

# 2012

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## [Nicaragua Field Study Report]

Universal Justice members examined domestic violence issues in Granada, Nicaragua, ultimately concluding that a variety of legal and non-legal solutions are necessary to curb the rate of domestic violence incidents in the country, including education, training, and improved NGO coordination.

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# 1. Introduction

## A. *Project Aims*

Universal Justice's ("UJ") 2012 winter project focused on the legal aspects of domestic violence in Nicaragua. Our group's aims were: collect general information about domestic violence ("DV") in Nicaragua; interview various fieldworkers, legal experts and law enforcement officers to better understand the legal and social mechanisms by which DV issues are handled in Nicaragua; assess the challenges and difficulties DV victims in Nicaragua experience; assess the challenges and difficulties organizations trying to provide DV assistance face; and report findings and suggest methods to improve DV support mechanisms in Nicaragua. UJ based its on-the-ground research in Granada, Nicaragua, over a one-week period in January 2012.

## B. *Domestic Violence: General*

The United States Department of Justice Office on Violence Against Women defines DV as "a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner." (<http://www.ovw.usdoj.gov/domviolence.htm>). The relationship can be marriage, dating, or cohabitation. DV includes physical violence, emotional/psychological violence, sexual violence, and economic violence. DV may also include endangerment, intimidation, manipulation, humiliation, isolation, coercion, kidnapping, stalking, trespassing and harassment.

## C. *Domestic Violence: Nicaragua*

### *i. Definitions*

The Nicaraguan government recognizes DV as including physical, emotional/psychological, sexual, and economic violence.

Physical DV is defined as any violence that causes physical harm. This includes acts of physical aggression. Perpetrators of physical violence often target areas of the body that are covered by clothing, so wounds are not apparent to others. Emotional/psychological DV is defined as actions that intimidate and take away a person's autonomy. This can include attacks on self-esteem, threats to children, isolating behaviors, jealousy, stalking, harm to objects and other controlling behavior. Sexual DV is defined as rape and unwanted sexual touching. In Nicaragua, Catholicism plays an important role in the culture, and Catholic ideas about marriage and sex are upheld. Therefore, the Catholic idea that sex is an obligation within marriage is accepted and the idea that men "own" women and women must act submissively toward their husbands is widespread. As there is no contraception allowed in Catholicism, women have no choice in child production, a frequent outcome of sexual DV. Economic DV is defined as financial control. The

abuser controls the victim financially, and may steal money or ration money the victim earns. Economic DV is especially powerful in Nicaragua because the low employment rate leads to many women being economically dependent on their men: women stay with their abusers because they either have nowhere else to go, or at least believe that they have nowhere to go, and they are worried about how to provide for their children without an income.

## ***ii. General Conceptions about DV in Nicaragua***

Domestic violence, or *violencia conjugal*, is treated differently from general Gender Based Violence. DV may exist within marriage, in families or in dating relationships. DV is related to power and is essentially about inhibiting the rights and freedoms of another person. DV occurs because of traditional power relationships and gender roles, including the idea that a woman must submit to a man. Women and children are viewed as property and widespread child abuse has the effect of teaching children that abuse is normal. DV mostly affects vulnerable individuals, in Nicaragua mostly women, as well as children and the elderly. There is no “typical” victim and DV occurs in many cultural and societal situations. There has been a countrywide increase in reported DV in all groups.

Due to economic conditions, it is difficult for women to leave, as they are often economically dependent on their husbands. If a woman leaves her family, the husband can file for abandonment and get everything the family owns. The woman may regain her possessions and money if she proves a DV claim in court, but this is a very difficult thing to do, and requires time and financial resources the woman may not have.

## ***iii. Case Study: Domestic Violence in Granada***

Our group conducted our research by using the town of Granada as a case study and a launching pad for our investigation, focusing especially on the squatter community of Solidaridad in Granada. There has been an increase in reporting DV among poorer groups, especially in small towns in Nicaragua such as Granada. Women are reporting DV in unprecedented numbers. In December 2011, there were between 58 and 60 felonies in Granada. The number of misdemeanors in Granada during this time was higher. December experiences the highest rate of DV, possibly because of alcohol intake during the holidays.

DV is difficult to police in Granada because Granada is a large municipality. The city’s budget is insufficient to properly handle DV. There is one truck, one motorcycle and no shelter in Granada. There is one shelter in Managua, but it is very small and can be difficult for women to reach.

## 2. Current Response to Domestic Violence

### A. Government

The government responds to DV almost entirely through the criminal justice system. A DV victim's first point of contact is with the Comisaria de Mujer, the police DV violence unit. Our chief source for the government was Jamileth Gonzalez, a social worker for the Comisaria, who briefed us for several hours. While she discussed many of the challenges the Comisaria faces, the thrust of her presentation was that the Comisaria was effective. Her presentation conflicted significantly with the anecdotal accounts of a group of women who explained to us their experiences with Comisaria enforcement.

According to Ms. Gonzalez, the Comisaria relies on women to report their abuse. She discussed little in the way of community outreach or social programs. She noted that the Comisaria's 2012 anti-DV campaign was called Romper el Silencio (Break the Silence), but she did not detail what the campaign entailed. She described the Comisaria's approach as a "prevention strategy," but defined the strategy not as preventing DV before it happens. Instead, the goal is to stop DV before it becomes a felony offense.

To determine whether a DV incident is a misdemeanor or felony, the Comisaria gives the victim a mental and physical examination. If the victim shows no signs of physical signs of abuse, the DV is a misdemeanor. Misdemeanor categories include public scandals and thefts under \$300. DV that causes facial markings is an automatic felony with an automatic one-year jail sentence. It was unclear from the presentation how violence involving physical markings is treated if none of the marks are on the face. Sexual abuse is also a felony, but it can be more difficult to prove. Ms. Gonzalez explained that psychological examinations are important evidence in sexual abuse cases. She also explained that because sexual abuse trials can be so controversial, they are closed and do not involve juries.

While the law as written takes a hard stance on DV, problems arise as a case progresses from the Comisaria through the justice system. To instigate an investigation, the victim must report an incident to the Comisaria within 24 hours. If the abuser is arrested, an investigation will occur within 24 hours of the report being made. If the abuser is not arrested, the investigation will occur within eight days. However, if the incident is not reported within 24 hours, a judicial order is required before the abuser can be arrested.

The Comisaria is open at all times, but most victims call for assistance rather than access the Comisaria physically. The call is answered by either an investigator, or if the investigator is away, a receptionist. According to Ms. Gonzalez, a social worker and psychologist are called immediately upon receipt of a report. The Comisaria faces a daunting task responding to all incidents of domestic violence with limited resources. According to Ms. Gonzalez, there are only handful of officers and two vehicles devoted to domestic violence enforcement in the entire province of Granada.

The Comisaria had recently implemented a mandatory mediation clinic designed to prevent DV misdemeanors from becoming felonies. The program, run by university students with faculty advisors, is mandatory for abusers charged with misdemeanors. Each mediation session takes 20-25 minutes, and mostly consists of the woman stating what she wants. With the help of the mediators, a couple will draw up an agreement. If the abuser refuses to agree, or if he violates the agreement, he is charged with a felony instead of a misdemeanor.

### **B. Non-Governmental Organizations (NGOs)**

There are multiple DV aid organizations operating in Granada, but we toured one only briefly and were unable to interview anyone there. We were told that they also provide legal and social services, but that their capacity and resources are insufficient. They also charge for their services, putting them beyond the means of many women in need. Our impression was that the various women's organizations do not coordinate well together, though there is an inter-institutional commission that meets once a month. When we spoke with residents of the Solidaridad community, they had not heard of any nearby DV aid organizations. This suggests that the organizations need to improve their outreach and awareness efforts.

In a nearby city, Masaya, we met with a director at IXCHEN, a national women's organization somewhat comparable to Planned Parenthood. IXCHEN has offices in ten cities in Nicaragua, and focuses its efforts on both reproductive rights and DV. Each office has a lawyer, a social worker, and approximately nine other employees. For client comfort, all IXCHEN employees are female. According to the director, IXCHEN is generally well known in the community and also takes referrals from the Comisaria and various community advocates. They also engage in educational campaigns and foster relationships with other organizations.

### **C. Community Networks**

There is little done about DV among community networks in Granada. After speaking with residents of the Solidaridad community, we believe that campaigns to increase community action and awareness could be very helpful in fighting DV.

## **3. Major Problems with the Response to Domestic Violence**

Government agencies, NGOs, and informal community networks have all attempted to respond to the issue of DV in Nicaragua. However, all forms of response have been plagued with challenges that have rendered the overall response ineffective and insufficient.

### **A. Cultural Attitudes**

Cultural attitudes first and foremost contribute to the occurrence of DV in Nicaragua. All interviewees credited the prevailing machista (or machismo) attitude of men as a major reason why, more often than not, the male head of household is the aggressor in instances of DV. Machismo is a form of male chauvinism and embodies a set of views and practices in which men assert dominance and superiority over women. Machismo can often mean that a man will want to impose his will on his partner regardless of any protests she may have and that a man would expect his own actions, no matter how objectionable, to go unquestioned by his partner and family. Resistance to machismo may escalate into violence within the home. Women often submit to machismo in the home because they see it as the norm in their community. This is also why many women are reluctant to report it. The reluctance of women to report incidents of DV may also be due to the stigma attached to doing so and economic dependence on the male abuser. Economic stress and excessive alcohol consumption by males is another accompanying dilemma, which can serve to amplify the machista attitude and increase the probability of DV in the home.

### **B. Limited Police Response**

When women do decide to take action against DV at home, they will likely first try going to the Comisaria, a unit within the police precinct intended to handle crimes against women. Access to the Comisaria is sometimes prevented because after typical business hours its direct entrance gives the impression that it is closed. It is not well known that investigators from the Comisaria can still be accessed through the police station's main entrance. It is also not well known that the police can be called free of charge by dialing \*118 from any phone.

Unfortunately, when we interviewed a group of women in the Solidaridad community in Granada, they complained that the Comisaria was unreliable in its response to DV calls. Of two women from Solidaridad who had repeatedly contacted the police, only the more determined one of the two had her abuser arrested. The general sense among the Solidaridad women was that the police would only care if they were killed.

### **C. Lack of Governmental Follow-Up**

Interviews with employees of the Comisaria revealed that the measures it has instituted are not optimally helpful because they lack real enforcement and follow up. Women who filed reports with the Comisaria complained that after filing reports they heard nothing further from Comisaria officers, nor did officers seek out the alleged perpetrators for questioning. A woman from Solidaridad stated that when she filed a report, the police did not even ask for her abuser's address to do a proper investigation. Staff members at IXCHEN, a women's rights nonprofit organization, expressed the view that there are not enough investigators at the Comisaria to follow up on cases.

The Comisaria also offers mediation services for the abusers and victims in DV cases. The mediation is intended to promote an understanding between the abuser and the victim to avoid future violence between them, but the mediations tend to be ineffective. Successful mediations that result in signed agreements do not appear in abusers' criminal records, which allows for

abusers to enter into agreements insincerely and avoid the consequences under the law. Additionally, there are no photocopy machines at the Comisaria, so parties cannot come away from the mediations with copies of their agreements.

Victims of DV may also try to obtain a restraining order against their abusers, but again, because of socialization and victims' economic dependence on their abusers, this type of response is not typically sought. Restraining orders are supposed to take under twelve hours to obtain, but this is often not the reality as victims find they need to be very persistent with the authorities to receive one at all, let alone in a timely manner.

## **D. Legal Issues**

### ***i. Judicial Process***

Another problem with the response to DV is that the penalty under the law only provides for abusers to be imprisoned. Courts do not mandate therapy to help abusers reform their attitudes and behaviors. Further, it is rare for abusers to voluntarily seek therapy. Dr. Carolina Berroteran, a psychologist for the Ministry of Health, maintains that therapy is a better alternative to prison in cases of DV, particularly for adolescent offenders whose youth better positions them to learn appropriate behavior. Women from Solidaridad also expressed the sentiment that DV cases carry more weight when a woman is accompanied by NGO representatives when filing charges or is represented by NGO attorneys in court. Overall, the judicial process is ineffective without incorporating the counseling, training, and education needed to adequately respond to DV.

### ***ii. Property Rights***

Property rights also serve to complicate matters in the response to DV. Property title must be in the names of both the husband and the wife. In DV cases, the couple's mutual property is supposed to go to the wife, but this does not often happen because DV cases can be difficult to prove. Spousal abusers can only be compelled to leave the home by judicial order, but this process is long and expensive, and is therefore not typically sought. If a wife flees her home to avoid DV without formally filing charges, the wife may be penalized with an abandonment charge. Also, when a squatter's or provisional land title is granted, it is done so in the name of the family unit rather than just to an individual. It is generally very difficult to remove an abuser from the title, even if the abuser has physically left, because the abuser must agree and sign off on it.

### ***iii. Children***

When children are involved in severe DV cases, the response can be a disservice to their welfare. Children living in homes where DV is present are at risk of being removed from their homes and sent to orphanages or foster homes. The challenges presented by property rights also play a role



here as abusive fathers are not sufficiently compelled to leave the home and it may not be possible for the mother to secure housing on her own. Adding to the problem is that it is not required for adolescents at least sixteen years of age to go to a foster home or orphanage. These adolescents may choose to strike it on their own and will inevitably face hardship doing so.

### **E. Ignorance of Resources**

The greatest challenge faced by NGOs in Nicaragua, such as IXCHEN and Casa de la Mujer, is that women for the most part are not aware that these local organizations exist and that they can provide help in escaping DV. Often, women who are aware that such organizations exist are unsure of how to access these services. Cost is another bar to receiving services from NGOs, as most have to charge a fee for their services in order to sustain their operations.

## **4. Conclusion: Going Forward**

### **A. Recommendations for Improving the System from within Nicaragua**

As our team went about our information gathering process, we realized that we have the rare bird's eye view of the DV situation in Nicaragua. Many of those we spoke with on the ground had suggestions for improvements to the situation, but we found ourselves in the unique position of being able to see how those suggestions could work together to improve the system overall. Some of these ideas can be implemented or developed right away. Others are not immediately feasible, but represent realistic goals to work toward. Our group believes that none of the suggestions, from the very small to the very large, will be possible without continued cooperation among the government, NGOs, and other stakeholders working to address this problem.

#### ***i. Breaking Victim Stereotypes***

An important first step in this work is to recognize the truth that the UJ team heard repeated by several of the experts we spoke with: there is no "typical" victim of DV. Violence affects every kind of relationship, from seniors to teenagers who have just started dating. It affects people who seem strong. It affects relationships that seem ideal. Any strategy that works to counteract DV needs to fully absorb the pervasiveness of the problem, and teach every person that they have the right to live free from abuse.

#### ***ii. Government Funding***

Perhaps the most basically effective solution to the DV problem is providing funding to those who fight DV, including police officers, social workers, shelters and support staff, and legal assistance providers. Small budgets are a huge problem. In Granada, there is only a budget big enough for one truck and one motorcycle to respond to every DV complaint in an enormous geographic area. There is also enough money to sustain a shelter for DV victims, and due to similar budget constraints, the nearest shelter in Managua is very small and poorly outfitted.

This solution is also incredibly unlikely: to provide enough funding to address the widespread issue of DV, the government would need either to take money from other necessary services, or experience an improbable influx of funds. However, even with just a modest increase in funding, the government would be able to fix basic problems, which would ultimately have an enormous impact. For instance, at night, DV victims seeking help must enter the Comisaria through the police station. This is not well known, and victims have turned away thinking the Comisaria was closed. This could be solved by a simple sign instructing those who need help to enter through the police station. Right now, there are not even enough resources for this simple step.

Another important and potentially manageable expense would be to increase the funding to those who currently work with DV. Even if hiring new staff is infeasible, features like the Comisaria's offer of free workshops, trainings, and retreats to its employees mean that the workers that are available are refreshed and motivated to deal with the demands of their jobs.

### *iii. Spreading Awareness about Existing Resources*

Many communities are unaware of the resources that are available to them. These resources, like the shelter in Managua, are flawed, but they are currently the only avenues available to many impoverished DV victims. As such, NGOs and community leaders should help educate people about where to go and what to expect if they are experiencing DV and want to seek help. For instance, when the UJ group visited the community of Solidaridad, we found that nearly all of the women we spoke with had no idea that MIFAMILIA offers free legal services, including help with DV and child support cases. They were also unaware of other NGOs and networks like Red de Mujeres Contra La Violencia (“Women Against Violence”) that work on these issues in Granada. With information about currently existing resources like these, and how to locate and access them, DV victims would be more empowered to seek help.

### *iv. Improved NGO Function*

Many of the NGOs we spoke with were doing great work, and oftentimes thanklessly. Different organizations provided support such as counseling, legal help, and job training. Unfortunately, as discussed above, many potential clients are unaware of their services. We feel that it would be worthwhile for these NGOs to spend some of their limited resources on advertising their services in the communities in which they work. More ambitiously, these service providers, like the government, need more funding, which would allow them to provide aid to more people who sorely need it. This is especially true if the goal is to provide DV victims with free access to services. Some, like IXCHEN, get no money from the government at all, and depend entirely on

the fees they charge to sustain themselves, which means that they cannot provide free services to many. One complaint we heard from DV victims and women in the community was that though some places will provide some services for free, often it is the intangible financial costs like transportation money or lost wages that keep women from pursuing their court cases. Women in Nicaragua are often economically disadvantaged or dependent on their men, especially given the paucity of regular jobs, the lack of job training opportunities, and the urgent necessity of providing for children. A network of NGOs that is unable to provide women with basic services is doubly handicapped when attempting to address these less tangible but very pressing barriers to justice.

Though the legal system is imperfect and can be highly frustrating, it is still valuable for NGOs to focus their services on helping women navigate it. The women we spoke with in Solidaridad agreed that cases brought and reports filed have more weight if the woman is accompanied by an organization. While they felt that a woman had almost no chance of being helped by the system on her own, they recognized that it had the potential to be impactful if she were to be accompanied by a lawyer or other expert. This is especially true in cases where the victim's family does not support her. However, many organizations that offer legal services charge money for them, and victims with no independent financial resources are often unable to pay. Because bringing a successful DV case has the potential to completely transform a DV victim's life and circumstances, we feel that it is incredibly valuable for NGOs working in this area to strategize to provide ongoing legal support.

#### **v. *Educational Efforts***

According to Jamileth Gonzalez, a social worker at the Comisaria, more women are reporting DV than ever before. She credits this mostly to government educational efforts. These efforts include general community education about DV issues, and also school curriculum that teaches gender equality. NGOs echo these efforts with education and awareness raising campaigns of their own, including one currently being undertaken by IXCHEN. Due to the proven effectiveness of these campaigns, we think there should be more widespread educational efforts on the issue of DV.

#### **vi. *Engagement with Men and Boys***

A strategy that has been only fleetingly pursued is the involvement of men and boys in DV prevention efforts. The Comisaria has some male-focused programs, but not many, and they are generally geared toward rehabilitating men with a history of abuse. Part of the mainstreaming of DV prevention should be the buy-in by male culture. In Nicaragua, this is especially complicated because of machista culture. One community leader we spoke with said that there are essentially two types of men in Nicaragua: those who view DV as a social problem, and those who see no problem at all with "wife-beating." He said that the groups seem to be equal in number, but that the general perception of abusers is slowly shifting to the negative. The community leader credited education and women's organizations, but noted that the improvement is unlikely to accelerate without the engagement of men and boys.

**vii. *Breaking the Culture of Silence***

According to Ms. Gonzalez, the goal of the Comisaria's work is DV prevention. Often this involves counseling sessions with victims and perpetrators to stop the abuse before it becomes a felony-level situation. She and other practitioners have found that open discussion of these issues to be an amazingly powerful force against DV. The Comisaria has decreed that the theme for its 2012 anti-DV campaign is Romper el Silencio ("Break the Silence"). This campaign and others like it focus on the culture of silence that surrounds DV: victims are taught that it is shameful or even dangerous to speak out about their experiences. When we spoke with women in the Solidaridad community, they agreed that the culture of silence should not be underestimated. Even if children are taught about gender equality and nonviolence in school, if they do not hear these messages reinforced at home and in their community, they will not take them to heart.

**B. *UJ's Contribution and Vision for Collaboration***

Below are some of the strategies our group discussed for future and continuing projects.

***i. Advocate for Non-Legal Solutions***

Our voices can be powerful in convincing the police to take DV complaints seriously. Many of the women we spoke with who had previous experiences with the justice system in Granada complained that calling the police does no good: even if they show up when called, which is rare, there is often no follow up, even for repeat cases. One woman told us that a victim only gets official attention "when she ends up dead." Partially, this is a question of resources, as discussed above. UJ can play a role here by helping NGOs on the ground agitate the government for more resources for DV crimes. The problem is also partially a question of indifference. Groups like UJ can be an important part of the process of sensitization of police to the seriousness of these crimes.

Another major problem, and one that is perhaps easier to see from an outsider's perspective, is service redundancy. There are so few resources at hand to combat DV, and it makes more sense for service providers to work together to build a streamlined and efficient system for dealing with them. As things stand, cases are referred to MIFAMILIA or the Comisaria, or both, in various stages of the case's progress, and there is no way to cross-reference what has been done by which agency. An outside group like UJ could advise non-profits and governmental organizations on how to reduce this redundancy, through concrete systematic reforms.

***ii. Advocate for Legal Solutions***

Law students and lawyers can also provide the unique function of helping simplify the law and explaining it to those it affects. Many people affected by DV, and even those working on the

issue, do not understand the legal process surrounding these cases. A simplified guide would be extremely helpful, so that victims and their advocates know what to expect from the police and court systems.

Law school groups can also be impactful in agitating for changes to the legal system to streamline it and make it more responsive to the needs of women. For instance, in the words of Dr. Carolina Berroteran, a psychologist at the Ministry of Health, the judicial process is ineffective without counseling, training, and education about DV. A major legal problem we heard about from people who live in communities affected by DV is that women struggle with land rights: the women we spoke to in the Solidaridad community say that under the current conditions, it is nearly impossible for women to hold title to their own homes. A group in UJ's position could strategize ways to change these policies, through meeting with government officials, or through producing publications detailing the problem and possible solutions.

### *iii. Trainings*

Given the short timeframe of law school student group projects, DV trainings would be a good way to use the group knowledge and resources to maximum benefit. There are several ways trainings would be useful in areas like Granada. First, law students could offer trainings to community leaders on recognizing and addressing DV in their areas. This could also be expanded into a presentation to the community at large about what DV is, how to recognize it and how to seek help. Beyond the community, law students could train judicial officers on how to deal with DV cases sensitively, how to deal with the various parties involved in the most effective manner to seek the truth and offer workable solutions for the situation. Judicially mandated mediation is one solution, but again, without proper training, it is often ineffective. Law school groups could offer mediation training and research best practices. When we visited, the mediation clinic in Granada had only been going for six months. UJ or a similar group could check back in with the clinic, and offer our help and expertise to make it a stronger program.