of support services to women). Table 7 provides examples of variations in the design of criminal justice policies that are expected to have an effect on its success in dealing with domestic violence cases.

As mentioned before, most of the reforms to the criminal intervention in domestic violence intend to shape the government agents' behavior when dealing with these cases — either by minimizing the impact of agents' prejudices (with the limits to the use of their discretion) or by creating a “positive profile” to deal with these cases (with specialization policies). However, these reforms also tend to limit the victims discretion in the prosecution of domestic violence cases. This trend has been a response to the low rates of victims' reporting, and high rates of recanting. While the reasons for the victims' lack of engagement with the criminal justice are varied (and are more acute in some sectors of the female population than others), one that is often suggested is the presence of structural constraints —for example, economic dependency on the aggressor— that limit the victims' ability to make “meaningful choices” —for example, filing criminal charges and separating from the aggressor (Bailey, 2010). Therefore, even when little has been done to implement policies aimed at allowing women to make decisions without the said structural restrictions (see table 12 for some exceptions), the claim for disregarding the victim's choices against prosecution is that it is given priority to the protection of the public interest of victim's (and society's) safety.

TABLE 7

Variation in provisions in the criminal prosecution of domestic violence cases

Provisions	Variations
Police response	
Limits to the discretion of the police officer at the scene	The strongest version would be a mandatory arrest policy. It is facilitated by a warrantless arrest provision for domestic violence cases. An alternative would be preferred (presumptive) arrest policies, which are meant to guide the decision of the police officer (but still the decision is made by the officer at the scene).
Specialized police units	Whether there is a unit dedicated to respond to domestic violence incidents.
Public prosecution	
Limits to the discretion of the prosecutor and/or the victim to file charges and/or drop charges	The strongest version would be a mandatory filing policy. In the Latin American context, this policy is set de facto when the crime is defined as a matter of public interest (so its prosecution is mandatory). In addition, there can be a no-drop policy, which does not allow prosecutors to follow victim's request to dismissing the case. A "softer" version would allow prosecutors and victims to decide together to drop charges under certain circumstances.
Specialized prosecutorial units	Whether there is a public prosecutor's office dedicated to domestic violence cases.
Protocols or manuals	Whether there are written policies on handling domestic violence cases. Also meant to reduce discretion.
Judiciary	
Treatment of non-cooperative victims	Courts may be allowed to charge non-cooperative victims. A less punitive version would allow videotaped testimonies or, as in some Latin American countries, it would allow victims to testify at a different time or place than the accused.
Specialized courts	There can be specific criminal courts focusing on domestic violence cases, or an integrated domestic violence court, where one judge will handle a case including criminal charges and civil matters. Also, protection orders could be assigned to a particular judge (a civil protection docket).

Source: Prepared by the author based on discussion of the implementation of criminalization policies in the United States by Buzawa and Buzawa (2012).

Regarding police response at the scene, the majority of Latin American countries (11) have made arrest of perpetrators of domestic violence mandatory, when caught in the act or when the victim is in imminent danger. Also, many countries (10) have created special policies forces dealing exclusively with incidents of intimate partner violence —some including violence against other family members (see table 8). Both strategies are meant to increase the response of the police when they receive complaints about domestic violence —by either “neutralizing” the bias of police officer against intervening in “domestic affairs” or creating a new “women-friendly” profile within the police. This second strategy in fact is one of the oldest policies on domestic violence in the region, with many countries creating a specialized police unit before even enacting a special law on the issue —in cases like Brazil, Peru, or Uruguay, almost a decade earlier.

Although most of the specialized units belong to the national police force, some were created as judicial administrative units —thus, dealing with other legal procedures, as granting protection orders (for example, Colombia and Ecuador). Also, while they also vary in levels of institutionalization and organizational capacity, they all tend to be comparatively short-staffed, under-funded, and overall not holding a good organizational standing (Jubb et al., 2008). Nevertheless, since in many countries they have been around for more than two decades, they have become a focal point for women's access to justice in these countries: more than 98% of women surveyed in Brazil, Ecuador, and Nicaragua, and 85% in Peru, knew about these specialized police units. More women were familiarized with these units than with the national law itself or any other specialized institution or service (UN Women, 2011b).

TABLE 8

Police intervention in cases of domestic violence in Latin America, 2015

Country	Police mandatory arrest	Police units specialized on domestic violence or violence against women	Year first specialized police unit was founded
Argentina	No	Yes	1990
Bolivia	Yes	Yes	1995
Brazil	Yes	Yes	1985
Chile	Yes	No	
Colombia	No	Yes	1996
Costa Rica	Yes	No	
Dominican Republic	No	No	
Ecuador	Yes	Yes	1994
El Salvador	Yes	Yes	2011
Guatemala	Yes	No	
Honduras	No	No	
Mexico	No	No	
Nicaragua	Yes	Yes	1993
Panama	No	No	
Paraguay	Yes	Yes	2009
Peru	Yes	Yes	1988
Uruguay	No	Yes	1988
Venezuela	Yes	No	
Total	Yes = 11/ No = 7	Yes = 10 / No = 8	

Source: Prepared by the author. Information on the arrest mandate is based on the author's review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography). Information relating to the existence of specialized police units is based on data from UN Women (2011b), Rioseco Ortega (2005), and the official websites of national police force in each country.

Another set of provisions introduced in the region to improve the prosecution of domestic violence are those that limit the discretion of the public prosecutor to initiate an investigation and those that create specialized domestic violence (or violence against women) units. In most Latin American countries public prosecutors have the mandate to initiate the investigation of a domestic violence case, without the prerequisite of a formal complaint by the victim (see table 9). Also, in seven countries the public prosecution offices have created specialized units to investigate violence against women—in some cases, exclusively for domestic violence (see table 9). A couple more (Argentina and Honduras) have created advisory units for the investigation of these cases. It should be noted that there is wide variation across these units in terms of their institutional

capacity, personnel and other material resources, and their territorial coverage—from all of which I could not collect sufficient comparable information. Nevertheless, they signal a movement towards the criminalization of domestic violence in these countries.

As for reforms to the role of the judiciary in domestic violence cases, Latin American countries also differ on whether the jurisdiction over these cases is given to a specialized court or the cases are dealt by different courts depending on the charges (civil or criminal). Furthermore, given that in some countries domestic violence is also treated as one form of violence among family members, family courts have jurisdiction over these cases. Of the six countries that have a specialized court, only in Brazil, Honduras, and Nicaragua these courts have sole jurisdiction over domestic violence

cases (handling civil and criminal matters). In Bolivia, Costa Rica, and Ecuador, the domestic violence courts share the jurisdiction over non-criminal cases with family courts. The family court has the sole jurisdiction over domestic violence cases in Argentina and El Salvador. However, in Argentina —although it is the only country that has not classified domestic

violence as a separate crime— judges are advised by a technical team specialized in domestic violence (IACHR, 2007, pp. 98 and 99). In Dominican Republic it is the investigating judge [juez de instrucción] who has exclusive jurisdiction over these cases. In Paraguay, the jurisdiction belongs solely to the Justice of Peace (see table 10).

TABLE 9

Public prosecution of domestic violence in Latin America

Country	Filing mandate	Specialized public prosecution offices ^a
Argentina	No	
Bolivia	Yes	
Brazil	Yes	
Chile	No	Specialized Unit on Sexual Crimes and Family Violence
Colombia	Yes	
Costa Rica	Yes	
Dominican Republic	No	
Ecuador	No	
El Salvador	Yes	Specialized team created by Attorney's General Office to deal with domestic violence cases
Guatemala	Yes	Special Prosecutor for Women's Affairs
Honduras	No	
Mexico	Yes	Varies by state ^b
Nicaragua	Yes	Specialized Unit on Crimes Against Women
Panama	Yes	Specialized Public Prosecution Office on Family and Children Issues
Paraguay	Yes	
Peru	Yes ^c	
Uruguay	Yes	
Venezuela	Yes (with some exceptions) ^d	Public Prosecution Office for Women's Defense
Total	Yes = 13 / No = 5	7

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography), and the country's public prosecution office websites.

^a Only those offices with investigative faculties are included. Therefore, it excludes two cases of units within the public prosecution structure that only have an advisory role: Argentina's Specialized Unit on Violence Against Women [Unidad Fiscal Especializada de Violencia contra las Mujeres], that promotes a gender perspective in the investigation of violence against women, and Honduras's specialized technical team affiliated to the Public Prosecutor's Office, which provides legal advice on violence against women cases.

^b By 2012, 23 states (out of 31) and the Federal District had public prosecution offices specialized in domestic violence (see Hernandez Monzoy, 2015).

^c The law also dictates a no-drop policy (that is, the prosecutor cannot drop charges of domestic violence).

^d The exceptions are: psychological violence, harassment, threats, sexual harassment, violence in the workplace, and gender-motivated public offenses.

Finally, while only in Bolivia and Colombia there is explicit recognition of the jurisdiction of indigenous authorities in cases of domestic violence (see table 10), indigenous authorities

in Mexico, Ecuador, Peru, and Guatemala de facto handle most cases of violence against women in their jurisdictions (see discussion of restorative justice mechanisms below).¹⁸

TABLE 10

Judicial jurisdiction over domestic violence cases in Latin America, 2015

Country	Specialized Court ^a	Criminal Court	Family Court	Civil Court	Other
Argentina ^b			✓		
Bolivia	✓	✓	✓		Authorities of indigenous or rural communities
Brazil	✓				
Chile		✓	✓		
Colombia		✓			Justice of Peace, Conciliator, Authorities of indigenous communities
Costa Rica	✓	✓	✓		Contravention Court
Dominican Republic					Investigating Judge
Ecuador	✓	✓	✓		
El Salvador			✓		Justice of Peace
Guatemala		✓	✓		
Honduras	✓				
Mexico		✓	✓	✓	
Nicaragua	✓				
Panama		✓			
Paraguay					Justice of Peace
Peru		✓	✓		Justice of Peace
Uruguay		✓	✓		
Venezuela		✓			
Total	6	11	10	1	

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography), and official websites of the judicial branch.

^a In Bolivia and Nicaragua the courts handle all cases of violence against women.

^b Although not a specialized court, judges are advised by a technical team specialized in domestic violence (see IACHR, 2007, pp. 98 and 99).

The judiciary plays an additional important role in the government response to domestic violence: the issuing of protective measures—for example, restraining orders or protective orders. Civil court proceedings are increasingly the focus of legislation, due to the importance as a preemptive measure but also because they are crucial for criminal prosecution success. Protective measures can be granted independently from the opening of a criminal investigation. As mentioned

before, they are designed to prevent future violence rather than to punish past violent behavior (see table 5). However, when they are issued efficiently, they could impact the victims' confidence in the authorities, thus increasing their collaboration with the prosecution of past criminal acts. Some policy provisions that have an impact on the efficacy of protective measures are: whether they require a formal request by the victim or another authority or they can be issued ex

officio by the judge and/or the prosecutor; their length and the procedure for extending or renewing them, and whether there are enforcement mechanisms in place (Buzawa and Buzawa, 2012, p.278).

Currently, all Latin American countries have legislated protective measures for victims of intimate partner abuse (see table 11). These measures encompass two different kind of strategies to guarantee victim's safety: those that aim at impeding the contact between the victim and the aggressor (called protective or preventive) —for example, denial of aggressor's access to their shared residency or victim's place of work, and removal of guns and prohibition to carry them—, and those that involve other arrangements for continuing the separation and protection of the victim (precautionary) —for example, payment of damages, temporary removal of parental rights, temporary alimony payment, and attendance to rehabilitation program, among others. An additional third type of measure is a temporary police protection order (that is, issuing a document that expedites police aid when requested by the victim).

In half of the Latin American countries, the judges are the only issuing authority of protection orders. In most cases, they are required to issue them *ex officio*, that is, without a written or verbal request by the victim, or a third party. In the remaining countries, judges share this responsibility with other authorities, mainly the public prosecutor or the police. In the majority of countries (14)

protective measures (of at least one kind) are issued *ex officio*.

Granting issuing authority to the public prosecutor or the police (*ex officio*) could expedite the access to justice of victims of domestic violence as, in principle, there is no waiting period between placing their complaint and receiving protection from the authorities. This is only the case in six countries in the region —Bolivia, Ecuador, Honduras, Panama, Peru, and Venezuela. However, the authority for determining the duration and possible renewal of protection measures belongs mainly to the judges. Of the 16 countries on which there is information on duration, 6 have set fixed periods and 10 leave it to the discretion of the issuing authority. In all countries where the renewal is legislated, this is left to the judge's discretion (see table 11).

Few countries in the region have expanded the notion of protective measures to incorporate policies aimed at reducing the economic dependency of victims —one of the most cited reason for women recanting their initial complaint or not requesting help from the authorities at all. Table 12 shows some provisions in the current legislation in Brazil, Colombia, El Salvador, Uruguay, and Venezuela aimed at providing women with alternatives for housing and changing location without losing their jobs, and priority for accessing economic assistance from the government.

TABLE 11

Protective measures for victims of domestic violence in Latin America, 2015

Country	Name ^a	Who can issue?	How?		Duration		Renewal ^b	
			Ex officio	Upon request	Fixed	Determined by authority	Ex officio	Upon request
Argentina^b	Urgent Preventive		✓	✓		✓		
Bolivia	Urgent	Public prosecutor	✓					
	Precautionary temporary	Judge	✓	✓		✓		
Brazil	Urgent	Judge		✓		✓		
Chile	Precautionary complementary	Judge	✓		✓			✓
Colombia	Urgent	Judge	✓					
	Temporary	Judge		✓				
	Temporary police protection	Police	✓	✓				
Costa Rica	Protective measures Police protection order	Judge		✓	✓			✓
Dominican Republic	Protection orders	Judge	✓			✓		
Ecuador	Protective measures	Judge Specialized police	✓					
El Salvador	Protective measures Temporary police protection	Judge	✓			✓		
Guatemala	Security measures	Judge	✓		✓			✓
Honduras	Security, preventive, and precautionary measures	Judge Public prosecutor Police	✓		✓		✓	✓
Mexico	Urgent Preventive	Competent authority		✓	✓			✓
	Civil protection orders	Judge		✓				
Nicaragua	Preventive and precautionary	Judge		✓	✓			✓
Panama	Protective measures	Judge Public prosecutor Police Authorities of indigenous communities	✓	✓		✓		
Paraguay	Urgent protective measures	Judge	✓			✓		
Peru	Urgent	Public prosecutor Judge	✓	✓				
	Precautionary	Judge	✓					
Uruguay	Precautionary	Judge	✓	✓		✓		
Venezuela	Protective measures	Authority receiving complaint	✓			✓	✓	✓
	Precautionary	Judge		✓		✓	✓	✓
Total (No. of countries)			17	13	6	10	6	5

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography).

^a When there is more than one category, the distinction is between those that restrict the contact between the victim and the aggressor (protective, preventive)—these can also be urgent—and those that involve other arrangements for continuing their separation and protection of the victim (precautionary). An additional third type of measure is a temporary police protection order.

^b In all cases, where information was available, renewal of protection measures is made by a judge.

TABLE 12

Protective measures aimed at increasing economic autonomy of victims of domestic violence in Latin America, 2015

Country	Protective measures
Brazil	Victims are temporarily included in the registry of government assistance programs; given priority to transfer when they are civil servants, and allowed to work from home (up to 6 months).
Colombia	Temporary housing and boarding for 6 months, renewable (6 more). Conditioned to attendance to medical and psychological or psychiatric therapy appointments.
El Salvador	Temporary relocation or, if they remain in their current home (with protection order), the aggressor can be made responsible for fulfilling lease agreement. Also, victims receive priority to access public housing programs.
Uruguay	Housing program for domestic violence victims, which provides the lease deposit and a cash subsidy for up to 2 years. Victims living with the aggressor or in risky family situations are given priority.
Venezuela	Public workers victims of violence have the right to a reduction or relocation of their workload, relocation to a different office or city, and a temporary termination of contract with position reserved or an unpaid leave. Victims of violence against women have priority for government benefits, as well as for housing, land owning, and credit or technical assistance programs.

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography).

A third venue of government intervention in domestic violence is the use of restorative justice mechanisms—that is, conciliation or mediation mechanisms, either regulated in the legislation or practiced by indigenous or rural communities. Almost half of the national legislation in Latin American countries allow for the use of conciliation or mediation in cases of intimate partner violence (see table 13). In some cases (four countries), judges, before proceeding to give their sentence, are either required to call parties to a conciliatory meeting (Argentina,¹⁹ Ecuador, and El Salvador) or left to decide when to do so (Chile). In one case (El Salvador), the public prosecutor has the authority to decide whether it is appropriate to call a conciliatory meeting before starting the investigation. In most cases (six out of eight) the decision to initiate conciliation or mediation is left to the victim—with one case, Nicaragua, also allowing the accused to have a say. Only in this last case, the law restricts the use of conciliation to a subset of cases (those with “minor injuries”). Of all the

countries allowing conciliation or mediation as alternatives to prosecution, only in Chile the law requires a specialized team to evaluate whether the parties are in “equal conditions” to negotiate (see table 13).

Domestic violence cases are also solved through the restorative justice mechanisms used by rural and/or indigenous communities. Although the nature of indigenous justice systems varies greatly across the region, their proceedings frequently emphasize listening to the parties in a conflict and reaching conciliated settlements. In general, they also look after the reparation of harm or damage. If a case is not resolved satisfactorily, the situation affects not only the parties to a dispute, but their families and often the whole community. For this reason, the community as a whole often acts as a guarantor of the resolution or agreement reached in a settlement. Resolution within the community also ensures follow-up of cases, and the continued accessibility of authorities for the plaintiffs (Sieder and Sierra, 2010, pp.17 and 18).

TABLE 13

Mediation or conciliatory mechanisms allowed for domestic violence cases in Latin American countries' current legislation, as of September 2015^a

Country	Allowed?	If allowed, is it mandatory, at authority's discretion, or voluntary (upon victim's request)?	If allowed, who can initiate the procedure?
Argentina	Yes/No ^b	Mandatory	Judge
Bolivia	Yes	Voluntary	Judge
Brazil	Not mentioned		
Chile	Yes	At authority's discretion	Judge ^c
Colombia	Yes	Voluntary	Justice of peace or conciliator
Costa Rica	Not mentioned		
Dominican Republic	Yes	Voluntary	Public prosecutor
Ecuador	Yes/No ^d	Mandatory	Judge
El Salvador	Yes	At authority's discretion/Voluntary/Mandatory	Public prosecutor/Judge ^e
Guatemala	No		
Honduras	Yes	Voluntary	Public prosecutor
Mexico	No ^f		
Nicaragua	No (with exceptions) ^g	Voluntary	Public prosecutor
Panama	Not mentioned		
Paraguay	Not mentioned		
Peru	No		
Uruguay	Not mentioned		
Venezuela	Not mentioned		

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography), unless otherwise indicated.

^a When domestic violence and/or violence against women legislation does not mention the use of these mechanisms, the author reviewed the country's national legislation on alternatives to criminal proceedings (if any) and the current Criminal Proceedings Code. "Not mentioned" indicates that there was no reference to domestic violence in any of these pieces of legislation.

^b Law 24417 on family violence [Protección contra la Violencia Familiar, 1994] instructs the judge to initiate conciliation, but Law 26485 on violence against women [Protección Integral de las Mujeres, 2009] prohibits it.

^c The judge can call a mediation meeting, upon agreement of both parties and after an advisory specialized team has established that the parties are in equal conditions to negotiate (Chile, 2015, Law 19968, article 96).

^d Law 103 on violence against women and the family [Ley contra la Violencia hacia la Mujer y la Familia, 1995] instructs the judge to call a conciliatory hearing, but its regulatory law (2004) prohibits it.

^e The public prosecutor, when deemed appropriate or at the victim's request, should call a conciliatory meeting. If an agreement is not reached or the meeting is not requested, the Office should start the prosecution. The judge, after receiving the experts' pronouncements (peritajes) and if events do not amount to a criminal offense, will call a preliminary hearing to promote a dialogue between the parties and to suggest mechanisms to prevent similar future incidents (El Salvador, 2014, Decree No 902 on family violence [Ley contra la Violencia Intrafamiliar], articles 16 and 26).

^f According to federal legislation. However, there is wide variation across states, with most states still allowing conciliation or mediation for domestic violence cases (see Hernandez Monzoy, 2015).

^g Mediation is prohibited in Law 779 on violence against women [Ley Integral contra la Violencia hacia las Mujeres y de Reformas a la Ley 641, "Código Penal" (2012)] but its regulatory law (2014) allows it for cases of minor injuries. In these cases either party can request a mediation meeting before the public prosecutor or judge.

While only in Bolivia and Colombia the law recognized the jurisdiction of indigenous or rural authorities in cases of domestic violence, there is evidence that, throughout the region, indigenous women who are victims of domestic violence rely mainly (if not exclusively) on the justice mechanisms available in their communities. The proximity, both physical and cultural, of these mechanisms to indigenous women (and men) and, conversely, the inadequacy of the state's procedures to deal with their particular needs—that is, concentration in urban centers, lack of translating services, and discrimination

from public officials— helps explaining this preference. Nevertheless, not all women have found a satisfying solution from the indigenous justice systems. Indigenous women are often victims of gender discrimination, as they are being judged by their men in their communities (sometimes from their own families), who tend to hold patriarchal attitudes that bias them against their plea for justice. Also, given the emphasis indigenous justice systems place in community's harmony (as opposed to the perpetrator's accountability) women will likely continue living with their aggressors thus at

risk of further violence (GIZ, 2014; Sieder and Sierra, 2010).

Therefore, both the criminal and the indigenous justice systems are usually found lacking when dealing with indigenous women victims of violence in general and domestic violence in particular. The following section will review the policies that have been implemented in the region to address women's particular needs when accessing to both systems of justice.

2.2 Female empowerment policies for victims of domestic violence

The push for more involvement of the criminal justice system in domestic violence cases has been followed, at a slower pace, by policies aimed at providing women services that could not only allow them to collaborate with the prosecution but also to remain free of violent relationships in the long term. These policies usually entail services to victims such as legal and psychological counseling, medical services, and shelters. Moreover, there is a change in the way these services are being provided. Similar to a trend in the United States—the pioneer in criminalization of domestic violence in the continent—an increasing number of Latin American countries are implementing a “one-stop” model of service delivery, which brings law enforcement together in one building with medical and mental health services, legal assistance, and even employment help.²⁰ The Brazilian Women Houses [Casas da Mulher], Colombia's Justice Houses [Casas de Justicia], El Salvador's Women City [Ciudad Mujer], Honduras's Attention and Legal Protection Centers for Women [Centros de Atención y Protección de los Derechos de las Mujeres], and Mexico's Justice Centers for Women [Centros de Justicia para las Mujeres] are the most complete versions of this model in the region (see table 14). By locating all relevant services for victims of domestic violence in one place and, in most cases (except Brazil), along with law enforcement offices (polices, prosecutors, and criminal and family courts), these centers are also addressing the unequal access to justice among women. In addition to the in-site provision of services, Brazil and Uruguay have a

national network of mobile units to reach out to women in remote areas (see table 14).

Table 14 shows information available through national government sources (self-reports to international organizations or official websites), since the focus of this report is the public provision of services to victims of domestic violence. The main source of information for the provision of these services was the National Women's Institute or Ministry in each country (also known as women policy machineries). These institutions play a central role in the implementation of policies on violence against women, as many have been given the executive or coordinating authority for the enforcement of the national legislation on this matter.²¹ Moreover, in some countries they are also the main providers of public services for victims of domestic violence (for example, Chile and Paraguay—see table 14).²² In many countries these institutions are also responsible for running the emergency number for assistance to victims of violence against women (see table 15).

As may be evident in table 14, there was no information available of the public provision of specialized services to domestic violence victims, through these sources, for four countries in Latin America (Guatemala, Nicaragua, Panama, and Venezuela). In these countries, specialized services for victims of domestic violence are provided by non-governmental organizations (NGOs).²³ It should be noted that in Uruguay, the services are also provided by NGOs but they do so via public contracts, thus they were included because their provision depends on government funding.

Among the countries where there are public services for women victims of domestic violence, all (except for Ecuador) provide legal advice as well as psychological counseling (except for Argentina). An innovative service is the one provided by the Domestic Violence Offices in Argentina (currently in only four provinces). In these offices, a technical team prepares risk assessment reports that are in turn sent to the courts (criminal or civil, depending on the case) for the required legal procedure. These reports would also dictate the referrals to other institutions for victim's attention. The linkages with the prosecution and/or judiciary are also present in another seven centers for victims of domestic violence (see table 14), which indicates

TABLE 14

Public provision of specialized services for victims of domestic violence in Latin America^a

Country	Center's name	Total	L	P	M	S	Other	Linked to public prosecution office?
Argentina	Domestic Violence Offices	4	✓				Risk assessments ^b Referrals	Yes
Brazil	Brazilian Women Houses	2	✓	✓	✓		Mobile units (53)	No
Bolivia	Municipal Integrated Legal Services	200	✓	✓		✓		No
Chile	Women Centers ^c	96	✓	✓		✓	Community monitors	No
Colombia	Justice Houses	103	✓	✓		✓	Conciliation	Yes
Costa Rica	Specialized (Emergency) Centers for Women Suffering Violence	3	✓	✓		✓	Group therapy Shelter	No
Dominican Republic	Gender and Sexual Violence Victim Units	2	✓	✓	✓			Yes
Ecuador	Judicial Units for Women and the Family ^d	33		✓	✓	✓		Yes
El Salvador	Women Cities	6	✓	✓			Crisis intervention Support groups	Yes
Honduras	Attention and Legal Protection Centers for Women	1	✓	✓	✓	✓	Police Public Prosecution Conciliation	Yes
Mexico	Justice Centers for Women	22	✓	✓	✓	✓	Shelter	Yes
Paraguay	Women's National Ministry and its Regional Centers	5	✓	✓		✓		No
Peru	Emergency Centers for Women	104	✓	✓		✓	Protective measures	Yes
Uruguay	Services for Women Victims of Gender Violence ^e	19	✓	✓		✓	Mobile units (12)	No
		Total	13	13	5	10		Yes = 8 / No = 6

Source: Prepared by the author based on the review of country or regional reports (see bibliography), women's policy machineries' websites, and newspaper articles.

^a As of 2015, except for Bolivia, Honduras, and Uruguay, for which information is from 2014. The initials stand for: legal advice (L), psychological counseling (P), medical attention (M), and social work services (S).

^b Depending on the result of the assessment, the case is referred to either the civil or the criminal courts.

^c Formerly, Centers for the Attention and Prevention of Family Violence [Centros de Atención Integral y Prevención en Violencia Intrafamiliar], 2000-2005. The community monitors are in charge of prevention programs, follow-up, and the self-help groups.

^d Formerly, Police Stations for Women and the Family [Comisariías de la Mujer y la Familia].

^e These services are provided via contracts with local non-governmental organizations (through public bids).

the importance to integrate the attention to victims with the procurement of justice in domestic violence cases.

Moreover, even though in the majority of centers (ten) there are social work services, their main role is to monitor cases. Therefore, victims of domestic violence in the region are lacking the access to services that could increase their economic autonomy vis-à-vis current or future intimate partners (for example, training and employment services), which in turn could

reduce their vulnerability to violence. Another service that these centers are not providing is temporary shelter for victims and their children (only the centers in Costa Rica and Mexico report having one). The incorporation of shelters into these centers could be unwarranted due to the safety and other specific infrastructure requirements. In fact, many governments report to have shelters for victims of domestic violence elsewhere (see table 15).

Of the 11 countries that report having publicly funded shelters, four do not report their number (Argentina, Bolivia, Costa Rica, and Ecuador), and the rest reports numbers that go from 1 (Paraguay) to 66 (Mexico). There is no information on the coverage and quality of the service of these shelters. There is a similar lack of information on the number, capacity, and performance of NGO-run shelters across the region.

Finally, even though they are not public initiatives, it is worth pointing out some innovative projects aimed at guaranteeing equal treatment of women victims of domestic violence by indigenous or rural restorative justice mechanisms. Table 16 describes briefly each of these programs in six Latin American countries (Ecuador, Guatemala, Mexico, Nicaragua, Panama, and Peru). The list is not meant to be exhaustive but illustrative of the kind of reforms

that can be made to improve indigenous women access to justice in situations of violence by an intimate partner. Some of these projects are an initiative of the indigenous women's movement organizations, while others are promoted by international organizations in collaboration with local women organizations and authorities. One important feature of these projects is that they attempt linking the indigenous and the state's judicial systems—for example, the Statute of Good Living in Ecuador, the Indigenous Women's House in Mexico, and the Community Defenders in Peru. While we may lack evidence to reach a strong conclusion as to which government intervention is the best for women suffering intimate partner violence, the available evidence seems to suggest that is best that these solutions work in tandem rather than as separate spheres of intervention.

TABLE 15

Public provision of shelters and emergency phone lines for victims of domestic violence in Latin America, 2015

Country	Shelters? (Number)	Specialized national hotline? (agency in charge)
Argentina	Yes	Yes (National Women's Institute)
Bolivia	Yes	Yes ^a (Specialized Police Force)
Brazil	Yes (72)	Yes (Women's Ministry)
Chile	Yes (28)	Yes (2) (Women's Ministry/Police)
Colombia	No	Yes (Police)
Costa Rica	Yes	No
Dominican Republic	Yes (8)	Yes (Women's Ministry)
Ecuador	Yes	No
El Salvador	No	Yes (Women's Institute)
Guatemala	No	Yes (Women's Ministry)
Honduras	Yes ^b (2)	Yes (National Women's Institute)
Mexico ^c	Yes (66)	Yes (Interior Ministry)
Nicaragua	No	No
Panama	No	No
Paraguay	Yes (1)	Yes
Peru	No	Yes (Women's Ministry)
Uruguay	No	Yes (Social Development Ministry)
Venezuela	Yes (6)	Yes (National Women's Institute)
Total	Yes = 11 / No = 7	Yes = 14 / No = 4

Source: Prepared by the author based on data from ECLAC (2015), and author's corroboration and updating with women's policy machinery's websites.

^a There is also a hotline run by a non-governmental organization.

^b These two shelters are run by non-governmental organizations, but there are collaboration projects with local governments.

^c Besides shelters (in cities), the country reports 21 Indigenous Women Houses. The hotline is run by a non-governmental organization contracted by the federal government.

TABLE 16

Initiatives to guarantee equal treatment of women victims of domestic violence by indigenous or rural restorative justice mechanisms in Latin America, as of September 2015^a

Country	Locality (major ethnic group)	Year	Initiative
Ecuador	Cotacachi (kichwa)	2008	The Statute on good living and good treatment [Reglamento de buena convivencia y el buen trato]. Developed by local women's organization —with support from the United Nations Development Fund for Women (UNIFEM), the National Women's Council (CONAMU), and local authorities. Aims at regulating family and community life and establishes a series of sanctions which are increased when the person re-offends. It respects the principles of indigenous justice but it prioritizes the jurisdiction of the state for particularly serious crimes, such as rape.
	Sucumbíos, Amazon region (kichwa)	2008	The "law of good treatment". A kichwa women initiative to prevent and punish violence. The role of men as promoters of "good treatment" is a remarkable feature of this experience.
Guatemala	Santa María Cahabón (maya Q'eqchi')	2007-2013	Training of 300 female community mediators by Propaz Foundation —with support from the German Agency for International Cooperation (GIZ)— on conflict resolution with gender equality.
		Since 2003	The House of the Indigenous Woman [Casa de la Mujer Indígena, CAMI] provides legal and psychological support to victims of domestic violence. Cases can be addressed via the judicial system or conciliation depending on the severity of the offense and the decision of the woman involved. Also, it has developed workshops with indigenous men to reflect on violence and its implications.
Mexico	Cuetzalan, Puebla (nahua)	Since 2003	The Indigenous Court [Juzgado Indígena] was created by state justice authorities to deal with all kinds of conflicts, but it became an important venue for women's search for justice —about 50% of cases between 2004 and 2006 had women plaintiffs. The House of the Indigenous Woman [Casa de la Mujer Indígena, CAMI] is part of the court's governing council, so it is able to participate in the cases and ensure that the judges take into account women's rights in their conciliations, even when they contravene customs.
		Since 2003	The Indigenous Court [Juzgado Indígena] was created by state justice authorities to deal with all kinds of conflicts, but it became an important venue for women's search for justice —about 50% of cases between 2004 and 2006 had women plaintiffs. The House of the Indigenous Woman [Casa de la Mujer Indígena, CAMI] is part of the court's governing council, so it is able to participate in the cases and ensure that the judges take into account women's rights in their conciliations, even when they contravene customs.
Nicaragua	Wangki communities (Miskito People)	2012	A women organizations network has organized Forums of Women from the Wangki to provide information on the subject of violence against women. Fifty-four community judges (wihtas) have signed an agreement with the organization Wangki Tangni and the non-governmental organization Wangki Women Network Against Violence [Red de Mujeres contra la Violencia del Wangki].
Panama	Oma (Ngäbe Buglé People)	2012	A practice that seems effective in curbing domestic violence in the community is to remove the aggressor from the home for a certain period of time to observe his behavior. Meanwhile a protection order is issued for the victim [boleta de protección]. If the aggressor behaves "correctly", an agreement is made for him to return home.
Peru	Chililique Alto (among others)	June-Sep. 2012	A regional prevention program on violence against women [ComVoMujer] —supported by the German Agency for International Cooperation (GIZ)— organized a workshop with members of the Peasant circles [Rondas Campesinas] to increase their awareness of the problem of violence against women.
	Chacabamba, Cuzco	Since 2002	Community defenders [Defensorías comunitarias] founded by a United Nations Children's Fund (UNICEF) regional program to improve women's access to justice. Men and women were trained in human rights in order to advise members of the community on the procedures to follow when their rights were violated. ^b

Source: Prepared by the author based on data from Barrera Vivero (2014), GIZ (2014), López and Fenly (2013), and Sieder and Sierra (2010).

^a Except for the Indigenous Court in Puebla, Mexico, none of this initiatives are government sponsored.

^b The defensorías were awarded the Experiences on Social Innovation Award from ECLAC-Kellogg Foundation (2005-2006) for their work in improving women's rights consciousness and alternatives to domestic violence (Sieder and Sierra, 2010, p. 23).

2.3 Male engagement in government responses to domestic violence

Recent legislation on domestic or intimate partner violence in Latin America departs from the premise that at the root of this form of violence is a power asymmetry between men and women —perpetuated through gender socialization and socioeconomic gender inequalities.²⁴ However, domestic violence policies —and gender equality policies in general— have until recently ignored the relational aspect of the concept of gender. If gender refers to the social rules, attitudes, and practices constructed from the biological differences between men and women —which have been found to create, on average, disadvantages for women more than for men—, then the promotion of gender equality involves a redefinition of such expectations for both sexes. In other words, social expectations on one gender cannot change without also changing the expectations on the other; for example, if women are seen as capable of working outside the house, then men would need to be seen as capable of housework or child-rearing —otherwise, women’s incorporation to the labor force increases their workload but contributes little to their position within their household. Nevertheless, most gender policy interventions expect a transformation of women’s roles and notions of femininity but hold a static view of their counterpart —that is, all men cannot change or will not change fast enough to have an impact in the lives of men and women (and boys and girls) of this generation (Barker et al., 2010, p. 11).²⁵

Feedback from implementation of gender policies, as well as the accumulation of research on masculinities, has led to recent changes in gender equality policies in order to target men not only as recipients of gender equality policies but also as “partners” of women in changing gender roles and gender relations.²⁶ In the area of domestic violence, men-engaging policies are broadly of two kinds: rehabilitation programs for former perpetrators and preventing education programs targeting boys or young adults. In Latin America, the recent legislation

(enacted or reformed) on domestic violence reflects this new trend in policy intervention. Nowadays, all countries, but Costa Rica and Ecuador, mandate rehabilitation programs for perpetrators in their legislation (see table 17). In most countries, however, the legislation is very vague on the type of program or its duration. Also, there is no mandate in the law for the public provision of such a program, with many already assuming that it would be provided by a NGO, and few specifying a monitoring mechanism.

The majority of Latin American countries have legislated on the attendance of perpetrators of domestic violence to rehabilitation programs (only the laws in Costa Rica and Ecuador do not mention these programs). In most cases, these programs are dictated as a preventive measure and/or as an additional penalty to a conviction. When used as a protective measure, the instruction of attendance to a program is usually left to the discretion of the authority (except for El Salvador where is mandatory for all cases). Only in Argentina, attendance to therapy is a sanction for violating a protective order. In Panama, besides being a protective measure, a rehabilitation program is also a diversion to incarceration for no serious cases. Finally, in Bolivia there is a contradiction in the legislation: according to the Law on Domestic Violence (Law 1674, 1995) attendance to therapy is an alternative to incarceration, but according to the Law on Violence against Women (Law 348, 2013) it is a mandatory additional penalty and cannot replace other sanctions.

Another way in which governments have engaged men in their efforts to curb domestic violence consists of preventive educational programs. This intervention usually targets the general adult male population, although some also include former offenders. The connection of these programs with the justice system ranges from such programs being an integrated part of court referrals to having weak or no ties (Taylor and Barker, 2013, p.11). In Latin America, these programs are usually non-governmental initiatives and the majority targets the adult men who have been violent and attend voluntarily. Table 18 shows a selection of programs, both

TABLE 17

Rehabilitation mechanisms for domestic violence perpetrators in the legislation of Latin American countries, 2015

Country	Is it at authority's discretion (D) or mandatory (M)?		Where in the legal process is implemented?			
			Protective measure	Sanction (violation of protective measure)	Additional penalty (part of sentence)	Alternative to incarceration
	D	M				
Argentina	✓					
Bolivia		✓		✓		
Brazil	✓				✓	✓
Chile	✓				✓	
Colombia	✓		✓		✓	
Costa Rica	None mentioned		None mentioned	None mentioned	None mentioned	None mentioned
Dominican Republic		✓			✓	
Ecuador	None mentioned		None mentioned	None mentioned	None mentioned	None mentioned
El Salvador		✓	✓		✓	
Guatemala	✓		✓			
Honduras	✓		✓			
Mexico^a	✓	✓	✓		✓	
Nicaragua^a	✓	✓	✓		✓	
Panama^b	✓	✓	✓		✓	✓
Paraguay	✓				✓	
Peru	✓				✓	
Uruguay	✓		✓			
Venezuela^a	✓	✓	✓		✓	
Total	13	7	9	1	11	2

Source: Prepared by the author based on the review of the country's current domestic violence (or family violence) and/or violence against women legislation (see bibliography).

^a The judge decides whether to dictate it as a protective measure. It is mandatory as part of any sentence.

^b The judge decides whether to dictate it as a protective measure (if not fulfilled, it is replaced by incarceration). It is mandatory as part of the sentence for non-serious cases (along with weekend arrest).

government and non-government sponsored, that engage men in the prevention of domestic violence. The criteria used to select these programs were the following: i) that they were programs working directly with men (either from the general population or former offenders) in a group education setting;

ii) for which there is evidence that they have undergone an impact evaluation,²⁷ and iii) that this evaluation was positive —that is, they were found to be effective or with the potential to be effective in changing gender attitudes in the participants.²⁸

TABLE 18

Group education programs for men who have been violent against an intimate partner in Latin America, as of September 2015

Country	Name	Execution period	Scope	Executing organization
Brazil	Program H	Since 2002	National	Promundo ECOS Instituto Papai
Chile	Men Who are Violent Against their Partners ^a	Since 2012	National	National Women's Ministry [Servicio Nacional de la Mujer, SERNAM]
Costa Rica	Action Plan "Building New Masculinities" ^a	2004-2006	Cantón de Goicoechea	Instituto Costarricense de Masculinidad, Pareja y Sexualidad, with support from the National Women's Institute
El Salvador	Masculinity Program Equinoccio	Since 2007	National	Centro Bartolomé de las Casas
Guatemala	Reflexive Meetings on the Construction of Masculinities	2012	Guatemala City	NGO Dos Soles
Honduras	Men Accused of Domestic Violence ^a	2012	Tegucigalpa	Health Ministry
	Education Program to Prevent Violence against Women	2005-2006	Xalapa, Veracruz	NGO Salud y Género
Mexico	Program for Men Who Renounce Violence ^b	1992-2009 2009-present	Mexico City	1992-2009: Men for Equal Relationships [Colectivo de Hombres por Relaciones Igualitarias, A.C., CORIAC] 2009-present: Men's Movement for Equal Relationships Without Violence [Movimiento de Hombres por Relaciones Equitativas y Sin Violencia, MHORESVI]
Panama	Help Groups for Men Who Are Offenders (GAHO)	2002	National	Linked with Help Center for Women Victims of Violence [Centro de Apoyo a la Mujer Maltratada, CAMM]
Uruguay	Attention Program for Men Who Decided to Stop Being Violent ^a	Since 2012	Montevideo	Center for Studies on Gender and Masculinities [Centro de Estudios sobre Masculinidades y Género] and the municipal government

Source: Prepared by the author based on data from Sallé Alonso and Infante Rodríguez (2012), Guedes (2012), Rothman, Butchart and Cerdá (2003), and Barker, Ricardo and Nascimento (2007).

^a Government-sponsored programs.

^b The report including this program indicates that its evaluation is "in progress". However, it is included here because it has the longest duration of those evaluated so far —after the organization that started it dissolved, some of its members founded another group and continued with the same program (see Rothman, Butchart and Cerdá, 2003).

From the preventive education programs selected here, the majority targeted the general male population, was short-lived, and focused on one locality or region of the country. The government sponsored programs (except in Costa Rica) focused on former perpetrators of violence, although only the program in Chile has national coverage (with 15 centers across the country), and is linked to the criminal justice system (that is, receives referrals from the courts, as well as voluntary participants). The longest

running program (but the only one with an evaluation "in progress") is in Mexico City (since 1992). Overall, even these "promising" programs have important limitations in terms of their coverage, continuity, and long-term follow-up mechanisms. Funding is a widespread challenge since, even in countries where funding is allocated, they would be discontinued if they seem to take resources away from services to victims (Taylor and Barker, 2013, p. 13).²⁹



Comparing Latin American countries' policy-making on domestic violence



Comparing Latin American countries' policy-making on domestic violence

In order to compare the performance of Latin American countries in the three dimensions that are the focus of this document —criminalization, empowerment of victims of domestic violence, and engagement of men to prevent further violence—, I have constructed three indexes: the criminalization of domestic violence index, the female empowerment policies index, and the male engagement policies index. Next, I will describe the construction of each index and discuss the comparison of the resulting values for the Latin American countries (see tables A1, A2, and A3 in the annex for a detailed description of the construction of each index).

3.1 Criminalization of domestic violence

Overall, most countries in the region have implemented policies aimed at reinforcing the alternative to prosecute over conciliatory or mediation mechanisms —by prohibiting them or allowing them in few circumstances— and to link the civil procedures for protection measures to the criminal prosecution of the case —by granting the public prosecutors authority to issue protective measures (at least in cases of emergency). The criminalization of domestic violence index measures the extent to which countries have moved towards prioritizing the criminal prosecution of domestic violence. It comprises four policy reform areas: i) whether they codified domestic violence as a crime, as an aggravating circumstance of an existing crime, or none (domestic violence as a crime variable); ii) whether they have legislated a filing mandate for the prosecution of domestic violence or not, and/or prohibit, allow in some cases, or allow always conciliatory or mediation mechanisms for these cases (strength of prosecution mandate variable); iii) whether they have created specialized

units in the police force, the public prosecution office, and/or the judiciary (specialization variable), and iv) whether protective measures are granted upon victim's request, ex officio but only by a judge, or ex officio by the public prosecutor and other authorities (protection order efficiency). The domestic violence criminalization index is the sum of values of these four variables. The index could take values from 11 to 0 (mean = 7). Figure 5 compares the index values for each country.

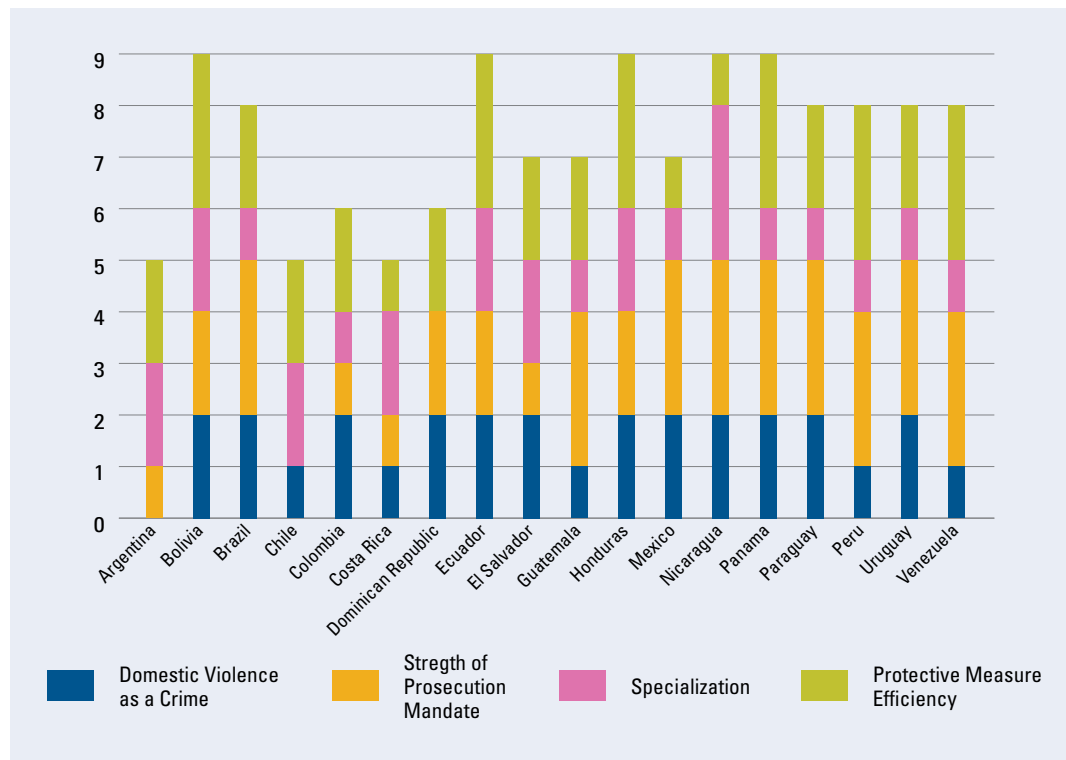
Overall, most countries rank high on the criminalization of domestic violence —ten countries above average, three on average, and only five below it (see figure 5). Regarding the five countries with the highest score (Bolivia, Ecuador, Honduras, Nicaragua, and Panama), they all have codified domestic violence as a crime; have a relative strong prosecution mandate (with the highest or second highest score); have specialized units in at least two of the three institutions involved in the prosecution of domestic violence (with Nicaragua having specialized units in all three), and have granted the public prosecutor authority to issue protective measures (except for Nicaragua, where is granted by the judge at the victim's request). Argentina stands out as the only country where domestic violence is not a crime or an aggravating circumstance, and where the mandate to prosecute is among the weakest (there is no filing mandate and there is still one current law that allows conciliation in all cases). Nevertheless, it has moved farther than average on the organizational specialization and is on average in granting judges exclusive authority to issue protective measures. Of the other two countries in the lower side of the graph (Chile and Costa Rica), Chile stands out as the country with the weakest prosecution mandate (no filing mandate and conciliation allowed in all cases). In general, most countries have codified domestic violence as a crime and have given the public prosecution

a strong mandate to investigate domestic violence cases. Many countries still concede judges exclusive authority to grant protective orders (but *ex officio*) and have not created

specialized units in the institutions involved in the prosecution —when they have, the majority have created a specialized police unit.

FIGURE 5

Domestic violence criminalization index in Latin American countries, 2015



Source: Prepared by the author.

Note: See table A1 in annex for details on the construction of this index.

3.2 Female empowerment policies

Most countries have taken measures to provide services to women who decide to seek help from the authorities to end intimate partner violence—for example, an emergency phone line, legal advice, psychological counseling, and temporary shelter. However, these policies have disregarded important differences among women that have an impact on their access to justice and the services attached to it—that is, differences based on other sources of inequalities such as income, race or ethnicity, and sexual orientation. With some exceptions, governments have done little to address the particular needs of poor, rural, or indigenous

women victims of intimate partner violence who decide to reach out to the government authorities for help.

The female empowerment policies index measures governments' efforts to repair the power imbalance of victims vis-à-vis their intimate partners in two fronts: i) the provision of services (usually parallel to the prosecution), and ii) provisions that are likely to enhance women's economic autonomy. The index is the sum of the value of two variables: i) services provision adds to the total of government-funded services for victims of domestic violence: two points if these services—except for the shelters—are provided in a “one-stop” model, and one point if their provision is integrated but separated from law enforcement (see tables

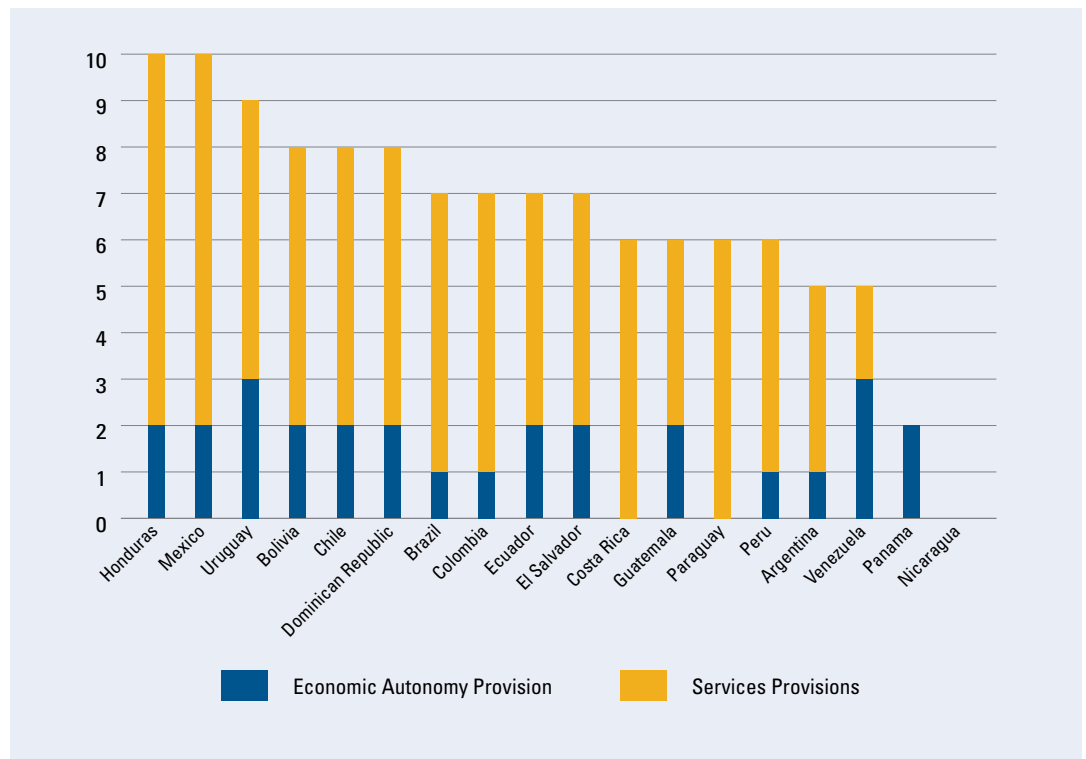
14 and 15), and ii) economic autonomy provisions, which accounts for whether restitution to the victims is mandatory, requires separate trial, or is not legislated (see table 6) and for whether the protective measures include provisions for victim's relocation and/or access to social benefits (see table 12). The index could take values from 11 to 0 (mean = 7). Figure 6 shows the index values for each country.

Even when we use these very gross measures of empowerment policies, only a minority of countries (six) rank above average (see figure 6). All these highly ranked countries have a

mandatory provision for victims' restitution, but only Uruguay has relocation and income provisions for victims of domestic violence. On the other hand, countries with the lowest values (Panama and Nicaragua) do not have government-funded services for victims' of domestic violence and only Panama has a mandatory restitution provision. It is worth highlighting that Nicaragua, among the highest ranked countries in criminalization of domestic violence, is also the country where the government has made no commitments to empower victims of this form of violence.³⁰

FIGURE 6

Female empowerment policies index in Latin American countries, 2015



Source: Prepared by the author.
 Note: See table A2 in annex for details on the construction of this index.

Nevertheless, this comparison needs to be taken with a grain of salt. For instance, the two countries with the highest scores (Honduras and Mexico) coincide in providing similar services in a “one-stop” model (1 center in Honduras and 22 in Mexico), report having publicly funded shelters and an emergency phone line, and have made restitution to victims mandatory (neither have protection

orders that promote economic autonomy). Still, Honduras's population and territory are about 1/10 of Mexico's. Moreover, while not fully comparable, the prevalence of physical domestic violence in 2011 for both countries is around 10%, thus the potential population in need of these services is less than 1,000,000 in Honduras and more than 10,000,000 in Mexico.³¹

3.3 Male engagement policies

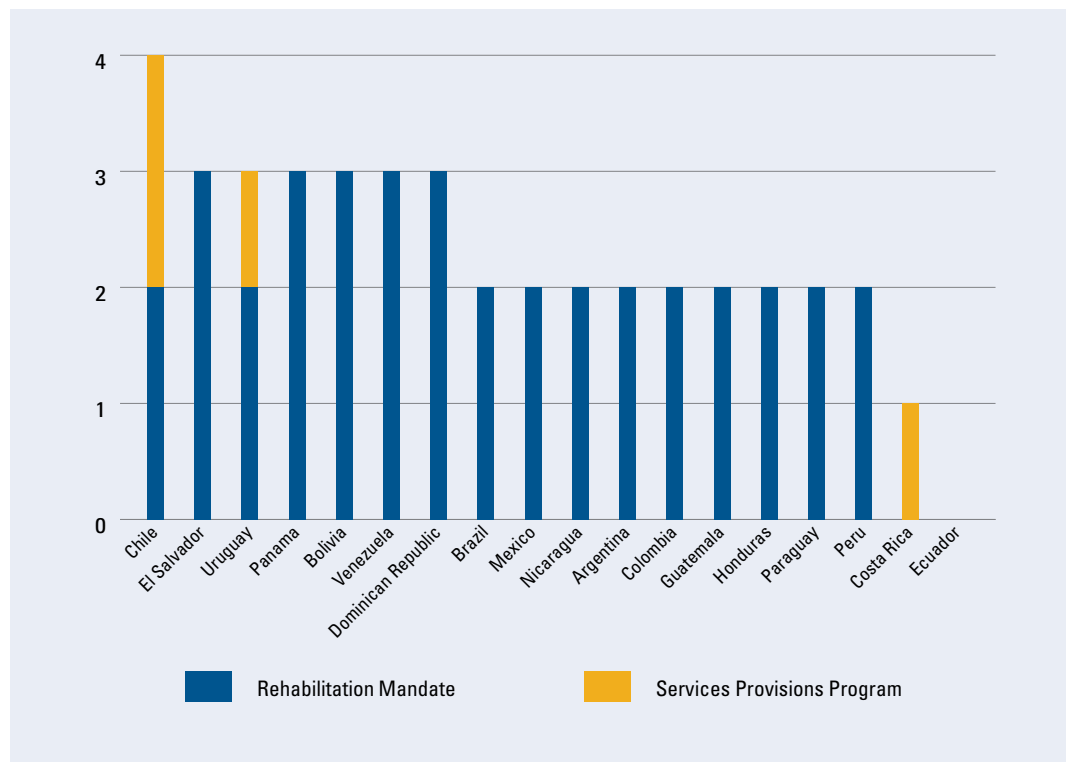
Of the three policy dimensions reviewed here, Latin American governments have done the least in male engagement policies to prevent domestic violence. Most promising initiatives involving men who have used intimate partner violence have come from NGOs. Nonetheless, there are some differences across countries worth exploring. The male engagement policies index measures the extent to which governments: i) have a legislative mandate to rehabilitate former perpetrators of intimate partner violence —and whether the referral of perpetrators is mandatory or at authority’s discretion (rehabilitation mandate variable)—, and/or ii) finance group education programs for men who have committed intimate partner violence (that have been subject to positive evaluations)

—and whether these programs are national or locality-based (public education program variable). The index could take values from 4 to 0 (mean = 2). Figure 7 shows the index values for each country.

All countries, except for Costa Rica and Ecuador, have a legally mandated rehabilitation program for former perpetrators of domestic violence (see figure 7). However, in most cases (11) the referral is not mandatory but subject to the discretion of the judge (usually as a protective measure or in sentencing). Only three countries (Chile, Uruguay, and Costa Rica) fund education programs for perpetrators (that have had a recorded external evaluation) but only in Chile this program has had a national coverage. Ecuador is the only country with no legal provisions or policies aimed at engaging men in the prevention of domestic violence.

FIGURE 7

Male engagement policies index in Latin American countries, 2015



Source: Prepared by the author.

Note: See table A3 in annex for details on the construction of this index.





Conclusions



Conclusions

Policy-making on domestic violence in Latin America is following worldwide trends regarding the criminalization of the issue, the promotion of victim's empowerment, and the engagement of men in preventive education programs. The pace of these developments varies, not only across dimensions but also across countries. Figure 8 shows a comparison of the three indexes discussed above. As the graph shows, there is no country that has made similar progress in all three areas.

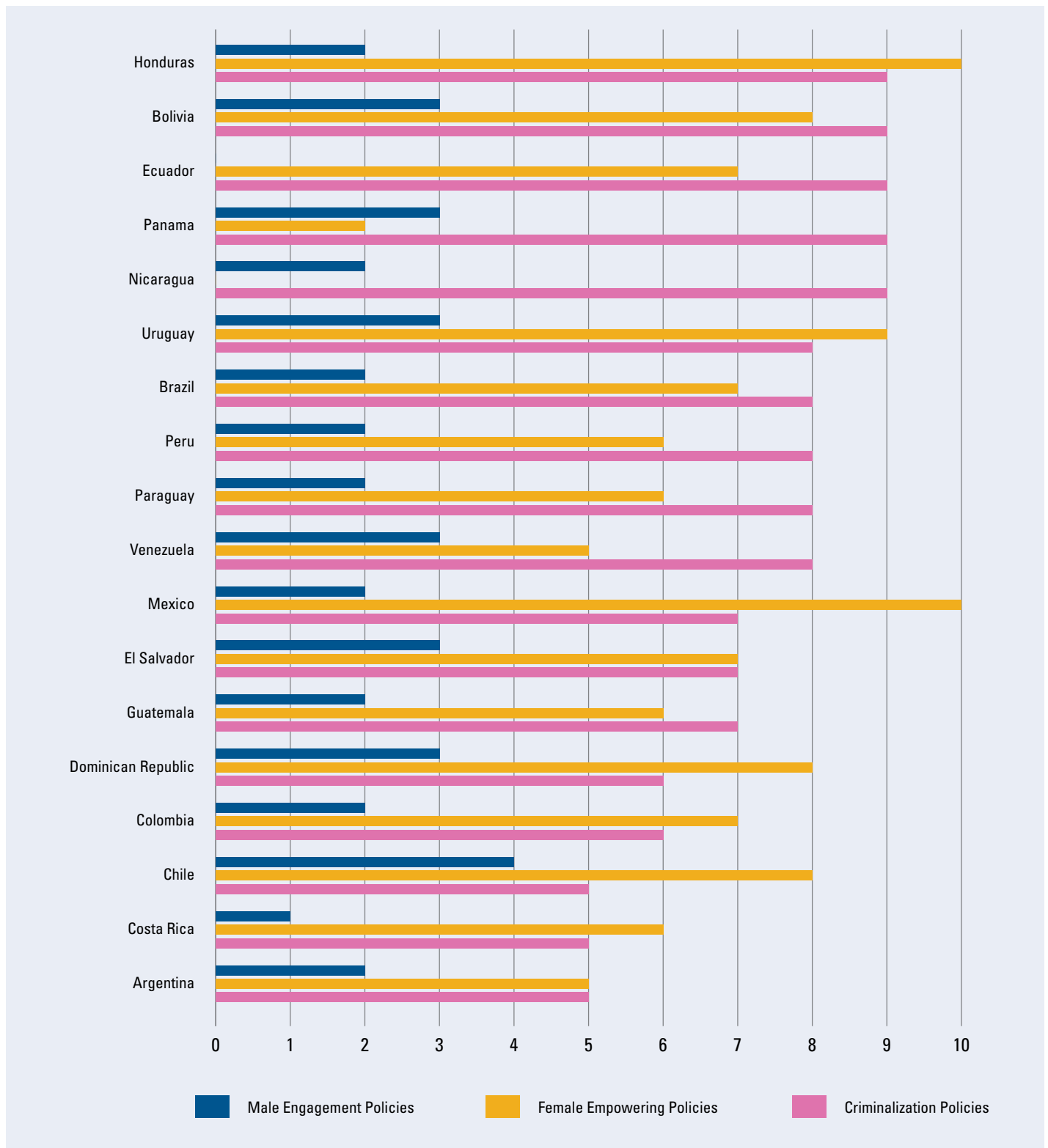
If we look at the five countries with the highest value for the criminalization policies index (Honduras, Bolivia, Ecuador, Panama, and Nicaragua), only two of these countries have values above average for the female empowerment policies index (Honduras and Bolivia) and two have the lowest value for that index among all countries (Panama and Nicaragua). Also, none of them has a publicly funded education program for men and all but Ecuador have legislated a rehabilitation program for former perpetrators of domestic violence —although it is mandatory only in Bolivia and Panama. On the other hand, looking at the three countries with the lowest level on the criminalization policies index

(Chile, Argentina, and Costa Rica), only Chile has values above average on the other indexes (and the highest among all countries on the male engagement policies index).

Finally, it should be re-emphasized that this review has excluded important aspects on the implementation of these policies: budget allocations (both levels and continuity); efficacy evaluations (measures for instance with conviction rates; victim's attrition or satisfaction rates, or perpetrator's recidivism rates); and sub-national variation —in particular in the larger, federal countries in the region (Argentina, Brazil, Mexico, and Venezuela). Also, information on implementation comes mainly from self-reported progress and official online sources. However, we still find important differences in the progress made by countries in the region in the three policy dimensions reviewed. A pending task would be to assess what difference it makes for a country to have a given set of policy interventions for tackling domestic violence. Mapping the domestic violence policies in the region in these three important dimensions is a necessary first step in that direction.

FIGURE 8

Comparing indexes on domestic violence policies in Latin American countries, 2015



Source: Prepared by the author.

Note: Countries are ordered according to the criminalization policies index, followed by the female empowerment policies index, and then the male engagement policies index. See tables A1 to A3 in annex for details on the construction of these indexes.





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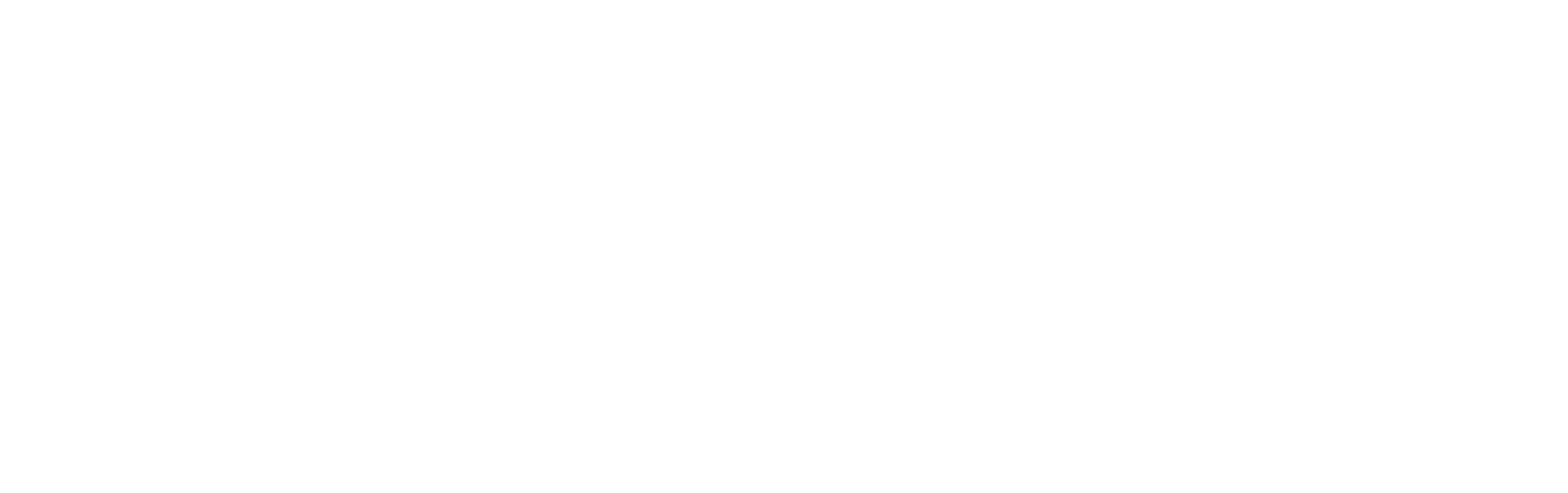
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Notes

- ¹ The findings, interpretations, conclusions, errors and omissions outlined here are entirely the author's own responsibility and may not represent those of the United Nations Development Programme (UNDP).
- ² Violence against women comprises all those instances of violence directed at women and girls because of their sex. They include "any act of verbal or physical force, coercion or life-threatening deprivation, directed at an individual woman or girl that causes physical or psychological harm, humiliation or arbitrary deprivation of liberty and that perpetuates female subordination" (Heise et al., 1994, p. 1165). Examples of violence against women are: domestic violence, sexual assault, dowry-related murder, marital rape, selective malnourishment of female children, forced prostitution, female genital mutilation, and sexual abuse of female children (Heise et al., 1994, p. 1165).
- ³ The Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) in 1979 does not make an explicit reference to violence against women, although since then it has prepared two general recommendations on that topic (see Merry, 2006).
- ⁴ The mandate of the Special Rapporteur was last renewed in 2013. The Rapporteur mandate entails collecting information on actions undertaken by governments, non-governmental organizations (NGOs), and special agencies to address violence against women, as well as issuing recommendations of ways to eliminate this type of violence and remedy its consequences (see United Nations Office of the High Commissioner for Human Rights (OHCHR), "Special Rapporteur on Violence against Women, Its Causes and Consequences". Available at: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx> [access on March 15, 2015]).
- ⁵ See OAS (1994).
- ⁶ Due to time restrictions and lack of updated secondary information, I limited my review to national level information. Therefore, I excluded important variation in the implementation of policies of domestic violence in four (large) federal countries: Argentina, Mexico, Brazil, and Venezuela. When possible, I have made annotations regarding the subnational variation in Mexico, on which I have done research of my own.
- ⁷ The Brazilian Senate has conducted representative national phone surveys on domestic violence since 2005 (see Brazil's Senate website, "Violência doméstica e familiar contra a mulher". Available at: http://www12.senado.gov.br/institucional/datasenado/pesquisas/pesquisaportema?tema_id=Mulher).
- ⁸ This second graph excludes Honduras.
- ⁹ The DHS and RHS surveys used a modified conflict tactics scale (CTS) (see Bott et al., 2012, p. 10).
- ¹⁰ When proposing an alternative categorization of intimate partner violence, Michael Johnson argues that agency records are more likely to capture a certain form of violence —what he calls "intimate terrorism" or "violence enacted in the service of taking general control over one's partner" (Johnson, 2005, p. 1127)—that population surveys cannot. This is so because women who experience "intimate terrorism" may refuse to disclose experiencing violence, even when asked face-to-face during a survey interview. At the same time, this violence is likely to produce incidents that draw attention of neighbours and lead women to seek help from hospital, police, shelters, or courts (see also Johnson, 2006).
- ¹¹ Besides the cultural barriers, women (and indigenous people more generally) are also likely to face discrimination on the basis of racist attitudes by government officials (see Sieder and Sierra, 2010).
- ¹² Non-heterosexual relationships are invisible in data collection and policy-making on domestic violence in Latin America, and most of the world. Therefore, the focus of this report will be on the policies addressing partner violence against women in heterosexual relationships.
- ¹³ For instance, the Convention of Belém do Pará (article 7) establishes as a duty of all signing states to "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" (see OAS, 1994; author's emphasis).
- ¹⁴ Information on conviction rates is also sporadic across the region, perhaps also due to a combination of lack of political will and institutional capacity.
- ¹⁵ Since the late 1970s, legislation in all states in the United States has been reformed in order to address the problem of domestic violence —first reform occurred in 1977 with enactment of Pennsylvania's Protection from Abuse Act. All states have passed statutes in favor of a pro-arrest response to domestic abuse (either mandatory arrest policies or preferred (presumptive) arrest policies; see section 3 in this document). They all have also

introduced limits to the freedom of both the prosecutors and the victims to drop the prosecution of a domestic violence case. The policies vary according to how strong the limits are (Buzawa and Buzawa, 2012, chapter 6; Zorza, 1992).

¹⁶ Some interventions—for example, those involving criminal prosecution—also have been attributed the goal of deterring potential offenders as well.

¹⁷ Based on Barbara Hart's (1997) list of goals of legal interventions in domestic violence cases. Here I use four of the six goals listed by the author. The other two are: divestiture by perpetrators and enhancing agency of battered women. I excluded these two goals because, unlike the others, these are not goals that could be operationalized as variable and observable properties of the policies. Moreover, these two more abstract goals can be seen as the two sides of the same ultimate goal of promoting "gender equality", which realization is beyond the scope of my research.

¹⁸ All these countries have reformed their constitutions to acknowledge their cultural or ethnic diversity and in all, except Guatemala, there is already a constitutional recognition of customary indigenous law (Aguilar et al., 2010; Sieder and Sierra, 2010).

¹⁹ There is a contradiction in Argentina's legislation regarding the use of conciliatory mechanisms. Law 24417 [Protección contra la Violencia Familiar, 1994] instructs the judge to initiate conciliation, but Law 26485 [Protección Integral de las Mujeres, 2009] prohibits it. Both are current laws. Similarly, in Ecuador Law 103 [Ley contra la Violencia hacia la Mujer y la Familia, 1995] instructs the judge to call a conciliatory hearing, but its regulatory law (2004) prohibits it (see table 13).

²⁰ In the United States an example of this model is the Family Justice Centers (for more information, see The Family Justice Center Alliance website. Available at: <http://www.familyjusticecenter.org/>).

²¹ Of the 15 countries for which the laws set the executive authority for their implementation, 10 gave this authority to the National Women's Institute or Ministry; in another 4, this institution was part of the implementing National Committee; only in one case (Bolivia) the executive authority was given to the Ministry of Justice.

²² In Mexico, state level women's institutes or ministries also provide services to victims to domestic violence, but this information was not provided in the National Institute website. The information in table 14 comes from the national government's official sources.

²³ In Venezuela, the Women's Attention and Integral Training Centers [Centros de Atención y Formación Integral para las Mujeres] (16 in 2015) are centers for legal advice (in the majority) and psychological counseling (in some) for the general female population.

²⁴ For a list of gender-related factors that perpetuate violence against women, see Heise et al. (1994).

²⁵ See Barker et al. (2010) for a more detailed discussion on other assumptions on masculinity that need to be changed to promote gender equality (for instance, the differences among men, based on other social categories such as class, race or ethnicity, or sexual orientation, that shape the degree of power or "privileges" derived from their gender).

²⁶ There have been also regional efforts to promote the involvement of men in gender equality policies, like the Men and Gender Equality Policy Project (2007-2011), coordinated by Promundo institute and the International Center for Research on Women (ICRW) (see further information on the Project on ICRW website, available at: <http://www.icrw.org/where-we-work/men-and-gender-equality-policy-project>).

²⁷ The impact was measured with follow-up interviews with the participants shortly after the completion of the program. None has a monitoring or long-run follow-up mechanism.

²⁸ Table 18 excludes two programs in Nicaragua that have been positively evaluated as transformative of gender attitudes but that only used media campaigns: the campaign Violence against Women: A Disaster We Can Prevent as Men (1999, in areas affected by Hurricane Katrina) and an ongoing campaign called We Are Different, We Are Equal (that includes a radio show, a soap opera, and other mass media programs to educate young male and female population on gender equality) (see Barker, Ricardo and Nascimento, 2007). The program in Brazil (Program H) also used a media campaign, but as part of an integrated initiative that included group education programs (see Sallé Alonso and Infante Rodríguez, 2012; Barker, Ricardo and Nascimento, 2007).

²⁹ Alice Taylor and Gary Barker (2013) suggest other strategies to hold individual men accountable, such as creating spaces where men can talk about intimate partner violence before they use it. For instance, hotlines that offer support to men who perceive that they are going to use violence and want to talk to someone (men would need to be self-aware and willing to seek help); restorative/collective justice models that hold men accountable (for example, Circle Sentencing in Canada, so far no systematic evaluation); alternative therapies (anger management or couple counseling, although these are not well recommended in the evaluation literature, unless safeguards are in place that ensure women feel safe and have not suffered severe violence), and peer support models (such as training men to support men who have recently completed an intervention program) (Taylor and Barker, 2013, p. 12).

³⁰ The provision of services to victims in this country would be exclusively from NGOs.

³¹ The surveys in Mexico and Honduras are not comparable. Even for physical violence, the statistic used here refers in Honduras to "women ever partnered that have suffered violence by a husband or partner", and in Mexico to "partnered women who have ever suffered violence by an intimate partner" (see DHS Program, 2013; Casique and Castro, 2012).





Annex

TABLE A1

Components of the domestic violence criminalization index

Variable	Indicator	Values
Domestic violence as a crime	Is domestic violence codified as a separate crime (C), as an aggravating circumstance (A), or neither (N)?	C = 2 A = 1 N = 0
Strength of prosecution mandate	Is there a mandate for opening an investigation upon the office's knowledge of a case of domestic violence (that is, requires a formal complaint)?	Y = 1 N = 0
	Are conciliatory/mediation mechanisms prohibited for all cases or not mentioned (P), prohibited with exceptions or allowed in one current law (E), or allowed for all cases (A)?	P = 2 E = 1 A = 0
Specialization	Are there specialized police units for domestic violence or violence against women?	Y = 1 N = 0
	Are there specialized units within the public prosecution office to investigate cases of domestic violence?	Y = 1 N = 0
	Are there specialized courts for domestic violence cases?	Y = 1 N = 0
Protective measure efficiency	Are protective measures issued ex officio by other authorities beside the judge (including public prosecutor) (P), ex officio exclusively by the judge (J), or upon victim's request (V)?	P = 3 J = 2 V = 1
Index	Domestic violence as a crime + Strength of prosecution mandate + Specialization + Protective measure efficiency	0 to 11 Mean = 7

Source: Prepared by the author.

TABLE A2

Components of the female empowerment policies index

Variable	Indicator	Values
Services provision	Total public services provision for victims of domestic violence (attention services, shelters, hotline)	0 to 6
	What is the model of provision of attention services, when available: a "one-stop" model (O), integrated (I), or none (N)?	O = 2 I = 1 N = 0
Economic autonomy provisions	Is the restitution to victims in the legislation mandatory (M), left to the discretion of the judge or to the victims' request (V), or not mentioned (N)?	M = 2 V = 1 N = 0
	Do the protection orders include provisions for enhancing economic autonomy of the victims (for example, access to public housing, job relocation, social benefits)?	Y = 1 N = 0
Index	Services provision + Economic autonomy provisions	0 to 11 Mean = 7

Source: Prepared by the author.

TABLE A3

Components of the male engagement policies index

Variable	Indicator	Values
Rehabilitation mandate	Is there a legally mandated rehabilitation program for perpetrators?	Y = 1 N = 0
	When is legislated, is the referral to a rehabilitation program mandatory (M) or left to the judge's discretion (J)?	M = 1 J = 0
Public education program	Is there a government-funded education program for men (convicted or not)?	Y = 1 N = 0
	When there is a program, does it have national coverage?	Y = 1 N = 0
Index	Rehabilitation mandate + Group education program	0 to 4 Mean = 2

Source: Prepared by the author.



In September 2015, the 193 Member States of the United Nations took a historic step with the approval of the 2030 Agenda for Sustainable Development. At the heart of this agenda lies a simple but radical imperative: the elimination of poverty in all its forms, while caring for and protecting the planet.

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The first involves using a multidimensional approach to develop the connections between indicators of well-being and the drivers of economic, social and environmental transformation. Secondly, constellations of Sustainable Development Goals (SDGs) must be built around the strategic objectives established by the authorities in each country to avoid piling global agendas on top of national ones. Thirdly, based on the examples in the Report, it is possible to conduct a microsimulation of the impacts of closing intersectoral and inter-territorial gaps for a set of targets, breaking the impact of these measures down by programme or population group.



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