**UNIVERSITY *of* STIRLING**

# Claiming the Law:

## An Ethnography of Bolivian Women's Access to Justice

## and Legal Consciousness

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*Violence is not a personal problem, it is a social issue.*
*Dedicated to all the women of this world, and the next...*

# Abstract

There have been a number of legal reforms in Bolivia since the first indigenous president, Evo Morales, came to power in 2006. In 2009 a New Constitution was enacted which included rights for women and expanded legal recognition of indigenous groups. In 2013, in order to address rising rates of violence against women, *Law 348 to Guarantee Women a Life Free from Violence* was established. Yet what meaning these legal changes have for Bolivian women is still unknown. This thesis explores Bolivian women's legal consciousness and subjectivities in the context of these changes, particularly in relation to law concerning violence.

Twelve months of ethnographic fieldwork was conducted in the city of La Paz, Bolivia, between October 2014 and October 2015. Participant observation in a women's centre was the main field site, which offered the opportunities to gather women's life stories and explore women's narratives of the law. This was further supplemented with interviews with Civil Society Organisations and government in order to add different perspectives and further map the social structures of society that both constrain and enable meaning-making.

This socio-legal ethnography presents women's engagements with the law, and offers insights into women's lived experiences of accessing justice and claiming rights, both directly and indirectly, as well as the influence that legality has on women's legal subjectivity and their sense of self. Doing so provides a narrative of Bolivian women's legal consciousness and reveals the meaning that law has for women in their everyday lives. Law works to shape the way they view themselves and their experiences as they engage with the processes of accessing justice. It can be concluded that law is a meaningful yet often contradictory presence in Bolivian women's everyday lives.

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# Preface

*It was, for me, a sweltering day in the city. The cable cars that would take me all the way from the lower regions of La Paz, up the side of the steep rock faces and in to El Alto, were closed. A eucalyptus tree had recently come down on the line as people journeyed between the two cities, so other surrounding trees were now being cleared away. To get to El Alto then, meant taking a minibus up through the steep, narrow and winding streets with my knees somewhere up around my chin. My legs rarely fit neatly in to the minibuses here. I was sitting next to an indigenous woman, with her jade-coloured pollera[1], a grey coloured top and a pale pink coloured cardigan over her shoulders underneath an aguayo[2] tied around them at the front. A bowler hat, iconic of indigenous women in Bolivia, sat perched upon her head. I continue to be confused about how these bowler hats, appearing to be just that little bit too small, stay put on women's heads throughout the day. Beneath her hat, her long dark sling braids ran down her back, tied at the ends with faded black yarn. The air was humid and the minibus stuffy, and even though the windows were open I was beginning to feel a little travel sick.*

*Noticing that I was somewhat restless, shuffling in my seat, the indigenous woman asked if I was suffering from the altitude. After all, it was clear that I was foreign, and I was also at an altitude of nearly half way up Mount Everest. I explained that I was fairly accustomed to it already as I had arrived a few months earlier, but I did confess that I felt a little travel sick. She looked at my squished legs and laughed. I laughed too and we began chatting. She was interested in what a Scottish woman was doing on her own in La Paz, and so I explained about my research. After relaying some of my experiences in Bolivia so far, she did something that confused me. When she referred back to my experiences of the past few*

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[1] A *pollera* is a pleated skirt, worn on top of usually 5 layers of underskirts and often worn by indigenous women in Bolivia and Peru.

[2] An *aguayo* is a large piece of rectangular hand-woven cloth, commonly seen in the Andean regions. It is typically striped and brightly coloured. Women often use this material to carry children on their backs, and when there are no babies, to carry other things. Through the *aguayo*, stories are told about the communities and cultures by incorporating them into the weave. There are seven zones across Bolivia where *aguayos* are fabricated and each incorporate different stories to represent different histories.

*months, she moved her hand in a rotating fashion, outwards and in-front of her body – the way I do when I talk of things to come. This seemed counterintuitive, as this hand gesture means the future, but she meant the past. As I tried to unfurrow my brow, she continued chatting animatedly. I was enjoying the distraction from my sickness and so I did not interrupt her to ask about the past/future. Whilst speaking, she pulled out a small dark green plastic bag, filled with coca leaves, and offered me some to chew. She interrupted herself to tell me that it would help with the nausea, and although I had already learned that I did not enjoy the taste of chewing these leaves, I had also come to know by that point that she was right about their medicinal qualities.*

*After some time had passed and the minibus chugged slowly up the mountainside, I had introduced topics of politics and law further to the discussion. I asked her about her thoughts on the future of Bolivia and what she thought of the indigenous president. I recognised that these opportunities for informal conversation were important for gaining a deeper understanding of Bolivian society. As she described the future, she once again used a strange hand signal. As she was speaking, she positioned her open hand in front of her, and swept over her shoulder, like my grandmother did when she threw salt for good luck. I suspected then, that she conceived of the future as being behind her, and by her previous hand gesture, it appeared that the past, was in front of her. As we neared my point of departure from the minibus, I asked about the hand gestures, but I stumbled over my words – reflective of my confusion. I'm therefore not entirely sure she fully understood my question. I staggered from the minibus and waved as it drove off. With knees aching and head a little light and cloudy I walked up the street feeling inquisitive and enchanted. It was not the stimulating effect of the coca leaves that were still pressed in to the inside of my cheek, that made me feel this way, but instead it was because I began to consider simply 'being' in the world.*

*(Excerpt adapted from research diary, 14 February 2014)*

As it turned out, my upturned, past-future interpretation of this cognitive pattern was not one of conjecture. Whilst similar encounters followed this one in Bolivia, there is also further linguistic and gestural data which suggest that

the spatial conceptualisation of time can instead vary cross-culturally whereby the person is conceived of as moving *through* time, or indeed that time is moving through the person (Núñez and Sweetser 2006)[3]. For Aymara indigenous people, the future is behind the individual, and the past, in front. After all, the past can be seen but the future cannot. Andean conceptions of time, space and indeed reality, are interlinked, and time is understood in a cyclical fashion (see Faller and Cuéllar 2003).

Importantly then, rights reforms, awareness raising campaigns and workshops that simply ask people to look to the future, to society moving forward through time, improving as it moves, do not make sense in an Andean context. Similarly, the privileging of those societies that appear to be 'progressing' faster than others, and whose theories and ideas are therefore privileged forms of knowledge, also do not sit well with many lived experiences. To symbolise the rejection of these privileged and accepted forms of knowledge and of *being*, the Bolivian congress also adjusted the clock on the government building in central La Paz. It now turns anti-clockwise (BBC 2014), because time is different. Ideas of time as linear, work to serve minority world[4] understandings of being, but not always those of the majority world (Strong 2012). Andean cultures therefore are not part of a mysterious and romantic past, as the past is never left behind.

Visions of history are often not linear, and there is no real pre- or post- because time moves in cycles and circles, in spirals and swirls. The past-future, is always contained within the present (Rivera Cusicanqui 2012). This is not unique to an Aymara way of understanding, or even to being indigenous.

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[3] Núñez and Sweetser (2006) provide a comprehensive exploration of the Aymara language and non-verbal gestures to highlight the intricacies of time, and the cultural variability that exists.

[4] Similar to the work of Punch (2003), I prefer the use of the term majority world as opposed to the homogenising concept of the global south. Although the term global south is indeed, and quite rightly, preferred over the outdated and hierarchical notion of the 'third world', it is spatially and territorially incorrect given the location of, for example Australia and New Zealand in the south, and Cuba in the north. Majority world and minority world attempt to address this inaccuracy in some way but most importantly they use language which draws attention to the unequal power relations between them.

Cultures are not tightly bounded but instead are porous and fluid (see Nagengast 1997). Therefore, contemporary Bolivian experiences which are tied to the present, 'contain seeds of the future that emerge from the depths of the past' (Rivera Cusicanqui 2012: 96). For my research, the *present* is simply the time and space that narratives were told and lived experiences documented.

## Introduction

## Women's Rights in Bolivia

> [L]aw permeated social life and… its influence is not adequately grasped when law is treated as an external, normative missile launched at independent, ongoing activities… Law-thought and legal relations (or emanations from such thoughts and relations) dominate self-understanding and one's understanding of one's relations with others. We are not… merely pushed and pulled by laws that impinge on us from the outside. Rather, we have internalised law's meanings and its representations of us, so much so that our own purposes and understandings can no longer be extricated from them… [W]e have imbibed law's images and meanings so that they are our own. As a consequence, law's demands seem natural and necessary, hardly like demands at all.
>
> (Sarat and Kearns 1993: 29)

In Bolivia, there have been a number of legal reforms including a new constitution and an expansion of women's rights. This ethnically diverse country now has a new legal and political framework that seeks to delink (see Quijano 1992) from long histories of colonialism, expand legal recognition of indigenous cultures and address issues of gender-based violence. These changes have taken place since Evo Morales, Bolivia's first indigenous president, came to power in 2006 as leader of a social movement and political party, the *Movimiento al Socialismo* (MAS). At the start of 2009, Morales created a New Constitution, which set out increased rights for women as well as recognition of customary forms of law. Following from this, there was greater pressure to address the issue of escalating violence in Bolivia from a gender-perspective, and in 2013 the government passed *Ley 348: Ley Integral Para Garantizar a Las Mujeres una Vida Libre de Violencia 348* (Law 348: The Comprehensive Law to Guarantee Women a Life Free from Violence).

Intimate partner violence against women in Bolivia is pervasive. The Pan American Health Organisation (2012) reported that of the 12 Latin American and Caribbean countries surveyed between 2003 and 2009, the highest rates

of violence against women were found in Bolivia. Over half of Bolivian women reported experiences of physical or sexual violence at the hands of their partner. *Ley 348* is the first of its kind in Bolivia dedicated to dealing specifically with intimate partner violence against women. Formulated quickly in reaction to the murder of Bolivian journalist, Hanalí Huaycho, by her husband, the law set out requirements for each Bolivian district to offer social, legal and psychological services (SLIMs); to establish shelters for women; and to create both a dedicated police force and dedicated courts for gender-based violence. It also created the crime of 'femicide'. Human Rights Watch (2016) highlighted that the special police force dedicated to this issue had received approximately 60,000 complaints of gender-based violence between its establishment in 2013 and the midpoint of my fieldwork for this research, in April 2015.

While it was clear that the introduction of *Ley 348* was an important legal development for Bolivia, soon after arriving in La Paz the significance of *Ley 348* became evident. On the 'International Day for the Elimination of Violence Against Women' (25 November 2014) there were marches and protests, stalls with information, music, and creative arts performances all dedicated to the subject of violence. Contained within all these events were displays of anger, disappointment and sadness. Alongside this were others of hope, commitment and strength. It was easy to identify the overarching message of the day though: not only was *Ley 348* central for the recognition of the problem of violence against women and oppressive gender norms in society, but it had also highlighted the challenges and constraints that existed when women sought to access justice by using this law.

Legal change does not necessarily produce social change (see Friedman 1975; Roach Anleu 2010; Chunn et al. 2007), and although a significant legal change has been the achievement of rights for those that previously had few, most notably women, legal recognition of the issue of gender-based violence has left much to be desired. Implementation of the law continues to be poor and as

women attempt to access justice, they are faced with challenges and barriers that work to disenfranchise them.

By engaging with women and members of the public over the course of the 25th of November, and hearing about the prevalence of violence, it became clear that *Ley 348* and the criminalisation of violence against women was a welcome change. Yet the introduction of this law had begun to reveal the complexities and challenges of translating law on paper in to practice. On advice of women I engaged with, and upon my own reflection, I realised over the following days and weeks that *Ley 348* would provide a prism through which to explore women's relationships with the law in everyday life. At the same time, it also offered women a point of reference within the law, as opposed to more abstract discussions of it. It framed both the collection of data and also the focus of analysis, by providing a means through which to connect various, differentially located voices: women, the state and police, and civil society.

With attention on *Ley 348* and its implementation, this research explores the meaning that these legal changes and challenges have for Bolivian women and their experiences of legal encounters within and outwith formal legal spaces. Presenting data gathered over one year via ethnographic fieldwork in the urban city of La Paz, the research questions at the centre of this study are:

- o What are the structural and cultural conditions that constrain women's access to law in Bolivia, in particular with regards to *Ley 348*?

- o How does the law structure legal subjectivity in relation to violence against women?

- o What narratives do women construct that make the law meaningful for them, in Bolivia?

Explored within these questions are the macro social institutional structures of society that influence women's relationship with the law; women's narratives of the law, utilising the framework of legal consciousness; and

understandings of the role of law in women's conceptualisations of themselves and of violence in Bolivia. Two aspects of the lived experience of women's rights reforms are examined: on the one hand, women's awareness, knowledge and opinions of the law and social institutions – their *legal consciousness* – and on the other, how legality influences women's own sense of self and their legal subjectivity.

Against the backdrop of a patriarchal society, data from participant-observation and life stories were collected within a women's centre in the city of La Paz – Bolivia's administrative capital – and interviews were conducted with State institutions and civil society organisations (CSOs). It should be noted here that this is a critical socio-legal approach to ethnography, which not only examines those micro aspects of the lived experiences of law, but that also explores the broader institutional and normative context of these experiences. Doing so, presents some of the macro issues which influence women's access to justice, revealing in turn a very unjust system. Exploring legal consciousness also means studying social consciousness more broadly, which this thesis also does. In addition, this research engages with different theoretical perspectives and authors in order to not only produce rich, in-depth insights into law *in* Bolivian society, but to also place these within the broader complexities of the context, thus contributing to both Bolivian literature, gender literature and socio-legal theory.

**Conceptual and Theoretical Underpinnings**

Before proceeding, it is necessary to identify a number of key conceptual and theoretical frameworks that underpin this research. The first of which is the contested notion of *lived experience*. Given the largely indigenous context of Bolivia, an Aymara understanding of experience is particularly useful in this research because it provides a way to differentiate between 'lived experience' and just 'experience', which is a current topic of discussion in other research areas (see Paley 2014). In indigenous Aymara understandings, the distinction

between experience and *lived* experience is based on physical presence in a particular space and time. The importance is on 'being there' and seeing.

> Seeing, one can say "I have seen": without seeing one ought not
> to say "I have seen" (Hardman et al. 1988: 17, with translation
> from Aymara by Note et al. 2009)

As the focus is on seeing and being *present* in a moment, this suggests a level of interpretation that cannot be achieved if the person is absent. Lived experience then, offers different levels and forms of interpretation than just 'experience'. For Van Manen (1990) there are four key aspects of lived experience that are of interest to phenomenologists: lived space (spatiality), lived body (corporeality), lived time (temporality) and lived human relations (relationality). Although this thesis does not necessarily separate these out in this way, it is important to conceptually recognise their existence. For example, within the women's centre that formed the main field of participant-observational work, Ariana[5] (one of the core group of 22 women involved in this research) was engaged in the legal process to denounce her partner for violence and had been involved in this process for at least one year. Quora[6] (another of the 22 women), on the other hand, had not engaged in legal processes. This did not mean that Quora was not able to provide narratives of the law, but that her *lived* experiences were different. She had no *lived experience* of the police, or the courts, or making a denouncement in one of the legal services directly in relation to reporting violence, yet she was still influenced by those systems. Quora's lived experiences (like ours) continue to be mediated by her embeddedness in institutions and systems, and her lived experience is then the embodiment of these (Merleau-Ponty 1945/2013). As Quora spoke of the law, she revealed the embodiment of it in to her actions and revealed its role in structuring her ideas, opinions and attitudes. Exploring lived experience, therefore, means examining in greater depth the life that people are busy living, with little space for reflection. When women then, are

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[5] For ethical purposes, all participants have been given pseudonyms.

asked of their lived experiences, they are not only recalling details of actions and movements that they engaged in unconsciously, they are returning to the lived world of their experience and associated processes of meaning-making; thus making the unconscious, conscious.

*Legal consciousness* is the second concept which requires some initial clarification, largely due to the term 'consciousness'. Consciousness is considered in this research as a process whereby individuals give meaning to the world around them. These meanings become patterned, and once they are institutionalised they become part of the physical and cultural systems that work to enable and constrain meaning-making. Meanings are, therefore, developed and refined over time. Through processes of socialisation, they become accepted as the normal or natural ways of talking and acting in relation to these structures (Galanter 1983; Merry 1990; McCann and March 1995; Ewick and Silbey 1998). Processes of meaning-making are then constructed through lived experience and embodied by individuals. Legal consciousness draws attention to a particular *type* of consciousness that is developed in relation to the law. It is an active process of construction, which is not only influenced by experiences with legal spaces and legal professionals, but also by encountering the everyday attitudes and perceptions of laypersons. In addition, it cannot be separated from broader processes of socialisation and social consciousness. It is, therefore, a dynamic concept (Fritsvold 2009) and for this reason Silbey (2005) advocates it as an approach which can offer a critical lens through which to explore the hegemonic institutional structures of society which reproduce existing hierarchies of power (see also Galanter 1974). Although an already useful framework for exploring relationships with the law and broader society, this thesis argues that it can still be utilised in a broader sense in order to have more cross-cultural relevance.

The study of legal consciousness is central to this research as it provides an approach from which to map the different spaces that exist in Bolivia that are influential to its development, and in turn, for women's subjectivities.

Studying legal consciousness, means to 'study the taken-for-granted and not-immediately-noticeable; the background assumptions about legality which structure and inform everyday thoughts and actions' (Halliday and Morgan 2013: 2). This thesis uses the metaphor of mapping as a way of outlining the spatial and conceptual context of law and society in Bolivia. Legal consciousness can be considered to be central to the meaning of law and so mapping spaces of significance for this creative process draws attention to the way that legal discourses often distort narratives of the lived world (Santos 1998) and of the legal subject (Barthes 1957). At the same time, attention on both physical spaces and spaces formed through increasing discussions about the law, gender ideologies and legal institutions, also reveal sites and spaces of resistance, as will be seen.

Much legal consciousness literature to date has been criticized for engaging with purely descriptive forms of law and society research (see Garcia Villegas' (2003) critique), however this doctoral research emphasises the theoretical engagements and contributions, as well as methodological issues, throughout the analysis of data. Reflections on methodology weave through the complex engagements with law, society and subjectivity, as the researcher and the research process cannot be separated from the interpretations, presentations and representations of women's narratives. This is, therefore, more of a theoretical approach to socio-legal studies, using ethnographic methods through immersion in the context.

**Thesis Structure**

The first chapter of the thesis introduces the political, legal and social context of Bolivia through an engagement with existing literature. It tells the story of Bolivia since Morales came to power in order to highlight some of the key themes that feature later in the discussion of the data gathered during fieldwork. This includes an understanding of the legal transitions that have taken place since Morales' rise to power and the challenges that have been encountered with the existence of different legal frameworks. It highlights the

importance of culture and the construction of gender in Bolivia and the challenges of engaging women under the term 'feminism'. Chapter One also contains an exploration of the role and position of CSOs in Bolivia, particularly in the context of a strong anti-Non-Governmental Organisation (NGO) rhetoric.

Chapter Two develops the theoretical framework by discussing literature that helps to establish central concepts and themes. It advocates the value of a socio-legal approach to the study of law, which places greater focus on the ways that the law is experienced and the meanings that are attributed to it as being distinct from the legal text. This chapter expands on the discussion of legal consciousness and introduces a set of four cultural schemas that are useful for examining the different types of legal consciousness that are encountered. Deeper discussion of the concept of space and the notion of mapping are included to provide a method for exploring the institutional structures of society. Key concepts are also presented which contribute to discussions of the empirical data in Chapters Four, Five and Six.

Chapter Three outlines the specific research questions and the methodological and ethical issues involved in conducting research in a majority world country, as a minority world researcher. It offers greater detail about the setting of La Paz and the rationale for basing ethnographic fieldwork in this urban locale. It also engages with other issues encountered such as language and translation, gaining access, and informed consent. It should be noted that Chapter Three is a particularly reflective chapter and, therefore, my own reflections and the challenges encountered when designing the research, conducting it, and in the analysis stages, feature throughout.

Chapter Four begins the first of three separate findings chapters. It underlines some of the key themes that emerged from fieldwork which draw attention to the broader institutional structures of society. This chapter focuses on the construction of gender roles and gender hierarchies through an examination

of different cultural conceptions of the relationship between men and women – *chachawarmi* and *machismo*. It also considers women's perceptions of their place in the community and role within families and the State. This chapter presents aspects of social consciousness that aided the construction of *Ley 348*. It ends by highlighting the development of *Ley 348* which sets the basis for an exploration of women's legal consciousness in the following chapter.

Chapter Five documents women's narratives in identifying themselves as rights bearing individuals and attempting to access the law by mobilising *Ley 348*. It draws attention to the institutionalisation of gendered norms highlighted in Chapter Four and reveals the barriers and constraints to women's realisation of their rights. It engages with the notion of subjectivity and reveals the challenges that women have in terms of making sense of themselves, as well as the law. This chapter engages in depth with meaning-making and the development of legal consciousness through the presentation of law as a game, using Ewick and Silbey's (1998) cultural schemas of legal consciousness. It argues that although these cultural schemas do well in positioning women's legal consciousness, they do not go far enough in describing the relationship that people have with a law that is welcomed in their lives, but that they struggle to access.

Chapter Six is the final findings chapter and it carries over the notion of law as a game from Chapter Five, and highlights law's mask. Law, in this sense, not only presents itself as open and accessible when the experiences of it are the opposite, but it also transforms and challenges women's use of legal interpretations and meanings of their experiences by attempting to relocate them back in to the normative frameworks of families, communities and society. It is this lack of access to law that women are challenging, and this chapter illustrates the rising resistance in La Paz to injustice. Furthermore, Chapter Six presents other important spaces that not only influence legal consciousness but that also initiate and strengthen discourse to challenge hegemonic constructions of womanhood. Spaces of importance for claiming the law, and resisting these discourses, are the streets, CSOs, and social media.

This final findings chapter ends by highlighting these spaces as important sites of resistance.

The thesis concludes by highlighting the importance of law in the lives of women in Bolivia, whilst presenting their relationship with it as a conflicting one. Although violence as a women's rights issue is no longer relegated to the private sphere, in part because of, and since, the enactment of *Ley 348*, the attitudes which are the root cause of violence are also those which hinder access to justice, and thus have resulted in the poor implementation of the law. This is combined with a lack of political will and resources, which is often related to broader issues concerning the existence of both individual frameworks of rights and collective ones. Although the data presents at times a somewhat hopeless picture of the situation for women in Bolivia, women *are* challenging oppressive social norms and dominant constructions of gender. It is hoped that this will eventually aid the full realisation of *Ley 348*. Despite the structural constraints of society, which women must work against, there are certain features of Bolivian norms and traditions that offer the conditions and space for resistive strategies. Women are increasingly using these opportunities to access justice and to seek to achieve the life free from violence that the law promises.

**Contribution to Knowledge**

This research contributes to existing literature theoretically, empirically and methodologically. Using the framework of legal consciousness to explore women's lived experiences of law, the challenges they encounter, and how this shapes their thinking, contributes to the existing body of legal consciousness theory and research, discussed in depth in chapter 2. This research also highlights the importance of Merry's (2006) term 'vernacularisation' and the need to consider the applicability of human rights in the particular social, economic and political contexts in which they are being implemented. Through exploring a law which is welcomed by women in Bolivia, legal consciousness is revealed as a useful framework at both a micro and macro

level, uncovering not only women's narratives of personal experiences, but also illuminating the broader structural conditions of society which at times enable and constrain women's decision-making and choices.

In addition to this theoretical contribution, this research also contributes to the empirical literature on Bolivia, women's human rights, and violence against women. Focusing on legal consciousness and violence in La Paz offers an urban perspective on law and violence against women, contributing to explorations in more rural areas. It also contributes to knowledge and understanding of the issue of violence against women and the challenges women face not only concerning the development of law, but in accessing justice, whichever way women conceive of it. It also reveals the tensions that exist in Bolivia between the State, civil society organisations, and women, in relation to the implementation of law, and what the law does in everyday life in terms of how women conceive of themselves and their experiences. More broadly it provides insights in to the construction of law on women's human rights in a plurinational and legally plural country.

Finally, this research contributes methodologically by utilising life stories and participant observation in a country, culture and language that is different to my own. Employing methods which involve immersion both physically and mentally provides accounts of opportunities and challenges for researchers, emphasising the need to be reflexive, self-aware, alert, sensitive and engaged, at all times. The adoption of life stories in particular, a flexible method grounded in oral communication, reveals the importance of using culturally appropriate methods of gathering data. Combining life stories and participant observation in an exploration of legal consciousness and violence against women enabled the bridging of both what women said in one-to-one conversations but also their thoughts as a group of women that had formed within the women's centre itself, thus reflecting the importance of both the individual and the collective.

**Chapter One**

**Exploring the Context of Bolivia**

**Introduction**

This chapter presents the political, social and legal context of Bolivia by highlighting the rise of Evo Morales and the changes that have followed since he became the first indigenous president. It presents the legal transitions that have taken place and discusses some of the associated challenges. The social context of Bolivia is woven throughout by exploring the construction of gendered norms and the situation for women in Bolivian society. These broader socio-structural aspects of the context are important for the development of *Ley 348: The Comprehensive Law to Guarantee Women a Life Free from Violence* and although this law is welcomed, there continue to be challenges with its implementation. This is, in part, due to increasing constraints that are being placed on CSOs by the State – such as regulatory laws and the constricting of financial resources - which have meant increasing difficulties for women in accessing laws designed to protect them. Bolivian and Latin American literature are drawn on more broadly here in order to highlight the place of this research within the existing body of knowledge.

**The Rise of Evo Morales**

Recent developments in Bolivia have resulted in an increased interest in the country and its politics. Bolivia has always been a unique and complex society. As Rivera Cusicanqui (1990: 98) notes, it can be considered as 'a variety of epochs' whereby 'the prehistoric is found alongside the present'. It is this coexistence of the past and present struggles that heighten interest in the recent political and constitutional transformations. Santos (2004) argues that insights into the true nature and extent of a society's struggles and of its structure, do not come from the centres of power, but instead are located in the periphery. He suggests that we are more likely to learn about experiences

of structural reforms and governmental policies from those that experience domination, poverty, social injustice and human rights violations on a daily basis.

The 'periphery' was Evo Morales' starting point. Morales was born to an Aymara family and entered the political sphere as a Cocalero trade union organizer, fighting against the potential eradication of coca as part of the United States' and the (then) Bolivian government's 'War on Drugs' campaign. His entry to electoral politics was as a leader of the Movement for Socialism – a social movement – where he sought to address indigenous rights and wellbeing and advocate for the redistribution of wealth. This concern of indigenous struggles and redistribution can be seen during the Gas Wars in Cochabamba in 2000 over the government's plan to increase privatised local water rates, which came to be known internationally as 'leasing the rain' (Finnegan 2002). There were large-scale protests, and violence erupted around the country. Bullet holes can still be seen in the buildings of Plaza Murillo in La Paz, where the government building is located. Evo Morales, leading other coca growers, joined the protests against the government. These protests could be considered to have opened up new political space for the mass movement and mobilisation of peoples[7]. As Postero (2007) points out, it was understood that Bolivian society, despite past attempts at the inclusion of indigenous peoples – for example Lozada's Law of Popular Participation[8] – continued to be structured by the racist legacy of colonialism, often reflected in neoliberal policies. Social movements then, were recognised as being powerful players in influencing change from below (Chaplin 2010; Lazar 2008).

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[7] The term 'peoples' is used here in order to recognise the different ethnic groups of people that exist in Bolivia, as well as the world over. One ethnic group would be a people, but multiple are peoples. Indigenous peoples are not one homogenous group.

[8] Enacted in 1994, the Ley de Participación Popular subdivided Bolivia in to 314 municipalities. Each of these subdivisions were allocated a per capita share of national resources. Citizens of these municipalities elect the *alcalde* (mayor) and the *consejales* (councillors). See Kohl (2003).

Five years later, after growing in popularity, Evo Morales won the Bolivian elections. It should be noted that he was not elected as head of a political party, but instead of a social movement that rested on a history of the marginalisation of indigenous peoples and his rise to power is highly significant not only for Bolivia, but for other indigenous populations, particularly across Latin America. His presidency could, therefore, suggest a decolonial turn or shift whereby an indigenous vision would lead politics (Mignolo 2006). It was not considered as part of a move *past* colonialism, in the sense of a postcolonial movement, but instead as one of a process of 'delinking', which begins with the decolonisation of knowledge, bringing to the fore other ways of thinking, other ways of being, and other political approaches and economies (see Quijano 1992).

Morales' approach can be thought of in emancipatory terms, although perhaps the concept of liberation, from the work of Dussel (1977) is far more appropriate in the Latin American context, in line with a move to decolonise knowledge. The concept of liberation highlights political and economic decolonisation and also epistemological decolonisation, thus reflecting diverse political geographies. It is not the purpose of this thesis to privilege one form of knowledge over another[9], but instead to recognise the existence of, and to promote, an ecology of knowledges (Santos 2007), given the context of the research and the interpretations brought by the researcher to it.

Missing from Bolivian politics, a country with an indigenous majority population, had been the legal recognition of indigenous ways of life, forms of knowledge, and needs. The aim of the MAS was to unite the past and present, creating a more democratic and plurinational society. The focus since MAS have been in power has largely been on the cultural and ethnic identity and rights of indigenous peoples, as a strategy of mass mobilisation for political and legal recognition. For a long time, the indigenous peoples have struggled

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[9] For an engagement with the notions of emancipation and liberation within the context of delinking, see Mignolo (2013).

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against top-down, neoliberal policies and other oppressive structural reforms which either marginalised them further, or attempted to assimilate them with the minority population (see Josi 2014; Crabtree and Chaplin 2013; Cupples 2013; Klein 2003). Now, however, the indigenous movements in Bolivia 'are providing the cultural resources that frame the terms of popular protest' (Albro 2006b: 387).

**Legal Transitions: Constitutions and Clashes**

With Morales elected as president, attempts to decolonize Bolivia were at the heart of his reforms. The construction of a new constitution in Bolivia, approved and finalised in 2009, could be considered to be his greatest achievement to date; being one of the most progressive constitutions in the world (Roussaeu 2011). Postero (2010) suggests that Morales was attempting to push for social justice through a deepening of democracy, which increases interactions with indigenous cultures, whilst embracing liberal political institutions. Although there may appear to be tension between the two, it is suggested that 'local ethnic particularisms' can aid an understanding of the 'actions, values and interests of Morales and the MAS' which continues to strengthen Morales' agenda of decolonisation, as well as attempting to address the limitations of liberalism (Postero 2010: 74; see also Goodale 2009). It seemed that the Morales administration was seeking more of a post-neoliberal society by transforming the language of liberalism in to one that is more in line with the majority population in Bolivia. Instead of a 'top-down liberalism', he sought to adopt a more 'bottom-up' approach in the production and recognition of a more plurinational, democratic society. Yet it must be noted that whilst progress has been made in relation to the demands of indigenous peoples, there has been very little real shift in the control of the economy from the international investors that existed prior to his ascent (Canessa 2008), and although there is a new constitution, it is not without problems.

More recent literature in relation to Bolivia does suggest a different approach to development is being played out by the MAS party (see Crabtree and

Chaplin 2013 and Gudynas 2014). Cunha and Goncalves (2010: 177) point out that Bolivia's economic model has changed and the state now manages basic sectors of the economy. However, it is not clear whether or not the state's increased role in this new model is sufficient enough to transform the country's structure of development more long term.

Social movements have become central to Bolivia's National Development Plan (2016-2020) in the aim of creating a more democratic society. Cunha and Goncalves (2010: 182) highlight that the section of the plan focused on democracy proposes to 'deepen departmental, municipal, and indigenous autonomy to decentralize the state and bring government closer to the people'. Considering more closely the concept of development, Escobar (1992) argues that whilst many have considered development to be dead, or that it had failed, there has been little in the way of alternative conceptualisations or strategies of social change and, therefore, the notion of development continues to be relevant.

Although Bolivia's economic model has changed (which it has done several times throughout history, see Crabtree and Chaplin 2013), its structure of development has not (Cunha and Goncalves 2010). It has, and still does today, rely on the exploitation of primary resources[10], despite the nationalisation of some of those resources – such as hydrocarbons in 2006 – and also the recovering of operational control over mining and telecommunications. Therefore, although there were a number of legal transitions taking place and the perception of a different, more Andean-specific approach to development, there continues to be a number of tensions in practice. Goodale (2016: 206) suggests that you can still hear the 'faint tune of alternatives' to development such as those suggested by Escobar (2010), beneath the rumblings of a persistent following of the neoliberal world order (see also Ferguson 2006).

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[10] An example is the recent loss of water which affected the lower regions of La Paz towards the end of 2016 (see Molina 2016)

**Frameworks of Rights**

Lehoucq (2008) emphasises other tensions that exist in Bolivia and, in particular, some of the clashes encountered in the creation of the new constitution. The most notable of these tensions for this doctoral research is the clash of legal frameworks between individual and collective rights, State law in relation to criminal justice, and indigenous forms of justice (see Tamanaha 2008, more broadly). Some of the clashes may have acted to undermine the democratic ideals that Morales had in his sights. Lehoucq (2008) questioned whether or not the stability of Bolivia was in question as the New Constitution was unlikely to satisfy the entire country, particularly moving away from those that have become used to having more power, such as the Santa Cruz elite, who were also heading their own regional autonomy movement (Albro 2006a). Understanding the importance of law in the context of Bolivia is necessary for understanding the social and political conditions for the development of legal consciousness. When the New Constitution was first created, the worry in Bolivia was that there would be an even greater polarisation of the country, and increased instability, than there had ever been before.

One of the greatest challenges that still remain 11 years on from the creation of the New Constitution is the expansion of rights that are drawn from global human rights frameworks. Human rights, although *designed* to be universal in nature, largely reflect minority world realities and ways of being. Even though the language of human rights is also considered to be one of progress, this notion of progression is often aligned with more minority world frameworks of development, as Santos (2002: 44) points out:

> The complexity of human rights is that they may be conceived either as a... globalisation from above or as a globalisation from below.

If human rights are thought of in universal terms, by virtue of the fact we are all human (Donnelly 2003) then they will always be conceived of as 'from above', yet this does not mean that they should be considered simply as 'culturally relative', either. Santos (2002: 47) proposes that human rights be considered as multicultural, taking in to consideration both the 'global competence' and 'local legitimacy' of them, recognising that different words and conceptualisations of human rights exist in many different cultures that convey 'similar or mutually intelligible concerns or aspirations'.

There are two areas where this is especially problematic in the context of Bolivia. The first, is that social life in Bolivia tends to be viewed in a more collective sense, privileging family and community, for example, over the individual (Martins 2014). The second, is that minority world cultures tend to consist of a more rigid dichotomy between society and the individual, than a context like Bolivia where social movements are so prevalent. When Morales came in to power, he had to find a path through these different and sometimes competing frameworks as well as a legacy of social, political and economic struggle. Morales has been attempting to manage a complex context of conflicting cultures: liberal ideas that are drawn from the minority world; expansions of rights that are influenced by minority world frameworks, such as The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW); a deep history of colonial struggle and oppression of indigenous populations; concerns from non-indigenous peoples; 'indigenous' as a heterogeneous category; and regional Latin American economic issues. It is the complexity of this situation in Bolivia, where that coexistence of the past and present are clear, and within which the place of law and subjectivity is examined.

While the political arena in Bolivia has been opened up since Morales came to power – in a more participative democratic way – Selekman (2011) draws attention to why the MAS party gained such popularity. Selekman (2011) questions whether or not MAS gained power because it truly reflected the needs of society and would address their issues, or whether or not it was

because indigenous peoples would not have access to this particular social and political space otherwise, given the consistent disappointment of previous '*gringo*'[11] administrations. However, Madrid (2008: 486) suggests that the Bolivian MAS were able to gain popularity due to their representation of a diverse range of interests by not only addressing traditional indigenous demands but by also ensuring that white and mestizo individuals were recruited in to the party (see also Kohl 2010). An example here is leftist intellectual Alvaro Garcia Linera, of Spanish descent and upper-middle class upbringing, who has been the Vice President to Morales since 2006.

Even though Morales won with a majority of 54% of the electoral votes in 2005, then 64% in 2009 and 61% in 2014, a referendum in 2016 which posed the question of whether or not Morales should be permitted to amend the constitution and thus allow him to run for a fourth term, received a majority 'No' vote. It appears that, although a slim majority, the majority do not wish for Morales to have the opportunity to run for power again in 2019. This reflects a change in the country's level of support for his movement; something that I observed during fieldwork. Hesketh and Morton (2013: n.p.) suggested that development in Bolivia would continue to be uneven, and that the spatial differences in Bolivia are 'produced within the totality of the global political economy, creating contradictions and tensions'. An example of this unevenness is that spatially, there tends to be more indigenous peoples residing in rural areas who may be untouched by certain forms of development. It must be questioned now whether or not they were correct. Molina (2008: 7, 12) in 2008, already suggested that there had been a 'return of social and political polarization'. This doctoral research does not focus on the political alignment of individuals in Bolivia, but it must be noted that there did appear to be a shift in support for Morales, with many now discontent with his presidency. This shift may or may not be greater in more rural areas – often inhabited by more indigenous populations. Given the focus of this research on

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[11] Gringo is a term used in most Spanish-speaking countries to refer to a 'foreigner' (Leonard and Lugo-Lugo 2015). It is often in a non-derogatory manner. In Bolivia, it is a term often used to refer to people from the United States.

the urban location of La Paz, it cannot be said that the support reflected a simple indigenous and non-indigenous divide given the heterogeneity of the city. Indigenous women included in this research did suggest though, that it was perhaps time to move on from Morales, although to whom they were not sure.

Despite some tensions, what Morales' New Constitution and approach to development has done, is 'operate as an arena for cultural contestation and identity construction' (Escobar 1995, cited in Lucero 2011: 3). Lucero (2011) examines 'encounters with development' between indigenous peoples and their international supporters, such as European NGOs, and considers these in relation to the local-global construction of identity. Support for indigenous peoples and organizations began, according to Lucero (2011), in the early 1980s when Oxfam America started to fund indigenous organisations as part of its 'rights-based' approach to address social problems, including poverty and social exclusion. A key part of this rights-based approach was a focus on indigenous recognition, and Li (2000, cited in Lucero 2011) emphasises the important role that international NGOs played and continue to play in dictating the terms of this recognition and positioning indigeneity on national and global agendas. Lee Van Cott (2000: 207) points out that the incorporation of distinct group identities claiming different cultural norms in to a constitution, which will affirm these identities and norms amongst the entire population, is 'among the greatest challenges facing democratic societies today'.

**Cultural Identity and a New Andean Discourse**

Interestingly, indigenous culture and identity – which had largely been ignored by previous administrations – became central to the MAS administration's promotion of an alternative model of development; one which moved away from negative neoliberal principles (Siotos 2013). This can also be witnessed across other areas of Latin America, such as Ecuador, and is

reflective of broader regional discourses of decolonisation (Kenmore and Weeks 2011).

In attempting to overcome colonialism, it has been recognised by a number of authors that culture has become a political tool for the new Andean discourse being applied to the process of development in Bolivia (see Albro 2006b; Postero 2007, for example). Albro (2006b: 391) explains though that Bolivia has often been considered, in its simplest form, as two 'contained and largely antagonistic cultural worlds – an indigenous 'deep' Andes and a modern Andes'. Andean culture itself was being used as an instrument for the re-ordering of society focused on redistribution and nationalisation of resources, alongside an increased recognition of the value of the relationship that society has with *Pachamama* (Mother Earth).

The representation of Andean culture purported by MAS and by indigenous activists, suggests that this culture is coherent and enduring. This is in contrast to understandings of culture that are included in my research, whereby it is considered as fluid, malleable and rather ambiguous. This understanding is also reflected in the work of Lazar (2008), who explores community and the collective self in the city of El Alto. My decision to define culture in this fluid way is not to disregard cultural traditions or ways of life, but instead to promote the possibilities of change in relation to harmful practices and attitudes that are suppressing and harming women, physically and mentally. We often think of culture in relation to bounded communities, but it can also exist at the margins of society. Nagengast (1997: 356) for example, expresses culture as 'an evolving process, an always changing, always fragmented product of negotiation and struggle that flows from multiple axes of inequality'. Postero's (2007) warning against such definitions of culture, though, is always lurking, as these fluid definitions can often make the path to racism an easier one to adopt. If culture is to be viewed as less coherent and perhaps even less valuable because of its inherent ambiguity, then it is easier to suggest that it *should* change – and this can be used more widely than changing any harmful practices. Nevertheless, Morales' 'strategic

appropriations' of culture, as Postero (2007: 9) calls them, have increased his political power and furthered his ambitions and goals for Bolivian society, for he has been largely successful in securing social, political and economic reforms which have addressed some of the imbalance of power and resources that were the consequence of previous neoliberal policies.

Following from Postero's warning, Kuper (1999) also cautions against centralising culture given that such a term is one which is both difficult to define and easy to abuse. Kusch (1978) understands culture not only in the sense of a mere symbolic accumulation inherited by means of tradition, but rather as a focus that illuminates and gives meaning to the world. It offers a way for people to orientate themselves and for the conditions for a sense of belonging to be created. Whilst culture can be perceived to reinforce gender hierarchies (according to Okin 1999), it is clear that in such circumstances the adoption of a more interactive, constructionist perspective of culture - whereby it is viewed as never being whole or static – is more appropriate. Doing so emphasises the ability of cultures to incorporate, adopt or reject different aspects of different cultures. It is conceived as 'always evolving in context, configuration, and articulation' whereby 'cultures reinvent themselves from within and reform to adapt to changing realities, trading ideas and shaping institutions along the way' (Picq 2012: 11). As Nelken (2004: 6) argues,

> [M]uch that goes under the name of culture is no more – but also
> no less – than 'imagined communities' or 'invented traditions',
> though these may of course be real in their effects.

A more flexible notion of culture is used throughout this research, and I suggest that contestation need not be something to avoid (as does Cowan et al. 2001), as this can often result in fruitful discussions around meaning-making and the opportunity to understand how people develop meanings in relation to what is culturally available to them. Some of these contestations are revealed in Chapter Five. Culture, in relation to human rights, should be

considered as the context that defines and redefines relationships, interactions and meanings, as well as mobilisations, resistance and regulation.

An engagement with culture is important (Cotterell 2004), not only given that my own cultural experiences are vastly different from those in Bolivia, but also because this research engages with law and human rights. It should be pointed out that human rights can be considered in two different ways: as emancipation or as a form of regulation (Santos 2002). Although it could be observed that the emancipatory elements of law might be overstated, this research reveals that the notions of freedom and of liberation are important for women and legal consciousness. Viewing culture in a more fluid sense allows greater opportunities for legal and social change, drawing attention to not only culture as it is understood in relation to people, but also in relation to institutions (normative and structural) and the law.

In terms of a political tool, for Albro (2006a) the use of culture by the MAS party has been interesting in the sense that it has brought to the fore the meaning of identity and what it means to be indigenous[12]. Albro (2006a: 412) stresses that the 'MAS's cultural politics have cross-class relevance and widen the appeal of cultural heritage as the basis for a political call for enfranchisement' and it is important to mention that when Morales is referring to social movements he is not privileging certain indigenous or cultural movements over others – he is quick to highlight that he is referring to both 'indigenous' and 'popular' movements. In practice, from those included in this research, this is not always the way he is perceived. Regardless, cultural values are now being considered as fundamental to the State and the New Constitution, and the concern is that in an attempt to move away from assimilationist policies there has come to be, in its place, the consideration that indigenous peoples all share the same cultural norms.

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[12] Postero (2007) for example questions whether or not being indigenous is an ethnic identity, or if it is, instead, a relationship with a history of colonialism.

In recognition of an 'ecology of knowledges' (Santos 2007), one culture should not be privileged over another. To do so, would be to repeat the mistakes of previous Bolivian governments. For the purposes of this research, the notion of indigenous and being indigenous is considered more in relation to the self-identification with indigenous cultures and communities, and whilst the term 'indigenous peoples' is used, this reflects the recognition of this term as a discursive construction, used to strengthen the movement and struggles for recognition and redistribution (Fraser and Honneth 2003) as opposed to an assimilationist view. For example, although the dominant indigenous views can be considered to be those reflected by Evo Morales' Aymara heritage, there are also Quechua, Guarani, and Chiquitano cultures, as well as many more. In fact there are approximately 36 indigenous groups in Bolivia, each with their own language, constituting a majority of the population. The New Constitution recognises the multiplicity of indigenous groups in the renaming of Bolivia to the 'Plurinational State of Bolivia', in order to recognise the value of indigenous cultures and offer levels of autonomy that have not previously been granted[13].

What is interesting to note though, is that in the most recent census, there has been a sharp decline in the number of people self-identifying with *any* indigenous group. This is in contrast to Canessa's (2007) work, which showed a marked increase 10 years ago. It was found that 58% of the population did not see themselves as belonging to any 'nation' or indigenous, peasant, or native group. There are rumours that it is perhaps symbolic of a rejection of Morales and his emphasis on culture. Accordingly, Postero (2010) suggested that too much of a focus on culture may not be good for the MAS party in the

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[13] One cultural framework included in to the constitution and the vision of MAS is that of '*Vivir bien*', literally meaning 'live well'. It is an ideological position which emphasises living well and in harmony with nature. This term has been actively used by social movements and has been written into the constitution as well as in the 2012 Law of the Rights of Mother Earth, which recognises the relationship between people and nature. Gudynas (2011) discusses this concept in relation to alternative forms of development which emerge not from a Western hegemonic approach, but instead from indigenous traditions. For Gudynas, this can again open up new possibilities and spaces for a reimagining of development that do not follow oppressive neoliberal policies that have gone before. There are myriad cultural values in the 'variety of epochs' (Rivera 1990: 98) that exist in Bolivia.

long term. Perhaps she was right. The simplified dichotomy of indigenous and non-indigenous identity, which has come to describe Bolivia, means that the complex networks and relationships between law, culture, identity and the state are often hidden by universalising interpretations. This research seeks to illuminate this web of relations, particularly in this context of a constitutional shift and legal transitions concerning women.

**Recognition and Rights**

Legal transitions in relation to rights, in the constitution and separate from it (such as in the case of customary forms of law which are often unwritten), are important for drawing attention to and recognising not only the need to address specific issues and practices, but what these needs are in relation to particular social groups. As Morales sought to produce a more democratic and participatory government and society through a constitutional framework, not only were indigenous rights promoted, but women's rights were also expanded. Since Morales came to power, he has approved a number of legislative measures that seek to increase social and political participation of women. These measures include a law passed in 2010 which stipulated that houses of the Legislative Assembly must include gender parity, and in May 2012 the Law against Political Violence and Harassment against Women was approved. In 2013, *Ley 348 to Guarantee Women a Life Free from Violence* was also enacted, which will be discuss in greater detail later in this chapter. It must be remembered that these legal transitions exist in a complex context, where women are part of multiple social groups and manage various roles simultaneously. Socio-political institutional structures, then, interact and influence the experiences of women, their experiences, and their relations.

The intersectionality of these structures is illustrated in this research. Within the context of legal transitions, and in particular of *Ley 348*, an exploration of women's legal consciousness can be seen to reveal the structures of society that prevent the law from being realised in practice. These structural constraints are presented in Chapter Four in relation to family, culture, civil

society and state institutions. As women are often placed at the centre of the assertion of prevailing cultural notions, then through an examination of the law, societal and gender expectations in a number of political contexts can be understood (see Maoulidi's (2011) work in Zanzibar). Drawing attention to legal transitions and analysing legal contexts and meanings, 'reveals the prevailing attitudes and debates about a desired order and future for human and gender relationships' (Maoulidi 2011: 52). This approach is central to my research. Given the existence of both indigenous struggles in Bolivia, and those focused on gender, an intersectional approach to issues and concerns is key, even though the dominant category of analysis is in terms of gender. It is not to suggest that this is *the* most important category, however the issue of violence against women, as it is experienced in the city, spans across and through many of these intersections. Coined by Crenshaw (1993), the term 'intersectional' is useful in drawing together and recognising the intersection of different social identities and the overlapping of forms of oppression and discrimination (see also Yuval-Davis 2006). For all women though, there are social dimensions of life that are unique in some way and, so, following the approach taken by the radical feminist organisation *Mujeres Creando* (Women Creating) in Bolivia, the focus is on each individual woman and her needs. Generalisations about categories of age or ethnicity are avoided as much as possible (McIntyre 2014). This does not mean that understandings of society beyond the individual cannot be gleaned. Exploring the various social dimensions of life for each woman offers an opportunity to not simply approach issues from one particular aspect of social identity, since they cannot be isolated, but to consider the interlinking and connections between different forms of identity and the struggles attached to them.

## Gender, Family and Machismo

Drawing attention to some of these social structures presents relationships that influence women's understandings of law, and of themselves. An important source of identity formation at the micro level of the individual comes from the social construction of gender; how this is experienced within

families, particularly in relation to the prevalence of *machista* attitudes that construct and are reconstructed by these interactions. The term 'families' is used when referring to family units more generally in order to recognize the diversity of families that can exist, without being encumbered by an implicit ideological framework of 'family', that can often lead to the promotion of certain ways of living and being (Morgan 1975). Dominant ideologies of family and gender relationships can reproduce patriarchy and therefore families can be important sites of the subordination of women (see Bhasin 2006; Millet 1970; Mitchell 1971; Oakley 1972). Socially constructed gender assumptions and attitudes lay at the heart of ideological constructions of gender and so the meaning of machista attitudes requires, first of all, a discussion about *machismo*.

*Machismo* is a Spanish-language term, related to that of patriarchy, and characterized by hyper-masculinity and aggression (Scharrer 2001). Walby (1990: 214) points out that there has been much criticism in relation to the term patriarchy, for not taking into account historical or cross-cultural variations in the term, and this is where the concept of *machismo* becomes all the more relevant. Walby's (1990: 214) definition of patriarchy is taken as a starting point, whereby it is viewed as a 'system of social structures and practices, in which men dominate, oppress and exploit women'. Although there are many definitions, Walby's (1990) engagement is formed amongst the criticisms of the development of an overarching and universal theory of patriarchy. She suggests that a flexible approach to understanding what it means in localised contexts should be adopted. In Bolivia, and similar to the work of Freidric (2011) in the context of Ecuador, *machismo* tends to be expressed as an inherent part of culture. By interpreting it as *inherent*, this can result in reasons and excuses for oppression and subjugation of women inside and outside of the family, in the labour market, in political participation, and in relation to violence, whereby acceptance of behaviours of *machismo* – which are similar to our understanding of patriarchal behaviours – become so deeply ingrained. The existence of *machismo*, and associated behaviours become an expected part of society. As a term itself, '*machismo*' can become normalized,

and this is to the detriment of the social, political and economic dimensions of, for example, violence against women (see Hume 2008 for an account of these dimensions in relation to El Salvador). Such violence is often considered to be a result of *machismo*, and as the word becomes normalised, so too do those behaviours. When explanations of violence rest on the notion of *machismo*, they are highlighting a particular cultural form of patriarchy, and when it is left unchallenged it is legitimised (Galtung 1990).

Inherent in the concept of *machismo*, is both the 'macho man', and the presumption of male superiority (Torres 1998). Such a presumption can result in the exertion of control over a woman's behaviour, of anything that may be considered as a threat to the man's 'manliness' (Asencio 1999). Examples of this are included throughout Chapters Four, Five and Six. At the same time as illuminating male behaviours and attitudes towards women – seeing them as sexual conquests, being overly jealous and possessive, and engaging in other forms of physical and mental abuse – '*machismo*' also helps to define relations *between* men. *Machismo* encompasses aggression, honour and pride, and carves out a particular form of Latino masculinity (Scott 1994). The concept plays a crucial role in understanding sexual and gender identity in Bolivia, which also shapes the social conditions for women.

In addition, there is a polar opposite to the concept of *machismo*, which deserves attention in order to further demonstrate the social construction of gender identities in Latin America, and that is *marianismo*. This female counterpart emphasises self-abnegation and submission in the female, which is a counterpoint to the arrogance and intransigence displayed in the male. These concepts in turn help to understand relationships between men and women in families. These relationships emerged during fieldwork too and are highlighted more broadly in Chapter Four. As the Latin American and Caribbean Women's Collective (1980) remind us, all of the spoils in Latin America appear to be awarded to men, and women are reduced to little more than domestic slaves.

By illuminating the concept of *machismo* in relation to violence against women, this research aids the conceptualisation of a particular cultural form of patriarchy and an understanding of the social construction of gender identity in Latin America. Like Walby (1990), I am not rejecting the concept of patriarchy, but I am suggesting that we pay attention to particular localized forms of it. Across Latin America for example, there are distinct nuances in relation to the meaning of *machismo*, and in fact there is not one overarching agreement on the definition of it. What is important to note is that it is the production and reproduction of these gender identities and their internalisation that are of particular importance, especially in relation to the law, and violence against women. As Del Olmo (2017) argues, when Latin American criminologists examine violence in Latin America, they tend to only do so from the point of the individual and are not then relating this to broader structures of society. This means that they overlook important patterns, and if this continues, they are unlikely to address the root of the problem (Del Olmo 2017). It is important then to engage with these more macro levels, and with theoretical explorations and development in order to find solutions. Asencio's (1999) research on gender and *machismo* in Puerto Rico highlights that violence against women, for example, can often be justified on the basis of socially constructed concepts such as *macho*, and in turn a *machista* ideology, and so these need to be taken into account in an analysis of that violence.

At the macro level, *machista* ideas are deeply entrenched in the broader institutional structures of society, for example, in relation to education, families, women's labour market participation, their inclusion and representation in politics, and their treatment in criminal justice institutions. I engage with these more in later chapters. A good example is that not only are the possibilities for generating income increased by the better access that Bolivian men have to education both in urban and rural settings, but when women *are* in positions to generate income, their earnings are still largely controlled by men (Orgill and Heaton 2005). This way of life becomes the norm. Social learning of traditional gender roles occurs through education in schools and is produced and reproduced within families and communities.

These are sites where gender expectations and desirable or undesirable behaviours are first considered. It is important to point out then, that although *machismo* is understood as having a negative impact on women in society, *machista* ideas are also reproduced by women – as part of family units - through the internationalisation and re-enactments of gendered social norms (Butler 1990).

One of the main reasons for this is that the term *machismo* can also be used to indicate some positive behaviours, such as an emphasis on responsibility, assertiveness and a strong work ethic, which women also benefit from (Mirande 1998). Although some studies place more emphasis on this use of the term (for example Orgill and Heaton 2005), my doctoral research does not take this approach, and instead suggests that such considerations of *machismo* are most prevalent due to the internalisation of gendered norms as opposed to necessarily being consciously welcomed. There is though, still the recognition that *machismo* is flexible and malleable, given that it is a cultural form.

Although gender ideologies are being influenced in some ways by recent legal transitions in Bolivia there is a general tendency among Bolivian women to portray gender relations within families as characterised by *machismo*, and not in a positive sense: 'Latin American women… are reared and trained to respond to the needs and expectations of their future husbands' (Mayo and Resnick 1996: 235). Gender role socialisation within a Bolivian family context is, therefore, influenced by the cultural concepts of *machismo*, as well as *marianismo*. Both of these concepts are thought to have their roots in colonialism, with oppressive attitudes towards women brought over by conquistadors. This is explained more in the next section of this chapter. It is important to note, however, that this concept of *machismo* helps to contextualise the complexity of the Bolivian situation, and to consider the multiple and intersectional forms of oppression that women face which may often be accepted as the norm. This research emphasises that as *machista* attitudes are institutionalised, the implementation of women's rights in

practice is being further complicated by the reproduction and acceptance of these attitudes. That is not to say that there is not a rejection of them more widely, and this can be seen in CSOs, but that the diverse cultural context within which rights are produced, means that this can be challenging. An exploration of these structures contributes to already existing literature on the situations for women in Bolivian society.

**Gender and Ethnicity**

At the early stages of developing this research, the tensions between indigenous, collective frameworks of rights and individual frameworks of women's rights were clear. Rousseau and Hudon (2017) explored women's movements within the context of indigenous movements across Peru, Mexico and Bolivia just shortly before my fieldwork began, with their findings only being released at the start of 2017. In recognizing the lack of theoretical engagement with this area they hypothesised that the more successful and powerful indigenous social movements were, the greater the space and opportunity for indigenous women's collective movements would be. They sought to investigate the ways that indigenous women carefully advanced their fight for gender equality and recognition within the framework of, and allegiance to, indigenous movements, highlighting themselves as important political actors. My research contributes to Rousseau and Hudon's (2017) insights, but it also develops them by examining women's engagement with women's rights at an individual level that is not necessarily classed as being part of indigenous movements, or indeed women's movements. Insights such as my own and Rousseau and Hudon's are relevant and timely amidst legal transitions and increased engagements with gender and ethnicity since MAS came to power.

As one of Morales' first acts was to appoint indigenous women to ministerial posts within the realms of health, economic development, government and justice he addressed issues of inclusion and representation. Although an important advance for the struggles of indigenous women and one which can

of course be commended, Canessa (2008) questions Morales' abilities to *meaningfully* deal with issues of gender inequality – particularly if stereotypes of women that have endured since colonial times persist and are legitimised in formal legal and state spaces. He expresses concerns over:

> the limits to [Morales'] ability, or indeed desire, to deconstruct the tightly bound associations of race and gender, the meta languages of power, that have underwritten politics – at both the intimate and the national level – since the Conquest (Canessa 2008: 54)

The subordination of women, not only due to their gender, but their race and ethnicity, can be considered in relation to indigenous women as slaves, subservient to white conquistadors and masters (see Schiwy 2007). Such colonial images also feature in nineteenth and twentieth century Andean literature, and so there was the promotion and reproduction of the image of the 'sexual availability' of indigenous women who were not conceived of as being desirable or wanted by men – but they were constructed as being *available* (Canessa 2008). Desirability, however, was reserved for whiter-skinned bodies and features (see Goldstein 2000). As Canessa (2008) illustrates, and my fieldwork experiences support, this still appears to be the case. Canessa's (2008) insights on the sexual and racial politics of Bolivia offer a deeper reflection on long-standing conceptualisations of not only men and women in society, but of the particularities of indigenous men and women, and also those who are not considered to be indigenous, either by themselves, or by others.

Focusing only on indigenous populations, which most other researchers encountered in Bolivia seemed to do be doing, means that there is an exclusion of those women who do not identify as indigenous, but have also been oppressed based on their gender and different racialised experiences. It is for this reason that I did not seek a location for immersive, participant-observational work based firmly on indigeneity. The requirement was simply that it was Bolivian. Bolivian women who do not identify as indigenous also

struggle in relation to their rights, and their struggles are no less important. Women's rights, as a particular framework of human rights, are often more vulnerable to patriarchal norms in general, which are exacerbated by ethnicity, class, sexuality and other categories of social differentiation. *Mujeres Creando*, the feminist organisation mentioned earlier, is one of the only organisations I encountered that sought to address all of these issues at the same time more broadly, while still emphasising individual experiences. So, in a rejection of Okin's (1999) claim that multiculturalism is bad for women, instead, this doctoral research highlights the porosity of ideas steeped in cultural constructions and understandings of ways of life that transcend different layers of indigeneity and also influence those who are not considered to be indigenous (see Postero 2007). Picq (2012) suggests that cultural traditions and customary forms of law and ways of life, can combine with other ways of life, and in turn encourage new and different ways of finding solutions to particular problems. It is for this reason that Santos' (2007) notion of an 'ecology of knowledges', which recognises the diversity of knowledges and ways of being, underpins the approach to this research, as Chapter Three illustrates.

**Depatriarchalisation**

As can be seen through the progression of this engagement with the Bolivian context, the focus is on gender-based concerns, with an awareness of the importance of the intersection of multiple and various forms of oppression. Burman (2011) argues that in struggles to address gender-based concerns in Bolivia, there is often the use of two different words: patriarchy, which I have already dealt with, and *chachawarmi*. I engage in more depth with *chachawarmi* in Chapter Five but it is important here to outline its general meaning and why it is useful in relation to this ecology of knowledges. *Chachawarmi* is an Aymara word meaning quite simply 'man-woman'. It signifies complementarity between men and women, and it is suggested that such notions of complementarity existed long before colonial rule, and in some ways continue to exist (see Burman 2011). The issues of gender disparity and

the subordination of women are often attributed by indigenous peoples to colonialism and they, therefore, advocate for the process of decolonisation. Whilst the Morales government has already revealed a strong commitment to decolonisation in the sense of de-linking, it has also sought to address the gender disparity that colonialism is thought to have constructed. In order to decolonise and de-link, the concept and process of depatriarchalisation has become important.

Decolonisation and depatriarchalisation should be considered as two sides of the same coin as they are part of the same project in a number of ways. Such a project draws together and acknowledges the intersection between ethnicity and gender, as well as class. In the context of Bolivia, its colonial past and its diverse population, there is a need for simultaneous movements to address the legacies of colonialism and at the same time recognise gender-based issues within society (Sieder and McNeish 2013). This is strongly advocated by *Mujeres Creando*, and other women's rights organisations such as *Coordinadora de La Mujer*. I therefore aim to promote this message, in line with broader women's movements across Latin America. Each process – decolonisation and depatriarchalisation – needs the other, and so legal transitions that concern women in Bolivia must take account of, and seek to promote, both of these processes in order to result in any meaningful social change. Although law might reflect these processes on paper, it is in practice that they need to be implemented; there is often a gap between the two (Pound 1910; Sarat 1985).

**Legal Transitions: Ley 348**

An example of an important legal transition and piece of legislation that still needs to be realised in practice, is the already mentioned *Ley 348 The Comprehensive Law to Guarantee Women a Life Free from Violence*. This law was enacted in March 2013 and seeks to address women's rights in relation to gender-based forms of violence. It marks a significant success for women's rights campaigners in Bolivia.

In Latin America, Bolivia has the highest numbers of physical and sexual violence against women (Camacho Justiniano 2015). Precise figures are not always clear nor even available and this became apparent not only in my search for accurate figures, but also during fieldwork itself. This is illustrated further in Chapter Six. At this moment, there is no academic research exploring women's experiences of this particular law in Bolivia, and little engagement with it at civil society level due to limited funds, which I will return to later in this chapter. According to research conducted by the *Organización Panamericana de la Salud* (OPS) in 2013, 53% of Bolivian women were affected by violence at the hands of their partner or ex-partner. *Ley 348* has introduced mechanisms and policies of intervention, as well as introducing the prosecution of perpetrators. Combined with the prohibition of gender-based discrimination in the New Constitution, this law seeks to meet one of Bolivia's development plans, entitled 'Women Constructing Bolivia for Living Well' (see also Vega 2013). Within these legal transitions, there is an emphasis on access to justice for women.

Another important introduction in terms of law, is the recognition of the act of femicide. Whilst the term 'femicide' is used in English, in Spanish the term *feminicidio* is more common. Lagarde (2006), an Argentinian anthropologist, sought to develop the term 'femicide' further in order to reveal that whilst femicide recognised the death of women, it did not identify the cause (see also Russell and Harmes 2006). On the other hand, '*feminicidio'* could better capture the gender-based reasons for their deaths, their social construction and also the relative impunity with which perpetrators acted. This doctoral research proceeds to use the term feminicidio, adopting Lagarde's conceptualisation, although it must be noted here that cases of *feminicidio* were rarely dealt with for the purposes of this study. While this is so, cases of *feminicidio* still influenced the construction of the research and the findings, given that such crimes were not only common, but that many people that I encountered in La Paz knew someone who had been a victim, or was in some other way connected to a victim. Towards the end of my time in Bolivia, a friend of a friend was also the victim of *feminicidio*, although there has been a

long struggle to have the crime recognised as such. This is just one small glimpse into the inadequacy and lack of realisation of the law.

Inadequacies of domestic abuse laws and other gender-based legal frameworks can be revealed when there is recognition and understanding of broader cultural and legal institutions (Goldfarb 2011). It is often suggested that domestic abuse laws are too immersed in mainstream and dominant legal frameworks which take little regard for diverse cultural influences on women and men. Burman (2011: 90, quoting from an event held in the National Museum of Ethnography and Folklore in La Paz, in 2009), therefore, promotes the value of exploring social and political processes as they are experienced and lived through:

> To not recognise the value and significance of the readings of reality that these women make would not only lend proof to colonial arrogance but would also run the risk of facilitating the continuation of orientalism, cultural imperialism and the maintenance of the view that women are acted upon and are rarely the actors.

This is an important statement, which supports my methodological approach, described and explained in Chapter Three. It stresses the importance of women's narratives and the interplay between structure and agency that construct and shape these narratives. It enables a shift from considering the law as acting on the individual, and emphasises women as legal actors, with an important role in the entire system.

Women's status in society is influenced by an interplay between law and culture. They are at the same time being defined by international human rights standards *and* negotiating those definitions and status with their subjective lived experiences in different cultures. This is combined with the cultural scripts that exist which present dominant conceptions of appropriate gender roles and behaviours (the notion of a cultural script is discussed in the next chapter). Even though the New Constitution in Bolivia has acknowledged and

extended the rights of women living within a plurinational and pluri-cultural state, Goldfarb (2011: 58) emphasises that, 'when examining how law reflects the surrounding culture, it is always necessary to ask *whose* culture is being reflected'.

In summation, legal transitions can be considered to signify some form of change in society, but this change should be understood from the perspective of those living it. This is the central focus of my research. It is worth noting that, despite *Ley 348*, and according to the 2017 Human Rights Watch World Report on Bolivia, women and girls in Bolivia continue to be at high risk of gender-based violence. According to the *Centro de Investigación y Desarrollo de la Mujer* (Centre for Information and Development of Women, CIDEM, interview data, 2015) in Bolivia, every three days, a woman is murdered. I mentioned earlier that there are no reliable statistics in Bolivia and it is important that this absence of data is highlighted. CIDEM unfortunately closed a short time after my return to Scotland, yet it appeared to be one of the most important NGOs in Bolivia for women. It produced yearly reports with data gathered from across the country – something that the Bolivian government does not systematically do. Although it is now four years since *Ley 348* was established, it has left much to be desired in the way of implementation. CSOs like CIDEM have not only been important in gathering statistics and creating awareness of the issue of violence, as well as other women's rights issues, but they are also central to addressing the paradox of law in terms of the disparity between *Ley 348* on paper and in practice.

**Civil Society in Latin America**

As previously suggested, culture and identity have been considered as central to the Bolivian Constitution in a variety of forms. Schilling-Vacaflor (2010) questioned whether their centrality might eventually change the relationship between the State and civil society, and whether the emancipatory elements of the new constitutional text would be realised in practice. I seek to address Schilling-Vacaflor's (2010) first question by exploring the relationship

between the State and civil society, but in terms of her second question, I have applied it to *Ley 348* more specifically. This section of the chapter considers literature in relation to civil society in Latin America.

As the term 'civil society' is used frequently in this research, it is appropriate to outline what it means for this study. Recognising its long history and development from the Scottish Enlightenment, in this case it is used to conceptualise the different associated spaces that exist, largely free from State interference. I use the word 'largely' because it is difficult to conceive of civil society spaces as being entirely separated from the Bolivian state (see Fraser 1990). Some civil society organisations will be more separate from the State than others, such as NGOs. Importantly in Bolivia, civil society can be considered to legitimate the Morales government by opening up space for Bolivian people to participate in politics (see Boulding 2014). A flourishing of CSOs is central to the creation of a democratic society, but only if it functions well (Foley and Edwards 1996).

The chosen conceptualisation of civil society for this doctoral research does not view the State and civil society as autonomous spheres, but instead as inextricably linked spheres of influence (Jessop 2007). The State is not necessarily controlled by civil society, or vice versa, but there are instead what Jessop (2007) refers to as 'strategic selectivities', which have constraining and enabling impacts of State institutions on civil society. An engagement with CSOs is included in this research, which means that linkages or the lack thereof, of legal ideas and the legal institutions within which they are applied, are further revealed. Civil society provides insights in to the state and also the existence of various political actors. In Bolivia, Boulding's (2014) work on protest and civil society is particularly skilled in considering civil society as important political actors, but also links these to other work on NGOs across other majority world countries. Although the understanding of civil society as being linked to the state is what is presented here, it should be noted that the development of theory in relation to civil society emerging from Latin America in the 1980s and was moulded largely by Gramsci (see Olvera 2013 and

Freeland 2014 for an exploration of this). For Cardosa (1989), a Brazilian social scientist, there was a desire of Latin American theorists for there to be two separate spheres – a civil one and a political one - where social movements would constitute a civil society, and political parties would be separate. Yet as Gramsci reminds us, civil society is a space for the enactment of ideologies and the struggle for hegemony (see Casaús Arzú 2008).

In a Latin American context however, the colonial imprints of soft power cannot be overlooked when considering civil society (Goodale 2017). Quijano (2000) suggests that the patterns of the coloniality of power have been preserved in a number of ways, for example by the classification of ethnicities and gender hierarchies, and CSOs can often reflect this. Colonisers may not have always controlled the State but they used civil society in order to exert power and influence (see Casaús Arzú 2008) and in this sense civil society institutions became important vehicles for a form of soft power, which rested on the ability to shape the preferences of others (Nye 2004). In Nye's later work (see Nye 2011), they discuss the relationship between hard power and soft power as presenting perhaps an inextricable link between coercion and co-option, where non-coercive behaviours and the often intangible resources of soft power cannot be separated from the history or material asymmetries that structure relations. This must be kept in mind when thinking of civil society as a space for the promotion and achievement of democracy.

Since the 1980s the concept of democracy in Latin America has been important (see Karl 1990). It was at this point that notions of democracy and civil society came to be joined (Weffort 1989). Latin America as a region began to see an upsurge in social movements and Weffort (1989: 328) suggests that

> If the state had formerly been the solution, now it was the problem... Yet if politics were to have a new meaning, a new sphere of freedom for political action had to be developed... [C]ivil society, previously either ignored or seen as an inert mass, began to signify that sphere of freedom.

Weffort's (1989) understanding constructed the notion of civil society as being in opposition to the State. This was in line with the increase of grass-roots social movements and campaigns to address issues of oppression and inequality. Democracy was not only about making the State accountable, but also about human action and agency. Civil society came to denote the public sphere more than a set of institutions. It represented collective activities that were counter-points to the State. Returning to Cardoso (1989) though, this does not and cannot mean that democracy lies solely in civil society.

> If, on the one hand, the *basista* (grass-roots) thrust and the constitution of a collective-popular subject so as to support a new historical subject of democracy breaks the confining bonds of past institutional forms, on the other hand the reform-democratic thrust which accepts the contemporary reality of the pervasiveness of the State breaks the illusions about the possibility of a democracy 'of civil society'. (Cardoso 1989: 323)

It is in fact a recognition of the significance of the influence that the State has on civil society, and vice versa, that is noteworthy, and in turn the existence of multiple public spheres within and outwith civil society institutional spaces (Fraser 1990). This broader understanding of civil society and public spheres also offers the opportunity to allow the inclusion of online public sphere discourses to be seen as important. Given the increase in the use of online spaces for women's organisation, this is a necessary inclusion.

Such a broad framing of civil society can however be criticised. Gray (2013) suggests that expansive conceptualisations of civil society which assume that any associational structure that is not part of business or of the government is part of civil society, means that the term loses much of its analytic power (Gray 2013). While my usage of the term might suggest this, the value of a broader conceptualisation means being able to add in caveats. I suggest two stipulations. The first is that in order for civil society to be effective it should have some form of influence over not only the State, but also in the lives of the public. It need not only be effective when present at the table where decisions

are made. Presence does not always mean influence. For women in Bolivia, CSOs often mean the existence of spaces for discussion, resistance against the State, formation of opinions and ideas expressed in a number of public spheres and, at times, providing links to possibilities for social, political and legal change. The second stipulation is that, as suggested earlier in this chapter, although civil society participation is central to the construction of a democratic society, this is only the case if it is reflective of a multitude of public spheres. Fraser's (1990) work asserts that because of the exclusionary nature of social and political structures in society, social and political aims should not seek the establishment of just one public sphere, but instead should aim for the existence of a multiplicity of public spheres, regardless of the idea that they may be competing in some ways.

**Bolivian Civil Society**

Participation in civil society became a key element to the reconsideration of development practices in Bolivia in order to take a more 'decentralised' approach and move decision-making and policy-making from centralised government to local and regional governments and collectivities (Willis 2005). Strengthening of the public sphere meant moving away from the State as the primary actor and focusing on local populations where non-governmental and other civil society actors became more important. The extent to which local communities participate in programs under the auspices of NGOs can still be questioned (Alvarez 1999). Nevertheless, non-State groups that are embedded within local communities and are accountable to local people, should hold a lot of power (Willis 2005: 99). CSOs and movements then, work within an elaborate web of associations and power structures.

Although a central focus of the concept of democracy in Bolivia has indeed been the awakening or reawakening of civil society, as highlighted above, civil society can also become 'channels for clientelism or state corporatism' and 'carriers of political polarisation' (Feinberg et al. 2006: 3). This is what keeps it being in some ways linked to the State. Bolivia could be considered as one

Latin American country where this is the case, alongside Venezuela and Ecuador (Feinberg et al. 2006). After all, the MAS party currently in power is in fact a social movement and therefore emerged and rose to power through participation in civil society. Since then, they have also been considered to co-opt CSOs whereby members of social movements and representatives of social organisations are coerced into making agreements with MAS in order to secure chances of achieving their objectives (Escarzága 2009, cited in Schilling-Vacaflor 2011: 12).

Given Bolivia's elaborate socio-political context, there are multiple public spheres; where there are not only those alternative or subaltern 'counter-publics', as Fraser (1992: 123) calls them, but also those associations that are inextricably tied to the State. Examples in Bolivia are *Mujeres Creando* and *Bartolina Sisa*, respectively. This means that there are multiple spheres of public discussion, some of which are incorporated into administrative institutions, and some not. What is clear is that the longstanding ideologies of civil society groups, and those emerging and growing public spheres in relation to women's rights, are at different times fraught with difficulties in terms of their closeness to the State, and the power they have to influence reforms and changes. They are, therefore, not working completely out of the dominant forms of power but are not always closely enough aligned to influence them.

This becomes further complicated in relation to human rights, and in particular with women's rights issues. CSOs have constructed transnational public spaces based on gender and in order to address experiences of marginality. An example of this is the Latin American women's movement, *Ni Una Menos*. There is an increased strength and energy that can be witnessed nationally across Bolivia and regionally across Latin America. These are also connected to global women's movements. Yet at the same time, Bolivian civil society also generates critiques of these transnational spaces as being dominated by the minority world, and in turn, as exclusionary (Luna Sanz 2017). These rejections and critiques keep CSOs in some ways aligned with

the Morales government's anti-neoliberal, decolonial and anti-Western agendas, whilst also in tension with them. Before discussing women's movements in Bolivia in more depth, it is important to highlight some of the practical challenges being faced by Bolivian civil society institutions, as there is very little on this particular subject.

**The Struggle for CSOs in Bolivia**

In Bolivia, as in all areas of the world, funding is central to sustaining the work that is carried out by CSOs and in particular NGOs and, therefore, it must be recognised that not only are they accountable to a number of different investors but in many ways they are also influenced by other frameworks of understanding. Their aims and objectives may very well reflect more of what external funders consider to be important, as opposed to local people (Willis 2005). On the other hand, in order to receive funds, it could be argued that as 'participation' is so desirable by development agencies, it gives more credence and legitimacy to projects (McGee 2002).

Participatory approaches suggest that agencies should 'think and act locally' which is of course a desirable endeavour (Esteva and Suri Prakash 1997). Mutual learning is central to this aim and has come to be expected as part of participatory approaches and alternatives to development (Friedman 1992; Humble 1998; Jackson and Pearson 1998; Cornwall 2003; Jacquette and Summerfield 2006). It is believed that this is greatly facilitated when external and local agencies can work together (Mohan 2008). It need not be that the desires of the agencies or funders are privileged. If targeted communities are involved in the agenda setting of outside agencies from the outset, then this can encourage space to be claimed by local communities and social actors for the articulation and expression of their needs.

Whilst this is of course a more attractive and practical option than classical approaches, it must go further than being something that can be 'ticked off' in

a list of desirable features of a project. It must go beyond 'tokenism' and 'rubber stamping' and avoid 'the rhetoric of participation with limited empowerment' (Mohan 2008: 48). If spaces are opened up by CSOs, then these must be more transformative than merely the physical presence of local communities at meetings or as part of the labour force (Cornwall 2003; Cleaver 1999). The adoption of a 'participatory approach', whilst it may attract more funding, is often at the control of the minority world NGO with which it is partnered (see Mohanty 1988). In order for projects to be successful, there need to be tangible benefits and people must not be conceived of as 'idealized political subjects, but as embodied agents, shaped and constrained by material and cultural structures' (Mohan 2008: 49).

There should also be a cautionary note attached to the aims, objectives and ways of working that civil society groups employ. Whilst examining the local in more depth, and perhaps drawing on indigenous knowledges, approaches may run the risk of being too 'specific', according to Briggs (2008). This means that they are not easily transferable over geographic territories and so there tends to be a 'sense of frustration among development practitioners as to how useful they might be in the bigger scheme of things' (Briggs 2008: 109). In Bolivia, CSOs and particularly NGOs, must seek to understand the intersectional, socio-political-historical context of the issues and peoples they seek to represent or advocate for, whilst also taking in to account the constraints, opportunities, influences and processes that exist at national and global levels. The broader structures of society should not be left untouched by the localisation of approaches, but grassroots and bottom up projects must also work hard to bring such issues to the State, as not all processes that affect peoples' lives can be tackled at a local level (Mohan 2008). Civil society group's role in advocacy and lobbying are, therefore, particularly relevant and useful.

Bolivia's civil society, like its population, is diverse. It exists in organised forms of human rights defenders: organised women's groups advocating for equality and demanding action against violence; and indigenous groups demanding recognition and expansion of their collective rights and autonomy. In addition,

there was a more spontaneous emergence of groups that formed as a reaction to a number of crises in Bolivia, such as failures of the criminal justice system and the prevalence of corruption. Those included in this research are highlighted in more depth individually in Appendix A.

Currently, the situation for CSOs is one of increasing economic, legal and political vulnerability. A public fund does not exist for use by CSOs apart from The Indigenous Fund, although recently there have been issues of corruption and other criminal activity surrounding this. There are no other public funds for other sectors of civil society, and there has been a decline in international funding.

CSOs are often considered as occupying a porous middle ground between State and citizens in Bolivia, and they need to do so in order to have a presence in both spaces. However, funding and provisions are constrained by State-defined tax regulations and the discretionary allocation of money and other resources based on political co-optations, and on top of this, there are legal constraints (CIVICUS 2015). In 2013, at the same time as *Ley 348* was enacted, the MAS government created a law and decree which grants the government with the power to dissolve NGOs by revoking their permit to operate if they carry out activities which are different to those stipulated in their permit, or if the revocation of their permit would be in the public's interest. The Law of Legal Entities (Law 351) stipulates that groups must specify the ways that they contribute to economic and social development of the Plurinational State of Bolivia. This law has been denounced by the Bolivian Ombudsman and international human rights organisations, as there is the potential to create opportunities for politically motivated decisions that may undermine human rights defenders (Human Rights Watch 2015). The Inter-American Commission of Human Rights (2013) stated that:

> [T]he freedom of association, in the specific case of human rights defenders, is a fundamental tool that makes it possible to fully carry out the[ir] work... [b]ecause of this, when a state impedes

this right, it not only restricts the freedom of association, but also obstructs the work of promoting and defending human rights.

It is this Freedom of Association that is at great threat through increased legal regulations. A comprehensive study conducted by Silen (2010) reveals limitations to the freedom of association of CSOs across a number of case studies in Latin America. He pointed out that the government in Bolivia has actively discouraged the creation of human rights organisations by not responding to registration and permit requests from groups requiring its recognition. There was also an agreement made with the US government to eliminate any forms of cooperation or support for organisations that work in the area of democracy or human rights in Bolivia. Alongside this, international donors have also been asked to cease funding CSOs that work in these areas. This is due to the government's consideration of NGOs as representatives of imperial discourses, and, therefore, as contrary to the campaign and process of decolonisation (Achtenburg 2015). If international organisations wish to proceed in Bolivia, they must show that they in some way meet the government's national plan and seek approval from the Ministry of Planning and Development. Any foreign funds that *are* permitted require money to be deposited to the Bolivian government first (Silen 2010).

In relation to civil society's operational activity, NGOs are restricted from engaging in human rights activities and must request government permission for any political gatherings. Their activities and finances are subject to audit at any time. Although it could be conceived of as being difficult for the Bolivian government to argue that CSOs are not required or do not address the needs of Bolivian people, Morales also established a set of parallel organisations that mirrored the aims of CSOs. This not only undermines the efforts of grassroots organisations, and discredits their efforts, but it also attracts funding away from those associations and institutions (Silen 2010). Given the 2013 Law of Legal Entities, CSOs must re-register each year, and so their activities are constantly re-evaluated, leaving them in vulnerable positions both in terms of

their financial situations and the ability to attract funds, and also in terms of future activities and staffing. As of 2015, approximately 250 of the 2176 NGOs in Bolivia had registered, leaving the rest particularly vulnerable (Achtenburg 2015). Given the changing nature of State/civil society relations, there still remains very little literature on this issue, as those organisations which may have allocated funds to such research are now finding that they must redirect funds to services they provide and research which can be used to influence the State in some way.

Another aspect of constraint imposed by the State on civil society is in relation to media. Spaces of communication are also being further controlled, whereby those organisations that are pro-government are offered access to media sources, but those that do not are denied. Opposing CSOs is a common theme in Latin America, particularly across Bolivia, Venezuela, Ecuador and Nicaragua. These struggles and constraints are important because in a time when tensions are increasing between CSOs and the State, with the State essentially seeking to erase the power and services of certain sectors of civil society, these services are becoming all the more central in maintaining and fighting for space for citizens to voice their demands and concerns (see Amnesty International 2017).

**Civil Society as Important Translators**

The importance of CSOs and movements, in relation to legal developments, cannot be overlooked. Civil society can be framed as important 'translators' of human rights, and as 'intermediaries' between the State and citizens (Merry 2006: 2). Merry (2006: 210) defines translators as 'people who can move easily between layers because they conceptualise the issue in more than one way'. This means not only engaging with elite communities such as the State, but also with the numerous public spheres that exist in society. Translators in this sense are important because they are able to bring together local, lived stories, and export them to different settings, often in order to produce social and political change, and so they occupy a space somewhere between the State

and citizens, in terms of communication. CSOs and movements in Bolivia can also be thought of in this way, whereby social, civil and human rights movement activists play a role in interpreting not only legal systems but also the cultural world around them – from the local to the global, and back again. In this sense, they are working at a level of 'double consciousness' (see De Bois 1903/2007) where they seek to participate in two cultural spheres at the same time (Merry 2006). Through participation in CSOs, individuals are offered opportunities to join their stories to larger movements, taking advantage of opportunity structures for counter-hegemonic actions (see Sikkink 2005; Boulding 2014).

The Morales government itself is, in a sense, an anti-systemic movement (Arrighi et al 1989), a counter-hegemonic movement, and although the initial movements are in favour of indigenous rights and in some respects of expanding women's rights, they could be considered to be constrained by a perpetuating *machismo* culture. The initial movements of the current government were at least counter-hegemonic in their inception but there are still opportunities for a number of different struggles against dominant ideas in Bolivia, such as those about women. CSOs are, in many ways, important spaces for the struggle against dominant ideas but, as previously articulated, their relationship with the State varies across different organisations and groups. The key aspect of civil society for this research is its role as translator and as activists for women's rights that work within complex systems of global and local rights.

Santos (in an interview with Dale and Robertson 2004) suggests that we live in a world of localisation as much as we do in one of globalisation and, therefore, analysing processes of localisation are just as analytically viable as analyses of globalisation. Yet there still tends to be very little literature on this in relation to women's rights as they are conceived and lived at a local level, and especially in legally plural contexts. Other than my own, there have been some other attempts to understand the lived experiences of women's rights (see Hirsch 2002; Turbine 2012; Nash 2015). There is other socio-legal work

too (presented in the following chapter) that also aims to localise expansive concepts such as rights, although this is rarely in contexts outside of the minority world. This process of localisation is important in understanding and recognising the ecology of knowledges that exist, and how they are related to different ways of being in the world. In relation to rights, for example, definitions and understandings have often emerged from minority world contexts and been applied to other realities, without consideration of their fit (Nash 2015). What we must also consider is that there can be an exchange of understandings as opposed to the one-way movement of ideas. Santos (2004: 149) suggests that:

> the local may also become global if it manages to deglobalise itself from the set of conditions that has localized it and reglobalise itself in an alternative set of conditions.

This brings out another issue in relation to the privileging and circulation of knowledge and experience across civil society. Whilst the incorporation of indigenous knowledge and other local forms of knowledge have been encouraged in development agencies and by indigenous social movements as part of increasing participation in projects, Briggs (2008) believes that the consideration of the validity of knowledge is no less central. Only knowledges deemed to be worthy or useful by development agencies or NGOs might be included, and because of this it would seem that such knowledge becomes an add-on to already existing interests and aims of agencies instead of being a challenge to them. The tension between knowledge systems is prevalent as it can draw attention to power disparities, tensions, and conflicts, which might exist between a group's aims and the way that it interacts with citizens.

**Women and CSOs**

In terms of civil society, this research is most concerned with the recent upsurge in attention on feminism and violence against women in Bolivia. CSOs played an important role in the creation of the New Constitution by being

included in consultations of the Constituent Assembly and the push for the establishment of *Ley 348*. They continue to play a role in the creation of spaces for discussion and action for its effective implementation. Although Rousseau and Hudon's (2017) work has illuminated some aspects of indigenous women's involvement in civil society for the promotion of rights as women, Hunt (2004) suggests that separate opportunities for the participation of women are necessary. Local populations are not homogenous, and it is unclear as to how all sectors and views of society can be included in civil society, and this is why it is essential to keep the concept broad and include a widely defined and accepted range of public spheres.

During the formation of the New Constitution in Bolivia, there was a visible collaboration between indigenous organisations, whether consisting of women or of mixed-genders, along with organised groups focused on women's rights. This is most succinctly highlighted by Rousseau (2011) whereby she points out that although there were often tensions between indigenous movements and women's movements, indigenous women had managed to position themselves as central collective actors in the representation of Bolivian women. Picq (2012: 8) emphasises that 'what is specific to indigenous women is their vulnerable position at intersections of gender inequality with racial discrimination, which conflate to create a specific geography of oppression' and so indigenous women must seek, therefore, to protect their rights in both legal spaces – collective indigenous rights and individual women's rights frameworks. After these allegiances were made outside of indigenous mixed-gender groups, there has been a rise in the mobilisation of women's groups which is part of a broader feminist movement in Latin America (Roussaeu 2011). The *Ni Una Menos* movement, which originated in Argentina and now spans across all of Latin America, can be considered to currently be one of the most influential and politically mobilised and organised regional groups fighting for women's rights.

Such a change in the formation and mobilisation of civil society reveals a reinvigorated public sphere, and this itself can be understood to represent a

form of social change, particularly in relation to those public spheres emerging around women's rights issues. These public spheres and CSOs not only predicated legal transitions in Bolivia but have continued to adapt since then. The changes in law concerning violence against women and a law against political violence towards women were achieved through feminist advocacy. For Goldfarb (2011: 62) this demonstrates that 'legal culture is not impervious to the pressures created by new discourses and power relationships'. Whilst legal changes are being made in Bolivia, the patriarchal perceptions of society might be harder to shift, and it is likely that a patriarchal vision will continue to prevail for quite some time.

Sierra (2013: 61) contends that in many areas of Latin America women are attempting to create approaches which confront patriarchal views not only at the level of the family or community but also the State, where 'they are not only discussing rights, but are determined to influence the practice of law inside and outside their communities'. Green and Ward (forthcoming) draw attention to the important role of civil society in labelling and exposing State crime. Given civil society's central role in the understanding of what is considered as a crime, they play an important role in the development of legal consciousness and of resistance to the State. Sierra (2013) highlights the importance of both context and legal consciousness when analysing gender rights as well as pointing to the impact of government in the definition of law and autonomy. At the same time as confronting patriarchal ideas and male dominated structures, women in Bolivia and Latin America more widely are also confronting forms of what could be considered as neo-colonialism exhibited through the aims, objectives and practices of Global North organisations (Luna Sanz 2017).

Luna Sanz (2017), an activist in the *Ni Una Menos Bolivia* movement, points out that in order to combat problems, solutions must come from those experiencing them. The priorities and ways of minority world institutions do not necessarily translate into meaningful action in the majority world (see Roth 2004). Luna Sanz (2017) recognises the importance of the previous

waves of feminism and the opportunities and changes it has resulted in for women but suggests, like Miller (1991), that previous waves did not necessarily fit with Latin America. Luna Sanz (2017) believes that Latin American women are riding on the cusp of a new wave of feminism – which seeks to address the issues that are left behind on the minority world's crusade for what they conceive of as being the next steps in gender equality.

**Feminism in Bolivia**

At the same time that women's movements are an important vehicle for social change in Bolivia, Picq (2012) suggests that the adoption of a feminist identity as a political strategy is often unappealing to women. She provides three main reasons for this. The first, is that it is often associated with the minority world and with hegemonic, upper-class politics which are built on a particular history, often a European one, and so 'indigenous women are reluctant to align with a feminist label, which identifies them with urban political agendas that too often ignore their specific interests' (Picq 2012: 18, see also Isasi-Díaz and Aquino 2011; Power 2002). This is evident in the greater focus on UN-related women's conferences and less attention on intraregional feminist networks. Whilst the minority world and international discourses and regulatory frameworks such as CEDAW are of course influential, they are not solely responsible for shaping feminist identities, discourses and practices, and, in fact, there is a dynamic interplay of national, regional and international practices in the construction of alternative political and cultural meanings (Alvarez et al. 2003).

This is also a consideration in relation to women's movements at a more national level and within cities like La Paz, whereby indigenous women's concerns may not always be reflected in movements headed by mestizo[14] or

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[14] The term mestizo derives from the Latin 'mixtus' and in turn the Spanish 'mesto' which were used to denote hybrid plants. As the viceroyalties were established in the Americas, the term came to refer to the new populations that arose through sexual encounters between

non-indigenous women, and vice versa. Yet, what is important to note here is that, as Miller (1991) and Friedman (2015) state, feminism is not a western import. To suggest that would be to disregard or ignore the histories of mobilisation of women across Latin America. The perception that feminism masks particular key inequalities due to its universalist ideas, is Picq's (2012) second reason why it is uncommon for some women to adopt a feminist identity. Regional gatherings and processes such as *Encuentros* – Latin American and Caribbean Feminist Meetings, which began in the 1980s – are important in seeking to incorporate and consider the intersectionalities of issues facing women:

> Reflecting and refracting the development of feminist identities across the region, the Encuentros illuminate the differences cross-cutting women's experiences as well as their common search for transformations. (Friedman 2015: par. 2)

This relates to the third reason presented by Picq that engaging with feminism can be a costly political identity. Perceptions of feminism are often that it is a threat to maintaining the internal cohesion of community and so adopting a position within a feminist-driven movement is likely to cause controversy. This is most likely to be an issue for indigenous women and, as Sieder (2015) points out, indigenous women have not only been key actors in addressing issues of collective autonomy in Latin America, but they formulated critiques of gender violence within their communities too. Importantly, Sieder (2015: 23) emphasises that indigenous women's perspectives can help challenge existing feminist paradigms. So too then, can national and regional perspectives.

Furthermore, connotations of feminism often also conjure up more radical and extreme visions of activism and mobilisation that others may not always feel they can associate with. In Bolivia, *Mujeres Creando* is a key example of this.

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indigenous peoples and Spanish conquistadors (De Castro 2002). Although this term is commonly used, identities are of course far more complex. See Zavaleta Reyles (2008).

Maria Galindo, founder and head of the feminist group, could be considered in such a way. *Mujeres Creando* is based in the Sopocachi district of La Paz. It stands out on the street of 20 de Octubre with its pink walls and painted murals. *Mujeres Creando* is a visible and powerful non-religious, NGO. It collects stories and disseminates them through its own radio station, *Radio Deseo*, as well as organising and leading public events and social demonstrations [15]. It consistently and persistently campaigns against the oppressive nature of the State and stands in total opposition to it. Marches and protests in and through the bustling streets of La Paz gather a lot of attention. Maria Galindo has a strong physical presence and she has become a well-known face of feminism in Bolivia. *Mujeres Creando's* focus is on decolonisation and depatriarchalisation in a way that calls attention to Latin American heterogeneity whilst challenging gender binaries.

There are further tensions in relation to decolonisation that exist in relation to feminism and knowledge. Schiwy (2007) refers to some of these and engages in particular with the works of Richard (1996) and Oyarzu´n (1992), who frown on Latin American and feminist scholars studying Latin America for not only essentialising the concepts of man and woman in Latin America, but for continuing to theorise without understanding lived experiences. These are critiques of the geopolitics of knowledge that resonate with Mohanty's (1988) well known arguments about the making of the theoretical subject of feminism. They draw even more attention to imported models of development and minority world solutions which do not serve to solve the problems in the majority world (Schiwy 2007). It is for this reason, that my research includes an engagement with both institutional structures of society, as well as women's lived experiences.

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[15] Similar radio stations also exist in other parts of Bolivia. See Torrico (2012)

**Summary**

This chapter has sought to contextualise my research by exploring the recent history of Bolivia and the current situation for women, through an engagement with existing literature. The rise to power of Evo Morales and the new constitutional reforms mark important advances for a majority indigenous country like Bolivia. The shifting of the legal terrain reflected by the New Constitution and the renaming of Bolivia can be presented as some of the most far-reaching reforms in the world, in attempts to enhance popular participation and narrow the gap between State and civil society. The legal recognition of traditionally excluded groups is particularly noteworthy (Lee Van Cott 2000), and although these reforms have placed indigenous populations, their cultures and identities at the heart of politics, there have also been improvements in the legal recognition of women too. Through the development of this research, the probable tensions that would emerge between the greater recognition and inclusion of collective frameworks of rights on the one hand, and the promotion of individual women's rights on the other, became clear. Other researchers had picked up on these tensions too (Burman 2011, and Rousseau and Hudon 2017) but it is one particular aspect of the individual framework which drew the most attention for my research; one which appeared to be solely formed around the notion of gender – *Ley 348*.

As Bolivia continues to have the highest level of violence against women out of the 12 Latin American countries, this legal transition marked an important shift for women's rights movements and indigenous movements. Campaigns which emerged from civil society, for legislation to criminalise *feminicidio*, drove the enactment of this law, and with it came the establishment of State-provided institutions and services to deal with denunciations that would be made under the new legislative framework. Despite the relevance of these legal transitions, my research will show that they have thus far been tokenistic, and there has been little in the way of meaningful change in the daily lives of women. Given the recent adoption of this law, there has been minimal research into the way that *Ley 348* is perceived or experienced by

women. This can be attributed to the increasing struggle in CSOs for funding. Without an exploration of women's experiences, a mere legal change is not likely to have any meaning outwith its textual form. How women understand the law and have come to discuss it, their experiences, the institutions established under it and, in turn, themselves is crucial if women's needs are to be truly recognised and addressed under Morales' new 'democratic' society.

Although this chapter has presented the complexities of the structural conditions of Bolivian society within which this law has emerged, the findings chapters engage in greater detail with experiences from the perspective of State institutions, civil society and individual women. In order to do so, and in order to contribute to the theoretical literature around violence in Latin America, and in Bolivia more specifically, the next chapter sets out the theoretical framework for approaching this research problem. This not only further problematises the research, but also presents insights into the theoretical underpinnings, which informed the methodological approach. This can then address Del Olmo's (2017) concern that in order to further develop a Latin American criminology, there need to be engagements with both the empirical and the theoretical.

**Chapter Two**

**Theoretical Engagements**


**Introduction**

With the social and political context of Bolivia unpacked in the previous chapter, Chapter Two draws to the fore a number of further socio-legal and theoretical dimensions of this doctoral research. This chapter is needed because presenting the Bolivian context does not go far enough in problematising an exploration of law *in* society. It is especially the case given that this study engages with concepts such as subjectivity and legal consciousness. Chapter Two, therefore, maps the key concepts used in this research. It highlights the broader area of socio-legal research and draws attention to law's ability to construct the legal subject. It presents the notion of an interpretive script and points to legal consciousness as a central cultural script by outlining Ewick and Silbey's (1998) cultural schemas for mapping legal consciousness. The chapter explores this notion of mapping in more depth and emphasises the key conceptual spaces where processes of meaning-making about the law are constructed. These spaces include the State, civil society (which were explored in the previous chapter), the family, and the public sphere. It is within these spaces that women's lived experiences of the law and violence take place.

The nuances of dealing with law in a majority world context not only presents challenges in relation to understanding the construction and meaning of rights, but also in relation to exploring how they are interpreted and what they mean in everyday life. The context of Bolivia, as detailed in Chapter One, presents challenges for researching law in society. Thus, not only does this chapter present a number of the central concepts in this work, it does so within the framework of legal consciousness in order to offer a different way to approach research on Bolivian women's lived experiences. Importantly it

presents this framework as a way to make connections between the global and the local, the macro-social and the micro-social, the State, civil society and the family. Legal consciousness is presented, then, as a lens through which the micro levels of lived experiences are explored, but also as that which can be connected to the macro, institutional structures of society [16]. It is this framework that forms the basis of my socio-legal approach to women's rights and subjectivity in Bolivia that are documented in depth throughout the analysis in Chapters, Four, Five and Six.

**A Socio-Legal Approach**

Beginning with the area of socio-legal studies aids an understanding of my broader approach to this research. In socio-legal research there tends to be two main approaches to understanding the place of law in society – the instrumental perspective and the constitutive perspective. The instrumental perspective considers the law as a tool that sustains or seeks to change social life. Instrumentalists suggest that the law, in some ways, exists separately from society; occupying a distinct space. It is the effectiveness of law that tends to be the primary subject in research adopting this approach and so the legal text is often the starting point. To start with the text itself, though, often signifies an assumption that the law is *already* meaningful – that meaning is inherent in the law's textual form. Yet considering the law in this way overlooks the important and complex interactions that move *with* and *between* society and the development of law – something that the second approach, the constitutive perspective – places at its centre. As Garcia Villegas (2003: 141) contends:

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[16] Rosie Harding's (2010) exploration of changes in law in relation to lesbian and gay lives, through research methods and tools which do not seek to engage solely with formal legal spaces and processes, is perhaps one of the most sophisticated studies of legal consciousness, simply through its ability to connect individuals with their social and legal context in relation to social justice.

> If legality is a dynamic process of social construction, the instrumentalist approach and determinate character of law lose all explanatory power. In its place arises a concept of law endowed with contingent outcomes that derive from the interaction among individuals and institutions.

This interaction between individuals and institutions in society draws attention to the social construction of law and emphasises the importance of these interactions. Experiences and encounters with law within and outwith formal, or 'authoritative', legal spaces such as courts and police stations, all have a constitutive effect on the law itself (Brunnegar and Faulk 2016). A starting point can be trying to understand what the primary aims of the law may be.

In some cases, laws are designed to enforce existing social norms and in others they may be designed to displace or transform them (see Krieger 1999). The same can be said for laws which seek to enshrine and reinforce institutional meaning systems and those that aim to de-stabilise, restructure, and reconstruct them. *Ley 348*, for example, seeks to criminalise violent behaviour and draw attention to its gendered nature, whilst introducing specific punishments. However, law is a formal legal system that does not sit separately from the institutions through which it is implemented. These larger more informal normative structures – relationships between formal, authoritative forms of law and informal social norms – are therefore important. In a pluri-national state like Bolivia where, as suggested in the previous chapter, the law holds on to other meanings, values and traditions, a constitutive approach is most appropriate. What it allows is an attempt to map how individuals interact with the law; how they approach it; use it; reject it; resist it; or think about it (Ewick and Silbey 1998). It is thus an approach which examines 'what the law does' in the lives of Bolivian women. An important aspect of this is laws' ability to construct the subject – the legal subject – and it is to subjectivity that this chapter now turns.

**Subjectivity**

An engagement with the interrelation between subjectivity and legal consciousness also contributes to socio-legal studies, legal anthropology, and legal consciousness studies because, as Merry (2006: 3) highlights, 'we know relatively little about how individuals in various social and cultural contexts come to see themselves in terms of human rights'. Further to this, Silbey (2005) suggests that subjectivity should be included in the development of a sociology of legal consciousness. Yet subjectivity is a complex and contested concept.

Mead (1934) emphasised the internalisation of society, and the importance of representations, institutions and perceptions in his work on the ongoing dialectic between the 'I', conceived of as the Self, and the 'me' – the socially and culturally constructed subject. This dialectic is useful for my research, yet phenomenological studies often tend to 'endow their subjects with a measure of genuine, unalienated subjectivity' (Boyle 1991: 494); in relation to legal consciousness studies, consciousness is often considered as being a product of the autonomous individual (Harding 2010). As Fraser and Honneth (2003) emphasise, though, social relations are prior to individuals, subjectivity and consciousness. In this research it should be noted that subjectivities are taken as external constructions, and consciousness is the internalisation of these constructions. Therefore, to remove the constructed subject from an analysis of legal consciousness (an attribute of the subject) is to be blind to the power and effects of cultural scripts or frames of meaning for both the reinforcement of social institutions and for the conditions to challenge them. In the words of Boyle (1991: 496):

> If all knowledge is socially located, then the subject has to be thought of as an actual person, who is part of a speech-community, a particular society, an historical period, a professional discourse, and so on. At the same time an object can never be perceived, described, or thought about, except *within* a pre-existing interpretive construct.

The pre-existing interpretive construct here is the law and the central subjectivity of concern is the construction of the legal subject. As Barthes (1957) suggests, the law is central to the inscription of a subject, yet it will not always reveal the subject as they are, in their multiplicity. Law is indeterminate and abstract (Unger 1986), yet it works tirelessly to construct and control the social world. In critical engagement with the law, I draw on Barthes' (1957) work to emphasise how law constructs human interpretations, realities and experiences through the way that it establishes the liberal subject. The liberal legal subject is constructed as an autonomous, self-aware rights holder and this construction works to deny and diminish differences between individuals and groups, which erases the particularities of the individual. Those who come before the law must abandon their differences; the intricate, diverse and complex aspects that constitute the individual. In turn, they are clothed in the false subjectivity of the rational, sovereign, liberal subject. The presentation of the legal subject in such a way then works to deny any lived experience of subordination based on particular aspects of a person's being. In Barthes' work, the construction of the legal subject through the discourses of the court establishes a set of universal values and a hierarchy, where there are those who can speak the law and the rest who cannot. The universal, therefore, erases the particular.

The way that women interact with the law, for example, and the way that women are constructed by it, highlights that the choices they make about their actions and attitudes are conditional. This has implications for women's relationship with the law and the opportunities and constraints they experience in relation to mobilising their rights because, in order for rights to become mobilised – in the sense of invoking legal language, legal norms, or legal symbols to influence change (Vanhala 2011) – it is important that individuals can identify with the law in some way. They must recognise themselves or their situation within it. Engel and Munger (2003: 40) point out that 'identity[...] is the appropriate starting point for exploring how rights become active' as 'the issue of who one is and where one belongs precedes the issue of the rights one might choose to assert'. They also stress that law, legal

knowledge and understanding do not necessarily result in legal texts being activated or invoked. In Quinn's (2000) research, she found that although individuals may not be able to recite a law or legal definitions of an action, they can still have a strong abstract comprehension of the concept. The law is perhaps not always translated into something practical and useful and to understand this the positions that are adopted by individuals in relation to society and the law, and the positions that are sometimes forced on them by the structures of society, mean that the law itself 'is often of secondary importance to those it is supposed to help, and is at times [even] an irrelevancy' (Engel and Munger 2003: 40). Yet the ability to identify, or not, is important for what can be termed the 'knowing subject' (Weedon 2004: 154) because it suggests that an individual knows who they are and who is in control of meaning, or at least they are aware of its construction. It is, therefore, important to think of subjectivity as an external construction, which is never complete and always in the process of being formed and re-formed, represented and re-presented. Exploring lived experiences, as highlighted in the introductory chapter, is concerned with the embodiment of constructions that occur through women's embeddedness in structural institutions of society and the way that they come to make sense of their experiences and of themselves.

**An Interpretive Script**

The term 'script' can be considered alongside concepts like 'frame' (see Goffman 1959), 'cultural repertoire' and 'schema' (see Ewick and Silbey 1998) and is useful in exploring how women make sense of themselves and their experiences. The use of this notion of a 'script' uncovers the core cultural ideas that create 'structures of expectations' (to use Tannen's 1993: 21 term) for social interaction and the interpretation of experiences. This term then draws to the fore meaning-making within the context of law and other structural conditions of society. Although I privilege the term script here, it can be considered in a similar way to Goffman's notion of interpretive frames: 'Of course' stated Goffman (1959: 3), 'we live by inference in [our] dealings with

the physical world, but it is only in the world of social interaction that the objects about which [we] make inferences will purposely facilitate and hinder this inferential process'.

Drawing from this, observations and experiences make sense, and have meaning, based on the frames that are put around them. The frame is a structure of expectation that is offered by institutional structures and patterns that are reinforced over time in society and that work to construct the subject. These frames reveal the various ways that society *speaks through* the individual. At the same time, the role of the individual is important and so it is also useful to explore the choices that individuals make when making sense of their experiences. The choices they make are rooted within the conditions of society. Marshall (2003) used the concept of a frame too, in order to describe how female workers construct meaning around sexual harassment by exploring whether they used frames defining it as injustice, management or sexual freedom. As will be seen, in Bolivia, the way that women frame their experiences of violence, of the police, of second-hand stories and of their own lives, can provide indications of what cultural scripts are not only available, but which ones are *chosen* by women at different times. It can also provide insight in to the way that different frames contribute to the construction of the Self. Although Goffman's (1974) complex analytical framework is not used as the basis for exploring experiences and meaning in this research, as legal consciousness is instead the focus, his broader conceptualisations continue to be useful. The dominant interpretive script which frames this research is that of legal consciousness.

In Bolivia, as will be seen, it could be considered that prior to the development of *Ley 348* against violence, because such a legal script was not yet available, women seldom used legal language to frame their experiences of it. Employing this legal language means accessing the universal ideas of the law, risking erasure of the particular. At the same time though, the formation of an interpretive script steeped in legal language, for violence against women, did not emerge independently from the development of meaning and of legal

consciousness, and in fact these ideas became cultural and legal 'scripts' *because* they were dialogical, that is, because they entered in to dialogue with other ideas (Bakhtin 1984). Although legal consciousness research is often criticised for placing too great a focus on individual attitudes, opinions and experiences (Harding 2010), what such a focus does is uncover the social construction of legality, because 'although individuals have attitudes, attitudes are not individual' but are instead, social (Halliday et al. 2015: 69). Therefore, the theory of legal consciousness can offer opportunities to capture signs of legality and legal culture, which are reflections of society – of scripts – mirrored, refracted and projected through individuals.

As this research is centred on exploring women's legal consciousness, Ewick and Silbey's (1998) cultural schemas are used in a similar way as 'frames' to map meaning-making and legal consciousness. When combined with Goffman's (1974) insights into interpretive frames, other scripts also emerge, and thus the social conditions of society are revealed.

## Legal Consciousness Studies

Given that legal consciousness is the predominant interpretive script employed in this research, it is useful to present its meaning in greater depth, and to illustrate the contribution that this doctoral research makes to existing legal consciousness studies. Sally Engle Merry's (1990) work in relation to disputes in North American neighbourhoods and the mediation programs in courts is one of the most important in the field of socio-legal studies focusing on legal consciousness. While her attention is on the formal legal sites of law, she also stresses the importance of the context from which stories emerge and, therefore, presents some social and cultural context to participant's narratives. The constitutive approach she takes facilitates this linking of the micro and the macro and her engagement with legal consciousness in her introduction and conclusion chapters reveal the complexities and interconnectedness between law, society and the self. It is through an

identification of these connections that she is able to reveal the importance of power, hegemonic ideas and resistance in relation to legal consciousness.

 Merry (1990; 2003; 2006) takes a critical legal studies approach and depicts the law as an ideological weapon, as a discourse, and as a set of symbolic meanings, all of which emerges throughout her analysis of court interactions and the reasons that people take their problems to courts in the first instance. Whilst Merry's (1990) work began with a focus on dispute theory and mediation, it shifted to legal consciousness, and her conclusions highlight that although people often turn to courts and the law to seek freedom from their communities, they, in turn, subject themselves to the domination of the State which controls and shapes the way that the problem will be characterized and resolved. Merry asserts that those who seek solutions to their problems by taking them to courts find that those problems come to be defined in legal terms and so are appropriated by legal institutions and the State. This is not always to the satisfaction of claimants, and so at times there is resistance to this appropriation. While instances of resistance do exist in Merry's participant's stories, these are not the focus of her work. Yet what is interesting about resistance to the appropriation of experiences through legal language is that resistance can work to construct new legal and social realities and, in turn, consciousness.

It could, therefore, be suggested that the role of individual subjects and their agency is underplayed in Merry's (1990) work, and the power to define and construct meaning is too often placed with the State. Participant's stories *do*, however, display great power on the part of the subjects; even through their *awareness* of that power – their consciousness and reflections of it – and attempts to use it, manipulate it, or challenge it (see also MacKinnon 1989). Whilst at times acts of resistance take the form of deliberate and calculated action, such as withdrawing from the legal process or actively challenging it, it should be recognised that resistance can take more subtle forms. A change of tactics and language use in relation to the law rather than direct confrontations with it are examples of this. My research aims to include these

acts of resistance and, therefore, build on not only Merry's work but on legal consciousness studies that have followed, a number of which are discussed below.

**The Development of Legal Consciousness Research**

Legal consciousness studies are not all characterised in the same way and it is useful to explore the research landscape in order to not only see the development of my research but to realise, also, its contribution. After presenting the historical development of legal consciousness research here, I describe and explain my chosen approach to legal consciousness as a framework for exploring the narratives women have that make the law meaningful as well as the construction of the legal subject.

In the 1970s, legal consciousness was understood as a signifier of levels of knowledge of the law, and peoples' understandings and opinions of it (Sarat 1977). Such research tended to adopt a more quantitative and instrumentalist approach to examine levels of awareness, through the use of questionnaires. The data gathered was compared to the textual provisions that existed within the law (see Mayhew and Reiss 1969). Following from this, although 'law on paper' did not lose its central position, there was an inclusion of explorations of the interaction between legal texts and individual's experiences. While this was an important advancement, setting socio-legal studies apart from legal research, the research setting continued to be on formal, authoritative spaces (e.g. Bumiller 1988; Engel and Yngevsson 1984; Merry 1990 and Sarat 1977). This is in no way a criticism of the field, for such insights are vital to the development of legal consciousness and meaning-making, but what they failed to do was recognise the influence law has outside of these spaces, as well as its influence on the individual.

Over time, legal consciousness studies developed to take individual's accounts of their everyday lived experiences of the law as the central focus, and thereby

begun to employ an expressly constitutive approach (see Simon 2011). As Engel (1992: 126) highlights, 'everyday life constitutes law and is constituted by it' which implies that the two cannot be considered as separate and distinct spaces; rather, they are interlinked. In order to understand one, it is necessary to also examine the other. Research then drew more attention to the interactive nature between law and society and greater focus was placed on legal culture and constitutive approaches, as opposed to exploring any instrumental relationships. Ewick and Silbey's (1998) work is perhaps one of the most influential for legal consciousness studies, and a good example of legal consciousness in everyday life can be found in the work of Rosie Harding (2010) who explored law in the lives of lesbian and gay relationships.

As these studies each built upon the ones before, various definitions of legal consciousness emerged within them. There are two particularly useful conceptualisations. Bumiller (1988) and Sarat (1990) place emphasis on the influence of ideology on individual consciousness and consider that legal consciousness itself is a manifestation of ideologies that either support or contest the law. At times this can be used to justify and legitimise the law and State institutions (see Trubek 1984). Relatedly, Merry (1990: 5) defines legal consciousness as 'the way people understand and use the law'. Ewick and Silbey's (1998: 38) definition, though, which considers legal consciousness as being based in cultural practice, allows analysis that 'integrates human action and social constraint', as it takes account of not only interactions at an individual level, but social relations too. Their framework of legal consciousness is presented in more detail in the next section of this chapter.

In relation to methodologies used to examine legal consciousness, my ethnographic research also contributes to the existing literature. The methodological approach of in-depth interviews with members of the public has been common in the legal consciousness studies already mentioned. More specifically, interviews were used to document individual's experiences of courts and mediation processes (Merry 1990); their reasons for suing (Engel and Yngevsson 1984); lesbian's and gay men's views of legal changes (Harding

2010); the regulation of street harassment (Nielsen 2000; 2004); homeless people's views about housing decisions (Cowan 2004); and other issues related to the community, work, family and neighbourhood (Ewick and Silbey 1998). The interviews in Merry's work formed part of her broader ethnographic project, in the same way that they do in this research. The reason for the lack of methodological innovation more widely in terms of legal consciousness studies is perhaps due to time constraints of conducting more immersed research, as well as the funding climate of socio-legal work and academia more generally. My ethnographic research conducted over an intensive period of 12 months, contributes not only valuable insights into the development of legal consciousness but also adds to existing engagements with ethnography, law and legal anthropology (see Starr and Goodale 2002, and Donovan and Anderson 2005 more generally) and at times also the emotions that come to be attached to experiences through the development of legal consciousness (Cormier 2007). A good comparison is Hirsch's (2002) research in Dar es Salaam, Tanzania, as her focus was not on the law itself, but more what the law does and means in a given context. I engage with Hirsch (2002) more in the next chapter because it is her methodology and reflections which have been most influential.

Thus far though, there have been no explorations of legal consciousness in terms of violence and rights in Bolivia. Given the increasing attention on legal reforms and women's movements this research takes more of a legal anthropological approach to contribute not only to literature on Bolivia, but more broadly to understandings of what the law actually does. Taking together the existing literature on legal consciousness studies and in particular those that focus on some way in relation to perceived injustices (Bumiller 1988; Felstiner et al. 1980; Gallagher 2006; Kritzer et al. 1991), the next section focuses on Ewick and Silbey's (1998) framework of cultural schemas, which form the basis of my exploration of legal consciousness in Bolivia.

**Ewick and Silbey's Framework**

A hallmark of socio-legal research can be clearly identified as its move away from the more instrumental approach, dominated by legal scholars, with little room for sociological insights. For Ewick and Silbey (1992; 1998), however, the greatest focus should be on the way that legality is socially constructed; exploring how legal consciousness operates to construct and re-construct law gradually over time. In their research based on in-depth interview data with US citizens, they formulated three different types of legal consciousness which they called cultural schemas: 'conformity before the law'; 'engagement with the law'; and 'resistance against the law' (Ewick and Silbey 1998: 45). These classifications are used in Chapter Five in relation to Bolivian women's legal consciousness as a way in which to map subjectivity in the process of legal consciousness. This addresses some of the shortcomings of other works which do not emphasise enough the role of individual agency. The individual's role in the construction of meaning and consciousness is incorporated into Ewick and Silbey's (1998) cultural schemas, which are developed for enhancing understanding of the relationship between individuals and the law. At the same time, this can be related to the formal and informal institutional and normative frameworks that might encourage or constrain agency.

Cultural schemas are defined by Ewick and Silbey (1998: 43) as forms of legality, of legal culture: as a 'set of resources that operate to define and pattern social life'. Legal consciousness, then, is a cultural practice, which is neither entirely based on conscious construction nor a by-product of structural conditions. Resources drawn on to define and pattern social life need individuals to employ them, and so it can be considered that there are a variety of codes, scripts or, indeed, schemas that people might draw on to make sense of the law. These do not need to be exclusively legal, but can involve a number of different principles and norms. When meanings then become internalised and part of the language system or discourse, they enter into the consciousness:

> Consciousness is understood to be part of a reciprocal process in which the meanings given by individuals to their world become patterned, stabilized, and objectified. These meanings, once institutionalized, become part of the material and discursive systems that limit and constrain future meaning making. (Ewick and Silbey 1998: 39)

*Consciousness* is part of the system of meaning making and entails both thinking and doing: telling stories, making reference to and avoiding the law, and making denouncements. As mentioned in the introduction to this chapter, it is not simply a knowledge of a current written law that is of concern, and nor can law be considered in the way that perhaps UK or US citizens might think of it. The complexity of Bolivia and the inheritance of colonialism in particular, draw attention to the notion of law as holding on to meanings, values and traditions of the past. The legal transitions in Bolivia bring with them influences of past struggles and resistance, as well as the power of the relationships between local and global legal frameworks. Nye's (2011) understanding of soft and hard power is also of relevance here and so in seeking to explore legal consciousness, it is not simply about consciousness in relation to a particular law, but about the broader institutions and meanings that have come to shape that consciousness over time. The different levels of legal consciousness that form Ewick and Silbey's (1998) cultural schemas can be used to consider the relationships between ideologies and institutions, and the law as it is experienced.

### Before the Law

In seeking to understand the relationships between the micro and macro worlds, Ewick and Silbey's (1998) cultural schemas place consciousness in relation to the law at three different levels. Legal consciousness that falls into the schema of 'before the law' considers the law as a separate sphere from society. It is most similar to traditional notions of the law as being an objective, external apparatus, which forms a unitary body that exists separate to society but has control over it. Harding (2010: 20) points out that the 'before the law'

schema implies that when an individual decides to go to 'the law' to seek a solution to a problem, they lose control over the outcome of the situation as they have transferred that power to 'the law'. The law is then considered to be automatically and inherently powerful. It operates this power in that it is seen to embody a claim to a 'superior and unified' field of knowledge (Smart 1989: 4). For those that express a form of legal consciousness that can be categorised in this cultural schema, there tends to be an acceptance that legal actors hold the power to know what the correct solution of a legal complaint might be, and that both justice and resolution lies within formal legal spaces.

### With the Law

The second cultural schema, 'with the law', is closer to a 'law *and* society' model of legal consciousness. In this case, law is considered as a game (see also Bianchi et al. 2015). In contrast to the first categorisation of legal consciousness, 'with the law' appears to empower the individual more. Individuals are able to use legal rules and the system to their advantage by adopting different positions or tactics, like in Merry's work. Whilst rules still exist – most commonly viewed as being those set by lawyers, judges and in courtrooms – individuals can also work to manipulate these rules. What is important to note about this particular cultural schema though, is that only those considered to have resources are able to play the game. As Merry (1995: 20) states, 'the law provides a place to contest relations of power, but it also determine[s] the terms of the contest'. This classification of legal consciousness is particularly useful in understanding the relationship of women in Bolivia to the law and legal institutions.

### Against the Law

The third type of legal consciousness is 'against the law'. This works differently in the sense that the individual is posited in an adversarial relationship with the law, which becomes a site of resistance. Those who do not have resources to be considered players in the game of law often work against it. The law is

considered by Ewick and Silbey (1998: 192) as 'something to be avoided' as it is 'dangerous to invoke'. Resisting legal power is key to 'against the law' legal consciousness. In this research, with the focus on a law which is *welcomed* by women, this cultural schema is rarely encountered, however there are aspects of it which are important to draw from: the notion of the law being dangerous to invoke, being one aspect, discussed in later chapters.

## Theoretical Expansion of Legal Consciousness – Under the Law

Whilst Ewick and Silbey (1998) have mapped these types of legal consciousness, they recognise that at times all of them may exist within one story. They point out, 'legal consciousness is neither fixed nor necessarily consistent; rather it is plural and variable across contexts, and it often expresses and contains contradictions' (1998: 50). Developing these schemas further, Halliday and Morgan (2013) use them combined with an interpretation of Mary Douglas' (1982) grid group cultural theory to reveal a fourth schema, of 'collective dissent' whereby the legitimacy of State law is called into question and considered to be oppressive in nature. Thus, there is a collective effort to alter the power structures that legality imposes in order to resist and subvert them. This is similar to that proposed four years previous, by Fritsvold (2009) whereby law is considered by activists to be constituted within, and perpetuating of, a fundamentally corrupt system. His focus is on the failure of the law to produce equitable outcomes for everyday people and the less powerful. Fritsvold (2009) termed this 'Under the Law'.

What is useful about these theoretical contributions is their emphasis on resistive strategies that take place, albeit at the collective level. My research contributes to legal consciousness studies not only by exploring it in a Latin American context, and with women's rights as its focus, but it does so in a way that seeks to methodologically transcend individual legal consciousness and emphasise structural conditions that may work to shape it. At the same time, there is an added element of the interaction between legal consciousness and subjectivity. This moves away from purely descriptive legal consciousness

studies (Garcia Villegas 2003) where descriptions are considered as an end point. By engaging critically with the law, using legal consciousness, insights into legal culture are realised and this aids an understanding of the lived experiences of the opportunities and constraints in accessing justice.

**Legal Culture**

Legal culture refers to 'the relatively stable patterns of legally oriented social behaviour and attitudes' drawing attention to the 'more puzzling features of the role and the rule of law within given societies' (Nelken 2004: 1). Legal culture can be separated into internal and external legal culture. Sieder et al. (2005) point to Friedman and Perez-Perdomo's (2003) distinction between these whereby they contend that internal legal culture is about the norms, attitudes, and practices of lawyers and jurists, and external legal culture is about the broader perceptions within society. It is this concept of 'external legal culture' that is of greater focus in this research. The concluding chapter does suggest, though, that an exploration of internal legal culture in the context of Bolivia, also using the framework of legal consciousness, could provide further revelations about the structural conditions of society and the challenges to the implementation of law from a more elite perspective. It should be noted that Cotterell (1997) has questioned the analytical value of the term 'legal culture', but this is perhaps because he focuses on a fixed and static (as opposed to fluid) conceptualisation of 'culture'. Legal culture, similar to the notion of culture, is used in this research as a 'repertoire of ideas and practices that are not homogenous but continually changing because of contradictions among them or because new ideas and institutions are adopted' (Merry 2006: 11).

As will be seen, when exploring aspects of legal consciousness, what I uncover are aspects of external legal culture which are important to understanding legal processes because they can help us to understand how social and political life are constructed (Huneeus et al. 2013). Legal culture can be considered as different from, but related to, legal consciousness whereby legal

culture focuses on the macro opinions, interests and perceptions of the law which may be held by social groups that bring themselves to bear on the law itself (Friedman 1997). Legal consciousness is the micro, internalisation of these ideas and adoption of them into consciousness of legality, at a more individual level. Legality, therefore:

> is an emergent feature of social relations rather than an external apparatus acting upon social life. As a constituent of social interaction, the law – or what we will call legality – embodies the diversity of the situations out of which it emerges and that it helps structure. (Ewick and Silbey 1998: 17)

As an emergent feature of social relations, legality and legal culture can also highlight the role of CSOs in Bolivia, given their place in the development of the law, their position as translators and their centrality to resistance (see Green and Ward 2013). It is the diversity of situations and encounters that happen across different spaces and times that mean that legal consciousness is not fixed; it is constantly developing and changing (Hirsch 2002). When women encounter civil society, the police, courts, friends, protests, and family members, there is a constant negotiation and renegotiation of meanings. These social interactions are important in developing a range of frames or scripts, as mentioned earlier, that can all contribute to the construction of legal consciousness, whether those encounters are related directly to the law or not. Following on from the spatial language used in Ewick and Silbey's (1998) cultural schemas, I use the notion of conceptual mapping to illuminate structural institutions and conditions, and individual legal encounters that influence legal consciousness.

## Mapping and Space

As law is pervasive in all aspects of social life, geographical terminology is recognised as being useful. The critique of the 'invisibility of space in legal studies', put forward by Blomley and Bakan (1992: 662) was later replaced by what Delaney (2003) suggested was a shift that included many spatial

metaphors (see also Braverman et al. 2014). What engagements with 'space' allow in this thesis is a way to conceive of, and locate, the various physical settings of interactions, as well as the more intangible spaces where legal consciousness and meaning-making are created and regulated. An example of such space is where the development of the law and the activation of rights work towards the construction of new visions of the future, and of society and the Self. All interactions with social and legal institutions are distributed and located across space and time. An incorporation of space into an exploration of a legally plural context like Bolivia tends to be missing from the literature, as Griffiths et al. (2009) point out. This research, therefore, seeks to map the different spaces – physical and other – that contribute to an understanding of legal consciousness and women's narratives of the meaning of law.

Using geographical terminology and presenting a cartography of law, Santos (1998) portrays law as a social construction of reality which depends on scale, projection and symbolisation. Maps are projections of their creator – the cartographer – that filter out details deemed to be of less importance. The creator has to make decisions about which aspects of the world to distort and in what ways. A good example here is the distortion of the African continent in commonly distributed maps (Morlin-Yron 2017). Maps, therefore, can be considered to represent the ideologies of their creators (Smith 1992; Marston 2000):

> [E]very map displays a specific world; so does it display the world as it is, as it was, as it will be, as it could be, or as it should be? (Jacob 1996: 192)

For Santos (1998), there are similarities to be drawn between maps and law. Law can be considered as a form of distortion; whereby legal discourses distort narratives of the lived world. The scale at which law is constructed – for example at transnational, national and local levels – presents the level of detail incorporated and the applicability to local lived worlds. It reveals the extent to which particularities and nuances have been incorporated.

Discourses surrounding the law often draw on each of these different levels, and the radiating effects of the law can be felt across society in different spaces (Galanter 1983). The metaphor of the map in Santos' work includes the connections between not only physical, material spaces, but also metaphorical and mental ones (Smith and Katz 1993). These spaces form the constructive elements of legal consciousness, which can, in turn, generate different ways of seeing future possibilities and past lived experiences.

Santos (1998) argues that there are many different ways to generate an emancipatory map as a way of imagining and living new and different possibilities for ways of being and acting. Law is one of them. When people interact with the notion of legal remedies, they are considering a future that includes achieving some form of justice (Sieder 2013). Law works to symbolically present ideas and conceptualisations of life, which include the presentation of rights-bearing persons and identities (Merry 2006). Although law exists in text and so is in some way fixed within a particular space and time, it is not disembodied from those spaces, and in its application and implementation it is subjected to interpretations and meanings as a part of processes of contestation and reinterpretation by various actors. This process of localised meaning-making produces different spaces, revealing the law and space as being co-produced (Bennett and Layard 2015).

Through spatial-temporal interactions and interpretations, habits, assumptions and routines become shared and reflexively recognised as patterns that are subsequently communicated and can come to be considered as part of normativity and of culture. Jenkins (1996: 128 cited in Edensor 2002: 528) suggests that this is 'the beginning of institutionalisation'. With this institutionalisation, there is a reinforcement of ideas and beliefs at all levels of social organisation, which in turn intersect with everyday life and the relationships that, in this context, women have with the law. These patterns can be conceived alongside the notion of a cultural repertoire or script, as 'interpretive frames' (Goffman 1974) that offer some form of predictability and ordering of bodies, objects and spaces. Everyday practices and

communications become interwoven with conscious thoughts and unconscious interpretations. Edensor (2002) suggests that there is little reflection when people are engaged with habitual actions, yet when they are engaged with their memories of the past, through considerations of past experiences and interactions in particular locations, as well as visualisations of the future, this reflexivity becomes more evident. So, too, does the 'script' from which language and meaning can be adopted.

In legally plural contexts like Bolivia, there are different legal spaces that are layered, crossing over and superimposed on one another. They become mixed and entangled in the way that people think and in relation to how they act. This happens not only at an individual or community level, but also at the level of CSOs and the State. Santos (1987) terms this as 'interlegality'. Legal pluralism is characterised by porous borders between law and non-law, between State law and non-State law (Berman 2012). It is the interaction of different normative orders and frameworks, as well as institutional structures, that typifies legal pluralism. It should be noted that legal pluralism is not the *same* as interlegality. Interlegality does not suggest that different frameworks of rights sit alongside each other, as traditional legal anthropology tends to think of legal pluralism (Tuori 2010), but instead the concept emphasises 'legal porosity' or 'porous legality'. It is the *intertwining* of legal frameworks that is the focus of interlegality. Legal life, according to Santos, is constructed and constituted by the 'intersection of different legal orders' (Santos 2002: 437).

The existence of different legal orders does little to tell us about how those frameworks are experienced when put into practice. Such experiences are important in understanding whether or not the law has been successful in its aims. In Bolivia, *Ley 348* aims to guarantee women a life free from violence and, thus, there are emancipatory elements to it. Santos' (1998, 2002) work on the regulatory and emancipatory elements of the law draws attention to the paradox of law on paper and law in practice whereby it seems to be equally applied to all, but actually reveals tensions and constraints in relation to its

implementation. In his later work, though, he begins to question the emancipatory potential of the law (see also Sieder 2013). Alternatively, Holder and Harrison (2003: 4) term the existence of regulation, which is rooted in local conditions, as 'local legal universes' or 'legal localisation' and suggest that engaging with how law shapes physical conditions makes clear that the law has a physical presence. By considering what law does in different spaces, it can be released from 'its imposed and self-imposed confinement as 'word'' in order to show the 'legal at work in the world' (Holder and Harrison 2003: 5).

## Dialogical Spaces

Law's place in the world draws attention to the power it has to shape discourse and to offer opportunities for the conceptualisation of issues and encounters in legal terms. There is recognition that the law actively shapes and constitutes society, while also being socially produced itself (Blandy and Sibley 2010), and using spatial terminology signifies the boundaries of what can be thought of and communicated at a given time in a given society (Baumgarten and Ullrich 2012; Spillman 1995). Of relevance to this doctoral research is the interaction with ideas and thoughts. Bakhtin (1984) suggests that an idea can only be considered real when it has entered into a dialogue with other ideas; when it is *dialogical*. In *Problems of Dostoyevsky's Poetics*, Bakhtin (1984: 188) writes:

> The idea begins to live, that is, to take shape, to develop, to find and renew its verbal expression, to give birth to new ideas, only when it enters into genuine dialogic relationships with other ideas, with the ideas of others. Human thought becomes genuine thought, that is, an idea, only under conditions of living contact with another and alien thought, a thought embodied in someone else's voice, that is, in someone else's consciousness expressed in discourse. At that point of contact between voice-consciousnesses the idea is born and lives.

This has led to what I refer to in Chapters Four, Five and Six, as 'dialogical spaces'[17] – those spaces where ideas enter into dialogue with others through voice-consciousnesses. Examples of these spaces in this research more broadly, are those of the State (and associated institutions, such as the police), civil society (in relation to social movements and organisations), the family (often the site of violence) and the public sphere (in particular social media). These concepts are, themselves, dialogic. They are relational and come into being by their *interrelation* and encounters with one other. The Hegelian triangle (of the State, civil society and family) draws attention to key dialogical spaces where women's legal subjectivities and legal consciousness can be explored.

This triangle is useful in relation to understanding the Morales government, as Hegel (1820/2003, cited in Schmidt han Busch 2017) argues that a person must, by acting within the State, gain rights so that their individual, particular interests become united with the universal interest, in the same way that Morales seeks to accomplish a harmonious relationship between individual and collective rights, national/international law and customary law. Hegel (1820/2003: 285, cited in Schmidt han Busch 2017: 152) is not suggesting that the particular interests of the individual must give way to the universal, but that 'on the contrary, they should be harmonized with the universal so that both they themselves and the universal are preserved.' Yet, as Okin (2002) points out, this Hegelian triangle is often used by others without greater recognition of society being structured by gender. Given that this research focuses specifically on women's rights, the gendered aspects of these spaces are brought to the fore. This is particularly the case with an exploration of

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[17] A cautionary note should be attached to this notion of dialogical space, however, as it is important to consider at what points space is being created and when it is being taken away (Marchand 1995; see also Kovach 2005). For example, at what points international organisations, local NGOs or, indeed, researchers create spaces for discussion and resistance, or at what times they attempt to speak for other people (see Spivak 1994).

*family* and the concepts of *chachawarmi* and *machismo* that were highlighted in the previous chapter.

Families are dialogical spaces as they are sites of the formation of ideas around gender roles and expectations, as well as about the law that is created by the State (Oakley 1972). The space of the family and home are also constructed by the relationships and interactions that take place between family members. For Bourdieu (1996: 22) 'the family plays a decisive role in the maintenance of the social order, through social as well as biological reproduction, i.e. reproduction of the structure of the social space and social relations'. Families, therefore, becomes valuable means of making sense of the lived experience of broader social, cultural and legal structures, which are then reproduced and transformed in everyday life.

Another spatial concept is civil society. Civil society consists of: 'a wide array of groups, associations, and organisations, including community and local organisations; human rights, peace, and environmental groups; educational or cultural activities; churches or religious organisations; sports or recreational clubs; and women's, veterans', youth, elderly, disabled, animal rights, health and self-help groups' (Howard 2003: 35). Hegel (1820/2003 conceived of civil society as a space of free association between the family and the State, but this is where the complexity of Bolivian civil society is further revealed. In Bolivia, the State was created through a civil society movement and there are a number of organisations that are still closely aligned and linked to it. On the other hand, as the previous chapter suggested, there are times when the State and civil society come into conflict. Civil society, therefore, cannot be considered as a unitary space, but it is instead made up of a number of different spaces, with different relationships with the family and the State.

In addition to the State, civil society and the family, the public sphere is also included, and largely to accommodate social media. Social media has become an important platform for raising awareness of women's rights in Bolivia,

although there can be considered to be an urban-rural divide in terms of access. For many though, social media allows the formation of what Frame and Brachotte (2015: 48) refer to as 'ad-hoc (mini)publics'. These mini-publics are useful for raising awareness and forming resistive movements that can channel ideas in to something larger (Lindgren and Lundström 2011). Public support and contribution in this sphere includes using the space to challenge dominant gender constructions and to draw attention to injustice.

These different spaces not only reveal the importance of a voice-consciousness but they also draw to the fore the way that space is produced through interactions. This can be seen, for example, in displays of resistance, or considerations of a future utopian place. As Massey (2005: 101) suggests, 'what is always at issue is the content, not the spatial form, of the relations through which space is constructed', and meanings are made. This is especially relevant in relation to social media that does not necessarily occupy a physical space but instead it constantly creates and re-establishes space through the interactions that take place. This reflects the engagements of the work of legal geographies (Bennett and Layard 2015). As Lefebvre (1991: 8) states, there is:

> an indefinite multitude of spaces, each one piled upon, or perhaps contained within, the next: geographical, economic, demographic, sociological, ecological, political, commercial, national, continental, global. Not to mention nature's (physical) space, the space of energy flows, and so on.

What could be added to Lefebvre's conceptualisation of space though is a spiritual space, which would recognise indigenous understandings of the world, of the *cosmovisión*. Understandings travel across and between different territorial, political and social spaces and there is not always a simple divide between indigenous and non-indigenous ways of thinking. Mapping legal consciousness in relation to a multitude of spaces reflects the intuitive and productive method of fieldwork in legal geography, as it emphasises the co-production of spaces and places, legally, politically, socially and spatially. Law is then associated with place-making by either seeking to change spatially

embedded normativities or by maintaining them. The key message to note is that law is not disembodied from the places of active, localised meaning-making, and it is this idea of interaction with law that is central to its meaning in the everyday lives of Bolivian women, both physically and discursively. All of these processes take place in some form of territorial space and this takes account of not only the spaces of the State, civil society, social media and the family, but also the links between more global spaces and particularities of Bolivian spaces.

**The Global and the Local**

Interactions with law involve not only engagements with local legal norms but also global norms constructed and developed transnationally. Within a world that is more easily connected, the influence of national, transnational, regional and global legal norms must also be noted (see Radcliffe et al. 2004). I do not expand too much on this, given the context of different legal frameworks, but neither can it be excluded – especially given the connections in Bolivia to broader women's rights movements.

As human rights move from global spaces to local ones, Jing-Bao (2005) suggests that human rights are, at times, incompatible with multi- and pluri-ethnic societies. In Bolivia, for example, it is communitarian traditions that form the basis of many peoples' lives. They live as both an individual and as part of a group. Jackson-Preece (2003: 67) points out that 'we exist as social beings and not isolated individuals' and, therefore, a focus on the individual in terms of human rights is incompatible with the social world we live in. Advancements in relation to indigenous customary law alongside State law in Bolivia mean that the legal culture is different than that in, say, the minority world. Even though the legal transitions in Bolivia could be thought of as advances and recognition of the plurality of needs that exist, it also adds a different dimension to explorations of legal consciousness because it emphasises the interlegality that Santos describes. It is not only a legally plural context that forms the conditions of legal consciousness, but also the history

of colonialism and the struggles for legal recognition, as well as a social consciousness that existed pre-colonialism.

While this is not the place to engage in long-standing debates between universalists and cultural relativists, it is useful to outline the broader aspects of the argument between the universal and the particular in order to stress that there are indeed different lived realities. It is suggested by Shestack (1998) that the stance of cultural relativism formed in response to colonialisation and minority world imperialism. It is a rejection of the view that majority world cultures are 'inferior', 'native', 'primitive' or even 'barbaric' (Shestack 1998). Goodhart (2003) asserts that human rights should be indigenous to a particular culture and not transferred from the 'West to the Rest' (see Fadzillah 2004). It is, therefore, important to note that:

> no human rights are absolutes; that the principles that one may
> use for judging behaviour are relative to the society in which one
> is raised; that there is infinite cultural variability, and that all
> cultures are morally and equally valid. (Shestack 1998: 228)

This is equally as applicable at national Bolivian levels as it is at the global level. In the case of women's rights, multiculturalism and women's rights are often considered to be in conflict with one another, where there is a perceived tension between maintaining and protecting cultural practices and cultural diversity, and the effort to promote equality and rights for women (see Okin 1999); these tensions were experienced during the creation of Bolivia's new constitution. Such tensions are often considered as a conflict then between feminism and cultural relativism, yet this conflict is 'not as profound as it often seems' (Brems 1997: 157). Both theoretical positions have a number of similarities, the first of which is their concern with the abstractness of the human rights paradigm and its tendency to construct the legal subject in a way that obscures or erases their particularity. Whilst a level of abstractness is needed in order for global discussions on human rights to take place, this can often result in problems for those on the periphery that are more likely to find

their rights threatened or violated by hegemonic discourses (Radcliffe et al. 2004). This is no more the case than for indigenous peoples, women and, more specifically, indigenous women.

Both feminists and cultural relativists argue for a level of 'concreteness, specificity or particularity to be incorporated into the human rights concept' (Brems 1997: 158). Taking the individual as the starting point need not be to the detriment of the collective (Brems 1997; Donnelly 2003). As opposed to a more abstract or universal notion of an individual legal subject, it is best to consider a 'contextualized individual' who holds a form of concreteness which allows, for example, the rights of women to be explored, understood and realised within the context of their family and community (Brems 1997: 162). The realisation of human rights must be through a cultural lens and, in turn, any claim for cultural rights or for the creation of a pluri-national state must seek to engage with the notion of both collective rights and individual rights, and specifically the situation of women within social movements and the struggles against a patriarchal culture (Kuppers 1994; Rousseau and Hudon 2017).

This once again draws the notion of culture to the foreground because gender, after all, is a cultural construction, and not only does culture reveal tensions and constraints but it also offers the opportunities for resistance that are so important for women's movements, legal reforms, and social change. For social change to take place, any legal transitions must be 'translated in to local terms and situated within local contexts of power and meaning' (Merry 2006: 1). The vernacularisation of rights, to use Merry's language, is what is required. It can be understood as the cultural circulation and resulting adoption of rights (Merry 2006) and such circulation occurs within the spaces of the State, family, civil society and the public sphere. This term 'vernacularisation' is useful as it not only suggests the movement of ideas from global to local, but also the local to the global. Levitt and Merry (2009: 446) highlight the process of vernacularisation where 'global ideas connect with locality' and 'take on some of the ideological and social attributes of the place'.

Again, this vernacularisation can also happen in legally plural contexts between different spaces of society and different groups of peoples, which, in some ways, are considered to have different needs and interests; for example, indigenous and non-indigenous groups (see Canessa 2014).

What is clear, and as this research stresses, is that rights must become part of social life, and contribute to the ideas and rules that people carry around with them (Sarat and Kearns 1993). They must become part of their consciousness, and become embedded in social practices and vocabulary, or else they will have no meaning for those at whom the law is directed. This meaning-making takes place within the different conceptual spaces already outlined and by using legal consciousness as an interpretive script, the lived experiences of the law can be explored and the narratives that women have about violence uncovered.

**Violence Against Women**

Given that this research is focused on legal consciousness in the context of accessing justice, using law against violence, and engagements with subjectivity within this, it is important to also consider the different forms of violence that can take place. Hume's (2008) work highlights this in relation to El Salvador and points to Bourgois' (2001) categories of violence, which include direct, political, structural, everyday and symbolic (see also Heise 1998). In particular, Hume (2004) emphasises that it is the embeddedness of gendered identities that work to make forms of violence tied to these constructions difficult to recognise. Hume (2012: 46) argues:

> violence against women provides a useful prism through which
> to analyse ongoing obstacles addressing human rights [... and]
> highlights clearly the lack of an adequate rule of law, issues of
> ongoing impunity and the broader structural inequalities that
> women must face because of their gender.

Two aspects of violence that are often overlooked are that of cultural violence (Galtung 1990) and symbolic violence (Bourdieu 1990). Galtung (1990) conceived of cultural violence as an extension of structural forms that were experienced due to the way that society was ordered and functioned. These aspects of culture work to legitimise institutional (or structural) violence. Cultural violence highlights aspects of culture that can be used to rationalise or legitimise direct or structural forms. For Bourdieu and Wacquant (1992), symbolic violence is that which becomes embodied in language, concepts and systems of symbols which obscure the conditions of power that work to subjugate individuals, to a point where they are no longer noticeable. Not only are instances of symbolic violence overlooked, they are also often accepted. A good example which includes these cultural and symbolic forms of violence is *machismo* and the construction of a patriarchal society and household which can often lead to other forms of violence (evidenced in later chapters). It is therefore the micro contexts of violence that illuminates 'everyday violence' (Scheper-Hughes 1992; 1996) which are useful in revealing the challenges women have in institutional processes and discourses and the overlapping of different forms of violence (Kleinman 2000).

It should be noted that this research does not necessarily focus on the experiences of violence in themselves but takes violence against women as a prism through which to examine legal consciousness and women's access to justice, and, in turn, women's subjectivities. In relation to concepts of *machismo* and *chachawarmi*, attention is drawn to families, where women are often vulnerable to violence and abuse can be highlighted. Unfortunately, aspects of violence that can be classified under Bourgois' (2001) categories, are also encountered in the institutions designed for women's protection and for legal aid. It is, therefore, also a prism through which to explore legal culture and legality.

**Summary**

This chapter has explored the concepts which are central to this research by highlighting the importance of a focus on what law does in society, as opposed to how legal texts are constructed, and this is demonstrated by the construction of the legal subject which contributes to women's experience of the law and their access to justice. This is often through the promulgation of the universal, at the expense of recognition of the particularities of women's lived experiences. Interpretive frames to explore women's lived experience have been presented and Ewick and Silbey's (1998) framework of legal consciousness is described as the dominant interpretive script used in this research to explore women's experiences of *Ley 348*. Such experiences are shaped by encounters with a number of different spaces – conceptual and territorial – across society. These are identified as the State, civil society, the family and the public sphere. Within these there are often different expectations placed on women and different interests privileged and so they are vital in exploring the narratives that women have with the law, and indeed each of these spaces emerged from women's stories, as will be seen. It is also important to recognise the various forms of violence that women experience, and that some of these often remain hidden and/or accepted. It is clear that experiences of the law and, thus, of legal consciousness can produce an imaginary map of the concepts that are present in and influence women's narratives of the law *in* Bolivian society.

**Chapter Three**

# Methodological Approach

*Am I a researcher now? Collecting my data? Answering my questions? I ask:*
*How dare I assume control of this process? It is the data that collects me.*
*Possesses me. Inscribes onto me the stories that it wishes me to tell.*

*(Amatucci 2013: 3)*

## Introduction

Within the context of the preceding chapters, which have set forth the political, social and legal context of Bolivia and highlighted key theoretical ideas in relation to the development of legal consciousness and subjectivity, this chapter details the methodological approach adopted. Research questions and aims are first provided, and the remainder of the chapter engages with changes that took place during the research and the challenges of defining the field site. It outlines the participants that were included in participant-observation, life stories and interviews. Given that the study was conducted in my second language, issues of language and interpretation are presented, couched within broader ethical considerations and engagement with the production of knowledge. Ethical approval was granted in July 2014 through the University of Stirling's ethical review process, but there are of course far more issues that arise whilst in the field that are often unexpected and so reflexive insights and emotions are spread throughout the sections in order to recognise their presence in all aspects of research. Finally, this chapter details the process of data collection and analysis, highlighting key concepts which aided the structuring of data for the findings chapters.

## Research Aims and Changes

The aims of this research are to theoretically and empirically explore women's legal consciousness and the construction of subjectivity in relation to women's

rights in Bolivia. Guided by theoretical explorations on the one hand, and the unfolding situation in Bolivia on the other, this research sought to address three main questions:

- What are the structural and cultural conditions that constrain women's access to law in Bolivia, in particular with regards to *Ley 348*?

- How does the law structure legal subjectivity in relation to violence against women?

- What narratives do women construct that make the law meaningful for them, in Bolivia?

Underpinning these questions, the objectives are to:

- Explore the macro social institutional structures of society that influence women's relationship with the law.

- Examine women's narratives of the law utilising the framework of legal consciousness.

- Understand the role of law in women's conceptions of themselves and of violence in Bolivia.

**A Feminist Approach and a Cautious Note**

Before proceeding it should be noted that feminism and feminist ideas and concerns always underpinned the research, thus influencing all aspects of the research design: its adaptation, the methodology, the writing, and eventually, the dissemination. What is particularly pertinent is that although I strive to engage with feminism that has not only come from the minority world, I will always be coloured by my own European perceptions (similar to Kuppar's 1994 admission in her own work). To claim otherwise would be misguided and would seek to present myself as something other than what I am in the face of highlighting social learning, history and culture as being so vital for the

construction of the Self. As Fetterman (1998: 23) points out, 'we are all products of our culture', and no research takes place in a philosophical vacuum (Murray and Overton 2003). Researchers, therefore, that do not acknowledge their own positioning in terms of gender, age, ethnicity and also theoretically, can be criticised for adopting a 'vantage-point perspective' (see Sandberg 2003: 183).

I have, therefore, sought to be *aware* of different ways of being, an ecology of knowledges and different feminisms, without being *piratic* in the way that they are employed (Tilley 2017). Scheyvens and Storey (2003) suggest that research between the minority world researcher and the majority world is always exploitative (see also Tuhiwai Smith 2004) and can appear to present a picture of majority world people as having no power. Instead, how well-informed and politically aware the researcher is, and their understanding of the local context, alongside their morals and values, are extremely important when judging the suitability of a researcher and the context. I seek not to appropriate other forms of knowledge but to appreciate them. It is often a very fine line and one that is perhaps rather overlooked in academia. Although this is the only section of the methodology with the title of feminism, engagements with my feminist approach weave through the rest of the chapter.

## Adapting the Research to the Context

While this research began with a legal probe of women's rights, the object of analysis is not the law itself, but rather something else; in this case, subjectivity and legal consciousness, and how interaction with law *in* society constructs and is used to construct these. As Flood (2005: 34) highlights, law 'is situated at the intersection of life and theory' and thus an exploration of it should include both an exploration of life *and* of theory. This means that the research may not be considered as a *pure* ethnography – in an anthropological sense – where the researcher provides only engagement with the context in which they were immersed. Given the complexity of the Bolivian context, combined with a socio-legal approach, this research also draws on other

literature in order to make sense of the research problem. The theoretical approach largely documented in Chapter Two was considered prior to fieldwork, but the specifics of it were not. To report back exactly what was happening in a context is not possible given that the background assumptions and ideas that the researcher carries with them are often constructed on a different understanding of the world. When the researcher and the research field site involve the mixture of minority and majority world ideas, as my research does, then this is all the more true. The aim, then, was to take a more 'field informed' (Schlosser 2014: 203) approach to the intricate aspects of the subject matter, discussing the direction of research with women in Bolivia from the outset of fieldwork:

> To arrive in the 'field' with an established set of concerns framed around what [Linda Tuhiwai Smith] calls 'standard research problems' is to immediately foreclose the many unknowns within that community's social life. (Tilley 2017: 11)

Although research questions were formulated prior to fieldwork in order to secure funding, it was important that they remained broad given the nature of the research problem and the fact that I am a European researcher in a Latin American context (see Tuhiwai Smith 2004). The subject matter and the wider research problem did not necessarily change but it became more focused on the interactions women and organisations had with one particular law – *Ley 348 to Guarantee Women a Life Free from Violence*.

In the first few weeks of being in La Paz, women I encountered often expressed that they felt that my research should be focused on *Ley 348*, and so although the research could not be entirely co-created given funding constraints on early design, it did seek to overcome what Tilley (2017: 39) refers to as 'extractive tendencies in sociology'. By combining a flexible methodological approach of ethnography, with the voices and values of the people being studied, is central to feminist research (Hirsch 2002; Daly 1997). In this sense, their experiences were not being viewed as *my data*, but as forms of

knowledge – valued for their expertise. The value of the ethnographic method and a consideration of feminist research can be evidenced in allowing this more flexible approach to research and the plans created prior to entering the field. Hirsch's (2002) reflections on her work in the majority world were returned to frequently. She points out that 'the techniques of feminist research routinely question and blur the boundaries between observer and observed' (Hirsch 2002: 14) and, in doing so, research projects and their methodologies are defined and redefined not only by the researcher but also by those being researched (Burgess 1995). Having highlighted the development and redevelopment of the research questions, the following sections engage with the chosen methodology.

**An Ethnographic Approach**

> The essence… of ethnography is its liberating power. In the field
> of law, liberation is essential. (Flood 2005: 35)

An ethnographic approach was employed for this socio-legal research as it not only includes a number of methods and tools to draw on, but it is adaptable, empirical and responsive to meaning (Rock 2001). As Flood (2005: 35) emphasises, taking an ethnographic approach to law moves away from law reports, which often tend to be 'soulless' and lacking in life, and places emphasis, instead, on intensive fieldwork. The aim is to explore 'subjective accounts and determine how they constitute sociological understanding through the process of social interaction' (Flood 2005: 40). As the research focuses on both macro and micro aspects of women's lives, as well as law *in* society, the strength of ethnography lies in its 'close resemblance to the routine ways in which people make sense of the world in everyday life' (Hammersley and Atkinson 1995: 2).

The core aim of ethnography is not only to describe what happens but to also document:

> how the people involved see and talk about their own actions
> and those of others, the context in which the action takes place,
> and what follows from it. (Hammersley and Atkinson 2010: 7)

This research is grounded in symbolic interactionism; interpretation is key with strong emphasis placed on exploring social phenomena (Hammersley and Atkinson 1995). My research, like ethnography more broadly, includes both description and analysis (Punch 1998) in order to produce in-depth, rich data, and what Geertz (1973) refers to as 'thick descriptions' over a period of fieldwork; in this case, of 12 months, from October 2014 to October 2015. Fieldwork is at the heart of an ethnographic approach (Fetterman 1998).

Thick descriptions lie in the absorption, interpretation and understanding of contexts and behaviours, by presenting 'detail, context, emotion, and the webs of social relationships that join persons to one another' (Denzin 1989: 83) as well as to broader social, political and legal structures. Therefore, although a symbolic interactionist perspective has been important in shaping this research, this research also seeks to address the limits of human agency through the regulation of behaviours and the power of social structures to constrain choices. 'Things do not have their significance because individuals in isolation bestow values to them by means of their mental activity', states Tanesini (1999: 15), it is rather that 'things have their significance against a background of socially instituted practices'. It is the thick interpretative work of researchers that brings readers to understand the social actions and the context that is being reported upon (Ponterotto 2006), which brings life to those otherwise soulless legal studies (Flood 2005).

Smith (1985) suggests that an ethnographic approach to the study of everyday life can provide insights into local understandings and from there it can be possible to find ways of exploring and uncovering broader structures of power and inequality. Descriptions are central to this and the aim of ethnographic fieldwork should be about illuminating meaning, values, interpretivist systems and ways of being (Strega 2005). As previously highlighted, Santos

(2004: 147) suggests that such insights are best provided by those on the 'periphery'. It is for this reason that women are the focus, given their economic, social, political and legal position in Bolivian society as those characterised by subjugation. An ethnographic approach allows for depth, and for the possibility to examine the routine, everyday lives of Bolivian women (Fetterman 1998). My immersion in Bolivian life meant that, over time, understandings of social institutions and patterns of institutionalised behaviours and ideologies gradually emerged.

With ethnographic research, there are often three main forms of data collection: interviews, observation and documents (Hammersley 1990). Each of these forms of data collection were used at some point throughout the research, where deemed appropriate, although documents less so. As Rock (2001: 29) insists, the ethnographic method 'does not presume too much in advance', and this permitted movement within the complex and challenging context of Bolivia, whilst staying true to the central aims of the research. Utilising an ethnographic approach means that in complex research environments, researchers can remain adaptable and flexible. Adaptability was certainly required in Bolivia.

## Research Setting

With this adaptability in mind, the next section of this chapter presents the vibrant and picturesque setting of the city of La Paz in Bolivia, where fieldwork was based. It also describes and explains the field site of *Casa de las Brisas* (a pseudonym, sometimes referred to in the abbreviated form of Las Brisas), which is the women's centre where the majority of participant-observation was conducted, and life stories gathered.

### What is the Field?

Firstly, it is necessary to explain the challenges of defining 'the field'. This is especially fraught with difficulties when the researcher has a number of

options for what 'the field' might be. Hyndman (1995: 200) defines the field as a 'site to critique, deconstruct, and reconstruct a more responsible, if partial, account of what is happening in the world', however this does not aid an understanding or delineation of what a field actually is.

Relocation from one context to another – Scotland to Bolivia – aided the initial framing of the broader field for this research, but within such a vast and complicated context there was also the need for the field to be more well-defined and specific. In the first couple of days of fieldwork, the act of self-displacement combined with the rushing thoughts of 'finding the field' resulted in increased feelings of anxiety, uncertainty and culture shock. This is not uncommon, and I took comfort in being reminded of that by returning to literature (see Robson and Willis 1997; Pollard 2009). Although these feelings were exacerbated by the challenging process of visa application – which involved not only hiring legal aid, invasive medical checks, numerous visits to police stations and Interpol, and waiting in long queues for further interrogation at *migración* (immigration) – it also meant I had to stay in the

city of La Paz for at least the first month. Initially, prior to embarking on fieldwork, I had considered that a more rural, indigenous community might be of interest. Yet in those initial weeks, La Paz revealed itself to be a culturally rich and diverse city, with weekly protests and marches on social and political issues. There was a liveliness and zest about the urban city that was both energising and inspiring. The choice to stay in La Paz has now produced a different, yet equally valuable contribution to the existing Bolivian literature, which tends to focus on rural



Figure 1 Map of Bolivia

populations (Goodale 2002) or provides broader political engagements that lack interaction with lived experience (see Goodale 2009, Lazar 2008 and Postero 2006, for excellent ethnographic work in this area).

### La Paz: A Multicultural Andean City

La Paz is the home of government buildings, women's centres and human rights organisations, criminal justice institutions and a rich diversity of peoples. It is the administrative and de facto capital city of Bolivia. With the focus of this research being not only on women's stories but also the connection of these stories to the broader social institutions and patterns of relationships that compose society, La Paz offered a promising base for fieldwork. The overall feeling from literature and other data gathered in the initial stages, was that access to legal remedies in the cities was easier than in rural areas, and whilst that may be so, informal conversations and observations early on revealed that although women were spatially located close to the 'centres of law', such as police stations, Ministry of Justice, and the courts, this did not mean that they were necessarily more able to access it in a meaningful way. This is demonstrated in later chapters.

When arriving into La Paz, travellers will disembark at El Alto Airport, the fifth highest-altitude airport in the world. El Alto is on the outskirts of La Paz, and although it was part of the city itself, its rapid growth meant that in 1985, it became an independent city (Lazar 2008). The greater La Paz area is home to 20% of all Bolivians, and combined with El Alto, the city of La Paz is considered as one of the largest and fastest growing, predominantly indigenous cities (over 60%) in all of Latin America (Heyman and Cassola 2012). Spanish for 'The Heights', El Alto sprawls across a 13,300ft high plateau in long straight streets and roads, flanked in the distance by snow-capped mountains. Once just a suburb of La Paz, El Alto is now the highest major metropolis in the world and was recognised in 1987 as a self-governing entity.

Photo 1: View down to La Paz from El Alto (Own photo)

Descending from this cold climate city, down the side of steep mountain cliffs, the expansive and densely packed bowl of La Paz emerges beneath the clouds and fog, sitting at a more comfortable 11,975ft above sea level – although still a dizzying height in comparison. The steep slopes that connect El Alto and La Paz are, where terrain permits, packed steeply and tightly with orange concrete box houses, separated on occasion by steep narrow stairs. Given the lack of oxygen at such high altitudes, the journey through these streets is challenging on both legs and lungs.

In April 2014, sky gondolas named *Mi Teleférico* were created to join the city of El Alto with downtown La Paz. This innovative transport system has provided opportunity for the greater movement of people between the two regions. It has encouraged those living in the suburbs of El Alto, predominantly indigenous peoples, to make the descent into La Paz for work (see Lazar 2008). With Bolivia passing legislation in 2012 recognising the Rights of Mother Earth, this cable car system was established to reduce congestion and

smog in the city and, therefore, reduce overall pollution. However, the freer movement of people has given rise to some tension between the wealthier areas of Irpavi and Zona Sur (located in the lower regions of La Paz) and the increase in indigenous peoples from the *altiplano* (high plain). Tensions witnessed early on, demonstrated the complicated context of Bolivia that I presented in Chapter One, and the cultural diversity of this bustling city.



**Photo 2: Mi Teleferico, yellow line, La Paz. (Photo credit: Kateri Raglow)**

It was also clear that La Paz was a hub of political and social mobilisation. This is evidenced by the numerous protests and marches that took place across the city on a weekly basis. They focussed on issues such as mining and land use, struggles for changes in abortion laws, also marches against violence. While waiting for my residency visa, and establishing contact with Bolivian

organizations in La Paz, I attended numerous street protests or stumbled across them as I navigated my way through the city, often not fully aware of why they were taking place, but absorbing the energy and atmosphere. Such a culture of activism, invigoration and mobilisation felt different to the majority of my experiences in Scotland, although at the point of my departure in September 2014, that seemed to be changing[18]. In the same way that Lazar (2008: 258) described El Alto, I found that La Paz was a 'mix of urban and rural, collectivism and individualism, egalitarianism and hierarchy' but with a little more 'urban' than El Alto.

### The Prevalence of Violence

One event in particular that was important in my decision-making process involved a march through downtown La Paz. It was particularly important in leading me to a focus on law concerning violence, as I highlighted earlier in the chapter. The 25th of November 2014, one month after arriving in La Paz, was the United Nations International Day for the Elimination of Violence Against Women. Women's organizations marched through the streets, halting traffic and calling for greater access to justice under *Ley 348, the Comprehensive Law to Guarantee Women a Life Free from Violence*. They carried large pink and purple crosses emblazoned with the names of all of the women who had died in 2015 due to gender-based violence. Others carried signs adorned with the slogan "Not one more". It was a powerful sight.

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[18] Although given the time of departure from Scotland, as September 2014, I had witnessed the reinvigoration of the public sphere around the issue of Scottish independence, the extent of which was something I had not yet seen in my lifetime.

**Photo 3: United Nations International Day for the Elimination of Violence Against Women, La Paz, 25 November 2014 (Own photo)**

During this event, I volunteered with the Municipality (Council) of La Paz at the end point of the march and the hub of activity, in Plaza San Francisco. Working on the stalls giving out leaflets about violence, helping to put up posters around the area, as well as organising musicians, performers and bands before they would go on stage to perform, all provided opportunities to observe and engage in conversation with many members of the public. The event was attended by thousands of people. As the sun burned my shoulders, I realised I was watching something important unfold. Women were mobilising and marching in response to injustice, oppression, violence and institutional failures. Such events throughout my fieldwork were important sites of observation and reminders of the centrality of the issue of gender-based violence in Bolivian women's lives. The women's centre chosen as a fieldsite further illustrated this.

**Photo 4: United Nations International Day for the Elimination of Violence Against Women, La Paz, 25 November 2014 (Own photo). Translations: 'My body is mine'; 'If he loves you, he won't kill you'; 'If he mistreats you, he doesn't love you".**

### Casa de Las Brisas

Contact with *Casa de las Brisas* (often referred to as Las Brisas) emerged from a discussion I had with a Bolivian member of staff at the language-learning institute I had enrolled in upon arrival in La Paz. The best way to make contacts in Bolivia is to continuously engage with people. Emails and phone calls rarely come to fruition. Not only does this make the researcher more visible but constructing relationships with people means that they are able to vouch for the researcher, their personality and, to some extent, the ethos of their work. I thought of everyone as cultural informants and possible gatekeepers in the early weeks of fieldwork (Turner 2013).

In other countries, it may be possible to access a register of CSOs, charities, or institutions working in particular areas of human rights, but due to the complicated relationship between the State and civil society in Bolivia, highlighted in Chapter One, there is no directory available. Many CSOs are unregistered – rejecting the strict rules imposed by the MAS government. Initiating contact and gaining access, then, meant drawing on the networks

that were established in the early weeks. By building friendships and networks there were people who were able and willing to provide personal references to those who held the power over access.

Las Brisas, a Bolivian NGO, consisted of a building that was a space for support and friendship, not only for women, but also for their friends and family. Those that frequented this building, the centre of the NGO, were women. Once individuals were in contact with Las Brisas, it was clear that the relationships established continued further in to their lives. My phone number was passed to one of the members of staff at Las Brisas and during an initial meeting I was informed that approximately 90% of the women who visited the centre had experienced some kind of abuse. After 3 hours in the centre and drawing on literature concerning field site choices (see in particular Chiseri-Strater and Sunstein 1997), I concluded that it would be an insightful base within which to explore narratives of legal consciousness and subjectivity.

Las Brisas was located on the outskirts of the city. Set back slightly from the sidewalk, it was guarded by an intricate wrought iron gate. After entering the gate, uneven stairs led up to what appeared from the front to be a rather unassuming building. A small doorbell was positioned to the right of a flaking painted door, which opened the way into a dark and extremely cold space. The walls were brick, and given its location, the rays of the sun were blocked, meaning that the walls never had a chance to heat up throughout the day. They were a dirty, dull colour, and in the entrance hallway there was an old faded sofa draped with threadbare throws and sagging cushions. To the right was a small meeting room, with an old cathode ray tube (CRT) television, a small wooden desk, and a chair on either side larger, more spacious room, with a mismatch of mahogany shelves, oak sideboard, and a round, pine table in the middle of the room. Despite the cold, the atmosphere was warm and welcoming. The hospitality and openness of the Director and staff was in stark contrast to the bleak surroundings. The circular table in the Director's room was used for coffee and tea, and became the room with which I was most familiar.

**Research Participants**

Of central focus in this research are the women of *Casa de las Brisas*. It is predominantly through their narratives and my observations in the centre that the story of legal consciousness is told. By choosing Las Brisas as a field site, non-probability sampling was employed. Non-probability sampling means that there is no way of estimating the probability that the sample will be representative of the wider population and there is no way to guarantee that every element will have a chance of being included (Brewer 2000).

Ethnography often receives criticism for the focus on small-scale activities and fewer research participants, suggesting that it cannot contribute anything of value about the world-at-large and that it cannot offer insights into any general understandings of broad themes or grand ideas (see Hammersley 1992). That is not necessarily the case. The value of being immersed, over a prolonged period of time, developing relationships and gaining trust, offers insights that need not be considered as exceptions. As Hughes (1971: ix, cited in Flood 2005: 48) writes:

> [A]mong the methods I would recommend is the intensive, penetrating look with an imagination as lively and as sociological as it can be made. One of my basic assumptions is that if one quite clearly sees something happen once, it is almost certain to have happened again and again. The burden of proof is on those who claim a thing once seen is an exception; if they look hard, they may find it everywhere, although with some interesting differences in each case.

Tables 1, 2 and 3 indicate the participants featured in this research, which included not only the women and staff in Las Brisas, but also a number of CSOs and members of government. An in-depth description of the specific methods used to gather data follows these tables.

**Table 1: Casa de las Brisas (Women's centre)**

| Casa de las Brisas | | |
|---|---|---|
| **Description** | **Rationale** | **Method** |
| Non-governmental organization established to support women | To provide space to explore the lived experiences of women, including their perceptions, expectations and opinions of the law. | <ul><li>Participant Observation</li><li>Interviews</li><li>Life Stories</li></ul> |
| 22 women formed the core participant group | | |
| 4 members of staff (2 Male, 2 Female) | | |

**Table 2: Other areas of activity**

| Other areas of activity | | |
|---|---|---|
| **Description** | **Rationale** | **Method** |
| Meetings and public events, marches, blockades, organizational meetings, symposiums. | To provide the opportunity to witness the State, civil society and the public in action and the activities they engaged in. Also meant that interpretations made throughout research could be reflected upon in the context of wider society. | <ul><li>Participant Observation</li><li>Informal discussions</li><li>Social media (ref only)</li><li>Documents (ref only)</li></ul> |

Table 3: Institutions

| Body | Rationale | Method |
|---|---|---|
| Civil Society: Non-state actors, including women's rights organisations, human rights organisations, and social movements.<br><br>State: Members of the Ministry of Justice | To provide insight into the structural conditions of society and explore the interaction between civil society, the State, and citizens. | • Interviews<br>• Participant Observation<br>• Documents (ref only) |

| Organisational body | Abbreviation |
|---|---|
| Centro de Promoción y Salud Integral (Centre for the Promotion of Comprehensive Health | CEPROSI |
| Fuerza Especial de Lucha Contra la Violencia (Special Force in the Fight Against Violence) | FELCV |
| ComVoMujer (Combating Violence Against Women in Latin America) | ComVoMujer |
| Central Obrera Boliviana (Central Bolivian Worker's Office) | COB |
| Coordinadora de la Mujer (Coordinating Committee of Women) | CM |
| Bartolina Sisa National Federation of Peasant Women | Bartolina Sisa |
| Salud Sexual, Salud Reproductiva (Sexual and Reproductive Health) | CIES |
| Capitulo Boliviano de Derechos Humanos, Democracía y Desarrollo (Bolivian Chapter on Human Rights, Democracy and Development) | Capitulo Boliviano |
| SLIM: Servicios Legales Municipales Integrales (Comprehensive Municipal Legal Services | SLIM |
| Defensoría del Pueblo (Bolivian Ombudsman) | Defensoría |
| Centro de Información y Desarollo de la Mujer (Centre for Information and Development of Women) | CIDEM |
| Casa de la Mujer (House of Women) | Casa de la Mujer |
| Ministerio de Justicia (Ministry of Justice) | MoJ |

**Data Collection**

By employing a number of different research methods, different forms of data were produced including 232 pages of fieldnotes, as well as researcher diary notes; non-typed fieldnotes and diary entries; drawings; mind-maps; interview transcripts with CSOs and the Ministry of Justice; four life stories and further narratives through informal discussions during participant-observation; and literature produced and published by organisations interviewed.

Much of the research consisted of observational work over the twelve months, not only of the chosen field sites, but of the social, political and cultural conditions. Living in La Paz for twelve months provided the opportunity to work with socio-legal theoretical engagements in a diverse, complex and challenging context, continuously learning from people and groups on a daily basis. The following sections describe the data collection methods in more depth.

**Participant-Observation**

Participant-observation is a key tool for ethnographers (Fetterman 1998) and was the primary method of data collection in this research, predominantly conducted in the women's centre. Participant-observation involves immersion in the field, in the context being studied, for a prolonged period of time, in order to share as intimately as possible in the lives of the people being observed (Hammersley and Atkinson 1995). Engaging in participant-observation requires that the researcher maintain a dual purpose, of being a participant to some degree in the setting but also maintaining the ability to be aware of and observe not just others but also themselves (Spradley 1980). This awareness is common when entering places that are unfamiliar, yet in the context of research there must be a heightened sense of awareness over a longer period of time. As people settle in a new place, they perhaps notice fewer details about that place (Storti 2001). During participant-observation

research, however, it is vital that all details that would perhaps be overlooked or become normalised are still at the forefront of the researcher's mind. At the same time, the researcher must balance and negotiate between a number of roles and identities (Swanson 2008).

The negotiation of researcher roles and identities during fieldwork are central to becoming a moral and ethical sociologist (Murray 2003). Gold (1958) suggests four theoretically possible roles that ethnographers can take during their research: complete participant, participant-as-observer, observer-as-participant and complete observer. Instead, these could be considered to exist as more of a spectrum of roles, as opposed to bounded categories. This emphasises the more fluid and complex nature of observational work. At times, I observed more than participated, for example, but in other situations I was very much a participant-observer, especially after spending some time in Las Brisas.

A reflexive research diary was useful in order to document the negotiation of such roles, identities and positions, providing a space to bring together thoughts and feelings about experiences (Chiseri-Strater and Sunstein 1997; Ely et al. 1998). Such a task can often seem rather uncomfortable, as it encourages the researcher to consider and record in great depth thoughts which they may find difficult to confront. As fieldwork experiences continue to be written-up largely separate from the studies themselves, it can leave the impression that they are not a welcome addition to research papers (Scheyvens and Storey 2003). I attempt to address some, although not all, of these thoughts. For example, an engagement with my own insecurities, anxieties and, of course, the dreaded academic 'imposter syndrome' often left me feeling like a failure. I believed I was being overly anxious on many occasions. Returning to the literature (in particular Lunn 2014; Punch 2012; Pollard 2009; Hume 2007; Mandel 2003; Ely et al. 1998; Chiseri-Strater and Sunstein 1997) grounded me in the knowledge that such feelings during ethnographic fieldwork of this nature were normal, and worthy of consideration:

> Perhaps one of the first questions the researcher raises is what kind of observer role would be appropriate to the field, and both physically as well as emotionally possible. (Ely et al. 1998: 45)

Within Las Brisas my role as researcher was clear. The primary aim was to gather observations of how people use the language of the law – their belief in it or their rejection of it – as well as the meanings they attach to it. Alongside observational data gathered in the women's centre, there were other observational moments outwith the centre when my role as researcher was not as overt. This was especially the case during events and marches, where my presence and role as researcher were impossible to make known. During marches and protests, I would frequently observe people. This was also the case when attending public meetings. Schatzman and Strauss (1973) highlight the need to be aware of, and pay attention to, different types of events: the routine, the special and the untoward. The 'routine' are those events which regularly occur; the 'special' are those which are rare but often anticipated, and the 'untoward' are those which are entirely unexpected. Keeping base in La Paz, I was prepared for all events.

### Fieldnotes

Fieldnotes during ethnography are extremely important as not only do they document voices and actions but they also focus on the relationship being developed between the researcher and participants (Emerson 1995). Given the fluid and largely unstructured method of participant-observation, what to record as data, or what are or are not data can often be difficult to determine. In the first few weeks, it was extremely overwhelming and difficult to know what to record in fieldnotes and what could be left out (Emerson 1995). This is because observation comes out of what the observer chooses to see and chooses to note (Ely et al. 1998: 53). This section reveals some of the challenges encountered when using fieldnotes as a central form of data collection.

Amatucci (2013) engages with this challenge and considers at what point a person ends and a researcher begins, or vice versa. She highlights that data are not only the words that people have used during observations or interviews, but also includes the researcher, as simply being present and conducting research can often change what people say. There are, therefore, narratives to be discovered within the narratives of those being interviewed. When data is being analysed there are narratives of interpretation and what is produced at the end is yet another narrative, the narrative of the researcher (McDowell 1992). Whilst interview data and fieldnotes are gathered and analysed, it is important to recognise that they are not raw data, as they are already encoded with the interpretations and understanding of the researcher (Coffey 1996: 66), particularly when the researcher and the participants do not share cultural histories and understandings, or even the same native language.

Throughout the entire research process, the research diary was used in order to document and describe not only observations, but also ideas and feelings, which I considered to be more personal. Combining both of these in some way is important, particularly in such an intensive and immersive process as ethnography (see Punch 2012; Mandel 2003). The researcher cannot be separated from the research:

> The ethnologists who combines information from novels, from living informants and even utilises [her] own personal experience in another culture to construct [her] final model of the culture or social personality may have sampled informants and behavioural settings opportunistically, but [s]he did not do so haphazardly if [s]he kept in mind what [her] sources represented. (Honigman 1982: 84, with the gender changed to reflect the characteristics of the researcher)

Notes were gathered throughout observations, but often in short form, or quick diagrams, which were elaborated on once at my apartment in La Paz. In Las Brisas this involved documenting many informal conversations, and given the nature of La Paz with its marches and *bloqueos* (blockades), topics of

discussion frequently rested on not only aspects of law, but on broader issues and institutions in society. Through gathering data on legal consciousness, and utilising its definition as a guide, I focused on the narratives that women have which make the law meaningful, based on how they spoke about it, used it, resisted it, or advocated for it. I also noted how they spoke about society, their families, the government, education, and other institutions.

Fieldnotes were rarely written in the presence of participants, and when they were they tended to be in doodle-form, documenting something that would later trigger memory. What such a decision did mean, then, was that extra visits to the bathroom were employed when conducting participant-observation in the women's centre as a strategy for making quick notes or drawings. This greatly relied on memory and I often worried that in trying to hold some details in my mind for what would be the next socially acceptable toilet visit, I would miss something important:

> My frequent visits to the toilet have not gone unnoticed. I was not being as discrete as I thought. Two of the women today told me I should go to the hospital as I might have a urine infection which is making me need the toilet a lot, and that it is probably because I don't drink enough water (another eagle-eyed observation on their part). I agreed that it might be a good idea, but also felt bad that they had been worrying about me, yet I did not reveal my real reason for going to the toilet so often. I see I'm being watched and considered just as much as they are. (Research Diary)

Lincoln and Guba (1985) indicate that it is important that researchers do not become overwhelmed during participant-observation. Upon their advice, my aim was to gain a sense of the general overview of Las Brisas at the beginning. I sketched the Casa, its features, and how it felt. I focused on objects and descriptions. Drawing as an ethnographic method is advocated by Causey (2017). Over time it was possible to consider my physical position in the Casa and where might be best to sit or what activities could be engaged in so as to avoid the role of complete observer. In drawing a map of the centre, I was also

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able to doodle and consider where people tended to be positioning themselves. On the map, it was also noted what people tended to be doing in each location and whether it could be considered a routine or special activity. The furniture was also included in order to aid a consideration of where the best location would be for having the advantage of clear sight and hearing. I have purposely excluded this drawing as it details the layout of the centre in great depth, which could make it identifiable.

### Researcher Roles

When conducting any form of research, and in particular ethnographic research, it is vital to build rapport and trust with participants (Fetterman 1998). Staff at Las Brisas were key facilitators in my collection of data. When women came for pregnancy consultations or just for coffee, I was introduced as part of the team. In the same breath, I was also referred to as a guest of the Centre, from Scotland, conducting research on women's rights. Women were informed about the research that was being conducted and left to interact with me, or not. If women initiated conversations I then took the opportunity to personally introduce the research and ask if they wished to be included in it.

Gaining trust is a crucial part of research and maintaining this trust throughout is vital to researcher integrity (see Lee 1993; Miller and Bell 2002). Trust can be gained in many ways and whilst it is often set out as a particular step in research, it can also be considered to be part of being a good human being, as well as a good researcher (Iphofen 2009). Various roles were adopted throughout my time at Las Brisas. This began with the negotiation of roles between a PhD student researcher who knew what she was looking to do, and was responsible enough to do it, along with an emphasis on being 'a student'; a person who was learning. To be taken seriously, particularly in the initial stages, it was appropriate to emphasise my interpretation and understanding of the general issues of women's rights in Bolivia, but to do so in a manner that was neither arrogant nor imposing. Most importantly, the emphasis was placed on my desire to learn from, and alongside, participants

(Hirsch 2002). It was pertinent that the centre saw me as responsible but still understood that I was a student researcher, a foreigner in their country and, therefore, I would constantly be learning and re-learning from not just the women in the centre but also from the staff.

Similar to Lassiter's (2005: 8) collaborative ethnography approach, it is important that 'informants', 'participants', 'subjects' or 'interviewees' were thought of as 'consultants about culture and meaning' even if using the above terminology. Although a full collaborative ethnographic approach was not adopted, for that involves co-authorship and time requirements that would not have been possible in this research, the sentiments and guidance provided by Lassiter (2005) were drawn on. This ensured that participant's voices were central throughout the research process, not just from life stories, but through interviews, observations and informal conversations. In order to ensure this, an attempt to maintain a high level of honesty and transparency about personal experiences in the field, and the way that these experiences shaped interpretations, were facilitate by keeping the research diary. By noting thoughts and ideas in a research diary alongside fieldnotes, showed that, like Hirsch (2002), the altering of legal consciousness by my presence was possible. Increased discussions amongst women about law may have taken place by virtue of the fact I was a researcher and present in their company. This is not a negative effect, per se, of researcher presence, as it might be in other studies though, as another element to this study is that through the research, those women who may have been unaware of the law, then became more aware of their legal entitlements. Through this awareness, they are more able to advocate for change (Macaulay 2002).

Relationships develop through the various roles adopted by researchers. At times staff would discuss distressing stories they had heard or they would divulge their own personal thoughts and feelings, which provided evidence of the trust and rapport that had been formed with them. Most often, interactions and encounters were framed by exchanges of knowledge. For example, my ability to teach English was exchanged for dance lessons or showing me how

to carry *wawas* (Aymara for children) on my back – both of which elicited much laughter from the women in the centre. Laughter itself was key to developing relationships and also for building trust and rapport (see Lavin and Maynard 2001). Whilst not a member of staff, I had been accepted as part of the small team. I had also been 'adopted' in a sense by the women as 'sister', 'daughter' or, for those not wishing to provide too much indication of age, as 'niece'.

Las Brisas frequently organised events that brought together women and their families. Given my extensive experience in event organisation, I was quick to show my willingness to help. It was one of the ways that something could be given back and where my appreciation could be shown (Yuval-Davis and Craven 2016; Staddon 2014). I worked with teenage volunteers from a local school to plan and run events for the many celebratory days that Bolivia has, including Mother's Day and Children's Day. At some of the events my (very limited) skills in photography were used to capture the days themselves, with some photos being included in an annual calendar to raise funds for the centre. Organising games for the children and for the mothers was another activity often adopted as well as the preparation of food and the clean-up of the event sites. Such involvement was not only to show the centre that I was thankful to them, but it was also through the desire to be involved. The events were always free for women and their families to attend, and they opened spaces for them to interact with one another and to let their children play.

I did not hide my political views as a feminist during my time conducting fieldwork and made these clear from the very first interactions with the centre. Although initially hesitant at doing so, Hirsch (2002) advocates the same openness based on her reflections on her work in Kenya. I did not receive any negativity or hostility from women with regards to my openness, and the staff in *Casa de Las Brisas* respected my pro-choice views, as I did theirs. It often offered greater moments for reflection and consideration of my own values and beliefs.

Making coffee and informally interacting with the women was important in forming a basis of trust, and over time rapport developed with wthose that frequented Las Brisas. This resulted in more open discussions between the women, no longer as shy or as visibly disrupted by my presence. The negotiation of roles for the researcher is a complicated process and in those situations consideration of the physical presence of the researcher is pertinent (see Thomas 2013). Assigning myself with coffee making duties and buttering *maraquetas*[19] offered the opportunity to move around the space and to listen. This was achieved without being an imposing and obvious figure in the room, always listening and staring intently. Moving around the small space, listening was not compromised, and entering the kitchen provided the opportunity to short hand any notes. I would also sit down with the women and take part in their conversations over tea, coffee and late-morning *salteñas*[20], which opened opportunities for further inquiry on topic areas that were linked to the research.

Over time, a couple of the women asked to have coffee with me alone, outwith the centre. At the beginning, it was not clear what this could mean for the research due to my frequent concerns about becoming too close to participants. Blurring of boundaries was often considered in relation to trust:

> Trust and conversational intimacy are both a potential threat to personal-professional boundaries in qualitative research and at the same time essential to the process of collecting valid qualitative data. (Palmer et al. 2014: 4)

In instances where I received a text message requesting a meeting, it was important to recognise the issues of safety. A number of the women were experiencing domestic abuse and whilst it was unlikely that their families would be aware of their discussions with me, it was nevertheless a possibility.

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[19] A crunchy type of bread, in small hand sized loaves.

[20] A savoury pastry filled with sweet, spicy sauce, meat, egg, potatoes and vegetables. Very common in Bolivia in the morning up until early afternoon

For this reason, a friend and my roommate were informed of where I would be, and a busy public space was always chosen for the woman and myself to meet. The data gathered during these informal meetings, apart from one, was not recorded. Requests to record often created discomfort and placed more of a barrier between the two of us, which appeared to restrict the depth that women went in to when talking about the government, their families, and their lives.

### Life Stories

> Stories people tell about themselves and their lives both constitute and interpret those lives; stories are media through which identities are negotiated… stories enact and construct, as they describe, the world as it is lived and understood by the storyteller. (Ewick and Silbey 2003: 1341)

Life stories were collected in an ongoing and informal manner, from within the various stories that were shared through participant-observation. Given the length of time for fieldwork, getting to know women's lives and experiences became an important method of not only understanding their subjectivities and legal consciousness but also learning of the way they had come to make sense of the world of around them. This was particularly in relation to the institutionalised structures of meanings around gender, violence and law, which were present in organisations, government, education and family.

Goodson and Sikes (2001) recognise that the stories that we can capture in gathering life stories can provide links between personal voices and wider cultural imperatives. Using personal narratives of someone's life as a vehicle for learning about how culture is experienced and created by the individual has been a primary method in anthropological fieldwork (see Atkinson 1998). Marcus (1998: 94) highlights that 'life histories reveal juxtapositions of social context through a succession of narrated individual experiences'. This method was suited to the research in that it provided insights into changes over time

and allowed for the exploration of complexity and interrelationship between the Self and social structures. Whilst such an approach became part of participant-observation, as opposed to a wholly separate method, it still provided access to the past and helped to explore the coexistence of the past with the present. Given the focus on constructions and processes of meaning-making, this specific qualitative method aided an understanding of the individuals within their social contexts, placing emphasis on experiences (Roberts 2002).

Conducting life stories can be considered as 'interwoven dances of questions and answers in which the researcher follows as well as leads' (Ely 1984: 4, cited in Ely et al. 1998: 59). It was apparent, however, that the focus of the women's narratives was in many ways guided by their knowledge of my research and a general theme of violence, rights and the law, as mentioned earlier. A combination of the emerging themes and ideas from participant-observation and life stories combined to help inform the questions that CSOs were approached with as part of interviews.

### Interviews

Towards the later stages of fieldwork in Bolivia, after gaining a better understanding of the context, interviews with CSOs were carried out. The inclusion of CSOs to the research highlights the recognition that the views and interpretations of non-State social actors are important in not only providing more detail about the broader social and political context, but it also offered different perspectives on law in society.

Each interview in this stage of research was conducted on the site of the organisation itself. A topic guide was used to focus some of the questions, but interviews were semi-structured in nature and adapted to the particular organisation where appropriate (see Appendix B for an example). As well as the interviews conducted in La Paz, a short visit to Bolivia's other major city, Santa Cruz, also provided the opportunity to engage with other organisations.

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Alongside these organisations, government actors within the Ministry of Justice also participated in the research, in order to provide a State perspective, although doing so was not a central aim of this research.

**Access and the Value of a Local Research Assistant**

Gaining access was challenging and best negotiated in person as opposed to by email or phone. A courtesy email or phone call requesting an appointment is what would largely be expected when conducting research in the context of the UK, however, it was soon realised that a more opportunistic approach was most effective in a Bolivian context. This was supported by contacts I had already established. Initial contact with organisations was often made in person – by visiting their headquarters. At times this was enough to gain access, but this was only if I was lucky. Often, many phone calls to arrange appointments would follow these visits. When times were scheduled, it did not always mean that the interview would go ahead. There was often a feeling of disorganisation and messiness to the process of 'pinning down' organisations with dates and times, and this is rarely discussed in methodological literature which left me feeling rather anxious (see Feldman et al. 2003). As it turned out, persistence was necessary. Realising the struggles to arrange interviews meant that the time allocated was very valuable. In order to make the best use of the time allocated to the interview by the organisation, a research assistant was employed (Turner 2013).

Two days were spent with the research assistant in order to discuss the research and its aims as well its ethos. In particular, it was pertinent to be clear of the roles that the research assistant would adopt. The research assistant, Adriana, was a Bolivian female who, although not originally from La Paz, had lived in the city for a number of years. Adriana was also my language tutor and had become a trusted friend. Whilst I was capable of speaking and understanding the Spanish language, I had already noticed that it was, at times, difficult to keep in-depth notes and think of probing questions at the same time – given my experiences in Las Brisas. Doing so would involve a clear

grasp of either thinking completely in one language or creating a seamless connection between my ability to think and speak in two languages.

Taking on board Adriana's existing knowledge of the subject area of women's rights, her background in journalism and her local knowledge (Schensul et al. 1999) I encouraged situations during interviews with CSOs that were more akin to a three-way conversation, as opposed to a one-to-one interview, with an interpreter as the bridge. Given the limitations of using interpreters, and the time constraints, this offered the best method for encouraging a free-flowing, unencumbered conversation (Birbili 2000). Patton (1987) highlights the different forms of data that can be collected through interviews, such as opinions, behaviours, knowledge, feelings and background information. Where permitted, in order to gather as much data as possible, interviews were tape-recorded and prepared for transcription and translation.

Silbey (2005: 357) points out that if an exploration of legal consciousness is to be understood to be the ways of participating in the construction of legality, then organisations are 'purposely, explicitly, and self-reflexively developing forms of legal consciousness'. These interviews, therefore, supplemented the stories of the women and the fieldnotes gathered through observations. They contributed to an exploration of a civil society construction of meaning in relation to the law, as it is not possible to explore the way that people participate in the construction of legal meanings separately from the collective construction of legality. A number of interviews were conducted in the city of Santa Cruz also, given its similarly high rates of violence against women. Utilising a research assistant for interviews with organisations during the fieldwork meant that I had someone from Bolivia with which to discuss interpretation and translation of documents and, in fact, Adriana was key to this stage.

**Interpretations and Translation**

As in all research, it is often the interpretations of the researcher that are privileged in the act of writing and submitting articles for publication, or a thesis for examination (Stacey 1988). As Clifford and Marcus (1986: 10) highlight:

> 'Cultures' do not hold still for their portraits. Attempts to make them do so always involve simplification and exclusion, selection of temporal focus, the construction of a particular self-other relationship, and the imposition of a power relationship.

Whilst the interpretations of researchers should always be taken into consideration, this becomes all the more important in studies that are conducted in a researcher's second language (Temple 1997). All recorded audio data were collected in Spanish and fieldnotes were written largely in English. Such an act of translation from Spanish to English during observations inevitably involves interpretation on the part of the interpreter, which, for the most part, was me. Being aware of this, I often asked more questions for clarification (as did Maclean 2007 in her work in Bolivia) than might be usual when engaging in participant-observation in order to ensure credibility, transferability, and comfortability (Lincoln and Guba 1985; Seale 1999).

Basic knowledge of the Spanish language was achieved through a night class in 2009-2010 at *Strathclyde University*, prior to receiving ESRC funding for research. Throughout the MSc and the first year of the PhD, one-to-one lessons were taken with *El Castillo* in Stirling, in order to advance this skill. Most of my understanding of the language, however, came from complete immersion in the context, combined with enrolment in an intensive language and cultural learning course with *Instituto Exclusivo* in La Paz. Engagement with the Bolivian language school was important for familiarising myself with Bolivian Spanish – given that my previous experience of Latin American Spanish had been basic and fragmented – but to also build knowledge of the context in order to adopt a more field informed approach.

I continued language classes throughout my time in Bolivia. Often, they were used as an opportunity to ask questions about meanings of words from my observations or the use of colloquial terms. As I better understood the language, my confidence increased. In no way have I overlooked the limiting factor of language in this research, and by continuing my engagement with the language school, and asking for clarification there – as well as from the women in Las Brisas themselves – I believe that I clarified interpretations as much as was possible (Temple 1997). For example, I often discussed the themes that appeared to be emerging from discussions and asked for feedback, as recommended by Fetterman (1998), therefore, considering my interpretations more deeply whilst still being in the field. Descriptions and conclusions should, then, make sense to the participants (Strega 2005).

Temple and Young (2004) highlight issues of translation and interpretation with reference to sign language, however the points that are raised are similar to those across different languages and cultures. In most research carried out in a language other than the researcher's first, researchers have to rely on an interpreter or translator. In the case of this research the translator employed for transcription was not involved in the research in any other way and had no contact with research participants. This does not mean that they played no part or have no influence on the research. As Temple and Young (2004: 171) point out:

> The translator always makes her mark on the research, whether this is acknowledged or not, and… at the very least, the translator makes assumptions about meaning and equivalence that make her an analyst and cultural broker as much as a translator.

Having Adriana present as a research assistant for formal interviews ensured greater validity and for all recorded transcripts one person was contracted to transcribe all data. The same person was contracted to also provide an English translation of this data, which I then worked through in conjunction with the audio and Spanish text to ensure clarity and accuracy of representation. This

was done in combination with both reflexive notes and more descriptive fieldnotes from the time of the interview.

**Reflexivity and Emotions**

> The process of engaging in reflexivity is full of muddy ambiguity and multiple trails as researchers negotiate the swamp of interminable deconstructions, self-analysis and self-disclosure. (Finlay 2002: 209)

Dunne et al. (2005: 22) suggest that 'reflexivity can partly be understood as the recognition of the social conditions within which the researcher constructs knowledge accounts' and it allows us 'to make informed interpretations of what we experience and observe and feel'. Whilst observations were continuously being recorded, so too were the feelings and emotions, as such inter-subjective insights can influence decisions made (Finlay 2002; Bondi 2005) in the research itself. It is pertinent that researchers are able to describe decisions made and challenges faced in a way that does not seek to underplay such issues in order for research to be viewed as a success. Instead, researchers should work towards revealing more of a 'methodological self-consciousness', as Finlay (2002: 210) calls it. In doing so, the research process becomes more transparent.

When conducting research in another culture, the socially constructed nature of the research experience is more obvious. Sultana (2007: 375) points out that:

> [A] key concern in pursuing fieldwork that has plagued critical/feminist scholars is the issue of representation, where over-concern about positionality and reflexivity appear to have paralyzed some scholars in to avoiding fieldwork and engaging more in textual analysis.

Ethnographers therefore, can be considered to be standing at the margins between two cultures (Van Manen 1988): where they decode, interpret and translate the host culture based on their knowledge and understanding of their home culture, which inevitably influences their knowledge and understanding of the host culture. It is a cyclical process. Fear of misrepresentation and inauthenticity (see Wolf 1996) should not be downplayed and it does not necessarily need to be feared if it encourages reflexivity and self-awareness, particularly in a time where academic institutions are focused on showing internationalisation, without much scrutiny of the ideologies behind it.

Acknowledging and writing about methodological challenges and inadequacies can thus be an extremely uncomfortable endeavour for the researcher (Hume and Mulcock 2004). Such self-analysis and self-disclosure however, can encourage a greater depth of self-dialogue and a process of self-discovery. The aim is to view this uncomfortable challenge as an opportunity to be more explicit about the claims to knowledge that are being made; the interpretation of personal experiences as well as the interpretation of the experiences of the participants; and an understanding or construction of the context that is being presented (Finlay 2002).

Context of experiences and observations is important. In order to effectively identify a particular behaviour, you have to know that it exists. When crossing cultures this is complicated by the fact that verbal and non-verbal cues can be very different. If you have not learned of a behaviour then it may not register with you (Storti 2001): 'He knew nothing yet well enough to see it' (C. S. Lewis 1965: 41). Interpretations may often be influenced by expectations, garnered through past experiences. For this reason, it is important to also be reflexive about expectations and perceptions (Fuller 1999). As Murchison (2010: 71) highlights, 'ethnographic research is fleeting, and the ethnographer's job is to record it before it disappears or dissipates'. Being reflexive about data gathered can help the researcher to think more deeply and question why certain observations are written down and others perhaps left out.

I have suggested that engagement with researcher emotions are important, however, they have often been considered to be irrelevant, inappropriate and disruptive to research (Bondi 2005). Through ethics committees, researchers and participants are often constructed in an under-socialised way. This is particularly accurate in terms of the ideal construction of researchers, as Blake (2007: 415) explains, because the researcher is often thought of as 'simply the vessel into which the subject pours their essence, and is [therefore] conceptualized as having no connection with the data produced'. To consider a researcher in such a manner is to ignore the complexity of the social relationships that are continuously being negotiated and renegotiated throughout research. As De Laine (2000) argues, such suggestions underestimate the role that emotions have on the choices that a researcher makes and in turn, the effects that these have on interpretations and understandings, as well as the relationships that develop in the field.

I argue that emotions are important tools for reflecting on the research process and the construction of knowledge, yet Finlay (2002: 227) points out, 'researchers are, in effect, damned if they do and damned if they don't'. Whether you engage with emotions or not, you are likely to attract criticism either way. Fuller (1999: 224) stresses that whilst such a focus on the researcher as a person could be considered to be, at times, over-stressed, 'such a danger is slight, compared with the false and misleading presentation of the researcher (and research itself) as inert, detached and neutral'. While I have illustrated some of the emotions I felt during fieldwork in this chapter, there are further excerpts from my research diary in the following chapters in order to illuminate my role and influence in the research itself.

### Construction of Knowledge

Conducting research of any kind places the researcher in a powerful position, and this begins from the moment that research questions are designed and 'knowledge' is sought (Mohanty 1988). As Katz (1996) emphasises, it is the researcher who goes in search of a kind of knowledge, complete with their

research agenda. When the research is finished, they leave: 'Such moves reflect power no matter what their broader intent is' (Katz 1996: 172).

Reyes-Cruz (2008) engages with the issue of who determines what counts as knowledge and who the producers of knowledge are. She discusses this in her engagement with what can be counted as valid knowledge, asking why we cannot cite participants as we do other authors or other story tellers, and why one form of data might be considered to be a more legitimate form of knowledge than another (Burkhart 2004). Tuhiwai-Smith (2004) expresses a similar point in relation to the language that is used to represent indigenous peoples in texts. She emphasises that indigenous peoples often cannot 'see themselves in the text' due to the language used in knowledge production: 'they are unable to locate themselves' (Tuhiwai-Smith 2004: 35). This places a great deal of power with the researcher, and power that cannot easily be shifted regardless of which ethnographic approach or theoretical position is adopted (Stacey 1988). The power always rests with the researcher. They are the writers. It is their interpretations that will be privileged in the end, over that of all others (Stacey 1988).

### Consent in Context

When participants give consent to be included in research, the power and privilege that the researcher has should not be taken for granted. Murchison (2010: 61) explains that informed consent is 'perhaps one of the thorniest issues for ethnographers and participant observers' as it is often not a one-time consent, but instead an ongoing process of negotiation. In June 2014, prior to embarking on fieldwork in Bolivia, ethical clearance through the University of Stirling Ethics Committee was successfully granted after a lengthy ethics document which engaged with consent, and many other issues. Ethics procedures in the UK often insist that prior to conducting interviews or using other methodological tools, written consent is gained from the potential participant. There are a number of important reasons for this, but when conducting ethnographic research this is not always possible (Benitez et al.

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2002), and Blake (2007) even suggests that it is not entirely desirable. In fact, asking potential participants to formalise the process before they have said anything about their lives, and 'without giving them an opportunity to think about what they are signing away, [or to] see what the process will be like' can often lead to participants either withholding information or regretting the amount of information they have provided, after they signed away their rights to it (Blake 2007: 417). People who tell too much of what they consider secret can later have real regrets and even experience loss of self-esteem (De Laine 2000).

Cultural informants from the language school in La Paz highlighted these concerns about the research early on. They suggested that if people do not entirely know all the questions they will be asked, they are sure to be more suspicious. Knowing a broader theme is not enough. If consent (in written form) is sought in a more informal manner, at the end of the interview – added into the conversation and highlighted as being something required by the researcher's academic institution – then people know what they have already said and can truly give informed consent (Blake 2007).

In Bolivia, it was understood that the process of signing what looked like a formal document could result in people feeling uncomfortable. Given corruption and the forging of documents as being a key issue in Bolivia, especially in relation to law, the spoken word was deemed to be most appropriate and trustworthy. Cultural differences 'in the field' require of the researcher 'constant ethical vigilance, and intellectual agility' (Palmer et al. 2014: 9). In all cases, consent to record was requested prior to the interview, and consent to use the data was gained verbally after the interview was conducted. This allowed the participant to make a truly informed decision based on the information they had given. Participants were advised at the beginning of the interview that their participation was voluntary. In Las Brisas, women were reminded of my role as researcher at various points, particularly if they were divulging personal or sensitive information. If a woman asked for her data to be excluded from the research, this was

honoured. Attempting to adjust ways of working, ways of knowing and ways of learning to the expectations of a different culture can be extremely difficult (Storti 2001). Once again, the importance of being reflexive is clear.

## Data Organisation and Analysis

Despite some initial challenges and adjustments, I began to adapt to Bolivian life in many ways and had grown attached to lots of people in La Paz. Leaving was difficult. For many researchers, prolonged engagement with people creates an emotional attachment that is hard to break (Ely et al. 1998: 51). Once my data had been gathered, my time in La Paz came to an end. After saying goodbye to participants, organisations, and friends, through a series of get-togethers and *despedidas* (leaving parties), I felt that time and space were required for reflection and organisation of the data back home in Scotland. I had, after all, been 'in the field' constantly: changing it and being changed by it 'and that field experience does not automatically authorise knowledge, but rather allows us to generate analyses and tell specific kinds of stories' (Hyndman 2001: 262).

The boundary between fieldwork and periods of reflection often become tied up with those of interpretation and meaning making (Dunne et al. 2005: 76) and after taking some time to adjust once home (see Till 2001), I took to the systematic organisation of my data. This did not necessarily mean *analysing* the data straight away; instead organising it – filing it, categorising it, labelling it – and this provided space for the organisation of my thoughts. As Dunne et al. (2005: 75) explain:

> Analysing and interpreting data involves both looking back to the field experience through the resultant texts, and looking forward to their reconstruction in the production of the report or thesis.

As women's experiences were central to this research I began with their life stories as well as the fieldnotes gathered through participant observation. Transcripts from women's stories, as well as other recorded data, were organised with the Spanish to the left and English translation to the right. Exploration of this data was carried out over three separate readings. First, to simply remind myself of the data, making light notes on thoughts and emerging themes. The second reading enabled me to consider more deeply the ideas that were both emerging from the data, and those that linked to the previously formed research questions and theoretical framework, linking back to themes that I identified towards the end of fieldwork. The third full reading narrowed down the notes from previous readings to what were considered as central themes.

Women's life stories were privileged in this process as it had become clear that through the stages of implementation of Ley 348, this is not the case in Bolivia. Guided by emerging ideas in women's stories, transcripts from interviews with organisations were analysed in the same way, with similarities and differences between data sets noted. Transcripts from the government and police followed suit. The themes therefore largely emerged from women's voices and experiences and influenced the reading of CSO voices, the state and the police. After considering the overarching and final conceptual framework, the data were coded by highlighting the chosen themes in the margin of the transcripts.

Theoretical frameworks that had informed this research - along with a field-informed approach – meant that deductive and inductive reasoning influenced the process of data analysis. Thematic analysis was decided to be the most appropriate technique for analysing the data in order to avoid using yet *another* framework (see Braun and Clark 2006). Ewick and Silbey's (1998) cultural schemas of legal consciousness were drawn on throughout the analysis, as was Halliday and Morgan's (2013) conceptualisations of legal consciousness. This offered a more accessible approach (Braun and Clark 2006). Although there were aspects of the analysis guided by the theoretical framework, in relation to spaces inside and outside of formal legal spaces, constructions of subjectivity, and cultural schemas of legal consciousness, thematic analysis allowed a rich thematic description of the entire data set to be presented. As Dunne et al. (2005: 83) explain, qualitative texts are often coded with reference to the researcher's conceptual framework. These stages of analysis were completed on paper only, greatly aided by the use of mind maps, coloured pens, and scissors and, at one point, an artistic visual representation of the overarching narrative that appeared to be emerging (Figure 2).
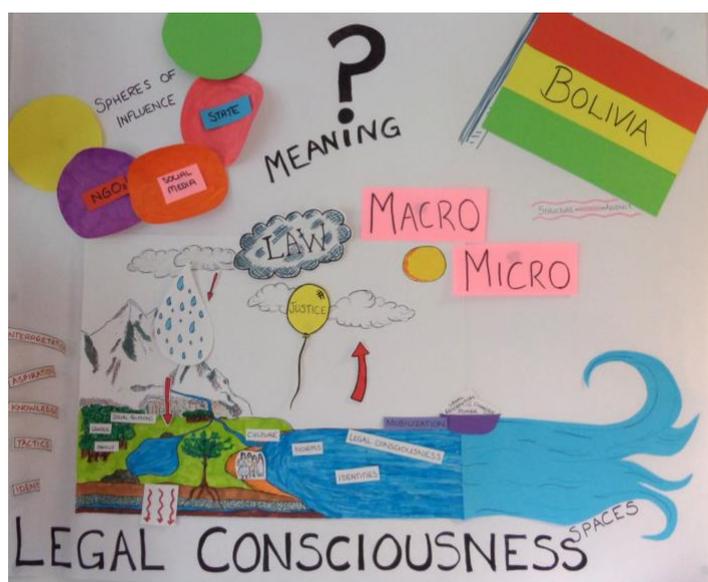


Figure 2: Early efforts to make sense of data ('Drawing to see')

As Causey (2017: 151) points out, 'one way to see better is to use the act of drawing to focus your attention'. I found that illustrating women's stories as a collective, aided a visualisation and understanding of the data that suited my way of thinking and focused my interpretation.

The next stage involved data analysis software. NVivo was used, not for analysis per se, but instead as an organisational tool – akin to a filing cabinet – and data were stored in NVivo by sorting it according to key themes. Working with NVivo in this way meant that I could avoid over-coding or becoming too lost in the data, but could locate areas of the data more easily. Having spent several months engaged with it on paper, I developed a better understanding of the patterns that emerged. Although these stages appear to have taken place in a linear manner, each stage was revisited several times, with the process of data analysis being an intensive and iterative one.

In writing up the analysis chapters, I was guided by my decision to prioritise women's narratives and this meant that instead of separating the different voices in the data in to their own separate chapters, women's voices are woven throughout. I considered it appropriate to present the data largely from women's perspectives. This provides further space for counter narratives to what are often more dominant ones in Bolivia - usually propounded by civil society and, in particular, the state and special police force.

**Space, Legal Consciousness and the Metaphor of a Map**

The concept of a map introduces geography, cartography and space to the analysis and structuring of data in this research. Drawing on the theoretical literature engaged with in Chapter Two, the act of concept mapping helped to set up the ordering of data in the following three analysis chapters. The metaphor of a map that is used by Santos (1987) in his work 'A Map of Misreading' aids a conceptualisation of the law not as a single entity but instead as operating on different forms, levels and scales. A consideration of space as having both physical and mental dimensions is valuable given the movement across different locations during fieldwork in La Paz. Such movement offered the opportunity to gather different perspectives and voices of the law, something which Santos (1987) advocates for in order to maintain critical awareness of distortions and interpretations. Spatial metaphors were also encountered during data collection and analysis, particularly in relation

to considerations of obstacles for accessing justice. Distortions of women's lived world are likely to reflect, and be interpreted and 'satisfied' from the 'point of view of the centre' (Santos 1987: 292), filtering into the institutions designed to work for the law. It is for this reason that women's narratives – often found on the periphery – have been made central.

In mapping women's narratives, there is an inevitable engagement with time: with connecting stories. When conducting ethnographic research, researchers not only engage with histories, but also conceptualisation of the future, and so time is also central to ethnography (Flood 2005; Bloomaert 2013). This research concerns not only legal change, but also social change, and these two together mean engagement with utopian ideals. In engaging with these ideals, a new space is created that is not real, but not completely imagined, either, as it becomes a site of struggle and resistance to dominant and/or oppressive ideologies. Spatial terminology and references to time aid a visualisation, or imagination, of the materially-embedded and enmeshed practices and discourses that construct social relations within those spaces, but also outside of them. The key spaces identified are that of the State, family, civil society and the public sphere, and the interpretive frame used to explore law and society across these is legal consciousness. The interpretive frames that constitute legal consciousness help to map the relationships that women have with the law in each of these spaces, and the opportunities and constraints they experience.

## Summary

Although this research presented a number of methodological and ethical challenges, these offered opportunities to not only explore more deeply what law does in society, but to also reconcile some of these challenges and develop as a researcher. Importantly, given the changing nature of academia and the competition for research funding, it offered the chance to fully immerse myself in the setting; something that legal consciousness experts rarely have the chance to do. I, therefore, suggest that ethnographic methods for investigating

legal consciousness can highlight the nuances of legal consciousness and reveal changes that take place over time, not only based on the changing social, legal and political landscape, but also the influence that the researcher has on the development of legal consciousness. As Amatucci (2013: 3) posed in the opening quote to this chapter, 'it is the data that collects me... [p]ossesses me[,] [i]nscribes onto me the stories that it wishes to tell', and with that, the following chapter begins the first of three findings chapters that engage with the data that collected me during my twelve months in La Paz, and tells the stories of Bolivian women's social and legal consciousness and their struggle for access to the law.

**Chapter Four**

**Gender Hierarchies and Ley 348**

*Before the law sits a gatekeeper. To this gatekeeper comes a woman from the country who asks to gain entry into the law. But the gatekeeper says that he cannot grant her entry at the moment. The woman thinks about it and then asks if she will be allowed to come in later on. "It is possible," says the gatekeeper, "but not now." At the moment the gate to the law stands open, as always, and the gatekeeper walks to the side, so the woman bends over in order to see through the gate into the inside. When the gatekeeper notices that, he laughs and says: "If it tempts you so much, try it in spite of my prohibition. But take note: I am powerful. And I am only the most lowly gatekeeper. But from room to room stand gatekeepers, each more powerful than the other. I can't endure even one glimpse of the third".*

Franz Kafka's (1915/1998) 'Before the Law'. 'Man/he', in reference to the person seeking access to the door of the law in the original version, has been changed to 'woman/she'.

**Introduction**

This first of three findings chapters aims to present some of the themes that emerged from women's narratives, interviews with CSOs, and observations during fieldwork. This includes the themes of gender, families and communities. These three social institutions emerged as important influences on women's relationships with the law, underpinning their social consciousness and the construction of gendered norms and hierarchies. This sets up the hegemonic conceptions of womanhood that underpin violent behaviour, but also highlight the discourses that are being challenged by women and have ultimately resulted in the legal transition to *Ley 348*. Ideas presented in this chapter also appear throughout the following two, where an institutionalisation of gender hierarchies affects women's access to justice (Chapter Five); where there is resistance to these dominant ideas in discourses and in the practices of CSOs (Chapter Six) and where this institutionalisation and resistance influences women's subjectivities (Chapters Five and Six).

The chapter begins with 'family' as a key social unit and important space for the construction of gendered ideologies, as discussed in Chapter Two. Two cultural forms are presented as important in terms of gender dynamics and the relationship between men and women both within families, and perceptions of women outside of them. These are *machismo* and *chachawarmi*. Objectification of women begins the section on *machismo* as it is a central characteristic of *machista* behaviour and emerged as a key theme throughout data collection. On the one hand, the prevalence of *machismo* is explained with reference to the learning and socialisation of gendered ideas and, on the other hand, there was also the perception that men and women have harmonious relationships, particularly in more rural, indigenous areas. Within these cultural forms, a distinction between urban and rural life is presented. This explores experiences of women within their communities, which is reflective of experiences within the home and provides insights into the treatment of women in the State and also formal legal spaces, which the following chapter builds upon.

**Family, Objectification and Machismo**

The first social institution to be explored is the family. Relationships between men and women in this section are presented using the Latin American notion of *machismo*, and the Aymara *cosmovisión* of *chachawarmi*. The family in Bolivia is considered as one of the key symbiotic units of society and the New Constitution points out in Article 62 that,

> [T]he State recognises and protects the family as the fundamental nucleus of society… Every member has equal rights, obligations and opportunities.

Society and the family are not completely separate units but, as the central nucleus, family dynamics and the treatment of women can reveal a lot about broader societal values and beliefs (Vega 2013). As the women's centre, *Casa de las Brisas*, where the majority of fieldwork was conducted, dealt with

pregnancy related issues, women often discussed their families. At times, this was in a positive light, as a source of love and support (expressed by all of the women in Las Brisas); at others, as a site of oppression, violence, and restriction (expressed by almost three quarters of the women in Las Brisas). Often, these contrasting visions existed in the same breath: "I love my home and my family, and even though I wish I could leave, I love him" (Luciana, Las Brisas, Fieldnotes).

Given that women's narratives of violence and experiences of violent behaviour tended to take place within the family, it is an important site for the construction and (re)production of gender ideologies and as Vega (2013), a Bolivian woman working in the Viceministry of Decolonisation concludes, male domination within the patriarchal family is the cause of violence. As discussed in Chapter One, Bolivian society can be considered to be patriarchal, and part of this is the subjugation of women by various means. The objectification of women emerged from the research as one of the key ways in which ideas about women's role and place in society were reproduced.

**Objectification of Women**

As Chapter One also points out, *machismo* and patriarchy are related terms, where *machismo* refers to a form of hyper-masculinity – a particular cultural form of patriarchy revealing largely undesirable characteristics of aggressiveness, the objectification of women and chauvinism (Beattie 2002). Alongside this, there is a related lack of respect for women. Elena represents the views of almost all of the women encountered, not only within the formal field site of the women's centre, but amongst friends and others:

> There is no respect. There is absolutely no respect for women, and when there is no respect for women, well, there is no respect for family. (Elena, Las Brisas, Fieldnotes)

The issue of respect emerged in relation to the lack thereof that men have for women. How men in Bolivia view women forms the basis of understanding the deeper-rooted ideologies and the reproduction of gendered norms that contribute to different forms of violence (Torres 1998). It is important to point out here, at the request of three males in particular who were encountered during fieldwork, that not all men have a lack of respect for women, or objectify them, or devalue the unpaid work that they do in terms of childcare and housework. However, at the very moment that one of these men, a police officer with the FELCC, requested that this be included, I noticed an image on his wall. Over his shoulder there was a sun-bleached centrefold of a half-naked woman, straddling a motorcycle, taped to the wall at the corners. Alongside it was a poster publicising *Ley 348* to protect women against violence. I wondered if he realised the irony of his request. Such objectification of women's bodies was not a rare sight in La Paz, and in fact it often revealed an interesting intersectionality between gender and ethnicity that Canessa (2008) also noticed during his time in Bolivia. I wrote:

> Images of women's half-naked bodies line the wall behind the serving counter of the shop. And as the kind, elderly man serves me each day, asking how I am and how my work is going, I wonder if he realises the irony of his hopes that the situation for women will improve. This is something he tells me each time he asks how my research is going. I can only assume that he perhaps considers the images as an 'appreciation' of the female form, yet women being reduced to their bodies, to objects, is of course one of the roots of the problem of violence in Bolivia. Not only that, but I have noticed that the bodies in most of the images like this are white. (Research Diary)

These images can be considered as symbolic of the subordination of women, and the consideration of them as objects. In this case though they are not only being subordinated based on gender, but also based on ethnicity. As suggested in Chapter One, desirability is reserved for whiter bodies and features (Goldstein 2000), and my observations support this. This is also reflected in engagements with the differing interpretations of images of white women, and

women of colour (Emejulu 2017). Possession of such images hints at a form of power, manifested through objectification. Fredrickson and Roberts (1997) raise the importance of sexual objectification for understanding the treatment of women in society as based in their value as objects. They define sexual objectification as occurring when 'a woman's body or body parts are singled out and separated from her as a person and she is viewed primarily as a physical object of male sexual desire' (Fredrickson and Roberts 1997: 8). In particular, it is the indirect and subtle effects that this has on women that are of concern for Fredrickson and Roberts (1997). The internalisation of this sexual objectification can, in turn, result in self-objectification, where women start to consider their worth and value in relation to these same oppressive gender and ethnic ideological constructions (see also Szymanksi et al. 2011).

Objectification was also cited by the *Defensoría del Pueblo* in Santa Cruz, as being linked to family violence and in fact one of its causes:

> It [violence] is a structure of values issue. It is the society that is under crisis and is reflected in a family breakdown. Which has its concomitant sexual violence, violence against women, and high consumption of alcohol. This mentality that we, the Cruceños [people who live in Santa Cruz] have, is to see women as something of my property. I can do with her whatever I want. And that is where we see the woman only as a body… You have more than 300 beauty contests here in Santa Cruz. Where women from little girls are looked at like Miss Teen, Miss Bikini, Miss All. So, this is the perception of the man who sees the woman as a sexual object. (Defensoría del Pueblo, Interview)

This objectification of women is central to understanding the cultural form of *machismo*, and can, in fact, be considered to be one of its key defining features (Torres 1998). It illustrates one of the performative aspects of doing gender (Butler 1990) in relation to being macho and discussing women using language that objectifies them whereby relationships are conceptualised under notions of ownership and property, as opposed to love and respect (Savenije and Andrade-Eekhoff 2003). Not only do these performances reveal

the direct and obvious objectification of women, but within the family there are also less subtle signs. These are usually displayed through the messages received from media and growing up with the construction and reinforcement of gender norms, about what it means to be a man and a woman. It is the fact that they are now considered to be subtle which also highlights the process of normalisation. Every woman provided examples of objectification. Sofia, from *Casa de Las Brisas*, described her example:

> I mean an advert with which we've been bombarded for years now where the man is always the macho, the Mexican macho, he drinks beer… so we have grown up that the women in the 70s always ironed, cleaned, washed, that it was the mother who looked after the children. We have grown up with these concepts of men and women, no? For example, my sons always wait for me to cook, to clean. (Sofia, Las Brisas, Life Story)

The notion of the Mexican macho can be considered to be one of the most popular images in Latin America representing *machismo* (see Gutmann 2006). In both the words of the *Defensoría del Pueblo* and of Sofia from Las Brisas, alcohol is very much related to this image. In each of the stories of violence against women encountered in Bolivia there were strong links between alcohol and violent behaviour (see also Galanti 2003). Each story contained phrases such as "he is only like that when he is drunk" (Camila, Las Brisas, Fieldnotes), or he is "at his worst when he has been drinking alcohol with his friends" (Lila, Las Brisas, Fieldnotes). MacAndrew and Edgerton's (1969) anthropological research on alcohol and violence concludes that it is not the chemical properties of alcohol that influences the way that people behave when they have been drinking but the broader cultural expectations that are placed on them. They point out that cultural norms, in relation to alcohol, can offer a kind of 'time out', where the individual knows that they are less likely to be held accountable for their behaviour because their actions were conducted 'under the influence' (see also Heath 1991). *Defensoría del Pueblo* stated that, "most of the violence against women is *because* the father is drunk" (Defensoría del Pueblo, Interview). The problem with this conclusion, though,

is that the solution then appears to be a simpler one, based on the controlling and limiting of alcohol consumption, yet in reality there are deeper ideological issues that are the causes of violent behaviour such as the above-mentioned objectification. Lila (Las Brisas, Fieldnotes) suggested that, "alcohol only makes the feelings on the inside show on the outside". As Hume (2008: 65) points out, 'violence, drinking, and womanizing have become so bound up with dominant constructs of maleness that they are seen as natural'.

**Gendered Expectations**

Returning to Sofia's narrative above, of growing up with the image of the macho man, she reveals some of the expectations that society has about gender roles in the family. These expectations are not unlike a number of gender ideologies more globally, where the woman is expected to engage in caring duties (Eagly and Steffen 1984; Wood 1994). Sofia's sons expecting her to cook, for example, highlights two things. Firstly, that not only are these expectations learned but, secondly, through repetition, those roles are reinforced. Sofia pointed out that she does, in fact, cook all of the meals. This means that expectations are learned and reinforced by women too, through their acquiescence and repetition of behaviours (Butler 1990). Women taking care of men in the space of the home is the norm in Bolivian society, and during an interview with Marisa, in the Ministry of Justice, she suggested that it is because women learn that men are in a privileged position: "Speaking about heritage, our mothers told us the men is the greatest, men, they gave the best to men" (Marisa, MoJ, Interview)

*ComVoMujer*, a German-linked organisation in the Sopocachi region of La Paz also returned to the construction of gendered ideas within the family, that take place from a young age:

> And of course, if they have told you since you were a little girl
> that your prince is going to come, and they have told you since
> school and from your parents that you must be pretty, a young

> lady, mature, respectful, you mustn´t raise your voice, don´t sit badly etc., and your blue-eyed prince is going to come and you´ll marry and live happily ever after and there it ends. And from there going forward, you´ve lived well. And if you create these scenarios, and also in the men that "Now you are going to be a responsible man and you are going to meet your wife and get married; You are going to educate her, you are going to shape her". So what are you shaping?... (ComVoMujer, Interview)

Acts, behaviours and ideologies are, therefore, learned from broader community values and societal structures, and family relationships. These become reinforced over time, so that the complex of social values, conventions and restraints that are built around the concept of gender are naturalised (see Goffman 1979). This also relates to Butler's (1990) work on the performativity of gender whereby it is not natural or stable, but instead is socially constructed through the repetition of behaviours. Both men and women, therefore, play a role in this gendered socialisation process (Welsh 2001). *Machismo* is perhaps one very strong way that Butler's notion of performativity is clear. When questioning a male Bolivian friend about *machismo*, he stated that it was "just the way men act, but not really the way that men think" (Fieldnotes). This supports Beattie's (2002) suggestion that the macho man is in fact an exaggerated stereotype. Yet, it is the repetition of this way of acting that reinforces this cultural form of patriarchy both inside and outside of the family. Both are mutually constitutive.

As mentioned earlier in the chapter, *machismo* can often be used to explain away or rationalise some of the negative aspects of Bolivian women's experiences and, in particular, the high rates of violence that exist towards them. These are important given that it could be considered that the family is one of the most dangerous places for women (Kimmel 2000). It is for this reason that this concept of *machismo* needs to be addressed. As the following chapters reveal, these ideas do not simply exist within the family or in a community, but in broader society. These ideas do not just become institutionalised within the family but also in social, economic and political life. Overlooking these broader structural issues is something that Del Olmo

(2017) criticises Latin American criminologists of doing. In the words of the Santa Cruz *Defensoría del Pueblo*:

> We have to deconstruct this macho conception of this society and its authorities. Because there is violence against women and there is also a commercial and sexist view of women. And that is expressed everywhere. (Defensoría del Pueblo, Interview)

Although the most dominant cultural form that describes and explains the relationship between men and women in the family was revealed to be *machismo*, there was another cultural form that featured in the data, although not as frequently as *machismo*. That is the concept of *chachawarmi*.

## Chachawarmi

The Andean concept of *chachawarmi*, as described in Chapter Two, is an indigenous gender ideology based on the notion of complementarity between men and women (Burman 2011). It considers the heterosexual couple as the fundamental social unit. Although it is more likely to be encountered in rural areas given its ties to indigenous peoples, I also encountered reference to it in the city. This ideology, which is the basis of the cosmos, is included in the MAS party's decolonisation strategy and so *chachawarmi* has come to form part of the political rhetoric surrounding gender in Bolivia. The Ministry of Justice, where the Ministry of Depatriarchalisation also sits, suggested that:

> In the villages, we have the concept of *chachawarmi*, and this means that both man and woman have equal value. (MoJ Interview)

Although it purports to represent more of a sense of gender *equality*, it could be considered that there is a difference between *chachawarmi* and more Western understandings of gender equality. The term 'complementarity' is perhaps more useful in conceptualising the meaning of *chachawarmi* whereby there is a perceived harmony of gender roles. *Mujeres Creando*, for example,

have not only rejected Western gender ideologies, but also the concept of *chachawarmi*, suggesting that although it is indeed an important Aymara cosmology, it does not represent lived experiences where the world is even or equal, but instead reveals the continuation and naturalisation of ancestral patriarchy (Mujeres Creando 2013). In order for there to be *chachawarmi*, there would need to be no patriarchy. There could, thus, be considered to be a romanticisation of the term and what it represents. This does not mean that it is not useful, and in fact it forms a lot of the political discursive constructions around gender. According to Maclean's (2014) research on the lived experiences of *chachawarmi*, it could perhaps be considered to be a term used more by indigenous communities than by those who do not identify as being indigenous.

Considering *chachawarmi* to be the same as equality is problematic. Although this term is a respected one with a long Aymara heritage, in practice it is difficult to conceive of its equation with the idea that both genders are equal. In an exchange with Camila in Las Brisas, she highlighted this:

> Me: I hear the word *chachawarmi* a lot, but I'm not sure I really understand it?
>
> Camila: I think people say it is about equality. It is not. Different expectations for men and for women are not equality. It should be about both man and woman doing the same jobs. It is because women can have a baby. So everything else is because of that. (Las Brisas, Fieldnotes)

Farah and Sánchez (2008: 29) point out that *chachawarmi* is in fact about a 'complementary relation without asymmetry'. This suggests not equality in the sense of sameness but equality in terms of equal value. This is similar to Pateman's (1988) identification of the 'separate but equal' doctrine which illuminated patriarchal power over women's roles in both public and private spheres (see also Ribbens 1994; Kelly 1996). The different roles that men and women have are culturally constructed around expectations of what men and women should do, or what they are perceived to do best. Complementarity,

although an attractive term rested on harmonious relationships and functioning of family and community life, in fact reveals the conditions for further inequality and regulation of women when the issue of violence is considered. The family, as Hume (2008) points out, is a key site of the gendered forms of violence that can take place. This is because women often come to be assigned roles that limit their opportunities for participation in wider society based on biological differences between men and women. As Pape (2008: 46) argues, 'their [man and woman] unity in the household [is] as a productive and reproductive unit'. Emphasis with this concept tends to be on the heterosexual married couple, man-woman (much to the rejection of *Mujeres Creando*), and the women's ability to have a child, as Camila indicated. One of the other women from Las Brisas, Ariana, suggested that, "they [society] say that the best thing we have is being a mother" (Life Story). It reflects an emphasis on women as reproductive bodies and the roles and spaces that are associated with this form of production that the concept of *chachawarmi* appears to encompass (see also Rosaldo and Lamphere 1974).

The confusion of *chachawarmi* with the notion of equality, though, appears to be quite common. Lila suggested, during the above conversation with Camila, in the women's centre, that:

> They [the government] say there is equality, there is *chachawarmi*, so men and women are the same. But it doesn't mean they are the same. It means the woman stays with her things, and the man with his things. Camila added that this means that if women do something different it would change the *usos y costumbres* [customs and traditions] and people don't want that. (Lila and Camila, Las Brisas, Fieldnotes)

Given that there is an indigenous president of Aymara descent, much of an indigenous Aymara understanding of the world is incorporated into political and social life in Bolivia. This includes the concept of *chachawarmi*. Although in practice it can appear to be problematic, it reflects the deep spirituality of Bolivian society. The notion of a *cosmovisión*, highlighted earlier in this section

reveals exactly that. The female and male forces, as Burman (2011: 67) points out, are 'opposing but complementary constituents of the cosmos'. The inclusion of this concept into the political sphere and by the State, reflects the broader anti-neoliberal and decolonial path of both the Bolivian government and broader society. It also reinforces it as a dominant conceptualisation of the family and of the relationships and positions of men and women in society. Sousa Santos (cited in Maclean 2014: 76) posits that, '[t]he re-assertion of indigenous world views... goes beyond a rejection of neoliberalism, to embrace a distinct ontology in which 'beings are communities of beings before they are individuals''.

Okin (1999) would likely be quick to suggest that promotion of the term *chachawarmi* might be an example of culture being bad for women and, in some ways, she may not be wrong – particularly if it is used to reinforce women's roles as subordinate. As is demonstrated in later chapters, this idea of women's roles and men's roles does not only exist in indigenous communities in rural areas, separate from the cities. It was encountered in each and every city and town I visited, both as part of formal fieldwork and by non-research-related visits. What is important to note is that these gender ideologies of both *machismo* and *chachawarmi* function to perhaps keep women from entering into, and being recognised within, political and economic spheres. These spaces are considered to be productive. This not only means that access to decision-making spaces that are important in the development of rights and policies are less open for women, it also means that they are economically dependent on the men in their families. This highlights one form of structural violence that women experience and these ideas become some of the main barriers to accessing legal spaces, CSOs and, most importantly, when seeking to mobilise the law and gain access to justice.

Yet Cardenas et al. (2013) suggest another way of viewing *chachawarmi*. Without an organising principle like *chachawarmi* that recognises life in pairs, where one cannot exist without the other, there would be greater individualisation which would give rise to increased patriarchy and neo-

colonialism. If there is no pairing, no complementarity, then women are rendered invisible (Cardenas et al. 2013). To suggest that women can only be visible, and their role be valued, through attachment to men as a complementary pair could be considered to be condescending and patronising, and to the detriment of women's roles in society and their struggle for recognition and justice. Nevertheless, it is important to note that this does not mean a rejection of this term, given that data were not gathered on it from within communities themselves, and it should be highlighted that these current gendered hierarchies may not necessarily reflect the largely egalitarian gender relations that existed across the Andes pre-Spanish colonisation in the 16th century.

## The Importation of Gender Hierarchies

Gendered colonial perspectives were only referred to three times throughout fieldwork. Once by Mayra in *Casa de las Brisas*, and twice by two different employees of the Ministry of Justice. This does not mean that they are not important and given the nature of this research, it is necessary that this is included. Each participant mentioned above, suggested that "women were in better positions in society before colonisers arrived" (Mayra, Las Brisas, Fieldnotes) or that "relationships between men and women were more equal before the Spanish came" (Leonardo, MoJ). Mariana (MoJ) suggested that "there are lots of stories that say that women and men were equal and had *vivir bien*[21] and were happy". This is not a romanticisation of a pre-colonial era as the work of Reeves (2014) points out that women were often in better positions than their European counterparts pre-colonialism. Their disenfranchisement and subordination were at the hands of Spanish conquistadors, who sought and succeeded, in large part, to erase female power and status within the region through legal reforms and exploitation. Merry's

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[21] Vivir bien, also known as Suma Qamana refers to an indigenous understanding of living well together that goes further than wellbeing and draws to the fore the importance of harmonious relations between human beings and nature (see Artaraz and Calestani 2015)

(2000) work in Hawai'i also showed how colonialism brought new marriage patterns and gendered relations to indigenous communities. Regardless of the original vision of *chachawarmi* being presented as non-hierarchical, *Mujeres Creando*, for example, still reject it – questioning these utopian ideas.

The complexity of the Bolivian context that the literature revealed in Chapter One, can be seen above through the engagement with gender ideologies and their manifestations, indigenous *cosmovisiónes* and complementarity, and colonial legacies (Samson and Short 2006; Tamanaha 2008). To further complicate this, throughout the chapter so far there is also a notable presence of ideas that originate from indigenous cultures, but this does not mean that they are not applicable to non-indigenous peoples, or that they do not have any influence on them. The following section considers the common distinctions made between urban and rural areas which are often equated with distinctions between indigenous and non-indigenous peoples.

**El Campo y La Ciudad**

Through interviews and conversations during participant-observation, there was often a distinction made between urban and rural spaces whereby geographical location in Bolivia often corresponded with different ways of life. As noted in Chapter Three, rural areas are more associated with indigenous communities, and urban areas tend either to be considered more Westernised, like in Santa Cruz, or indeed a mixture of cultures, such as La Paz. This distinction presented itself in the data in a number of different ways, for example, in relation to clothing. Clothing is a visible indication of indigeneity, reflecting the cultural diversity and pluri-ethnic richness of Bolivia. In rural Bolivia, the majority of women wear traditional 'cholita' clothing, consisting of long multi-layered skirts and macramé shawls. In Santa Cruz, it is very different. It is rare to see anyone in traditional clothing, and in fact Santa Cruz fashion follows similar trends to those in Europe and North America. La Paz, however, is a mixture of the two, and this also changes depending on the district of the city. In the higher altitude areas of El Alto, for example,

traditional clothing is more common, yet moving down to the southern zones of La Paz there is a shift in fashion similar to that in Santa Cruz, coinciding perhaps with the rapid increase in temperature, as well a shift in ways of life and culture from predominantly indigenous to predominantly *mestizo* [22] peoples.

In La Paz, there is an array of fashion and it is not uncommon to see women wearing full 'cholita' fashion, consisting of the statement layered skirt, often brightly coloured, intricate macramé shawls and a bowler hat, perched atop long double braids, bound at the end with tassels. The spectrum of women's fashion could be travelled within the space of a 40-minute teleferico ride. It is worth noting that such transitions were only



**Photo 5 Women in traditional clothing, La Paz. (Photo credit: Kateri Raglow)**

really visible in relation to women; there were no stark differences between men. What it signified clearly was that those wearing cholita outfits were indigenous. As for other people, indigeneity was not so obvious, including four of the women in Las Brisas who identified as indigenous but did not wear clothing that revealed this identity.

One of the key motivations for conducting research within *la ciudad* (the city) as opposed to in more rural, *el campo* (the country) areas, was because of the assumptions being made about women's legal literacy and also their access to justice (mentioned in Chapter Three). Although I recognise that there are likely to be differences between the experiences of women in rural areas and those residing in the city, the experiences of indigenous women, living in rural areas, in relation to women's rights is well documented (Van der Hoogte and

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[22] Of mixed European and Amerindian descent

Kingma 2004; Richards 2005; Monasterios 2007; Rousseau and Hudon 2017). In *la ciudad* in Bolivia though, where there is a mix of indigenous traditions with other Bolivian ideologies, there is a lack of literature.

As suggested in Chapter One, women tend to be the bearers of cultural tradition (see also Winter 2016) and clothing is one visible manifestation of that idea. Such visible cultural differences for women, often result in possibilities and conditions for subjugation and discrimination:

> Our social problems are very strong. For example, discrimination against "cholas" continues, and the chola still dresses herself in a discriminatory way, so she is discriminating against herself, and society therefore, discriminates as well. By far, let's say potentially economically, it is better than before [for the Chola] but this is the view of the people, culturally it's not better. Worse is being treated with this city-country division, the people from the country are always going to be less than those from the city in some respects, no? (Ariana, Las Brisas, Life Story)

In La Paz, differences between those from *el campo* and those from *la ciudad* were at times clear. Chapter Three provided an example of a clash of cultures after the installation of the teleferico lines, but there is also a difference suggested in relation to the prevalence of violence. Rural life was often presented as being more calm and relaxed, with comparatively less violence than in the city:

> Now in the communities the issue of violence is not as much as what can be seen in the city. The city still has extreme violence, like murders. But in communities, you do not see much of that. Honestly, I have been living in Cochabamba for 20 years, and here [La Paz] for six, seven years, and I have been in other indigenous communities. I have seen that there is more violence in the city than in the indigenous community, to children and women. (Leonardo, MoJ, Interview)

This encounter with Leonardo turned out to be more informal in nature, although it had been set up previously as an interview. In fact, there were three other Ministry of Justice employees engaged in the discussion at the same time, all of which nodded in agreement to his above statement. Collectively, they attributed the difference between the urban and rural experiences as being due to the greater presence in the rural areas of *usos y costumbres* and *chachawarmi* which signified greater respect for other people in the community. People and social life function as a collective, interacting harmoniously, and contributing to a "healthy judgement of life" (Leanorado, MoJ, Interview).

Yet something seemed odd about the image portrayed of the differences between urban and rural life. Although the Ministry presented rural areas as being quieter with less violence against women, in an earlier interview, also in the Ministry, there was emphasis on the need to address the issue of violence in rural communities. For the urban area of La Paz, this had already been dealt with, according to Marisa in the Ministry of Justice who worked on issues of gender and empowerment for women. Violence against women though can happen in urban, suburban and rural areas (see McCue 2008). Access to justice through State legal institutions in La Paz was possible, but not in *el campo*. This reflected the increased presence of spaces for reporting violence which had been developed after the enactment of *Ley 348*, but such opportunities to report were not yet in place in all rural areas. CIDEM and *ComVoMujer* for this reason expressed the need for violence against women to be addressed in rural communities because:

> To denounce, women would need to travel very far and there are not always buses. It is difficult for women to make a denouncement because the husband has to know where she is. (CIDEM, Interview).

There is still a contradiction here, most clearly demonstrated by the Ministry of Justice and whether or not attention should be on urban or rural areas. On

the one hand, it is considered that the issue of violence and *Ley 348* is not as well known in rural areas and it is reported less. These fewer instances of reporting could be because it is either accepted as the norm, or that there is insufficient access to institutions for denunciations that lie outwith community justice frameworks, State justice frameworks, that are not always satisfactory for women, who are not legally recognised as a collective (Hammond 2011). If reports are made through community justice systems then they do not enter into any statistics[23]. On the other hand, the perceived increase in violence against women in urban areas could be due to not only the availability (although not suitability) of institutions to report to, but also an increase in public discussions about violence, which draw it out of the private sphere of family and home and into the public sphere (Moore 2003). This can encourage women to seek help as the following chapters demonstrate.

Although this division between urban and rural life appeared at times to be stark, it should be noted that in line with the notion of culture as fluid and malleable, combined with the migration of peoples from rural to urban areas (Andersen 2007; Goldstein 2004), there will also be influences of rural life on those in La Paz. The Ministry of Justice itself, for example, contains a large number of indigenous peoples, like Marisa, who moved from more rural areas of the country.

In relation to the differences between rural and urban life, it is often assumed that the notion of community has less binding strength in *la ciudad* than it does in *el campo* because territorially speaking (Lazar 2008), the physical space is less defined and there is less interaction with other cultures and communities. In the city, there still exists communities but they are constructed differently. According to those women who had always lived in La Paz, their community was their neighbourhood, and in particular the street where they lived, the

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[23] Of course, as already pointed out in Chapter Two, there is no systematic gathering of data in relation to violence by the State or, now, by any other organisation given the shutdown of *Centro de Informacion y Desarollo de la Mujer*.

shops and market stalls they bought from and the schools that their children went to. It also included the women's centre.

## Women and the Community

Community, whether that be in an urban or rural space, is central in demonstrating the experiences of gendered hierarchies and ideologies discussed in the first part of this chapter. With State recognition of collective rights at the same time as individual rights, women's place as individuals is important to consider. It should be noted that this is not to impose a minority world, individualistic idea of the world, onto the Bolivian context, but instead to recognise that women are oppressed, and indigenous women often doubly so (Radcliffe et al. 2004; Nash and Safa 1980; Bronstein 1982; hooks 1989). As *ComVoMujer* point out:

> When you speak of women, the rights are still for the community, or as an organisation, or for the family, not as individual rights. And you say to the leader, "Why don't you talk about the rights of the women?"... "It is that the women are part of the community", they say. (ComVoMujer, Interview)

The space that different types of rights occupy is often conflicting, and this is clear from the tensions between individual and collective rights (Lehoucq 2008). According to the over three quarters of participants in this research, collective rights are frequently seen to trump individual ones, and yet this should not be the case. The need for there to be a recognition of the specific concerns that each encompass is important:

> Many times, the collective rights have squashed the individual rights. It should be an issue that no one is above the rest. That's to say, it's ok you all claim your collective rights but also at the same time your individual rights. (Sofia, Las Brisas, Life Story)

This tension exists in law, where aspects of the different legal frameworks may be conflicting. These tensions also exist in the experiences of women when they try to present their points of view, concerns, or issues in a collective platform:

> When for example one is giving an opinion or… or when a woman speaks, they let her, but when she says what's not be said, because it is the norm, they shut her up. But for a man, they let him explode, because they respect his intellect, is it not true? But our, our intellect, our place, our space, is not respected and unfortunately we've also stayed like this as women, we let them do this to us, no? (Elena, Las Brisas, Life Story)

Elena highlights the tensions that exist in relation to the perceived freedom to talk, and the ability to do so within her community, but similar descriptions were also documented in relation to women's involvement in politics and other common male-dominated spaces. The idea of saying something that should not be said, suggests that there are suitable and unsuitable topics based on gendered ideas and assumptions. Examples of this from other conversations in fieldnotes were issues of money, or of family relations, handling of the children, and indeed of intimate relationships between wives and husbands. It was considered to be unacceptable to discuss these issues outside of the family, in order to avoid embarrassment, shame and stigma (Hume 2004).

Given that women's voices are often met with hostile responses in community meetings or in spaces of decision-making (Pape 2008), discussions of rights as individual women are deemed unacceptable. Following from the above excerpts, Mayra points more generally to the social and political situation for women in Bolivia, recognising that:

> Sometimes our demands still pass for topics of territory, of environment, of water etc. and natural resources, more than of defence of ourselves. (Mayra, Las Brisas, Fieldnotes)

As Maria, director of women's rights NGO, *CIDEM*, highlighted during an interview in her office, "many more women are talking about these issues, which were taboo". However, Elena at Las Brisas informed me that although being silenced is common, it often remains unchallenged by women because it happens so frequently. It then becomes part of a process of social learning (Las Brisas, Fieldnotes). Therefore, there was an overwhelming sense that challenging hostile attitudes towards the expression of women's opinions or issues was not often considered as an option at all because first and foremost it conflicts with society's understanding and expectations of female behaviour (see Hume 2008).

It is, therefore, not simply an issue of geographical or territorial location, but instead demonstrates the influence of the changing social, political and legal discourses. The idea of reframing rights that is suggested by Mayra is revisited in Chapter Five, but here it is worth drawing attention to the broader Bolivian context, and particularly the interlegality and culture which tends to privilege 'the collective'. The strengthening of this notion of community and collectivity reflects the shift in government and a rejection of minority world, neo-liberal and individualist ideas of society, which have been detrimental to indigenous populations in Bolivia. However, as Rousseau and Hudon (2017) point out in their research, it is important that women's rights are also taken into consideration, not as being combined with other rights, but as important rights issues on their own. To attempt to move away from the individual is to overlook and even erase the particular lived experiences that women have. Women must, therefore, continue to struggle not only to ensure that their rights which reflecting the community needs are addressed, but that they are also recognised as individuals (Rousseau and Hudon 2017).

**Movement of Rights Ideologies**

When individuals move between urban and rural areas, there is an inevitable transference and influence of ideas. This illustrates the fluidity of culture, presenting it in a similar way to the law, as being porous and adaptable:

> I am from an indigenous community. Many young people ten fifteen years, a decade, two decades ago migrated to the city, and those young people are who we are now. School, town, university and then, return to the community. Obviously we do not lose the customs, festivals, dig potatoes, seed potatoes, ploughing with cattle, do not lose these customs, but in this issue of violence against women, the equal right, we go back with that too. I practice them. But there are still grandpas, grandmas who live there… and they do not always want to change, to do new things. (Leonardo, Ministry of Justice, Interview)

Leonardo was not necessarily suggesting that there is more violence in indigenous communities, and in fact he stated that this was not considered to be the case – a point I will return to later. What can be taken from his statement is the resistance to change in the communities that is associated with the transfer of ideas. It could be suggested that given the political discourse of decolonisation, that the language of rights itself is what is being rejected as opposed to the ideas that they represent.

During one afternoon of particularly torrential rain and storms, typical of La Paz, the Las Brisas women's centre remained open later than usual. It was not possible for us to leave due to the river that was running down the road outside, the strong current sweeping cars down the hill. Pamela, unable to make the journey home which consisted of two minibus rides, appeared irritated. On reflection, it was perhaps the wrong time to be discussing emotionally and politically charged concepts such as human rights, given that everyone, myself included, was tired and cold, but Pamela raised an interesting point that I had already considered but had yet to hear someone say:

> Why some people don't want to talk about rights is because we talk about decolonisation, and then talk about human rights. It doesn't make sense. One is about rejecting the US, and the other is about using its ideas. Why talk about rights? Especially in el campo. (Las Brisas, Fieldnotes).

The US was used here as symbolic of the domination of minority world ideas, and this was not uncommon in informal conversations. It is perhaps due to the tenuous relationship that Bolivia has with the United States as well its geographical proximity, but the point she raised was clear. Where rights originated from may mean that they are not compatible with social life at a local level, reflecting the issue of the vernacularisation of human rights (Merry 2006) and the construction of the legal subject in a way that means that the universal comes to obscure the particular. It draws attention to the legally plural nature of life in Bolivia, where indigenous frameworks of law overlap with State law, which is influenced by international frameworks of rights.

**La Ciudad esta Cambiando**

When Evo Morales came to power in 2006, he quickly began using slogans that included the word 'change', or alluded to it. The overarching message was 'Bolivia changes' (Morales, quoted in Los Angeles Times 2010)[24]. 'Mi ciudad esta cambiando' ('My city is changing') is a popular phrase that has been inscribed on the brick walls of buildings in El Alto, where a greater indigenous population reside. These messages largely relate to the MAS party's attempts to decolonise Bolivia. In the centre of La Paz though, it is rare to see such messages. Instead, there are words of resistance, street art with confident cursive lines which also seek change, scrawled across city centre buildings and on surrounding street walls. Examples of these messages include, 'Women who unite don't need to put up with more beatings[25]'; 'Pachamama [Mother

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[24] There are variations of these phrases, but 'Bolivia Changes' is the slogan of the MAS party when Morales came to power in 2006. He highlighted this term in a 2010 article for The Los Angeles Times regarding global climate change.

[25] Mujer que se organiza no aguanta más palizas

Earth], you and I both know that abortion has always been around[26]' and 'There can be no decolonisation without depatriarchalisation [27]'. Having considered the construction of gender roles, gender hierarchies and their reinforcement through a process of socialisation, this next section of the chapter examines women's perceived role within the State, given the increase in female members of the Bolivian government. It also explores the development of the political will to establish *Ley 348: to Guarantee Women a Life Free from Violence.*

**Women and the State**

Since Morales came to power, women's role in Bolivian politics has changed. Women's political participation has increased and they now represent 53% of parliament (World Bank 2016). The inclusion of women into this once male-dominated space opens opportunities for women's needs to be represented and addressed. While the number of women present in the Bolivian government has increased, hailed as the strengthening of democracy (Roussaeu 2011), there are still questions over whether or not it is simply tokenistic. Sofia, at *Casa de las Brisas*, suggested that although there were women now included in politics, it was for "show", and a "performance" for the international community (Las Brisas, Fieldnotes).

Sofia (Life Story) pointed out that "we [as women] can exercise politics, but we don't have the right to think", implying that there is tension between being *present* in government and being able to participate, contribute and be valued. This notion of not being able to think was raised at other points during fieldwork, by Lila and Pamela in Las Brisas, and by Marisa in the Ministry of Justice. There is a resulting tension revealed between presence and participation, which Goodale (2009) also highlights. The perception that

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[26] Pachamama, tú y yo sabemos que el aborto es ancestral
[27] No se puede descolonizar sin despatriarcalizar

women do not have a right to think emphasises the control over not only physical spaces, but mental space too. This reflects the broader themes of male domination that were highlighted previously. When gathering Elena's narrative, she supported Sofia's suggestion that women in politics are tokenistic:

> It's like they [women] occupy space, and being a political object is not the same as being a political entity, right? It is very different... I mean, the female politician is used as a seat in parliament and to add numbers to make a majority, an elite decides for all of them. (Elena, Las Brisas, Life Story)

This further suggests that men, who have more decision-making power, limit women's participation. Such perceptions of the government and women within government imply a complicated relationship between women and the State, an extension and reflection of the relationship within the family home. For the women in Las Brisas, there is an element of distrust in government processes and in State institutions. Although the Las Brisas women suggested that the increase in presence of women within the government was an important first step, they remained sceptical:

> It is that women, we, we've been in a neglected state and this Government has made women visible politically, it is true, but not intellectually! No. That's the difference... 'you are woman up to where I want'. (Elena, Las Brisas, Life Story)

The notion of intellectual visibility relates back to the earlier engagements with the concept of *machismo*, and indeed that of *chachawarmi*. A politically visible and intellectual woman goes against the deep rooted and *machista* constructions of gender whereby women's roles are in the private sphere. In contrast, women's roles might be more valued under the *cosmovisión* of *chachawarmi*, whereby there is not necessarily an equality but an assignment of *suitable* roles that together function harmoniously. Who decides this suitability is where the problem lies. Setting that question to one side, 'women in politics' do not fit well with *either* cultural vision.

**Rising Resistance**

This tension is most visible by drawing on the example of Maria Galindo, co-founder of feminist organisation *Mujeres Creando* in La Paz. Galindo has a striking presence, visibly, intellectually and politically. She embodies a rejection of hetero-patriarchal conceptualisations of gender and of hegemonic western womanhood (Emejulu 2017). Her resistance to those in power is rarely met with anything other than disdain or slanderous comments on her appearance, sexuality or lifestyle. The treatment of Galindo can be considered to influence the way that women not only conceive of womanhood, but also of how they conceive of themselves, and where they might place themselves in relation to resistive movements:

> And when a woman wants to get respect for her point of view or position, like for example María Galindo, I mean the society itself sentences her, no? I mean anyone who has that attitude, 'she is crazy, is a 'this'... is a 'that'..." (Elena, Las Brisas, Life Story)

The assertion that women are crazy is not uncommon in Latin America (returned to in Chapter Six) but it is clear that women's relationship with the State – regardless of class, gender or ethnicity – is a tenuous one. Camila (Las Brisas, Life Story) expands on this. She says:

> I mean, the achievement of power above all else, it has become an indolent practice in Bolivian society. I think that the loss of common sense is already happening, of what common sense is, of what democratic practice is. And we are becoming a mafia state of democratic practice, it wouldn't even be democracy anymore but would have other shades. And unfortunately this is what the government is. The MAS government party is giving refuge, it is building up and it's already a monstrosity that they can't control. The only thing that remains is the hope of being able to make an international denouncement because the life of a woman is worth less than that of a dog in Bolivia.

Camila's perception that the 'life of a woman is less than that of a dog', draws together all of the constructions that have been previously presented in this chapter and likens the place of women in the private and in the public spheres as either a pet, owned and controlled, or as merely existing on the street, with no real purpose. In a study carried out by Pigeon (n.d) on *machismo*, he also found that in Mexico, the notion of a woman as a pet was a popular conceptualisation of the relationship between men and women. This perceived lack of worth and value as a woman is a recurring theme and will, therefore, be encountered again throughout further discussions of the empirical data.

The use of the word "monstrosity", in the excerpt of Camila's life story, suggests both an evil and wrongness in the way that the State operates. By extension, the notion of a monster presents the image of a large body, disconnected with reality, and out of control. It is insatiable, and something to be feared. Yet while appearing out of control and dangerous, it attempts to control others and exert its formidable power in the face of resistance. People are either allies or enemies of it.

**Pervasiveness of Corruption**

Although the inclusion of women in politics is met with a mixture of celebration and suspicion, it is not so much about the ability of women in politics as it is about a broader concern of the power that the State has to exert its control over them, combined with the deep rooted levels of corruption that exists. Continuing with the notion of the government as a source of wrong and evil, Camila expressed her resistance to it, but presented this alongside a feeling of being outnumbered and helpless:

> Corruption, I mean it is everything that is related to the illicit
> gains – the power. The abuse of power is now part of our culture,
> of our democratic culture, right?, and when we want to say 'NO!
> Put a stop to it!', all those who have broken the law are more

than those who have not broken it. (Camila, Las Brisas, Life Story)

Camila highlights not only the pervasiveness of corruption, but she juxtaposes those who break the law against those who do not, which draws attention to the perception that the system is unjust. She was not alone in this perception and, in fact, the issue of corruption was raised by the women in Las Brisas almost every time that the government or a State institution was referred to. Similar to the idea of a monster, in an interview with Elena, she suggested that corruption was so bad that it was creating a negative force in Bolivian society, to which there would eventually be ramifications:

> That's going to be very sad for Bolivia, Evo Morales will not be remembered because he has made changes in the indigenous villages, the new laws, but remembered because he has protected all of them [those engaged in corruption]. He is going to explode, has to explode, I mean, right?! The situation is already going to be uncontrollable, I mean the insecurity and all that, yes it is very difficult and very sad. (Elena, Las Brisas, Life Story)

The notion of exploding suggests a long and persistent increase of pressure, and whilst Elena believes that Morales has done some good for the recognition of indigenous villages, the economy and transport links in La Paz, she argues that corruption overshadows this, and Evo Morales' legacy will not be something good, but instead something sad. Ariana also believes that "the mentality of all politicians is corrupt" (Ariana, Las Brisas, Life Story) and whilst she revealed much disdain for the government, she also added that "it's not Evo Morales' fault however, it's the fault of the corrupt system in this government" (Ariana, Las Brisas, Life Story), thus pointing instead to some of the long-standing and deep rooted structural conditions inherited from previous governments (Farthing and Kohl 2014). Although I noted my surprise at her support for Morales, combined with other interactions with Ariana and the notion of colonial legacies (Samson and Short 2006), it was

clear that there is recognition of the challenge of being President of a country with not only a complicated history, but also a complex present.

The institutional structures of society presented in this chapter have all in some ways influenced the development of *Ley 348*. As women were increasingly recognised in political spaces, it began to stimulate discussions about women's role in society, challenging gender hierarchies and ideologies. This disruption to the status quo of a male dominated government, regardless of its perceived constraints, did offer space within which women could exert some influence. This was not only evident during discussions in the Constituent Assembly in the design of the New Constitution in 2009, but since then, civil society groups have also become more involved with the State and it is through them that important women's rights issues have received attention. This final section of the chapter discusses the specific conditions that established *Ley 348* which not only recognises gender based violence, and the crime of *feminicidio*, but which is being used to draw attention to the deeply rooted and oppressive ideologies that exist in Bolivia about women's place in society.

**Legal Recognition of Gender-based Violence**

### The Political will to Address Violence

While it could be suggested that it is the resistance of women and CSOs to these gender ideologies that resulted in the creation of *Ley 348* in 2013, that is not the sole reason. In fact, *Coordinadora de la Mujer* and *Capitulo Boliviano de Derechos Humanos, Democracia y Desarrollo*, both umbrella organisations for human rights non-governmental groups, pointed out that it was a specific case of what is now recognised as *feminicidio*, that sped up the creation of this law, despite there already being a law to deal with domestic and family violence. This section presents this case as not only important for the establishment of *Ley 348*, but for highlighting key aspects of violence and the failure of the systems in place to protect women.

CSOs had, for the year prior to the enactment of *Ley 348*, been arguing for a law that recognised two main issues. The first is the specific nature of violence against women as being rooted in domineering and repressive gendered ideologies. Secondly, that violence against women itself is often not a 'one-off', but it is usually a long and slow process of not only physical violence, but mental, emotional, psychological, symbolic and economical, too. There are often indicators of violent behaviour, which are manifested in the way that men treat women and how they speak about them. Coordinadora de la Mujer revealed, though, that there was little political will to develop the law, and as women themselves had argued, priorities lay with other issues. As Elson (2006) points out, the interplay of political interests at different times can help to explain the extent to which particular rights, responsibilities and obligations are recognised and met.

February 11, 2013 initiated change. On this day, a Bolivian journalist named Hanalí Huaycho was murdered by her police officer husband, Jorge Clavijo Ovando, in front of their son, in the city of El Alto. He stabbed Hanalí 13 times and when her mother appeared after hearing shouting, he stabbed her twice too. Clavijo fled the scene and was aided by his family and another police officer. He was discovered two weeks later, approximately 5 hours away in the Yungas region of Bolivia, hanging from a tree a few meters from Hanalí's car (Aldunati 2015). This was one of many similar stories of the murder of women in Bolivia that I came to know over the course of my 12 months of fieldwork, and also since returning home.

As many civil society groups had already pointed out, this case was not wholly unexpected and, in fact, Hanalí had previously reported her husband's abusive behaviour. This case "sped up public mobilisation" (Coordinadora de la Mujer, Interview), and there were public protests and marches throughout La Paz, with a lot of media coverage given her role as a journalist. Combined with the pressure that already existed to establish this law, Hanalí's case revealed both its necessity and its urgency, and Morales stated the next day in a press release that he "would drop the full weight of the law" on violence and the crime of

*feminicidio*. One month later, on 9 March 2013, Bolivia welcomed the promulgation of *Ley 348 to Guarantee Women a Life Free from Violence*.

### Ley 348 on Paper

There is no English translation of this law available but it is useful to draw attention to four aspects of it that are particularly relevant in this research. The first and second of which is in relation to the types of violence that it recognises – physical and mental. There are 17 different forms of violence included and these are contained in Article 7:

1. Physical violence
2. Femicide
3. Psychological Violence
4. Media violence
5. Symbolic violence
6. Violence against dignity, honour and name
7. Sexual violence
8. Violence against reproductive rights
9. Violence in health services
10. Patrimonial and economic violence
11. Workplace violence
12. Violence in the plurinational education system
13. Political violence
14. Institutional violence
15. Family violence
16. Violence against rights of sexual liberty
17. Any other form of violence that damages the dignity, integrity, liberty or that violates the rights of women.

Firstly, recognising the crime of *feminicidio* (Article 7.2) has been vitally important for CSOs and Bolivian women because it recognises the specific murder of a woman, *because* she is a woman. It therefore emphasises the

gendered nature of this type of crime. The second aspect is the recognition of psychological violence, and that which is not strictly physical. The third part of this law that I wish to draw attention to is Article 23.2 which states that:

> Within the framework of social responsibility, free space should be allocated for disseminating messages that promote the values stated in the law.

The law mandates that dedicated 'free space' in the media should be used for raising awareness of not only the law, but what it represents – a challenge to existing considerations of gender and for the recognition that violence is not a norm and should not be endured. This leads on to the fourth aspect, a dedicated police force which is mandated in Article 56.i:

> The special force for the fight against violence, in the comprehensive police stations or places where the Bolivian police provide services, will have specialized staff to deal with complaints of violence, investigative steps and others under the direction of the Public Ministry.

This police force is called the *Fuerza Especial de Lucha Contra la Violencia*[28] (FELCV), and deals only with issues of violence – not only against women, but against men too. Alongside this special unit there is also the requirement that there be social, psychological and legal services (SLIMs) to deal with denouncements and support for those who have experienced violence. I return to these three aspects in the following chapters in order to show how they are being experienced in actuality, for although *Ley 348* is a comprehensive one, implementation of it has left much to be desired.

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[28] This special force was formed to prevent, investigate and combat violence against women and girls.

**Conceptualising Justice**

Over the course of 12 months of fieldwork in Bolivia, the visible energy around the issue of violence and *Ley 348* that I mentioned in Chapter Three did not dissipate. The increase and rise in marches, protests and events on the topic of gender-based violence and *feminicidio* all had an influence on the women that I spent time with and they all recognised that there was a greater number of discussions around gender and violence taking place (Fieldnotes). For some women, this legal transition indicated that changes were afoot:

> "Do you think there will be other changes for women and women's rights in Bolivia?" I asked to the group of women around the table.
>
> Mayra drew a long breath through her teeth and replied bluntly, "No!".
>
> However, Ishi disagreed, and leaned forward across the table, "I think there will be, because women now are talking. They are talking about what is happening in their lives with other women. We can see that talking and talking," she gestured a stepping up motion with her hands, "builds up some kind of momentum. We can move towards change". (Las Brisas, Fieldnotes)

The notion of 'moving towards change' demonstrates the fluid relationship between time and space that Núñez and Sweetser (2006) and Faller and Cuéllar (2003) explore in their cultural linguistic interpretations, and which I highlighted in the preface to this thesis. Ishi appeared to suggest that change was a destination towards which women can actively move towards. 'Change' is conceptualised as being something distinct and presented as a destination that can be reached. It is positioned outside of the person and, therefore, suggests some disconnect from it. Getting there, by interpretation, can be achieved by an increase in interaction and communication, where ideas enter into dialogue with other ideas (Bakhtin 1984). Still, where 'there' is, is never clear. Given the cyclical nature of time, space and reality, it could be suggested that 'there' is a constant reformation of ideas around violence and women, as

opposed to simply 'achieving justice'. Indeed, it is only through revisiting ideas that they can in turn, be changed. As I wrote in my fieldnotes:

> When women talk about change and suggest that they can 'get there', I imagined that they meant 'justice'. But what 'justice' means is another issue, and so I used the opportunity to ask. The women danced their heads from side to side, and from the kitchen Luciana replied, "That he goes to prison". "That he has to live in San Pedro [La Paz prison]" agreed Mayra.
>
> In a change of response, Ishi stated, "No. I do not necessarily want prison, but what I want is that they recognise they did something bad, and they change, and they make other people change". The four other women who had not yet provided an answer, [Ariana, Pamela, Eli and Quora] nodded in agreement.
>
> "People need to think differently," said Pamela.

In the minority world, many would consider the destination of change as achieving justice, most likely in the form of incarceration, as opposed to a broader social change (see Moore 2017). But in Bolivia it seems that prison is only, if any, part of the picture (Research Diary). Justice appeared to be more in the broader sense of social justice and of living well, *vivir bien*. Still, when women spoke of justice, it appeared to exist outwith the individual, and even outwith society. From narratives gathered, it is the full realisation of their rights, and the full implementation of the law in accordance with the legal text that results in justice. This is thought to be the State's responsibility. "What we need, what we want to have, is that the law makes a change" said Sofia one evening after relaying the story of a neighbour who had been to the police several times because of her partner, but to no avail (Fieldnotes). This conceptualisation of justice, and the law, as being positioned outside of the person can be interpreted using Ewick and Silbey's (1998) cultural schema of legal consciousness. The 'before the law' category is most appropriate because the law is considered to be separate from society and out of reach. It suggests that society does not have influence over it.

On another occasion, upon hearing the story of Lauren, a North American who was raped in a small town in Bolivia in 2013, and who had used *Ley 348* to imprison those responsible, Mayra professed that "if more women can get justice then we know we have arrived" (Las Brisas Fieldnotes). The use of the word "arrived" by Mayra continues the theme of travelling towards a destination. In all of the discussions that featured 'justice', which was the vast majority of conversations about women's rights in the Centre, it was a concept expressed in relation to senses of achievement and of relief (Las Brisas Fieldnotes). Justice could be interpreted as both an endpoint to suffering, and as a beginning to a 'life free from violence' that *Ley 348* offers in its title. The guarantee to that violence, it could be suggested from the majority of women in Las Brisas, was then more of a broader societal and cultural change in gender dynamics – the relationship between men, women and the use of violence and oppressive ideologies. Given that women were seeking to arrive at justice, it was clear that it was not thought to be entirely achievable at that moment in time. Encounters with legal officials, dialogue with other citizens and the perception of a corrupt State were considered to have filtered their way through the legal system and so the emancipatory language of the law was treated with suspicion.

It can be argued, however, that although achieving justice would still require time, *Ley 348* offered opportunities for the (re)consideration of existing gender norms and oppressive ideas within the family, community, the State, the law, and even in CSOs and social movements. It provided the conditions and space for the imagining of a utopian future. The idea that justice is possible is a powerful one, and is often what encourages women to mobilise their rights and recognise themselves as rights-bearing individuals, as the following chapter reveals.

### Summary

This chapter has presented the broader institutional structures that produce and reproduce gender hierarchies and repressive gender ideologies. These are

evidenced through the constraints that women face, as they become bound by these gender norms. Women's role within the family is less valued; their participation in community spaces is restricted; their involvement in decision-making spaces of the State is controlled; and the rights of the collective often supersede their rights issues as individual women. This chapter, therefore, argues that the *machista* attitudes that are experienced at home, in the private sphere, are also mirrored in the public sphere of the community and the State (Hume 2008). Women's value and worth is reduced through processes of objectification and this works to, at times, dehumanise women, making them feel like animals. Although Morales has sought to construct a more democratic society, the suggestion that it is simply tokenistic reveals a lack of trust in the State, which is an extension of the perception that it is a largely corrupt and domineering system. After the death of Hanalí Huaycho, *Ley 348* – which CSOs had been pressing for the year before – was passed. What this offered was a vision of a future free of violence. It provided space for the conceptualisation of justice that did not necessarily always involve incarceration, but that *did* always involve the desire for a social and cultural shift that would mean that gender hierarchies and oppressive attitudes would be transformed, and there would be greater respect for women in Bolivian society.

It is only through a change in the attitudes towards women that violence can be dealt with. As the law suggests, there are many forms of violence and it is important to consider their prevalence in spaces that are not only private, but that are also public, for these attitudes towards, and about, women are important for women's engagement with the law. *Ley 348* emerged as a challenge to these ideas and the violence that is a ramification of them, however, as the following chapter reveals, when women seek to challenge these ideas by mobilising the law, they encounter a number of constraints and challenges, which only work to reveal a complex relationship between women and law that is developed to free women from violence, by a society where it is so embedded. The next chapter draws on the social construction of gender and provides insights into how the law is experienced by women, and how encounters with the law do not necessarily need to be through direct lived

experience for it to influence both their legal consciousness and their subjectivity. It carries forward some of the themes from this chapter in relation to women's position in society as social consciousness cannot be separated from legal consciousness – they are mutually constitutive.

## Chapter Five

## Women's Narratives

*The woman from the country has not expected such difficulties: the law should always be accessible for everyone, she thinks, but as she now looks more closely at the gatekeeper in his fur coat, at his large pointed nose and his long, thin, black Tartar's beard, she decides that it would be better to wait until she gets permission to go inside. The gatekeeper gives her a stool and allows her to sit down at the side in front of the gate. There she sits for days and years. She makes many attempts to be let in, and she wears the gatekeeper out with her requests. The gatekeeper often interrogates her briefly, questioning her about her homeland and many other things, but they are indifferent questions, the kind great people put, and at the end he always tells her once more that he cannot let her inside yet. The woman, who has equipped herself with many things for her journey, spends everything, no matter how valuable, to win over the gatekeeper. The latter takes it all but, as he does so, says, "I am taking this only so that you do not think you have failed to do anything." During the many years the woman observes the gatekeeper almost continuously. She forgets the other gatekeepers, and this one seems to her the only obstacle for entry into the law.*

(Kafka 1915/1998, continued)

### Introduction

This chapter follows on from the previous discussions which explored some symbolic and structural aspects of society and of violence within the family, home and community. It also highlighted how this has filtered into the State. With *Ley 348* recognising the whole range of violence, alongside *feminicidio*, women began to envision a life free from it. This chapter provides examples of women's attempts to access justice in Bolivia and presents not only some of the direct structural and symbolic violence that women encounter when they mobilise their rights, but also the radiating effects, or 'imprint of law', as Ewick and Silbey (1998: 20) call it, and ripples of other experiences on women's desire to mobilise the law, and their overall legal consciousness. This chapter uses mainly data gathered from women's narratives in Las Brisas.

**Structural systems that shape women's experiences of violence**

The previous chapter presented gender as a dominant constituent of social relations in Bolivia, whereby differences between males and females reveal relationships of power and hierarchy. It revealed the symbolic violence that women experience. The prevalence of violence is in turn, shaped by these constructions. However, these constructions of gender are also found at the level of legal institutions. As attention has turned to the implementation of *Ley 348*, women's experiences of reporting violence, encounters with the police, courts and lawyers, reinforce these hierarchical relationships and the symbolic violence becomes institutionalised within the systems designed to challenge them.

It should be noted though that the recognition of *feminicidio*, although not the main focus of this research, does provide the conditions within which to explore the other forms of violence. All of the forms of violence that *Ley 348* identifies can lead to *feminicidio*. Raising awareness of this was a key aim of women's groups who were involved in the design of *Ley 348*. As *Coordinadora de la Mujer*, an umbrella organisation for women's groups suggested:

> "Behind this experience [of *feminicidio*], there is a history of violence, there are years of cohabiting with your partner which, during this time, you were subjected to mistreatment, aggression, insults, economic violence, sexual violence. It is the *total contempt* for the life of a woman. Your partner thinks he is the owner of your life, and the total contempt is in such a way that he believes in the right to undo a woman. [... I]t's not an isolated act, it's not simply the death of a woman, it's the *culmination* of years of violence." (emphasis added to reflect stress on this word in the original interview)

This research therefore cannot be easily separated in to distinctive experiences of different forms of violence. Through women's stories of violence, it is clear that although not all the forms of violence listed by *Ley 348* are present in their narratives, those that are, are *intertwined* with one

another to form the fabric of women's lives and their lived experiences. The meanings and language that women attached to experiences of violence ranged from it being the norm and something to be endured, to being a rights-violation and a criminal act (although this view was held by just under half of women in Las Brisas). The first section of this chapter therefore revisits the notion of legal consciousness and Ewick and Silbey's (1998) cultural schemas as well as exploring the notion of different scripts of meaning.

**Meaning-making and Legal Consciousness**

Meaning is drawn from experiences, encounters and interactions, and the law is no different. The law does not necessarily act upon social life, but instead, as Ewick and Silbey (1998: 17) point out, 'legality is an emergent feature of social relations'. Exploring women's perceptions, feelings and opinions about some of the important spaces that are influential in the construction of legal consciousness, this chapter draws on Ewick and Silbey's (1998) cultural schemas to explore the previously highlighted gap between law as it exists in text, and law in action (see also Caringella 2009). It does not, however, use these schemas to explicitly categorise the data because I argue that to do so would be to over-simplify the relationship between law and the individual. Data are more often categorised under more than one cultural schema at a time.

It is useful first to be reminded of Ewick and Silbey's (1998) framework for the study of legal consciousness. Legal consciousness is categorised into three main forms: 'before the law', 'with the law' and 'against the law'. The notion of 'before the law' can be most closely linked to more objective notions of the law as being something that is external to society and subjects. It places the idea of society and individuals as being far from the law. They are not close to it and are, therefore, unable to affect it. It is important to point out that whilst individuals may not believe that they can influence the law, that is not to suggest that the law cannot influence them, and it is this feeling that is central here. The second category of 'with the law' reveals more interaction between

law, the individual and society, and highlights that individuals can work with the law, and can often use it to their advantage. Again, exploring legal consciousness alongside subjectivity can illuminate the intricacies and shifts which take place between different subjectivities in relation to the law and reveals a deeper complexity between the notions of powerful and powerless. Lastly is the category of 'against the law', which was the most popular in the work of Ewick and Silbey (1998). The law is considered as a site of resistance, particularly for those that do not believe that they are able to work 'with the law'. It is within this category that people feel they are trapped in a powerful system, and one that inevitably fails them.

## Employing Interpretive Scripts

Based on the long-standing forms of symbolic and structural violence in the home, family, community and State, women rarely consider gender hierarchies or symbolic subjugation to be a form of violence (see Thapar-Björkert 2016). That is, when any and all of the women discussed *machista* attitudes separately from acts of interpersonal violence, they highlighted them as *a source* of violence as opposed to a form of violence in themselves. These gender stereotypes and role constructions that are typical of *machismo*, are instead 'the norm'. Sexual and physical violence, on the other hand, are not only considered to be an extension of "just the way life is here in Bolivia" (Pamela, Las Brisas, Fieldnotes) but it is also something to be endured, and not challenged, largely because women are so economically dependent on their husbands (see also Bornstein 2006; Rothman et al. 2007). This economic dependence was also not framed under the notion of violence. Aside from interpersonal violence, legal language, in terms of rights or a crime, was rarely used. The women's experiences of physical violence, however, were told against a backdrop of other symbolic and structural forms of violence, even though women did not identify them in such a way. When they discussed their stories of physical and sexual violence, these other forms were already present in their life stories.

As discussed in Chapter Three, my presence in the setting often influenced the way women thought about the law, but it also gave them new ways of thinking about their experiences. This can be positive and negative. Eighteen of the women in Las Brisas suggested that *Ley 348* had either offered them a new script for ascribing meaning to their experiences and making sense of them, or simply provided legal and State recognition for how they had already been framing violence. Overall, legal recognition was important. It could be considered that by the end of the period of fieldwork, all women recognised that the law offered them a framework to seek legal remedies, but they did not always intend to use it. It should be noted that although this research reveals the many challenges and barriers to women mobilising their rights and accessing justice, legal recognition remains important because this law exists within a society whereby social movements have fought for a long time to be recognised by the State and have their needs addressed and assured by law. It is why the 2009 Constitution, for example, was so important to the majority of Bolivians. Yet, this transition to a law which recognises all of these forms of violence was not always known.

**Knowledge and Awareness of Ley 348**

Despite being two years on from the enactment of *Ley 348*, CSOs in La Paz often expressed a concern that there were still many women not reporting violence. Although, like the majority of the CSOs and State institutions interviewed, the increased spaces to denounce violence that were mandated in the law itself marked attempts to address this:

> I think that in urban areas especially in the cities, all women know that there is not only one but N number of instances where you can report violence. (SLIM staff member, Interview)

The use of 'N' here places emphasis on the numerous and many locations that are available to women if they wish to make a complaint. These include the newly established FELCV, the SLIMs, as well as any regular police station,

known as the *Fuerza Especial de Lucha Contra el Crimen* (FELCC). In urban areas, like La Paz, there are, indeed, many spaces within which women can take their complaint, but the assumption that women *know* that they can report violence is not accurate. In informal encounters throughout Bolivia, I quickly realised that not all women knew about the existence of *Ley 348*. Despite this, the overall numbers of reports of violence in Bolivia have actually increased since the law was created. This often creates the perception that there is more violence now than there was before (Maria, CIDEM). However this could be explained by the fact that spaces for reporting are, indeed, more available – although not always suitable – and that because women have been discussing the issue of violence more outside of private spaces of home, family and community, there is more informal support for the mobilisation of their rights, and the opportunities to create 'communities of resistance' (Radcliffe 1993: 101).

The suggestion that women know where to report, and therefore can, is problematic. Not only does it place responsibility on women to take action and utilise these many spaces, it also appears to disregard the structural constraints that act as barriers for women's access to those spaces. All of this happens at a time when women are trying to make sense of what has happened to them. In addition to CIDEM, the Ministry of Justice in the centre of La Paz suggested that women now have knowledge of the law, and not just in the sense of having rights, but Alejandra argued that they also know what is written in the legal text:

> Before, women did not know if there were laws or rights. Nobody knew. Precisely because they had no access to education in the past and nobody told them that there is a law, a right, that exists. But *now*, most people known about it and know what is written in the law… the Ley 348, the constitution, because it has changed a lot. (Alejandra, MoJ, Interview – emphasis added to reflect speech)

This knowledge was often portrayed as being gained through education workshops and programs that the Ministry of Justice ran across the country. I had not encountered any woman outside of the Ministry who knew of, or attended, any of these workshops, and whilst there appeared to be agreement that knowledge had increased, Marisa (MoJ), who is responsible for educational programs, suggested that there was still much work to be done in reaching people, especially in more rural areas.

Awareness and knowledge of *Ley 348* does not grant access to justice, and a life free from violence. There is a disparity between knowing of your rights, identifying with them, mobilising them, and then entering in to a legal process. The perception across CSOs, as well as in the Ministry of Justice, that women living in the city of La Paz had greater knowledge of *Ley 348* and could, therefore, exercise their rights, highlighted a form of legal consciousness that could be likened to Ewick and Silbey's (1998) 'with the law' typology in that the law is viewed as a resource for individual gain. It also encompasses an aspect of 'before the law' which would present *Ley 348* as a powerful shield and as a weapon of justice that is impartial and applies equally to all. At the level of civil society and State institutions, it could be argued that law is largely presented as being accessible by virtue of its existence and the spaces that it has created for the legal recognition of violence. It reveals an important relationship between space and law whereby space is created to conceptualise violence as a legal issue and a rights violation, and at the same time establishes physical spaces for its formal legal recognition and challenge. It should be noted that although *Ley 348* has been important in this respect, and this is highlighted throughout this chapter, organisations and institutions also acknowledged that the implementation of the law is challenging. Whilst there are indeed doors to the law and *Ley 348* offers these, reaching them is fraught with difficulty and going through them, near impossible.

## Law as a Game

The notion of law as a game (see also Bianchi et al. 2015) emerged from women's stories in relation to two key points. The first is that not everyone approaches the law from the same position, or with the same resources, and so they must strategically think about their position in it and consider how to use what is available to them. It is an approach most in line with Ewick and Silbey's (1998) 'with the law'. The second is in recognising that there are tactics being used to undermine women's positions, and the notion of a right to a life free from violence. Such tactics are frequently related to the different power positions that exist within the justice system, but they also reveal the exertion of that power through institutions and individuals at different times. Alongside this, the gendered nature of the system is exposed. There are tricks in the game, which feel unjust, and these work to reinforce the symbolic and structural violence, such as financial constraints and requirements, and the way that the law and legal professionals view women. As Halliday and Morgan (2013) suggest, a complex legal consciousness can exist whereby a gaming approach is adopted, strengthened by a faith in legality that goes above or beyond the law. This gaming approach is presented through women's narratives of their experiences of violence and legal encounters.

### Gaining Access

In order to enter into the official legal process, women must gain access, and navigate their way through a maze of networks, each exerting its power in different ways. When Ariana came to La Paz in 2014, she was escaping an abusive relationship in her hometown in the south of Bolivia. Out of all the 22 women in the women's centre, Ariana was the one who was *most* involved in the criminal justice system. Her story of violence, rape and abuse was one of the most harrowing I have ever heard. She was engaged in the full legal process and frequently talked about the difficulties and obstacles that this entailed. Ariana chose to go to La Paz because it was where "most things happen with the law" (Ariana, Las Brisas, Life Story), but also because she felt

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that she was not receiving the correct attention from the authorities in her community. When Ariana arrived in La Paz, however, she encountered the bureaucracy that would continue to restrict her access to the justice system:

> An attempt was made to process the rape in La Paz, but they said that for jurisdiction, the victim has to go to the place of the aggressor. And that also, is violating the rights of the victim, no? Because I already live in La Paz from this year, how am I going to live where I know that those that have been abusing me have a lot of people helping them, not only physically. I mean, it is a large family. I am a person alone, completely alone. They also have the police helping them, the judge, the Secretary of the Court, I mean everybody helping the criminals. (Ariana, Las Brisas, Life Story)

Given that Ariana had left her hometown for reasons of safety, she was shocked that she would need to return. This was especially so given that she had been told of *Ley 348* and heard its praise by the government. When the law is presented as one that is open and accessible for women, it is perhaps natural that such a stipulation left Ariana feeling like her right to a life free from violence was being violated, particularly if it required her to return to the location of her aggressor and his family. Her first encounters with those in the formal legal sphere concerning *Ley 348* were not positive and they presented the law as being an unjust and ineffective system. Mobilising her rights under *Ley 348* took a lot of courage given a previous encounter with the law during a divorce, and her story highlighted the shift from feeling liberated by leaving and reporting, to then feeling constrained by the law. Because an adversarial relationship between Ariana and the law was created due to its bureaucratic removal from her, a 'before the law' style of legal consciousness could be considered to be the most appropriate. This is in contrast to her initial legal consciousness as being one that can be likened most to 'with the law' where she saw it as a useful and liberating resource. Ariana had initially approached the law as she recognised her experience as a rights-violation and, therefore, sought a legal remedy.

> I mean I live fleeing, I flee to save my life, I don't know, I have like a necessity to live. I fled that day [the last day of violence experienced], I fled earlier, I returned, I started the lawsuits, I came here [to La Paz] and pressed charges, I went to the doctor, to the police, to other institutions, to groups of women, to NGOs, return to the police, to the courts, to the Defensoría… I am exhausted. (Ariana, Las Brisas, Life Story)

The game of law came to be perceived as an exclusionary one, and whilst perhaps exclusionary systems and behaviours are not always purposive, their existence suggests that access to rights is not simple. The speed at which Ariana spoke, and her rapid repetition of the word "I", not only reflected the chaos of the system and the need to move quickly, but also the fact that she had to do this alone. Being alone, was both a state of being and a feeling that many women expressed throughout conversations in Las Brisas. Given that the demands of the system are so great, the support that many women had from other family members or friends was often required for child caring duties, as opposed to accompanying them on their engagements with legal institutions. It could be argued that there is a tactic of disenfranchisement at play whereby the claimant is required to meet the requests of legal professionals and in many ways soon becomes isolated. Such requests are often based on constructions of the legal subject that fail to recognise particular constraints that women may face (the notion of disenfranchisement is revisited later in the chapter). Returning to Ariana's case, it is important to point out that she was repeatedly let down by a woman that she had considered to be a friend. This woman, she believed, had some involvement in the abuse against her. Whilst her friend had agreed to go to the police with her and give evidence, the friend later changed her mind, and this reflected badly on Ariana and her legal case.

The friend's withdrawal from the complaint worked against the need to be seen as a credible victim. Simply being a victim of violence is not enough; often women's experiences need to be legitimised in some form, usually by the presence of a witness. Although the law seeks to construct the individual

woman as a rights-bearing individual, this subjectivity is conditional. Even if a woman accepts and incorporates this subjectivity into her consciousness and way of understanding her experiences, when the subjectivity combines with particular aspects of lived experience, it is often not recognised by the law and legal professionals. When women's experiences with legal professionals and legal spaces question the understanding of their lived experience, especially when the woman believes that she identifies with the construction of the subject presented by law, they often either continue to fight through the system, or are deterred from seeking justice altogether.

Deterrence can occur in the very early stages of seeking to engage with the law, and when I visited the FELCV in La Paz, I could understand why. On a visit to the police department to conduct an interview, the environment encountered was surprising:

> The entrance to the building was on a busy street, and seemed particularly dark upon entering, perhaps an adjustment after the bright sunshine on the street. The rectangular building had a large central courtyard in the middle that had been transformed into a small football ground. Around this rectangular courtyard were bars that reached up to the top of the two-storey building, behind which were corridors overlooking the yard. Each office and space looked across the concrete corridor and on to the courtyard itself. There were approximately fifteen men, some dressed in uniform and others plain clothed sat at the side of the makeshift football court. Others pushed a ball around aimlessly with their feet, in the middle of the court. During the interview, they had begun to play football. The ball hit loudly off the side of the bars, the humming noise of the vibrations echoed around the building. The noise frequently took over the sound of the officer's voice on the tape recording, as she talked about the centre being a welcoming, encouraging and safe environment. I couldn't help but shuffle uncomfortably in my seat. (Research Diary)

Some of the women also relayed their own experiences of the police. Camila, for example, described her first encounter in the FELCV as one that was

"humiliating and distressing" (Las Brisas, Fieldnotes). Her hair was matted with blood and her T-shirt torn, and several times she was led back and forth along the side of the courtyard, "paraded in front of those men, who looked at me like I was nothing" (Las Brisas, Fieldnotes).

Elena had a similar experience although not in the same station. She described being questioned several times about how the violence began and what she might have done to cause it:

> Today Elena told me about what happened when she first went to the police. She said she can understand why Luciana [another woman in Las Brisas] won't go. They probed her about what started the violence, making her feel like the answer lay with her, or something she had done, or not done. She had gathered the courage to go to the police, and accept that she was a victim of violence and that the violence was an offence under Ley 348, but then it seemed like the police were trying to change her mind, or attempting to uncover reasons for the crime that began with her actions, as opposed to her partner's... This story seems to be becoming a familiar one. The focus was not on the behaviour of her partner, but on that of the woman. (Las Brisas, Fieldnotes)

### Being the right kind of victim

Subjectivity is extremely important in relation to the game of law, and Minow (1997) points out that the law has always been intimately connected with identity. The way in which the law universalises particular aspects of individuals at particular times, while erasing others, can affect the way that individuals are understood and recognised not only by the law, and society, but also by themselves. The label of victim is important here and Dobash and Dobash (1980) point out the negotiations that women must make in their everyday lives in relation to their experiences of violence and their role in resisting it. Before women physically encounter gatekeepers of the law, for example the police, and before they make the decision to enter a police station,

they must adopt the status of 'victim' that is constructed for them by the law, as well as the construction of it based on society's expectations of a victim. They must first identify themselves as a 'victim' – a victim of a rights violation. Only then can they progress. Such identification is necessary in order to create a legal and criminal case, as there must be a clear victim and perpetrator.

However, in order for women to progress in the legal system, it is not only a requirement that they recognise themselves as a victim, but that they also possess the characteristics of an 'ideal victim' (see Christie 1986) which society and the law has deemed to be appropriate (Dobash and Dobash 1998). This is where the construction of the legal subject becomes evident; because the language of rights that is offered to them by *Ley 348* is replaced with patriarchal and *machista* constructions. For women in this research, their legal consciousness was deeply tied to considerations of the Self and how they acted, and how they may be perceived. If a woman shouted or acted in a way that contravened accepted gender roles, then this went against her. If she retaliated with violence, this acted against her. If she had been drinking or had been engaged in what may have appeared to be 'flirting' with another man, then this too was used against her to rationalise the violence towards her. Searches for such 'reasons' were common.

An example of this was observed a few days after a young woman, Andrea, was run over and killed by her ex-boyfriend outside of one of La Paz's popular nightclubs. I was engaged in conversation with members of staff at the women's centre about what had happened. As I was expressing my sadness, a female member of staff, Lucia, interjected:

> "Yes but did you hear she was drunk?! I thought something wasn't right about that case. AND she was flirting with other men that night, too. She was obviously trying to make him [her boyfriend] angry. He is from a good family, you know, they are good people."
>
> I'm not sure at this point if Lucia was implying that it was therefore an accident and Andrea fell in front of the car that just

happened to be driven by her ex-partner, or that she deserved to be run over. I felt uncomfortable, but remained silent, processing what had just been said and avoiding conflict. The air felt heavy and tense. (Las Brisas, Fieldnotes)

It should be noted that other women – participants in my research – were present in the room. Lucia's attitudes reflected the key concern for the majority of women in their refusal to seek legal help – not being recognised as a victim. This is not to say that they did not then utilise the law in some way, as in fact, simply the act of telling others – even in the confines of the women's centre – of their experiences can also be considered, in a way, as mobilisation (see also Blackstone et al. 2009). Many of the issues with the discourse surrounding violence against women and with the recently criminalised act of *feminicidio*, are present in this short exchange above. The discourse around Andrea's death, like many other deaths and acts of violence reported before it, permeated people's ideas and perceptions of what a victim should be and constructed both a deserving and undeserving victim (Merry 2000; Christie 1986). These constructions of Andrea as an undeserving victim were actively met with resistance from women's groups and through social media that called for justice to be done, and for what happened to be recognised as a crime. The 'perpetrator' in this case was an educated man from a wealthy family, while Andrea was the daughter of a women's rights activist for *Mujeres Creando*. It became a battle of resources – of money and of public support. For the women in the centre, the radiating effects of the constructions of the victim cannot be overlooked in relation to the development of legal consciousness. This relates closely to the law's mask, which is explored in Chapter Six.

### The Deserving Victim

Bolivian women's reluctance to turn to the law is a sign that they are resisting becoming doubly victimised, and this supports Bumiller's (1998) work on victims of discrimination. Not only would women be the victim of an offence, but they would become a victim of a legal system and society that seeks to deconstruct and reconstruct them according to dominant ideas of victimhood.

They are systems that erase the particular. The construction of the victim is, therefore, extremely important and whilst women may adopt this label, knowing that it is required in order to enter the legal system, they do not always completely identify with it.

The victim label is both a requirement and a construction, imbued with constraints and ideas of what is required to be a 'deserving victim', this creates a subjective struggle for women. It would be incorrect to suggest that such discourses of victim blaming are only engaged in by men, and not women – the interaction above with a centre worker highlights that this is not the case – but it does draw attention to the networks of power that exist in society and the infiltration of dominant ideas. Given the victim-blaming discourse, women often reconsider their role in encounters with interpersonal violence, presenting excuses as to why it may have happened and, in turn, providing reasons for their partner's behaviour. This rationalises it in a way that causes them to place blame on themselves, as opposed to within the larger structural systems that have shaped such violence:

> Today Clara said that she wasn't here last week because her husband hit her. She forgot to collect the *salteñas* and he wanted to eat one. So he pushed her and her back hit against the stove. She touched her lower back to show me where it was sore. When she told him it was because their daughter was ill and she didn't want to leave her, he slapped her. Clara said she knows she didn't do anything wrong there. She continued talking and the more she talked, the more she moved into feeling like she did in fact do something wrong. "I really should have went to buy those salteñas. He always likes a *salteña* later in the day". She presented herself as being inconsiderate for putting her worries about their child before her husband. At that moment I felt bad, because she started with the belief she didn't do anything wrong, but then the more she talked to me, the more she started presenting possible reasons or excuses as to why he was violent.
> (Las Brisas, Fieldnotes)

This was one of the only stories of violence that Clara mentioned during the course of the fieldwork, but it highlights both physical and symbolic violence. It also illuminates her process of thinking and the way that her thoughts, along with encountering the thoughts of other people, influence her understanding of events. The resistance to consider herself as innocent is perhaps why this was one of the only stories of physical violence that she told over the course of the year, although other forms of violence were present in her narratives. Given our increasing interactions in the centre and her interactions with other women, I wondered if she had also begun to identify those more subtle and normalised types of violence too.

By placing blame upon themselves, the links that women have with the identification of the victim label (or at least one considered to be 'deserving') are weakened. This is important for two reasons. Not only does it mean that they are less likely to report violence, because they have rationalised their partner's actions, but it also means that they do not see their partner as having committed a crime, or of violating their rights.

### Attempts to Reframe and Erase the Victim

Encounters with the law often involved attempts to reframe experiences, to reconstruct the victim, and ultimately discredit them. Sofia (Las Brisas) was one of the most forthcoming about her experiences of violence and opinions about the law and the legal process. During the gathering of her life story, she indicated that she had reacted with physical violence towards her partner and his mother when they were punching her, one of many instances of violence she experienced. Sofia saw this as self-defence. She did not believe that she had acted wrongly, but when she reported the violence to the FELCV they appeared more focused on *her* violent reactions, than the acts that had instigated them. Narratives of violence often suggest that violence is more aligned with constructions of masculinity and a male gender identity (Kelly 2000). Both Sofia's resistance and her diversion from gendered norms meant she was being discredited as a victim:

> I believe that I have acted in an a really innocent way, knowing what the politics are… they're hard, they're cruel and that corruption and other things, even drug trafficking, goes hand-in-hand with politics. (Sofia, Las Brisas, Life Story)

Sofia placed her innocence alongside the corruption of the State and its politics – a contrasting image of 'innocence' and 'criminality'. The contradictory Janus-faced nature of the law is therefore revealed and, by extension, a contradictory State. There is a constant tension between the two objectives of universal and equal protection but at the same time recognition of distinct social and cultural positions. Although the law should apply to all, it is in fact conditional. By presenting the irony of her situation, Sofia could be considered to be showing a resistance to not only the police, but to the broader construction of victimhood and of Bolivian politics in general. The need to conform to a particular construction of a victim that is created by a system which itself appears inherently corrupt, is not the image of the legal system that is presented during legal reforms concerning human rights. Although it may appear that the relationship that Sofia had ebbs and flows between a recognition of resources and the need for conformity – thus a 'with the law' legal consciousness – there are also elements of an adversarial relationship with it, and, therefore, the existence of an 'against the law' legal consciousness. Yet, her conflicting relationship and expression of resistance is not to the law *per se* and so neither category is entirely sufficient when mapping the development of her legal consciousness.

While Sofia showed resistance to the need to conform to a patriarchal construction of victimhood, the tenuous relationship that she disclosed was not with the law itself, but with the systems through which it is implemented. In existing explorations of legal consciousness, it is often the law that is being resisted, or indeed individuals wish to challenge or change it, but in Bolivia this *Ley 348* is overwhelmingly welcomed. Sofia's faith in the law and her desire to mobilise her rights continued to exist despite these interactions.

## Claiming the Law

The notion of claiming the law draws attention to two main points of legal consciousness. The first, is that it takes account of the attempts of the police, for example, to reframe experiences of women who have used a legal interpretive frame for meaning-making, to an interpretation that is non-legal. By non-legal, what is meant is that violence is explained with reference only to scripts which describe it as a social norm; as a form of *machismo*. Violence is explained as a part of society or of family life. It is couched in language that seeks to normalise it, thus disenfranchising the woman through erasure of *her* interpretations and replacement with a discourse of victim-blaming. This in itself can be considered as a form of violence, whereby experiences are denied voice and undermined (Hume 2004). The second aspect of this legal consciousness is partly in contrast to Halliday and Morgan's (2013) 'collective voices of dissent' or Fritsvold's (2009) 'Under the Law'. Halliday and Morgan (2013) developed their category in order to address collective rejection of the authority of State law. Although in their added typology the focus is on rejecting the legitimacy of official law, there is still a belief that law is higher than the State – that legality includes a 'higher transcendent' law (Halliday and Morgan 2013).

Halliday and Morgan's (2013) and Ewick and Silbey's (1998) categories are not wholly sufficient for explaining some women's legal consciousness because not all of them expressed that the law should be avoided. The adversarial relationship that exists in the narratives of my participants are with the structural conditions of society and the institutions designed to implement the law, as opposed to the legal framework itself. The notion of 'claiming the law', then, emphasises an overarching faith in law – State law in this case – and also the desire to reclaim it, not reject it. It begins from a perspective more akin to Fritsvold's (2009) 'Under the Law', whereby there is a deep recognition of a social order that is fundamentally corrupt, but instead of viewing the law as illegitimate, the law is considered as a tool with which to challenge the State and dominant structures of society. Acknowledgement of,

and resistance to, constructions of the 'perfect victim' are examples of this. These examples emphasise that the subjectivity constructed by the courts and the police refuses women's status as victims. The claim, then, is to reject the subjectivity constructed by the police and courts that refuses women's status as victims, in favour of one which recognises their particular lived experience.

### The Stigmatised Self

This faith in a higher legality and the desire to claim the law reflects the struggle women have with the construction of the label of victim and not only how they view themselves, but how they will be viewed by others. Returning to the label of victim as requirement for entry to the game of law, its construction and the connotations of it also make it a difficult one to accept: "I didn't want family and friends to think I was weak, and I think that is why I didn't go at first", said Elena (Elena, Las Brisas, Fieldnotes). This was also the reason that Lila did not go to the police initially, because although she recognised herself as a victim of a crime involving violence, she did not want others to see her as a weak victim. For Elena, she said that she sometimes could not understand what was happening to her and whether or not it was in fact, normal:

> In the end, it was because I was in pain. If people think I am weak
> or that I deserve these things to happen to me, then okay, but I
> do not believe that anymore. I know that I am fighting for my life
> and the life of my children. (Elena, Las Brisas, Life Story).

The challenge of recognising whether or not what had happened was normal, relates closely to the work of Hume (2004). Kelly and Radford (1998) suggest a close relationship between the concepts of normalisation and resistance, whereby to admit that there is violence, and that it is 'wrong', means resisting normalised ideas of the relationship between men and women. In addition, it requires acting against hegemonic constructions of womanhood. It is useful to remember that the organisation of the Self is deeply tied to not only broader structures of society – such as those which require the adoption of the label

'victim' – but also to the perceptions and ideas of members of society. This includes, but is not limited to, those in our immediate social circles. This label of victim is also something that is not easily cast off, whether or not the woman becomes formally recognised as a victim through the eyes of the law. Camila pointed out the potential ongoing social stigma of being a victim:

> They [those in the formal legal spaces of courts etc.] take away our right to life, our right to work because if you have this background as a victim then any job will immediately throw away your CV without looking at it. (Camila, Las Brisas, Life Story)

'Victim', then, becomes part of the stigmatised Self, and it becomes difficult for women to leave that behind (Goffman 1963). The idea that women will not be considered for positions of work if they have been the victim of abuse points once again to the normative orders of society. The violence against them comes to be considered an attribute that spoils the woman's identity (Goffman 1963). In addition, women are thought to be problematic, and not fully conforming to their gender role, by the fact that they have made a claim to rights and denounced their partner and this behaviour is also stigmatised. Such structuring of identity in this way works to remove the emancipatory elements and ideas of law, and instead highlights the greater regulation that is placed on women's behaviours, identities and futures.

### Support for a Rights Claim

The idea that everyone is 'helping the criminals' (Las Brisas, Fieldnotes) is deeply linked to Ariana's story. Her partner had important links to those considered to be in positions of power, and throughout her narrative this had been to her detriment, for it frequently contributed to the delegitimisation of her experiences as ones where she was the victim. Other people in her community also witnessed one of the incidences of abuse against her. As her husband attacked her in the house, he dragged her outside by her hair, kicking and punching her as she struggled against his grip. People saw. Ariana had

already made the formal legal complaint at this point, but had to return to her hometown:

> I was there on my knees, everything sore and people were watching as if it were a football game. No one said anything. [My husband]'s own parents were there [crying]. I went to FELCC, bleeding from my leg, my face, my body.

> She added:

> At first, when I made the complaint, because I had neither a place to go nor money anymore, I returned to [my hometown] and went back to my house. [My husband] already knew everything. (Ariana, Las Brisas, Life Story)

Given that she had to return to her house, and by the time she did her husband already knew of the denouncement through connections in her community, Ariana faced further abuse. Although Ariana's injuries were visible, she still required witnesses in order to make her story a credible one that could be acted upon by the law. Her story alone was not enough, and this is a common experience (Dobash and Dobash 1980). It is an important part of the game. The responsibility rests on whether or not the victim is recognised as such by others, as opposed to the woman recognising herself with that term. Frohmann's (1991) research found that techniques to discredit accounts of violence, and in those cases sexual violence – which also featured in Ariana's case – are common. Unfortunately, witnesses to the violence that Ariana experienced did not wish to support her case:

> So I was telling them "I am going to the Prosecutor's office", the police, statements, so, many things, and I told some of them "You've seen what happened, you know, you have to go, can you go?". Many said "I don't want to, don't want to". (Ariana, Las Brisas, Life Story)

Ariana's case was one that highlighted the tensions that can arise in legally plural societies, and of legal interpretations. Issues of violence in many communities continue to be considered private matters, relegated to the

private sphere of home and family, not requiring State intervention. As Moore (2003: 121) suggests, 'void of such regulation the private sphere has become a haven for the perpetrators of domestic abuse where such acts can be engaged in with impunity'. If intervention is required then it usually follows more customary forms of law, and is dealt with by the community. This often led to many women seeking access to the law in La Paz, the site of government, thus shifting not only geographical space, but legal too:

> And they say to me, "What are you doing?" – "Well I am doing this in the prosecutor's office. I am of the law". It is because I am from the village, right?... where things are solved in the community, in the family... to be able to determine some things for example boundaries, and others... So this is first, it is not the law... it is not the law. (Ariana, Las Brisas, Life Story)

The unwillingness of people to support her case by presenting themselves as witnesses was not necessarily because they did not wish to come forward, but that their framing of such incidences was different to Ariana's. They did not understand why she would not wish to remedy the situation through customary means of action. Ariana had already encountered customary law procedures during a previous divorce, as well as State law, and whilst she believed the formal State legal process to be a painful one, there was also a deep belief in justice and the hope that law recognised the violence against her. The need for witnesses is one of the most difficult conditions of the game. The individual is inside and outside of the game, at the same time:

> It is very difficult because no one is witness to feminicidio, for example. It is very difficult for a human being to kill another human being in front of 20 people, which is required by the Prosecutor's office and the judge so that they may determine who is guilty. (Sofia, Las Brisas, Life Story)

Whilst the number of people stipulated by Sofia is not a formal requirement, once again the number of people who are either required to legitimise an identity or an experience, or the number of people who may be against

someone, suggests that the process often begins making the woman feel alone, and thus more vulnerable. It is at this point that, if women have made a complaint, they begin to reject the law and its process and requirements, and focus more on enduring the situations that they are in. At times, doing so feels more empowering than continuing. Katrina was an example of this. She made formal complaints against her boyfriend on a number of occasions, but never followed through with the process: "They never believe you. It hurts me more to make a denouncement than to go back home and continue. I just need to think about my baby girl" (Las Brisas, Fieldnotes).

As mentioned near the beginning of this chapter, the process is a complicated one, which involves frequent movement between different formal spaces of law. In each, there are usually negative encounters and these frequently question the identity of the woman as a victim. The woman must gather documents from each of these different sites, and if she has no support from family or friends, she must do this alone. As the *Defensoría del Pueblo* in Santa Cruz point out:

> That is the institutional legal figure... There are laws, there are institutions, and citizens who are reporting. But if we go, and we can see the application, what can be noticed? On one hand, excessive bureaucracy in the complaints and the facts are clear. This first semester 5000 complaints have been made of violence against women. [...] Revictimisation and bureaucracy and slowdown occurs. This means that I, as a battered woman, can complaint but do not do more to follow up my case. (Defensoría del Pueblo, Santa Cruz, Interview)

The movements between the spaces are timely, which puts great pressure on women with children, jobs and other responsibilities. It is also important that in order to avoid the chance of further violence, moving between these sites is as discreet as possible. Such requirements from a system that appears emancipatory, further illustrates the constraints and regulatory frameworks placed on women.

**Progression through the Legal System**

If a woman has considered herself as a victim and/or a rights-bearing individual; if she has gone to the police to make a denouncement and her victim status has been recognised; she can then proceed in the game of law. The next step is hiring a lawyer. This section, therefore, engages more with a 'with the law' cultural schema which reveals the recognition of a judicial system that is based on resources.

Lawyers are gatekeepers to legal spaces beyond the initial complaints procedure. Although lawyers are employed as representatives of the client who pays for their services, this is not always the case. They tend to act with a great amount of impunity, and so they occupy a powerful role in the game of law, flitting between sides depending on their own interests, as opposed to the interests of their client. Given that the legal system is predicated on a process which re-victimises the woman, the lawyer is able to play the game freely without much input from the victim. Stories of cases being 'bought out of court' or simply terminated prematurely for 'no reason', were common. Camila points out the irony of the situation. Following the rules of the law does not always lead to the best outcome, and, therefore, the position from the very beginning is to view each player with suspicion. She continues:

> And this too makes the corruption in law worse because the victim's lawyer sees that the victim is not going to be able to pay what they want, so gives in to the other side and receives their gift, and abandons the victim. And there is no justice. That the victim can turn to the lawyer and say 'you have taken my money and you haven't even written one petition' or 'you have written me a petition and you have abandoned me in the process. (Camila, Las Brisas, Life Story)

In the game, lawyers are able to play wildcards. These can change the game entirely and mean that the woman loses her playing place. This impunity with which lawyers act emphasises that the woman is in a relatively powerless and

more vulnerable position than other players in the game. As she fights to claim her rights, trying to maintain a position of 'claiming the law', her experiences become torn between 'before the law' (whereby the law seems increasingly distant from her) and 'against the law' (whereby although her faith in human rights is important, the recognition that legal professionals disregard her rights means that the way the law has constructed leaves her feeling disenfranchised). It contributes, too, to her feeling of being alone. Women in Las Brisas frequently expressed the same distrust in lawyers and other legal professionals as they did the police. Money is placed with the lawyer, but their faith is not:

> Because the abuser still has the power to keep threatening the victim outside of the judicial sphere… and they always win because they slander them (the female violence victims). They rape them, they hit them, they maim them yet the lawyer starts a counterclaim for the dignity of their honourable [male] client and the judge, with some pesos, throws out the victim's case, or the victim has to pay the man or has to publicly apologise without [the judge] reviewing the fact that there is a history of violence. (Sofia, Las Brisas, Life Story)

When women engage with the language of rights and with the system of law, they could be considered to be engaging with a system which promotes the use of law for justice, but reveals beneath that, a very unjust system. The constraints that women face in formal legal spaces are extensions and reflections of their economic dependence on their husbands alongside the other aspects of domination that men have over women (Dobash and Dobash 1980) which in Bolivia can be considered as part of a *machista* culture. That the system is set up in such a way, works to further subjugate women and diminish their subjectivity as a rights-bearing individual. Engaging in the legal process can consequently be a debilitating experience. Getting past gatekeepers in the form of the police is one of the first hurdles that women will encounter in seeking to gain access to justice, and lawyers, the second.

### Relinquishing their Place in the Game

Conceiving of the system as a game early on was central to women's legal consciousness and was an important way that women came to understand the law and legal processes. As has been demonstrated, a lot of thought went into decisions of whether or not to engage with the legal system, and these decisions not only reveal individual legal consciousness, but consciousness of the broader social order and women's constructed position in it. For two of the women who took part in this research, the decision was made to withdraw their complaint. This had a notable influence on one of the other women, Katrina, who had experienced violence at the hands of her ex-boyfriend and who was now living with her mother and her (at the time of fieldwork) 9-month old daughter. As the stories of mobilising rights and accessing justice filled the room one Thursday afternoon in June, Katrina reached her conclusion: "There is no meaning for me in doing that [going to the police]", said Katrina, "because after that... then what? They will try to find all of the ways that I could be a bad person and I will suffer for that. They will cause me pain" (Las Brisas, Fieldnotes). Once again, within a legal consciousness of 'with the law', Katrina believed her efforts would only cause her pain. Other women's encounters and narratives had come to shape her own legal consciousness. Ewick and Silbey (1998: 149) point to the role of the law and the power it can have on decision-making for, 'even when it is absent, legality imparts meaning to behaviour by framing interpretations of alternative courses of action'.

It is argued then that this clear development of legal consciousness also echoes the observations that Hirsch (2002) made when she was conducting workshops on the law in Tanzania. The influence of the researcher, although always present, is particularly clear here, for it is unlikely that women would have shared these stories in the same way, had they not known of my research and its focus. Although I reflected on this point a lot, the data also reveal that women were already engaging in more discussions about violence and sharing their stories with each other more. A space was not only created by the

existence of a law about gender-based violence, but the more that women spoke about it, the more that their attitudes and opinions of the law influenced other women's ideas of it. Bakhtin (1984) would stress the importance of these times and spaces, as ideas become dialogical when they encounter the ideas of other women. In turn, they become important in the shaping and re-shaping of legal consciousness.

Although Katrina still considered herself as rights-bearing, the radiating effects of negative narratives about the legal structures of implementation had enveloped her in a dialogical space that she may have not have otherwise encountered. Discussions that were taking place meant that her perception of, and faith in, the law, was influenced. From Katrina's decision to avoid claiming her rights, it could be concluded that she did not reach the level of 'claiming the law', and the risks of the game were too much to play 'with the law'. She, therefore, possessed a legal consciousness that rested in a 'before the law' category, where there was a lack of incentive to mobilise her rights, given that they appeared to be out of her reach. In response to women's stories, like Ariana's, Katrina often expressed admiration at their strength and frequently said "I am not a strong enough person for that" (Katrina, Las Brisas, Fieldnotes).

The legal construction of the subject is, therefore, important in relation to women's legal consciousness when considering the system as a game. It highlights the various ways that women can be perceived, recognised and presented. Women are sometimes aware of this construction, and this influences the choices that they make.

### Staying in the Game

Although getting past gatekeepers, like the police, and playing strategically with lawyers, are some of the first hurdles that women encounter in seeking to gain access to justice, the process afterwards continues to be fraught with emotional difficulties. For those who had entered the legal system, after

completing the initial levels of going to the police and securing and paying for a lawyer, as well as all of the paperwork that is required, there was continued struggle and pain throughout the pursuit of justice. It was not only the lawyers that were able to produce wildcards, but so too were doctors and other professionals involved in the process. Camila described a period of time that she spent in hospital after being attacked by her husband's family. Her son, too, had been sexually assaulted. With all hospitalisations there is of course paperwork and documentation but Camila noticed when she left hospital, most of the intricate and important details of her injuries from the attack were not documented. Without the details, she would be unable to provide sufficient evidence and this would influence her credibility. She said, "it's not worth anything, nothing, none of the evidence about the hospitalization, and of the boy. They had made practically everything disappear" (Camila, Las Brisas, Life Story). By the time Camila fought to have a certificate with greater and more accurate detail, her husband had made a complaint against her to the judge. She stated that it was clear when she entered to present her papers that "the judge had been bought: my destiny had already been spoken" (Camila, Las Brisas, Life Story).

When women have been victims of violence, they are frequently required to obtain a medical certificate from the doctor, detailing any injuries. Without this document, there is considered to be little proof. This document, then, had great significance for Camila. She was aware of the power disparities at play though, and Hamberger and Phelan (2013) argue that interactions with physicians are central to women's experiences of reporting violence. It is not uncommon for healthcare staff to both blame victims and see the violence against them as their responsibility to resolve (Loring and Smith 1994). Whilst doctors in such cases should merely be presenting the facts, it is not uncommon for them to ask questions such as "Why did this happen to you?", thus placing the blame with the victim yet again, questioning their integrity and credibility (Burt 1980; Winkel and Koppelaar 1991). Similar to this, was a story shared by the family of a victim of *feminicidio* during a public event

advocating for the need to correctly implement *Ley 348*. They too encountered such power disparities:

> They took her to the morgue, they put her there and the first person to enter the morgue was the killer´s lawyer. I don´t know, oblivious to that, we arrived later but the killer´s lawyer had already spoken with the forensic doctor. And it´s because of that, a lot of evidence exists which wasn´t counted. Before, in September, she was stabbed in the stomach, but this wasn´t shown. Her nails were broken, which surely happened when he was suffocating her, she was fighting for her life and shouting and her nails were broken. But the forensic doctor didn't show these things, things were hidden, it´s unfortunate. It´s been so sad what has happened to us, I don´t know how much money we´ve spent... (Family of a victim of *feminicidio*, Mujeres Creando event, September 2015)

When people enter the legal process, they are required to follow the rules of the game in order to be permitted to continue to play. However, when they see that others are not following those rules, their faith in the system decreases and their resistance to it increases. This is most clearly in line with Ewick and Silbey's (1998) cultural schema of 'with the law' whereby the system is considered in a game like manner; however, the other two schemas are also useful in understanding legal consciousness in this way. The idea of 'before the law', which places the law as something objective and out of reach is also represented in these narratives, because not only are the rules created, there are those people who can act with impunity under such rules, and this results in individuals feeling a greater distance between themselves and the law. At the same time, it could also be categorised under 'against the law', whereby the law is considered as a site of resistance, particularly for those who do not believe that they are able to work 'with the law'. It is within this category that people feel themselves being trapped:

> "Even if I wanted to go the police, I would need a lawyer and I don't have money", said Quora whilst eating, "my husband has the money because I do not have a job. So what can you do?! If I

go, they will want money for the papers, money for their time, money to sign, money to add the, (she began to stutter) the stamp, everything. You can't just have some money for some of it. You need to think if you have money for all of it. I don't. It's simply that. (Las Brisas, Fieldnotes).

Quora's life story did not appear to contain many instances of physical violence, but there had been occasions when her partner had drunk too much alcohol, and he hit her. Her story had come to feel almost normal after twelve months of fieldwork in La Paz. As Chapter Four suggested, alcohol was one of the main reasons presented for the high levels of violence in Bolivia. Whilst Quora did not use the language of rights in relation to her experiences, she displayed legal consciousness in the way that she considered what options were available to her or, more importantly, the legal options that seemed closed to her. Her 'with the law' consciousness is clear in the detail she provided above, whereby she had considered deeply her economic position. Constrained by lack of financial resources, options were limited.

The 'with the law' schema is most clear when individuals feel that they do not have the resources to play the game, and that even when they do, they will continually be excluded, tricked, and disadvantaged:

> Here you can buy the law! That is the problem! So, someone who doesn't have money, can't buy justice and to me, they have made me disappear civilly, financially, judicially. I am practically escaping from justice, maybe sheltered in a city like La Paz is. That doesn't give me guarantees either but in some way it guarantees my safety and that of my son, who is young. And like many say when I talk about the processes, at least with those of whom I've been able to speak about it with, they are scared of the process. (Ariana, Las Brisas, Life Story)

As highlighted in the previous chapter, corruption is pervasive. This aspect of social consciousness is central to the development of women's legal consciousness and the relationships that they have with the State; with the

law; and with those who are connected to the formal spaces of law. Being able to use financial resources to circumvent criminal proceedings, for example, delegitimises the law, and the power shifts from being contained within the formal spaces of law, to being in possession of those considered to have the greatest amount of resources. Having money, in the game of law, inevitably means greater access and opportunities to manipulate the rules and play wildcards. It need not matter if someone has evidence of violence, or their commitment to the adoption and acceptance of the label of victim; or whether their status as a victim is recognised by gatekeepers of the law, and even unchallenged by society. If women do not possess the resources to play the game, then they will very quickly lose.

**Summary**

This chapter has presented both some of the different relationships that women have with the law and the meanings constructed around the law, based on an exploration of women's legal consciousness. It can be argued that the most dominant form of legal consciousness is the 'with the law' schema, whereby women find themselves in a game-like relationship with it and with formal legal spaces (Ewick and Silbey 1998). Interacting with the law often reveals the hegemonic constructions of gender that are experienced at the level of the family, community and State. These constructions can leave women in conflicted positions in relation to a law which is largely welcomed. It reflects the cultural emphasis placed on legal recognition alongside recognising situations where law is welcomed, something that existing legal consciousness studies rarely consider. The notion of 'claiming the law', then, works to emphasise women's persistence and desire to use it even against the backdrop of the adversarial relationships with formal legal spaces. The law is not considered to be out of reach, or to necessarily be separate from women themselves as; after all, women played a central role in its formation. Accessing justice, though, is fraught with difficulties and the narratives presented in this chapter emphasise the need to place women's voices about the law at the centre of not only its development but of its implementation,

otherwise there are both discursive and material repercussions. Although there are differences between each of the women – their backgrounds and their ethnicities – violence against them, and their experiences of law and the justice system (both direct and indirect) cut across some of these boundaries; transcending difference to build a strength and solidarity in a rejection of dominant and harmful constructions and exhibitions of maleness (Hume 2008: 65). It is from these rejections that the following chapter takes off, highlighting some of the forms of resistance to these dominant ideas presented through both social and legal consciousness, facilitated by other spaces of society.

**Chapter Six**

**Claiming the Law**

*She curses the unlucky circumstance, in the first years thoughtlessly and out loud, later, as she grows old, she still mumbles to herself. She becomes childish and, since in the long years studying the gatekeeper she has come to know the fleas in her fur collar, she even asks the fleas to help her persuade the gatekeeper. Finally her eyesight grows weak, and she does not know whether things are really darker around her or whether her eyes are merely deceiving her. But she recognizes now in the darkness an illumination which breaks inextinguishably out of the gateway to the law. Now she no longer has much time to live. Before her death she gathers in her head all her experiences of the entire time up into one question which she has not yet put to the gatekeeper. She waves to him, since she can no longer lift up her stiffening body. The gatekeeper has to bend way down to her, for the great difference has changed things to the disadvantage of the woman. "What do you still want to know, then?" asks the gatekeeper. "You are insatiable." "Everyone strives after the law," says the woman, "so how is it that in these many years no one except me has requested entry?" The gatekeeper sees that the woman is already dying and, in order to reach her diminishing sense of hearing, he shouts at her, "Here no one else can gain entry, since this entrance was assigned only to you. I'm going now to close it."*

(Kafka 1915/1998, the end)

**Introduction**

*Ley 348* is presented as one that would provide all women with access to justice and a route to that justice is through the denunciation of violent acts committed against them. This chapter, however, continues to demonstrate that access to justice is not as simple as it may appear. It continues to draw on women's narratives but also includes the voices of CSOs and the State in order to highlight the role that they have in not only the construction of legal consciousness, but also the support that is available and the encouragement for women to claim their rights. CSOs play an important role in influencing the development of law, but they also have a complicated relationship with the State. Finally, it engages with the growing social movements that are resisting the constructions of gender hierarchies and the representation of women

across society, including all forms of violence that exist, and fighting to claim their rights.

**Change and the Paradox of Law**

Morales' messages of change and the ideas of *la cuidad esta cambiando* have not necessarily translated across to law in practice or social change. While gathering Camila's life story I asked about this concept of change that I continued to see on the city walls, Camila expressed that:

> [I]t is a word that doesn't mean anything. Because the process of change, it is, it is a word play that in the end only confuses us... and it is not relaying this, this current democracy in Bolivia – rights and the exercising of rights. (Camila, Las Brisas, Life Story)

She refers to rights and the exercising of rights as separate. This illustrates that the existence of rights in text does not necessarily result in the ability or desire to exercise them, nor of their accessibility through the institutions in place that implement the law. To exercise rights requires action and agency, but the structures and spaces of society must also be open to such mobilisation. She continues:

> There is the failure, because we can talk about rights but we do not exercise our rights and when a person does have this ability, it annoys the powerful. (Camila, Las Brisas, Life Story)

Whilst the two aspects appear to be disconnected – talking about rights and exercising them – there was an understanding that providing opportunities to recognise violence in rights terms were valuable. The more that women discussed these issues with each other and with organisations, the more talking about rights might lead to exercising them. However, there needs to be the right conditions for mobilisation (Vanhala 2011). Legal mobilisation is not necessarily created by a legal transition itself or the creation of new laws, but

by changing social perceptions and attitudes towards the nature of the problem. It is this type of change which is actually the most significant – social change. What is visibly different in Bolivia in comparison to the UK, for example, is a social norm and tradition of protesting and marching, and I will return to this later in the chapter.

To legally mobilise, requires invoking the authority of the State and of formal legal institutions, on behalf of yourself. In order to move from and connect knowledge and awareness of rights, to the exercising of rights, means overcoming obstacles and challenges in the form of norms and ideas about gender first, and then bureaucratic processes. It is here that attention can be drawn to the disjuncture between the law as it is presented on paper and as it is experienced in real life:

> From my point of view what has changed, for example, there are rules or laws, or even the constitution has some articles that recognise the women's rights. There are also laws to protect women, but... that's on paper, not reality. Or the laws that have been enacted cannot be applied because they are not based on the reality of. As we were able to demonstrate in our workshops, there is no such implementation of laws. (Mariana, MoJ, Interview)

> Upon reflection later that day, I wrote: "Today was Mariana's last day working in the Ministry of Justice. Quite a large number of staff were losing their jobs, and being replaced as a new Minister came in. I couldn't help but wonder if she would have said the same thing to me a few months before. Her story as a woman, and as a member of a government department was in stark contrast to that of another Ministry of Justice worker, Alejandra (Fieldnotes)

Whilst Ceci, another of the women from Las Brisas, presented a view that seemed to conform more to the majority of women's narratives from Las Brisas, Alejandra in the Ministry of Justice asserted that the issue of women's rights in relation to violence had been dealt with, "because now we have this

law. It has been done. We have looked at this issue and now we have Ley 348."
(Alejandra, MoJ, Interview). It was unclear whether "we" signified the Ministry
of Justice, or women, but her suggestion that the creation of a law would deal
with the problem of violence, could be considered as a misplacement of
confidence in law itself, and the power it has to change society. Whilst
Alejandra did not always speak positively about the implementation of the
law, it is possible that her desire to portray a positive image of the government
and of the law was heightened by my presence, or perhaps by her desire to
retain her position in the Ministry.

Ishi, in Las Brisas stated that, "This is a great law, of course, but in practice it
doesn't mean anything. It is not a working law. It does not mean anything" (Las
Brisas, Fieldnotes). The notion of law as a myth is deeply tied to that of a game
where not all players are equal. It is reflective of society and cultural attitudes
towards women and though the law is, indeed, a comprehensive one on paper,
the gap between law in text and law in practice – the 'implementation gap' - is
evident (Brown et al. 2010: 90).

**La Mascara de la Ley**

When *Ley 348* was constructed in Bolivia, the guaranteed freedom from
violence, which is presented in its title, did not appear to be conditional on
resources, yet access to resources, and in particular to money, is revealed to
be one of the greatest issues in accessing the legal system. The law appeared
as something objective and inclusive, to which everyone had access, but for
the women in Bolivia, this is merely *una mascara*: a mask. This section engages
with the myth of law in two related ways. The first lies in Barthes (1957) work,
whereby the myth of law does not lie in its textual properties but instead in its
ability to construct the legal subject, obscuring the particular in its
presentation of the universal. Secondly, in the way that the law is
misrepresented and its emancipatory potential exaggerated or idealised.

Maria from *CIDEM* relayed a story of a case that she believed summed up the situation for women in relation to the law and to society, which highlights that even if a law is as comprehensive as that of *Ley 348*, if it is implemented through the existing norms and structures of society, then it will look very different when it emerges from the other side, if it ever emerges at all:

> An iconic, amazing case, a woman was attacked continuously until her husband threw her off a bridge. He had pushed her. This is an attempted murder. He had pushed her off the bridge! And she had a daughter. With such bad luck, on the one hand, she is not dead, but she has been left a paraplegic for life – unable to work, unable to care for her baby, helpless. What do you think the man deserves? In addition, he made it on purpose, it was not an accident. Look, we have litigated, we have come to the end of the process, we have achieved sentence, 30 years in prison without right to pardon. Do you know that the man's family has spoken to the woman and told her "what are you going to do? You cannot work. You have a daughter to raise. He will give you both a pension each month, but you have to stop this process now". Then the woman asked that the sentence was not run, in exchange for the money. A case that has lasted three years. It disappoints you. It hurts you. But you have to respect, it is the woman's decision. She must have thought, what I'm going to do, this man will be in jail, where will I find money. But with this deal I'm assuring my future. In addition, she has little time left to live. I honestly would put him in jail, with all my pain and my feelings. But she thought she wants to assure the future of their baby. If he is a prisoner who will take care of the baby?! This woman has asked not to enforce the judgment when the prosecutor should have ordered the execution of the judgment. Inside, jail, 30 years without the right of pardon. (Maria, CIDEM, Interview)

Although this woman was able to access justice, perhaps due to the irrefutable evidence of having been made a paraplegic, her financial dependence and lack of support forced her to discontinue with the legal process. The realisation that her economic dependence on her husband meant that she could not remove him from her life, for the sake of their daughter, constrained her choices, even in the last moments of the legal process. Maria (CIDEM)

expressed frustration at women for exiting the process but it should be recognised that *CIDEM*, and every other CSO interviewed, identified that women's socio-economic position in society was an important factor for this. Whilst many of these constraints can be explored in other areas of social life, an engagement with legal consciousness and rights reveals the power disparities and the relationship between law and society. It is, after all, the value of a legal consciousness perspective. This story emphasises *la mascara de la ley* as access to justice is not as simple as identifying as a rights-bearing individual and/or as a victim of violence, but the reality of women's socio-economic position, in a patriarchal society, often disenfranchises them and they are unable to *use* the law against the violence they experience. The requirements of the law that define the legal subject lack recognition for the particular circumstances of women. Ironically, economic violence hinders the full mobilisation of law and realisation of a right to a life free from *all* forms of violence.

Legal change does not necessarily produce social change and as Chapter Four revealed, women often consider law in relation to an overall social change. This is largely due to a recognition that it is exactly these broader socio-economic constraints based on social and cultural constructions of gender which limit their choices. Although legal recognition continues to be important, it can only be implemented if these broader changes take place, thus recognising the particularities of Bolivian women's experiences. These experiences are inextricably linked to gender constructions and the institutionalisation of these. The Ministry of Justice believe that the law *has* resulted in changes, in both urban and rural areas:

> Now, within the family, mother and father have to think about women equally, all the same. Not big for one, small for the other. Equality, that is gender equity. (Mariana, MoJ, Interview)

This was in contrast to the view of women in Las Brisas and also of CSOs. As Ariana points out, "there is a very complex world of conditions, of inequalities,

and a lot happens because of the process that we have, that forms men and women as 'different' in this society… the concept of women has to change" (Ariana, Las Brisas, Life Story). However, it could be considered that what the law does instead, is simply reinforce the status quo in society. There are two main reasons for this. Firstly, not only have the ideas, opinions and perceptions of women become embedded within institutions established by the law but secondly, these institutions are also promoting a culture of impunity. With very little access to justice, men begin to realise that their actions are not being challenged. "Nothing has changed, really" said Micaela (Las Brisas, Fieldnotes), "we have a law but men don't care about that, because they know that probably the woman is not going to report him. Men can be very manipulating and so he will hit her, and then apologise and be so nice and tell her that he loves her. So if you make a law, it doesn't change why the man acts the way he does. The law does not touch him" (Las Brisas, Fieldnotes). When the law is pushed through existing structures of society, it works to exclude the women's own experiences and understandings. Once again, if the particularities of women's experiences and aspects of violence are not recognised, then the construction of violence itself is erased, and with it are individual women's experiences. Ideas of violence become inscribed in law, and it is within the definitions and language of the law that women's experiences must fit. The law, in general, was described by one of the centre workers as a trap:

> "The law is a trap!" Exclaimed Gabriela. "And who operates the trap?" Lila asked me, suddenly entering the room. She did not wait for an answer, but continued, "The judges, the prosecutors, the police… and they are all corrupt. So we live in a state of laws that doesn't uphold the laws. That is the problem in Bolivia." With that, Lila left the room as abruptly as she had entered. (Las Brisas, Fieldnotes)

This most closely reflects an 'against the law' schema. The law is to be avoided. It is both dangerous and painful to invoke. Through engaging with it, the full weight of the stereotypes that have justified violence against women are felt,

and it is here that both the game of law, and the myth of law come together to further construct, reconstruct, regulate and reinforce various subjective positions. Even if women manage to gain access to the legal system, it works to define them within its limits, through the institutionalisation of oppressive, hegemonic constructions of gender, in formal legal spaces, which appear to legitimate these ideologies. Women who attempt to resist rather than submit, even in a small way, are often thought of as 'crazy', and this emerged frequently throughout fieldwork in both formal data gathering and informal encounters:

> All the time, they [the police] make me sound crazy. If I raise my voice because I am frustrated, because of their insulting questions…. and… then sometimes I think I am crazy. But the law is trying to make me disappear. Who am I? (Sofia, Las Brisas, Fieldnotes)

Revisiting women's positions in the community and in the State from Chapter Four, reveals an aspect of the myth of law. Although women have begun to identify as rights bearing individuals - an identity that the law has offered them - when they enter formal legal spaces this identity is both challenged and yet at the same time, still required (Merry 2006; Goodale 2002). When voices are raised, it is often an expression of resistance, anger, and a desire to be heard. Sofia's account points out many of the expectations that are placed on women in Bolivian society but also reveals the perception of women when they act in some way that is considered to be outside of the expectations and norms. Women resisting dominant ideas, and indeed women raising their voices, challenges the hegemonic constructions of womanhood (Kelly and Radford 1998). What is also interesting to note from Sofia's narrative is the use of the 'the law'. This was something she did frequently. Presenting 'the law' as an active and unitary agent which is making her disappear, reflects the consideration of the symbolic power of the law (Harding 2010). By making her disappear, Sofia was referring to not only being constructed as crazy, which went entirely against her adoption of a rights-bearing subjectivity, where she had recognised her situation as one of violence within the textual properties

of the law, but also in the sense that she felt like she was being pushed out of the law, no longer a legal subject with rights, but just crazy (Las Brisas, Fieldnotes).

The idea of women being crazy was frequently encountered in La Paz – *'la Latina loca'* – through not only formal research, but in informal and everyday conversations with Bolivian friends, with taxi drivers and with other women. Such observations are common in my research diary:

> The taxi driver today decided to tell me about his problems with his wife. This was not my first encounter with him. He had driven me somewhere else before and remembered me. "The problem is that women here get crazy. You cannot talk to them sometimes, and it makes me so angry. Even if you tell them to shut up and listen, sometimes they don't and they keep talking and shouting and moving around". I wrote down what he said quickly in my notebook. I wondered what he did do to 'make her quiet' but I was too afraid to ask. (Research Diary)

A male Bolivian friend also described all 'Latina' women as being 'crazy', and I relayed this conversation to one of my close female friends, who was also Bolivian. She scoffed, laughing through gritted teeth:

> Of course they think that. They make us feel crazy. Sometimes we act crazy, or that's what they call it, because we get so frustrated. They do not listen to us. That is why we need to shout sometimes. Men are so disrespectful and for some women it just becomes too much. When you challenge something, then you are called 'crazy'. My husband thinks I am crazy too, but he does respect me. I am thankful for that. (Research Diary)

It is argued that while these attitudes exist outside of formal legal sites, society is not separate from those sites and, as some of the women's experiences suggest, these attitudes move between these spaces with a power to construct and reconstruct women's subjectivities and interpretive frames (Ewick and Silbey 1998). The myth of the law is in the ability to present ideals of justice

through its symbolic power, and at the same time condone and contribute to the attitudes and ideologies that are the cause of violence against women. The legal institutions that women refer to when they talk about 'the law' are not considered to be entirely separate from women in their power to influence and shape ideas, and instead are often placed in the same power structures (Smart 1989). The problems and inequalities in society, in turn, cannot be separated out from the legal system and its functioning. Women are, therefore, able to recognise the symbolic power of the law and the promises it offers, have hope in the law, and at the same time express distrust, disappointment and cynicism of the institutions and individuals that are part of the formal spaces of law.

The remainder of this chapter engages with spaces which are outside of the formal spaces of law, but still closely tied to them. These include both CSOs and the media. Not only are these influential spaces in the development of legal consciousness but they also play a significant role in addressing the paradox and myth of law. This does not mean that they are without contestation or challenges, but that they provide a space which does not always have the same constraints as those formally tied to the law. They are also important in the game of law as although legal professionals and those engaging in violent acts can play wildcards, so too can women.

## Civil Society Organisations

CSOs play an important mediation role between formal legal spaces and non-legal sites – occupying a space somewhere between, as translators (Merry 2006). Appendix A details the roles of CSOs included in this research as not all are included here. NGOs, which are considered here as part of civil society, can be considered to work as interpreters and translators of the law (Merry 2006). They, therefore, play an important role in legal consciousness studies. Their role is significant, yet often overlooked. *Capitulo Boliviano de Derechos Humanos, Democracia y Desarollo*, in particular, sought to bring together the government, and networks of CSOs. "Although it´s a civil, social agency"

explains Javier, "we are a coordinating space for civil society, but we also coordinate in spaces with links to the State" (Javier, Capitulo Boliviano, Interview). An attempt to draw together these two spaces is one that is increasingly fraught with tension given the anti-NGO discourse across the government in Bolivia which has had detrimental effects on a number of organisations, not only in relation to human rights, but in relation to the environment, too[29]. Relations then between government and civil society are complex (Alvarez 1999).

**Data Collection and Awareness-Raising**

*CIDEM* played a key role in raising awareness of violence against women by gathering data on instances of violence. Gathering statistics is usually the responsibility of the State, but in Bolivia there has been no systematic collection of data on instances of violence against women outwith that collected by *CIDEM*[30]. They pointed out, however, that in future years such collection of data would not be possible due to the resources required, and in fact *CIDEM* closed in 2016. The data that are collected by *CIDEM* are not classed as official data, as they were not collected by the State and, so, not formally recognised:

> That is why I say that we have done reports for so many years, our data were not official, are not official and anyone can dismiss them, but they are the only data that had been in the country. (Maria, CIDEM, Interview)

*CIDEM* also played a key role in raising awareness about gender equality, and gender sensitivity. This is most clearly expressed in relation to a training program they were aiming to implement for journalists to ensure that the

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[29] Sustainable Bolivia, for example, also expressed to me during fieldwork that they are unable to recruit international volunteers, who often contribute both time and money, due to the changes that have been set forth by the government in relation to visas for voluntary work.
[30] In June 2017, the Ministry of Justice combined with both German and Spanish organisations to gather survey data across Bolivia on both the prevalence of violence and peoples' opinions of it.

media presentation and representation of victims did not result in re-victimisation: "media are sexist, the language used is against women and always justify the aggressor..." (Gloria, CIDEM, Interview), "it is sexist and *machista*, without a doubt" (Maria, CIDEM, Interview). *CIDEM* overall, had a significant role then in challenging not only dominant hegemonic ideas about gender and relationships, but also in their involvement with other important spaces of influence.

CSOs also encouraged and facilitated the creation of space, bringing together Bolivian society, and other organisations, and at times even members of the government, to discuss some of the barriers faced in accessing justice. For others, they sought to address some of the deficiencies of legal spaces and services available. *Casa de la Mujer*, in Santa Cruz, emphasised the pressures that they were under in attempting to maintain their levels of service. They explained that international financial aid was reducing due to the enactment of a law which states that services that they are providing will be provided by the State. In practice this is far from the reality. They cited evidence for the constraints being placed on international aid coming into Bolivia, which for them means that there is less financial support for campaigns and support services, and also that the services they were providing were now being considered as unnecessary because, given *Ley 348*, the State would be providing those services. Yet the State is still not fulfilling its duty, and instead continues to deter international contributors either through bureaucratic processes or through an increased focus on what the law states, as opposed to what is actually being provided in practice. *Casa de la Mujer* echoes *CIDEM*'s concern that they would close:

> So that's our job. We are fighting to not close our doors because international financial aid is not interested anymore. They no longer attend to us, because why serve if there is already a comprehensive law, if you have it all?! (Pati, Casa de la Mujer, Interview)

 Without NGOs providing the services that the government is unable to (based on lack of resources and political will) the situation for women is likely to deteriorate before improvements are to be seen. Maria (CIDEM) expressed her frustration. She questioned the priorities and visions of the MAS government in relation to civil society and the functions of the State:

> That is a matter of contradiction in our country, there is an anti-NGO policy, but the State is not fulfilling its function. If it cannot fulfil its function then let NGOs cover those spaces or at least raise awareness in those spaces that they can comply with... [T]here is so much violence, there are no professionals who could attend to it, and there is so much death... (Maria, CIDEM, Interview).

This was also mentioned by almost half of the women in Las Brisas, and raised in informal conversations outwith the women's centre. Whilst there may be some connection of the spaces between civil society and the government, particularly given their involvement in legal developments, it is very clear that there are also several disconnections (see also Alvarez 1999). In terms of civil society's role though, it is also important to consider their relationship with women and how the spaces they create are perceived. From the perspective of organisations, the relationship is a positive one, as their spaces have been constructed as open and welcoming. From the women's perspective however, this is not always so. There are many organisations in existence, but it is the *representation* of women as individual cases with different lived experiences, that some women felt could be improved:

> There is the association of everything, organization, union of everything, no? But there is no organization such as the Mothers de Mayo in Argentina where we are organizing ourselves, the victims of feminicidio survivors, for example. But not even the institutions that cooperate with us or anything... they cannot speak on behalf of us, we have to speak for ourselves! (Sofia, Las Brisas, Life Story)

The notion of 'speaking for ourselves' highlights a perception that organisations become the voice for women (see Spivak 1994). In many ways they do, as they seek to advocate for women's rights issues and social justice within the spaces of the State, often closed to women who are not part of an organisation or association. The construction of communities and groups for this purpose can be considered as necessary in order to establish an influential and representative body. Yet Sofia's issue was largely in relation to the over-homogenising effect of some organisations, Bolivian and non-Bolivian, that often meant that women were not able to identify with them, as they did not reflect the main concerns of their lived experiences.

Of significance, is the fact that women in Las Brisas, aside from Sofia, Elena, Clara and Ariana, did not actively engage with CSOs in the sense of seeking help from them, although others did point out that they had attended some of the larger and more popular marches with friends. Two of the women in particular talked about their experiences with some CSOs, and they described both good experiences and bad ones. Some of the good experiences included receiving signposting advice and "understanding where to go and who might be a good person to talk to" (Ariana, Las Brisas, Life Story); having rights "explained clearly" (Clara, Las Brisas, Fieldnotes); and being "encouraged to take action" (Sofia, Las Brisas, Life Story). A greater number of stories, though, even from some of the same women, suggested feeling "intimidated" (Katrina, Las Brisas, Fieldnotes), "invisible" (Ariana, Las Brisas, Life Story), "not important enough" (Vivian, Las Brisas, Fieldnotes), and to be presenting a case that "was not severe enough to be used in campaigns" (Micaela, Las Brisas, Fieldnotes).

This illustrates the complex relationship between women and CSOs, particularly in a pluri-national context like Bolivia. Whilst CSOs often considered themselves to be outside of formal legal spaces (although able to move into them when invited), women often position CSOs *close* to the State: "These groups do not have a lot of freedom. They are still controlled by the government" (Sofia, Las Brisas, Fieldnotes). There were also feelings of

distrust in relation to these organisations and Ariana (Las Brisas, Fieldnotes) pointed out that she was once asked to talk at an event by one of the non-governmental associations, and she believed that this would be good for her levels of support. As it turned out, she felt used, and that they only wanted her there so that they had a 'face' of a victim present. Her involvement then felt like a gimmick, and she felt silenced once more by a space that made her believe that it would help to elevate her voice. At times, then, organisations and institutions that believe they are part of empowering and enabling women to exercise their rights, confirm the existence of power structures. Organisations must ask themselves, in the same way as researchers, whether or not they are creating space or taking it (see Kovach 2005).

CSOs are, therefore, not always perceived as being open to hearing and supporting women's voices. Yet, it is in these civil society spaces that women are most likely to gain more knowledge about their rights through translation and vernacularisation (Merry 2006), which can allow them to frame their situations in relation to the law and with the language of rights, and have confidence to exercise those rights. Women's presence and narratives also strengthen that dialogical space, although their presence may feel like a gimmick. Campaigns that are more participatory in nature can be used to apply pressure for better implementation of the law and hold governments accountable. Relaying experiences is not useful. What is needed are *lived experiences.* What is needed is recognition – by the State and by civil society – of lived experiences through the legal process that captures the particular aspects of Bolivian women's lives. By challenging patriarchal attitudes in these spaces through the narratives of *lived experiences*, space can be secured for 'voices and interests that mainstream preferences and projects tend to overlook or marginalize' and 'this claim to space and visibility, in turn, allows out groups to conceive, articulate, and organise anti-subordination groups' (Iglesias and Valdes 1998: 515). As Javier (Capitulo Boliviano) suggested, "civil society organisations, rather, can contribute to their work [the work of the State]. We can be the eye the government doesn´t have in certain spaces. More like a strategic ally than an enemy". This is, of course, not to overlook the

perceptions and reflections of women who feel often 'used' in those spaces, but instead it draws attention to valuable questions of inclusion and representation, which are especially vital in relation to CSOs. According to MacKinnon (1987; 1989), these associations should be working to expose the reality that women have had little choice but to be confined to, in order to change it, but must do so meaningfully for those women.

Exploring civil society spaces is, therefore, important in order to make sense of what is happening and to make sense of women's subjective accounts as it allows those narratives to be placed within what Geertz (1973) describes as 'larger frames of signification'. Using space presents the multiplicity of actors involved in an exploration of, and understanding of, the meaning that the law has outside of formal legal sites. It is in these spaces, in the 'shadow of the law' as expressed by Galanter (1983), that the radiating effects of the law can be detected. As Santos (2002: 464) points out, 'sociolegal life is constituted by different legal spaces operating simultaneously on different scales and from different interpretive standpoints'.

## Las Pintadas, las Palabras and las Marchas: The Use of Space for Resistance

Resistance to dominant ideas about women was a driving force for the creation of *Ley 348*, according to a number of women's organisations, and resistance has continued in a number of ways. An example of this is the increasing street art which can be found on many buildings around the city of La Paz. Such displays of resistance by art-activists is common across Latin America (see Ryan 2017). Most visible and recognisable in La Paz are the cursive writings of *Mujeres Creando*. These cursive writings appear overnight across buildings throughout the city. The streets in Bolivia are considered to belong to the people, and the streets become one of the most important spaces of resistance. It was rare to hear the quotes from *Mujeres Creando* described as graffiti, apart from by men, but it was not always a welcomed addition to the streets. Some of it contained curse words and some revealed vulgarities. It

was often the vulgar language used in some of the quotes that people did not always respond well to. Whilst people may not have always welcomed such forms of resistance, it was always noticed. Tourists, in particular, could frequently be seen photographing the messages of support for women, or the denunciation of particular forms of *machista* behaviour or attitudes.
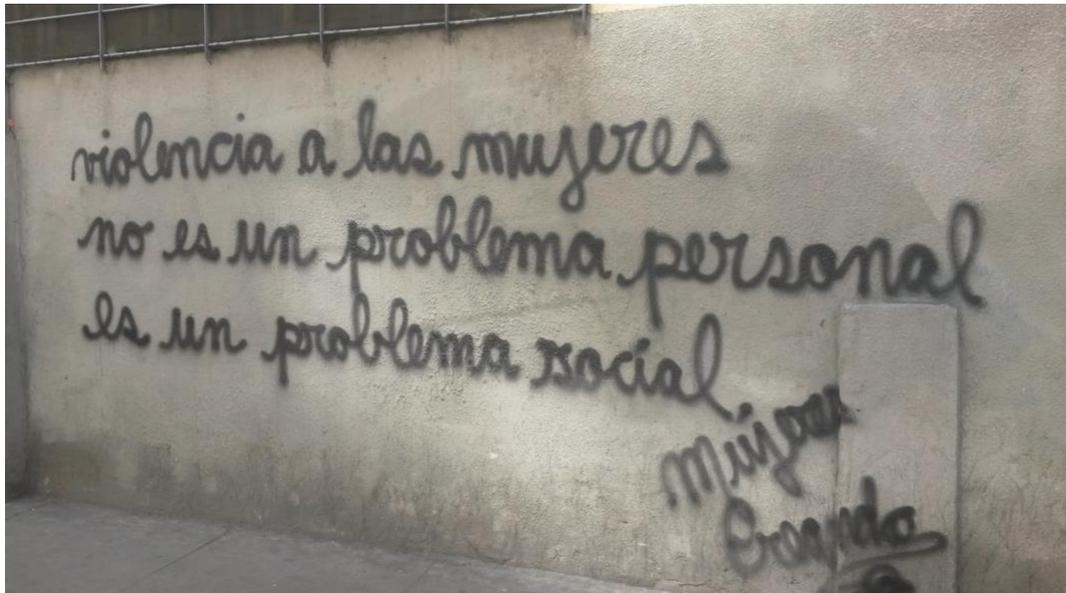


**Photo 6: Street art by Mujeres Creando: 'Violence against women is not a personal problem, it is a social problem (Own photo)**

*Mujeres Creando* are one of the most visible organisations, and visibility is an important tactic in raising awareness. They are also non-hierarchical, an important feature of grassroots organisations that are increasing across Latin America more broadly (Robinson 2009). At an event in September 2015, shortly before I departed, *Mujeres Creando* brought together families of women who were victims of *feminicidio*. Surrounding the seating area in a large gym hall of a local university, were posters and pictures:

> Well, here at Mujeres Creando, the posters that you can read are in front of you all. They are words written in the walls. I'm sure the city says that they dirty the place however these posters are an element in the Mujeres Creando fight. And I'm going to read some which are here "Prince Charming doesn't exist, the possessive sexist does" another one here says "*Machismo* isn't a man's strength but his weakness". So this graffiti has served, and keeps serving as an instrument in Mujeres Creando's fight and

we hope that women and everybody can empower themselves from this graffiti and that it be a strategy for defeating sexist violence. Well, "the violent man also wears a white shirt, also smells good. (Maria Galindo, Mujeres Creando, addressing the audience)

The use of public space is an important form of resistance and often takes the form of disruptions to the everyday functioning of life within that space (see Hou and Knierbein 2017). Social mobilisation in the form of protests and marches is common. The use of public space, and in particular busy roads that run through the centre of La Paz is an important way that women can have their voices heard and their grievances recognised. Protests in La Paz happened frequently. This seemed in stark contrast to life in Scotland, and was consequently all the more noticeable. The flow of people was re-routed, the buses halted, and attention grabbed. Whilst many people often sighed at the inconvenience, such forms of resistance were also greatly respected given their long history:

> Women take to the streets here. Not just women, everyone. If we are not happy about something here, then we make people know it. We go to the streets and we make signs and we march. When traffic stops, people wonder what is happening,   and  they  are told 'women are marching about land, or abortion, or injustice, or…' – If they did not know of it before, then they do now. This makes people more aware about things that are important. (Adriana, Research Assistant, Fieldnotes)

By disrupting people's habits, it caused a break in their thinking. Attention was often turned to what was causing the blockades, and this is how people learned of issues that were of importance to others, and often to them too. Not only was this form of resistance valued and recognised by many members of society, but CSOs pointed out that such social mobilisation was important for encouraging discussion and promoting dialogue with decision makers. Ryan (2017) emphasises the important role that organisations play in taking charge of the streets, and in Bolivia this is especially so. In Bolivia, largely through organisations like *Mujeres Creando*, women took charge of taking back the

streets, organising and coordinating campaigns to ensure women's needs were being met, and ultimately work towards strengthening the social fabric of society. Paredes (2002) points out that women were converting public spaces into domestic ones and Galindo (2010: 55) reveals that these became important survival spaces, and as forums for the rest of society:

> Where there is no possibility for dialogue then probably the organisations may choose protesting or a public denouncement both in national and international spaces. (Javier, Capitulo Boliviano, Interview)

*Coordinadora de la Mujer* highlighted that such action was often expected by the government and was a sign that an issue was sufficiently important to people for the government to be interested. The notion of mobilisation and use of space is, therefore, central to forms of resistance, and challenges the boundaries of the closed spaces of decision-making (Hou and Knierbein 2017). Recognition of issues is important for those who are seeking to make themselves visible and heard. On a couple of occasions during my time in La Paz, young school children could be seen marching along the side of the road, and chanting. One such occasion that I wrote about in detail in my fieldnotes was a protest for peace and love in the world. The children were holding handmade signs, covered with glitter and coloured pompoms, attached to wooden sticks and rulers. They chanted loudly. My Bolivian roommate who was walking with me at the time commented, "See!! We learn to do that from a young age!". Taking issues that are of importance, to the streets, can be considered in many ways to be part of the social learning process.

By talking about violence, and doing so outside of more private spaces, women could be considered to be resisting the constraints on their voices that are present in social, legal and political spaces. The limits of talking are often set through patriarchal ideas of 'a woman's place'. What is normal and to be accepted in the way of family relationships, then, is also challenged, and by occupying physical space visibly and loudly, they are challenging these

discursive constraints. Talking is weaponised for those that are marginalised, in order to claim space and dedicate time to presenting information, experiences and ideas which enter into contact with, and build on those of, others, thus creating an informal network of resistance. For some women, membership of some of these groups is important for their sense of belonging and identity. For others, they were content with dipping in and out of the groups and occasionally taking part in marches or attending events.

Wade (1997: 23) suggests that if people are treated badly, they resist, which might be in very small ways, but that 'alongside each history of violence and oppression, there runs a parallel history of prudent, creative and determined resistance'. 'Talking' may, therefore, be considered to be one of the most basic, yet most powerful forms of resistance to violence for women in Bolivia.

Although I have largely focused on *Mujeres Creando* above, it should be noted that all women's organisations in Bolivia initiated, planned, and attended marches. Not all women felt that they could identify with *Mujeres Creando*, and this is an important point to highlight in relation to involvement and representation in civil society, for it speaks of the issue of the perception of feminism. The word 'feminism' was rarely used in *Casa de las Brisas*. When it was, it was attached to *Mujeres Creando* and was not presented in a good light. The term 'feminism', or being seen to be 'a feminist' is often viewed negatively (Power 2002). I encountered this several times. When asked of my purpose in Bolivia, men quickly followed up their question by surveying me suspiciously and asking "Are you a feminist?". My confident reply of "yes" usually resulted in awkward laughter in response, and at times, a derogatory comment (Research Diary). This negativity is not uncommon (see Isasi-Díaz and Aquino 2011; Bouvier 2009).

Although women recognised the importance and influence of a group like *Mujeres Creando*, they also believed that their techniques of awareness raising were too harsh or loud. This was not in reference to their marching, but more

in relation to some of the campaigns that they developed and the style of their building.



Photo 7: Mujeres Creando Building, Sopocachi, La Paz (Own photos)

## Media: Presenting Opportunities and Challenges

Forms of resistance occupied not only physical spaces such as streets, but also virtual spaces. Different forms of media can be located in both. Attitudes towards the media were couched in uncertainty and nervousness. It is often considered that there is a lot of power held by the media to influence perceptions and the power that the media have was of central concern to almost all of the organisations in this research:

> In the headlines, they say; an example; "You killed her because of jealousy, because he saw her talking to someone" because it is justifying is even justifying why killed her by removing the guilt… don't say 'and that is why he killed her', but 'he killed her and that deserves to be punished because there is already a law'. [So] it is still a challenge, because it is a long process for us at CIDEM, because we not only have to get to journalists but also to hosts and to presenters, directors, who do not yet have that focus on gender. Media are sexist, the language used is against women and always justifies the aggressor… (Maria, CIDEM, Interview)

Although the media may play a role, it is important to also consider its mediation through social, political and legal discourses (see Birkbeck 2014). A discourse of victimisation, similar to that of the police, can be found in much media in La Paz and across Bolivia. With the new law, there is greater coverage of violent cases. This could be hailed as a positive, but it is largely dependent on the representation and framing of these events and the individuals involved. The focus, as highlighted above, is often on the reasons that the woman was assaulted, or murdered, and what her role may have been in provoking or warranting such behaviour, as opposed to the criminal behaviour of the perpetrator. Although media can have negative effects, it also presents opportunities for the dissemination of information and increased communication, extending the dialogical space:

> I think that in the last few years we have lived a sort of improvement also in Bolivia about access to information. Before there wasn't access in a faraway district and the information was scant. Now the information as such, has advanced a lot. And not just the classic means of communication, like the television, radio. Radio has expanded a lot in our country, it is incredible. The radio community reaches to all corner of Bolivia. And there is the topic of socializing the laws and open spaces there. The law for example has forced those means and they are doing it, to address Ley 348; and they are free spaces. The thing is that the authorities don't know it and don't demand it. (Marie-Elena, ComVoMujer, Interview)

Coordinadora de la Mujer agreed, pointing out that law has played an important role in relation to the dissemination of the law. *Capitulo Boliviano de Derechos Humanos, Democracia y Desarollo*, however, expressed concern with the presentation and representation of crimes of violence and *feminicidio* through the media and the consequences it can have for other women:

> About the death of the journalist (female) who was brutally murdered in the context of the exercising of patriarchal power. That´s to say a man marked his ownership over the body of a woman. And when this woman decided that this man doesn´t

> have this title (of ownership) anymore, neither in sentimental subjectivity or over her body, the other (the guy) decided to take her and the possession was "nobody else is ever going to have you" and he killed her. And this is a normative context, furthermore, the media, under the logic of the supposed information, sees this as an example and the women…"oof, no, if I leave my husband as well, he could kill me" Because the message can also come out that way no, or in reverse. Women, many women could think "Ay no, I have to separate from my husband because he could kill me" "If I separate from him, the same thing could happen". (Javier, Capitulo Boliviano, Interview)

The media may be encouraged to report more about violence in order to increase awareness, but the manner in which this is carried out is vital for the interpretation and framing of the issue. Laura, at Las Brisas, had never sought help from the police about her partner, like many of the women I met in Bolivia, and she tended to frame her reasoning in relation to her fears: "It just gets worse when people go to the police. I've seen it happen. That's what would happen to me too. I have my daughter to think about, my beautiful girl, and so it is easier to suffer it. It doesn't happen every day" (Laura, Las Brisas, Fieldnotes)

Javier, at *Capitulo Boliviano*, emphasised that the way crimes of violence are framed in the media can have a negative influence on women's perceptions of formal legal spaces as well as on their own behaviour. He suggested that such crimes should be reported using a framework of human rights as opposed to being presented like a soap opera, for entertainment:

> We're not demanding the media not be progressive but that at least they frame the issues in the context of human rights or in the framework of the legislation but they don't do it. They present what's happened as if it was just one more event. What's more it becomes "crónica roja" [31] which contributes to the

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[31] Genre of reporting crime audiovisually showing all the gory details, live action etc. Very common in Latin American crime reporting.

reflection of the other subject, it´s simply going to reinforce this view of morbidity. And everyone wants to find out, why was she killed? How was she killed? Not in the sense of reflecting that there has been a violation of human rights, however simply because it was a story on the "crónica roja". Therefore, the possibility that this communication exercise could become an educational possibility to exercise human rights for other women, is broken. Of course, in this case there are exceptions. I think that Radio Deseo [32] are fundamental and important exceptions. I think that it´s fundamental, and there you have a political and ideological motivation to reflect on these rights violations as women´s rights violations and not just as news, as "crónica roja". So that´s where you have a real break. We wish that all women listened to "Radio Deseo", that would be great. But of course, after the news they put on a Mexican telenovela and in the Mexican telenovelas, you´ll see if you analyse it, that there is an exercise, a process of disciplining women to the power of the men. Submissive women, women who never say anything, women who have to "suck it up". (Javier, Capitulo Boliviano, Interview)

Much of what Javier describes can be attributed to print media, television, and radio (see also Torrico 2012), but discussions around instances of violence on social media can also be included under his perception of the situation. There are of course spaces which challenge such attitudes and representations and frame violence and the instances of violence in human rights terms. An example of this is the 'Ley 348 – Against Abuse of Women in Bolivia' on the social media site, Facebook. The woman that operates this page keeps her identity hidden. This page acts as a space for activism, education, awareness, and the exchange of knowledge and opinions through sharing and promoting posts and links. This page is bilingual, frequently displaying information in both Spanish and English. It currently has 68, 636 followers[33], yet it could be questioned the extent to which such a space is used by women in their everyday lives. Whilst some women and friends in Bolivia acknowledged this page, only one of the women at the centre knew about it, and had interacted

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[32] Radio station from Mujeres Creando

[33] As of 30 May 2017

in this virtual space. This was not because the others did not have access to the internet, although some access was not particularly regular, but more because they did not know about it or had not considered Facebook to be a space for engagement with such issues. "Facebook is for fun" exclaimed Katrina "not for all of these fights about politics or bad news" (Las Brisas, Fieldnotes). Of course, other people did not know how to use Facebook. Ariana, who had engaged with the Facebook page and also shares posts on her own timeline, highlighted the importance of it as a space for communication and awareness and as a way of building up momentum: "It's the same, like talking, it's just in written words, but it means getting opinions out there. It also makes you see that you are not alone. There are lots of people who think the same thing" (Las Brisas, Fieldnotes). The ability to recognise others in the same social, legal and moral positions was a key factor for Ariana in keeping her mobilised through her legal process. "I get messages of support sometimes too. That's nice because sometimes I'm so tired" (Las Brisas, Fieldnotes). The creation of a dialogical space and the construction of a mini-public meant that women's ideas had the chance to come in to contact with those of other women. The different forms of resistance displayed by women (in the form of protests, marches, street art and social media) often held some power behind them, for Ariana, which gave her mind motivation, even though her body did not always feel energised.

**"We Won Because of Social Media!"**

For Lauren though, a North American citizen who used *Ley 348* as the foundation of her case against her attackers in 2014 (completing the legal process in 2015), social media had been instrumental in accessing justice:

> Hands down we won because of social media…the institutions here are wrought so deep with corruptions… they are not going to change from the inside out… the people need to shine a light on all the dirty dealings that could go on before a smartphone or iPad recorder… we need to have a social media revolution to make the institutions change from the outside in… and I won my

case, so I know it works! People dismiss my case as a case of a rich American… that is not totally the case… they would have gladly took my money and decided in the defenses interests *but* we arrived to Vallegrande with a posse of press and women who can work smartphones like you cannot imagine… we are hoping on harnessing and organizing an effort based on what we learned about social media during the case. (Lauren, US citizen, member of Facebook group Ley 348, Interview)

This is largely where Bolivian women are *now* in relation to the law and seeking to claim their rights. By occupying spaces and organising campaigns founded on the desire to challenge dominant and harmful displays of *machismo* (womanising, objectification of women, and violence) women seek to emphasise their strength. This is in contrast to their suffering and the stigma attached to being a victim (see also Chunn et al. 2007; Hou and Knierbein 2017). Women have sought to appropriate the term 'victim' and challenge its connotations (see Mardorossian 2002), an important challenge to dominant discourses which, in turn, contribute to their development of legal consciousness and the way they play the game.

Photo 8: Street art at the side of the road, La Paz (Photo credit: Kateri Raglow)

The many marches and protests that can be seen in La Paz are, according to Luna Sanz (2017), growing in frequency and ferocity. They spread their messages in any way they now can, across the cities, in the streets, in workplaces, and on the internet, and whilst these do not always reach the rural areas in the same ways (according to the perceptions and understandings of three quarters of women in Las Brisas), there are also similar resistive strategies taking place there. These are constructed and carried out in ways that are meaningful for the local lived realities and experiences of those locations. In a complex political, social and legal context like Bolivia, such social movements have proven to drive change in the past, and so although the

picture of accessing law in Bolivia may be bleak right now, the energy and desire for change is rising – just like women.

**Summary**

It is clear that, like much of the changes that have taken place in Bolivia, from political change to legal change, a collective effort is required, and often across different and sometimes competing spaces. There are challenges in pursuing access to the law solely through legal institutions given that these systems continue to carry elements of the discourses which themselves could be considered as violent in nature, through perpetuation and reinforcement of symbolic and structural violence. Social change is required, and although this type of change is likely to take a longer time to happen, and involves the commitment and political will of the State, there is also a growing women's movement against violence across Bolivia and more broadly in terms of Latin America. These spaces are not always empowering but involvement in them suggests an even greater rejection of the status quo and the hegemonic constructions of womanhood that exist in Bolivia. Whilst the social construction of these ideas included the development of oppressive gender norms, society and culture in Bolivia also produce the conditions within which they can be challenged, and provide the imagining of a reversal of suffering and the freedom to a life free from violence that the law guarantees. Spaces like social media allow the quick dissemination of information on rights, cases, government responses, and marches. It creates and facilitates the continuation of resistive dialogical spaces that have been forming at the community level across and within women's centres and friendship groups, up and down the streets and on the walls. These resistive strategies all seek to empower women in asserting their 'rights bearing self' and to challenge harmful behaviour that has become normalised in their everyday lives. Access to justice is possible, however it might be framed for each individual. Social change though, will take longer, but the doors to justice and social change need not remain closed.

# Conclusion

This concluding chapter highlights the significance of exploring women's rights, legal consciousness and subjectivity in the context of Bolivia in order to expand an understanding of law in everyday life. It revisits the research questions and also relates the main conclusions to the broader context of socio-legal work and legal developments that seek to protect women from violence by offering access to justice. Finally, some suggestions of future research are presented which draw on aspects of this doctorate work that warrant further exploration.

## Structural and cultural conditions of society that constrain women's access to law in Bolivia, with regards to Law 348

Despite the development of Law 348 in Bolivia being hailed as an achievement, its implementation continues to be hindered by broader structural and cultural conditions of society. The construction of gender roles and expectations, reproduced and reinforced through repetition, normalises behaviours that work to subjugate women. These patriarchal attitudes, objectification and constraints on women's participation and representation in social and political life are most notable in Bolivia through the display of machismo. Bolivian society can be considered a *machista* one. The influence of the social learning process and the way that men and women interact with one another in different spaces reveals insights into the challenges of implementing a law which in part seeks to address some of these behaviours whilst at the same time offering legal remedies for them. Revealing social consciousness of women's place within the family, the state and community draws attention to the infiltration and institutionalisation of machismo which can leave women in vulnerable positions. Hegemonic constructions of manhood and womanhood, can be considered to have become manifested in acts of violence against women, and it is the increase in these acts and the mounting pressure from women's rights groups – alongside a particularly high profile case of *feminicidio* - which resulted in the development of *Ley 348.*

The passing of *Ley 348* suggests some form of commitment from the State to address violence against women and offer access to justice. However, although there is now legal recognition of 17 different forms of violence, and a 'guarantee to a life free from violence', women and civil society organisations suggest that offering access to the use of legal remedies as a solution can only work if barriers to accessing their rights, as outlined in the legislation, are removed, and a broader social change is achieved. This contributes to the work of Hume (2008) in El Salvador, as well as socio-legal work more generally in relation to legal mobilisation (Merry 2006; Ewick and Silbey 2003; Harding 2011; Cowan 2004; Halliday and Morgan 2013).

## The construction of subjectivity through law in relation to violence against women

Women's narratives show that interactions with the law reveals some of the deep-rooted hegemonic constructions of gender that are experienced at the level of the family, community and State. Although women wish to claim the law, the many barriers to their access work to further constrain them and the choices they make about their lives. The law works to construct the universal, liberal legal subject, erasing the particularities of the individual. Founded on long-established gender expectations, women engage themselves in a game of law which begins by first challenging the dominant expectations of women as weak, as men's possessions, or as sexual objects. Already, such mobilisation does not work in their favour and often contradicts the constructions of the 'ideal victim' that the law so desires. The game of law reveals open doors but as women move through the first, they are faced with yet more doors to unlock. It is a tiring process, and one that reinforces women's vulnerable positions, their inferiority, and their disadvantaged socio-economic position in society. For those that have not interacted with the law in formal, authoritative legal spaces, the stories of others remind them of this too. The law therefore presents itself with a mask: the allure of protection, of justice – whatever form that takes for the individual woman – and of guarantees. Beneath that though lie legal institutions that are duplicitous, patriarchal, and

corrupt, and when the law which is so well presented on paper, is put in practice, it is squeezed through these structures along with the individual it promises to protect. What comes out of the other side is an individual clothed in the false subjectivity of the rational, sovereign, liberal subject, denied of the recognition of their lived experiences. This builds on the work of Walby (1990), Del Olmo (2017) and Ewick and Silbey (2003).

**The meaning of law for women in Bolivia**

Although there is broader importance placed on legal recognition in Bolivia, given historical struggles for the majority indigenous population, this thesis has emphasised that women's voices must be placed at the centre of not only the development of law in relation to violence, but throughout its implementation. The creation of Ley 348 has meant that space has been created in order for women to more openly discuss issues of violence, and this is facilitated by civil society organisations and social media platforms. The rise in resistance movements against its poor implementation, whether or not women personally march themselves, further carves out and claims space that is dedicated to the issue of violence against women. Alongside this, Ley 348 has offered a different script with which to make sense of experiences of violence. Violence against women is now considered a crime, and this draws it out of the discourses which have normalised it. When women recognise that the abuse is a legal issue, they can begin to realise that they are not to blame. This often results in a deeper consideration of gender relationships within the family, community and State, too. The law therefore allows women to further question their experiences, interactions and encounters with men, and can be used as a platform from which to fight for change. Therefore, while the law continues to be meaningful in the lives of Bolivian women, failing to recognise how the harmful social and cultural attitudes of society come to be embedded in the legal system and support networks for women, means that the law designed to protect women, simply reinforces existing gender roles and attitudes (see also Roussaeu and Hudon 2017). This results in women having a conflicting relationship with the law.

**Original Contribution**

This research contributes to existing knowledge theoretically, empirically, and methodologically.

### Theoretical contribution

Firstly, the utilisation of a socio-legal approach, and in particular the use of legal consciousness as a framework to examine women's lived experiences of the law, contributes to the increased interest in legal consciousness. This interest is most recently evidenced by an event organised at the University of Oxford's Centre for Socio-Legal Studies on 19 April 2017. A unique aspect of my research is that it provides a critical account of a recently enacted law that is largely welcomed by society, revealing the complexities of accessing justice, as well as highlighting relationships between law and understandings of the self and society. Ewick and Silbey's (2003) cultural schemas facilitated explorations of these relationships in Bolivia, and Fritsvold's (2009) and Halliday and Morgan's (2013) expansions of their framework are also revealed as important contributions to an examination of the meaning of law in everyday life. What this research revealed are the limitations but also the hope in the law and the opportunity to consider a future free of, in this case, violence against women.

This research also draws attention to the contradictions that often exist between human rights on paper and in practice - the paradox of law - contributing to previous explorations of this by Santos (1998, 2002) and Sieder (2013). In turn, it reinforces the need to consider local applications of more global frameworks of rights. The importance of Levitt and Merry's (2009) call for the 'vernacularisation' of rights and the need to pay close attention to the social and political landscape of local contexts is further supported by this research in Bolivia.

### Empirical Contribution

In addition to a theoretical contribution, this research also contributes to the empirical literature on Bolivia, women's human rights, and violence against women more broadly. It offers a unique perspective not only from an urban area of Bolivia, but at a time of legal reform and political change that is revealed to have an effect on women's claims to, and of, the law. The research was conducted at a time of heightened awareness of the criminalisation of violence against women and in the context of the struggle to utilise a law which is overwhelmingly welcomed (as opposed to one that is being challenged as has been the case in previous legal consciousness research). It therefore provides insights in to Bolivian women's understandings of not only the law and their relationship with it, but the various ways that they are influenced, constructed and constrained by it. It reveals the current challenges that women are facing in Bolivia with regards to violence and to accessing justice, and this emphasises the need to go beyond the creation of a new law to deal with what are deep rooted issues in society. It therefore contributes to knowledge in relation to the issue of violence against women and legal remedies as a solution to this problem in Bolivia. The complex relationships between the state, civil society organisations and the women that they seek to represent are also featured throughout this research (see also Albro 2006a, 2006b), pointing to the structural conditions of society within which women are working to access the law.

### Methodological Contribution

Lastly, the use of ethnography and immersion in the Bolivian context for twelve months echoes the need to understand the particularities of a context in order to interpret the success of legal changes. This was greatly facilitated by participant observation and life stories, which are both largely unstructured methods of data collection. The choice of these methods when working with women was most appropriate for the context, given that I sought to learn from them, at their own pace, in their own language, and over an

extended period of time. The use of these methods was more culturally appropriate and provided stories that were likely far more enlightening than would have been revealed through more structured interview styles. With the focus on gathering narratives, the value of women's voices, situated in their past, present and futures, were made central. Such qualitative research was identified by Bolivian organisations (e.g. CIDEM) to be lacking due to funding constraints, and yet much needed in order to understand experiences.

From a researcher point of view, challenges and opportunities have been highlighted throughout this research in relation to the chosen methodology. These include working in a second language; dealing with translation and interpretation; managing culture shock; reconsiderations of consent procedures; and acknowledging different perspectives. Engagements with these issues contribute to the vast array of literature on conducting research in contexts different to that of the researcher's own (e.g. Hume and Mulcock 2004). It is hoped that such challenges and ways of overcoming them will be useful to future researchers conducting research in another country, culture and perhaps language. The use of ethnography to explore legal consciousness over a dedicated period of twelve months draws attention to the value of using legal consciousness as a framework for gaining a deeper understanding of the meaning of law in everyday life. Aspects of women's stories often revealed points where the law was significant, even when women had not explicitly identified this to be the case. These instances may not have been identifiable had other methods been employed.

The research findings presented in this thesis therefore contribute to a number of different areas of knowledge and literature. Yet, as in all research, fieldwork in La Paz also led me to consider the future for this research and also offered opportunities to consider other avenues for investigation.

**Going Forward: Areas for Future Research**

While the findings from this thesis have made an original contribution in terms of an analysis of the meaning of women's rights in Bolivia, there are three areas of research that emerged during this doctoral work that warrant further attention.

Firstly, whilst this thesis explored the implementation of *Ley 348* in an urban area, it was often suggested that knowledge and awareness of this right is less likely to reach more rural populations. A similar approach in a more rural community could not only highlight the aspects of *Ley 348* that have travelled across Bolivia but also how these have been incorporated in to more indigenous ways of being and customary legal systems. This would draw attention to *Ley 348* in a more indigenous context where the collective is often considered to be privileged over the individual. Where this law fits within these frameworks, from the perspective of those populations, could reveal a different legal consciousness.

Secondly, given the pervasiveness of hegemonic constructions of gender and *machista* attitudes, court room ethnography during cases that employ *Ley 348* would offer insights in to the nuances of this law in practice. Legal consciousness as a framework could continue to provide valuable insights, but in this case, the legal consciousness of judges would be explored. Doing so could reveal different engagements with legality as well as continuing to provide insights in to the structural conditions of not only society but of the Bolivian legal system.

Thirdly, Ryan (2017) points out that there are few examples of research on political street art in Bolivia and therefore in order to emphasises the role that street art plays in challenging oppressive gender constructions, a systematic documentation and mapping of street art across the city of La Paz could be conducted. Photos of street art and where they are featured could be archived, providing valuable historical information for future researchers. These photos

can be analysed to reveal both the textual and artistic forms that street art has taken and the tactics and language used to claim space and address long-standing social and political issues in Bolivia.

**The Door to the Law**

This socio-legal ethnography has presented a number of insights in to women's rights in Bolivian society. It is clear that an understanding of law cannot be separated from the structural conditions of society as they exist at present, nor of the law's historical context. Law should not be taken-for-granted but should be treated like any other social phenomena, as socially constructed, historically specific and culturally contested. As women continue to believe in law and in human rights, and fight for them through movements challenging dominant discourses and claiming space, their overarching destination is justice. Justice is, after all, what is promised by the law, but as Kafka (1915) reminds us, the possibility of justice is what keeps individuals submitting to law's demands, patient and hopeful. It renders them as obedient subjects, subordinate and vulnerable to the authority of the institutions designed to protect them. Though women rarely get access to justice (if they even engage with the law in the first place) it continues to permeate and regulate their lives nonetheless. The door is always there. Women continue to believe in the law, and strive for the creation of a just system which recognises their particularities through increased mobilisation - challenging hegemonic and oppressive ideologies - for what would it mean if they did not? Overall, what women hope for, and what they are seeking, is a broader social change in the world that is *here*, on *this* side of the door.

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# Appendix A: Further Information on Organisations and State Bodies

| Name | About |
|------|-------|
| *Name* | *About* |
| **Capitulo Boliviano de Derechos Humanos, Democracia y Desarrollo** | A national association acting as an umbrella for non-governmental organisations, monitoring economic, social and cultural human rights in national and international arenas. They promote the enforcement of human rights, and work on conceptual reflection and analysis of legislation. They support research aimed at the reflection and understanding of Bolivian reality regarding human rights. They produce a report on the human rights situation of Bolivia every year. |
| **Casa de la Mujer** | A non-governmental organisation, which aims to empower women and to encourage the exercising of rights. They work towards creating gender equality. They also work in the area of advocacy and often support women's legal cases. Based in Santa Cruz. |
| **CIES: Salud Sexual, Salud Reproductiva** | Largely a health care service, the Centre for Sexual and Reproductive Health, they work with women to increase awareness around sexual health and to provide access to medical care and support |
| **CIDEM: Centro de Information y Desarollo de la Mujer**  **(now closed)** | Worked on the defense of women's rights and is recognised at social and political levels. They worked across macro and micro levels of society in order to develop approaches to dealing with education, justice, poverty, violence and other aspects of women's lives. They were an extremely important organisation, probably the most important in terms of their scope. They also had an 'Observatory' which monitored cases and levels of violence and *feminicidio* in Bolivia, producing national statistics broken down by municipalities. |
| **COB: Central Obrera Boliviana** | The Bolivian Worker's Centre is the main trade union federation in Bolivia. Its relationship with governments has always been fraught with tension. It brings together workers from different branches of industry and public services and also works in consultation with social movements. |

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| **ComVoMujer: Combating Violence Against Women in Latin America** | A program implemented by the Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ). This program is not only running in Bolivia, but in other Latin American countries. The aim is to draw together national and regional information and aim to achieve for women a life free from violence by keeping the issue of violence on the political agenda. They also carried out a campaign called 'Cartas de Mujeres' which involved the collection of letters from all over Bolivia from women and children with testimonies about their experiences of violence. |
| **Coordinadora de la Mujer** | Produces research on women's rights and acts as coordinator of a number of NGOs to develop advocacy strategies to promote public mobilisation. Their aim is to influence change in the living conditions of women in the exercise of their rights and in generating proposals that affect the regulatory framework and public policies. A key goal is the strengthening of women's political power. |
| **Bartolina Sisa National Federation of Peasant Women** | Pro-MAS women's organisation with a strong indigenous identity. They campaign for indigenous women's access to land and education, and for a sustainable economy based on equality. It owes its name to the Aymara heroine Bartolina Sisa, wife of Thomas Tupac Katari who was a leader of indigenous origin in the eighteenth century. They largely promote the solidarity of indigenous men and women for the fighting of social and political issues. They are working on the dissemination and reaffirmation of the cultural and historical identity of the indigenous peoples and nations of Bolivia. |
| **CEPROSI: Centro de Promoción y Salud Integral** | The Centre for the Promotion of Comprehensive Health provides training activities to educate women and young people on issues of human rights and health awareness, allowing them to become their own representatives and fight for changes in public policies that reflect their needs and concerns. |
| **Defensoría del Pueblo** | The Defensoría is an 'Ombudsman' responsible for ensuring the rights of citizens are respected. They often provide support for legal cases and help with the paperwork. |
| **FELCV: Fuerza Especial de Lucha Contra la Violencia** | The Special Force in the Fight Against Violence is a special police force set up since Law 348 to deal specifically with complaints of violence. |

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| **Mujeres Creando** | This organisation is an anarcha-feminist group in La Paz which is against all forms of discrimination towards women. They are radical in their approach, and people tend to have mixed feelings towards them. Much of this is due to the head of Mujeres Creando, Maria Galindo. They are perceived as often going 'too far', however it could be argued that such an approach is needed. Their cursive art on the streets of La Paz serve as permanent reminders that they are not afraid to claim the streets, as their frequent marches also reveal. |
| **SLIM: Servicio Legal y Integral** | SLIMS implement programs and projects to promote, prevent and disseminate citizen rights with an emphasis on the centrality of the family, promoting and incorporating gender equality and equal opportunities. |

# Appendix B: Example of Topic Guide for Semi-Structured Interview with CIDEM (translated from Spanish)

*Note: This example is representative of all topic guides for interviews conducted with organisations and state bodies. Specific aspects changed according to the role of the institution. During interviews with organisations, my research assistant was present.*

About CIDEM – role of organisation, activities etc.

In your opinion, what has *Ley 348* meant for women in society?

Has this law had any influence on awareness of human rights?

What does this change in law mean for CIDEM/for women/for society?

Opportunities and constraints for accessing justice using *Ley 348*?

Solutions to the barriers?

Have the changes in law affected the way that women view themselves and their relationships?

Role of social media in relation to the law and women's rights

In what ways do frameworks of collective rights and individual rights compliment and/or contradict one another?

How do women learn about their rights, as women?

What role does CIDEM play in this?

Do State and non-State agencies work together? What works and what could be improved?

What would improve the situation for women in Bolivia?

Whose responsibility is it?

What are the goals of CIDEM for the coming years?