



**Law and The Discursive Construction of Street Harassment as Violence in
Mexico City**

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by

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INTRODUCTION

We have to argue that violence cannot be an irrational phenomenon; rather, it is a rationalization of abuse and control. This rationality constitutes a quotidian politics expressed in language, use of space, and forms of social interactions.

– Héctor Domínguez-Ruvalcaba¹

The term “*acoso en las calles*,” or “street harassment,” has recently been adopted by feminist activists in Mexico City to contest the unsolicited and unwanted attention from strangers that many girls and women in Mexico (and all around the globe) face daily in public and semi-public places. Street harassment is nearly always perpetrated by men and includes: leers, horn honks, whistles, catcalls, offensive verbal comments, stalking, public masturbation, groping, sexual assault and even murder. The

threatening insinuations of street harassment often allude to the target’s sexual vulnerability and establish an implicit if not actual physical violence. Street harassment is ubiquitous and normalised, particularly in its most appraising forms not involving physical contact, such as sexually charged whistles and catcalls masked as “flirting” and “compliments,” despite the fact that in general they are overtly aggressive. Most critical discussions about street harassment refer to these “minor” types of easily trivialized and generally unprosecutable harassment experiences. In Mexico City one activist organization in particular, *AtréveteD.F.*,¹ has mobilised around the need to respond to street harassment. *AtréveteD.F.* is an affiliate site of the influential U.S. NGO Hollaback, which seeks to combat street harassment through mobile technology and online social media. Like Hollaback, one of the main purposes of *AtréveteD.F.* is to raise consciousness about the harms of street harassment and provide a public blog space for women to share their experiences.

My objective in this paper is to explore how street harassment in Mexico City is made socially and legally cognizable. Specifically, I will examine the discourse of violence and how both *AtréveteD.F.* and the Mexican legal system employ it to problematize street harassment. In the first section, I give an overview of Mexican legal culture to contextualize the violence, insecurity and impunity that reign at the present moment. In the second section, I describe the possibilities and limitations of a new federal law that criminalizes all forms of violence against women, including street harassment. In the third section, I use excerpts from the *AtréveteD.F.* blog to show how understandings of law, violence and the current social and political

¹ Héctor Domínguez-Ruvalcaba, *Modernity and the Nation in Mexican Representations of Masculinity*, (New York: Palgrave MacMillan, 2007), 153.

instability in Mexico intersect with street harassment. Finally, I speculate on why these actors in Mexico City might appeal to the language of law and violence in their work.

Section One: Violence and (Il)legality in Mexico

Is law in Mexico popularly viewed as the means or the end to violence? To answer this, it should firstly be noted that the origins of the environment favouring cynicism toward law are often attributed to the Spanish conquest, “a rupture of extreme violence” accompanied by a complicated bureaucratic apparatus facilitating corruption by the settlers of New Spain who were months away by sea from the Spanish crown.² Adherence to local custom over the written law became a sort of legacy, as did creative strategies to circumvent excessive, rigid and inefficient regulations. The *encomienda* system of labour organization only aggravated the possibilities for a “simulated adherence to the rule of law.”³ After independence in 1810, the constitution and other national consolidation doctrines largely replicated U.S. texts, drawing extensively from the language of European liberalism. According to legal scholar Sergio López-Ayllón, “[f]rom the beginning, the formal legal system established in Mexico is a set of rules originally designed for another world and imposed on a radically different reality.”⁴ Moreover, there was no “founding consensus” among the political

elite.⁵ Mexican ex-Secretary of Foreign Affairs Jorge Castañeda points out that “[w]hile the disconnect between the written text of the law and the historical reality it addressed was typical of all of Latin America...it was perhaps more acute in Mexico...[which] had a constitutional representative democracy on paper, and fifty governments during its first quarter century of independent life. No wonder the paper didn’t matter.”⁶

Yet the paper *did* matter, even if it did not reflect the political reality or daily life in Mexico. The constitution and federal legislation often articulated idealistic goals and aspirations. This led to a tradition in which social problems and grievances were acknowledged, if not truly addressed, by either amending laws or creating more laws. By definition the rights established could not be exercised, as they never reflected a realistic social or cultural norm of conduct.⁷ Disproportionate application of formal law also became a foundational narrative of national identity. Benito Juárez – restorer of the Republic after French occupation, president, and lawyer – famously said, “For friends, justice and grace; for enemies, the law.”⁸ Today, popular sayings exemplify similar attitudes. For example, “The law is to be obeyed, but not fulfilled,” reflects “a clear bow to power differentials, but not to vested authority.”⁹ Other sayings include “A person who doesn’t cheat, doesn’t get ahead” and “As soon as the law is written, cheating sets in.” Statistics seem to confirm these attitudes: 75% of Mexicans believe the written laws of their country are unfair and 71% do not believe that the

² Sergio López-Ayllón, “Notes on Mexican Legal Culture,” *Social & Legal Studies* 4 (1995), 478.

³ Jorge Castañeda, *Mañana Forever? Mexico and the Mexicans*, (New York: Knopf, Borzoi Books, 2011), 184.

⁴ López-Ayllón, “Mexican Legal Culture,” 479.

⁵ López-Ayllón, “Mexican Legal Culture,” 480.

⁶ Castañeda, *Mañana Forever?*, 185-186.

⁷ Castañeda, *Mañana Forever?*, 190-191.

⁸ Quoted in Castañeda, *Mañana Forever?*, 187.

⁹ Stephen Morris, “Mexico’s Political Culture,” *Mexican Law Review* 3, no. 2 (2010), 330.

law is applied evenly.¹⁰ Distrust for institutions formally answerable to law, like the police, political parties and Congress, is also acute. Deciding which laws to follow, and when to follow them, is often considered a matter of personal opinion.

Amidst this scepticism and selective obedience to the written law, one must also recall that in Mexico's civil legal system, the accused is essentially guilty until proven innocent (or until proven rich),¹¹ making law a site of apprehension for the powerless. The fear of arbitrary detention or punishment logically overrides voluntary compliance or faith in law's inherent fairness.¹² Furthermore, oral trials and juries are not standard for either criminal or civil hearings and judges play an active role in gathering evidence for cases.¹³ Castañeda also stresses that most legal decisions are not made in a courtroom: "Written arguments, depositions, documents, testimony, and so forth are all presented to a judge's *office*, where they are reviewed, and where verdicts and sentences are delivered...[M]ost of the time, it is not even a judge who judges, but rather a lowly, overexploited, and underpaid clerk...who does the work."¹⁴ He also points to the discriminatory implications this has had "[i]n a nation where until half a century ago the majority of the population could not read or write."¹⁴ There is therefore very little that is adversarial or confrontational about judicial procedures in Mexico. So, while oral trials represent a wealth of material for critical legal scholars in most countries, the spectacle, rituals, verbal

rhetorical strategies and embodied performance of emotions in the courtroom are largely irrelevant to Mexico. To examine legal discourse in Mexico, it is even more crucial to also assess its silences, which are intensified because of the very small percentage of crimes that individuals bother to report.¹⁵ Put simply, Mexico has a deep and prolonged tradition of unpersuasive laws leading to a tremendous gap between law and reality and more vitally, between law and justice.

While there is clearly a vicious cycle of corruption central to the dysfunction of the legal system in Mexico, it is highly troubling when culture and collective consciousness become linked to illegality and dishonesty. Stephen Morris argues that the *expectation* of illegality does not necessarily indicate cultural acceptance or tolerance. For example,

"A wide range of attitudinal and behavioural consequences fasten onto this fundamental lack of legitimacy of the law and distrust of those making and enforcing it...Among these is a tendency on the part of the public to use this discourse [of corruption] as a tool to interpret everyday events...[I]f impunity is the rule rather than the exception, then exceptions to that rule are not interpreted as examples of compliance with the rule of law; instead they are seen as conforming in some twisted way to the same political logic...or public show, not to promote the rule of law."¹⁶

This, Morris asserts, creates an anti-state and by extension, pro-civil society bias, whereby breaking the law can be seen as protest or resistance to the state's use of coercion to enforce law. "In fact," he explains, "a narrative that envisions the law as oppressive makes compliance a form of submitting to that oppression."¹⁷

¹⁰ Castañeda, *Mañana Forever?*, 193.

¹¹ Morris, "Mexico's Political Culture," 338.

¹² Morris, "Mexico's Political Culture," 330.

¹³ Castañeda, *Mañana Forever?*, 103.

¹⁴ *Ibid.*

¹⁵ Morris, "Mexico's Political Culture," 331.

¹⁶ Morris, "Mexico's Political Culture," 332-333.

¹⁷ Morris, "Mexico's Political Culture," 335.

This further suggests that not reporting crime signals not an acceptance of the crime but a lack of faith in law enforcement or legal institutions to respond to it.

When law's claims to legitimacy are solidly undermined, surviving in the system likely necessitates complicity with political tradeoffs.¹⁸ This reality laid the groundwork for the consolidation of the *Partido Revolucionario Institucional* (PRI) political party, which maintained rigid, centralized rule for 71 years until the presidential elections of the year 2000. Mario Vargas Llosa famously called the PRI "the perfect dictatorship...because it is a camouflaged [one]."¹⁹ Some have argued that Mexico's "democratic transition" (or at least its transition to post-authoritarianism) has in fact contributed to the deterioration of the rule of law and to the failures of public security and citizen trust.²⁰ Morris explains that "while authoritarianism may have created the unrule of law, democracy as practiced thus far has not only failed to reverse the course, but seems to have exacerbated it."²¹ In addition, the transition has exacerbated violence, particularly by drug trafficking organizations that have long received legal protection from the state.²² The violence

and impunity of contemporary Mexico has become somewhat less institutionalized in the years since the PRI lost hegemony of the state.

Most significant for explaining the overall extreme levels of violence in Mexico today is President Felipe Calderón's launch of an offensive counter-narcotics campaign in December 2006, which he referred to as a declaration of war on Mexico's drug trafficking organizations (DTOs). Tens of thousands of Mexico's poorly trained military troops were stationed throughout the country. This campaign has exacerbated the *narcoviolencia* and human and civil rights violations by both the military and extra-legal actors. At present, most independent media and activist groups estimate that at least 60,000 individuals have died since the start of the war, including many civilians unaffiliated with the drug trade or organized crime.²³ This has been met with an estimated impunity rate of over 95% for murders associated (legitimately or otherwise) with the drug war.²⁴ Additionally, since 2006, more than 5,000 individuals have "disappeared" and about 6,000 corpses remain unidentified.²⁵ Meanwhile, the government frequently parades high-profile suspects of the drug trade on television, some of whom admit to their offences before the cameras;

¹⁸ Morris, "Mexico's Political Culture," 337.

¹⁹ Quoted in Andrew Reding, "Mexico: The Crumbling of the "Perfect Dictatorship," *World Policy Journal* 8, no. 2 (1991), 257.

²⁰ Diane E. Davis, "Undermining the Rule of Law: Democratization and the Dark Side of Police Reform in Mexico," *Latin American Politics and Society* 48, no.1 (2006): 55-86.

²¹ Morris, "Mexico's Political Culture," 342.

²² Michael Lawrence, "A Complex Systems Approach to the Drug War in Mexico: Resources, Violence and Order," WICI Occasional Paper no. 1, (18 January 2012), 19. Available at: http://wici.ca/new/wp-content/uploads/2012/01/Final_Mike_Lawrence_OP1_Jan2012.pdf.

²³ Tracy Wilkinson, "Mexican Government Sought to Withhold Drug War Death Statistics." *Los Angeles Times* 11 January 2012. Available at: <http://articles.latimes.com/2012/jan/11/world/la-fg-mexico-dead-numbers-20120112>.

²⁴ John Gibler, *To Die in Mexico: Dispatches from Inside the Drug War*, (San Francisco: City Lights Publishers, 2011), 40.

²⁵ Daniela Rea, "Deja sexenio de Calderón 9 mil cuerpos sin identificar," *Terra* 1 April 2012. Available at: <http://noticias.terra.com.mx/mexico/seguridad/d-eja-sexenio-de-calderon-9-mil-cuerpos-sin-identificar,440331c772e66310VgnVCM3000009acceb0aRCRD.html>.

experts presume that many “are quietly released after the 80 days of investigation permitted by Mexico’s judicial system.”²⁶

DTOs and other organized crime networks have caused devastating problems in Mexico for numerous years, but to many commentators, Calderón’s campaign represents an unprecedented break from previous strategies.²⁷ It also deviates from the solution most activists promote, namely judicial reform and an attack on impunity. Yet according to some experts it is entirely characteristic of Mexico’s legal tradition: “[i]nstead of changing the laws and adapting them to reality, [Calderón], like all his predecessors, sought to alter reality and adapt it to the law, knowing full well that this was impossible and counterproductive.”²⁸ The result has been that Mexican civilians cannot differentiate between the violence of *narcos* or other extra-legal actors and the violence of military troops acting on behalf of the state.

As Melissa Wright and other scholars emphasize, the drug war has become a war over locating violence, attributing responsibility for it, and interpreting its meaning in Mexican society.²⁹ As violence becomes increasingly indiscriminate, spectacular and brutal, the government deploys wildly incongruous blame-the-victim discourses, so that anyone missing or found dead is presumed somehow affiliated with the drug trade or other immoral activity.

Wright shows that these rhetorical silencing strategies are highly gendered as well. She explains that the government’s representation of the DTOs reflects “a binary spatially organized around men’s violent business on the streets in contrast to women’s domestic activities. The purported rationality of *narco* businessmen is vital to the government’s reassurance that innocent people need not worry.”³⁰ Since violence is bad for business, tourists and innocent locals will supposedly not be made random victims.

Javier Sicilia, a well-known Mexican poet, has become a spokesperson for the many families and friends condemning the horrific murders of individuals with no ties to criminal activity. Sicilia’s own son and six of his son’s friends were murdered in 2011 by drug traffickers (or police officers, the categories are no longer distinguishable) in a city an hour outside of the capital. Sicilia challenges the government’s discourse that criminalizes all victims, and he advocates “something new, especially new institutions to fight our lawlessness and corruption and impunity, not just that of the drug cartels but the state.”³¹ His Movement for Peace with Justice and Dignity (MPJD) travels around the country in a caravan, personifying the victims of drug war violence with the slogan “*¡Estamos hasta la madre!*” (roughly, “we’re fed up”). Activist members of the MPJD have received death threats and several have been murdered; incredibly, the government has dismissed these

²⁶ Lawrence, “Drug War in Mexico,” 48.

²⁷ Lawrence, “Drug War in Mexico,” 54.

²⁸ Castañeda, *Mañana Forever*, 212.

²⁹ Melissa Wright, “National Security Versus Public Safety: Femicide, Drug Wars, and the Mexican State,” in *Accumulating Insecurity: Violence and Dispossession in the Making of Everyday Life*, ed. Shelley Feldman, Charles Geisler and Gayatri A. Melon, 285-297, (Athens, Georgia: University of Georgia Press, 2011), 286.

³⁰ Melissa W. Wright, “Necropolitics, Narcopolitics, and Femicide: Gendered Violence on the Mexico-U.S. Border,” *Signs: Journal of Women in Culture and Society* 36, no. 3 (2011), 721.

³¹ Tim Padgett, “Why I protest: Javier Sicilia of Mexico,” *Time* 14 December 2011. Available at: http://www.time.com/time/specials/packages/article/0,28804,2101745_2102138_2102238,00.html

deaths as well by linking the activists to criminal activity.³²

More recently, the government's discursive tactic equates uncontrolled violence with security and the success of their campaign. This deflects the common accusation that the violence in Mexico represents a crisis or failure of the state. According to the government (and a good number of other commentators),³³ violence is in fact

“indicative of a desperation on the part of the cartels who are killing each other off in response to the disruptions created by the government's military initiative...So, according to such logic, the higher the death rate, the more successful is the government's approach to securing the state...Hence, public safety is not only segregated from national security, it is inversely related as a dualistic binary.”³⁴

However, Wright fails to mention that this is not limited to the Mexican case; it is a regional trend. Jenny Pearce explains, “The Latin American state increasingly claims its legitimacy not from a monopoly of violence but from its lack of such a monopoly. It is this lack which provides the state with the social outcasts and sources of disorder (criminals, drug mafias, youth gangs) which it must respond to with new forms of order, violently imposed, to win its authority.”³⁵ The “new” violence in Mexico is conveniently portrayed as a rupture from the authoritarian past, with political

repression being replaced by extra-state forms of criminal and delinquent violence.

The government's logic is difficult to sustain, since “there is a ‘semiotics of murder’” at play making tortured bodies a message to the public. Bodies communicate territory-based warnings and contribute to a generalized environment of terror.³⁶ Decapitations, signs and messages written on corpses and other gruesome trademarks have become legible to anyone following the progression of the drug war. DTOs' executions of police officers and others interfering with their activities are even recorded and posted on YouTube.³⁷ Every day bodies turn up –often severed– in garbage dumps, fields, cities centres and plazas, or hanging from bridges.

The violence in Mexico is undoubtedly overt and visible, creating a theoretical tension with Foucault's work on biopower and elusive disciplinary mechanisms that become social norms elevated above law. As Michael Taussig, author of the “Terror as Usual” thesis, puts it: “Foucault's notion of control through norm, through normalization, could not be more irrelevant. Combining violence with law, the State in Latin America rules through the strategic art of abnormalization.”³⁸ Rodrigo Parrini agrees: “[in Mexico] we are witnesses to a process that Foucault never studied...This combination of violent events, this arithmetic of vulnerabilities and uncertainties, this diffusion of impunity and silence, this tactical alliance of violence and the sinister.”³⁹ Parrini instead proposes a “corporeal politics” of “bodyscapes,” borrowing from Arjun Appadurai to consider both the

³² Author unknown. “Sicilia: Mexican State AG Should Be Fired Over Activist's Killing.” *Latin American Herald Tribune* 1 December 2011. Available at:

<http://www.laht.com/article.asp?ArticleId=448943&CategoryId=14091>.

³³ Lawrence, “Drug War in Mexico,” 60.

³⁴ Wright, “National Security Versus Public Safety,” 293.

³⁵ Pearce, “Perverse State Formation,” 289.

³⁶ Lawrence, “Drug War in Mexico,” 20-21.

³⁷ Gibler, “To Die in Mexico,” 7, 59.

³⁸ Taussig, quoted in Parrini, “Bodyscapes,” 82.

³⁹ Parrini, “Bodyscapes,” 81.

dislocations and fluidity of the “rules” of violence. However, he theorizes this violence in its more materially and historically situated forms, rather than imagined.⁴⁰ Taking Latin America as a whole, Pearce, too, critiques application of Western assumptions that modern discipline has everywhere surpassed coercive techniques. She cites Miguel Angel Centeno:

“The critical image here is of a more sophisticated and developed form of control that gradually has abandoned explicit, public violence. Even the most casual observer of Latin American political life can remark that the forms of control have not developed towards less explicit forms of violence. The symbol of authority in Latin America is not necessarily an internal Freudian policeman but a riot policeman with dogs...the culture of the continent is not inherently more authoritarian, but just the opposite.”⁴¹

In addition, Pearce suggests that “elites in the region have neither themselves come to abhor and reject violence, nor have they contributed to state building where violence is legitimately monopolized...Rather than see this as a loss or absence of the monopoly of violence, I would argue that the state has never aspired to exercise such a monopoly.”⁴² Said otherwise, it has not been in the state’s interest to eradicate explicit violence or the spaces of impunity that facilitate it.

Taking a distinct approach, Michael Lawrence adopts a unique systems level analysis of the conflicting social *orders* of the drug war in contrast to the “[t]ypical accounts [that] stress the chaotic turmoil of the violence, and sometimes even raise the spectre of state

failure.”⁴³ He argues that violent conflict can be seen as order-making instead of order-breaking, precisely because it benefits the government and the DTOs in economic and political terms “so that neither has an interest in peace, and war itself represents a stable system.”⁴⁴ He situates disorder and order not as a binary construct but as a continuum, with disorder being “the likelihood that relationships will be spontaneously reconfigured into a fundamentally new pattern in a series of random re-arrangements” and order being “enduring patterns that structure social, political and economic relationships.”⁴⁵

Lawrence’s analysis is a useful reminder that violence can be official and organized, and that order and welfare should not be conflated with the state. For example, the DTOs donate food and medical supplies and fund school and social activities. They also take on state-like functions by levying taxes, creating roadblocks, and investing in social services, public infrastructure and the Church.⁴⁶ Working for DTOs also generally involves benefits associated with formal private employment, like life insurance and loans.⁴⁷ Furthermore, Lawrence explains,

“While the state aspires to construct a ‘culture of legality,’ the drug trade fosters a counter-cultural identity that appeals to marginalized youth through videos, songs venerating drug criminals...and public banners...Some DTOs...have created pseudo-ideologies including saints, iconography, and ritualized violence that resonate with the broader significance of death within Mexican culture.”⁴⁸

⁴⁰ Parrini, “Bodyscapes,” 70.

⁴¹ Miguel Angel Centeno, quoted in Pearce, “Perverse State Formation,” 298.

⁴² Pearce, “Perverse State Formation,” 298.

⁴³ Lawrence, “Drug War in Mexico,” 3.

⁴⁴ Lawrence, “Drug War in Mexico,” 9.

⁴⁵ Ibid.

⁴⁶ Lawrence, “Drug War in Mexico,” 22-23.

⁴⁷ Lawrence, “Drug War in Mexico,” 48.

⁴⁸ Lawrence, “Drug War in Mexico,” 22.

The propaganda of the DTOs is highly persuasive and their censoring of unfavourable reporting lethal and definitive. They have developed highly specialized intelligence capacities, and they even sponsor public protests against the government's drug war to focalize criticism of violence on the state.⁴⁹ The systemic (though unstable) order and diffuse violence of the DTOs clearly challenge the state's legitimacy and legal apparatus. As one Mexican teacher puts it, "[DTOs are] a second law. Maybe the first law."⁵⁰ Despite the state's presentation of its own violence as legal and contained, DTOs' infiltration of the state makes it unfeasible to distinguish between the legal and the criminal.

In this context, accountability is impossible, cause and effect are blurred, and the dominant discourse for representing all victims of violence becomes impunity:

"There is a silence around [deaths], the impossibility of coming to justice and finding the people responsible ... First, it paralyzes the potential for legally establishing the truth, which ruins the symbolic procedures for constructing and validating a narrative account – a judge who hears a case, a truth established part by part, a decision that returns the actions to their legal origin. Second, at that point, all we have is the language of science. Impunity is thus a paradoxical way of asserting the truth of science over the truth of law, because only scientific procedures, their technology and assertions, will reconstruct a fragment of truth and intelligibility for what has been harmed."⁵¹

In this system perpetuating a state of impunity for violent crime, the victims of femicide are of particularly low social value. In the words of one of Wright's

⁴⁹ Lawrence, "Drug War in Mexico," 25.

⁵⁰ Quoted in Lawrence, "Drug War in Mexico," 23.

⁵¹ Parrini, "Bodyscapes," 74.

students at a Mexican university, "You could get arrested faster for stealing a car than for killing a girl!"⁵²

As Wright's work on violence against women and impunity in Ciudad Juárez has shown, this situation is possible because the victims are from the poor and working classes.⁵³ Discursive battles have long been fought by state officials to normalize the murder of young women and stigmatize their mothers for protesting and testifying in public against the state's impunity for the murder of poor women and girls. By invoking the connotations of "*mujeres públicas*," or public women (prostitutes),ⁱⁱⁱ political elites contend that the dead women actually caused the violence that killed them. The victims (or at least their dead bodies) were outside of their respectable place in the private sphere and thus likely lived "double lives." The victims therefore do not represent the larger Mexican public worthy of state protection or criminal investigation.⁵⁴ As one politician stated simply, "More women on the street... meant more dead bodies on the street."⁵⁵ Furthermore, mother protesters are likewise associated with prostitution as a means to discount their presence in public. Their turning to the international community for solidarity and to put pressure on the Mexican government was framed as the ultimate betrayal.⁵⁶

In sum, written law in Mexico is often selective and ineffective. It is not

⁵² Quoted in Wright, "Necropolitics, Narcopolitics, and Femicide," 714.

⁵³ Wright, "Necropolitics, Narcopolitics, and Femicide," 707-708.

⁵⁴ Wright, "Necropolitics, Narcopolitics, and Femicide," 714.

⁵⁵ Quoted in Wright, "Necropolitics, Narcopolitics, and Femicide," 716.

⁵⁶ Melissa Wright, "Urban Geography Plenary Lecture—Femicide, Mother-Activism and the Geography of Protest in Northern Mexico," *Urban Geography* 28, no. 5 (2007): 401-425.

always intended to even be applied. However, law has a discursive and symbolic influence in the face of violence, which is more overt in Mexico. Formally, the criminal justice system is equated with protection for citizens, but for women especially, laws can be a means of ending the discussion about injustice as opposed to opening it. In a speech for International Women's Day 2012, Calderón boasted, "we have updated the legal framework to protect women's rights. Mexico only had six laws on that subject. Today we have 26 laws that protect women's rights."⁵⁷ It is doubtful that new laws have direct instrumental value for women, since they remain in the realm of discourse that ultimately silences the material reality behind the harms. Compliance with the law is often inconceivable in a practical sense, due to Mexico's legal traditions and the current public insecurity informed by epidemic drug war violence and impunity for violence against women.

Section Two: Violence in Legal Discourse and the General Law on Women's Access to a Life Free of Violence

An important initial qualification about translating violence into legal discourse in any context is that violence is an enormous topic resistant to language, representation and measurement.^{58 - 59} Many scholars speak of two definitions of violence, narrow and broad. Narrow

definitions emphasize direct, intentional actions of physical force against the human body.⁶⁰ Peter Fitzpatrick explains, "[i]n its narrow, perhaps popular sense, violence is equated with unrestrained physical violence...A standard history of the West would connect a decline in violence with an increase in civility."⁶¹ A classic and easily comparable quantitative measure of violence in this narrower sense is the rate of intentional homicide. At present this rate is exceptionally high and shocking in Mexico, of course, but the major drawback of equating violence with death is that all kinds of violences not resulting in death are easily dismissed by society. In addition, the intentional homicide rate is much less meaningful without the rate of impunity.

The broader definition of violence, on the other hand, is not limited to direct, intentional harm against the body. Galtung, Bourdieu and Wacquant's work is frequently cited in debates about violence in this broader sense. These authors theorize violence in relation to culture, structural conditions and symbolic acts. Such views focus more on the victim than the perpetrator of violence and on locating the origins of the violence.⁶² However, less direct, physical and intentional forms of violence are also the most easily invisibilized, and further, this violence can be "misrecognized as such by its victim, who might become so accustomed to marginality and subordination that its bodily effects appear as stutters and trembles in her voice."⁶³ Violence, it must be remembered, has eventual effects on the body in all of its forms, which can be

⁵⁷ Quoted in María Elena Álvarez de Vicencio, "Día Internacional de la Mujer," *La Crónica de Hoy* 3 March 2012. Available at: http://www.cronica.com.mx/nota.php?id_notas=644609.

⁵⁸ Austin Sarat, "Speaking of Death: Narratives of Violence in Capital Trials," *Law & Society Review* 27, no. 1 (1993), 22.

⁵⁹ Pearce, "Perverse State Formation," 290.

⁶⁰ Pearce, "Perverse State Formation," 290.

⁶¹ Quoted in Sarat, "Speaking of Death," 21.

⁶² Gutiérrez Castañeda, Griselda. "Violencia sexista. De la violencia simbólica a la violencia radical." *Debate feminista* 19, no. 37 (2008), 36.

⁶³ Pearce, "Perverse State Formation," 290.

accumulated in minor humiliations or deprivations. To speak metaphorically of violence (e.g. psychological or structural violence) can have a potentially instrumental shock value, due to the intense, immediate suffering associated with violence in its more “visible and vivid”⁶⁴ sense. Yet violence in the abstract is less easily understood and articulated by those not feeling or embodying its effects (i.e., legislators who generally come from privileged backgrounds). If the definition of violence is overly broad, it could potentially become difficult to pinpoint and eventually come to signify everything and nothing.

Some critical legal scholars call for attention to law’s own inherent violence. In the words of legal anthropologists Comaroff and Comaroff, “the legal and the lethal animate one another.”⁶⁵ Austin Sarat, for his part, questions “whether law’s violence is truly different from and preferable to what lurks beyond its boundaries,” and he accentuates law’s need to continually reassure its legal subjects that its own violence is necessary and fair.⁶⁶ In consideration of the Mexican context just reviewed, it seems that Sarat’s concerns are less relevant to places where the rule of law is for all practical purposes non-existent. If the majority of the population of Mexico City feels unsafe most of the time, and the difference between state and non-state forms of violence is blurred or negligible, it might be more important to speak of violence in purposefully general terms.

In Mexico, violence and legal discourse unite in gendered terms via an ambitious federal law called the *General Law on Women’s Access to a Life Free of*

Violence entered into force in February 2007. The Mexican Congress passed this legislation with the goal of synchronizing efforts to prevent, punish and eradicate all types of violence against women at the federal, state and municipal levels. The language of the General Law borrows heavily from the Convention on the Elimination of All Forms of Discrimination against Women (1981) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (or Convention of Belém do Pará, 1994), two of the many international agreements guaranteeing women’s rights that have been ratified (but not complied with) over the years by the Mexican state.

The General Law’s inclusive umbrella term violence is defined as “any action or omission, based on gender, that causes women psychological, physical, patrimonial, economic or sexual harm or suffering, or death, in both private and public spheres.”⁶⁷ Of the six types of violence codified in the General Law, psychological and sexual violence are most relevant for the translation of the experience of street harassment into legal terms. Psychological violence, for instance, can consist of insults, humiliation, marginalization, destructive comparisons and threats, among other devices, which might lead the victim to isolation, devaluation or suicide.⁶⁸ Sexual violence (which includes “femicide violence” and impunity on the part of society or the state) refers to acts that degrade or harm the victim’s body and

⁶⁴ Sarat, “Speaking of Death,” 21.

⁶⁵ Jean and John Comaroff, “Law and Disorder in the Postcolony,” *Social Anthropology* 15, no. 2 (2007), 145.

⁶⁶ Sarat, “Speaking of Death,” 20.

⁶⁷ General Congress of the United Mexican States, “Decree to Enact the General Law on Women’s Access to a Life Free of Violence,” *General Law on Women’s Access to a Life Free of Violence*, 1 February 2007, (Title One, Chapter 1, Article 5, IV), 5. Available at: http://www.summit-americas.org/brief/docs/Law_on_access_to_a_life_free_violence.pdf.

⁶⁸ *General Law*, Title One, Chapter 1, Article 6, I, 6.

expresses an abuse of power “that implies male supremacy over women by degrading them and seeing them as objects.”⁶⁹ The General Law also outlines the various “spheres” in which violence occurs, aiming to overcome the public/private divide. Community violence “consists of individual or group acts that violate basic rights of women and encourage their denigration, discrimination, marginalization or exclusion in the public sphere.” This is immensely valuable for the criminalization of street harassment since, in contrast to domestic abuse or sexual harassment in institutional settings like workplaces or schools, it occurs in public spaces like sidewalks, public transit, parks, and privately owned but accessible sites like shopping malls.⁷⁰

Chapter II of the General Law clearly distinguishes between “*hostigamiento*,” similar to *quid pro-quo* sexual harassment in the U.S. and “*acoso*,” similar to gender-based street harassment. These terms are conflated as sexual harassment in the English translation of the General Law:

“Sexual harassment [*El hostigamiento*] is the exercise of power in a relationship of real subordination of the victim in relation to the aggressor in job and/or school spheres. It is expressed through verbal, physical or verbal and physical conduct related to sexuality with lascivious connotations. Sexual harassment [*El acoso sexual*] is a form of violence in which there is an abusive exercise of power—even without subordination—that leads to a state of defenselessness and risk for the victim, regardless of whether it takes place on one or several occasions.”⁷¹

The last point in the definition of *acoso sexual* is also noteworthy. In the U.S., legal scholars criticize the barriers to criminalizing street harassment under currently inadequate U.S. legislation based on the required repetition of the offense and tests of “extreme and outrageous” conduct.⁷²

The General Law outlines concrete actions the state is to adopt, including regional warnings on levels of gender violence, policies that prevent and redress harm to women, acceptance of state responsibility for the publication of truth and combating impunity. As part of the Comprehensive Program to Prevent, Treat, Punish and Eradicate Violence Against Women, the General Law establishes that the government is to “[p]romote a culture of denouncing [reporting] violence against women in the framework of the efficiency of institutions to guarantee their safety and physical integrity.”⁷³ The law also guarantees free care for the victim (and her children when necessary) through shelters, legal advice, medical treatment and psychological services. Finally, the state is to guarantee free “reeducation” for victims and perpetrators alike, in addition to a monitoring system and databank facilitating information exchange among government entities.

Many Mexican feminists lobbied for the General Law, and it was well received by the general public. Marcela Lagarde, an important scholar and former Congresswoman, praised the law and hoped that it would construct the normative conditions for the state to cease being part of the problem of violence

⁶⁹ *General Law*, Title One, Chapter 1, Article 6, V, 6-7.

⁷⁰ *General Law*, Title One, Chapter 3, Article 16, 10.

⁷¹ *General Law*, Title One, Chapter II, Article 13, 9.

⁷² Cynthia Grant Bowman, “Street Harassment and the Informal Ghettoization of Women,” *Harvard Law Review* 106, no. 3 (1993), 565.

⁷³ *General Law*, Title Three, Chapter II, Article XII, 18.

against women.⁷⁴ She situates it as a response to much international pressure for Mexico to find an effective solution for the epidemic violence against girls and women. Lagarde also points out that the dozens of international recommendations Mexico has received stress the institutional impunity that surrounds violence against women and demolishes the rule of law.⁷⁵

Responding to the rampant, generalized violence in the country, she indicates that in many cases the gravity of the problem of violence against women in Mexico is undermined because of the observation that some forms of violence –like violent homicide– involve a greater number of men than women. She asserts that the major problems is underreporting, which is estimated at one formal complaint for every ten acts of violence against women. In this regard, Lagarde suggests that the registries and databases of the General Law are one of its most valuable features. In addition, she recognizes the significance of outlining community and institutional violence, which have been resistant to legal discourse and justify day-to-day abuse against women at individual and collective levels.⁷⁶ In reference to institutional violence in particular, she indicates that “[i]mpunity rules when...those who should guarantee security and respect for legality are violent or colluding with those who commit savage acts.”⁷⁷ Her devotion to the

General Law corresponds to a firm belief in the need for the state itself to be transformed.

Yet for all of this initial hopefulness, five years after the adoption of the General Law, there is a surprisingly lack of commentary on its effectiveness by either Mexicans or foreigners. Amnesty International (AI) has been one of the only commentators. In 2009, AI circulated a press release observing the “deplorable lack of state-level commitment to implement [the law]” and that “[i]f the basic requirements of the federal law are not fulfilled at state level, the law will remain a dead letter.”⁷⁸

Certainly, it is appalling that in the case of Mexico City the state-level Law on Women’s Access to a Life Free of Violence was only enacted in March 2008 in spite of the (federal) General Law’s provision that legal reforms in each of Mexico’s 32 states were to be implemented within six months. However, AI’s anti-government condemnations divert attention from extralegal forces like DTOs as well as transnational market forces (i.e., U.S. demand for drugs) that often overpower the formal organization and regulatory mechanisms of the nation-state.⁷⁹ As elaborated upon in the previous section, Mexico might currently be characterized as “a nightmare of dissipated government,

⁷⁴ Lagarde, “For Women’s Human Rights,” 146. My translation.

⁷⁵ Marcela Lagarde, “Por los derechos humanos de las mujeres: la Ley General de Acceso de las Mujeres a una Vida Libre de Violencia” [“For Women’s Human Rights: The General Law on Women’s Access to a Life Free of Violence”], *Revista mexicana de ciencias políticas y sociales* 49, no. 200 (2007): 50.

⁷⁶ Lagarde, “For Women’s Human Rights,” 152.

⁷⁷ Lagarde, “For Women’s Human Rights,” 161. My translation.

⁷⁸ Kerry Howard, Amnesty International Deputy Director for the Americas Programme, quoted in Amnesty International “Mexico: Two Years On: The Law to Protect Women Has Had No Impact at State Level.” 29 January 2009. Available at: <http://www.amnesty.org/en/for-media/press-releases/mexico-two-years-law-protect-women-has-had-no-impact-state-level-2009012>.

⁷⁹ Héctor Domínguez-Ruvalcaba and Patricia Ravelo Blancas, “Obedience without Compliance: The Role of the Government, Organized Crime, and NGOs in the System of Impunity that Murders the Women of Ciudad Juárez,” (2010), 191, 194.

of law profaned, of the routine resort to violence as a means of production.”⁸⁰ To focus exclusively on state failure in regards to the General Law is unproductive, as it overlooks the influence of the DTOs and the globalized political economy that keep them in business. The Mexican state has neither the will nor the capacity to make the written provisions of the General Law reality for women.

This important lesson from the last section –that violence and order cannot be bifurcated into political/state and social/non-state– must also be combined with important questions about the boundaries of state sovereignty in order to contemplate this law in action. With neoliberalism and globalisation, and the forces of capitalism are no longer territorialized, markets partially replace government and even bureaucracies. Such deregulation, intensified by the electoral loss of the PRI in Mexico 12 years ago, provides more opportunities for criminality to respond to transnational networks. Therefore, Comaroff and Comaroff point out, “[l]awlessness often turns out to be a complex north-south collaboration.”⁸¹ A broader appeal to direct action by the international community must be made, and harm against civilians connected to the drug trade and its impunity.

Another limitation is that despite the General Law’s reference to institutional violence, state resources advocating the law preclude the possibility that state officials, such as members of the military or local police forces, are the perpetrators of sexual violence. A pamphlet for women about the General Law states that these laws are the tools for protecting their human rights, and that

women need to learn the content of them and how to use them, so that they can defend themselves and live a life free from violence. The pamphlet also recommends, “If you suffer sexual violence from a stranger, ask for help from a police officer and, even if you are angered or shocked, describe the individual. Afterwards, file a report.”⁸² This reflects a neoliberal, responsabilizing discourse that places the obligation on women to confront and respond to violence committed against them. However, as an example in the next section will demonstrate, it is frequently police officers that commit violence against women in public; in those cases it would be impossible to exercise the rights outlined in the General Law. According to Linda Stevenson, who writes about the legislation of sexual crimes in Mexico,

“The roots of the democratizing process will not have a firm stand while the aggressors of sexual crimes, whether they be relatives of the victim or members of the judicial police, continue to be free, whether it be because the victims think their likelihood of winning the case is so unlikely that they do not even file a report, or whether the charges are dismissed because of bribes or impunity.”⁸³

The government’s campaigns to build a “culture of legality”⁸⁴ among women in particular play a role in this, because again, they suggest that it is women personally who must be the primary agents of

⁸⁰ Comaroff and Comaroff, “Law and Disorder in the Postcolony,” 133.

⁸¹ Comaroff and Comaroff, “Law and Disorder in the Postcolony,” 135.

⁸² INMUJERES, “Una ley para proteger a las mujeres, una ley para ti,” México, D.F., 9. Available at: http://cedoc.inmujeres.gob.mx/documentos_download/100982.pdf. My translation.

⁸³ Linda S. Stevenson, “La política de género en el proceso de democratización en México: eligiendo mujeres y legislando delitos sexuales y acciones afirmativas, 1988-1997,” *Estudios sociológicos*, 17, no. 50 (1999): 545.

⁸⁴ Comaroff and Comaroff, “Law and Disorder in the Postcolony,” 142.

change, without reference to the state's role in building accountability and trust for the legal system on the streets (or its responsibility for promoting healthy masculinities).

Finally, the existence of the law in itself necessitates critical inquiry. Since enforcement and compliance with law is partial at best in Mexico, more laws—even well written laws—will not resolve social problems. They might only create new opportunities to break laws. When the number of laws multiplies exponentially, laws conflict, judicial discretion expands, and there are greater possibilities for authority figures to extract bribes from the powerless. Feminist postcolonial theory confirms the importance of examining legal discourse in such contexts. For example, Ratna Kapur states that “[a]n engagement with questions surrounding law and sexuality requires more than just appeals for more law: it requires an engagement with law as a discursive site.”⁸⁵ In the case of the General Law in Mexico, her following insights are also highly relevant:

“The problem is that, once we appeal for legal intervention, it becomes difficult to distinguish the different positions on issues of violence and sexuality, and on the legal responses to these issues. It is not enough...the belief that more rights equals more empowerment. A discursive struggle lies at the heart of the issues of sexuality and the law. Law is an important site of politics and the struggle over meaning ... It is neither a simple instrument of social engineering nor one of oppression; rather, it is increasingly understood as a complex and contradictory force, which does not always operate in the same way nor produce consistent results.”⁸⁶

The concluding remarks in sociologist Patricia Gaytan Sánchez's book on street harassment in Mexico City—the only in-depth study on the topic that exists—mention the complex limitations of the General Law in practical terms, but underline its key contribution to the social recognition of street harassment as unacceptable. As her qualitative study showed that women in Mexico City cannot articulate the experience of street harassment to their own satisfaction, she also emphasizes the significance of having a new legal vocabulary to describe the experience in a negative, instead of a positive, light (i.e., not as “flirting” or “complimenting”). Gaytan Sánchez's concluding remarks clearly relegate the experience of street harassment to a “violent interaction.”⁸⁷

The final section explores in more detail the meanings of violence and law when applied to street harassment by activists in Mexico City. On the one hand, violence seems to have the potential to represent something shared by the majority of Mexicans, but on the other its insertion in legal discourse and circulation by the state might also delegitimize its impact on those who need the General Law the most.

Section Three: Street Harassment as Violence in Activist Discourse

Anti-street harassment activists and their allies wishing to use the legal forum to combat street harassment face the challenge of firstly problematizing it and then translating such a mundane and often fleeting experience into the language

⁸⁵ Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism*, (London: The Glass House Press, 2005), 49.

⁸⁶ Kapur, *Erotic Justice*, 50.

⁸⁷ Patricia Gaytan Sánchez, *Del piropo al desencanto: Un estudio sociológico. [From Compliment to Discontent: A Sociological Study]*. (Mexico, DF: Universidad Autónoma Metropolitana, Unidad Azcapotzalco, 2009) 241-242.

of law. Street harassment as a conceptual category is also challenging because of the diverse range of potentially violent behaviours that are identified as street harassment, from whistles to assault. In Mexico, the dominant paradigm for theorizing street harassment is a spectrum of gender-based violence occurring in public space. The feminist project of interpreting sexual violence as a continuum was first described by Liz Kelly in the late 1980s.⁸⁸ Mexican scholars, activists, government agencies, and, as was just shown, the justice system use “violence” to discursively link the lesser, non-physical types of violence – that for most women are more of an irritation than a cause of real fear– to the gravest type of gender-based violence that has plagued the country in the past few decades, femicide. This view of violence is supported by scholars of Latin America, who note its mimetic, reproductive quality across time and space, claiming “we can rightly speak of chains, spirals and mirrors of violence – or, as we prefer – a continuum of violence.”⁸⁹ Other experts on violence against women in Mexico also believe that in institutional terms, “[a] strong, forceful response from the State to minor crimes against women is extremely important in order to prevent major crimes.”⁹⁰

In response to the General Law specifically, the Mexican government’s National Women’s Institute

⁸⁸ Gutiérrez Castañeda, “Violencia sexista,” 38.

⁸⁹ Scheper-Hughes and Bourgois, quoted in Pearce, “Perverse State Formation,” 288.

⁹⁰ Buscaglia, quoted in Héctor Domínguez-Ruvalcaba and Patricia Ravelo Blancas, “Obedience without Compliance: The Role of the Government, Organized Crime, and NGOs in the System of Impunity That Murders the Women of Ciudad Juárez,” in *Terrorizing Women: Femicide in the Americas*, ed. Fregoso, Rosa-Linda and Cynthia Bejarano, 182-196. (Durham: Duke University Press, 2010), 185.

(INMUJERES) published a particularly clear-cut resource quantifying the continuum of sexual violence, called the *Violentómetro*, or Violence Meter. The message at the top of it states, “It doesn’t matter what level you identify with, violence isn’t normal, end it, get informed!” The rest of the page shows a scale from 0-30, where zero corresponds to hurtful or offensive jokes and 30 corresponds to assassination. Other numbers that are relevant to street harassment include eight, public humiliation, nine, intimidation or threats, and 13, groping. The *Violentómetro* is divided into three equal sections, which the first at the lower end stating “Be careful! The violence will increase,” the second in the middle stating “Do something! Don’t let yourself be destroyed,” and the third at the upper end stating “You need professional help!”⁹¹ This wide-ranging understanding of violence marks a linear progression that makes minor violences “gateway crimes” predicting extreme forms of violence.

The other important tenet that street harassment-as-violence must overcome is the normative understanding of violence as abuse that leaves visible marks on the body. Mexico City’s *Atrévete D.F.* takes on an active role in this project of reframing violence, with their online postings and resources explicitly reminding people that violence can be verbal and does not necessarily involve physical contact. Yet because of the dominant social understandings of violence, this is not always an easy task. On *Atrévete D.F.*’s website, the following paragraph is meant to deconstruct the myth, “As long as it’s not violent, it’s not harmful”.^{iv}

⁹¹ INMUJERES. “Violentómetro” [“Violence Meter”]. México, D.F. Available at: <http://www.inmujeres.gob.mx/images/stories/carusel/violentometro.pdf>. My translation.

“Sexual abuse exists on a spectrum that ranges from verbal abuse to rape. No one at *Atrévete/Hollaback* suggests...that verbal harassment with sexual innuendos and rape are interchangeable terms. However, non-violent street harassment incidents can cause considerable mental and emotional damage. For those who have been victims of harassment, rape or other forms of sexual violence and exploitation, even a seemingly “harmless” comment can serve as a trigger for anything from traumatic memories to panic attacks. Depending on the person, recovering from these episodes can take hours or even days. There are actions and comments that don’t leave physical scars but they can affect those on the receiving end in many ways. Even those who haven’t suffered sexual violence in the past can perceive verbal sexual harassment as something traumatizing. Many women and men who have to cope with these types of comments daily or weekly can find that these emotions can accumulate with time. The fact that certain comments don’t trigger traumatic memories doesn’t mean that internalizing their frustration is a healthy habit.”⁹²

According to the definition of violence as a broad spectrum, the phrase above, “non-violent street harassment,” would in fact be oxymoronic. Generally, anti-street harassment literature attempts to show that street harassment is by definition violent in all its manifestations, even though society generally interprets it as something women just need to deal with on a personal level.

Describing episodes of street harassment in the U.S., legal scholar Cynthia Bowman asserts, “One cannot help but note the thinly concealed violence underlying each of these

encounters.”⁹³ In the following three excerpts published on the *AtréveteD.F.* public blog last month, violence is in fact barely concealed at all. These first person accounts by women in Mexico City are fairly representative of the diverse range of experiences narrated on the website. The various experiences of violence are particularly upsetting for women because of the way they are made light of, or treated with social and state impunity.

From a post titled “It’s difficult to talk about these things”:

“You all know that it’s difficult to talk about these things, it’s any old day and I’m going home on the metro. I was sitting and reading a book when this guy gets in front of me and starts touching himself. I saw him out of the corner of my eye and didn’t know what to do. After that he started saying really vulgar things to me like “*yyyyy guerita que tetotas*” [roughly, blondie what big tits], and truth be told I felt really uncomfortable. So I got up to get off at the next station but this guy raised his hand to grab me and out of fear I hit him with my book. I ran off, thank God he couldn’t get off because the doors shut but I could hear that he was insulting me. What makes me the most angry is that the whole time there was a man seated next to me laughing.”⁹⁴

From a post titled “Of obscene words and offers and passer-bys who humiliate”:

“I remember when I was leaving an establishment at night, around 9:00 pm on my way to [an area of Mexico City] to see a friend...while I was walking to the nearest subway entrance a man came up to me and started saying obscene things and making propositions...in this repertoire he was saying... [gives examples of a variety of extremely explicit sexual demands]...But the thing

⁹² *AtréveteD.F.* “10 mitos sobre el acoso en las calles.” Available at: <http://mexicodf.ihollaback.org/10-mitos-sobre-el-acoso-en-las-calles/>. My translation.

⁹³ Bowman, “Street Harassment and the Informal Ghettoization of Women,” 526.

⁹⁴ Paulina, “Es difícil contar estas cosas,” *AtréveteD.F.* 20 March 2012. Available at: <http://mexicodf.ihollaback.org/2012/03/20/es-dificil-contar-estas-cosas/>. My translation.

is that EVERYONE was watching the scene and absolutely NO ONE helped, not even to shoo him away. Obviously I got to the metro with a frightened expression on my face and from the distress I was feeling I started to cry and while I did that the same people who witnessed the entire conflict looked at me as if it were my fault, for having worn a skirt and an idiot even yelled at me 'stupid fucking whore, that's why you all get raped.' So I decided I had better go home. It's such an overwhelming and horrible experience."⁹⁵

From a post titled "In Delegation Azcapotzalco they'll give all the women who work there the day off for March 8 [International Women's Day]":

"[A] public transportation driver approached me and told me how "pretty" I looked in those jeans, I asked him to not bother me and I starting walking faster, I then had to stop at a crosswalk, he caught up to me and said: "they caught 'The Flirtatious One' but I'll do the favour for you..." when he said this, the images of the young victims of that murderer and rapist came to my mind, I turned to look at him in the face and said: excuse me?, what did you say? – and he started laughing, spanked me and said, that's how I like them, that they're bitches!!!, I looked at him and pushed him back, saying he didn't have a mother ["no tenía madre," a popular Mexican expression meaning someone is shameless, rude], that who did he think he was touching me, violating my space...this idiot started laughing...the nerve of this guy to mention that criminal, and I thought: in to days it is International Women's Day, and what is there to celebrate? The capture of a mass murderer and rapist? when [his crimes] shouldn't have happened to begin with...or should we celebrate the physical, emotion, social, and economic wearing down of the mothers, wives, daughters and sisters of the disappeared

⁹⁵ Carolina, "De palabras y propuestas obscenas y transeuntes que humillan," *Atrévete D.F.* 19 March 2012. Available at: <http://mexicodf.ihollaback.org/2012/03/19/de-palabras-y-proposicione/>. My translation.

due to this absurd war on crime?? ... or even worse, celebrate women who say good bye to their daughters in the morning without knowing if they'll ever see them again in places like Ciudad Juárez???, I don't think there is anything to celebrate this March 8. In Delegation Azcapotzalco they'll give all the women who work there the day off, and I ask myself, who will give a day of rest, of peace, of relief to these women who fight and demand an answer and justice for themselves and their loved ones????"⁹⁶

In this last example especially, the local environment affording impunity to violence against women informs the threatening insinuations of the verbal street harassment (which does actually turn into physical abuse as well). "*El Coqueto*" or "The Flirtatious One" is the alias of César Armando Librado Legorreta, guilty of femicide in Mexico City and the state to the north of it, *Estado de México*. Legorreta worked as a minibus driver and targeted women who boarded his vehicle. He escaped prison with the help of three members of the police force.⁹⁷ His nickname is also menacing, as it discursively links romance to extreme sexual violence and torture, which is reminiscent of the frequent dismissive

⁹⁶ Iliana Méndez, "En la Delegación Azcapotzalco les darán el 8 de marzo, como asueto a todas las mujeres que laboran ahí, y me pregunto ¿quién les dará un día de descanso, de paz, de consuelo a estas mujeres que luchan y exigen una respuesta y justicia para lxs suyxs?????" *Atrévete D.F.* 8 March 2012. Available at: <http://mexicodf.ihollaback.org/2012/03/08/en-la-delegacion-azcapotzalco-les-daran-el-8-de-marzo-como-asueto-a-todas-las-mujeres-que-laboran-ahiy-me-pregunto-%C2%BFquien-les-dara-un-dia-de-descanso-de-paz-de-consuelo-a-estas-mujeres-que-l/>. My translation.

⁹⁷ "Autoridades dicen que 'El Coqueto' podría quedar parapléjico tras fuga," *CNN México* 4 March 2012. Available at: <http://mexico.cnn.com/nacional/2012/03/04/las-autoridades-del-df-recapturan-al-presunto-femicida-el-coqueto>.

comments equating street harassment to “compliments,” or boys and men clumsily trying to flirt and show their appreciation for women’s beauty.

The example of verbal street harassment alluding to rape and femicide raises important questions: how is street harassment, especially in its least violent forms, made worthy of social or legal attention when more extreme violence against women is rampant? This first tension is raised by the founder and director of *AtréveteD.F.*, who stated the following in a guest blog post for International Anti-Street Harassment Week 2011: “We’ve always known that founding [*AtréveteD.F.*] would be controversial, particularly because of the fact that since Mexico has one of the highest rates of violence against women in the world, some think there are more important issues to deal than street harassment [*sic*].”⁹⁸ Indeed, according to the most recent United Nations Report on Women, Mexico has *the* highest rate of sexual violence in the world; 44% of Mexican women report having been sexually molested at least once in their lifetime.⁹⁹ It is also significant that the founder’s of *AtréveteD.F.* did not provide her or his name on the guest post. The blog’s owner, Fulbright scholar Ileana Jiménez, wrote: “Please note that due to safety concerns, AtréveteDF contributed their post anonymously.” Speaking about

such issues as street harassment is dangerous in Mexico, as the record-breaking numbers of murdered social activists and journalists in recent years indicate.

Another blog post signed by *AtréveteD.F.*, this time on their own website, refers to the drug war violence claiming the lives of innocent civilians. It criticizes the 2011 annual rock music festival *Vive Latino*, because between performances the screens on either side of the stage flashed messages like “Boobs! Boobs! Boobs!,” “Slut it up!” and “Whoever doesn’t whistle is a fag,” while the camera people zoomed in on the chests (either exposed or clothed) of random women in the crowd to display them on the screen. As *AtréveteD.F.* points out, “[i]t’s ironic that at other times during the event these screens displayed ... “¡No + Sangre!” [“No more blood!”] and “¡Estamos hasta la madre!” messages that call for peace and solidarity.”¹⁰⁰ The first slogan refers to the campaign condemning the impunity for femicide across the country, and the second, referred to in the first section, is from Sicilia’s MPJD for innocent victims of the drug war.

It would seem that everyday sexism is no match for the notoriously widespread problems of femicide and drug war violence in Mexico. Furthermore, explicit, gruesome violence (which is undoubtedly committed against the bodies of the victims of femicide and/or in the name of the drug war) invokes more public sympathy in comparison to non-life threatening forms of harassment in which women can more

⁹⁸ Anonymous, “Guest Post: On International Anti-Street Harassment Day, AtréveteDF Urges Youth Education,” *Feminist Teacher* (blog), March 20, 2011
<http://feministteacher.com/2011/03/20/guest-post-on-international-anti-street-harassment-day-atrevetedf-urges-youth-education/>.

⁹⁹ United Nations, “The World’s Women 2010: Trends and Statistics,” (New York: U.N. Department of Economic and Social Affairs, 2010), 133. Available at: http://unstats.un.org/unsd/demographic/product/s/Worldswomen/WW_full%20report_color.pdf.

¹⁰⁰ *AtréveteD.F.* “No rockean: El Sexismo ni la Discriminación en el Vive Latino (por *AtréveteDF*).” *AtréveteD.F.* 18 April 2011. Available at: <http://mexicodf.ihollaback.org/2011/04/18/no-rockean-el-machismo-ni-la-discriminacion-en-el-vive-latino-por-atrevetedf/>.

convincingly be framed as “asking for it.” In a global south country with few economic resources, activists need to pick their battles so to speak. The battles more likely to receive popular support are those that can shock the national and international communities without criminalizing everyday social practices or redefining normative understandings of violence.

It is perhaps partly for these reasons that *AtréveteD.F.*, under the banner of violence and injustice, successfully collaborates with other social justice causes. *AtréveteD.F.* was one of the primary organizers of the SlutWalk protest in Mexico City last year (*La Marcha de las Putas*) and released the following statement:

“In Mexico, the rates of gender-based violence are alarming...while we recognize that raising our voices against the silence that has surrounded sexual abuse is still a privilege that not all people in our country have, it is important to break the silence around it wherever possible...In the case of Mexico, we are going through a political and economic crisis where violence in general is internalized and normalized and thus gender-based violence is swept under the rug. One of the main concerns of the *Marcha de las Putas* in Mexico City was the one of femicide being typified as a crime...There were many protest signs recognizing our sisters who have been murdered all over the country and in the context of the so-called “war on drugs,” demanding that the authorities stop victim blaming. There were also some that demanded justice for indigenous women abused by the military, an issue that has been treated with the utmost impunity in the last few decades. It all boils down to unequal power relations and machismo...and we are determined to speak out against it.”¹⁰¹

¹⁰¹ Quoted in Ileana Jiménez, “Slutwalk in Mexico City: ‘Tools for Peace,’” *Gender Across Borders* 28 June 2011, Available at: <http://www.genderacrossborders.com/2011/06/2>

Amidst the intensification of overt violence and its increasingly public demonstrations, *AtréveteD.F.* has taken the opportunity in this and other statements to reiterate that violence in Mexican communities is naturalized. Without being excessively political (which can put one’s life in danger), *AtréveteD.F.* contributes to conversations that unite their work to other issues surrounding violence that the government attempts to minimize or justify.

AtréveteD.F. also engages with the possibilities of law more specifically. On its website *AtréveteD.F.* quotes the definition of sexual violence from Mexico City’s Law on Women’s Access to a Life Free of Violence. It also seems that their consciousness-raising materials take a certain liberty with English to Spanish translation, reflecting an assertion that harassment is in fact violence. For instance, the statement on the *AtréveteD.F.* website about SlutWalk translated Toronto police officer Michael Sanguinetti’s quote as: “women should avoid dressing like sluts in order not to be victims of sexual violence,” whereas his original quote, at least the one circulate online in English, was “...in order to not be victimized,” with no mention of “sexual violence.”

Since street harassment is generally seen as presenting a unique if not impossible challenge to legal discourse because it is so normalized (and legislators generally do not want to criminalize everyday experiences), it may be surprising that law is also invoked in fairly normative terms, maintaining the position that local culture should naturally accommodate itself to the General Law. For instance, here, law is framed as a worthy and legitimate goal:

8/slutwalk-in-mexico-city-“tool-for-peace”/.

“Many people consider the ‘compliments’ that call attention to women subject to interpretation rather than degrading; others believe that they part of a culture of courtship and ‘picardía.’ Clearly, this is not so, since now there is a Mexico City law specifying that forms of sexual abuse in public places range from leering, comments, suggestive gestures, and touching. Even with this law, *AtréveteDF* believes that there are cultural limitations to this legislation since women are often questioned and made to feel guilty when they share a story or complaint about harassment and /or sexual abuse.”¹⁰²

The ability to say that street harassment is illegal appears to have a certain symbolic legitimacy for activists. In parallel, stories posted on the public blog suggest a similar consciousness regarding the law, with posts titled, for example, “What he and his coward of a friend just did, IS a crime.”¹⁰³ The blog is also a space for women to reaffirm that harassment is violence, sometimes explicitly equating the two as such, and sometimes through descriptive phrases like “verbal violence.” Stories posted on the blog, however, are not limited to language-based violence on the lower end of the spectrum. Women share their stories about a diversity of experiences, like childhood sexual abuse, the sexual violence of “express kidnappings,” or a loved one who became a victim of femicide ignored by state authorities. Also featured are accusations of police officers that participate in harassing women. For instance, “This is a call is to the authorities, but guess what? They’re also the ones who perpetrate this

verbal violence as much, as and even more so, than civilians.”¹⁰⁴

The online activist community in Mexico City seems to readily associate violence in its broad sense with what is known as street harassment. Though violence is not limited to direct physical actions in their narratives, it is clear that the physical body is highly relevant to street harassment, as it is a face-to-face, embodied conflictive encounter that puts women’s physical integrity at risk; it is often described in terms of involuntary bodily reactions (shaking, crying) or with a reluctant disciplining of the body (e.g. by censoring one’s clothing or not going out alone). Furthermore, the blog entries referencing the General Law, put illegality, law enforcement corruption and impunity into purposeful conversation. According to Pearce,

“[S]ocial movement activism and NGO advocacy have played an important role in persuading governments to take forms of violence seriously that were previously not considered matters of state or even subject to the criminal justice system, such as the abuse of women and children. Societies condone, sanction and de-sanction violences at different temporal and political rhythms.”¹⁰⁵

In Mexico, activists seem to be turning to violence at this specific time to articulate their daily struggles with harassment in direct relation to a backdrop of conflict and instability in the country. Amidst the drug war violence Mexican feminist activists and shelter workers have reported an increase not only in rapes and sexual assault but also in street harassment, including groping incidents.¹⁰⁶

¹⁰² Anonymous, “Guest Post.”

¹⁰³ Elena, “lo que acababan de hacer él y el cobarde de su amigo, ES un delito,” *AtréveteDF*. 24 May 2011. Available at: <http://mexicodf.ihollaback.org/2011/05/24/lo-que-acababan-de-hacer-el-y-el-cobarde-de-su-amigo-es-un-delito/>.

¹⁰⁴ Itza García, “La historia de siempre,” *AtréveteDF*. 16 June 2011. Available at: <http://mexicodf.ihollaback.org/2011/06/16/la-historia-de-siempre/>. My translation.

¹⁰⁵ Pearce, “Perverse State Formation,” 291.

¹⁰⁶ Emilio Godoy, “Deadly Cocktail of Sexual Violence and Impunity,” *Inter Press Service* 23

Furthermore, though it has been largely neglected thus far by academics, the preliminary fact-findings of an anti-femicide delegation led by Nobel laureates support the hypothesis that the drug violence and militarization of recent years has created an atmosphere in which violence against women thrives. According to Nobel Peace Prize winner Jody Williams, “The government's efforts to improve 'security' in the region have directly resulted in insecurity for civilian populations, and most especially, for women.”¹⁰⁷ One example of this violence may be that hit men can very easily be hired (by abusive partners, for example) to kill women and make their deaths look like the work of organized crime. In this way, Pearce would say, “[t]he gendered dimensions of the transmissions of violence are ignored and the cultural change in favour of reductions in interpersonal violence is obstructed.”¹⁰⁸ Like law, the violence associated with DTOs is a zero-sum game that individualizes and therefore obscures the misogynistic undertones of much violent crime.

Yet this does not explain women's embrace of law in Mexico, since the legal system has an extremely poor track record in responding to the concerns of women (or anyone in a socially subordinated position), and it holds little legitimacy for the general population. Turning to law, and not only demanding but *expecting* against all odds that it will be obeyed—that

it will not remain mere written text—might be a radical position to take. Activists seem to incorporate the General Law as the conversation starter, perhaps purposefully invoking all other forms of more spectacular and less mundane or systemic violences that also powerfully inform the daily reality of women. It does not seem that the activists associated with *Atrévete D.F.* are using law as a desperate, last resort, or that they have false illusions about the neutrality of formal law. Because there is no clear distinction between the legal and the illegal, the state and terrorist groups, law in its most idealised and abstract sense might represent a distant, alternative remedy. In Anglo-American socio-legal scholarship it is generally unpopular to suggest that law can empower oppressed groups at all or be operationalized in a radically transformative mechanism, however, in Mexico “there are no clear signs from the state that gender violence will not be tolerated”¹⁰⁹ Those in power do not even need to invoke the legitimating language or rituals of law to assert their dominance in society.

While Mexico might represent an extreme case of socio-political conflict in Latin America at present, the turn to law to address such social wrongs is by no means unique. The authors of a new school of studies on the judicialization of politics in Latin America explain, “Activists throughout the region increasingly use courts as a stage for their struggles and as a portal through which to import favorable international norms.”¹¹⁰

November 2011. Available at:
<http://ipsnews.net/news.asp?idnews=105941>.

¹⁰⁷ Quoted in Diana Washington Valdez, “War on women' in Mexico described as growing worse since escalation of drug war,” *El Paso Times* 7 April 2012, Available at:
http://www.elpasotimes.com/news/ci_20344853/war-women-described-worse?source=most_emaild.

¹⁰⁸ Pearce, “Perverse State Formation,” 289.

¹⁰⁹ Julia Monárrez, quoted in Godoy, “Sexual Violence and Impunity.”

¹¹⁰ Javier A. Couso, Alexandra Huneeus and Rachel Sieder, eds, “Cultures of Legality: Judicialization and Political Activism in Contemporary Latin America,” in *Cultures of Legality: Judicialization and Political Activism in Latin America*, 3-21. (New York: Cambridge University Press, 2010), 3.

Law has generally represented an ideal project, not reality, so employing law as inspiration may be best suited to the social justice goals in question. Moreover, in symbolic terms, legal discourse is political recognition. After all, “it is not only within the formal state justice system that legal norms and understandings are generated; these are produced within a huge frame of nonformal, subnational, and transnational spheres, spheres that are invariably interconnected.”¹¹¹ Colonized peoples have a long history of confronting dominance and oppression, and they have often used language, including legal language, to talk back. As Ratna Kapur argues, “Law should not be viewed as a monolithic effect of social justice strategies. Rather, it is profoundly implicated in culture, colonial legal histories, and other social powers that have the effect of producing subjectivity and identity.”¹¹² So, while in the U.S. perhaps appeal to law is not generally seen as a realistic site of struggle, Mexico’s discursive struggle over law is contingent on situating the General Law within its complex social, political and legal context terms.

Comaroff and Comaroff are at the forefront of postcolonial scholars who confront the ostensible paradox in broader geographical terms by considering the pattern in many countries in the global south. The real and/or imagined “excessive disorderliness” of postcolonial countries (e.g. the endemic violence in Mexico) contrasts with the generalized preoccupation with law, which even seems to grow in proportion to rampant illegality.¹¹³ They explain that “there is more to the fetishism of the law than an

enchanted faith.”¹¹⁴ In other words, there is something strategic at play when the socially marginalized transform law into weapon, “turning authority back on itself.”¹¹⁵ Another benefit, as seen above in the example of the activist organizing around *La Marcha de las Putas* in Mexico City, is that reference to the language of law builds community, as “the act of judicialisation [is] also an act of objectification.”¹¹⁶ The existence of progressive legal frameworks may enhance the discursive tools of feminists to legitimate political claims targeting sexual abuse, even if in contemporary Mexico the state largely ignores its own laws.

Before concluding, I wish to point out one discourse –public/human security– which has held a quieter place among the others discussed thus far (violence, legality, impunity, etc.). It too, has been used and abused by different scholars, activists, public figures and state officials quoted in this essay. Most recently, Calderón acknowledged before a Human Rights Commission that his administration has committed “serious acts of violation against human rights” but incredibly, he maintains that every case was subsequently brought before the appropriate court. He blatantly refuses to locate insecurity and violence within the state: “Security is a human right that all Mexicans should have access to, it’s the foundation for exercising all other freedoms. One of the greatest challenges that we have suffered in Mexico is insecurity and threat of crime.” He adds, “criminals who threaten and assassinate good Mexicans [*a los buenos mexicanos*], journalists, migrants and human rights

¹¹¹ Couso, Huneus and Sieder, “Judicialization,” 7.

¹¹² Kapur, *Erotic Justice*, 50.

¹¹³ Comaroff and Comaroff “Law and Disorder in the Postcolony,” 134, 140.

¹¹⁴ Comaroff and Comaroff, “Law and Disorder in the Postcolony,” 142.

¹¹⁵ Comaroff and Comaroff, “Law and Disorder in the Postcolony,” 145.

¹¹⁶ Comaroff and Comaroff, “Law and Disorder in the Postcolony,” 146.

defenders, put our institutions at risk.”¹¹⁷ Here, insecurity is unequivocally linked to extra-state crime, but this is not always the case.

In its more normative sense, “security” is associated with right wing, law-and-order politics. However, Claud Denis suggests that while the language of *human* or *public* security (as opposed to national security) places more emphasis on quality of life and freedom from fear for ordinary citizens. He elaborates, “In the early to mid-1990s, there was a need either for a widening of the application of the concept of human rights to something more than state abuses or for the emergence of a new notion that would occupy that vacant discursive ground.”¹¹⁸ Human rights discourse continues to be very prominent in Mexico and other developing countries of the global south, however, as Denis mentions, it has limitations when applied to violations located uneasily outside the sovereign boundaries or jurisdiction of the state:

“While human rights concerns have been generally—and mistakenly—understood as applying nearly exclusively to state abuses, which are rare by definition (although not necessarily in practice), human security is emphatically about whole populations, or at least whole categories of populations. Human security is, then, an outcome of the union of human rights and public security. It applies widely, to such situations as...the endemic poverty and lawlessness in such countries as Mexico—where everyone’s life and security of the person are seen to be at risk but also where some categories of population are more at risk than

others.”

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The discourses of public security might be one way to interpret the harms of gender-based street harassment. As opposed to the spectrum that hierarchizes sexual violence and excludes notions of intersectionality (i.e., the target’s race or disability or her personal history of traumatic sexual abuse), public or human security might stress the overall environment of terror that facilitates violence and restricts women from exercising their other rights and choices like: mobility, political participation, freedom from fear, autonomy and the right to dress and express oneself as one pleases in public. This more grassroots interpretation of security has already started to emerge among activists in Mexico and could potentially serve as a platform for demanding dignity in the face of generalized impunity and violence that cannot be attributed exclusively to either the state or extra-state actors.

While it may seem redundant to speak of human security, that is exactly the point, according to Denis: “In order for state institutions to protect and enforce the human rights of populations, it turns out that they have to provide *public security*. It is so basic—in a way such an assumed attribute of state power—that it is easily overlooked, especially in stable and settled, advanced capitalist, liberal democratic societies.”¹²⁰ One blogger frames street harassment in similar terms, “Since there are legal recourses for victims of school and workplace harassment, the streets remain one of the final unsafe frontiers for marginalized groups. Until we have the freedom to move through our everyday lives without fear, we will

¹¹⁷ No author, “Acepta Calderón que en su gobierno se han cometido ‘actos violatorios graves,’” *Proceso* 3 February 2012. Available at: <http://www.proceso.com.mx/?p=297094>.

¹¹⁸ Claude Denis, “National, Public/Private, Human: Linked (In)Securities in Mexico’s Failing Post-Authoritarian Transition,” *Canadian Journal of Latin American and Caribbean Studies* 33, no. 65 (2008), 68.

¹¹⁹ Denis, “Linked (In)Securities,” 67.

¹²⁰ Denis, “Linked (In)Securities,” 63-64.

not have achieved basic civil rights.”¹²¹ The elimination of street harassment would lay the foundation for the exercise of all other rights women have worked hard to claim. When there is a lack of public security, the rich and powerful hire private security (including protection from DTOs), while the poor and marginalized remain even more vulnerable as a result. They will have no option but “to take their chances without the public institutions that would shield them from private wrongs or, indeed, from state wrongs.”¹²² Similarly, in the case of street harassment, the general environment of sexual terror it produces can create more inequalities, as middle and upper class women can afford protections like their own vehicles to escape exposure to public areas associated with risk and vulnerability. The poor remain ineligible for protection.

Activist organizations like *Atrévete D.F.* do important work to raise public consciousness about street harassment and provide a forum for women to link their experiences to the social origins of violence, such as impunity and public insecurity in their communities. This organization, and the many women who have contributed to its website by posting stories, explicitly and implicitly confirm that street harassment both falls on a spectrum of sexual violence and contributes to a generalized climate of fear and uncertainty, even in its minor, verbal forms.

This essay has explored what is at stake when employing the discourses of violence and law to address street harassment, and more specifically, what

the implications are when considering the social and political context of insecurity in Mexico. Violence is not a universal language; it must be translated into legal discourse. It can be used inconsistently and contradictorily by different actors fighting for access to public legitimacy through the state’s apparatus. Because law as a discursive site of resistance is highly symbolic in Mexico, it may be an ideal starting point for translating an everyday harmful practice into law, or something worthy of attention. Anti-street harassment activists have adopted narratives connecting street harassment to the broader social problems in their local context.

¹²¹ Shira Tarrant, “Shit Men Say to Men about Street Harassment,” *Ms. Magazine* 4 April 2012. Available at: <http://msmagazine.com/blog/blog/2012/04/04/shit-men-say-to-men-about-street-harassment/>.

¹²² Denis, “Linked (In)Securities,” 65.

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ENDNOTES

ⁱ *Atrévete* is the imperative verb form of "to dare" in the second person singular, and *D.F.* stands for the Federal District, or Mexico City.

ⁱⁱ By 2016 reforms are to be introduced throughout Mexico to adopt oral trials (for some cases) in all of the states. Mexico will be the last country in Spanish America to abandon the written legal system, and these reforms were not agreed upon without serious resistance. Some worry about U.S.-style theatrics in court and the rhetorical strategies for persuading juries.

ⁱⁱⁱ By contrast, public men, "*hombres públicos*," refers to male citizens, active in the business world or politics.

^{iv} This is a near, but not exact, translation of a webpage on Hollaback!'s website.