

GENDER AND ATTITUDES TOWARD JUSTICE SYSTEM BIAS IN CENTRAL AMERICA*

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Abstract: What interests of Latin American women create distinctive attitudes toward justice system equality that differ from those of Latin American men? Building on recent work on general justice system bias and using 2003 Latinobarómetro data, I test this question in three Central American countries (Costa Rica, El Salvador, and Nicaragua) using two sets of attitudes toward justice system performance (equal punishment and equal treatment). Women are significantly more likely to believe that the criminal justice system provides unequal treatment before the law than are men, while women and men express the same level of belief that the justice system provides equal punishment. Evidence indicates that women connect unequal treatment to economic factors and follow a conflict model of criminal justice, which posits these attitudinal differences as a function of the group's subordinate position in society.

What interests of Latin American women create attitudes toward the criminal justice system that differ from those of Latin American men? A 2002 community-based study of criminal justice attitudes in Nicaragua suggests that difference exists, but not in the manner that one might expect. When asked to address two scenario questions concerning two incidents of violence against women (one performed by a poor male perpetrator and one by a wealthy male perpetrator), women in two Nicaraguan cities (Granada and León) were more likely than men to view the justice system as powerless against the wealthy male perpetrator and effective against the poor male perpetrator.¹ In short, Nicaraguan women in these two towns were more likely to view social class as a more important deter-

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1. Forty-nine percent of the 106 women and 62 percent of the 120 men said the two men would be treated equally ($\chi = 3.52$ and p -value = .06). After discussions with judges and women advocates, I expected a majority of women to say that both men would escape justice.

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minant of justice system performance than were Nicaraguan men in these two cities. These perceptions of unequal treatment by these Nicaraguan women contradict legal experts who argue that the Nicaraguan justice system is relatively ineffective in adjudicating violence against women cases regardless of the socioeconomic condition of the male perpetrator.² Why, then, do these Nicaraguan women have a stronger class-based evaluation of justice system equality than do their Nicaraguan male counterparts?

Affirmatively, this gendered class-evaluation difference is not isolated to a poor Latin American country like Nicaragua. Even in the United States, women appear more likely than men to view the justice system as unequal in the manner in which it treats poor people (Fossati and Meeker 1997; Richman 2002). Richman (2002), for example, connects procedural fairness to the issue of domestic violence and finds no gender difference in perceptions that women and men hold concerning the adequacy of courts and legal aid systems in dealing with the domestic violence problem. At the same time, women in an Orange County California study are more likely than men to say that these same institutions and agencies are inadequate in the manner in which they address the needs of poor people in general.

Are women's perceptions concerning justice system bias more universal than those found in these two community-based studies? In this article, I seek to understand how Central American women's interests in the criminal justice system affect their attitudes toward the fair application of criminal justice. I use three theoretical frames to examine gendered justice attitudes in Central America: the consensual model, the conflict model, and the procedural justice model. Survey evidence from Costa Rica, El Salvador, and Nicaragua indicate that gendered attitudes in the three countries more closely follow the conflict model in that gendered attitudes toward economic structural change condition women and men's attitudes toward equal treatment.

MODELS OF CRIMINAL JUSTICE

Studies of the criminal justice system and criminal law traditionally have followed two foundations concerning law creation: consensual and conflict. The consensual model posits criminal law as the embodiment of the moral beliefs and preferences of the consensus of a society and asserts that criminal actions occur because individuals have not internalized social norms concerning behavior (Gurr 1977, 13). In contrast, the conflict model posits criminal actions as actions that offend and threaten the in-

2. Interview by the author with Josefina Ramos, former Nicaraguan Supreme Court Justice by author, Managua, Nicaragua, February 2002. Moreover, Ellsberg and colleagues (2000, 1595) find that 52 percent of 488 women in León, Nicaragua, reported having experienced physical abuse by their partner "at some point in their lives."

terests of the dominant group in society (Gurr, 13). Stalans and Lurigio (1996, 370) argue that the conflict model suggests that this dominant group “has a different value system from the one held by less powerful members of society (i.e., *women*, working-class persons, and minorities) and that the legal system protects the most powerful groups in society.”

These two approaches to the criminal justice system suggest an answer to our puzzle of why women’s attitudes concerning criminal justice equality might differ from those of men. In both the consensus and the conflict models, leaders seek to impose a model of behavior on the mass public.³ Criminal law is the deployment of the beliefs and preferences of the dominant class in an attempt to create societal control and consensus. If the attitudes of women and men conform to the consensual model, women and men should agree on issues and aspects of crime and punishment. Given this consensual model, differences in the attitudes of women and men should relate to differences in gendered group concerns for victims. These expectations are warranted because the society agrees on what constitutes crime but differs on the impact of crime on different social groups. If the attitudes of women and men conform to the conflict model, women and men should disagree on the issues and aspects of crime and punishment. Given the conflict model, differences in attitudes should pertain to women’s subordinate position and men’s dominate position in the social and economic structure.

EVIDENCE OF CONSENSUS: WOMEN AND CRIME VICTIMS

Given the consensual model, differences in the attitudes of women and men should pertain to differences in group concerns for victims. What might create these differences? Family violence, violence against women, and the sexual exploitation of women give women specific interests in the development of the criminal justice system in new Latin American democracies. Molyneux (1985, 233) argues that the adoption of adequate measures against male violence and control over women are among the strategic gender interests of women (see, e.g., Luciano, Esim, and Duvvury 2005; Noonan 2002; Villanueva 1999).⁴ Judicial and police officials in El Salvador and Nicaragua are sensitive and sympathetic to domestic violence victims. For example, a former Nicaraguan Supreme Court justice acknowledges the limitations of the Nicaraguan system to protect domes-

3. Foucault (1977, 282) argues that delinquency is the isolation and deployment of certain differentiated and specified illegalities (see also Bernard 1981).

4. Molyneux (1985, 232–233) identifies three types of women’s interests: women’s interests, in terms of the interests women have as a group; strategic gender interests derived from women’s subordination; and practical gender interests that arise from the conditions of women’s position in the gender division of labor.

tic violence victims. She asserts: "Public defenders are for the accused, and, therefore the accused abuser receives the public assistance. There is no balance for the woman, no equity of condition."⁵

As the Richman (2002) article points out, developed democracies also have problems with violence against women. Violence against women reached a higher and more violent level in Costa Rica during 2002, when twenty-four women were murdered by their husband or companion.⁶ Veronica Dixon Lindo, a superior tribunal judge in Limón, Costa Rica, surmises that the expanding and improving Costa Rican economy contributes to a paradoxical heightening in the severity of domestic violence: "Women now have a more important place in society. I think that the most heinous violence occurs among people in the lower socioeconomic arena. We have to change the mentality in society that men have the right to control women. In Costa Rica, women are gaining greater economic independence and some men have reacted violently to women opting to leave bad relationships."⁷

At the same time, domestic violence is only one issue that gives women special interest in the development of the criminal justice system. Others include the protection of children and the sexual exploitation of women and children.⁸ In this context, women's interest in the justice system should produce attitudes toward the justice system that reflect specific concern for women and children victims of crime and should reflect group concern about the impact of crime. This reflects the consensual approach in that society agrees on aspects of criminal behavior but that crime disproportionately affects women and children.

EVIDENCE OF CONFLICT: WOMEN, JUSTICE, AND SOCIAL CHANGE

Given the conflict model, differences in the attitudes of women and men should pertain to women's subordinate position and men's dominate position in the social and economic structure. Gendered economic inequality affects the distribution of criminal justice.⁹ Del Olmo (1990) argues that the criminalization of women in the Latin American drug trade illus-

5. Ramos interview.

6. Carlos Arguedas and Elí Olivares, "Pescador mató a mujer con arpón," *La Nación*, February 14, 3.

7. Interview by the author with Veronica Dixon Lindo, superior tribunal judge, Limón, Costa Rica, March 4, 2003.

8. For example, see Barthauer and Leventhal (1999) for a discussion of child sexual abuse in rural El Salvador, Guy (1998) for a discussion of the development of the child rights movement in Latin America, and Downe (1999) for a discussion of prostitution in Costa Rica.

9. In 2003, women earned 39 percent, 36 percent, and 44 percent of the income of men in Costa Rica, El Salvador, and Nicaragua, respectively (United Nations Development Programme 2004).

trates women's subordination in the illegal labor market.¹⁰ For example, in April 2002, a sixty-four-year-old Nicaraguan grandmother was arrested for possession of and intent to distribute crack cocaine.¹¹ The deputy police commissioner of Nicaragua's Fifth Police District eluded to poverty being the principal factor in people's (like La Abuela's) involvement in drug-related crime.¹²

Changes in the types and magnitude of drug-related crime are a component of this transition in criminal justice. Drug-related offenses increased from 245 in 1990 (the last year of Sandinista rule) to 986 in 1994 (the fourth year of the center-right Unión Nacional Oposición, or National Opposition Union, government).¹³ This increase in drug-related arrests occurred despite the fact that the Nicaraguan National Assembly did not agree on a coherent drug policy until July 1994. The dual transition to democracy and market economy affects criminal justice and directly affects women. During the revolutionary period of 1980 to 1990, the Sandinista government effectively wiped out prostitution as an organized business in Managua.¹⁴ By 2002, however, more than two thousand women worked as prostitutes in organized centers of prostitution in the Nicaraguan capital. Of those two thousand women, 40 percent were minors. Child prostitution is illegal in Nicaragua. Nicaraguan women's organizations argue that poverty is the major cause of prostitution and that the reduction of poverty is the remedy, not criminalization.¹⁵

Nicaragua is an obvious case in which regime type, economic system, and criminal justice interact. As a former Nicaraguan Supreme Court justice asserts, ten years of Sandinista rule "disrupted the orientation that some Nicaraguans had toward private property."¹⁶ El Salvador's transition from authoritarian rule also shows that regime transition involves changes in criminal justice that include political, economic, and state dimensions.

10. Much work in Latin America examines women's condition in Latin American labor markets (Cupples 2004; Montoya 2003, 374–377; Radcliffe 1999).

11. Moisés González Silva, "La Abuela de la droga, arrepentida y presa," *El Nuevo Diario*, April 20, 2002, 8.

12. *Ibid.* The deputy police commissioner's emphasis on economic need as a cause for crime appears to be a residual effect of Nicaragua's adoption of a popular justice (socialist) model of criminal justice during the revolutionary period (Wilson 1991). On the police internalization of new law enforcement directives, see Bonger (1916) and Foglesong and Soloman (2001).

13. Twelve percent of drug crimes in 1990 (30 occurrences) and 1994 (121 occurrences) involved drug trafficking (Burnham and Burnham 1999).

14. Rafael Lara, "Managua ya tiene 2 mil prostitutas," *El Nuevo Diario*, March 17, 2002, 4.

15. *Ibid.*

16. Interview by the author with Harlan Kent Henríquez, former Supreme Court magistrate, by the author, Managua, Nicaragua, February 2002. Williams (1994, 183) argues that the Nicaraguan revolution fundamentally changed "power and property relations" in the country.

Salvadoran judicial reform of the early 1990s had two main goals: enhancing the independence of "specific judges who were trying high-profile human rights cases, and increasing the technical and investigative capabilities of the criminal court system" (Prillaman 2000, 44). Seeking to attract supporters of social justice policies, the reform included a juvenile justice law that created a justice system that is more sympathetic to the needs of youths who participate in criminal activity (Call 2003, 840).

Similarly, the Nicaraguan revolutionary government of the 1980s attacked youth violence as "a symptom of unfavorable social conditions" and not as a problem of crime control (Núñez de Escorcía 1985, 23). Altering this socially oriented juvenile justice policy, the Liberal Party-led National Assembly passed a juvenile justice law in 1999 "to clamp down on visible youth crime and thereby restore a sense of security among the urban populace" (MaClure and Sotelo 2003, 681).¹⁷

Although the Salvadoran judicial reform added some social-welfare elements, the liberal-democratic model of criminal justice privileges private property. Reported robbery is an important indicator of the public's acceptance and use of the liberal criminal justice system. For El Salvador, reported robberies increased from four thousand in 1997 to ten thousand in 1999 (Call 2003, 841). This increase in reported robbery is also a function of increased gang activity (Santacruz-Giralt and Concha-Eastman 2001, 13). In contrast, the revolutionary Nicaraguan government's popular (socialist) model of justice (1980 to 1990) deemphasized property crime, and reported a drop in thefts from 10,497 in 1980 to 1,986 in 1983 (Jails 1986; Núñez de Escorcía 1985, 14). Most remarkably, theft as a percentage of all crime dropped from 27 percent in 1980 to 5 percent by 1983. By 1994, and under the Unión Nacional Oposición-led government, reported theft rebounded to 7,655 incidents and 16 percent of all reported crime (Burnham and Burnham 1999).

Crime has also increased in Costa Rica. Although Costa Rica is a consolidated democracy, incremental neoliberal reform and a wave of urban migration affect crime and criminal justice in the stable country (Booth 1998; Davis, Ai Camp, and Coleman 2004). From 1987 to 1997, property crime grew by 40.5 percent (Chinchilla 2003, 207). Because economic transition is not simultaneous with democratic transition, attitudes toward economic transition and gender should have direct effects on attitudes toward justice system fairness. If women have different perceptions of the equality of justice than do men, these perceptions are directly related to gendered group differences.

17. The legislation was the Integrated Development Plan for the Prevention of Juvenile Violence in 1999. Under the law, Managua police systematically arrested suspected gang members without judicial warrants (MaClure and Sotelo 2003, 681).

In summary, the transition to democracy and the market involves the decision by the dominant economic and political interests to emphasize certain delinquencies over others. Given women's subordinate economic position in the new democratic order, women, as a group, are less likely to agree with the criminalization decisions of the dominant economic and political interest. Additionally, women's subordinate position in consolidated democracy also gives women reason to disagree with the criminalization decisions of the dominant economic and political interest. The conflict model indicates that the attitudes of women and men concerning justice equality should differ on the basis of an interaction between gender and change in the economic structure.

THE PROCEDURAL JUSTICE ALTERNATIVE

The procedural justice model offers an alternative explanation for differences in the equal-justice attitudes of women and men. Procedural justice studies examine the attitudes of individuals who have direct experience or knowledge of the criminal justice system (Benesh 2006; Casper 1978; Fossati and Meeker 1997; Tyler 1990; Tyler and Rasinski 1991). Investigators then clarify individuals' attitudes toward procedures such as aspects of judicial decision making or fairness of procedures. These studies go on to link attitudes toward procedural justice to institutional confidence and are important to the current study because they posit a direct relationship between perception of fairness and the respondent's institutional confidence. Recent procedural justice work that examines justice system bias and trustworthiness has found demographic and gender differences (Fossati and Meeker 1997; Garcia and Cao 2005; Noonan 2002).

Although these procedural justice studies stipulate that perception of equal procedures influences institutional confidence, it is less likely that fair procedures influence institutional confidence at the mass-society level, even in developed democracies such as the United States and Costa Rica. In developing democracies, this cause-and-effect configuration is even less likely. Rather, it is more likely that institutional confidence influences the individual's perception of fairness. The latter condition is more likely because citizens in new democracies lack detailed knowledge of criminal procedure. Moreover, procedures change constantly, as lawmakers and state bureaucracies are still determining the laws and procedures of the new democratic state. In turn, citizens' assessments of justice system fairness are likely based on the confidence they hold in the trustworthiness of fledgling governmental institutions.

Literature suggests that women's organizations in many Latin American countries have established strategic relationships with officials in the state apparatus (e.g., Blandón 2001; Franceschet 2003; Jaquette 1994; Mishler and Rose 1994; Waylen 1994). For example, Sagot (2005, 1307) points out

that Costa Rican and Nicaraguan national police have established female precincts in some areas to directly address the needs of women in the domestic violence cases. This state feminist strategy is a change from the earlier strategy of Latin American feminist and women's organizations, which sought alliances with leftist political parties (Kauffman 1990).

Clearly, Central American women have made progress in the state apparatus. In 2003, women accounted for 29 percent of ministerial positions in Costa Rica, 15 percent of ministerial positions in El Salvador, and 23 percent of ministerial positions in Nicaragua.¹⁸ In relation to the judicial power, women hold 60 percent of the more than 680 judicial positions in Costa Rica, 40 percent of the 640 judicial positions in El Salvador, and 40 percent of the nearly 400 judicial positions in Nicaragua.¹⁹ However, women jurists tend to occupy positions in the lower levels of the judicial pyramid. Only four of twenty-two Costa Rican Supreme Court justices are women. Still, descriptive representation of women by women in the Costa Rican judiciary fails to produce different gender attitudes concerning the Costa Rican judiciary.²⁰ Costa Rican men and women express the same level of confidence in the Costa Rican judiciary.²¹

Nonetheless, given the success of women in obtaining positions in the state apparatus since the democratic transitions in El Salvador and Nicaragua, it is reasonable to expect that women's attitudes toward justice equality interact with the level of confidence that they hold in the judiciary and police. In summary, women's attitudes toward justice system equality differ systematically from those of men on the basis of the level of confidence they hold in the judiciary and the police.

HYPOTHESES

Given the three theoretical approaches (consensual, conflict, and a procedural justice variant), three testable hypotheses concerning gender and assessment of equal justice emerge:

Hypothesis 1 (procedural): Gendered attitudes toward the equality of the justice system are expressed through an interaction between gender and institutional confidence.

18. United Nations Human Development Programme 2004.

19. Irene Vizcano, "484.000 casos judiciales están pendientes," *La Nación*, February 26, 2003, 12A). Salvadoran figure from Call (2003, 857n88); Nicaraguan figure from Ramos interview.

20. For a discussion of gender and descriptive representation, see Atkeson 2003; Rosenthal 1995; and Sanbonmatsu 2003.

21. Using the 2003 Latinobarómetro, median judicial confidence is five on a sixteen-point scale for both men and women (p -value for Mann Whitney sum rank test of distributional difference is 0.71).

Hypothesis 2 (consensual): Gendered attitudes toward the equality of the justice system are expressed through an interaction between gender and concern for crime victims.

Hypothesis 3 (conflict): Gendered attitudes toward the equality of the justice system are expressed through an interaction between gender and attitude toward the economic structure.

THE STRUCTURE OF CRIMINAL DECISIONS AND ENFORCEMENT

In this section, I briefly discuss judicial decision making and police administration as they pertain to the distribution of justice in Costa Rica, El Salvador, and Nicaragua. At all criminal judicial levels (the *juzgados penales*, the superior tribunals, and the criminal chamber of the Costa Rican Supreme Court), Costa Rica uses a panel of judges to oversee cases, to render verdicts, and to impose sentences.²² El Salvador has three levels to its criminal court structure (trial courts, appellate courts, and a criminal chamber within the Supreme Court), whereas Nicaragua has four levels to its criminal court structure (local courts, district courts, appellate courts, and a criminal chamber within the Supreme Court). In felony-type cases, defendants may choose trial by jury. This selection is most likely at the trial-court level in El Salvador and at the district-court level in Nicaragua. These levels oversee felony-type cases. In both countries, juries are not a part of the evidential process but have access to judicial instruction, the court record, and attorneys' arguments.²³ In both countries, judges pronounce the sentences of individuals who are convicted by juries. In both countries, however, defendants can forgo a jury trial, and most defendants do. When the accused person chooses not to use a jury trial, the judge renders the verdict and the sentence.

The Costa Rican national police structure is housed in two national institutional structures. The Ministry of Interior oversees the Fuerza Pública (the national police), and the Supreme Court of Justice oversees the Organismo de Investigación Judicial (OIJ). The Fuerza Pública oversees disorder patrol, and the OIJ oversees investigative duties. Police reform was a major component of the Salvadoran peace accords of the 1990s. In the aftermath of civil war the Policía Nacional Civil replaced the old national police,

22. Each juzgado penal is assigned four judges (three serve on each case); six judges are assigned to the superior tribunal court, and three serve on each case, and the Supreme Court's criminal chamber has five members.

23. Both countries have modernized their criminal procedures to include more oral hearings and to give juries a larger role in the evidential process. El Salvador revised its criminal code in 1998 (*Revista Judicial* 2003, vol. 104. San Salvador: *Rústico*), and Nicaragua revised its code in 2002 (Ley No. 406: Código Procesal Penal de la Republica de Nicaragua, published in *La Gaceta*, nos. 243 and 244, December 21 and 24, 2001.)

which had been controlled by the Ministry of Defense (Call 2003; Pérez 2003–2004). These reforms demilitarized the police and created a police organization whose doctrine emphasizes “protection of civilian rights” (Pérez 2003–2004, 631). The Nicaraguan national police are also civilian controlled and housed under the Ministry of Government.

MODELING AND MEASURING JUSTICE SYSTEM EQUALITY

Data

I use the 2003 Latinobarómetro to test the hypotheses of interest. The Latinobarómetro Corporation of Santiago, Chile, compiled the data. The same precoded questionnaire was used in the three countries.²⁴ The Costa Rican, Salvadoran, and Nicaraguan samples contain 1,004, 1,008, and 1,010 respondents, respectively. The three samples represent 100 percent of each country’s population and each has a 3 percent margin of error.

Models

The first task is to establish women’s and men’s evaluations of justice system equality in the form specified by the three hypotheses.

- Perception of equal justice = gender + victimization + (gender × victimization).
- Perception of equal justice = gender + market support + (gender × market support).
- Perception of equal justice = gender + institutional confidence + (gender × institutional confidence).

MEASUREMENT

I measure perception of equal justice on two dimensions: equal treatment and equal punishment. Treatment and punishment are different concepts. *Treatment* refers to various processes in the justice system, whereas *punishment* pertains directly to the sentencing of the perpetrators of crime. In turn, equality of treatment reflects the degree of consensus that may exist on criminal laws and criminal justice policies and procedures. In contrast, equality of punishment reflects the degree of societal consensus that exists for punishments handed down by the justice system for an agreed-upon hierarchy of delinquency (Roberts and Stalans 1997, 13). The 2003 Latinobarómetro asked respondents to evaluate equal treatment and

24. Scholars have criticized the Latinobarómetro as unrepresentative and biased toward urban respondents (e.g., Canache, Mondak, and Seligson 2001). Since these criticisms, the geographical demographics of the survey have improved in most countries.

equal punishment in their respective countries with the following statements and responses:

- Do you think your countrymen have equal treatment in front of the law? Not equal at all, little equality, nonsolicited nonresponse, quite equal, very equal.
- The judicial system punishes the guilty no matter who they are. Disagree, somewhat disagree, nonsolicited nonresponse, somewhat agree, agree.

The questions tap general concern for justice system bias. O'Donnell (1999) argues convincingly that bias of the criminal justice system is a characteristic of the (un)rule of law in Latin America, which makes these questions fundamentally important to public perception of the rule of law.

As evidence of face validity that public perception of equal treatment and equal punishment are different concepts, the five-level ordinal versions of the two variables are correlated but not highly (Costa Rica: $r = .184$; El Salvador: $r = .142$; Nicaragua: $r = .188$). I dichotomize the equal treatment responses into the categories of equal treatment (1) and unequal treatment (0), where "very equal" and "quite equal" comprise the equal treatment category, and all other responses, including no response comprise, unequal treatment. I dichotomize the equal punishment responses into the categories of equal punishment (1) and unequal punishment (0), where "agree" and "somewhat agree" comprise the equal punishment category, and all other responses, including no response, comprise unequal punishment.

Independent Variables

Gender is the chief independent variable and is measured by gendered categories of men and women (= 1). Institutional confidence is measured as confidence in the two principal institutions of the justice system: the judiciary and the police. I use three Latinobarómetro questions to create a sixteen-point index measure of judicial and police confidence. The same questions are directed at both institutions. The questions and responses are:

1. How much confidence do you have in the judiciary (police)? 1 = "no confidence"; 2 = "little confidence"; 3 = "some confidence"; and 4 = "high confidence."
2. Which of the following institutions is indispensable to the workings of the country? 0 = "courts (police) not mentioned"; 1 = "courts (police) mentioned."
3. Which of the following do you believe in? 0 = "judiciary (police) not mentioned"; 1 = "judiciary (police) mentioned."

An institutional confidence value of 1 indicates no confidence in the institution, the institution is dispensable, and no belief in the individual mem-

bers of the institution. An institutional confidence value of 16 indicates high confidence in the institution, the institution is indispensable, and belief in individual members of the institution.

Victimization is a dichotomous variable that assesses whether the respondent or a family member has been a victim of crime in the past twelve months (1 = "yes").²⁵ The victim-of-crime measure is a relatively good measure of individuals who should have some sympathy for crime victims. If women have different attitudes concerning victimization that influence their distinctive equal justice attitudes, these attitudes should be discernable in this victimization measure or in an interaction with this victimization measure. In the three countries, relatively high percentages of respondents acknowledge victimization: Salvadorans (39.6 percent), Costa Ricans (32.6 percent), and Nicaraguans (32.2 percent). In the three countries, similar percentages of women and men acknowledge victimization (36.4 women and 42.8 men in El Salvador; 31.4 women and 33.7 men in Costa Rica; and 30.9 women and 33.5 men in Nicaragua).

Market support is used to evaluate evidence for the conflict model. If women's attitudes toward justice system equality are related to economic structure, these attitudes should be discernable in an interaction with this market support variable. High percentages of citizens in the three countries believe that a market economy is necessary for development (those citizens who somewhat agree or strongly agree): Costa Rica = 64 percent, El Salvador = 57 percent, and Nicaragua = 72 percent. The market-support variable is an ordinal variable with the following extremes: 1 = "strongly disagree that market is only way for country to develop," and 5 = "strongly agree that market is only way for country to develop."

FINDINGS

Gendered Equal Justice

The four plots in figure 1 plot mean gendered equal treatment perception and mean gendered equal punishment perception by median judicial and median police confidence. Plots 1-1 and 1-2 of figure 1 model gendered equal treatment and show that overall assessment of equal treatment is quite similar across the three countries: 35.8 percent in Costa Rica, 34.8 percent in El Salvador, and 34.5 percent in Nicaragua. Both plots reveal, however, that women and men across the three countries differ in their perceptions of equal treatment. Women evaluators cluster around 30 percent on the two equal treatment plots: Costa Rican women 31.2, Salvadoran women 32.8, and Nicaraguan women 30.3. Alternatively, male

25. The actual question states: "Have you, or someone in your family, been assaulted, attacked or a victim of a crime in the last 12 months?"

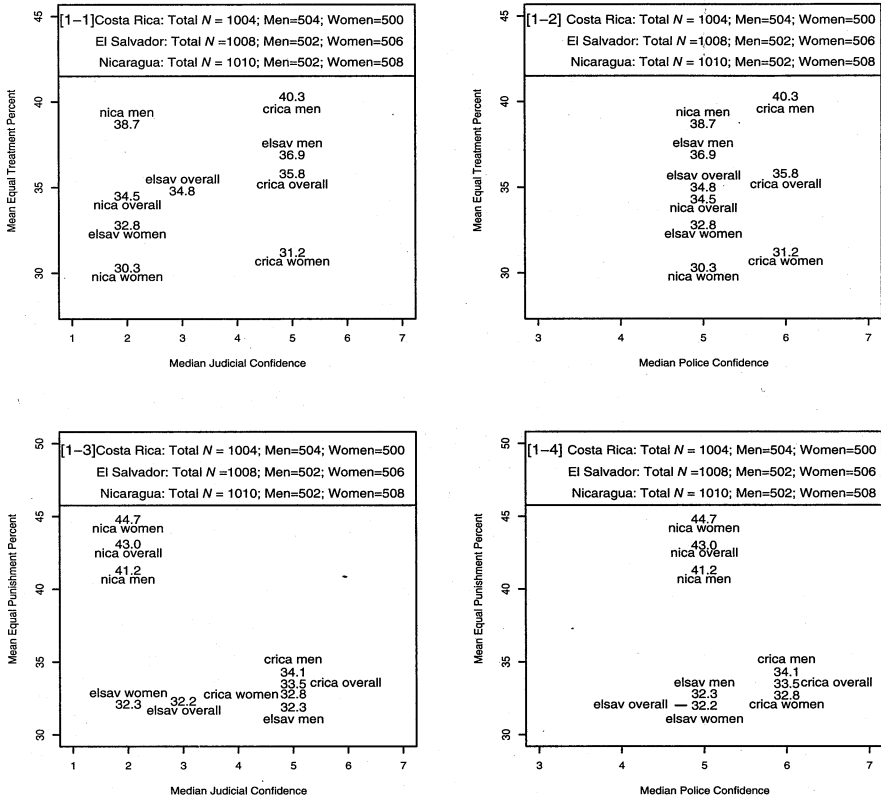


Figure 1 Procedural Hypothesis: Gendered Attitudes toward Treatment and Punishment by Institutional Confidence

evaluators cluster around 40 percent on the two equal treatment plots: Costa Rican men 40.3, Salvadoran men 36.9, and Nicaraguan men 38.7.

Meanwhile, plots 1-3 and 1-4 of figure 1 show that equal punishment attitudes cluster by country, not by gender. In short, there is no visible gendered difference in perceptions of equal punishment in Costa Rica, El Salvador, or Nicaragua. Higher percentages of Nicaraguan women (44.7) and men (41.2) express the belief that their country provides equality of punishment than do percentages of Costa Rican (32.8 and 34.1) or Salvadoran (32.3 and 32.2) women and men. It does seem odd that Nicaraguans express higher belief in equal punishment than Costa Ricans. However, Nicaragua's relatively successful use of the trial-by-jury system as a democratic mechanism partly explains this condition. The system is successful in the sense that it is more likely than in the past that a poor perpetrator (like the arrested grandmother) will avoid jail because the jury refuses to convict. Nicaraguan judges complain about the jury's tendency to ac-

quit in the face of overwhelming evidence of the guilt of the accused.²⁶ Equality should not be equated with effectiveness. In turn, poor citizens are more equal to wealthy citizens who have avoided jail sentences in the past. The Nicaraguan equal-punishment percentage is more likely to include people who believe that the system is equally ineffective.²⁷

Note that Nicaraguan women are most likely to believe that the justice system provides equal punishment (44.7 percent) and least likely to believe that citizens have equal treatment before the law (30.3 percent). No other gendered group has such a large disparity in its evaluations of treatment and punishment. I will discuss this disparity more fully in a subsequent section of the article. In summary, gendered differences in perceptions of equal treatment exist in the three countries, with women expressing lower belief in equal treatment than men. No gendered differences exist in perceptions of equal punishment. We observe a lack of gendered consensus on the treatment dimension and gendered consensus on the punishment (sentencing) dimension. Do these gendered equal justice evaluations interact as specified in the hypotheses of interests?

Procedural Hypothesis

Given the acceptance of the procedural justice model in attitudes concerning justice system equality, I test the procedural hypothesis first. If the procedural model holds, women's lower confidence in the judiciary and police should explain a significant portion of the gendered equal treatment gap. Figure 1 shows the procedural relationship and provides little support for a gender-institutions interaction in equal justice perception. The plots show that Costa Ricans have higher confidence in the judiciary and police than do Salvadorans and Nicaraguans. At the same time, there is little evidence of an interaction between institutional confidence and gender in association with perception of equal treatment. This suggests either that gender has a direct effect on perception of equal justice or that gender interacts with another variable to influence equal treatment perception. Although median judicial confidence for Salvadoran women and men is 2 and 5, respectively, the distribution of judicial confidence values do not differ (Mann Whitney sum rank test statistic = 126,287, and p -value = .8763).

Consensual Hypothesis

If gendered differences in equal treatment perception interact with concerns about the treatment of victims, there is agreement on crime but

26. Ramos and Kent interviews.

27. The 2003 Latinobarómetro survey took place before the arrest and conviction of former Nicaraguan president Arnoldo Alemán.

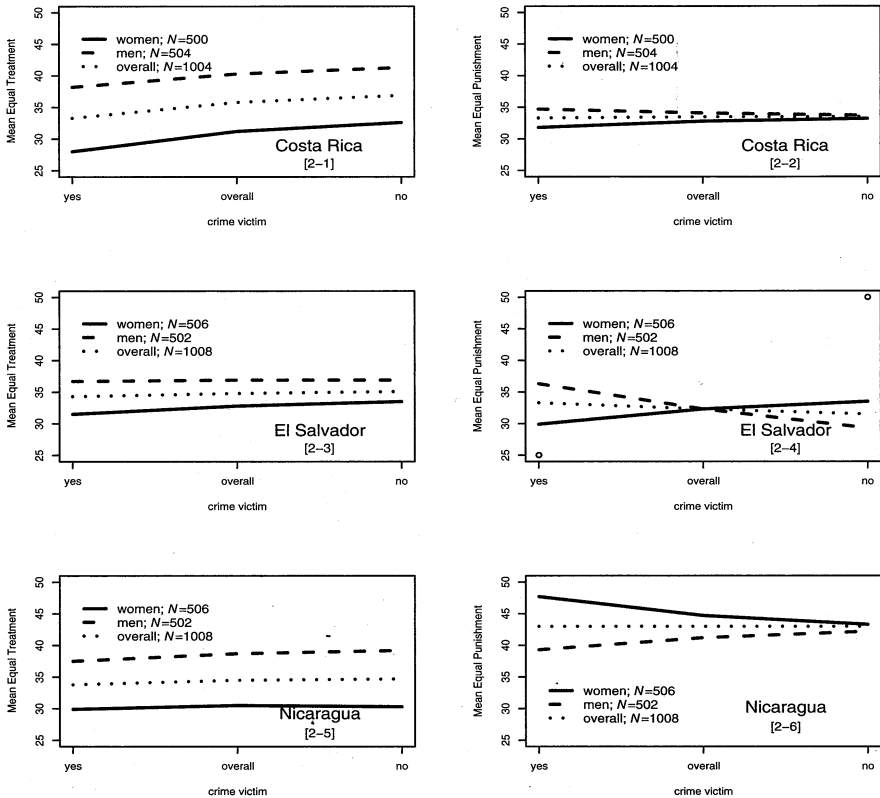


Figure 2 Consensual Hypothesis: Gendered Attitudes toward Treatment and Punishment by Victims of Crime

concern about its disproportionate effect on women and children victims. Figure 2 plots mean equal justice perception by victimization category for each gender category and the overall population. Plots 2-1, 2-3, and 2-5 show that male victims and nonvictims have higher perceptions of equal treatment than do women victims and women nonvictims. Additionally, the plots show that victim and nonvictim status, particularly in El Salvador and Nicaragua, has little effect on equal treatment perception. Meanwhile, there is no evidence of interaction between gender and victimization as they pertain to equal treatment. Women, regardless of victim status, are less likely to believe that the justice system treats people equally.

However, plots 2-2, 2-4, and 2-6 show some evidence of an interaction between gender and victimization as they pertain to equal punishment perception. Note, though, that “overall” women and men have roughly the same mean equal punishment value. In summary, women differ from men in how they view treatment in the justice system, and these differences do

not interact with victim status. Conversely, some evidence suggests that equal punishment perception is influenced by the interaction between gender and victimization. For El Salvador, in particular, there appears to be some evidence of consensus on punishment but also a belief among women that crime affects women and children disproportionately.

Conflict Hypothesis

If gendered differences in equal treatment perception interact with attitudes about the market economy, there is disagreement on the structure of criminal law and criminal procedure. Figure 3 offers evidence for the conflict model in that gender and market support interact to affect perception of equal treatment in El Salvador and Nicaragua. In El Salvador, support for the market has a stronger linear effect on the equal treatment perceptions of women than it does on the equal treatment perceptions of men. Conversely, market support has a stronger linear effect on the equal treatment perception of Nicaraguan men than it does on the equal treatment perceptions of Nicaraguan women. Why do attitudes toward the market economy affect women differently across these two developing democracies? Economic change in El Salvador occurred in tandem with greater emphasis on human, women's, and children's rights. Conversely, economic change in Nicaragua occurred as the society moved away from a social justice model, a model that many Nicaraguan women organizations embraced as they aligned with the political left. In these differing environments, women's attitudes differ from their male counterparts as they resist and adapt to the laws emphasized by the economic and political elite. Consequently, women's subordinate position in both societies prompts them to disagree with men on the overall equality of treatment that results from the decisions made by dominant economic and political interests.

No such interaction effect occurs among men and women in Costa Rica. At each level of market support, Costa Rican men have higher equal treatment perceptions than do Costa Rican women. The lines in plot 3-1 of figure 3 are roughly parallel. Once again, the difference in the equal treatment attitudes of Costa Rican women and men is captured in the main effect of gender. Meanwhile, plots 3-4 and 3-6 show that market support generally affects the equal punishment attitudes of Salvadoran and Nicaraguan men and women similarly. The mean equal punishment perception of Nicaraguan women only differs significantly from that of Nicaraguan men at the level of "disagree" with market. Salvadoran women and men have similar mean equal punishment perceptions at all levels of market support. Last, the Costa Rican equal punishment plot (3-2) shows that women who have "no opinion" of the market economy are far more likely than their "no opinion" male counterparts to believe in equal punishment. This is an interesting finding. Given that nonrespondents are

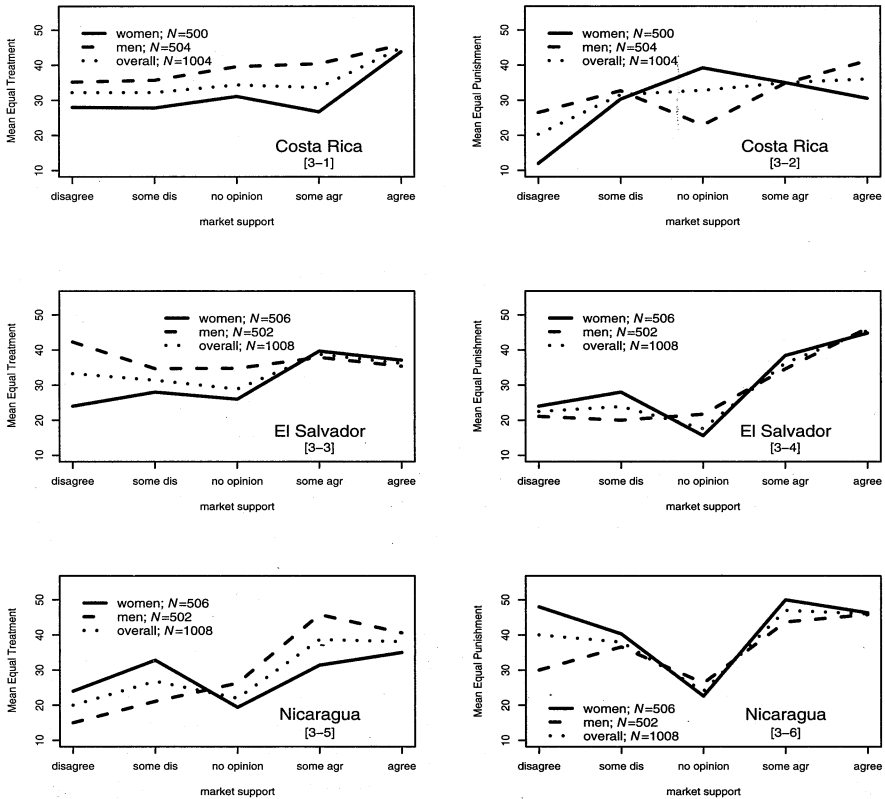


Figure 3 Conflict Hypothesis: Gendered Attitudes toward Treatment and Punishment by Market Support

generally less knowledgeable, the finding suggests that women who lack an opinion of the market economy are less aware of changes in the justice system that the greater emphasis on markets has required.

FULL MODEL OF EQUAL JUSTICE

Although the preceding analysis finds some support for both the conflict (equal treatment evaluations) and consensual (equal punishment evaluations) models of justice, full testing of the three models requires stronger multivariate analysis. I have established five components to a multivariate model of equal justice: gender, judicial confidence, police confidence, victimization, and market support. Moreover, information plays a critical role in determining public attitudes toward criminal justice (Roberts and Stalans 1997, 13). The procedural justice model of justice system fairness is grounded in the knowledge of respondents. Moreover, Verba, Burns,

and Scholzman (1997) show that gendered effects are sensitive to political knowledge controls. Given the importance of knowledge to assessment of fairness, the full equal justice model is as follows:

$$\text{Perception of equal justice} = \text{gender} + \text{judicial confidence} + \text{police confidence} \\ + \text{victimization} + \text{market support} + \text{knowledge}.^{28}$$

I include four knowledge factors: knowledge of political and social events, education, city size (i.e., the size of the respondent's city), nonresponse weight (i.e., weight for the likelihood of nonresponse). Knowledge of political and social events is a direct self-assessment of knowledge. Education has a positive effect on knowledge (Verba, Burns, Scholzman 1997). City size relates to urbanization, which produces wider political inclusion, greater mobility, and larger informational networks (Dietz 1998, 33–34; Rueschemeyer, Stephens, and Stephens 1992, 177–178). Item nonresponse is directly related to knowledge and access to information (Krosnick 1999; Mondak and Anderson 2004). Nonresponse weight ranges from 0 to 1, with values at each one-tenth. The nonresponse rate adds nonresponses to ten questions that relate to the state apparatus (six questions) and citizens' obligations (four questions), and the sum is then divided by ten. The ten questions include the equal punishment question (in the state apparatus battery) and the equal treatment question (in the citizen obligation battery). For El Salvador, 71 percent responded to all ten questions (nonresponse weight = 0), with 1.7 percent nonresponse to all ten questions (nonresponse weight = 1). For Nicaragua, 74.8 percent responded to all ten questions, with 1.3 percent nonresponse to all ten questions. For Costa Rica, 76.4 percent responded to all ten questions, with 0.2 percent nonresponse to all ten questions.

Statistical Method

I ran two logistic regression models: the first with equal treatment as the dichotomous outcome variable and the second with equal punishment as the dichotomous outcome variable. I ran separate regression models for each country. Because the logistic regression model is susceptible to overdispersion, I simulated the standard error estimates using a uniform distribution and the actual coefficient estimates.

MULTIPLE-REGRESSION FINDINGS

Table 1 shows that women differ significantly from men in the way that they evaluate equality of treatment in front of the law and conform most strongly to the conflict model of criminal justice attitudes. This conflict

28. I also control for income, political ideology, and attitude toward corruption progress.

Table 1 Logistic Regression Models of Equity of Justice

	Equal Treatment			Equal Punishment		
	Costa Rica	El Salvador	Nicaragua	Costa Rica	El Salvador	Nicaragua
	Coefficient (S.E.) [z-value]	Coefficient (S.E.) [z-value]	Coefficient (S.E.) [z-value]	Coefficient (S.E.) [z-value]	Coefficient (S.E.) [z-value]	Coefficient (S.E.) [z-value]
Woman	-0.446 (0.142) [-3.14]	-1.056 (0.301) [-3.51]	0.694 (0.302) [2.30]	-0.054 (0.132) [-0.41]	0.361 (0.189) [1.91]	0.101 (0.131) [0.76]
Judicial confidence	0.023 (0.014) [1.64]	0.012 (0.014) [0.86]	0.030 (0.014) [2.14]	0.050 (0.014) [3.50]	0.035 (0.014) [2.50]	0.021 (0.014) [1.50]
Police confidence	0.039 (0.014) [2.79]	0.050 (0.014) [3.57]	0.022 (0.014) [1.57]	0.017 (0.014) [1.21]	-0.003 (0.014) [-0.21]	0.025 (0.014) [1.79]
Victim of crime	-0.100 (0.130) [-0.77]	-0.015 (0.130) [-0.12]	-0.016 (0.129) [-0.13]	0.011 (0.131) [-0.09]	0.429 (0.183) [2.34]	0.179 (0.130) [1.38]
Market support	0.095 (0.046) [2.07]	-0.139 (0.067) [-2.07]	0.326 (0.065) [5.01]	0.086 (0.046) [1.87]	0.253 (0.046) [5.50]	0.101 (0.046) [2.20]
Market × women(treat)		0.254	-0.265		-0.601	
Victim × women(punish)		(0.092) [2.71]	(0.092) [2.88]		(0.260) [-2.31]	
Knowledge Variables						
Knowledge	-0.051 (0.047) [-1.09]	-0.147 (0.047) [-3.13]	0.102 (0.047) [2.17]	-0.125 (0.048) [-2.60]	-0.107 (0.047) [-2.28]	-0.296 (0.047) [-6.30]
Education	-0.140 (0.032) [-4.38]	0.016 (0.032) [0.50]	-0.109 (0.032) [-3.41]	-0.172 (0.033) [-5.21]	-0.175 (0.032) [-5.49]	-0.230 (0.033) [-6.97]
City size	0.018 (0.032) [0.56]	-0.034 (0.028) [-1.27]	-0.103 (0.032) [-3.22]	0.077 (0.033) [2.33]	-0.019 (0.028) [-0.69]	0.013 (0.032) [0.41]
Nonresponse weight	-1.487 (0.206) [-7.22]	-2.277 (0.207) [-11.00]	-1.557 (0.206) [-7.56]	-2.944 (0.207) [-14.22]	-4.691 (0.207) [-22.66]	-4.079 (0.207) [-19.70]
Intercept	0.050 (0.432) [0.12]	-0.056 (0.449) [-0.12]	-1.273 (0.442) [-2.87]	0.351 (0.434) [0.31]	-1.026 (0.429) [-2.39]	-0.047 (0.430) [-0.11]

(continued)

Table 1 (Continued)

	Equal Treatment			Equal Punishment		
	Costa Rica	El Salvador	Nicaragua	Costa Rica	El Salvador	Nicaragua
	Coefficient (S.E.)	Coefficient (S.E.)	Coefficient (S.E.)	Coefficient (S.E.)	Coefficient (S.E.)	Coefficient (S.E.)
	[z-value]	[z-value]	[z-value]	[z-value]	[z-value]	[z-value]
Null deviance	1309.2	1303.0	1300.9	1280.0	1267.4	1380.1
Residual deviance	1261.2	1230.7	1225.9	1177.9	1120.5	1217.0
Prob > chi-square	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Observations	1004	1008	1010	1004	1008	1010

Notes: I also control for political ideology, income, and attitude toward corruption. Coefficient estimates are MLE estimates. Standard errors are simulated through the DESIGN Package 1rm function in the R statistical environment. Judicial and police confidence are measured on an ordinal scale that ranges from 1 to 16. Knowledge: 1 = no, 2 = little, 3 = some, 4 = much. Education: 1 = none, 4 = secondary incomplete, 7 = university degree. Nonresponse weight ranges from 0 to 1 with values at each 1/10. Income: 1 = very bad, 5 = very good. Corruption progress: 1 = no progress, 2 = little, 3 = not sure, 4 = some progress, 5 = much progress. Data source: 2003 *Latinobarómetro*.

framework is shown in the significant interaction between women and attitudes toward a market economy as it pertains to equal treatment evaluations. Conversely, no gender difference exists between the attitudes of Costa Ricans, Salvadorans, and Nicaraguans concerning equal punishment. Across the three equal punishment models, the “woman” variable is only associated significantly with equal punishment perception for Salvadorans, and this association is relatively weak (not significant at the .05 level). In short, women are not differently concerned about the level of punishment distributed by the criminal justice system. Rather, women express different and class-based concerns about the treatment that citizens receive in the criminal justice system. The market relationship suggests that these concerns are based on women’s subordinate position in the economic structure.

Procedural Hypothesis

Gender does not interact with institutional confidence to affect equal justice perception in any of the six models in table 1. Consequently, there is no support for the hypothesis that gendered attitudes follow this variant of the procedural justice framework. Nevertheless, table 1 shows that institutional confidence affects perception of equal justice in the three countries. Costa Ricans and Salvadorans are more likely to link linearly their equal treatment perceptions to the police than to the judiciary. Conversely, Nicaraguans privilege the judiciary slightly more than the police

in their equal treatment perceptions. Costa Ricans and Salvadorans link their equal punishment perceptions to the judiciary and not at all to the police, whereas Nicaraguans link equal punishment to judiciary and police almost equally.

Consensus Hypothesis

An interaction between gender and victimization does not account for the difference in women's and men's equal treatment perceptions. There is no evidence of consensus on the equal treatment dimension. Additionally, given the lack of a significant victim–equal justice relationship on both dimensions and the lack of a significant gender–market economy interaction on the equal punishment dimensions, women and men form a consensus on the equal punishment dimension. The victim of crime variable is insignificant for women in all six regression models, and interaction terms between gender and “victim of crime” fail to reach significance in all six models. Although the Salvadoran equal punishment model does produce a significant coefficient estimate for “victim of crime,” this means that male victims have a significantly higher probability of believing in equal punishment than do male nonvictims. At the same time, because women interact with “victim of crime” to affect equal punishment probability negatively, there is no difference between the attitudes of victim women and victim men.²⁹ Moreover, as a result of the interaction term, there is no difference between the equal punishment perceptions of victim and nonvictim Salvadoran women. Taken together, this finding suggests that women's distinctive evaluations of treatment are not related specifically to sympathy for women and children crime victims.

Conflict Hypothesis

The equal treatment perceptions of Costa Rican, Salvadoran, and Nicaraguan women and men are best understood through the conflict framework. The equal treatment evaluations of Salvadoran and Nicaraguan women are linked to support for the market economy and result in lower equal justice probabilities than their male counterparts. In short, Salvadoran and Nicaraguan women's evaluations of equal treatment are directly related to economic evaluations of the justice system. Salvadoran women's equal treatment perceptions are associated positively with their support for the free market economy. As support for the market economy increases, the probability of belief in equal treatment increases more strongly for Salvadoran women than it does for Salvadoran men when

29. I tested gender-victim interactions for Nicaragua ($b = .103$; $p = .725$) and Costa Rica ($b = .289$, $p = .343$), and neither proved significant.

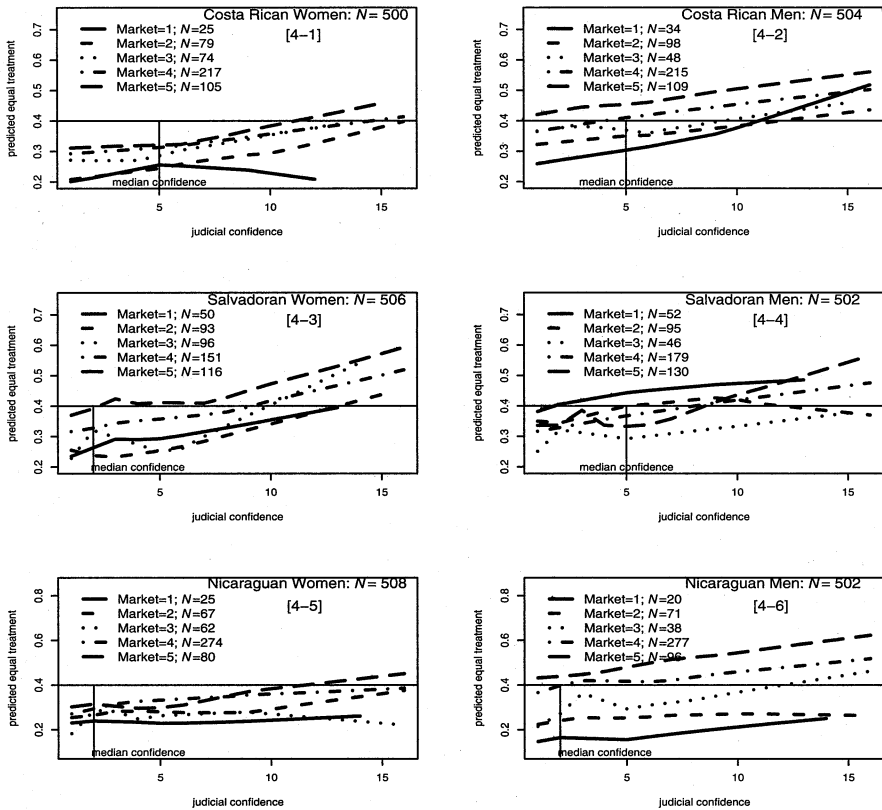


Figure 4 Gendered Attitudes Predicted Belief in Equal Treatment by Judicial Confidence and Level of Market Support

other factors are controlled. However, Salvadoran women begin with far less trust in the justice system’s fair treatment than do Salvadoran men.

Figure 4 shows this graphically. The six plots of the figure plot equal treatment probabilities by the five levels of market support. Plots 4-3 and 4-4 of figure 4 show that Salvadoran women at lower levels of market support (market support = 1 and 2) have far lower equal treatment probabilities than Salvadoran men at these same levels. Note that Salvadoran men who disagree with the market have the highest continuous equal treatment probabilities of all Salvadorans. Note also that Salvadoran equal treatment probabilities relate institutionally most strongly to the police. Men who disagree with the market are more likely to be leftist, and the left has gained greater representation on the national police since the 1994 purging of the old national police (Call 2003; Pérez 2003–2004). In turn, men who disagree with the market have greater probability of believing in equal treatment.

In the meantime, attitudes toward the market economy influence the equal treatment perceptions of Nicaraguan women less positively than they do the equal treatment perceptions of Nicaraguan men. Plots 4-5 and 4-6 show that Nicaraguan men have higher equal treatment probabilities at the three highest market-support levels than do Nicaraguan women. Nicaraguan attitudes toward the market are denser in the two highest categories of market support. In turn, Nicaraguan men are more likely to believe in equal treatment than are Nicaraguan women. The interaction between women and support for the market is important because it indicates a direct connection between women and an economic evaluation of treatment in the criminal justice system and shows clear evidence that the social and economic subordination in decision making influences women's attitudes about the fair application of justice. Nicaraguan and Salvadoran men make different evaluations of justice system equality.

Although no similar interaction affects Costa Rican attitudes, both women and men evaluate the justice system economically. Costa Rican women are less likely than Costa Rican men to believe that the justice system provides equal treatment. Costa Rican women's different attitudes toward equal treatment are direct and involve no interaction with institutional confidence, victimization, or market support. Plots 4-1 and 4-2 of figure 4 show predicted equal treatment probabilities of Costa Rican women and men plotted by judicial confidence. The equal treatment probabilities of Costa Rican men are higher than those of Costa Rican women for all levels of market support.

Knowledge and Nicaraguan Women

Let me return to the disparity in Nicaraguan women's equal treatment and equal punishment probabilities. This disparity is a function of the success of the Nicaraguan women's movement in articulating the implications of socioeconomic inequality to other women (see Blandón 2001; Molyneux 1985; Murguialday 1990). Although the movement was initially linked to the revolutionary government and the Sandinista Party, the movement continues to emphasize inequality, even and particularly as it works strategically through the Nicaraguan state. Supporting this argument is the fact that all knowledge proxies are significant in the Nicaraguan equal treatment model (the only equal treatment model for which this is true). In particular, the negative and significant coefficient estimate for city size indicates that citizens (both women and men) in larger informational networks are more likely to evaluate equal treatment negatively. Note that urbanization is not a significant factor in Nicaraguan equal punishment evaluations or a significant factor in Costa Rican or Salvadoran equal treatment evaluations. Nicaraguan women are more likely to reference social class when evaluating equality of treatment than are Nicaraguan men.

DISCUSSION AND CONCLUSION

Women in Costa Rica, El Salvador, and Nicaragua are more likely to view the justice system as unequal than are men in the three countries. Beyond concerns for victims, women connect this unequal treatment to how the justice system treats poorer citizens. This finding provides strong evidence in support of the conflict model of criminal justice attitudes. Women likely disagree more than their male counterparts with the criminalization decisions of the dominant economic and political interests. Some evidence does suggest that women and men in the three countries have come to a type of consensus (good or ill) on the equality of punishment. Although institutional confidence (the procedural justice framework) is significantly associated with assessment of equal treatment and equal punishment, there is no difference in the way that the two groups evaluate institutional performance as it pertains to equal justice perception. Even as women's movements in the three countries have created strategic relationships with state officials, these relationships do not differently affect women's evaluations of the judiciary and police, or women's attitudes toward the equality of treatment and punishment when viewed through the lens of institutional confidence.

More definitively, this article offers one of the first cross-national attempts to model gendered attitudes toward general justice system bias in new democracies (El Salvador and Nicaragua). Women and men differ in their assessments of equal treatment before the law. The conflict model best explains these differences. Gendered criminal justice attitudes in Costa Rica do differ from attitudes in the developing Salvadoran and Nicaraguan democracies. The differences between Costa Rican women and men are captured by a direct gender difference, whereas gender interacts with economic evaluations in El Salvador and Nicaragua. Clearly, more work is needed in this area, and better survey questions may yield clearer explanations of these attitudes. Nevertheless, this article offers strong evidence that gender relations play an important role in attitudes toward criminal justice in both developed and developing Latin American democracies.

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