

The Challenges with Legislation as Enforcement: Rethinking Responses to Violence against Women in Politics

[author's English-language version]

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Introduction

In their path-breaking essay, Krook and Restrepo Sanin (2016) define *violence against in politics* (VAWIP) as the physical and psychological aggressions deployed by party bosses and other actors, in order to resist women's presence and role in public life. Women across the globe experience backlash to their growing political empowerment, but the grouping of diverse backlash effects—from sexist media coverage to physical assault and murder—under the umbrella of VAWIP has gained the most traction among activists and scholars in Latin America (Krook and Restrepo Sanin 2016: 130-131). Empirical evidence and anecdotal reports clearly indicate the seriousness and urgency of the phenomenon, making violence against women in politics (*acoso político hacía las mujeres*, in Spanish), a “top topic” for legal reform. However, those involved in problem-definition have overlooked how VAWIP emerges from the routinization of violence and the absence of the rule of law. Advocates have named and conceptualized VAWIP as a new form of violence, but in doing so, they have overlooked the broader sociopolitical context—and risked further exacerbating public officials' *inability* to address the multidimensional, multi-causal nature of violence in the region.

Three interlocking sociopolitical problems underlie VAWIP in Latin America: (1) the inscription of diverse, multidimensional forms of violence into everyday life; (2) broken police and criminal justice systems that give assailants impunity, especially in cases of violence against women; and (3) political parties' ongoing efforts to deny women access to effective political power, particularly at the local level. The first two problems speak to Latin American states' inability to maintain a monopoly on violence, and the third speaks to the slow process of breaking down the patriarchal-political order. Activists and researchers documenting VAWIP have ignored the broader context of violence and impunity, focusing exclusively on political power and framing VAWIP as distinct electoral crime (ACOBOL 2010; ACOBOL 2013; Krook and Restrepo Sanin 2016).

From an expediency standpoint, this strategy makes sense. Latin American states have adopted unprecedented measures—namely, quota and parity laws—to protect and promote women's political rights (Htun and Jones 2002; Schwindt-Bayer 2009; Piscopo 2015a; Piscopo 2015b). Constitutionally defined throughout the region as “the right to elect and be elected” (*el*

derecho de elegir y ser elegida), women's political rights have attained substantive protections while other rights—such as the right to bodily integrity or freedom from violence—have remained purely aspirational. For example, electoral tribunals routinely force political parties to replace male candidates with female candidates (Piscopo 2015b), whereas police and criminal courts pursue shockingly few cases of violence or violence against women (Dammert 2013). Given that “electoral justice with a gendered perspective” has allowed the region's electoral institutions to guarantee women's candidacies (Alanís 2013; Luna Ramos 2010), whereas criminal justice systems remain unable to penalize offenders and deter crime, it is unsurprising that advocates have framed VAWIP as a distinctive violation of women's political rights.

Yet this uncritical connection between VAWIP and women's political rights complicates the search for solutions within the state. As delineated by both activists and researchers, VAWIP encompasses a wide range of hostile acts, from workplace harassment (i.e., sexist commentary or pressure to resign one's candidacy or office) to physical assaults (i.e., beating and even murdering female politicians). While some acts clearly fall within the realm of electoral justice, as they impede female politicians' rights to be elected and to hold office, other acts clearly constitute criminal offenses. Which state institutions will respond to VAWIP and how? Electoral institutions and electoral tribunals throughout Latin America can sanction political parties, but they cannot jail individual offenders. The criminal justice system remains paralyzed, but over-specifying crimes does not improve enforcement. As Menjívar and Walsh (2016) convincingly demonstrate in the case of femicide (or feminicide), codifying women-killing as a distinctive form of gender-based violence does not alter the cognitive frameworks of law enforcement authorities. The naming of femicide has not enabled state authorities to pursue offenders. Conceptualizing VAWIP as a “new” phenomenon—as a distinctive hate crime against female politicians (Krook and Restrepo Sanin 2016)—similarly privileges legal naming over social and structural reform. The solution to VAWIP lies not in further categorizing violence, but in shoring up the state's capacity to end impunity and eliminate gender discrimination.

Researchers must therefore resist accepting activists' problem-definition at face value. Instead, scholars must advocate for solutions that address the complex relationship between state capacity, violence, impunity, and women's rights. Women *are* being victimized in the ways that activists and researchers describe, but gender-based victimization in Latin America—whether in public or in private—is not new. The inclusion of both institutionalized sexism and physical and psychological assault under the umbrella of VAWIP is symbolically powerful, but practically messy. Strategically, VAWIP capitalizes on activists' success ensuring quota enforcement, highlighting how guaranteeing women's political rights remains an unfinished process. Codifying VAWIP as another violation of these rights exemplifies Latin American states “formalistic faith” (Harbers and Ingram 2015)—the notion that all-encompassing laws can induce effective prevention and enforcement. But practically, this approach conflates institutionalized sexism with criminal acts, creating novel legal categories when existing statutes *already* sanction the diverse forms of violence that female politicians experience. Legislation on its own cannot undo the routinization of violence and impunity. VAWIP activists and scholars would do well to shift their focus to awareness, prevention, punishment, and eradication programs that clearly distinguish between criminal justice and electoral justice.

Gender, Violence, and Impunity Latin America

How academics and activists define violence against women in politics depends on how they conceptualize the relationship between violence against women, on the one hand, and electoral violence, on the other. For Krook and Restrepo Sanin (2016) and others (Cerva Cerna 2014; Archenti and Albaine 2013), VAWIP connects most closely to violence against women: understood as a continuum of violent acts that range from physical to emotional aggression, violence against women enforces traditional gender roles, ultimately maintaining the gendered distribution of economic, political, and social power. For others, most notably Bardall (2011; 2015), female politicians experience unique forms of victimization within a broader context of political violence: in Bardall's view, both women and men experience political violence, but gendered ideologies mean that women experience this violence differently. The Krook and Restrepo Sanin camp links VAWIP to a hate crime, focusing on women's victimization *because they are women*, whereas the Bardall camp focuses on the gendered consequences of "regular" political violence. Yet neither approach captures the whole picture.

In conceptualizing VAWIP as a particular form of violence against women, researchers emphasize male resistance to gender role change (Krook and Restrepo Sanin 2016). Albaine and Archenti (2013) and Albaine (2015) see VAWIP as a backlash effect, one especially pronounced in the context of recent gender and parity laws, statutes that compel political parties to nominate women. Parties routinely resist these affirmative action mandates, relying on formal channels (protesting before the electoral tribunals) and informal practices (marginalizing, harassing, or even assaulting the very women whom they are forced to run). In Bolivia and Peru, for instance, female candidates report being beaten by male party leaders demanding their renunciation (Albaine 2015: 153; ACOBOL 2013). The case of Juana Quispe in Bolivia provided the country's anti-VAWIP movement with a clear focal event. Elected to a local council position in 2010, Quispe was pressured to resign, physically barred from taking her seat, suspended, reinstated, and ultimately assassinated in 2012 (Krook and Restrepo Sanin 2016). The link between women's expanded political opportunities, on the one hand, and the backlash against their access to power, on the other hand, implies that VAWIP is a new form of gender-based violence, one not as widespread before the advent of quota and parity laws.

This approach abstracts away from the broader Latin American context. Violence pervades countless communities, where legacies of state terrorism and political authoritarianism combine with widespread criminality and impunity (Arias and Goldstein 2010; Dammert 2013; Menjivar 2011; Rotker and Goldman 2002; Schatz 2011). Citizens experience everything from petty theft to mass shootings. In the most extreme—but by no means uncommon—scenarios, organized criminal gangs and militarized police or para-state forces (themselves often tied to organized crime) engage in prolonged battles for territorial control. Latin America thus has large geographic areas where no one is (or perceives themselves to be) safe (Kooning and Kees 1999; Dammert 2013). Insecurity is historical but reproduced by contemporary forces, forming a "taken for granted world" that permeates daily life (Menjivar 2011: 37).

In this context, men and women experience victimization in different ways. Most victims of generalized criminality are men: for example, Molzahn, Rios, and Shirk report that women constituted only 7.3% of organized crime homicides in Mexico in 2011: on an average day in 2011, 47 people were killed—only two of whom were women (2012: 20). However, women endure shockingly high rates of intimate-partner violence, and domestic violence remains the most pervasive form of violence in Latin America (Imbusch, Misse, and Carrion 2011). Latin

America's deep social, economic, and racial inequalities exacerbate gender-based violence, as women—already more likely to experience poverty, discrimination, and other forms of structural marginalization—become especially vulnerable to exploitation and abuse by state and private actors (Menjívar and Walsh 2016).

Violence continues, and becomes normalized, because of impunity. Latin American states simply lack effective police forces and criminal courts, creating a vicious, self-enforcing cycle (Dammert 2013; Imbusche, Mise and Carrion 2011). For example, 98.5 percent of illicit activity in Mexico remains unprosecuted (Staudt and Méndez 2015: 37).¹ Impunity especially contributes to the under-reporting of gender-based violence, severely hampering efforts at accountability (Staudt and Méndez 2015; Musalo, Pellegrin, and Roberts 2010).

This routinization of diverse forms of violence—what Menjívar and Walsh (2016) call “multisided violence”—has two important implications for current efforts to name and conceptualize VAWIP. First, political processes in most of Latin America *already* take place amidst high levels of violence and insecurity. At the subnational levels, and especially the municipal level, alliances between politicians and warring factions (whether criminal gangs or para-state groups) turn electoral races into not just contests between rival political parties, but between ruthless criminal organizations (Beittel 2012; Arias and Goldstein 2010). Politicians and parties above the fray still employ less physically forceful—but no less criminal—means of winning, such as clientelism (the pressure to vote for certain parties in exchange for favors or protection) or fraud (buying votes, intimidating voters or poll-workers, or simply stealing elections). Even when electoral contests are free and competitive, generalized insecurity can still immobilize the process. As Trelles and Carreras (2012) show, the very fear of crime prevents parties and supporters from organizing in public, which in turn depresses political participation among both candidates and citizens.

Second, and related, the violence women experience in the political realm may not be solely motivated by gender. Bardall's focus on the gendered nature of electoral violence provides a useful lens, as she looks not to violence against women as it manifests in politics, but to violence in politics and elections as it may disproportionately affect women. Bardall (2013; 2015) explains that women face particular vulnerabilities in electoral or political climates characterized by insecurity—for example, female political actors are more likely to be sexually assaulted or threatened via social media. Hubbard similarly describes the unique vulnerabilities of female voters: in Guatemala, “Women are more systematically targeted by political clientelism and coercion than men.”² Unlike the understanding of VAWIP advanced by the Krook and Restrepo Sanin camp, these conceptualizations recognize that anti-democratic practices—from physical violence to vote-buying—affect both women and men, but that gender yields different patterns of victimization. Women's structurally-subordinate position affects how they experience the violent or coercive practices *already* inscribed within the social fabric. Tellingly, activist networks pressing for state responses to VAWIP are most prominent in those Latin American countries deeply affected by violence, insecurity, clientelism, and corruption: Bolivia, Ecuador, El Salvador, Costa Rica, Guatemala, Honduras, Mexico, and Peru.³

Bardall recognizes that violence against women in politics occurs against backdrops of routinized violence, without considering whether women's increased political participation *itself* exacerbates actors' tendency to commit violent acts. Here, VAWIP advocates make an important point: the harassment, physical assault, and even murder of female political candidates does suggest a backlash to women's public presence—a distinct and perhaps novel manifestation of the violence against women already endemic in the region. As scholars of violence against

women have persuasively documented, perpetrators use psychological and physical violence to maintain a gendered order of male dominance and female subordination, which requires keeping women out of politics, and in the home.⁴

At the same time, however, the complex nexus between criminal violence, political and electoral violence, and gender-based violence undercuts officials' abilities to clearly sort among motivations and reasons for abuse. Further, the routinization of violence to adjudicate electoral contests or maintain illicit networks means that women entering politics will themselves become caught up in these practices. Female politicians are just as vulnerable as male politicians (even if the exact nature of women's assault has gendered dimensions). Female politicians—like other citizens—may fall victim to happenstance, attacked or killed simply because they were in the wrong place at the wrong time. More likely, female politicians will not be victimized because they are women, but because they are members of the political opposition or even rival criminal gangs. As indicated by the high-profile incidents of drug trafficking, forced disappearances, and murder in Iguala, Mexico, many female political leaders actively participate in organized crime.⁵ Others actively cultivate and maintain clientelist or corrupt networks (Esarey and Schwindt-Bayer 2014).⁶ Positioning all female politicians as innocent overlooks *women's* use of violence as strategy for maintaining dominance, and mistakenly assumes that all attacks have preserving the gendered political order as their *central* motivation.⁷

From Problem Definition to Policy Dilemmas

Each violent act against a female aspirant, candidate, or politician is thus embedded within a broader context of multisided violence, coercion, and impunity—a fact overlooked by advocates conceptualizing VAWIP as a hate crime. Definitions matter, because how problems are named and framed largely shapes how states mobilize responses to them. The political and electoral dimensions of VAWIP have dominated in Latin America, as exemplified in the first (and so far only) anti-VAWIP law passed in Bolivia. Law 243 of 2012 adds to the penal code acts of “pressure, persecution, harassment, and threats” and “physical and psychosocial aggression” that impede female candidates' or female officials' ability to exercise their political rights or fulfill the function of their office. This definition reflects activists' strategic framing, but also has influenced academics' efforts at concept formation.

Krook and Restrepo Sanin (2016) have pioneered this concept formation, emphasizing the role of male resistance to women's public presence. Krook and Restrepo Sanin fold Bardall's notion of the gendered nature of electoral violence *into* VAWIP. They concede that attacks on female politicians “for their political views alone” do not constitute VAWIP, but argue that any such attacks relying on gendered scripts (i.e., sexual assault or sexual harassment) become VAWIP: for example, attacking female politicians using sexist imagery or sexist language “communicate to society that women in general do not belong in politics” (2016, p. 141). On this reading, attacks not centrally motivated by patriarchal resistance, but using gendered means, are VAWIP because they discourage all women from pursuing political careers. Yet, as researchers such as Bardall and Hubbard have demonstrated, attacks *not* directly motivated by patriarchal resistance will nonetheless victimize women in distinctly gendered ways. Krook and Restrepo Sanin's interpretive move in fact *does* subsume any and all violence experienced by female politicians under the definition of VAWIP.

Furthermore, Krook and Restrepo Sanin argue that psychological violence should include economic violence, meaning the withholding of financial resources from female politicians that

are otherwise available to men, and symbolic violence, meaning the use of gendered stereotypes, tropes or ideas to inhibit women's political activity (2016: 21-28). This definition goes beyond psychological violence's emphasis on the repeated harassment or defamation of female politicians, and criminalizes those practices most commonly associated with institutionalized sexism. Scholars and practitioners alike have long recognized that gender hierarchies infuse political institutions, shaping formal and informal practices that work to marginalize women even as their access to public office increases (Kenny 2007; Krook and Mackay 2010). These practices, which range from small slights (i.e., using only male pronouns in official documents) to large injustices (i.e., lying to women about the timing and location of important meetings) without a doubt inhibit women's political rights. However, naming them as *violence* significantly increases the state's responsibility for prevention, punishment, and enforcement.

These interpretative moves make sense from an advocacy standpoint. While broad-based feminist and women's movements have fractured in the post-democratic era, well-organized and highly-professionalized issue-specific networks have flourished (Jaquette 2009). Those issue networks focusing exclusively on women's political rights have enjoyed remarkable success in pressuring Latin American governments to adopt, expand, and effectively implement quota and parity laws (Htun and Jones 2002; Sagot 2010; Piscopo 2015a; Piscopo 2015b). Issue networks focusing on violence against women also gained significant victories: following the Organization of American State's 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, most Latin American nations passed landmark legislation that named and sanctioned diverse forms of gender-based violence (Weldon 2002; Friedman 2009). Actors contesting VAWIP, however, largely come not from the anti-violence networks, but from the pro-quota networks, for two reasons.

First, whereas the normalization of insecurity and impunity has made the successful implementation of the violence against women laws an unwinnable battle, the political climate has proven more favorable to strengthening gender and quota laws. Initial quota laws constituted a public relations coup: on paper, political parties were compelled to nominate specified percentage of women, but loopholes and lax oversight allowed many party leaders to shirk this obligation in practice (Cerva Cerna 2014; Hinojosa 2012; Hinojosa and Piscopo 2013; Roza 2010). Political parties clustered female candidates' names in the lowest-possible list positions (Schwindt-Bayer 2009), assigned women to losing districts (Langston and Aparicio 2011), allocated them few or no campaign resources (Sacchet 2008), and excluded them from leadership positions within the party and the legislature (Francescet and Piscopo 2014; Schwindt-Bayer 2010). However, professionalized networks of party women demanded that legislatures write stronger laws, and they pressed electoral authorities—the officials seated on the region's electoral tribunals, courts, and institutes—to hold parties accountable for violations (Piscopo 2015b). These efforts, which relied on appeals to domestic gender equality statutes and international reputations, overwhelmingly succeeded: Latin American states reformed their quota laws and electoral bodies scrutinized, regulated, and punished recalcitrant political parties (Hinojosa and Piscopo 2013; Piscopo 2015b). VAWIP thus fits with preexisting advocacy frames, as activists find it easy to add VAWIP to the list of power-preserving tactics that states must eradicate (Albaine 2015; Archenti and Albaine 2013; Cerva Cerna 2014; Krook and Restrepo Sanin 2016).

Second, activist networks may find demanding redress for violence against women in electoral contexts easier than demanding redress for violence against women more broadly. Violence against women often occurs in private, at the hands of intimate partners or family

members, but violence against women in politics typically occurs in public, at the hands of party members or criminal delinquents. Law enforcement officials may remain reluctant to intervene in women's interpersonal or familial relationships, preferring restorative rather than punitive solutions (Franceschet 2010; Macaulay 2006), but cannot deny their obligation to penalize public, felonious acts. The visible nature of VAWIP, overlaid with a decades-long campaign that has socialized Latin American policymakers into supporting women's political rights, creates a favorable political opportunity structure for naming and codifying VAWIP as a gendered electoral crime.

From a policy design standpoint, however, this conceptualization presents major challenges to shoring-up state capacity and ensuring the rule of law. First, an individual violating another's right to bodily or psychological integrity *has committed a criminal act*, irrespective of whether central motivation or use of gendered scripts. Anti-VAWIP advocates are clear on this point as well, but their problem-definition blurs institutional boundaries within the state. If any act impeding a woman's political career constitutes a *criminal* violation, then criminal courts must respond; yet because the crime violated her *political* rights, the electoral institutions will become involved. The Bolivian law places the Ministry of Justice in charge of prosecuting VAWIP, in coordination with the electoral tribunal and other state organs; the electoral tribunal is then separately charged with designing policies and strategies to ensure women's full exercise of their political rights. The law establishes joint oversight on paper, but activists will turn towards the electoral authorities in practice, given their ties to these officials. Yet while electoral institutions reliably punish political parties for excluding female candidates, they lack the jurisdiction and capacity to prosecute and imprison individual offenders, especially those committing acts of physical aggression. Latin America's criminal courts have this capacity, but cannot act effectively. In climates where activists trust the electoral institutions but not the criminal courts, how will states guarantee that electoral institutions won't become the *de facto* authorities in what remain fundamentally criminal matters?

Second, institutionalized sexism, while pernicious in its ability to undermine women's substantive exercise of their political rights, does not constitute a criminal act. Murdering female candidates and denying female legislators from making plenary speeches may not differ in kind—both acts seek the erasure of women from public life (Krook and Restrepo Sanin 2016)—but they differ in degree. The everyday indignities resulting from systematic gender discrimination in electoral politics, what Krook and Restrepo Sanin (2016) characterize as economic and symbolic violence, undeniably marginalize women within political parties and the legislature. These practices are clearly gendered, and go beyond politics as usual (Krook and Restrepo Sanin 2016): the routine under-resourcing, stereotyping, silencing, and otherwise sidelining of women demands awareness, prevention, and redress. Yet these exclusionary practices do not elevate themselves to the level of stalking, rape, beating, and murder.

Typifying these formal and informal practices as hate crimes exemplifies what Harbers and Ingram call “formalistic faith”: that states can use all-encompassing legislation to “induce parties to behave as responsible democratic actors” (2015: 269). Such over-formalization can, however, generate more complexity than clarity. In the case of economic and symbolic violence against women in politics, over-codification raises thorny questions of jurisdiction and accountability. Will the electoral institutions or the criminal courts determine when offenses have occurred? Will parties or individuals be held responsible for sexist behavior? Will practices such as delegating secretarial work to female legislators result in trials and jail time? Most importantly, will resolving these logistical questions undue structural inequality or persuade male

elites to change their ways? Institutionalized sexism should not remain unaddressed, but the strategy of legislation-as-enforcement risks exacerbating institutional paralysis (as actors become confused as to who is in charge of what). For activists, demanding anti-VAWIP legislation emerges logically from the political opportunity structure, but academics should not lose their critical distance about whether activists' demands have the potential for success.

Cognitive Saturation, Violence against Women, and the Courts

Concept formation, as an analytic exercise undertaken by academics, remains distinct from problem definition as a strategy deployed by activists, but these processes have become elided in the case of VAWIP. Scholars theorizing VAWIP from the perspective of male resistance to women's political empowerment have identified an important, gendered dimension to the obstacles faced by female politicians, but failed to consider how such barriers unfold within a context of deeply routinized violence and impunity. The complex nexus between patriarchal norms, violence against women, and generalized political and criminal violence complicates state authorities' efforts to disentangle the precise motivations behind any particular attack. Indeed, VAWIP's positing of a sole or predominant motivating factor contradicts female citizens' lived experiences of a multisided violence, in which social and economic inequality, state authoritarianism or indifference, widespread criminality, and the indignities of everyday discrimination are "mutually constitutive" and "manifested in the micro-processes of life" (Menjívar 2011: 8). Tragically, female politicians—like other women in Latin America—will experience violence not as an isolated act that can easily be investigated, catalogued, and punished, but as a series of violations to their physical and emotional wellbeing. Highlighting the deeply-embedded and multidimensional nature of violence does *not* abdicate the state from its responsibility to guarantee citizens' rights to bodily autonomy and psychological integrity, but it does raise the question of whether over-codification represents the best strategy for protecting women's human rights.

Latin America's experience with violence against women legislation provides an important cautionary tale. As noted, over the course of the 1990s and 2000s, most Latin American states adopted and then strengthened their statutory prohibitions against domestic violence and gender-based violence (Weldon 2002; Friedman 2009; Htun and Weldon 2013). The statutes' timing and content varies across countries, but the laws generally followed the best-practices established in the 1994 OAS convention. Though some country's first-round laws codified intra-family violence as a civil rather than criminal concern, requiring mediation rather than penalization (Franceschet 2010; Macaulay 2006), later-generation laws typically moved towards criminalization. The OAS's survey of member countries' violence against women statutes found that, as of 2012, 100% typified sexual, physical, and psychological violence in both public and private, and 78% also codified patrimonial, financial, or economic violence in public or private (2014: 31).⁸

The problem was thus not with statutory design, but with implementation. Impunity *especially* characterizes the detection and prosecution of gender-based violence in Latin America (Boesten 2012; Carey and Torres 2010; Fregoso and Bejarano 2009; Menjívar 2011; Prieto-Carrón, Thomson, and Macdonald 2007; Staudt and Méndez 2015). Impunity further perpetuates patriarchal and neoliberal norms, as the very lack of police or prosecutorial attention reinforces beliefs that women and women's bodies are disposable and forgettable (Wright 2006). As Prieto-

Carrón, Thomson, and Macdonald succinctly state in their study of Mexico and Central America, “Men kill women because they can” (2007: 31).

This impunity, combined with the increasing brutality of the violence, led activists to define the term femicide (or feminicide) to describe the crime of women killing. Latin American states either updated their violence against women statutes to explicitly mention femicide, or passed separate femicide laws. Yet Menjívar and Walsh (2016) find that this additional step has neither improved enforcement nor saved lives. To explain, Menjívar and Walsh (2016) appeal to the notion of *cognitive saturation*: violence is so normalized that it permeates how everyone, including public officials, understand the social world. Routinization begets invisibility, and invisibility begets impunity, no matter the legal category of the offense. Re-codifying crimes already stipulated in the legal code neither alters the structural realities in which violence unfolds nor improves law enforcement officials’ ability to pursue offenders.

The notion that deeply-rooted impunity, rather than imprecise legislation, drives violence against women offers some sobering lessons for anti-VAWIP advocates. First, VAWIP victims—whether seeking redress under “regular” criminal statutes, violence against women statutes, or specialized VAWIP statutes—can expect no help from law enforcement or the criminal justice system. Indeed, between 2010 and 2014, only 13 of 272 reported VAWIP cases in Bolivia were adjudicated—and all through the electoral institution rather than the criminal courts. A famous case involved the day-long kidnapping of a local councilwoman, whose abductors forced her written resignation. The electoral tribunal compelled the political parties to reinstate the councilwoman, a restorative solution that acknowledges the injustice, but falls short of the punitive measures that would properly sanction a kidnapping.⁹ Were an adequate criminal justice system in place, the councilwoman’s attackers—irrespective of their central motivation and irrespective of the statute used to prosecute them—would face criminal charges and jail time. As with femicide, there appears little reason to hope that simply codifying VAWIP as a special crime will cause law enforcement and criminal justice officials to take violence seriously.

Second, the region’s more-functional electoral institutions can only provide symbolic solutions in the cases of physical and psychological aggressions. Electoral management bodies can regulate and sanction political parties; they can restore women’s political rights, but they cannot investigate individuals, prosecute them, and imprison them. Further, electoral institutions can impose no sanctions when attackers are what the Bolivian statute calls “third parties”—the female politicians’ family members or intimate partners, other actors in political or civil society, delinquents or gang members, or strangers. Thus, addressing VAWIP through the electoral institutions—whether by default, as in the Bolivian case, or by deliberate policy design, as some activists propose—contributes to the very impunity that sustains violence against women in the first place. No individuals will be called to *criminal* account for their violations of others’ bodily integrity or emotional wellbeing, and the cycle of violence will continue.

Democracies cannot consolidate without the rule of law.¹⁰ However, as Menjivar and Walsh (2016) explain in the case of violence against women, the absence of the rule of law is not simply a bureaucratic pathology, but a formative part of the social world—a hidden script guiding authorities’ behavior. The real, urgent work of dismantling gendered and other hierarchies, and of ending the use of violence to maintain these hierarchies, will require more than just statutory reform. Activists must undertake the long term task of re-making the social world from the ground up, not the top down.

In the short to intermediate term, states can address VAWIP not by continuing to over-specify anti-violence legislation, but by drawing on preexisting models. States can bypass the

current criminal justice system by assigning special prosecutors to address reported cases of physical assault and psychological harassment (e.g., stalking, whether in-person or on-line). If properly resourced and empowered, these prosecutors could not just sanction offenders, but assist female activists' efforts with data-gathering, documentation, and naming-and-shaming of perpetrators. A VAWIP task force within the state, with authority to coordinate among the myriad institutions of law enforcement and the courts, could oversee these efforts to identify and prosecute VAWIP under existing criminal statutes and violence against women laws.

Workplace Harassment and Electoral Justice with a Gendered Perspective

Though Latin America's violence against women laws refer to the sexual, physical, and emotional abuse of women in both public and private, the preceding discussion emphasized sexual and physical assaults, including murder. The economic and symbolic violence described by Krook and Restrepo (2016) more closely mirrors sexual harassment and gender discrimination in the workplace. Female politicians report experiencing injustices that do not approach the deprivation of liberty or life, but nonetheless have a corrosive effect on their wellbeing: these practices include unwanted sexual advances; degrading commentaries that follow gendered scripts (i.e., remarks about one's appearance, sexual comportment, or mothering roles); delegation of duties outside one's job description (i.e., menial or secretarial tasks); withholding office space or other resources; systematic exclusion from meetings; and silencing during debates. Activists often face fierce resistance to labeling these practices as gendered: as with physical violence, these practices are normalized as "business as usual." However, gendered workplace injustices are *also* typified in the region's violence against women laws, with the OAS reporting that all Latin American member states have statutes that penalize (but do not necessarily criminalize) sexual harassment in the workplace.¹¹ These protections prove crucially important, as the practices emerging from institutionalized sexism—what Krook and Restrepo Sanin (2016) relabel as economic and symbolic violence—do not just affect female politicians, but all working women.

Yet protections against institutionalized gender discrimination in the workplace are among the least implemented components of the region's violence against women laws. In 2012, only five Latin American countries—Bolivia, Costa Rica, the Dominican Republic, Mexico, and Paraguay—reported conducting outreach campaigns to prevent such harassment (OAS 2014: 50). The problem of institutionalized sexism again appears one of bureaucratic indifference combined with normalized sexism. Women are harassed because institutional cultures permit it, not because statutes have failed to prohibit it.

Anti-VAWIP advocates do have an important tool at their disposal to confront the workplace harassment of women in parties and politics, one that does not require new legislation: the concept of "electoral justice with a gender perspective." This concept, best described as an approach to electoral jurisprudence, emerged from the litigation of Latin America's quota laws. Beginning in the 1990s, political parties throughout the region contested their country's quota laws before their electoral courts, challenging everything from the general principle of affirmative action to the specific provisions for rank-ordering women's names on candidate lists (Piscopo 2015a; Piscopo 2015b). Parties repeatedly found their challenges rebuffed, with electoral bodies upholding gender quota laws on constitutional grounds.

For example, in 2011, the Electoral Tribunal of the Federal Judicial Branch of Mexico (*Tribunal Electoral del Poder Judicial de la Federación*, or TEPJF in Spanish) issued a

landmark decision that the quota law must be respected “without exception.”¹² The court reasoned that “gender equality is a constitutional principle equal to other constitutional principles,” thus positioning itself as “a clear ally of women’s political-electoral rights” (Alanís 2013: 87-89). Elsewhere, courts have interpreted gender equality to mean substantive equality, understood not as equal opportunity, but as equal results (Piscopo 2015a: 11-12). A 2008 constitutional court decision in Costa Rica, for instance, established that the state could implement compensatory mechanisms (including, but not limited to, quotas) until equal results were achieved.¹³ Electoral justice with a gendered perspective thus goes beyond formal legal equality, interrogating whether women’s exercise of formal rights results in their substantive access to political power.

Though this jurisprudential approach has applied thus far only to cases wherein political parties denied women access to candidacies, the sweeping language of “political-electoral rights” and “equality of results” sets important precedents. Electoral institutes and electoral courts have used their gendered perspective to both invalidate loopholes in quota statutes and impose regulations beyond the statute itself: for example, the Mexican decision struck a provision in the electoral code wherein internal primaries exempted parties from the quota, and rulings in Costa Rica, Ecuador, and elsewhere imposed specific rank-order rules for candidate lists (Piscopo 2015b). That is, electoral institutes and electoral courts use electoral justice with a gendered perspective to regulate parties in ways not foreseen in the electoral code. This “above and beyond” tendency suggests that electoral institutions could also compel parties to alter practices deemed prejudicial to substantive equality, sanctioning behaviors designed to drive women from their public roles.

Such intervention builds on an accepted tradition of state intervention into party affairs, itself representative of the “formalistic faith” that all-encompassing rules can induce good behavior. Constitutions throughout Latin America have codified parties as objects of public interest. Electoral codes and administrative rules regulate nearly all party activities, during and outside of elections. For example, electoral management bodies oversee and often determine parties’ daily expenditures, campaign financing, internal governance, selection of leaders, and access to the media (Biezen and Kopecky 2007; Harbers and Ingram 2014). The tradition of state intervention in party life, coupled with jurisprudence that emphasizes substantive equality, suggests that electoral institutions and electoral courts could sanction the hostile work environments that political parties create for female politicians. Anti-VAWIP activists should push electoral authorities for this outcome, bringing suit against parties when female politicians experience institutionalized discrimination.

The litigation strategy does have significant limitations. As noted, electoral institutions regulate and sanction *party* behavior, meaning they could only intervene in workplaces beneath parties’ control—these institutions would include legislatures, certain sectors of the executive, and party offices. Such measures would not protect female civil servants or permanent staffers, nor would they protect female politicians from abuse by non-party offenders. These shortfalls again signal the need for implementing the broader provisions already contemplated in the region’s violence against women statutes. VAWIP advocaites should look for strategies that protect *all* working women.

Until then, specialized ombudspersons or units can support gender equality initiatives *within* state agencies: the TEPJF, for instance, has a Technical Gender Unit charged with ensuring equity among the court’s permanent staff. Paralleling the special prosecutor model proposed in case of physical and psychological harassment, electoral bodies should create

designated officers to receive, hear, document, and perhaps investigate reported cases of VAWIP. These officials could serve as key interlocutors between VAWIP activists and electoral officials, determining whether women's political rights have been violated, and whether litigation against the parties should be pursued.

Conclusion

Violence against women in politics is a complex phenomenon that defies easy solutions. Working within the Latin American context, activists and academics have provided a tidy definition—attacks that prevent women from exercising their political rights *because they are women*. However, this definition obscures the multisided nature of violence throughout the region, which in turn overlooks how insecurity, impunity, inequality, and entrenched patriarchal norms normalize both “regular” violence and violence against women. This routinization swamps the cognitive frameworks of both men and women, reducing the ability of state authorities—and even victims themselves—to identify aggressive and coercive practices as *not* normal. Perhaps paradoxically, over-specifying legal codes by naming ever-more specific forms of violence does little to correct this trend.

Latin American states have nonetheless pursued this formalistic strategy, explaining why female aspirants, candidates, politicians, and civil servants have framed VAWIP as a “new” phenomenon. Since neither the police nor the criminal courts protect women from bodily assault or psychological aggression, and since public officials ignore the manifestation of institutionalized sexism, attaining legal reform at the very least recognizes the problem. Yet this strategy, in erasing the broader context of violence and impunity in Latin America, blurs the institutional boundaries between criminal justice and election regulation. Moreover, marshalling state resources to confront VAWIP suggests that some women—namely, politically-active women—deserve more protection than others. A more fruitful approach returns to the region's broad, comprehensive statutes in the area of violence against women, and uses these legal tools to end impunity for those who violate women's rights to physical and emotional integrity, no matter where or when the assault takes places.

¹ Staudt and Méndez cite a 2010 report by a prestigious Mexican university, the Technological Institute of Monterey.

² “Violence and Intimidation Against Women in Elections Needs to Stop. Here's How.” NDI “Democracy Works Blog”: <https://www.demworks.org/violence-and-intimidation-against-women-elections-needs-stop-here-s-how> (accessed October 30, 2015).

³ Different Latin America countries experience different configurations of violence, even within their territories. My assessment of the link between VAWIP movements and the general prevalence of violence is based on the countries that most commonly appear in the academic literature on VAWIP (Albaine and Archenti 2013; Albaine 2015; Krook and Restrepo Sanin 2016; Cerva Cerna 2014) and practitioner reports (Barrig 2014; Herrera, Arias, y García 2011; Hoyos 2014; Machicao 2011, Valverde 2012; Quintanilla Zapata 2012). Though most observers may not consider Costa Rica to be as violence-prone as its Central American neighbors, crime rates have steadily been increasing. For example, homicide and robbery rates in Costa Rica are creeping above the world and regional averages (Stamatel 2014).

⁴ The literature on violence against women is vast. For classic theoretical work on the subject, see Bunch (1990) and Heise (1998).

⁵ In 2014, 43 students were abducted and likely assassinated by criminal operatives in the town of Iguala, Mexico (Guerrero state). Federal officials have implicated the mayor and his wife, both of whom had ties to a powerful

criminal gang. The mayor's wife, who was positioning herself to run for office at the time, was "described as a top operative of the gang." ("Investigators in Mexico Detain Mayor and His Wife Over Missing Students", *The New York Times* 4 November 2014).

⁶ Esarey and Schwindt-Bayer note that this finding applies only in developing contexts, where the risk of getting caught is low—as in Latin America.

⁷ A point that Bardall's concept of the gendered nature of electoral violence recognizes: "Gender is a pertinent but infrequent motivation for election violence" (Bardall 2015: 5).

⁸ These figures include the Anglophone and Francophone member countries.

⁹ "Solo 13 casos de acoso político se resolvieron en 5 años." *La Razón* (Bolivia), 4 January 2015 (accessed 2 November 2015).

¹⁰ Scholars have long recognized the foundational importance of the rule of law for democratic states. For some classic theorizing on the subject in Latin America, see O'Donnell (1998, 2003).

¹¹ See "Informe hemisférico 2012" on-line at

http://belemdopara.org/portal/general_estado.php?item=2&idPais=0&idSect=1&anio=2012&id=es (Accessed December 18, 2015). For the distinction between penalization and criminalization, see OAS (2014: 50).

¹² Decision 12624-2011.

¹³ Decision 9582-2008.

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