

THE PERUVIAN FAMILY VIOLENCE LAW: ADOPTION AND  
IMPLEMENTATION CHALLENGES

By

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This document is dedicated to my mother, Carmen Fréchette, who is an exceptional and exemplar woman who taught me the importance of always going forward.

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Abstract of Thesis Presented to the Graduate School  
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This thesis explores the contribution made by the women's movement in the adoption and the implementation of the Law for Protection from Family Violence ratified by the Peruvian government in 1993. It examines how the Peruvian feminist movement placed the issue of domestic violence on the public agenda during the 1980s in order to develop women's consciousness and to obtain government's acknowledgement of the problem. It also analyzes how feminist NGOs work since the mid-1990s in attempting to make the state accountable to the law, and to improve women's individual empowerment.

Throughout the 80s and early 90s, the Peruvian feminist movement played a central role in raising awareness on violence against women, making domestic violence an issue of political and public interest. Under a government undertaking the parameters of an dictatorial regime, the feminist movement created alliances between Congresswomen and women from the public administration seizing the right opportunity to press for the adoption of the Law for Protection from Family Violence enacted in December 1993.

The Peruvian feminist movement has been very active trying to enforce the Law for Protection from Family Violence. Since the 90s, feminists have adopted an approach based on rights working on an individual and national base. They provide services to empower domestic violence victims, and work to enforce and improve the law. However, obstacles limit the feminist NGO rights-based approach constraining their efforts to improve the implementation of the law. Feminist's strategy is firstly constrained by obstacles present within the political and justice system. The enforcement of the law is also limited by a general cultural biased attitude from institutional actors as well as from women. Finally, internal obstacles within NGOs have created fragmentation within the feminist movement and have decreased grassroots support for the broader women's movement to work for the advancement and enforcement of the Law for Protection from Family Violence.

## CHAPTER 1 INTRODUCTION TO THE WOMEN'S MOVEMENT

Domestic violence is a widespread problem all over the world and has long been considered an invisible issue that takes place within the private sphere, beyond the reach of legal institutions and the protection of the state. In the past, wife beating was not considered a crime but was rather a family's personal concern; women were treated as children and their misbehaviors needed to be corrected and controlled both physically and economically by their male spouses (Hernandez 1997:8). Creating legislation to regulate such private matters was politically and socially unacceptable because it was viewed as an invasion of the patriarchal households' authority. As a consequence, domestic violence was not only considered beyond the reach of the national system of law but also beyond the jurisdiction of the international legal system.<sup>1</sup> However, the last two decades have witnessed public recognition of gender violence through the signing of international agreements, the enactment of national legislation, and the creation of novel institutions such as women's ministries. Throughout the 80s and 90s, domestic violence within the private sphere has moved into public debate and has been recognized by the majority of the international community's members as a human rights violation.<sup>2</sup>

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<sup>1</sup> The first international instrument to protect human rights was the Universal Declaration of Human Rights (1948) but it did not have a gender-focus.

<sup>2</sup> The Declaration on the Elimination of Violence Against Women was adopted in December 1993.

### The Regional Context

In Latin America the ratification of international and national legislation has roots in the mobilization of the regional women's movement that reemerged in the mid-1970s. During that period, known as the second wave of the women's movement, women became important political and social actors. Numerous studies have analyzed the factors leading to the rise of women's movements throughout Latin America at that time (Jaquette 1994; Jaquette and Wolchik 1998; Vargas and Wieringa 1998; Schmukler and Valenzuela 1998). The economic crisis of the 1970s and the structural adjustment policies carried out by governments entailed a drastic decline in government social spending. Grassroots organizations composed of women from the lower urban class mobilized on the basis of their traditional gender roles to seek strategies to feed their families, calling for greater state accountability in the provision of basic social services.

In the 1970s in taking up the anticommunist crusade, Latin America's military regimes did not hesitate to repress any individual suspected of being politically active in the leftist parties. Mothers in their forties and fifties, such as the Mothers of the Plaza de Mayo in Argentina and the Chilean Association of the Detained and Disappeared, were the first to react to the torture, killing and disappearances carried out by the military governments. These women were the pioneers of the human rights movements, clearly announcing their opposition to authoritarian governments and calling for a return to democracy (Feijoó 1998).

The UN Decade of Women (1976-1985) that resulted from the '74 UN Conference on Women in Mexico provided an important impetus for the development of regional feminist movements (Jaquette 1994:4). The middle-class feminist movements began to organize new networks in defense of women's individual and social rights. Their

mobilization strove to raise women's consciousness about oppression and make gender a political issue. As Virginia Vargas explains: "during the 1970s and the 1980s feminist groups questioned cultural and political paradigms which concealed the complexity of underlying power relations between men and women in socioeconomic, political, cultural and sexual life" (Vargas 2002: 200).

Finally, the mobilization of these different women's groups continue into the democratic transitions that occurred in most Latin American countries during the 1980s. The transition from authoritarian regimes to democratic rule made apparent "the paradox of authoritarian relationships and gender in state, political, and private institutions" and created a political opportunity where women were able to voice their concerns in the public arena (Schmukler and Valenzuela 1998:69). Throughout that period, feminist campaigns principally worked to increase women's awareness of their social and political exclusion, and to raise recognition of women's discriminated and subordinated positions within the household and society. As a result of the development of this consciousness, attention then turned to violence against women, particularly that taking place within the privacy of the household.

Turning to the 1990s, the changes in the national, regional and global context transformed the relationship between state actors and women's movement. With the return to electoral democracies,<sup>3</sup> many governments of the region undertook neoliberal economic policies – reducing state intervention within the economy, cutting welfare services, privatizing public sectors and opening up trade markets (Gwynne 2004:47). This economic shift increased the role played by the private sector and by civil society

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<sup>3</sup> In Latin America the return to the democratic rules took place generally during the 1980s and the 1990s.

organizations, which to some extent replaced and filled the vacuum resulting from the cutting of social welfare provision. Throughout that decade, a series of UN summits took place providing new opportunities for women to participate in international debates. At the same time governments were endorsing commitments to democracy and placing justice and rights at the forefront of their political agendas. To consolidate the new democracies, many countries in Latin America created programs supported by international donors promoting justice, democracy and good governance (Alvarez 2001:365). Finally, regional governments adopted laws promoting women's rights thereby reflecting their commitment to these democratic principles.

Under those changing political and economic circumstances, the 90s saw the institutionalization of the Latin American women's movement. New political spaces emerged with the return of democratic governments; states began to show willingness to negotiate gender-based demands, providing an opportunity for the feminists to pursue their gender interests. Through a language based on democracy and citizenship, feminists embarked on a "rights discourse" seeking to "ensure the continued progression towards gender equality in the future, by defending the advances achieved and further expanding women's citizenship rights" (Vargas 2002:203).

#### The Peruvian Context

This historical background on the Latin American women's movement provides the regional contextual framework explaining how women became social and political actors; the Peruvian's women movement emerged under similar political and economic circumstances. The women's movement in Peru emerged in the late 1970s under General Morales Bermúdez's military government (1975- 1980), which had announced the transition to democratic government in 1977 (McClintock and Vallas 2003:30). Despite

the fact that Peruvian military governments (1968-1980) were less repressive than other authoritarian regimes in the region, the military dictatorship in Peru suppressed political parties and paralyzed democratic institutions while denying some liberties (Barrig 1994:152). In 1976, Bermúdez's government adopted a radical program to achieve economic stabilization, including a reduction in subsidies of food staples and gasoline that garnered national opposition (McClintock & Vallas 2003:30). While women involved in grassroots organizations mobilized against the severe economic measures, feminist groups focused on linking the problems of class and gender, social inequality, and women's subordination (Blondet 1995:258). During this period of mobilization that continued throughout the 1980s, a culturally heterogeneous and dynamic women's movement emerged composed of female political actors ranging from shantytown activists to middle-class feminists. They combined their efforts to seek improvements in living conditions, subsidies and food supplies and solutions to domestic violence.

By increasing their political activities and their visibility, the Peruvian women's movement and particularly the feminist movement played a fundamental role in the adoption of international declarations and national-level legislation on political participation, gender discrimination and violence against women. As a result, a number of demands, such as the Law for Protection from Family Violence and the Quotas Law - initiated by feminist NGOs during the 1980s - were enacted under Alberto Fujimori's regime in 1993 and 1997, respectively. Indeed, Peru was the first country in the Americas to adopt a specific law punishing violence against women; many feminists believed that this legislation has been their most "prized achievement" (Barrig 2001:31). Although Peru ratified such laws early in the 90s, the government did not create the

“Ministerio de Promoción de la Mujer y Desarrollo Humano” until 1996 following the wave of creation of women’s institutions regionally.<sup>4</sup> However, the Peruvian government’s policies toward women’s rights took place under an increasing authoritarian government, one which was distancing itself from the democratization process. To some extent this paradoxical context has contributed to women’s advancement in the legal field and will be explored in the following chapter.

### The Ratification of the Family Violence Law

Peru’s ratification of the Law for Protection from Family Violence took place in a decade when most Latin American nations implemented a number of steps to address domestic violence within their borders. Throughout the 90s most of countries in the Regions ratified the U.N. Declaration on the Elimination of Violence Against Women (DEVAW) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. As a result, practically every country in Latin America has modified their national legislation to punish domestic violence and has created governmental institutions for the advancement of women’s rights. To explain the processes by which Latin American countries have adopted laws condemning domestic violence, three different approaches have been taken. The first approach is based on social movement theory (McAdam 1982, Costain 1992, Jaquette 1994, Elman 1996, Weldon 2002); the second one is described by international socialization theory (Risse & Sikkink 1999); the last approach has been studied by Hawkins and Humes (2002) and is a two-stage model that combines notions from the two previous approaches.

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<sup>4</sup> For a complete list of when institutions for women were created in Latin America, refer to Table 3 of the Appendix of Deere and León (2001:356).

To explain the impact of women's movements on social policy, the social movement theory approach draws on the principles of autonomy, co-optation and political opportunity. Women's movements that enjoy autonomy from both the state and political parties are more likely to raise consciousness within society and to apply social pressure that will help change state policies. On the other hand, when political parties or the state dominate women's movements, the latter become co-opted and are less likely to raise their concerns in the state political agenda. The autonomy of the women's movement is not the only variable that influences state policies. Political opportunity is a key factor that influences a social movement's ability to successfully modify state policies. The political process model discussed by Doug McAdam (1982) defines a social movement as the actions of "excluded groups to mobilize sufficient political leverage to advance collective interests through non-institutionalized means" (McAdam 1982:37). This approach focuses on the political system, indigenous accumulation of resources, and psychological aspects of movement identification. It also highlights three essential factors explaining the emergence of a social movement. The first one is the degree of "organizational readiness" within the minority community; the second, is the level of 'insurgent consciousness' within the movement; and the third is the "structure of political opportunities" (McAdam 1982:40). A number of studies on the women's movement have used this approach (Klein 1984, Katzenstein & Mueller 1987).

Anne Costain (1992) uses a political process model to explain the development of the women's movement in the United States and the movement's impact on social policy. Her study shows that the women's movement's policy success depends on the "receptivity of the political process during the time that potential supporters are

psychologically and organizationally ready to challenge the status quo” and concludes that the overall success depends on both the heightened consciousness of movement followers and the structure of political opportunity (Ibid. 1992:XV, 25). According to political process theory, the balance of power between the government and the women’s movement is also an important indicator of success: If the government is weak, the movement and the government share a more equal balance of power; thus the movement is likely to achieve more political strength within the political system, allowing it to influence the modification of policy (Ibid. 1992).

The international socialization theory is another approach that explains the ratification of international declarations in terms of the enactment of domestic law.

Martha Finnemore (1996) notes:

We cannot understand what states want without understanding the international social structure of which they are a part. States are embedded in dense networks of transnational and international social relations that shape their perceptions of the world and their role in that world. States are socialized to want certain things by the international society in which they and the people in them live.

According to Thomas Risse and Kathryn Sikkink (1999), there are three reasons why a state adopts international norms and applies them domestically:

Adaptation to pressure from powerful states or international organizations; moral consciousness-raising, argumentation, dialogue, and persuasion arising from the constant communication between abusive or indifferent governments and their critics; and institutionalization and habituation, a process that occurs over time after the first two mechanisms have socialized the state into initial adoption of the norm.

This process of socialization is based on powerful states or transnational networks that pressure for national policy adoption and overlap with the “boomerang pattern” discussed by Margaret Keck and Kathryn Sikkink (1998) in their book, *Activists Beyond Borders*. The central argument of these scholars is that when “channels of participation” between states and domestic organizations are blocked or when states do not efficiently

react to national organizations demands, a transnational advocacy networks is likely to emerge, pressuring governments from the outside to take normative measures that address the issue (Keck & Sikkink 1998:12-13). The combination of a state closed to requests from domestic organizations, international organizations acting as allies, and an open governmental structure in foreign countries generate the boomerang pattern through which national organizations use international connections or networks to persuade the state to modify their policies. To illustrate their theory, Keck & Sikkink studied how national women's groups built transnational women advocacy networks that drew attention to violence against women, placing the issue on the international public agenda (Keck & Sikkink 1998:165-198). Through the development of the global campaign for women's human rights, governments adopted the Declaration on the Elimination of Violence against Women and the Inter-American Convention for the Prevention, Punishment and Eradication of Violence, which led to the enactment of national laws punishing domestic violence. Their analysis provides useful background to the emergence of transnational women's networks and the development of violence against women as an international issue. However, their study focuses on the global campaign developed by women's advocacy networks that led to the adoption of international conventions. It does not assess how some women's movements have been able to draw government attention to domestic violence. Their study neither addresses how women's movements pressure the state for the enactment of national legislation condemning domestic violence before or simultaneously to the adoption of international conventions.

Finally, Darren Hawkins and Melissa Humes (2002) develop a method that incorporates the two previous approaches – women's movements and international

socialization – to explain the ratification of norms condemning domestic violence. The first phase of the “two-stage model of norm diffusion” is based on the ability of autonomous activist organizations to raise public awareness about a problem and to pressure the state by organizing protests within the population. At this stage the opening of an opportunity within the political system is a fundamental variable that helps activists to push for policy change. Thus, during the first phase of this process, national women’s movements and political opportunities are the principal factors that pressure the state to adopt new legislation. The second stage of the model integrates the international socialization process, where international organizations, states and transnational networks become more important than domestic activists. Each country at this stage is likely to adopt norms similar to those already ratified by other countries (Hawkins & Humes 2002: 242).

These three approaches are the principal theories that frame my research on the enactment of national law condemning domestic violence. I propose using Peru as a test case to apply the two-stage model of norm diffusion. Through an analysis of the development of the Peruvian women’s movement and the political context of Peru, I plan to explain how women’s movement activities and campaigns were able to apply enough pressure on the Peruvian government to achieve the ratification of national legislation on domestic violence.

#### The Implementation of the Family Violence Law

The second part of this study focuses on the changing approach taken by feminist non-governmental organizations (hereinafter “NGO”) to pressure for state accountability and the enforcement of the Law for Protection from Family Violence. Within a context of democratic consolidation, justice and good governance, feminist NGOs began to use a

language based on human rights, citizenship and democracy. They lobbied the government to respect their commitments, worked closely with social movements to improve programs of legal reforms and increased rights awareness (Molyneux and Lazar 2003: 3). The reasons why NGOs adopted a “rights-based approach” varied with each case but might also be explained by the changing context in Latin America during the 90s and by the adoption of international policies (Molyneux & Lazar 2003). The enactment of international conventions provided support as well as legal instruments for this rights-based approach, allowing the NGOs to pressure governments of the region to respect their legal commitments. In the same vein, Macaulay has described this feminist NGO strategy as a “legalistic approach”, which entails focusing on rights while also targeting state reform and aspects of the criminal justice system, such as access to justice, fair and efficient legal procedures, and victim protection (Ibid. 2000:156). Moreover, the emphasis on the criminal justice system was seen as a strategy to force governments to improve the implementation of social policies and to meet international commitments.

Peruvian feminist NGOs undertook a rights-based discourse during the 90s. One of their objectives was to pressure the state to enforce national and international legislation on domestic violence while increasing women’s awareness of their rights. However, a number of obstacles constrained NGOs efforts to address the implementation gap of the Law for Protection from Family Violence. These obstacles are structural, cultural and internal. Structural problems are related to the legal system and as such impede adequate victim protection, constrain sanction efficiency for perpetrators, and result in investigation delays. In a report published in March 2000, Women’s Rights Watch underscores the Peruvian government’s inability to implement national legislation

through the national police, judges, forensic doctors, and state prosecutors. This document highlights the police's inefficiency in investigating claims made by female victims and the lack of an adequate report-taking procedure. The report also draws attention to the inadequacy of medical examinations by forensic doctors, who tend to minimize women's injuries. Additionally, the report stresses that state prosecutors are understaffed and that they resolve domestic cases by favoring spousal conciliation over judicial prosecution. Finally, the report condemns these institutional actors for not using protective measures to shield victims of domestic violence from their abusers. Although this report did not discuss the Peruvian patriarchal society, cultural obstacles are still present in Peru. The results of my research show that "justice operators"<sup>5</sup> apply the law based on their personal biases toward domestic violence. Finally, NGO's rights-based approach and the relationship developed with Peruvian government also impeded to some extent the enforcement of the law. By adopting such a conventional strategy, NGOs became more involved within the governmental process. This switch to a more traditional approach has proved challenging for feminist NGOs.

Therefore, these structural, cultural and internal factors frequently constrained the daily application of the law. Notwithstanding the evolution of women's formal rights, violence and oppression against women continue to impede the full exercise of equality, liberty, equal political participation, and personal security. Women are still considered second-class citizens (Hernandez 1997). In the second part of my research, I propose to analyze how feminist NGOs in Peru have used the right-based approach to tackle the

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<sup>5</sup> "Justice operator" is the translation for "operador de justicia."

problem of implementation of the Domestic Violence Law and how they have worked to improve the legislation making the law enforceable.

### Research Questions

- How did the women's movement effectively pressure Peruvian authorities to address the problem of domestic violence and adopt the Law for Protection from Family Violence?
- What are the major structural, cultural and internal obstacles that stand in the way of the actual implementation of the Law for Protection from Family Violence?
- How did feminist NGOs use the rights-based approach to address the implementation gap, thus, forcing the government to respect their national legal commitments?

### Definitions

Violence against women: According to the Article 1 of the Declaration on the Elimination of Violence Against Women (DEVAW) the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Violence against women includes, but is not limited to, the following:<sup>6</sup>

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

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<sup>6</sup> Article 2 DEVAW

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Women's movement: A broad definition of the women's movement suggests that it "is understood as the whole spectrum of conscious and unconscious action of individuals, groups or organizations with the aim of combating gender subordination" (Vargas & Wieringa 1998:4). The women's movement may suggest a unified movement, however it is "characterized by a diversity of interests, form of expression and spatial location" (Molyneux 2001: 144). For example, the Peruvian women's movement includes different currents such as the grassroots organizations, feminist groups and political militants (Blondet 1995).

#### Research Methods

This study is comprised of bibliographic research conducted at the University of Florida and at the library of the Centro de la Mujer Peruana Flora Tristan in addition to fieldwork carried out from May 2004 to June 2004 in Lima, Peru. There I conducted semi-structured interviews with actors linked to the implementation of national legislation on domestic violence. I developed semi-structured interview guides for different categories of people that I interviewed. This qualitative method is "based on a clear plan that you keep in mind, but is also characterized by a minimum of control over the respondent's responses" (Bernard 2000:191). According to Bernard, semi-structured interviewing is useful for studying sensitive issues like sexuality, race, or ethnic prejudice. For this reason, I believe that this method is useful for studying implementation problems linked to the Law for Protection from Family Violence.

The persons interviewed for the purpose of this study were key agents involved in domestic violence cases: the captains of the women's police stations in Lima, Villa

Salvador and at the Women Emergency Center (Lima), the captain of the national police station in Surquillo (Lima), a forensic doctor, a state prosecutor, a criminal judge, the coordinator of the Women Emergency Center in Lima, a representative from the Ministry of Education, the director of the program on domestic violence established by the Ministry for Women and Social Development, the coordinator of the reproductive rights program for the Ombudswomen in charge of women's rights, two lawyers and two activists from the "Centro de la Mujer Peruana Flora Tristan," a lawyer from the "Movimiento Manuela Ramos," the coordinator of CLADEM, a lawyer and the coordinator working for DEMUS. My thesis draws also on the study "Violencia Familiar y Sexual: Diagnóstico sobre Servicios de Atención," which was carried out in 2003 by the NGOs "Centro de la Mujer Peruana Flora Tristan," and "the Movimiento Manuela Ramos." The interviews conducted represent the personal views of each of the participants and in my analysis I do not attempt to generalize their views.

#### Outline of Chapters

Chapter 2 explores how the Peruvian women's movement over the two last decades has worked to pressure the government to adopt laws that condemn violence against women. By tracing the evolution of the feminist movement and the context in which the Peruvian government addressed the problem of domestic violence, I will show how Peruvian women have been able to influence Peru's ratification of the Law for Protection from Family Violence.

Chapter 3 is based on the field research conducted in Peru. I will explore how feminist NGOs are using the right-based approach to reduce the implementation gap between national legislation and women's daily realities. In this chapter I examine the

structural, cultural and internal problems that impede the enforcement of the Law for Protection from Family Violence.

Finally, in chapter 4 I will present the main results of this study and future avenues of research to address the issue of domestic violence.

CHAPTER 2  
FAMILY VIOLENCE LAW IN PERU: A TWO-STAGE MODEL OF NORM  
DIFFUSION

Introduction to the Two-Stage Model

Ending violence against women began to be addressed early in the 1980s by the Peruvian women's movement as well as all over Latin America. The Peruvian women's movement organized many activities to gain legal recognition of the problem despite the lack of international legal instruments to support their demands for a law sanctioning domestic violence. In 1993, Peru was the first country in all of Latin America to adopt a norm against domestic violence. By using the two-stage model of norm diffusion, the objective of this chapter is to analyze the series of steps that led to the ratification of the law for Protection from Family Violence in Peru (hereinafter family Violence Law). Darren Hawkins and Melissa Humes (2002) use the two-stage model of norm diffusion to explain legal initiatives that have been taken to condemn domestic violence by most governments in Latin American throughout the 90s. Their conceptual framework identifies distinct time periods: one in which the women's movement played a crucial role in the ratification of the national domestic violence law and the other when international socialization was the principal impetus for the adoption of legislation.

The two-stage model of norm diffusion used by Hawkins and Humes is built on a study carried out by Martha Finnemore and Kathryn Sikkink (1998) who analyzed the efforts made by national activists or "norm entrepreneurs" to transpose or transform a national norm into international legislation. They argue that "domestic influences are

strongest at the early stage of a norm's life cycle, and domestic influences lessen significantly once a norm has become institutionalized in the international system" (Finnemore & Sikkink 1998:893). According to these authors, the "norm life cycle" can be conceptualized in three stages: norm emergence, norm acceptance and internationalization.

Norm emergence is the first phase during which activist groups or "norm entrepreneurs" try to persuade and convince "norm leaders" or key states to ratify a new norm; it corresponds to the first phase of the two-stage model of norm diffusion. According to the conceptual framework of Hawkins and Humes, "leader states" are those which possess an autonomous women's movement able to exploit political opportunities while generating political discussion about the issue of domestic violence. In Latin America, leader states adopted domestic violence legislation either before or about the same time as the norm was ratified internationally, through the Declaration on the Elimination of Violence Against Women (DEVAW) in June 1993 (Hawkins & Humes 2002:245). The following sections particularly addresses the norm emergence stage.

Norm acceptance is the second stage of the norm life cycle and corresponds to the second part of Hawkins and Humes' model in which state leaders, transnational networks and international organizations attempt to "socialize" other states to become norm followers; international socialization processes become more important than national activists. Until this "tipping point", national movement activists that promote normative changes are the major actor for policy change. Tipping is described as being the stage "after norm entrepreneurs have persuaded a critical mass of states to become norm leaders and adopt new norms"; it rarely occurs before one-third of the total states in the

system adopt the norm (Finnemore & Sikkink 1998:901). Once the tipping point has been reached, a new dynamic takes place and more countries begin to adopt the norm even without national pressure, bringing in the second phase of the two-stage model of norm diffusion: norm acceptance. Finnemore and Sikkink argue that norm acceptance is promoted by international socialization in which “agents of socialization” such as leader states, transnational networks and international organizations become new actors pressuring other states to adopt new policies (Ibid. 1998:902). Agents of socialization attempt to persuade other states to become “followers” by promoting the norms through discourse or through economic incentives or penalties. Legitimization, conformity and esteem are other incentives that motivate follower states to adopt new norms or policies. Thus during this stage international socialization and transnational activities are more important than national activists, though they might continue to play an important role.

Transnational women advocacy networks have played an important role in pressuring states to adopt domestic violence legislation in many countries in Latin America. While women advocacy networks consolidated their foundations other international organs also worked to address the issue, helping the women’s movement in legitimizing their demands. For instance, the Feminist Encounters for Latin America and the Caribbean along with a series of UN conferences provided impetus to an important number of countries developing measures against domestic violence. In addition, Latin American women’s groups have been important activists in coordinating regional networks such as the Southern Cone Network against Domestic and Sexual Violence and the Latin American and Caribbean Network against Domestic and Sexual Violence with subregional coordinators in Peru and other countries in Latin America (Keck and Sikkink

1998:179-180). As a result, “follower states” adopted legislation on violence against women between 1995-1998. They did so in a context where the norm had been adopted regionally through the Inter-American Convention for the Prevention, Punishment and Eradication of Violence Against Women ratified by the Organization of American States members in 1994.

Finally, “internationalization” is the third stage of the norm life cycle and occurs when norms acquire a taken-for-granted quality and are no longer part of the public debate (Finnemore & Sikkink 1998:895). Since this phase is not included in the two-stage model of norm diffusion and because norms on domestic violence in most of countries in Latin America have not reached this phase, internationalization will not receive further discussion.

The two-stage model of norm diffusion of Hawkins and Humes is the conceptual framework that I will use to address the adoption of the Family Violence Law in Peru. Although international organizations, transnational networks and international meetings had a positive influence, the results of my research show that the Peruvian women’s movement and their national activities had a greater impact on the adoption of the Family Violence legislation. For this reason, I will focus on the first phase of the two-stage model of norm diffusion. Before applying the conceptual framework of Hawkins and Humes, I will turn now to a more detailed description of the variables included in the norm emergence stage.

### Women’s Movement

In the first stage of norm emergence, activist groups try to conceptualize a new norm for desirable behavior in their community. At this point the groups may or might not communicate transnationally with activists concerned by similar issues. To promote

norm ratification, norm entrepreneurs or activist groups encourage the ideals of empathy and altruism and begin a long process of persuading international organizations and states to ratify the proposed norms (Finnemore & Sikkink 1998:898). The absence of international norms at this phase allows “leader states” to emerge and to enact a norm before it receives widespread international acceptance through international declarations (Hawkins & Humes 2002:241). During the norm emergence phase, activists are the main actors. Their success or ability to convince the state to embrace new norms condemning violence against women depends on two determinant factors: autonomy and political opportunities.

### The Concept of Autonomy

The principle of autonomy emerged as an issue for the women’s movement with the second wave of feminism during the 1970s and early 1980s. Disenchanted with authoritarian and male institutions or organizations, women activists decided to create autonomous organizations independent from political parties, the state, or from other groups in the society. Molyneux argues that “autonomous organizations (...) are characterized by independent actions, where women organize on the basis of self activity, set their own goals, and decide their own forms of organizations and must recognize no superior authority, nor be subject to the governance of other political agencies (Molyneux 1998:70). In the same vein, Weldon describes women’s movement autonomy as when they have an organizational basis external to political parties, or other organizations such as unions or even from organizations that do not make women’s issues their first concern (Weldon 2002:80). The principle of autonomy has been also explained as a “process enabling women to express and prioritize their interests more clearly” and has become a political strategy that allows women’s negotiation with other political actors (Vargas &

Wieringa 1998:8). Autonomy allows the development and the consolidation of women's own agenda and to put forward their ideas when they interact with the society and the state.

Today, many scholars still identify women's movement autonomy as an important component for policy change (Elman 1996, Vargas & Olea 1997, Vargas 2002, Weldon 2002). In a comparative study of the impact of the women's movement in the United States and Sweden with respect to the adoption of domestic violence policy, Amy Elman (1996) concludes that government response to violence against women, and the adoption of a law protecting battered women, depends on the articulation of the issue by a strong autonomous women's movement. Elman observed that American feminists who pursued an agenda through an autonomous women's movement were able to pressure the state from the outside to adopt a law that would protect battered women. On the other hand, Swedish feminists relied upon the traditional political system, such as partisan alliances and state bureaucracies, to press for women's interests. The strategy was less successful and the government did not articulate effective policies on violence against women.

In a cross-national comparison of eight countries that enacted policies on violence against women, Laurel Weldon (2002) also argues also that government responsiveness is likely to be determined by the presence of a strong, autonomous women's movement that draws on and reinforces state institutions designed to promote the status of women. Weldon considers that a strong and autonomous women's movement is able to create enough awareness through their actions and discourses, receiving public attention from government and among people that are not movement members. In the same vein, Hawkins and Humes note that when women's groups are autonomous from the state or

political parties they will be able to more effectively raise public consciousness about the issue and to push for policy change (Ibid. 2002:233).

Awareness generally begins with small consciousness-raising groups where women begin to discuss their gender oppression. In the United States feminist groups began to raise awareness through small-scale mutual aid projects or community service projects that helped women develop solidarity, education and activism outside the political realm (Elman 1996:25). Such initiatives helped change women's attitudes, and their assumptions about gender domination in their daily lives. Carol Mueller (1988) argues that developing consciousness among women helps to sustain the political force of the movement. Women's cultural production such as magazines, books, movies, TV programs, theater, and more conventional strategies or "protest politics" such as street protests, marches, petitions and lobbying foster discussion of violence against women among the population (Weldon 2002:69-70). The various tactics articulated by autonomous women movement raise awareness within the population, and serve to translate their agenda into the public policy arena.

The autonomy of the women's movement is therefore key to the development of government policy on violence against women because it allows those groups to articulate a perspective based on their reality as women. Being involved in autonomous groups allow the women's movement to focus on their gender priorities and "to elaborate their own programs of actions, debate their own goals, tactics and strategy free from outside influence (Molyneux 1998:70). Autonomy and independence also permit the women's movement to distribute resources in a way that draws public attention on their particular matters. However, according to some scholars (Jaquette 1994, Hawkins and

Humes 2002, Weldon 2002) while a strong autonomous women's movement is necessary for the initial articulation of violence against women as a public issue, it is not sufficient to determine the impact on policy and to provoke a government response. Autonomy alone is a weak strategy and is likely to result in women's organizations' being denied the resources they need (Jaquette 1994:232). Thus, another fundamental variable is necessary to the process of policy change in the context of domestic violence law. I turn now to the notion of political opportunity, the second factor necessary within the theoretical framework that I draw upon.

### Political Opportunities

Autonomy and consciousness arising are necessary but not sufficient to the development of policy changes. The second requirement is "political opportunity." In the two-stage model process, political opportunity refers to "any event or broad process that serves to undermine the calculations and assumptions on which the political establishment is structured occasions a shift in political opportunities (McAdam 1982:41). In her research on the impact of the women's movement on policy, Costain (1982:15) describes political opportunities as determined by the openness of the political system to new interests, the instability of the regime, the women's movement's ability to reach allies and supporters, and the psychological readiness of excluded members. Political opportunity structure allows activists to push for changes in state policy and it is linked to the opening of a political opportunity, elite alliances, the presence of allies within the state, and the state's repressive capacity.

The openness of the political system "increases political activism on the part of excluded groups either by seriously undermining the stability of the entire political system or by increasing the political leverage of a single insurgent group" (McAdam

1982:42). Hawkins and Humes mention that a “policy window” may occur when crises generate a need for a political solution. Examples included economic decline, or an important shift in state political power. During such periods policy propositions promoted by activists may reach the top of the political agenda as decision makers search for solutions to the crisis or for new ideas to distinguish themselves from previous office holders (Hawkins and Humes 2002:241). In that phase, activist proposals are more likely to receive a serious consideration from the state, which appears willing to engage in debates on different issues.

The following section applies the two-stage model of norm diffusion to demonstrate the strategies taken by the Peruvian feminist movement to press for legislative changes under a context of political opportunity.

#### Application of the Two-Stage Model to Peru

Peru has ratified most of the international conventions concerning women’s rights and has taken a number of initiatives to address discrimination and violence against women. In 1982, Peru ratified the United Nations Convention for the Elimination of All Forms of Discrimination Against Women. Following Brazil’s initiative, the Peruvian government established in 1988 the first women’s police stations in Lima. In 1993 the Family Violence Law was adopted as well as the Declaration on the Elimination of Violence against Women. In 1996 Peru ratified the Inter-American Convention for the Prevention, Punishment and Eradication of Violence, created the Women’s Rights division within the Office of the Peoples’ Ombudsman and established the Ministry of Advancement of Women and Human Development (PROMUDEH). The Family

Violence Law was modified in 1997 and, in 1999 PROMUDEH<sup>1</sup> inaugurated the first Women Emergency Center for victims of domestic violence where women can consult with female police officers, medical examiners, and state prosecutors. Finally, in 2001, Peru adopted the National Plan on Violence Against Women 2002-2007.

The Peruvian women's movement has played an important role in the ratification of these international conventions, and in the development of these national governmental initiatives. Moreover, by pressuring the government to adopt a norm that would recognize the magnitude of domestic violence and penalize it, the Peruvian women's movement has been involved in one of the most important achievements realized by women in the country. Throughout the 80s and early 90s, the women's movement has taken an active and fundamental role in redefining a once private and familial matter into a public and political issue.

The following section provides a brief historical review of the demands made by the women's movement in the 80s, highlighting how it was specifically the feminists that first draw public attention on violence against women. I will further apply the two-stage model of norm diffusion to Peru to illustrate how the autonomy of the women's movement and the political opportunity play out in the Peruvian case.

#### The Feminist Movement: a Key Actor

The end of the 70s and beginning of the 80s brought women together by the emergence of the political Left, the feminist discourse, the problem of reproduction under condition of poverty, the economic collapse and the social crisis it entailed (Barrig 1994 and Blondet 1995). Those issues affected women differently and created a women's

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<sup>1</sup>Recently, the name of the "Ministerio de Promoción de la Mujer y Desarrollo Humano" has been changed for the "Ministerio de la Mujer y del Desarrollo Social.

movement composed of three principal actors: party activists, grassroots organizations, and feminist groups. Sometimes working together and sometimes working separately women took the streets voicing their demands on issues that affected their condition as women, as mothers, or both. The general popular effervescence generated by street mobilization, strikes and the intense political activity in Peru at that particular time helped to create a belief that political and social change were possible.

The female party activists were mostly composed of female university students on the political New Left, which was trying to strengthen ties to grassroots organizations to consolidate a basis for their political party (Blondet 1995:260). At first, women activist's principal interests were oriented toward class struggle and were not concerned by women's needs and daily realities. They sought to increase women's political consciousness by defending traditional party projects without making connection to issues such as male political dominance and other women's concerns. Violence against women was not an initial preoccupation of those activists. However, over time women party activists became aware of their own marginality and lack of voice within the party (Barrig 1994 and Blondet 1995).

Grassroots organizations composed of women from the lower strata of the urban society were concerned with issues such as health, economic needs and family wellbeing. Through grassroots organizations, such as the communal kitchen or the municipal Glass of Milk Program that aimed to distribute one glass of milk a day to children and pregnant and breast-feeding women, women mobilized on the basis of their traditional gender roles within the domestic sphere. By their engagement in daily and self-help strategy women's grassroots organizations provided short-term and temporary solutions compensating for

the lack of services that should have been offered by the state: these grassroots organizations did not try to resolve and confront long-term problems of gender relationship, class struggle or the “inefficient and unequal redistributive capacity of the state” (Barrig 1994:166). Women from shantytown organizations mobilized based on their own “practical gender interests”, which are defined as “a response to an immediate perceived need” and did not generally attempt to challenge women’s emancipation or gender equality (Molyneux 2001:44). Although they reflect women’s daily and immediate experiences, practical gender interests do not aim to challenge women’s subordination and might reinforce women’s traditional role within the society.

By focusing on the family as the fundamental unit in women’s life, shantytown organizations did not attempt initially to resolve and assess gender violence problems. However, through those groups women learned to speak and to express their thoughts, ideas and opinions while realizing that other women were living in similar situations. By participating in such organizations, women shared solidarity, cooperation, learned to perform new tasks, and began to confront and negotiate with their husbands who did not look favorably on their wives working outside the home (Vargas 1989:89-91). By being involved in such organizations, victims of violence began to express themselves about their personal situation. According to my interviews, by 1985 women active within shantytown organizations and “pobladores” were having group discussions regarding the issue of domestic violence.<sup>2</sup>

Over time women participating in political parties and in grassroots organizations became aware of a number of issues affecting them, and grew sensitive to the issue of

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<sup>2</sup> Author’s interview with a lawyer from the Flora Tristan Center, Lima, May 19, 2004.

domestic violence. By their participation in marches, protests or workshops, those women provided an important support for the struggle on violence against women. However, based on the initial claims of those women involved in political parties and survival groups, violence against women was firstly address by feminist groups.

As in other countries in Latin America, the United Nations Decade for Women and the democratization process stimulated the re-emergence of the feminist movement. Feminist groups mobilized based on their “strategic gender interests” which are those linked with the analysis of women’s subordination. Their focus has been strategies to overcome the sexual division of labor, control of their reproduction, the alleviation of the burden of domestic labor and childcare, the removal of institutionalized forms of discrimination, political equality, and ending gender violence (Molyneux 2001:43). Different studies have demonstrated that the Latin American feminist movement was the first actor to articulate the issue of the violence against women, building the foundations that entailed grassroots mobilizations (Elman 1996, Molyneux 2001, Weldon 2002). Based on my interviews, Peruvian feminists have been the first actors involved in pressuring the government to acknowledge a policy that would recognize domestic violence as a public concern. For this reason, in this study I focus on leader groups that brought about policy change regarding domestic violence rather than mass behavior or grassroots support. The adoption of measures to assess male violence and control over women were part of the objectives of feminist groups and are the point of departure to trace how the feminist movement throughout years influenced Peruvian authorities to adopt the Family Violence Law. I will now turn to the application of the two-stage model of norm diffusion to explain the adoption of the law on domestic violence in Peru.

### The Development of Autonomy and Consciousness in Peru

In Peru, feminist groups adopted the principle of autonomy during the early 80s as an essential political strategy to establish independence at the organizational and ideological levels. As noted by Virginia Vargas, autonomy allowed the creation of a political space based on gender interests, further allowing women to develop a collective consciousness that made visible the oppressed situation experienced by them. Subsequently, this allowed them to avoid and decrease the rises of cooptation by patriarchal institution (Vargas 1989:26-27). For the Peruvian feminist movement, autonomy represented the core of the democratic project, which would enable women to determine their own actions and create their own political alternatives (Vargas and Olea 1997:41). During the 80s, feminists were practicing a “defensive autonomy” characterized by confrontation with the authorities, as they grew stronger as a movement and individually. In 1981, the First Latin American Feminist Encounter in Bogotá, labeled “Por la reafirmación de la autonomía feminista y su compromiso con la realidad continental” recognized and reiterated the need for an autonomous movement (Salazar 2001:184). In 1983, the defense of autonomy came to the forefront during the Second Latin American Feminist Encounter held in Lima, which highlighted feminists’ criticisms of conventional politics and machismo in political parties. Moreover, this Encounter created a division between feminists and female party activists.

Before these encounters, feminist organizations (such as Flora Tristan, the Manuela Ramos Movement, Women in Struggle, and the Women’s Socialist Front) had an agenda that highlighted women’s participation in the class struggle, and they often consisted of militants affiliated to Left parties (Salazar 2001:165-168). These feminist organizations practiced socialist feminism, which links the problem of class and gender by recognizing

social inequality while at the same time focusing on women's subordination (Blondet 1995:258). However, during the Second Feminist Encounter, Peruvian feminists declared themselves "*feministas a secas*" and stopped adopting a socialist approach. By orienting themselves as part of a more radical struggle to improve women's lives, feminists hoped to distinguish themselves from other institutions as well as national political activity. As mentioned, this decision led to the establishment of two feminist currents with two different fields of action. The Leftist feminist political party militants claimed that feminist activists were abandoning the class struggle and were losing their political identity. Those militants decided, instead, to concentrate their participation on preparing governmental programs aimed at reducing poor women's marginalization (Blondet 1995:259). The feminist activists identified as "bourgeois" by left politicians, concentrated on building an autonomous movement that would heighten women's awareness regarding the oppressiveness of patriarchal power. This new way of "doing politics" involved questioning traditional political action and was considered an approach to overcome women's oppression in the private and public spheres (Vargas 1989:76).

However, the concept of autonomy had some limits, which was demonstrated in 1985 when two feminists participated as independent candidates in the general elections for President and as members of parliament (Barrig 1994:164). By running solely on strategic gender interests (such as gender equality, sexual and gendered violence, control of reproduction, and sexual division of labor), feminist candidates did not garner enough resonance among women from grassroots organizations; as such, neither candidate was elected. Indeed, the feminist movement realized the need to create deeper alliances with

women's grassroots organizations and to build stronger ties with women from other sectors (Vargas 1989: 83).

Raising consciousness among women has always been part of the original objectives since the emergence of feminist organizations. By the end of the 70s, the Flora Tristan Center for the Peruvian Woman, the Manuela Ramos Movement, Women in Struggle, and the Women's Socialist Front were developing small informal groups called "Centros de Acción y Promoción." These groups were designed to take action on particular issues and to raise consciousness concerning women's oppression and exclusion from the economic, political and social arena (Vargas 1989:97). The three fundamental issues that accompanied the emergence of the feminist movement at that time were political participation, ending with domestic violence, and sexual and reproductive rights.<sup>3</sup>

All feminist NGOs mentioned that during the 80s, feminist activists aimed to make violence against women more visible; to highlight gendered power relations within the private sphere; and to transfer what was considered a private family issue into the public arena. In other words, feminists' main goal was to achieve public recognition of domestic violence and to raise consciousness about the problem. By adopting the phrase, "the personal is the political" feminists attempted to bring together personal and political dimensions in order to transform women's daily reality (Vargas 1989:78). In order to address domestic violence and to raise public consciousness, feminists undertook different initiatives such as "cultural productions", "protest politics", and "everyday politics." (Weldon 2002:68-70)

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<sup>3</sup> Author's interview with an activist from the Flora Tristan Center, Lima, June 2, 2004.

The first significant political action organized by feminist groups followed the first Latin American and Caribbean Feminist Encounter, which designated November 25<sup>th</sup> as the International Day Against Violence Against Women. On November 25, 1981 Peruvian feminist groups in Lima organized the first march for the “Día de No Más Violencia Contra la Mujer.” This march brought together 300 women, who came to protest violence within the household and to denounce sexual harassment, torture in prison, violence towards prostitutes, and women’s marginalization (Salazar 2001:185). According to activists of the period, this protest became the first feminist public manifestation that delivered concrete outcomes for feminists in Peru (Vargas and Olea 1997:29). To further protest and denounce violence against women, the feminist movement supported additional international days on violence against women and organized different activities, such as music festivals, marches, panels, poetry readings, and drawing competitions. In particular, feminists used many cultural productions to make public their ideology and to raise public consciousness about different women’s issues. In 1980, the first feminist magazine, *Women and Society* was published in order to stress women’s oppression and exploitation. The magazine editors organized photo expositions entitled “*Mujeres Ven a Mujeres*”, and in 1984, the magazine “*Viva*”, published by Flora Tristan, was first published (Salazar 2001:178, 195).

Feminists also interwove themes of violence against women into campaigns, public discourses and workshops. In the period 1985 to 1990, the feminist movement broadened their social bases and strengthened their relationships with grassroots organizations by taking part in their activities, such as with the Urban Women’s Popular Movement. In 1987, the feminists organized the first National Feminist Encounter where women from

different social sectors attended workshops on power and violence, state policies, the political conjuncture, and perspectives of the feminist movement (Vargas and Olea 1997:32). In another campaign in the mid-1980s, entitled “Breaking the Silence”, women were invited to discuss and denounce violence. This particular activity strove to enhance awareness regarding violence against women and through “speak-outs” women were encouraged to stand up and tell their story of victimization in a public forum. According to a DEMUS activist, this campaign’s mobilization led to the creation of the first women police office in Lima in 1988.<sup>4</sup> In 1989, the Flora Tristan Center signed an agreement with the Ministry of the Interior to provide workshops on domestic violence to female officers and to establish legal orientation within women’s police stations. Collaboration with women’s police stations regarding violence against women allowed the Flora Tristan Center to observe police work, to visualize the problem, and subsequently, to use their observations to create law.<sup>5</sup>

The development of feminist efforts (including campaigns, political action, discourses and ideology) allowed feminist groups to discuss the formulation of a bill that would condemn violence against women. The World Conference of Women held in Nairobi, Kenya, in 1985 was the first international condemnation of violence against women. As such, it helped feminist groups to strengthen their position on violence and to develop a law that would assure battered women access to the judicial system. Moreover, the Flora Tristan Center, the Manuela Ramos Movement, the Aurora Vivar Association,

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<sup>4</sup> Author’s interview realized with the coordinator of DEMUS, Lima, May 28, 2004.

<sup>5</sup> Author’s interview realized with a lawyer from the Flora Tristan Center, Lima, May 19, 2004. To some extent, the agreement between the Flora Tristan Center and the Ministry of Interior led to an incursion into electoral politics, aiming to increase political action on domestic violence punishment.

and Women and Society began to formulate domestic violence legislation with the hope of having President Alan Garcia (1985-1990) approve it. Even though feminists were aware that some European countries were only just beginning to discuss domestic violence legislation, Peruvian women's groups drew up their first bill condemning domestic violence on their own - without being able to refer to international texts or legislation and without strong support from international women's networks (Hawkins and Humes 2002:247). However, the Garcia government paid little attention to feminist demands and was more concerned with the economic crisis that ravaged Peru at that time.

The previous reconstruction of the activities organized by the feminist movement highlights importance of the autonomy of the feminist movement and its impact on the women's movement. The concept of autonomy has always created conflict within the women's movement in Peru as well as in many countries in Latin America. The division between the feminist "bourgeois" and the Leftist feminist militants had an impact on the strength and the autonomy of the feminist movement. Despite this division, I believe that throughout the 80s the movement has been able to gain important levels of autonomy and mobilization because of the consciousness developed among women, particularly those in grassroots organizations. The Peruvian feminist movement has been able to maintain their autonomy regarding political parties and other governmental institutions, which allowed them to develop actions to pressure the state on strategic concerns (such as domestic violence) and to draft legislation on their own.

These initiatives demonstrate that feminist groups have been the first actors to work on domestic violence. Through their activities they reached a larger segment of the women's movement that soon became aware of the problematic and became involved in

the struggle on domestic violence. Moreover, according to the feminist organizations interviewed for the present study, the most important achievement of the feminist movement in the 80s was the rise in consciousness regarding violence against women within the household and, subsequently, the public sphere. By claiming the private dimension as a political one, feminists have been able to label issues that take place in the private sphere (such as gendered power relationships, sexuality and violence against feminists) as being political concerns that need to be addressed by institutions. As one participant from the Flora Tristan Center mentioned, “the main realization in terms of violence against women has been to gain access to the public space and to denounce such violence (...); the second achievement has been to make the state accountable for a social problem that it is not only a personal issue; finally the feminist movement allowed women to break the silence on their personal situation.<sup>6</sup>” I, thus, believe that the autonomy of the feminist movement allowed sufficient awareness about domestic violence to develop – as proved through their actions and discourses – to increase consciousness among women and society, in general. I will turn now to the political opportunities that helped women push for legislation on domestic violence.

#### Political Opportunities Under Fujimori’s Government

In early 1990, the feminist coalition working on the advancement of the domestic violence law created FORO-MUJER to open discussion with female parliamentary members about preoccupations on women’s problems. The objectives of FORO-MUJER were to influence decisions taken at the legislative and executive levels. As such, the goals included creating a political agenda of legal initiatives that would favor women’s

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<sup>6</sup> Author’s interview with an activist from the Flora Tristan, Lima, June 2, 2004.

rights concerning increasing women's political participation; the elaboration of non-discriminatory politics; the acknowledgement of autonomous women's organizations; the right to participate in politics; and equal access to labor (Vargas and Olea 1997: 33). By diversifying their interactions with women to include those from other political positions, feminist groups developed strategic alliances with female legislators and women in high-level positions within the state. By overcoming their political differences feminists, Congresswomen and women from the public administration interacted in a "triangle of empowerment" aiming to promote women's claims, to transform them into policy issues and to expand political support for their gender agenda (Vargas and Wieringa 1998:3). One of the first issues discussed within FORO-MUJER was violence against women.<sup>7</sup>

In February 1991, FORO-MUJER met with Peruvian President Alberto Fujimori to discuss the government's position towards the Convention on the Elimination of All Forms of Discrimination against Women, which had been ratified by Peru in 1982. Among the different issues discussed during that meeting, FORO-MUJER reaffirmed the importance of considering violence against women as a crime against life and stressed the need to work on penal reform protecting battered women. During those years, FORO-MUJER developed a bill entitled "Violence against Women" that was promoted in Congress primarily by Congresswomen Lourdes Flores of the Popular Christian Party. To promote the bill, feminist groups also used other strategies such as TV spots, interviews on television, and investigations, while at the same time working at the

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<sup>7</sup> Author's interview realized with an activist from the Manuela Ramos Movement, Lima, May 20, 2004.

grassroots level (i.e. providing workshops to female victims, national police, public authorities and state prosecutors).<sup>8</sup>

Under paradoxical circumstances resulting from the transition to an anti-democratic framework, a window of opportunity finally began to appear on April 5, 1992. It was then that Alberto Fujimori announced what many have called an “autogolpe”, or self-inflicted coup, in a 22- minute television address saying:

The country should understand that the temporary and partial suspension of the existing legality is not a denial of real democracy and I will reorganize the government for an honest and efficient administration of justice (Washington Post April 6, 1992).

Promising to build a “true democracy” through a “Government of Emergency and National Reconstruction”, Fujimori’s “autogolpe” attempted to impose radical changes on the government’s structure: to provide greater legislative efficacy; to end judicial corruption; to modernize the state bureaucracy; to end drug trafficking and terrorism generated by the Shining Path guerilla movement; and to continue the implementation of a free market economy (Rochabrun 1996:4). Fujimori then suspended the 1979 Constitution, arrested several opposition leaders, disbanded Congress, and dismantled the judicial system.

Great pressure from the international financial community, the United States, and the Organization of the American States caused Fujimori, however, to curb his position. During a meeting with all OAS members, Fujimori promised that within five months he would hold elections for a Constitutional Congressional Assembly, which would include political opponents that will have the power to pass law, and he would rewrite the country’s constitution (Hockstader 1992). Political opportunity for women to place their

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<sup>8</sup> Ibid.

concerns within the public agenda arose during the Congressional elections held in November of 1992.

All the political parties were divided on their participation in the election and, as a result, became fragmented into a dozen different groups. They were not able to generate a clear statement, nor could they achieve a high electoral score (McClintock 1993:119). Paradoxically, the division among the political parties provided some important opportunities for feminist groups because it “brought the independent organizations back into the political limelight” (Barrig 1998:110). The abstention of the main political parties and political leaders in this election ensured the participation of a number of unknown movements and community groups. The number of independent participants also rose because voters lost confidence in political parties and their capacity to act as efficient channels between the state and the population (Blondet 2002). Both the absence and the weakness of political parties helped the feminists to put the issue of domestic violence on the public agenda at a time when traditional means of participation and expression were denied by Fujimori’s regime. It is paradoxical that during such a period where democracy was repressed that feminist achieved the enactment of the Family Violence Law.<sup>9</sup> During that period, women leaders received more media attention: they were filmed, photographed, and interviewed. All this allowed feminists to make their demands more visible to the public as well as members of congress (Barrig 1998:111).

These circumstances opened up opportunities for feminist groups and congresswomen to

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<sup>9</sup> Even more paradoxical is the fact that Fujimori’s authoritarian regime has done more than any of his predecessors in terms of enacting women’s policies and creating institutions for women. Moreover, he was the only president of the world to attend the Beijing Conference in 1995, publicly defending women’s rights. Barrig (2001:34) and Vargas (2002:213) argue that the adoption of such legal measure under an authoritarian context undermine the victories realized by feminists because the law was ratified to fit with Fujimori’s machinations rather than having a real impact on women’s life. As such the law defends the family unit rather than gender violence.

place their demands concerning domestic violence legislation at the top of the public agenda. The combination of this political opportunity and feminists' efforts led to Congress' approving the Family Violence Law in December 1993.<sup>10</sup>

The absence of major political parties is one of the factors that may explain Congress' ratification of the law. Other elements previously discussed are also relevant. As I mentioned, political opportunities may be described by political openness to new interests, instability of the regime, allies' influence, and supporters' psychological readiness to push for common claims. The year following Fujimori's "autogolpe" was a year of intense economic and political instability. Fujimori held Congressional elections in order to legitimize his government within the international community as well as within the national population. Internationally, Fujimori was concerned about receiving economic aid and reestablishing his international reputation. And nationally, the President hoped to minimize political opposition that might impede the implementation of his structural reforms. In general, the regime's instability created a favorable context for feminists' demands, and it partly explains why Fujimori's government was receptive to new issues such as domestic violence.

Under this context of authoritarianism and instability, Fujimori was trying to reinforce his position; women's electorate potential appeared to be a great strategy. Women from grassroots organizations represented important political support base that could help legitimize Fujimori's government. As Costain (1992) mentions, women's block of votes began to attract attention, making politicians consider strategically the value of appealing

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<sup>10</sup> The official name for the Family Violence Law is the "Ley de Protección Frente a la Violencia Familiar" (the Law for Protection from Family Violence) and it is also referred as the Law No. 26260. The Law No. 26763 adopted important amendments to the Law No. 26260 in June 1997.

to women. Alberto Fujimori, thus, had personal interests in embracing measures that would promote women's rights; norms that would publicly acknowledge domestic violence for the first time in Latin America; and, consequently, to garner from the women's movement. The ratification of the Family Violence Law was part of a series of measures adopted by Fujimori targeting women of different social levels and aimed at attracting women's votes as well as reestablishing Fujimori's international reputation "under the banner of antimachismo and equity" (Blondet 2002:281). This argument supports the view of my informants. They maintain that Fujimori's personal interests and political machinations partly explain the ratification of the law.<sup>11</sup> In sum, this period of crisis and electoral instability was part of the policy window that allowed women to place their claims at the top of the public agenda.

However, by turning the feminist proposal on violence against women into a law, Fujimori's government hijacked and co-opted the issue. Indeed, initially the bill was named "Ley de Violencia contra la Mujer" but just before receiving the official Congress's approbation, Fujimori changed the name of the law for "Ley de Protección frente a la Violencia Familiar."<sup>12</sup> Many informants mentioned that they lost an important part of their initial objectives because the law focuses only on family violence instead of the many forms of violence against women and ignores the power relationships embedded in domestic violence: "the family nucleus is perceived as more important than

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<sup>11</sup> Author's interview with a lawyer from the Manuela Ramos Movement Lima, May 20, 2004, and an activist from the Flora Tristan Center Lima, on June 2, 2004.

<sup>12</sup> Author's interview with an activist from Flora Tristan Lima, June 2, 2004.

violence against women.<sup>13</sup>” As explained by Jeannette Llaja, a lawyer working for DEMUS:

El movimiento feminista pierde cuando consigue una Ley de Violencia Familiar y no una Ley de Violencia contra la Mujer. Hay difusión del problema pero descontextualiza el tema de la relación de poder que esté detrás de la violencia. La Ley está muy distante de considerarlo como una violación a los derechos humanos, la presenta como un conflicto familiar y de comunicación (CLADEM 2004).

Although the issue has been coopted by the government, the law was considered as a score for the feminist movement and interactions between different actors have been crucial. The alliances made through FORO-MUJER between feminist groups, congressional leaders and government officials also had an important impact on the adoption of this law. As mentioned, Congresswomen Lourdes Flores Nano played a particularly important role presenting and promoting the bill to Congress. According to Weldon (2002:97), winning a successful policy on violence against women depends heavily on whether or not the female promoter is influential enough to affect policy, and whether there is a strong autonomous women’s movement. Lourdes Flores is a recognized figure in Peru today and was an important opposition leader under Fujimori’s regime (Blondet 2002). Moreover, the women’s movement provided the basis and the external support to legitimize the policy on domestic violence, and FORO-MUJER helped to counterbalance internal resistance within the government. Female allies in government and Congress have, thus, played an important role in the adoption of the Family Violence Law. Moreover, domestic violence was considered a problem of direct concern to women and, as such, established a convergence of interests with female deputies in Congress that were not part of FORO-MUJER. All congresswomen voted in

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<sup>13</sup> Author’s interview with the coordinator of CLADEM-Peru Lima, June 1, 2004.

favor of the ratification of the law despite their differing political affiliations (Blondet 2002:297). Therefore, the presence of allies and policymakers interested in feminist proposals helped the adoption of the Family Violence Law. This corroborates Weldon's (2002:163) observation that "most policies on violence against women are products of partnerships between women's movement and sympathetic insiders."

Psychological readiness is another factor that influenced the political opportunities available for a women's movement to form and achieve their political goals (Costain 1992:15). As previously mentioned, throughout the 80s the women's movement worked on developing a consciousness regarding violence, and in the early 90s, women were paying attention. Women were organically and psychologically ready to assign the government responsibility for assessing the problem. Organically in the sense that women were structurally ready; for example women's participation in FORO-MUJER shows that they were organized to press for the adoption of legislation on violence against women. Additionally, an important number of women had changed their traditional focus on home and family and were psychologically ready to pressure the government to address gender violence, gender equality and ending with women's subordination. As such, the adoption of the law received important support from the women's movement, and all women in Congress voted for the adoption of the legislation.

Finally, the international context focusing on women's human rights and the adoption by Peru of the UN Declaration on the Elimination of Violence against Women (DEVAW) in June 1993 also pressured Fujimori's government to adopt legislation on violence. Women had initiated the legislative process well before the international norm was adopted. Throughout the 80s and early 90s, feminists have been critical for

identifying the issue, raising consciousness and translating domestic violence into the public policy agenda. Helped by a favorable political context in the early 90s, as well as support from the women's movement, the feminists were able to pressure the government to adopt a norm against domestic violence.

Table 1. National Legislation on Domestic Violence

|                    |  |
|--------------------|--|
| Peru               | Law No.26260 adopted in December 1993 "Law for Family Protection"  |
| Chile              | Law No.19.325 adopted in August 1994 "Establishing Standard Procedures and Penalties for Acts of Violence within the Family" |
| United-States      | Law No 103-322 adopted in September 1994, "Violence against Women"   |
| Argentina          | Law No.24.417 adopted in December 1994, "Protection against Family Violence"   |
| Panama             | Law 27 adopted in 1995   |
| Uruguay            | Law 16707 adopted in July 1995, "Law on the Safety of Citizens   |
| Ecuador            | Law adopted in November 1995, "Law against Violence toward Women and the Family"   |
| Bolivia            | Law No.1674 adopted in December 1995, "Law against Domestic and Family Violence"   |
| Costa Rica         | Law adopted in March 1996, "Law against Domestic violence"   |
| Colombia           | Law adopted in July 1996, "Law on Domestic Violence"   |
| El Salvador        | Law No. 902 adopted in September 1996, "Law against Family Violence"   |
| Guatemala          | Law No.9796 adopted in 1996, "Law to Prevent, Punish and Eradicate Family Violence"  |
| Nicaragua          | Law containing amendments and additions to the 1996 Penal Code   |
| Dominican Republic | Law 9497 adopted in 1997, "Law Defining Domestic Violence, Sexual Harassment, and Incest as Crimes"                          |
| Honduras           | Law No.132-97 adopted in 1997 "Law against Domestic Violence"  |
| Mexico             | Law adopted in December 1997, "Law against Domestic Violence"  |
| Venezuela          | Law adopted in September 1998, "Law on Violence against Women and the Family"  |
| Canada             | State without national-level legislation   |
| Brazil             | State without national-level legislation   |
| Paraguay           | State without national-level legislation   |

SOURCE: Inter-American Commission of Women, "First Biennial Report of the Inter-American Commission of Women (CIM) on Compliance with Resolution AG/RES. 1456 (XXVII-O/97)." June 1999. Modified from Hawkins and Humes (2002:236).

### Conclusion

Following the two-stage model of norm diffusion described by Hawkins and Humes (2002), I have demonstrated in this chapter how the feminist section of the women's movement in Peru and the window of opportunities under Fujimori's government contributed to the adoption of the Family Violence Law. National feminist groups have taken different strategies to maintain their autonomy and to develop

consciousness regarding the issue of domestic violence. The particular anti-democratic circumstances that allowed the opening of the system and national pressure made Peru a leading state in the adoption of the Family Violence Law.

In the next chapter, I will explore the implementation problems of the Family Violence Law and the new challenges faced by the women's movement in the 90s. I will analyze how the women's movement changed their strategies to focus more on a rights-based approach and how structural, cultural and internal problems constrains women's movement approach to work for a better implementation of the law.

CHAPTER 3  
THE RIGHTS-BASED APPROACH AND THE IMPLEMENTATION OF THE  
FAMILY VIOLENCE LAW

Introduction

The previous chapter was concerned with the different strategies developed by the feminist movement to pressure the government to adopt national legislation condemning domestic violence and the particular political context that allowed the Law for Protection from Family Violence (hereinafter “Family Violence Law”) to be ratified. This chapter addresses the second step undertaken by the feminist NGOs in their long-term project to tackle domestic violence, their efforts to assure the law was implemented. The two objectives of this chapter are, first, to discuss feminist NGO’s changing approach to domestic violence within an evolving international context, and second, the obstacles that undermined their efforts to implement the Family Violence Law.

In Latin America the end of the 1980s and the decade of the 1990s was a period characterized by democratic transitions. Justice and good governance became part of the political agenda adopted by most of the countries in the region. Additionally, a discourse based on rights became a condition for strengthening democratic society by placing social, economic and human rights at the forefront of Latin American policy debates. Revitalized through this discourse, women’s rights gained special attention and were declared at the World Conference of Human Rights in Vienna in 1993 as an “inalienable, integral and an indivisible part of universal human rights.” Over the course of the 1990s, civilian governments from the region became accountable for their commitments to

democracy and human rights through international conventions that resulted from United Nations conferences, through regional agreements of the Organization of the American States and through the ratification of national legislation. This formal acknowledgement created further international and national debates between governments and activists over implementation.

This new international political context entailed a change for NGOs. From the late 1980s and beginning of the 1990s, NGOs started to adopt a rights-based approach that reflected these changes within the region: they began to develop projects and programs focusing on citizenship, rights and commitments to democratic practices. Vargas argues that the rights-based discourse adopted during that decade involved a broader range of interests, characterized by unprecedented forms of contacts or relationships between the state and civil society (Ibid. 2002:206). Molyneux and Lazar (2003) have studied the changes in NGOs' work in Latin America, and they stress the NGO's rights-based approach as a working and developing project that integrates some or all of the following parameters: having a clear focus on rights as well as gender, culture, ethnicity, religion, or age; giving particular attention to empowerment; increasing participation in formal and informal decision-making processes; having an emphasis on democracy, that involves not only an engagement in some way with governmental processes at international, national or local level, but also includes internal democracy and a participatory relationship with users; promoting projects aiming to bring changes within the society at large as well as improving the lives of the project users (Ibid. 2003:6-7).

As such, many NGOs began to develop projects focusing on the improvement of leadership skills among women in order to increase their access to the political apparatus.

Civil society organizations became involved in the electoral process, and a number of projects aimed at improving the empowerment of low-income groups such as women, indigenous peoples, and children (Ibid. 2003:32). Additionally, NGOs used a language based on citizenship to deepen democracy and to extend the struggle for gender equality to the struggle for the “right to have rights” (Dagnino 1998). As analyzed by Vargas, “this formulation includes the right to equality as well as the right to be different and allows the expansion of rights and the identification of unrecognized rights rather than their limitation to those that have already been defined” (Ibid. 2002:204). During the 90s, women’s NGOs that had often developed from the women’s movement, became very active, undertaking a rights-based strategy where they worked at the grassroots level and lobbied governments for legal reforms that promote and protect women’s rights while monitoring government compliance with international conventions and national laws. This general framework leads me to turn now to the rights-based approach developed by Peruvian feminist NGOs and how they used this rights strategy to work for the implementation of the Family Violence Law.

#### The Implementation of the Family Violence Law

The Manuela Ramos Movement, the Peruvian Women’s Center Flora Tristan, DEMUS, and CLADEM are the four NGOs that participated in my research. Based on my interviews with their representatives, these NGOs present themselves as feminist organizations and use a rights-based approach, arguing that for women to achieve rights they must be free from violence. They work at different levels to improve the implementation of the Family Violence Law. These feminist organizations have a clear focus on women’s human rights and domestic violence as part of their political agendas, as well as other concerns such as “femicidio”, reproductive and sexual rights, and

women's rural rights. Through projects or initiatives to confront domestic violence, they aim to make the state accountable to international, regional and national conventions on violence against women. Except for CLADEM (which only works on monitoring and pressuring for accountability by the state) Manuela Ramos, Flora Tristan and DEMUS have developed different activities to increase women's empowerment. The following sections examine the proactive rights-based approach used by these feminist NGOs to increase women's empowerment and to develop state accountability regarding domestic violence.

### Empowerment

A number of approaches have been taken to define the concept of empowerment (Deere & León 2001, Parpart, Rai & Staudt 2003). As noted by Deere and León, empowerment "is not a linear process with a well-defined beginning and ending that is the same for all women"; it rather needs to be understood as a notion determined by a number of factors such as women's personal and collective experiences, relationships, family, context, history and level of subordination (Deere & León 2001:25). However, a number of scholars (Parpart, Rau & Staudt 2003, Molyneux & Lazar 2003, Deere & León 2001) seem to agree with the work of Rowlands (1998) who argues that empowerment must be understood as including "power to" which is when a group stimulates the interests and activities of others. It is related to "power with" that relates to the ability to work collectively and cooperate in finding a common decision and finally "power from within" relates to individual consciousness or self-esteem (Deere and León 2001:24-25). In general terms, empowerment allows women to challenge their gender subordination, and patriarchal traditions, and to take control of their lives, their bodies, and their sexuality. NGOs are important actors for women's empowerment because they

operate through “informal learning” programs such as workshops which are excluded from the education system. NGOs provide opportunities for women to acquire knowledge on a range of issues, such as gender subordination, reproductive health, domestic violence, gender and legislation, gender and politics, and others (Stromquist 2003:27).

Through workshops, publicity materials, psychological and legal services to domestic violence victims, Manuela Ramos, Flora Tristan and DEMUS develop activities or services focussed on “power from within,” aiming to raise awareness and confidence among women. Those feminist NGOs work on a rotational basis, providing free legal and psychological services for female victims in the Lima police station for women.<sup>1</sup> DEMUS and Manuela Ramos provide legal and psychological consultations in their regular offices. Consultations with psychologists provide a private space where victims can discuss their individual experiences and emotions. Legal orientations with NGO lawyers provide information about women’s rights and the Family Violence Law, and counsel victims about different steps that should be undertaken for their judicial cases.<sup>2</sup> Additionally, DEMUS organizes therapy groups with domestic violence victims, providing a space for reflection where women acquire knowledge and comprehension about domestic violence dynamics.<sup>3</sup> Finally, DEMUS, Manuela Ramos and Flora Tristan have organized an emergency phone lines offering consultations.

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<sup>1</sup> Since 1988 Peru followed Brazil’s example and established “comiseras de mujeres” which are special police stations mostly composed of female staff, trained to respond to domestic violence cases. In Lima metropolitan they are seven women police stations (Lima, Callao, Canto Rey, Independencia, Villa El Salvador, Collique and in the Ministry for Women and Social Development). The Ministry of Interior has also established specialized sections for the same purpose within regular police stations.

<sup>2</sup> Author’s interview with a lawyer from DEMUS, Lima, June 9, 2004.

<sup>3</sup> Ibid.

This direct and individual contact between domestic violence victims and NGO professionals allows raising women's consciousness, developing and rediscovering self-esteem and helps women in their decision-making process. By providing legal and psychological services, NGOs help individuals to make rights important on a personal level and through their rights-based work they "make rights relevant to people's daily lives" (Molyneux and Lazar 2003:52).

NGOs' rights-based approach is also emphasized within their educational materials. Through their pamphlets, the three NGO participants provide general and practical information on domestic violence such as where victims can receive help, who are domestic violence victims, what to do in a situation of violence and expose the general myths attributed to domestic violence. The objectives of those materials aim to increase women's education about domestic violence, and incite victims to denounce violence and to consult NGOs professionals. Additionally, by insisting on myths about domestic violence and on the abnormality of violent behaviors, those educational brochures also play an important role in developing women's awareness at an individual level: they might give to women the impetus to consult or to denounce domestic violence. For these reasons, I believe that Flora Tristan, Manuela Ramos and DEMUS work on an individual basis that might lead to women's empowerment, which is one parameter of the right-based approach.

#### State Accountability

Another important component of the rights-based strategy is the emphasis of NGOs on democracy and their involvement within governmental processes, particularly by working on state accountability for international, regional and national engagements in a way that people are able to exercise their rights and to get access to justice. Indeed, the

implementation of the Declaration on the Elimination of Violence Against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, and the Family Violence Law represent important implementation challenges for the state as well as for NGOs. For the purpose of my study I will concentrate only on NGOs who work to improve the implementation of the national legislation on domestic violence.

One of the main factors that impede an adequate enforcement of the Family Violence Law is the work performed by the main actors responsible for the application of the legislation, such as state prosecutors, police officers, judges and forensic doctors. My interviews with those “justice operators” show a number of obstacles that stand in the way of the enforcement of the law: the lack of human and material resources, delays in investigation, legislative limitations, ineffective sanctions and protective measures, minimization of injuries, ideological biases, and lack of knowledge are among the factors that strongly affect the application of the Family Violence Law.

By increasing their collaboration with the state, Manuela Ramos, Flora Tristan and DEMUS have taken several steps to address enforcement. Because implementation is threatened by actors’ biases, lack of knowledge or sensibility towards the issue, the three feminists NGOs provide workshops for justice operators aiming to increase their understanding of violence against women. Through their workshops, professionals from Manuela Ramos explain why there is gender violence, what is domestic violence and what are the myths and the cycles associated with domestic violence.<sup>4</sup> Flora Tristan has collaborated since 1989 with the Ministry of Interior by providing workshops to police

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<sup>4</sup> Author’s interview with a lawyer from the Manuela Ramos, Lima, May 20, 2004.

officers on violence against women. This agreement between Flora Tristan and the state, which was ratified under former President Garcia, allows the feminist NGO to provide information about women's human rights to police officers who will later receive victims' statements in domestic violence cases.<sup>5</sup> During those workshops, Flora Tristan discusses the quality of attention in police stations, international and national legislation, and the legal procedures that have to be taken into account in domestic violence cases. DEMUS and Manuela Ramos have organized workshops for forensic doctors and judges to increase their sensibility toward the issues. Flora Tristan and Manuela Ramos have collaborated with the Ministry for Women and Social Development (MIMDES)<sup>6</sup> for the implementation of an emergency free phone service for victims of domestic violence.

Another way to engage with the Peruvian state is to intervene in judicial cases. As such, DEMUS and Flora Tristan intervene in judicial leader cases because the precedent-setting legal cases might have an important impact on future legal actions.<sup>7</sup> At the time of the interview, DEMUS was involved in the case of a woman that had been killed by her spouse after using all legal instruments to obtain protection and justice from the courts. In another case involving an assassinated woman, DEMUS complained to the women's rights division within the Office of the Peoples's Ombudsman<sup>8</sup> because the judge did not sentence the murderer. By being involved in such cases, DEMUS attempts

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<sup>5</sup> Author's interview with an activist from the Flora Tristan, Lima, July 2, 2004.

<sup>6</sup> Alberto Fujimori's government created the "Ministerio de Promoción de la Mujer y Desarrollo Humano (PROMUDEH) in 1996 to address women's issues. Recently, the name for "Ministerio de Promoción de la Mujer y Desarrollo Humano" has been changed for the "Ministerio de la Mujer y del Desarrollo Social".

<sup>7</sup> Author's interview with a lawyer from DEMUS, Lima, June 9, 2004.

<sup>8</sup> The "Defensoría Especializada de la Mujer en la Defensoría del Pueblo" was created in October 1996 to monitor government actions toward the protection and the promotion of women's human rights.

to demonstrate that domestic violence can lead to death, thus pressing the government to implement protective and penal measures and try to make the legislation effective and enforceable.

As part of their strategy to raise public awareness about violence against women and pressure the state to act regarding the increasing number of women assassinated by their spouses, DEMUS has also been engaged for two years in a campaign on “feminicidio.” This relatively recent phenomenon is described by DEMUS as a “genocide against women that occurs when historical conditions generate social practices that violate women’s integrity, health, freedom and lives” (DEMUS website). By framing their campaign under the banner “ni a muerta mas,” DEMUS aims to create debates and discussions within the society and tries to sensitize the population about the magnitude of the violence issue.<sup>9</sup> By raising cases with the legal authorities and by developing a campaign on “feminicidio,” DEMUS creates a context that allows them to lobby and push for legislative modifications regarding the penal code and the Family Violence Law. Thus, DEMUS pressures for legislative changes, but also forces the state to be accountable and to ensure and implement protective and punitive measures within the Family Violence Law.<sup>10</sup>

Although Flora Tristan and Manuela Ramos did not embrace a campaign on “feminicidio,” their lobbying activities pressured the government to respect international and national legislation and they monitor government actions. To force the government to face implementation problems, Manuela Ramos and Flora Tristan published in 2003 a

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<sup>9</sup> Ibid.

<sup>10</sup> Author’s interview with a lawyer from DEMUS, Lima, June 9, 2004.

number of articles on the quality of attention by justice operators, such as “ Family and Sexual Violence: a diagnostic on attention services” (Macassi León 2003b). This academic research financed by international donors aims to provide an accurate representation of the implementation of the Family Violence Law by justice operators and to lobby for modifications based on the results of the research.<sup>11</sup> Flora Tristan published a report in 2003 on family and sexual violence assessing the current level of violence, public policies, legislative answers and legal and institutional obstacles incompatible with the Family Violence Law. In the same vein, CLADEM published a report in 2003 on the “National Balance on Domestic Violence in Peru” which assesses government and NGO actions to tackle domestic violence problems and the changes and challenges to improve the situation. Flora Tristan lobbies for the modification of the Peruvian Criminal Code. The NGO published an article on necessary changes to reform the Criminal code and to condemn family violence misdemeanor as a crime against life, body, and health (Macassi León 2003a). Until today, when the assault is classified as a misdemeanor, there is no penal sanction because the Family Violence Law is a civil law. Therefore, those publications provide a framework for NGOs to promote and lobby for policy changes, law implementation and pressure the state to enforce legislation.

Another important strategy for feminist NGOs is to work through “espacios de concertación” where they create alliances with other civil society organizations. This space for dialogue helps to generate discussion between various non-profit groups that might increase grassroots support when feminist organizations present bills to the Congress, and can also lead to coordinated actions in monitoring government actions.

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<sup>11</sup> Author’s interview with the coordinator of the women’s human rights program in the Flora Tristan Center, Lima, May 19, 2004.

Dialogue aims also to increase discussion between government members and NGOs.<sup>12</sup>

An important improvement has been the creation of the “Mesa Nacional para la Prevención y Atención de la Violencia Familiar” where organizations from civil society and the Ministry for Women and Social Development have created a national committee to discuss domestic violence problems with Ministries of Justice, Health, Education, Interior, Public Ministry, and with organizations such as Flora Tristan, UNICEF, and the Network for Women’s Empowerment. This committee aims to create propositions to decrease and prevent domestic violence and to find solutions to improve legislation application. However, according to CLADEM, the committee faces problems: ministry representatives that attend meetings do not have decision-making power or the necessary leadership to engage their ministry in different projects and agreements or simply do not participate in the meetings.<sup>13</sup>

Finally, feminist NGOs use publicity and the media to pressure governments to enforce the Family Violence Law and to increase consciousness within the society at large. These NGOs used posters, magazines, website, create public events, and published articles in magazines and newspapers. For example, DEMUS has published articles on domestic violence, sexual and reproductive rights, and religion in Peruvian newspapers such as La República, La Industria, El Gran Diario del Norte, El Tiempo.

In sum, my findings show that through a rights-based approach, feminist NGOs work at the individual and national levels to raise consciousness and provide education about the existence of domestic violence victims’ rights, to increase women’s

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<sup>12</sup> Author’s interview with the coordinator of the women’s human rights program in the Flora Tristan Center, Lima, May 19, 2004.

<sup>13</sup> Author’s interview with a lawyer from CLADEM, Lima, June 1, 2004.

empowerment, and to improve the Family Violence Law, making it operative and enforceable by justice operators.

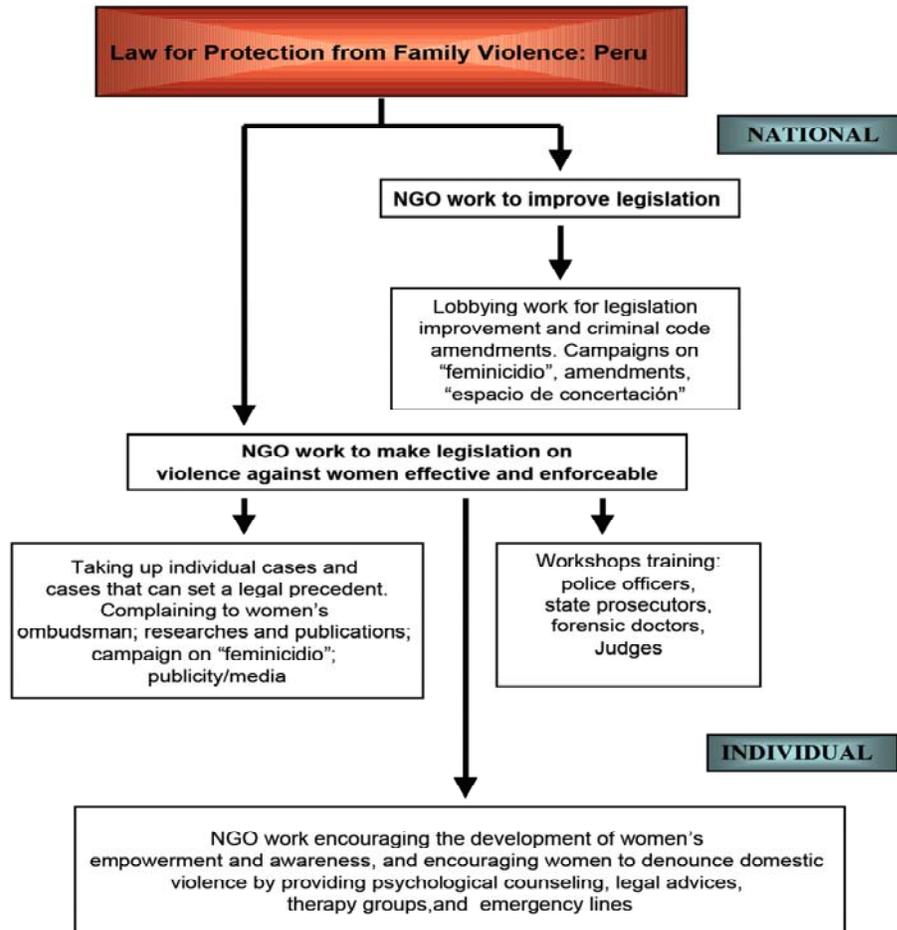


Figure 1. Shows how NGO's work at the individual and national levels on violence against women. Modified from the table developed by Molyneux and Lazar (2003:65).

As the above conceptual chart designed by Molyneux and Lazar (2003:65) indicates, feminist NGOs developed particular strategies working on an individual basis to empower women through psychological and legal counseling, therapies groups, educative materials while working at a national level to make the state accountable of the Family Violence Law through dialogue, lobbying, campaigning, researching and publishing, workshops, publicity and legal actions.

### Limitations to the Rights-Based Approach

The previous section highlights how feminist NGOs used the rights-based approach to increase women's empowerment and to make the state accountable to their legal commitments, particularly the enforcement of the Family Violence Law. Although some important successes have been achieved by NGOs working to tackle domestic violence, three obstacles stand in the way of their efforts. These obstacles are structural, cultural and internal (within the feminist NGOs themselves). The following section discusses the limitations to the rights-based approach encountered by feminist NGOs in their efforts to improve the situation regarding domestic violence.

#### Structural Obstacles

NGOs' rights-based strategy implies an operational legal system able to provide equal access to justice, fair and efficient legal procedures, law enforcement, effective protection, and a prompt trial. However, NGOs themselves face a number of structural obstacles that undermine their efforts to develop a rights-based approach aiming to make the state accountable to the Family Violence Law. According to Culliton (1994), structural problems relate to the legal system, particularly the failures to effectively investigate, prosecute, and punish domestic violence, which, in turn, results in a failure to effectively protect victims from further injuries. The results of my research show that investigative delay, legislative limitations, protective measures and ineffective sanctions are structural problems constraining the application of the Family Violence Law and limiting NGO's rights-based strategy.

More specifically, due to the bureaucratic system neither the women's police stations nor the National Police of Peru are able to complete their investigations within the legal time period. Police officers' investigations are generally completed within a

minimum of twenty days to two months instead of the required five days.<sup>14</sup> Police investigations are also limited by a legal disposition that empowers them to search the home of the accused only in cases of “delito flagrante” which means when police witness the assault or the misdemeanor.<sup>15</sup> Because domestic violence generally takes place within the household, this article has a weak application.

Police officers and state prosecutors have a clear obligation to provide protection to domestic violence victims.<sup>16</sup> While recognizing their obligations, police officers do not provide any particular protection measures arguing that they cannot legally force the aggressor to leave the house; they say “ if the aggressor is unconscious, shameless, and does not want to leave his house, I can’t take him out because the law does not allow me to do so.<sup>17</sup>” Police officers argue that they can remove the aggressor from the house and detain him for up to 24 hours only in cases of “delito flagrante,” which rarely occurs because as I mentioned, police rarely witness domestic violence. State prosecutors are also legally responsible for providing temporary protective measures such as forcing the removal of the aggressor from a victim’s home.<sup>18</sup> However, the state prosecutor that I interviewed mentioned that judges are the only justice operators legally instructed to provide protective measures.<sup>19</sup> Since it usually takes four to seven months for a judge to

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<sup>14</sup> Art. 4 Family Violence Law, Lima.

<sup>15</sup> Art. 7 Family Violence Law, Lima.

<sup>16</sup> Art. 6 Family Violence Law, Lima.

<sup>17</sup> Author’s interview with the Captain from Surquillo’s police station, Lima, June 11, 2004.

<sup>18</sup> Art. 10 and art. 11 Family Violence Law, Lima.

<sup>19</sup> Author’s interview with a state prosecutor from Cono Norte, Lima, May 18, 2004.

become aware of a case and to provide protective measures, the majority of the victims remain threatened, living with their aggressors.

Lack of effective sanctions for domestic violence aggressors is another structural problem constraining the implementation of the law. The Family Violence Law classifies physical violence as either a misdemeanor or a felony offense and relies on the Penal Code for a deeper classification. The Penal Code establishes a system where offenses are classified according to the number of days required for treatment and disability leave resulting from injuries. Injuries requiring ten days or fewer are categorized as misdemeanors and there is no penal sanction; those requiring more than ten but fewer than thirty days are simple felonies and the aggressor can receive a penal sanction from a criminal judge; and those requiring more than thirty days such as disfiguration, permanent mutilation, or placing the victim's life in imminent danger are classified as aggravated felonies. The Penal Code was modified in 1997 to stipulate that misdemeanor offenses can rise to the level of a felony when the injuries are sustained in domestic violence (Women's Rights Watch report 2000). Based on such a classification, psychological violence is hardly qualified and is treated as a misdemeanor because it does not fit the Penal Code's classification, which does not translate psychological trauma into a quantifiable injury.

According to NGO participants, most domestic violence cases are treated as misdemeanors and not as felonies. When the offense is classified as a misdemeanor, perpetrators can be prevented from seeing their children; they can be removed from their household, they might be held liable for family financial support or civil reparation and

they can receive psychological therapy or be forced to carry out community service.<sup>20</sup> However, women's rights activists, state prosecutors and judges mentioned that sanctions can be expected at most to remove the aggressor from the house (six months to one year) or to pay a minimal fine for a civil reparation. Those penalties are negligible and do not dissuade aggressors from committing violence against women. Finally, cases are less likely to be classified as felonies and prison is rarely the verdict for domestic violence cases because according to the participants, domestic violence is still not considered a crime.

The lack of material resources and staffs within the criminal justice system is another structural impediment that has been reported by participants. To improve the rapidity and the quality of their work, police officers need equipment such as computers, faxes, and police cars, and they must increase their coordination with multidisciplinary teams composed of psychologists, lawyers, social workers and forensic doctors. Police stations need additional trained staff to attend to calls and to provide better protection to domestic violence victims.<sup>21</sup> In the same vein, there are too few family prosecutors and judges to deal with the important backlogs domestic violence cases. In Lima metropolitan, three specialized judges attend domestic violence cases for a population of 6,7 inhabitants.<sup>22</sup> In the district of Cono Norte<sup>23</sup> in Lima there are five specialized family

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<sup>20</sup>Art 21 Family Violence Law, Lima.

<sup>21</sup>Author's interviews with captains from women's police stations in Lima, June 4, 2004, in Villa Salvador, Lima, June 8, 2004 and with the captain from the national police station in Surquillo, Lima, June 11, 2004.

<sup>22</sup> "Instituto Nacional De Estadistica E Informatica" 2000.

<sup>23</sup> Cono Norte includes districts of Comas, Independencia, San Martín de Porres, Los Olivos, Puente Piedra, Carabaylo, Santa Rosa y Ancón.

judges<sup>24</sup> and five<sup>25</sup> state prosecutors for a population near to 2 millions. Those numbers reflect the lack of priority attributed to domestic violence and other family issues for the Peruvian government.

These structural impediments provide insights into the difficulties of enforcing the legislation, which compromise the NGOs rights-based approach. Many informants mentioned the lack of political willingness to really invest in the problematic issues, such as has happened with the “Mesa National para la Prevención y Atención de la Violencia Familiar.” Ministries send representatives with no decision-making powers or simply do not send any representative to attend meetings. In her report on “Family Sexual Violence, Abortion and Reproductive Rights” Yvonne Macassi León (2003c) highlights the fact that the Ministry for Women and Social Development, which has the most important programs for decreasing and preventing domestic violence does not have the necessary budget to effectively implement their plans. Indeed in 2003 the Ministry received 2.4% of the national budget, which is distributed among two sections of the ministry: women’s affairs and social development. According to CLADEM, most of the budget is allocated to the social development department of the Ministry. Another problem that has been mentioned is the lack of continuity of the program from one government to another. A newly elected government does not have to continue projects or programs started under former administrations and a political representative has the

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<sup>24</sup> <http://www.pj.gob.pe/cononorte/historia.htm>

<sup>25</sup> Author’s interview with a family state prosecutor in Cono Norte, Lima, May 18, 2004.

liberty to decide or not to carry out a project on domestic violence: “it depends on their political willingness.<sup>26</sup>”

By adopting a rights-based approach, feminist NGOs have developed important strategies trying to make the state accountable to their legal engagements and to develop women’s empowerment. However, those structural challenges are part of the political and judicial apparatus undermining the NGOs rights-based work, which can appear pointless without broader programs of institutional and legislative reforms (Molyneux and Lazar 2003:83). Feminist NGOs confront important challenges maintaining their right-based work when domestic violence victims do not receive adequate state protection, when sanction towards aggressors are mostly futile, when access to justice is limited, when the justice system is overloaded, and when domestic violence does not appear to be a priority on the government agenda. Moreover, in a country like Peru, where corruption is associated with the judicial and executive powers and where people do not believe that justice might resolve their conflicts, NGOs rights-based work is thus limited by those structural shortcomings.

### Cultural Obstacles

According to all NGO participants, a major problem that limits the rights-based approach and impedes the implementation of the Family Violence Law is the cultural model based on patriarchal power. Cultural attitudes and biases predetermine justice operators’ reactions. Many NGO representatives mentioned that justice operators apply the Family Violence Law based on their own personal criteria and ideology. According to the informant from Manuela Ramos, justice actors still believe that violence against

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<sup>26</sup> Author’s interview with the director of the family violence program in the Ministry of Women and Social Development, Lima, May 26, 2004.

women is a private matter that does not need legal intervention: the family is what needs to be protected. As the captain from the police station in Surquillo highlights “without any doubt, we believe that family is the society’s principal nucleus and cannot be disintegrated: the children are the ones who suffer from the consequences of violence”. The problem of domestic violence seems to remain misunderstood and some justice operators still blame women for being responsible for the situation. A commentary made by one state prosecutor from the Cono Norte illustrates cultural bias towards the victims of domestic violence “women become used to be victims, they are looking for other partners and the same situation happens. Is it bad luck or are women looking for partners with such characteristics? Women become used to violence and being injured (...) they feel comfortable in such situation.<sup>27</sup>” Others believe that women use the Family Violence Law as a mechanism to receive medical attention, to have a motive for divorcing for alimony or to threaten their partners (Macassi León 2003b). Finally, “justice operators” still believe that the only victims involved in domestic violence conflicts are from the lower social class and instable families; they do not have education or decent work and are economically dependent (Macassi León 2003c:19).

On top of that, women’s own gender stereotypes add to the biased attitudes and the idea of being a “good wife” as synonymous with being obedient and submissive (Chant 2003:119). As such, victims of violence still often blame themselves for what happened, accepting their fault, insisting that they deserved what happened, and family well-being remains their first concern.<sup>28</sup> Other factors, such as family networks that pressure women

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<sup>27</sup> Author’s interview with the state prosecutor in Cono Norte, Lima, May 18, 2004.

<sup>28</sup> Author’s interview with the lawyer from Manuela Ramos, Lima, May 29, 2004.

to remain with their families, economic dependency on men's incomes, and the victim's belief that their claims will not be taken seriously, justify women's inactivity and also contribute to reinforce women's stereotypes (Chant 2003).

Through the organization of workshops for justice operators, Flora Tristan, Manuela Ramos, and DEMUS work hard to change cultural attitudes on violence against women. Education is key to improve awareness about domestic violence and "the state has the obligation to develop programs that discuss this issue and women's subordination in the society."<sup>29</sup>

Those myths or cultural biases among institutional actors as well as of women themselves are obstacles to the implementation of the Family Violence Law. Molyneux and Lazar suggest that cultural resistance affects rights-based strategy when it is opposed to cultural practices (Ibid. 2003:88). As previously discussed, I believe that my interviews provide evidence of such obstacles: cultural biases and attitudes guide the decision of justice operators and affect NGO's efforts in their projects to make the state accountable to the Family Violence law. By providing workshops to justice operators, these NGOs aim to change their cultural attitudes. Although domestic violence is socially unacceptable in urban areas (but remains justified in the countryside as indicated by the Peruvian proverb "más me pegas, mas te quiero") machismo from both men and women impede an adequate application of the law.<sup>30</sup>

Similarly to what has been observed by Molyneux and Lazar, I would say the feminist NGOs work hard to change Peruvian culture. As an activist from Flora Tristan

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<sup>29</sup> Author's interview with the coordinator of the women's human rights program in the Flora Tristan Center, Lima, May 19, 2004.

<sup>30</sup> Ibid.

mentioned “one of our challenges is to change behaviors, and to bring effective actions that will entail cultural change.<sup>31</sup>” NGOs work on transforming women’s cultural attitudes through workshops, legal and psychological help and publicity materials; however, although NGOs try to confront women’s biases, changing cultural attitudes and stereotypes is a long-term process. As mentioned by the informant from Manuela Ramos “we note that mentalities of services’ users still need to be changed.<sup>32</sup>” This is why education on gender subordination and violence against women is needed among young people. Domestic violence is an issue that has existed for decades but it is apparently new for the Ministry of Education and there are no specific programs aiming to educate students about domestic violence or to prevent domestic violence.<sup>33</sup> Notwithstanding that domestic violence is an epidemic in Peru, the issues of domestic violence are assessed through broader gender questions but elementary school and high school curricula do not provide specific information on the problem.<sup>34</sup>

#### Internal problems: the “NGOization” of the Feminist Movement

In Latin America the 1990s brought about the return to democratic rule, the adoption of a good governance agenda, and the formal recognition of women’s rights. This period was also characterized by the adoption of neoliberal reforms that led governments to cut social programs and public services, increasing the role played by civil society organizations within social welfare services and compensating for

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<sup>31</sup> Author’s interview with an activist from the Flora Tristan Center, Lima, June 2, 2004.

<sup>32</sup> Author’s interview with the lawyer from the Manuela Ramos Movement, Lima, May 20, 2004.

<sup>33</sup> Author’s interview with the representative of the program “Peace and Culture” in the Ministry of Education, Lima, June 20, 2004.

<sup>34</sup> Ibid.

government withdraw from social welfare functions (Radcliffe 2004). Under this changing political and economic context of the 1990s, Peru, as well as most countries in the region, saw the proliferation of “specialized and professionalized” feminist NGOs dedicated to intervene in national and international policy processes (Alvarez 1998:306). Additionally, the creation of governmental institutions such as women’s ministries and legislation protecting women’s rights, entailed a demand for non-governmental organizations that could provide specific information on women’s issues. The spread of NGOs during that decade was also related to the weakening and ineffectiveness of the state, and to international funding agencies’ decisions to redistribute their financial resources to more professionalized organizations. This relatively recent phenomena that took place all over the region has been described by Sonia Alvarez as “NGOization,” which refers to institutionalization of the feminist movement (Alvarez 1998, Vargas 2002). The rights-based approach involves NGOs engagement in some way within the governmental process. By their intervention in the policy process and making the state accountable for women’s rights, NGOs were criticized by the broader women’s movement. As a result, fragmentation and tensions towards the strategies used to pressure the state increased, and a growing distance between NGOs and grassroots supports was observed (Alvarez 1998). Thus, the NGOization of the feminist movement might explain enforcement problems of the Family Violence Law.

While trying to consolidate the gains realized during the 80s and early 90s, feminist NGO’s began to focus more on strategies to deal and negotiate with the authorities rather than questioning the state. As such, the public, political sphere became the main focus for feminist NGOs who concentrated their energies developing successful lobbying

tactics (Vargas 2002) as well as other strategies such as campaigning, dialogue with governments and civil associations, monitoring justice operators, and legal actions with the objective of influencing government policies and mechanisms. As I discussed in the previous chapter, the ratification of the Family Violence Law in 1993 provides information on Peruvian feminist strategies to make the state accountable for women's rights in the context of domestic violence.

Throughout the changing international context of the 1990s, the NGOization of the feminist movement and their approach based on rights, increased dialogue and negotiations between the state and feminist NGOs, transformed their relationships into closer contacts than in the previous decade. However, as Vargas comments "the policy of negotiation with actors in the public political sphere (...) gave rise to a series of tensions and conflicts" (Ibid. 2002:208). Similar to the division between feminist activists identified as "bourgeois" and feminist militants during the 1980s, the new situation has provoked a division between "las ongistas" versus "el movimiento" (Alvarez 1998:312). Such division has taken place in other countries like in Chile where the campaign for Congressional elections in 1991 highlighted conflicts between "las profesionales" and "las pobladoras" (Baldez 2002:185). The latter believe that feminists have abandoned the core of feminist principles, which undermine the NGOs capacity for innovation and being autonomous from the state and donor agencies. The tension between the "ongistas" and the "movement" is also emphasized because feminist NGOs are in a particularly advantageous position in the sense that they have access to important funding from national or international institutions which allows them to employ remunerated professionals. They also benefit from a strategic position in terms of their

relationships with public officials, the media, and donor agencies (Alvarez 1998, Vargas 2002). However, this strategic position has caused critics to question NGO's accountability. Scholars, such as Sara Radcliffe (2004) argue that NGOs are not necessarily accountable to civil society, but rather to national and international funding agencies (Ibid. 2004:205).

While all NGOs that I interviewed were clear about the importance of remaining independent, objective, and autonomous from international and national donor agencies, I found many examples illustrating this close engagement with the state. For instance, Flora Tristan signed an agreement with the Ministry of Interior to provide workshops to police officers on women's human rights and violence against women, telephone services have been coordinated between Flora Tristan, Manuela Ramos and the Women's Ministry and Social Development, and Flora Tristan has been also very active in the creation of a "mesa de concertación" involving ministries and NGOs to discuss domestic violence prevention. However, the informant from Manuela Ramos mentioned "while we always remain independent (from the state) and we will always critique and denounce, cooptation is a risk."<sup>35</sup> The rights-based approach used by feminist NGOs to increase their participation within governmental processes and their attempt to make the state accountable to women's rights entailed a closer relationship with the state, but risks of cooptation are still present and impose an important limit to the rights-based strategy. As during the 1980s, the question of autonomy entailed fragmentation within the feminist movement.

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<sup>35</sup> Author's interview with a lawyer from the Manuela Ramos Movement, Lima, May 20, 2004.

Academics have also analyzed the adoption of the rights-based approach, focusing on state, public policy and the NGOs' integration into the formal political sphere that have distanced feminists NGOs from popular grassroots support (Alvarez 1998, Baldez 2002, Vargas 2002). Feminism depends upon the support of a broader movement in civil society to strengthen its minority position and to counterbalance the impact of its interaction with the state; however, "without local mobilization with women from grassroots organizations, feminists might lack the broad social base that would enable them to press more effectively for the implementation of the many new rights and entitlements recently earned through increased engagement in political-institutional arenas on a national, regional, and global scale" (Alvarez 1998:316). Therefore, feminist integration into conventional ways of doing politics or "realpolitik" have thus weakened feminist relationships within the broader women's movement, which lost strength from the 1980s.

Feminist NGOs work to preserve their interactions with grassroots organizations from the women's movement. As I mentioned, Flora Tristan has been very important in establishing the dialogue committee between civil society and government, and Manuela Ramos works in close collaboration with the "Casa del Bien-Estar," supporting a women's community organization that provides legal, health, and educational services, along with workshops for women from the urban and popular sectors in Lima. However NGOs interactions with grassroots organizations appear to be limited. Those limitations can be explained in terms of budget, staff and NGOs' priorities to work with the state. The lack of support from grassroots organizations might undermine the capacity for feminist NGOs to influence public policy implementation. In her study of the Chilean

women's movement and political mobilization, Baldez highlights a similar conclusion: women at the grassroots levels do not feel that feminist NGOs adequately represent their concerns. In the same vein, when feminist NGOs promote their policy agenda within the Congress, they cannot rely on movement activists to support their proposals (Ibid. 2002:191). As Vargas observed "without the alliances and interactions which work to transform political culture, the social base of the feminist movement disappears, thus limiting its chances of gaining recognition and its capacity to influence civil society and the government" (Ibid. 2001:210).

Therefore, due to those limitations resulting from the rights-based approach and particularly by the decision to become engaged with government processes, feminist NGO's might have difficulties in articulating their claims within the formal public and political arenas which are still embedded in patriarchal power. Those limitations provide important insights that might explain the difficulties encountered by feminist NGOs in their policy implementation projects.

Finally, structural, internal and cultural obstacles that limit the rights-based approach are not specific to the Peruvian situation. Structural problems have been highlighted by many academics and remain present in a number of countries in Latin America. In Brazil Fiona Macaulay (2000) discusses the lack of support for domestic violence victims, the ineffective penal sanctions for aggressors and the deficiency within the judicial system that fail to prosecute many domestic violence cases. Similarly, in Nicaragua Nikki Johnson (2002) highlights the lack of protection for domestic violence victims and the legislation enforcement problems. She also mentions that women's rights are constrained by penal and civil codes that still considered women as equivalent to

minors and by the existence of old concepts such as chastity and family honor. As I previously mentioned, the institutionalization of the women's movement has been a regional tendency; the consequences of such changes took place all over Latin America and are not specific to Peru (Alvarez 1998, Baldez 2002, Vargas 2002). Finally, the patriarchal model and biases toward domestic violence is common in Latin America. As Culliton mentioned "a number of degrading myths about Latina women create real obstacles to the development of legal norms enforcing fundamental rights" (Ibid. 1994:2).

### Conclusion

During the 90s, the right-based approach allowed feminist NGOs to work on enforcing and improving the Family Violence Law. As my research shows, feminist NGOs work at the personal level on women's empowerment and at the national level through their participation within government processes making the state accountable to women's rights. Furthermore as observed by Molyneux and Lazar (2003) the work undertaken by NGOs aims to change cultural attitudes and public opinions toward domestic violence. Although feminist NGO participants have realized important achievements, some obstacles similar to those in other regions in Latin America limit the rights-based approach. Many obstacles highlighted in a 2000 report by Women's Rights Watch remain present in 2004. Feminist NGOs are accomplishing laudable efforts to make rights valuable for women and justice operators, however, NGOs do not replace the state and many of those obstacles need to be addressed by the Peruvian government itself.

Finally, Fujimori's authoritarian presidency under which these measures began to be implemented might also explain why today the Family Violence Law has enforcement problems. As many informants mentioned, Fujimori strategically ratified the Family Violence Law and other legislations promoting women's rights to maintain his popularity

and to receive international funding.<sup>36</sup> While adopting programs on domestic violence, Fujimori's government was concurrently involved in a series of human rights abuses such as forced sterilization programs titled "las ferías de la trompas" and against people criticizing the legitimacy of his government. The authenticity of the motives for adopting legislation promoting women's rights might have been opportunistic, and without the necessary governmental willingness to really increase women's status and legal protection. Up to now, this lack of governmental willingness is still present in the Peru and is a potential explanation for implementation problems.

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<sup>36</sup> Author's interview with the director of Family Violence Program, Ministry of Women and Social Development, Lima, May 26, 2004.

## CHAPTER 4 CONCLUSION

Although domestic violence has traditionally been considered a private issue pertaining to the family domain, the last two decades have led to the recognition of the depth of the problem and the importance of state intervention. A principal objective of this study was to trace the evolution of the Peruvian feminist movement: its attempt to place the issue of domestic violence on the public agenda; its increasing desire to obtain government acknowledgement of the problem; and its increasing concentration on developing women's consciousness. Another purpose was to discuss the current phase of feminist NGOs' activity in their long struggle against domestic violence – specifically as they try to make the state accountable to the Family Violence Law while at the same time providing adequate tools for women's empowerment.

Throughout the 80s and early 90s, the Peruvian feminist movement made successful advances in the field of domestic violence. By applying a two-stage model of norm diffusion, I argue that feminists played a central role in raising awareness on violence against women, making domestic violence an issue of political and public interest while struggling to maintain their organizational and ideological autonomy as a necessary political strategy. I claimed that under an authoritarian regime and a paradoxical context, strategic alliances were created between different women's groups who seized the opportunity to press for the adoption of the Family Violence Law. I highlighted the interaction between the feminist movement, Congresswomen and "femocrats" who acted in a "triangle of empowerment" joining their efforts and bridging

their different interests in pressuring the government to adopt a law against domestic violence (Vargas and Wieringa 1998). Although the international context was favorable to women's rights and Fujimori needed to enhance the international image of a government undertaking the parameters of an authoritarian regime, I demonstrated that Peru was a leader country in the field of domestic violence legislation.

The changing international context of the 90s contributed to institutionalize the feminist movement and transformed the feminist approach towards the state, replacing a traditional antagonist relationship for an interaction based on a careful collaboration. I argued that through a rights-based discourse, Peruvian feminist NGOs have been working on an individual and national basis providing services to empower domestic violence victims, and working to improve law enforcement by training justice operators, lobbying, campaigning and so forth. However, my research showed that structural, internal and cultural obstacles limit feminist NGO rights-based approach constraining their efforts made to improve the implementation of the Family Violence Law. Structural obstacles within the political and justice system have limited the rights-based approach because they challenge NGO efforts for policy implementation. A general cultural attitude from women as well as justice operators has restricted the enforcement of the Family Violence Law. Finally, internal obstacles have created fragmentation within the feminist movement and have decreased grassroots supports limiting NGOs rights-based approach in the sense that feminist organizations might not have the necessary support from the broader women's movement to work for the advancement and enforcement of the Family Violence Law.

This study raises important questions on the impact of the Peruvian feminist movement: has the feminist movement successfully accomplished their objectives regarding the adoption and implementation of the Family Violence Law over the last two decades? The Peruvian feminist movement has certainly had an impact on policy outcomes. Peruvian feminists' actions and discourses have been successful in making visible the issue of violence against women, in highlighting the problem within the public agenda, and in pressing for the adoption of a law condemning domestic violence. The ratification of the Family Violence Law has been an important impetus for social change. As noted by Rienzo and Wald (1997:11) "law (...) can change perceptions, which can alter behavior which, in time, can alter attitudes." The law helped feminists to promote social and cultural changes within the broader society as well as within the public institutions. The Family Violence Law has been highly significant although there are enforcement problems. By condemning domestic violence, Peruvian authorities have legally recognized the problem and made violence against women a publicly and socially unacceptable behavior.

Although feminist NGOs play an important role in trying to change cultural attitudes, the task is far from being over. Transforming cultural attitudes remains an important challenge. On the other hand, feminist actions have not been as successful in terms of implementation. Do they fail in the enforcement of the Family Violence Law? Why have feminist NGOs not been more successful in the implementation of the Family Violence Law? Although they have taken multiple initiatives, feminist NGOs have limited resources and they do not replace the state, which remains the main actor accountable for the implementation of the law.

The Peruvian state has undertaken different means to address the issue. A number of important amendments to the Family Violence Law have been enacted in the past years following the publication of the Human Rights Watch Report in 2000. Currently, the state recognizes sexual violence as a type of domestic violence;<sup>1</sup> the Family Violence Law now protects intimate partners that do not live under a same roof;<sup>2</sup> the mandatory conciliation session between aggressor and victim before the prosecution of the case is eliminated;<sup>3</sup> police investigation is limited to five days and state prosecutors have the legal authority to provide protection measures.<sup>4</sup>

The Ministry for Women and Social Development has taken also various important initiatives to tackle domestic violence. In March 1999, they created Emergency Women Centers where domestic violence victims can find under a same roof women police station, state prosecutor, legal and medical services.<sup>5</sup> Users are satisfied with the services offer, however few domestic violence victims attend these centers (Macassi León 2003b: 19). The Ministry for Women and Social Development implemented a shelter for victims, telephone service the “línea de emergencia ayuda amiga” and provide workshops for justice operators as well as for the community at large. They are also making laudable efforts through different initiatives such as the “Plan Nacional Contra la Violencia Hacia

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<sup>1</sup> Article 2, Family Violence Law.

<sup>2</sup> Since July 2000, the article 2i) of the Family Violence Law protected domestic violence victims in cases where the abusers do not resided together “quienes hayan procreado hijos en común, independiente que convivan o no, al momento de producirse la violencia.”

<sup>3</sup> Since January 2001, the law 27398 abolished the mandatory conciliation controlled by state prosecutors in domestic violence cases. Today judges are making conciliation between partners.

<sup>4</sup> While the law 27988 modified in May 2003 includes this modification, I previously highlighted in chapter 3 the enforcement problems faced by these measures.

<sup>5</sup> They are ten Women Emergency Centers in Lima metropolitan: Callao, Comas, Lima, San Luis, San Juan de Lurigancho, San Juan de Miraflores, Surco, Ventanilla, Ventanilla-Pachacutec, Villa El Salvador.

la Mujer 2002-2007". This program involves the participation of the ministries of education, health, justice, and interior, and aims to develop strategies to prevent domestic violence, to increase the quality of services offer by justice operators, and to investigate and revise the actual legislation. Nevertheless, the implementation of this program is seriously threatened. As Yvonne Macassi León observes "the role of the Ministry for Women and Social Development has a weak position within the executive sector because their propositions are not mandatory for other governmental sections, which impede a transversal and multisectorial vision for the elaboration of strategies linked to domestic violence (Ibid. 2003b:25). Moreover the lack of financial resources impedes the development of sustainable action and coordination between the ministries involved in the "Plan Nacional."<sup>6</sup> Other ministries have also realized different activities to address domestic violence. As such, the Ministry of Health organized a campaign on the prevention of domestic violence in 2001 and the Ministry of Interior organized workshops and classes on domestic violence to police officers (Ibid. 2003b:21). Finally, most of the government's initiatives have focused on urban zones rather than on rural areas. While Peru has 28 million citizens, more than one third of the population lives in Lima (7.5 millions of inhabitants). As a result, progress in terms of law enforcement has been carried out mostly in this urban capital, where all governmental institutions are located.

Although Peru's initiatives are laudable, many expectations have not yet been met, and law enforcement remains an important challenge for Peruvian authorities. On the other hand, is it realistic to hope for Peru's implementation of the Family Violence Law?

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<sup>6</sup> Author's interview with a lawyer working for the Women Emergency Center, Lima, June 4, 2004.

Peru, as a developing country, faces many limitations: one of the factors impeding the enforcement of the Family Violence Law, as well as most Peruvian legislation, is the lack of economic resources. Peru has realized a number of important achievements; nevertheless, given Peru's level of development, we cannot expect Peru to perform as industrialized countries. Although our expectations should remain realistic concerning the law's enforcement, Peru has signed legal commitments that make the authorities accountable to address the problem. According to these commitments, officials are under the obligation to provide and improve programs, projects and activities that efficiently address the issue on violence against women in urban areas as well as in the countryside.

While the work of the Peruvian feminist movement and feminist NGOs has been instrumental in the ratification and enforcement of the Family Violence Law, the broader women's movement and grassroots organizations have been also important throughout the years. During the 1980s and early 1990s grassroots organizations supported feminist groups by participating in marches against domestic violence and, as "promotores legales", they have taken part in different projects aiming to educate and increase consciousness-raising within low-income women (Johnson 2002). A complete analysis on the advances made in the field of domestic violence would require further research on the role played by the broader women's movement and its contribution to the struggle on domestic violence. Women grassroots organizations are important as well as other institutional actors involved within the project of addressing violence against women.

To be effectively addressed, domestic violence should involved the participation of various actors specialized in diverse fields. Women need state protection to guarantee their basic rights of being free from violence. They need justice operators adequately

trained to respond to domestic violence cases, they need access to education, they need more legal and psychological counseling's and they need material support, such as women's refugees, in order to escape domestic violence. However, as Fiona Macaulay points out, there is "a general failure to think through strategies to deal with violence against women as an integrated social policy, rather than as isolated measures" (Ibid. 2000:159). I believe that various initiatives such as the "Plan Nacional" involving ministries concerned by the issue or the "mesas de concertación" creating dialogue between the civil society organizations and the government are important steps to address the issue based on a more integrated approach. Future avenues of research would need to integrate all those different actors that were not part of this study but that undertook important efforts in the struggle against domestic violence.

Finally, future research on the issue should include more quantitative data in order to determine, for instance, how many judicial cases have been prosecuted, their outcomes and how they were enforced. It would be interesting to observe how justice operators treat domestic violence victims in order to assess operators' behaviors and attitudes towards victims, and to examine NGOs' activities that strive for greater enforcement of the law. Peru is currently involved in judicial reform, and future research should analyze how the reform will address the policy gap that still leaves too many women without real access to justice, without legal individual protection, and without a life free of violence.

APPENDIX  
LAW FOR PROTECTION FROM FAMILY VIOLENCE

The “Ley de Protección Frente a la Violencia Familiar” No. 26260 was adopted in December 1993 and was amended by the Law No. 26763 in March 1997.

**TÍTULO PRIMERO  
DISPOSICIONES GENERALES**

**Alcance de la ley**

**Artículo 1º**

Por la presente Ley, se establece la política del Estado y de la sociedad frente a la violencia familiar, así como las medidas de protección que correspondan.

**Definición de violencia familiar**

**Artículo 2º**

A los efectos de la presente Ley, se entenderá por violencia familiar cualquier acción u omisión que cause daño físico o psicológico, maltrato sin lesión, inclusive la amenaza o coacción graves y/o reiteradas, así como la violencia sexual, que se produzcan entre:

- a. Cónyuges
- b. Ex cónyuges
- c. Convivientes
- d. Ex convivientes
- e. Ascendientes
- f. Descendientes
- g. Parientes colaterales hasta el cuarto grado de consanguinidad y segundo de afinidad
- h. Quienes habitan en el mismo hogar, siempre que no medien relaciones contractuales o laborales.

Defensorías del Niño y del Adolescente y servicios municipales para que asuman una función eficaz en la lucha contra la violencia familiar. Las acciones dispuestas en el presente artículo serán coordinadas por el Ministerio de Promoción de la Mujer y del Desarrollo Humano.(6) (6A)

- h) Establecer las medidas necesarias a fin de implementar acciones de prevención y atención de la violencia familiar en las zonas rurales del país.(7)

## TÍTULO SEGUNDO COMPETENCIA

### CAPÍTULO PRIMERO

#### De la Intervención de la Policía Nacional

##### De la denuncia policial

###### Artículo 4º

La Policía Nacional, en todas las delegaciones policiales, recibirá las denuncias por violencia familiar y realizará las investigaciones preliminares correspondientes, dentro de los cinco días hábiles

(6) Inciso modificado por la Ley Nº 27306

(6A) El Ministerio de Promoción de la Mujer y del Desarrollo Humano (Promudeh) es actualmente el Ministerio de la Mujer y Desarrollo Social (MIMDES).

(7) Inciso modificado por el artículo único de la Ley Nº 26763. Artículo modificado por el Artículo 1 de la Ley Nº 27306, publicado el 15-07-2000.

tada para allanar el domicilio del agresor. Deberá detener a éste en caso de flagrante delito y realizará la investigación en un plazo máximo de 24 horas, poniendo el atestado en conocimiento de la fiscalía provincial que corresponda en un plazo máximo de 15 días.

De igual manera podrá conducir de grado o fuerza al denunciado renuente a la delegación policial para el esclarecimiento de los hechos denunciados.(10)

##### Del Atestado Policial

###### Artículo 8º

El atestado policial será remitido al Juez de Paz o Fiscal Provincial en lo Penal, según corresponda, y al Fiscal de Familia, para ejercer las atribuciones que le señala la presente ley.

La parte interesada podrá igualmente pedir copia del atestado para los efectos que considere pertinente o solicitar su remisión al juzgado que conociere de un proceso sobre la materia o vinculado a ésta.

### CAPÍTULO SEGUNDO

#### De la Intervención del Ministerio Público

##### Del conocimiento y acciones iniciales del Fiscal Provincial

###### Artículo 9º

(10) Artículo modificado por el Artículo Único de la Ley Nº 26763, publicado el 25-03-97 y posteriormente modificado por el Artículo 1 de la Ley 27306, publicado el 15-07-2000.

de recibida la denuncia, bajo responsabilidad. Las denuncias podrán ser formuladas por la víctima o cualquier persona que conozca de estos hechos y podrán ser presentadas en forma verbal o escrita.(8)

##### De los formularios tipo y de la capacitación policial

###### Artículo 5º

Para tal efecto, el Ministerio del Interior expedirá formularios tipo, para facilitar las denuncias y asimismo, cartillas informativas de difusión masiva. Asimismo dispondrá la capacitación de personal especializado en la Policía Nacional, para la atención en lo dispuesto en esta Ley. (9)

##### De la investigación policial

###### Artículo 6º

La investigación policial se sigue de oficio, independientemente del impulso del denunciante y concluye con un parte o atestado que contiene los resultados de la investigación. Durante la misma, pueden solicitarse los informes necesarios para el esclarecimiento de los hechos. La Policía Nacional, a solicitud de la víctima brindará las garantías necesarias en resguardo de su integridad.

##### De las atribuciones específicas de la Policía

###### Artículo 7º

En caso de flagrante delito o de muy grave peligro de su perpetración, la Policía Nacional está facultada

(8) Artículo modificado por el Artículo 1º de la Ley Nº 27982 del 28-05-03

(9) Artículo modificado por el Artículo único de la Ley Nº 26763, publicado el 25-03-97

El Fiscal Provincial de Familia que corresponda, dará trámite a las peticiones que se formulen verbalmente o por escrito en forma directa por la víctima de violencia, sus familiares, cualquiera de los mencionados en el Artículo 2º de esta ley o cualquier persona que conozca de los hechos, o por remisión del atestado de las delegaciones policiales. También podrá actuar de oficio ante el conocimiento de los hechos.(11)

##### De las medidas de protección inmediatas

###### Artículo 10º

Recibida la petición o apreciados de oficio los hechos, el Fiscal deberá dictar, bajo responsabilidad, las medidas de protección inmediatas que la situación exija.

Las medidas de protección inmediatas que se adopten a solicitud de la víctima, o por orden del Fiscal incluyen sin que la enumeración sea limitativa, el retiro del agresor del domicilio, impedimento de acoso a la víctima, suspensión temporal de visitas, inventarios sobre sus bienes y otras medidas de protección inmediata que garanticen su integridad física, psíquico y moral.

El Fiscal de Familia debe poner en conocimiento del Juez de Familia las medidas de protección adoptadas, en caso de formalizar la demanda.(12)

(11) Artículo modificado por el Artículo 1º de la Ley Nº 27306 publicado el 15-07-2000

(12) Artículo modificado por el Artículo 1º de la Ley Nº 27982 del 28-05-03

**De la solicitud de medidas cautelares****Artículo 11º**

Si la seguridad de la víctima o de su familia requiriera de una decisión jurisdiccional, solicitará las medidas cautelares pertinentes al Juez Especializado de Familia, las que se tramitarán como Medidas Anticipadas fuera de proceso, de conformidad con lo dispuesto por los Artículos 635º y siguientes del Código Procesal Civil. Es especialmente procedente la solicitud de una asignación anticipada de alimentos. Las medidas cautelares se concederán sin el requisito de contracautela.

**De la potestad especial del Fiscal Provincial****Artículo 12º**

Para el ejercicio de su función, el Fiscal gozará de la potestad de libre acceso a los lugares públicos o privados donde exista peligro de perpetración de violencia o ésta se haya producido.<sup>(13)</sup>

**De la conciliación ante el Fiscal Provincial****Artículo 13º**

Eliminado por el artículo 2 de la ley 27982 del 28-05-03.

**De las facultades del Fiscal Provincial en la conciliación****Artículo 14º**

Eliminado por el artículo 2 de la ley 27982 del 28-05-03.

*(13) Artículo modificado por el Artículo 1º de la Ley Nº 27306, publicado el 15-07-2000*

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Juez Especializado de Familia del lugar donde domicilia la víctima o del lugar de la agresión, indistintamente.

**De la legitimidad procesal****Artículo 19º**

El proceso se inicia por demanda:

- a) De la víctima de violencia o su representante.
- b) Del Fiscal de Familia.

**Del procedimiento****Artículo 20º**

Las pretensiones sobre Violencia Familiar se tramitan como Proceso Único, conforme a las disposiciones del Código de los Niños y Adolescentes, con las modificaciones que en esta ley se detallan.

Es improcedente el abandono en los procesos de violencia familiar. <sup>(15)</sup>

**De la sentencia****Artículo 21º**

La resolución judicial que pone fin al proceso determinará si ha existido o no violencia familiar y establecerá:

- a) Las medidas de protección en favor de la víctima pudiendo ordenar entre otras, la suspensión temporal de la cohabitación, la salida temporal del agresor del domicilio, la prohibición temporal de toda clase de visitas

*(15) Artículo modificado por el Artículo 1º de la Ley Nº 27982 del 28-05-03*

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**De los efectos de la conciliación****Artículo 15º**

Eliminado por el artículo 2 de la ley 27982 del 28-05-03.

**De la legitimidad procesal****Artículo 16º**

Culminada la investigación, el Fiscal, además de haber dictado las medidas de protección inmediatas, interpondrá demanda ante el Juez de Familia, la que se tramitará con arreglo a lo dispuesto en el Artículo 18º de la presente ley. <sup>(14)</sup>

**De las otras funciones del Fiscal Provincial****Artículo 17º**

Corresponde además, al Ministerio Público en su función tuitiva visitar periódicamente las dependencias policiales para conocer sobre la existencia de denuncias sobre violencia familiar, e intervenir de oficio cuando corresponda conforme esta Ley.

**CAPÍTULO TERCERO****De la Intervención Judicial****Sub Capítulo Primero  
De la Intervención del Juez  
Especializado de Familia****De la competencia del Juez Especializado de Familia****Artículo 18º**

Corresponde el conocimiento de los procesos al

*(14) Artículo modificado por el Artículo 1 de la Ley Nº 27982 del 28-05-03*

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por parte del agresor, además de cualquier otra forma de acoso para la víctima, entre otras, conforme lo prescribe el segundo párrafo del Artículo 10º de esta Ley.

- b) El tratamiento que debe recibir la víctima, su familia y el agresor, si se estima conveniente.
- c) La reparación del daño.
- d) El establecimiento de una pensión de alimentos para la víctima, cuando corresponda legalmente, si a criterio del juzgado ello es necesario para su subsistencia.

En atención a la función tuitiva de este proceso, el Juez puede agregar a su decisión los mandatos que aseguren la eficacia de las pretensiones exigidas y los derechos esenciales de la víctima.

**De la ejecución forzosa****Artículo 22º**

En caso de incumplimiento de las medidas decretadas, el Juez ejercerá las facultades coercitivas, contempladas en los Artículos 53º del Código Procesal Civil y 205º del Código de los Niños y Adolescentes, sin perjuicio de las responsabilidades penales, a que hubieran lugar.

**De las medidas cautelares y conciliación ante el Juez de Familia****Artículo 23º**

El Juez podrá adoptar medidas cautelares anticipadas sobre el fondo, desde la iniciación del proceso y durante su tramitación, sujetándose en

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tal caso, a lo previsto por el Código Procesal Civil. Podrá ejercer igualmente la facultad de conciliación en los términos previstos por el Artículo 13º de la presente Ley.

#### **De las medidas de protección**

##### **Artículo 24º**

Si el Juez Penal adopta medidas cautelares necesarias para salvaguardar la integridad de la víctima, no procederá ninguna solicitud en la vía civil.

Las medidas de protección civil, pueden sin embargo, solicitarse antes de la iniciación del proceso, como medidas cautelares fuera de proceso.<sup>(16)</sup>

### **Sub Capítulo Segundo Intervención del Juez Especializado en lo Penal**

#### **De las medidas cautelares**

##### **Artículo 25º**

Dictado el auto apertorio de instrucción por hechos tipificados como delitos y que se relacionan con la violencia familiar, corresponde al Juez dictar de oficio las medidas cautelares que señala la presente Ley, así como, según la naturaleza o gravedad de los hechos, o su reiteración, disponer la detención del encausado.

*(16) Artículo modificado por el Artículo 1º de la Ley Nº 27306, publicado el 15-07-2000*

#### **De las medidas de protección**

##### **Artículo 26º**

Cuando el Juez en lo Penal o el de Paz Letrado, conozcan de delitos o faltas cuyo origen sean hechos de violencia familiar, están facultados para adoptar todas las medidas de protección que señala la presente Ley.

Las medidas referidas en el párrafo anterior, podrán adoptarse desde la iniciación del proceso, durante su tramitación y al dictar sentencia, aplicando en lo que fuere pertinente, lo dispuesto por el Código Procesal Civil. Podrán imponerse igualmente como restricciones de conducta, al momento de ordenar la comparecencia del inculpaado y al dictar sentencia bajo apercibimiento de ordenar detención en caso de incumplimiento.

### **TÍTULO TERCERO DISPOSICIONES COMUNES A TODOS LOS PROCESOS**

#### **De la reserva de las actuaciones**

##### **Artículo 27º**

Los antecedentes y documentación correspondiente a los procesos se mantendrán en reserva salvo para las partes, letrados y expertos intervinientes. Las actuaciones tenderán a ser privadas.

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## BIOGRAPHICAL SKETCH

Anouk St-Arnaud graduated from Université Laval in Québec, Canada, in 1999 with a bachelor's degree in law and finished the Québec Bar exams in 2001. In August 2003, she started her Master of Arts in Latin American studies at the Center for Latin American Studies at the University of Florida, where she was awarded a research assistantship for two years of graduate study. Anouk concentrated her graduate studies in political science, law, gender and women's rights. In summer 2004, Anouk was awarded an Interdisciplinary Field Research Grant, which allowed her to go to Lima, Peru, to do her fieldwork. Her research combined her knowledge in law with the training in political science that she received at the University of Florida. She will graduate with her M.A. in August 2005. During the last three years, Anouk gained international working experience in Latin America, where she developed a strong interest in human rights issues. She had the opportunity to work in Panama as a legal assistant for a non-profit organization that promotes women's rights. In 2002, she worked for the Canadian Embassy's Political and Public Relations Office in Bogotá, Colombia, and she became familiar with the political and human rights problems. In 2002, she worked as lawyer-litigant in civil and family law for the General Attorney of the Province of Québec. These experiences allowed her to focus her career on the human rights field.