

State Capacity, Criminal Justice, and Political Rights

Rethinking Violence against Women in Politics

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Abstract: Female politicians in Latin America experience myriad forms of gender-based abuse, from physical attacks to degrading sexual commentaries. Activists have framed this problem as violence against women in politics (VAWIP), an emphasis on women's political and electoral rights that reflects the political opportunity structure. In Latin America, broken criminal justice systems foment impunity, normalizing actors' use of violence to maintain political and patriarchal power. Citizens' rights to physical and emotional security are not protected by law enforcement, but women's rights to elect and be elected have received substantive protections from electoral institutions and electoral courts. Consequently, framing VAWIP as an electoral crime represents an astute activist strategy—but one that researchers cannot adopt without losing explanatory power. From an academic standpoint, VAWIP overlooks how widespread impunity results in the routinization of violence throughout state and society, leading to policy solutions narrowly tailored to punish political parties and protect elite women. Such reforms do little to address the underlying absence of the rule of law.

Keywords: gender, violence, political rights, electoral rights, women, criminality, impunity.

*Capacidad estatal, justicia criminal y derechos políticos:
Nueva mirada al debate sobre la violencia contra las mujeres en política*

Resumen: Las mujeres que se dedican a la política en América Latina padecen de múltiples formas de violencia de género, desde ataques físicos hasta comentarios sexuales degradantes. Las activistas que se enfrentan con este problema lo han etiquetado como

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violencia política contra las mujeres (VAWIP por sus siglas en inglés). La VAWIP enfatiza la violación de los derechos políticos-electorales de las mujeres aprovechando una oportunidad política. En América Latina, los sistemas de justicia están en crisis, la impunidad predomina, y el uso de la violencia para mantener el poder político y patriarcal está normalizado. Si bien el Estado no tiene ni la capacidad ni la voluntad para proteger los derechos de los ciudadanos, como la integridad física y emocional, los órganos electorales sí han protegido los derechos de las mujeres a elegir y ser electas. De esta forma, el clasificar a la VAWIP como un crimen electoral es una estrategia eficaz por parte de las activistas —pero una que los investigadores no pueden adoptar sin perder poder explicativo. Desde la perspectiva académica, la VAWIP ignora cómo la impunidad fomenta la rutinización de la violencia a través del Estado y la sociedad, y plantea soluciones de políticas públicas que solamente castigan a los partidos políticos y protegen a las mujeres que forman parte de las elites. Tales reformas no buscan aliviar problemas fundamentales como lo es la debilidad de un estado de derecho.

Palabras clave: género, violencia, derechos políticos, derechos electorales, mujeres, delincuencia, impunidad.

Introduction

In their path-breaking essay, Krook and Restrepo Sanin (2016) define *violence against women 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 opposition 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 in Latin America (Krook and Restrepo Sanin, 2016, pp. 130-131). Empirical evidence and anecdotal reports clearly indicate the seriousness of the phenomenon, making violence against women in politics an urgent topic of reform. However, activists and scholars involved in problem definition have overlooked how VAWIP emerges from, and poses challenges to, imperfect processes of democratic consolidation in the region. In doing so, they have neglected the larger sociopolitical context—and thus risked directing reform efforts away from the complex factors that shape political and gendered violence.

Current efforts to conceptualize VAWIP in Latin America fail to critically examine the constitutive and interlocking role played by three fundamental problems: *a)* a widespread climate of citizen insecurity amidst state and criminal violence; *b)* broken police and criminal justice systems that give assailants impunity, especially in cases of violence against women; and *c)* po-

litical parties' ongoing efforts to deny women access to effective political power, particularly at the local level. These problems speak to Latin American states' inability to maintain a monopoly on violence, combined with the slow process of breaking down the patriarchal order. Activists contesting VAWIP have ignored these interconnections, focusing exclusively on political power and framing VAWIP as an electoral crime (Acobol, 2010; Acobol, 2013). From an expediency standpoint, this strategy makes sense: throughout Latin America, women's right to elect and be elected has attained substantive protections, in the form of effective quota and parity laws that require parties to run specified percentages of female candidates (Htun and Jones, 2002; Schwindt-Bayer, 2009; Piscopo, 2015; Piscopo 2016). Political rights are enforced while others—such as the right to bodily integrity or freedom from violence—are not. From a policy design standpoint, however, the emphasis on VAWIP's electoral dimensions ignores the complexities of violence, impunity, and state capacity.

Yet researchers—namely Krook and Restrepo Sanin (2016)—have accepted activists' problem definition without critique. Krook and Restrepo Sanin theorize VAWIP as encompassing any acts that prevent women from exercising their political rights. These offenses include institutionalized gender discrimination and workplace harassment (i.e., sexist commentary or pressure to resign one's candidacy or office); corruption and misappropriation of state resources (i.e., withholding female politicians' salaries); psychological attacks (i.e., stalking or systematic harassment via social media); and physical assaults (i.e., beating, knifing, and even murdering female politicians). While some acts clearly fall within the realm of electoral justice, as they impede female politicians' right to run for and hold office, other acts clearly constitute criminal offenses, as they violate basic human rights to safety, security, and emotional and physical integrity. These human rights violations continue unchecked because the region's criminal justice systems are woefully inept—meaning that anti-violence measures must reform, rather than bypass, police and judicial institutions. The problem with conceptualizing VAWIP as an electoral crime is thus twofold: it erases the broader context of violence and impunity in Latin America and, in doing so, it blurs the institutional boundaries between criminal justice and electoral regulation.

Researchers must therefore resist accepting activists' problem definition at face value, and must instead encourage solutions that address the violence and impunity embedded in the state and in society. Female politi-

cians are being victimized, but when activists frame VAWIP as a “new” phenomenon, they are responding to a political opportunity structure that privileges political rights over human rights, not generating new academic theories. Uncritically accepting activists’ position means overlooking what the political opportunity structure reveals about Latin America’s unfinished democratic transitions: that electoral justice for women has succeeded while criminal justice for all has failed. The inclusion of both institutionalized sexism and physical and psychological assault under the umbrella of backlash effects—while conceptually tidy from a feminist perspective—risks perpetuating the very impunity activists wish to combat, as electoral institutions cannot provide effective redress in criminal cases. Democratic consolidation in the region would be better supported by clear institutional boundaries between electoral justice and criminal justice, with anti-violence programs tailored for the misdeeds falling beneath each system’s jurisdiction. Well-designed policies to combat VAWIP should not ignore its gendered dimensions, but neither should they blur jurisdictional boundaries within the state.

The Routinization of Violence to Preserve Power

Krook and Restrepo Sanin (2016)—along with others (Cerva Cerna, 2014; Archenti and Albaine, 2013)—identify VAWIP as a form of violence against women. Understood as a continuum of violent acts that range from physical to psychological aggression, violence against women maintains traditional gender roles, preserving and enforcing the gendered distribution of economic, political, and social power. Violence against women in politics, then, captures those acts which aim to preserve male dominance in the public realm. In framing VAWIP as a hate crime—a crime against women in politics simply because they are women in politics—Krook and Restrepo Sanin make preserving the gendered order central to the attackers’ motivations.

This approach overlooks the normalization and routinization of violence throughout much of Latin America. Legacies of state terrorism and political authoritarianism interact with enormous wealth disparities, structural marginalization of the poor and indigenous, and widespread criminality and impunity (Schatz, 2011; Menjívar, 2011; Rotker and Goldman, 2002; Wright, 2006). Communities are often torn by violence, from the petty theft committed by individual offenders to the extortion, kidnapping, and mass killings perpetrated by organized gangs and drug traffickers (Arias and

Goldstein, 2010; Dammert 2013; Imbusch, Misse, and Carrion, 2011).¹ Police and military forces are typically undisciplined, as willing to break the law as the delinquents whom they ostensibly fight (Imbusch, Misse, and Carrion, 2011). Inside the home, abuse of women and children is pervasive, and “domestic violence affects more households than criminal violence” (Imbusch, Misse, and Carrion, 2011, p. 100). Contemporary Latin America thus consists of large geographic areas where no one is (or perceives themselves to be) safe (Koonings and Kruijt, 1999; Dammert, 2013). Violence and insecurity are deeply rooted, forming a “taken for granted world” that permeates daily life in public and in private (Menjívar, 2011, p. 37).

Violence and insecurity thus infuse the political process, as competing factions use extra-legal means to obtain control of the state. 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. At the subnational level, 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). Assaulting and even assassinating rivals is common (Schatz, 2011). Politicians and parties above the fray still employ less 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. The very fear of crime prevents parties and supporters from organizing in public, which in turn depresses political participation among both candidates and citizens (Trelles and Carreras, 2012).

Clientelism, corruption, intimidation, and physical force are thus inscribed within the social fabric: undemocratic practices are routinely deployed to preserve or contest access to power in both public and private settings. VAWIP activists and scholars have overlooked the routinized use of violence in negotiating power struggles, instead linking violence against female politicians to the effective implementation and enforcement of

¹ In situations of generalized criminality, most victims are men. For instance, Molzahn, Ríos, and Shirk report that women constituted only 7.3 per cent of organized crime homicides in Mexico in 2011 (2012, p. 20).

quota and parity laws (Archenti and Albaine, 2013; Albaine, 2015). In Bolivia, for instance, the implementation of parity correlated with increased reports of violence against female candidates, who told of being intimidated or beaten by male party leaders seeking their resignation (Acobol, 2013). The presumed causal relationship between women's expanded political opportunities, on the one hand, and increased exposure to violence, on the other, substantiates activists' framing of VAWIP as a new and urgent backlash effect. However, this emphasis indirectly—and incorrectly—implies that men's use of violence to maintain their power only appears when women enter the political arena.

In fact, the routinization of violence in adjudicating electoral contests or maintaining illicit networks means that 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 victims to happenstance, attacked or killed simply because they are in the wrong place at the wrong time. Alternatively, female politicians will not be victimized because they are women, but because they are members of the political opposition or 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 (*The New York Times*, 2014).² Positioning all female politicians as innocent overlooks women's active role in criminal, clientelistic, and/or corrupt networks, and mistakenly assumes that all attacks have preserving the gendered political order as their central motivation (Bardall, 2015, p. 5).³ Tellingly, VAWIP has come to the forefront in those Latin American countries already deeply affected by state, criminal, and domestic violence: Bolivia, Ecuador, El Salvador, Costa Rica, Guatemala, Honduras, Mexico, and Peru (Stamatel, 2014, p. 5).⁴

² In 2014, 43 students from Iguala, Mexico, were abducted and likely assassinated by criminal operatives with ties to local politicians. The mayor's wife, who was positioning herself to run for office at the time, was described "as a top operative of the gang".

³ A point that Bardall's concept of the gendered nature of electoral violence recognizes: "Gender is a pertinent but infrequent motivation for election violence".

⁴ Though most observers associate Costa Rica with lower rates of crime, insecurity has increased in recent years, with homicide and robbery rates rising above the world and regional averages.

From Problem Definition to Policy Dilemmas

The interlocking forms of violence that dominate state and society pose a serious challenge to theorizing violence against women in politics as an isolated concept. Definitions matter, because how problems are framed largely shapes how states mobilize institutions and resources to solve them. Though concept formation, as an analytic exercise undertaken by academics, remains distinct from problem definition as a strategy deployed by activists, these processes have become elided in the case of VAWIP. Krook and Restrepo Sanin's work (2016) exemplifies this process, amplifying activists' focus on patriarchal opposition to women's political empowerment, and overlooking broader contexts of violence, insecurity, and impunity.

In 2012, Bolivia became Latin America's first (and so far only) country to typify VAWIP as an electoral crime. Law 243 added VAWIP to the penal code, defined as 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 their public duties. Krook and Restrepo Sanin (2016) theorize VAWIP from this definition, making two interpretative moves.

First, they subsume general electoral or political 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, sexual harassment, or attacks on women's chastity or mothering roles) become VAWIP. They reason that attacks relying on gendered scripts "communicate to society that women in general do not belong in politics" (2016, p. 141). This move effectively erases the very distinction between gendered and non-gendered violence that Krook and Restrepo Sanin acknowledge. In fact, research has shown that, even when men and women are equally likely to be victims of political or electoral violence for non-gendered reasons, women are still victimized in gendered forms (Bardall, 2011; Bardall, 2015). If women always experience violence in gendered ways then, according to Krook and Restrepo Sanin, women nearly always experience violence as a hate crime.

Second, Krook and Restrepo Sanin argue that non-physical violence—typically conceptualized as psychological violence—has too narrowly focused on repeated harassment or stalking. They expand psychological violence to 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, pp. 147-151). In doing so, Krook and Restrepo Sanin argue for criminalizing those practices most commonly associated with institutionalized sexism.

These definitions and expansions of VAWIP make sense from an advocacy standpoint. Broad-based feminist and women's movements have fragmented in Latin America's post-democratic era, but well-organized and highly-professionalized issue-specific networks have flourished (Jaquette, 2009). Those issue networks dedicated to 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; Piscopo, 2015; Piscopo, 2016). This process unfolded over several decades. Party leaders initially resisted quotas (Hinojosa, 2012), clustering female candidates' names in the lowest-possible list positions (Schwindt-Bayer, 2009), assigning them to losing districts (Langston and Aparicio, 2011), and allocating them few or no campaign resources (Sacchet, 2008). Activist pressure resulted in statutory reforms or jurisprudence that curtailed or eliminated these practices. As Piscopo (2015) demonstrates, Latin American states have consistently backed women's political rights: electoral institutions and electoral courts have scrutinized, regulated, and punished recalcitrant political parties. VAWIP thus fits within preexisting advocacy frames, as activists organized to press for quotas' implementation can add VAWIP to the list of power-preserving tactics that states must eradicate.

The naming and typifying of VAWIP thus emerges from the political opportunity structure. In Latin America, a decades-long campaign has called attention to political parties' entrenched sexism and socialized state officials into supporting women's political rights. The same progress has not occurred with implementing and enforcing violence against women statutes, where state inattention prevails (Prieto-Carrón, Thomson, and Macdonald, 2007; Musalo, Pellegrin, and Roberts, 2010; Staudt and Méndez, 2015). The highly visible nature of VAWIP may make the phenomenon easier to address than violence against women more generally: women abuse 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. Policymakers may remain reluctant to intervene in women's interpersonal or familial relationships, but they have a clear obligation to—and an established track record of—intervening to assure women's access to political power.

Krook and Restrepo Sanin (2016) thus accept and normalize activists' strategic framing when they too conceptualize VAWIP as an electoral crime, one that violates the woman's political rights. From an academic perspective, however, this analysis fails to critically assess the policy consequences of such a definition. Presenting VAWIP as any act impeding women's ability to run for or hold office is conceptually tidy, but practically messy.

First, 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, Latin America's electoral institutions will also become involved. The Bolivian law places the Ministry of Justice in charge of prosecuting VAWIP—in coordination with other state organs, including the electoral tribunal. As the professionalized issue-based networks that formed around quota and parity laws turn their attention to VAWIP, they will lobby both justice ministries and electoral bodies—but their prior ties and past successes have flowed exclusively through the latter. 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 bodily assault. 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 are actually criminal matters?

Second and related, 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 excluding female politicians from important meetings may not differ in kind—Krook and Restrepo Sanin (2016) highlight how both acts seek the erasure of women from public life—but they differ in degree. Instances of VAWIP include criminal acts of bodily assault and repeated harassment, on the one hand, and the everyday indignities resulting from systematic gender discrimination in politics, on the other. These latter practices—what Krook and Restrepo Sanin (2016) characterize as economic and symbolic violence—are indeed designed to discourage and demoralize female politicians: party bosses routinely under-resource, stereotype, silence, and otherwise exclude women, in order to undermine their political power as women. Yet these exclusionary practices do not elevate themselves to the level of stalking, rape, beating, and murder. A clear distinction appears be-

tween criminal acts of physical and psychological violence, and sexist practices of economic and symbolic violence.

Rethinking State Responses to Violence against Women in Politics

Krook and Restrepo Sanin (2016) acknowledge the need for a “comprehensive approach” in responding to VAWIP, including both legal solutions (namely statutes typifying VAWIP as an electoral crime) and state programs (such as hotlines and awareness campaigns). However, these policies all correspond to the narrow focus on male resistance to women’s political empowerment. Taking a broader view—recognizing that actors routinely use violence to maintain power hierarchies—reveals that any single attack against female politicians may intertwine political, criminal, and gendered motives. In all cases, the state is clearly responsible, as the assailants violated citizens’ rights to bodily integrity or to participate in politics (or both). The policy question thus asks, which state institutions should provide accountability, and how?

Framed this way, responding to VAWIP does not require theorizing new forms of violence. Rather, solving VAWIP entails critically assessing—and then improving—existing efforts to uproot violence from within the state and society. The majority of VAWIP fits within categories of wrongdoing already addressed by the state: psychological and physical violence are criminal matters, addressed in both criminal statutes and specific statutes on violence against women, and institutionalized sexism violates women’s political rights, addressed through electoral institutions and electoral courts.

Ending Impunity for Criminal Offenses

Over the course of the 1990s and the 2000s, and due largely in part to transnational and national women’s organizing, most Latin American states adopted and then strengthened their statutory prohibitions against domestic violence and violence against women (Weldon, 2002; Friedman, 2009; Htun and Weldon, 2013). The statutes’ timing and content varies across countries, but the laws follow the comprehensive commitments to punishment, sanctioning, and eradication, as articulated in the Organization of American States’ 1994 Convention of Belém do Pará. In their cross-national survey, Htun and Weldon (2013) find that most Latin American countries rate highly on an ordinal scale of strong statutory protections for

violence against women. These protections include penalties for physical as well as psychological abuse.

The problem lies with implementation. Many Latin American states lack effective police forces and criminal courts, and impunity creates a vicious, self-perpetuating cycle of abuse and non-punishment (Dammert, 2013; Imbusch, Misse and Carrión, 2011). For example, the Technological Institute of Monterey reported that 98.5 percent of illicit activity in Mexico remains unprosecuted (Staudt and Méndez, 2015, p. 37). Impunity especially characterizes violence against women, exacerbating under-reporting and diminishing accountability (Staudt and Méndez, 2015; Fregoso and Bejarano, 2009; Musalo, Pellegrin, and Roberts, 2010). Impunity also further entrenches patriarchal norms, as the 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, p. 31).

Impunity means that VAWIP victims seeking redress—whether under existing criminal statutes, existing violence against women statutes, or new anti-VAWIP laws—will receive little help from the criminal justice system. The Bolivian case in fact demonstrates the limitations of specialized legislation: Law 243 charged the Ministry of Justice with responding to VAWIP, but all cases adjudicated between 2010 and 2014 went through the electoral tribunal rather than the criminal courts. Even then, the electoral tribunal heard only 13 of 272 reported instances. One well-known case involved the day-long kidnapping of a local councilwoman, whose abductors forced her written resignation. The electoral tribunal compelled the political party to reinstate the councilwoman, a restorative solution that acknowledged the injustice, but fell short of the punitive measures that would properly sanction a kidnapping (*La Razón*, 2015). Were an effective criminal justice system in place, the councilwoman's kidnappers—irrespective of their central motivation or use of gendered scripts—would face criminal charges and jail time. In fact, the inadequacy of the sentence contributes to the very impunity that sustains not just VAWIP, but all forms of criminal, political, and gender-based violence: when individuals do not pay sufficiently for violating others' bodily integrity, the cycle of violence continues.

Thus, naming and solving VAWIP cannot be separated from Latin America's struggling democratic institutions. Activists find framing VAWIP as an electoral crime politically expedient, as electoral solutions are more readily

within reach, but academics and policymakers should recognize the limitations of this approach. Electoral institutions have few powers in cases of physical and psychological violence: they can regulate and sanction political parties, and they can restore female politicians' access to those opportunities and resources withheld by party bosses. They cannot investigate, prosecute, and imprison individual offenders. Further, electoral tribunals 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, journalists, delinquents or gang members, or even strangers.

Latin American states must therefore undertake the long-term work of rebuilding their criminal justice systems and reestablishing the rule of law. In the short to intermediate term, states can address VAWIP using existing strategies. First, states might assign special prosecutors to address reported cases of physical assault and psychological harassment. If properly resourced and empowered, these prosecutors could not just sanction offenders, but assist female activists' efforts with data-gathering and documentation. Second, states might invest in training and sensitization programs for officers staffing the region's women's police stations, so these authorities will recognize victims of VAWIP as victims of violence against women. 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. These solutions would address the gendered violence that women face, while simultaneously strengthening the state's ability to protect all citizens.

Electoral Justice with a Gendered Perspective

The need to distinguish between activists' problem definition, on the one hand, and robust policy solutions, on the other, also appears when considering the economic and symbolic dimensions of VAWIP. As Krook and Restrepo Sanin (2016) explain, these unjust practices include unwanted sexual advances, delegation of duties outside one's job description (i.e., menial or secretarial tasks), sexist commentary, withholding office space or other resources, systematic exclusion from meetings, and silencing during debates. Activists face fierce resistance to labeling these practices as gendered, as many are normalized as "business as usual." Indeed, Latin America's re-

cent advances in passing equal rights legislation and gender and parity laws is not matched by specialized statutes typifying gender and sexual harassment in the workplace. However, all Latin American countries' labor or penal codes do prohibit such harassment (OAS, 2012). Expanding VAWIP to include institutionalized sexism would thus obtain redress for women in politics—but without recognizing that all working women face these inequities. Just as anti-VAWIP activists and theorists fail to tie physical and psychological abuse to broader patterns of violence and impunity, they fail to link economic and symbolic violence to women's victimization in the workforce more broadly.

In the absence of effective enforcement of existing labor and penal codes, anti-VAWIP activists have appealed to the region's electoral institutions and their pioneering articulation of “electoral justice with a gender perspective.” This unique solution has emerged from the litigation of Latin America's quota laws: responding to constitutional challenges from the political parties, electoral institutions and electoral courts throughout the region have upheld gender quota laws (Piscopo, 2015; Piscopo, 2016). For example, in 2011, Mexico's federal electoral court issued a landmark decision that the quota law must be respected “without exception.”⁵ 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” (Alanis, 2013, p. 87-89). Elsewhere, courts emphasized that gender equality means substantive equality, understood not as equal opportunity, but as equal results (Piscopo 2016, pp. 221-222). 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.⁶ Electoral justice with a gendered perspective thus goes beyond formal legal equality, interrogating not just whether women can run, but whether they can win.

Though this logic thus far has applied only to cases wherein political parties denied women access to candidacies, electoral institutions' broad application of “political-electoral rights” and “equality of results” sets important precedents. First, electoral institutes and electoral courts have used these juridical concepts to invalidate loopholes in quota statutes, or impose regulations beyond the statute itself: for example, the Mexican decision

⁵ Decision 12624-2011.

⁶ Decision 9582-2008.

struck a provision wherein internal primaries exempted parties from the quota, and rulings in Costa Rica, Ecuador, and elsewhere imposed specific rules for rank-ordering women's names on electoral lists (Piscopo, 2015). Electoral institutes and electoral courts commonly make parties behave in ways beyond those typified in countries' electoral codes.


Second, these rulings build on an accepted tradition of state intervention into party affairs, both during and outside of elections. Constitutions throughout Latin America have codified parties as objects of public interest. Electoral codes and administrative rules regulate everything from parties' daily expenditures to their internal governance structures (Van Biezen and Kopecký, 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. Thus, anti-VAWIP activists can potentially bring suit against parties that allow institutionalized gender discrimination to flourish.

Yet this litigation strategy has significant limitations. Electoral bodies regulate and sanction party behavior, meaning those organizations and offices beneath party control; electoral institutions cannot protect female civil servants or permanent staffers, nor can they protect female politicians from abuse by non-party offenders. These shortfalls again signal the problem with emphasizing VAWIP's electoral dimension: absent comprehensive efforts to address harassment and discrimination throughout the workforce, only some women will be protected.

Latin American states must recognize sexual and gender harassment in all workplaces as a violation of women's rights, and they must enforce and strengthen labor and penal codes that prohibit this behavior. For female civil servants, specialized ombudspersons or units can support gender equality initiatives within state agencies: Mexico's National Electoral Institute, for instance, has a Technical Gender Unit charged with ensuring equity among the agency's permanent staff. For female party members, candidates, and elected or appointed officials, electoral institutions and tribunals can create designated officers to receive, hear, document, and investigate reported cases of economic and symbolic violence. These ombudspersons could serve as key interlocutors between VAWIP activists and electoral officials, determining whether litigation against the political parties should be pursued.

Conclusion

Throughout Latin America, activists previously organized to demand the adoption and implementation of quota and parity laws have transitioned to denouncing the violence experienced by female aspirants, candidates, and politicians. Such violence constitutes a real and urgent policy problem, but academics examining activists' claims must not lose their critical distance. A favorable political opportunity structure—not the startling discovery of a new form of violence—has placed VAWIP on the agenda. In situations of widespread impunity, policymakers will not respond to activists' demands for protection from routinized violence, whether political, criminal, or gender-based: such violence is too normalized, and state institutions are too weak. Yet policymakers' track record of protecting women's right to elect and be elected gives activists an opportunity to circumvent state apathy and institutional inertia: certain women (politically-active women) can obtain protection by appealing to principles of electoral justice. Activists are thus being strategic, and researchers should recognize how Latin America's unfinished democratic transitions have shaped these strategies.

Acknowledging the underlying roles of violence, impunity, and inequality raises critical questions about the usefulness of activists' narrow framing of VAWIP as an electoral problem. Laws and policies designed around VAWIP as a distinct concept will provide politically-active women with important tools for defending their political rights, but will not address the larger, foundational problems of impunity, state capacity, and gender inequality. Calls for specialized measures to address VAWIP potentially distract policymakers from deeper reforms, ones that would restore the rule of law, guarantee citizen security, and end actors' reliance on violence to resolve political and private disputes. By contrast, recognizing the sociopolitical context, and drawing a clear distinction between criminal violence and institutionalized sexism, reveals two crucial steps that Latin American states must take. First, they must end impunity for those who violate others' rights to bodily integrity, irrespective of the means or motives of abuse. Second, they must establish protections and sanctions for workplace harassment and discrimination. In Latin America, combatting VAWIP must be embedded within broader efforts to construct just, fair, and effective democratic institutions. 

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