

The pragmatic use of gender in Latina women's legal narratives of abuse

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Abstract

This paper examines the way in which gender is constructed in narratives of abuse by U.S. Latina women and legal professionals within the U.S. legal context of the protective order application interview. Though traditional gender roles can be oppressive for men and women, the analysis undertaken here illustrates how Latina women pragmatically and linguistically utilize their language resources to perform some roles of traditional womanhood in order to free themselves from abusive relationships. Through their strategic use of referential and non-referential linguistic devices, these Latinas speak up about the violence in their lives. They also manage to speak against the strict victim-identity the U.S. legal system tries to impose on them by performing as good mothers, good wives and good citizens.

KEYWORDS: LATINAS, GENDER PERFORMANCE, DOMESTIC VIOLENCE, PROTECTIVE ORDERS, LAW

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Introduction

In this study I examine the way gender gets constructed at the intersection of the U.S. Latino community and the U.S. socio-legal system in narratives of sexual assault and domestic violence. Gender is defined here as the 'cultural elaborations and meanings assigned' to biological sex (Haviland 1999: 37). Specifically, I look at how these elaborations and meanings are assigned to men and women in narratives of domestic violence in the context of the American legal system. The violent accounts that I examine are created during protective order interviews by Latina women and the service providers to whom they are referred for legal assistance. A protective order is a court injunction, mandating that an allegedly abusive family member stay away from a complaining party.

Narrative, identity and gender in protective order interviews

Narrative has been defined as one way of recapitulating experience (Labov and Waletzky 1967), but narratives do more than just recount the past. Situated globally in a larger cultural context and constructed locally within the speech situation, people transform lived experience into stories through narrative. The way we execute this transformation '...is thus a way to show our interlocutors the salience of particular aspects of our identities' (Schiffrin 1996: 199). In this piece, I investigate narratives of aggression to show how Latina women perform gendered aspects of their identity in order to achieve particular communicative and legal goals. Likewise, I examine how their interlocutors, in this case, legal authorities, either aid in or dissuade the gendered constructions displayed by Latina women.

Recent studies on narrative indicate that narratives are collaboratively produced by narrator and narratee in conversation (Trinch 2003; Conley and O'Barr 1998; Ewick and Silbey 1995; Schiffrin 1994; Briggs 1986, 1997). And thus, if narrative is a site where aspects of one's identity are made salient, or even a place where narrators can forge their identity, then identity cannot be seen as fixed or essential. Following Goffman (1974, 1981) and Gergen (1985 as cited in Potter and Wetherell 1987), identity is not the 'self as entity', but rather how the self is talked about or theorized in discourse. Therefore, identity, like narrative, is a situational construct that is achieved in interaction (Goffman 1981). Language and gender scholars (Eckert 1998; Gal 1991) and gender theorists (Butler 1997) suggest that *gender*, like narrative and identity, is also a social construction dependent upon historical, cultural and local situational contexts. This article addresses how the gendered identities Latina women perform in the protective order interview can be seen as particular to and relevant for this legal context.

I observed and tape-recorded 163 protective order interviews of Latina women in two distinct legal settings that were located in two different cities

with large Latino populations. The first setting was a district attorney's office where I observed and collected 90 taped interviews. The second was a pro bono law clinic where I observed and tape-recorded 73 interviews of Latina women. I spent more than two months collecting data in each of these field sites, and I was able to study the process involved in obtaining a protective order from its beginning, that is from each agency's initial client-intake procedure, to its end, when the court issued the final injunction.

Interview duration ranges between thirty minutes and two hours. The District Attorney's interviewers typically complete interviews on the faster side of this spectrum. These interviewers are paid paralegals who are hired specifically to work with clients wanting to apply for protective orders. They may see as many as five clients a day. These paralegals assist the assistant district attorney assigned the protective order docket, and they work with and are in phone contact with their clients from the day of the initial interview until the court date two weeks later. At the district attorney's office, most of the interviewers, as do their clients, self-identify as Spanish-English bilingual Latina women. Only one interviewer was not Latina and she was also the only paralegal who did not speak Spanish. Notwithstanding the paralegals' and clients' ability to speak Spanish, the majority of the clients (or, two-thirds of them) showed a preference to speak English in this legal setting.

In contrast to the interviewers at the district attorney's office, volunteer-interviewers at the pro bono law clinic rarely share the ethnolinguistic background of their clients. Volunteer-interviewers are attorneys, law students, retired lawyers and sometimes engineers or social workers. Whatever their profession, they drop in only occasionally at the clinic to do this pro bono legal work. Some people come to conduct interviews each week, while others appear semi- or bi-monthly. The infrequency with which the volunteer-interviewers perform this legal task is clearly related to the fact that it takes them much longer to complete it. While the law does not mandate that the court offer interpreters to clients for these interviews, Spanish-English interpreters are available and regularly utilized by clients and interviewers at the pro bono law clinic. In this setting, two-thirds of the clients showed a preference for speaking in Spanish.

In both settings, interviewers elicit a narrative of abuse from clients in order to draft an affidavit that will be read by a judge. In addition to taping and transcribing interviews, I collected the affidavits that paralegals and volunteer-interviewers wrote for clients as a result of the information they elicited in the interviews. Essentially both the D.A.'s office and the pro bono law clinic have the same aim and play a similar role in the U.S. legal system. Both settings serve to facilitate the issuance of civil protective orders for women who claim they are being abused by intimate partners.

Gender, Latinos and social science

When studies on rape and battering include Latina women, social scientists often point to the intensely exaggerated and dichotomous gender roles of *marianismo* and *machismo* that are believed to exist among the Latino community (see Bolis 1993; Larrain and Rodríguez 1993; Low and Organista 2000; Torres 1991; Williams and Holmes 1981). As the theories go, the Virgin of Guadalupe represents quintessential Latina womanhood for Mexican-Americans. She is self-sacrificing, non-sexual and first and foremost a nurturer and a mother. But *marianismo* is seen as a pan-Latino phenomenon which can be traced back to Spanish agrarian villages and their ideas about inheritance and the Catholic Church's Virgin Mary (Collier 1986).¹ Others (Stevens 1973; Comas-Díaz 1987; Triandis 1983) describe *marianismo* as a Latino social script that requires 'good women' to be submissive to their husbands, chaste, self-sacrificing and humble. Gil and Vazquez (1996) write about Latina women adhering to the gender rules of *marianismo* by being more concerned with giving pleasure to and taking care of others than receiving pleasure and taking care of themselves. But some scholars (Comas-Díaz 1989 and Falicov 1998) have pointed out attributes of *marianismo* that members of most other cultures also seem to consider positive for women: being a giving, generous mother, being the person who maintains family tradition, being friendly and keeping relationships harmonious and conflict free.

Machismo has no patron saint in which its idealized characteristics are uniquely embodied, but *machismo* is generally understood as the quality of being *macho* or male. Contemporary meanings associated with the term *macho* range from positively valued masculine characteristics related to strength, economic capability, ability to protect others, honor, pride, dignity, courage, and responsibility to negative attributes like cowardice, bulliness, egoism, disrespect, abuse and violence (Mirandé 2004). Mirandé's (2004: 38) investigation into the meaning of *macho* unearths the fact that there is 'a close parallel between negative and positive macho traits...' and that '...much of what social scientists have termed 'macho' behavior is not macho at all, but its antithesis'. Mirandé (1997) points out that the positive aspects of being *macho* are internal qualities; when people attempt to demonstrate outwardly how macho they are, others negatively evaluate them as being cowardly, fearful and insecure.²

In the case of rape and battering, additional stereotyping is found in institutional service providers' tendency to focus on the harmful effects battering has on women. Rarely do these service providers focus on the ways in which women take care of themselves when in abusive relationships.³ While my ethnography of Latina women narrating domestic violence certainly speaks to the fact that victimization is harmful (see Trinch 2003), the scholarly and

institutional emphasis on women's pain and suffering may overstate the issue of victimization at the expense of understanding women's agency. Though not denying the harm of victimization, but following the lead of Wood and Rennie (1994), I show how women in abusive relationships can actually establish their agency and authority through what have been labeled as 'oppressive' gender roles. Being able to establish oneself in one of the two culturally sanctioned and thus culturally appropriate gender roles is, as Butler (1997) suggests, a cultural achievement. Males and females alike that, for one reason or another, fail to enact the roles that culture expects of them are often subjected to punishments that may range from name calling, to denial of benefits, ostracization and even death.

Gender and the law

Entailed in 'manhood' and 'womanhood' is the successful deployment of important cultural aspects of one's identity such as fatherhood and motherhood, respectively. Interestingly, in the case of domestic violence against adult women, some current legal practices are holding women themselves responsible for not leaving abusive relationships. For example, women have had their children taken from them for purportedly having failed to protect their children from either experiencing or witnessing abuse perpetrated by violent intimate partners (Shalansky, Ericksen and Henderson 1999). Additionally, at the same time the law and professional social workers require 'mandatory mediation' for divorcing couples, it is often without regard for whether there has been domestic abuse (Fineman 1988; Saunders 1998). Along these lines, even in the case of abusive relationships, the law in most states is also finding in favor of awarding joint custody of children to abused mothers and their abusive fathers (Geffner and Pagelow 1990). Thus research indicates that sometimes the law punishes victimized mothers in battering relationships for the fact that their spouses abused them. Paradoxically, the law sometimes rewards abusive men with custody rights to their children. It seems then that some legal professionals and social workers believe that good mothers protect their children from abuse, and thus these legal and social work professionals hold women accountable for having allowed their children to witness abuse instead of holding fathers accountable for having abused. In other words, in some cases, battered women are viewed as having failed to protect their children, and thus as having failed in their gender role as mothers. These same social workers and legal professionals also seem to be overgeneralizing the idea that fatherly involvement – at all costs and irrespective of abusive behavior – is in the best interest of the children. That is, the notion that a man can be a batterer but still be a good father is not seen in any sense to be a contradiction in terms.

While my data cannot speak to whether the Latina women in the study were aware of these legal facts during their protective order interviews, the data here do suggest that battered women might not agree with joint-custody policies that allow abusive fathers to have constant access to their children or to them through their children. Based on what these women say, we might hypothesize that one reason why women want legal remedies to end abuse is so that they can perform as good mothers that are able to protect their children from witnessing violence. Put differently, these women also seem to understand that being a 'good mother' means trying to take measures to ensure that children do not see them being mistreated. But they also seem to be saying that their ability to perform as good mothers is dependent on whether their intimate partners perform as good (i.e., non-abusive) fathers. These Latinas also seem to be making the point that it is the abusive men in their lives who make for bad parents. An examination of what women say in these legal interviews shows how Latinas exert their agency at the local level of conversation and establish their authority through traditional gender roles. We will see that these Latina women establish themselves as good mothers by critically examining social and cultural beliefs about how men and women are supposed to perform as fathers and mothers, as well as by pragmatically and linguistically exploiting sociolinguistic rules that govern what women and mothers can and cannot say.

Latinas, language and the law

Latina social scientists, cultural critics and literary theorists suggest that the rules of speaking apply to men and women differently and unequally. Anzaldúa (1993) describes these gendered differences in terms of their ability to silence Latina women, and to a certain extent, Galindo (1999) concurs. These researchers claim that Latinas who 'speak up' or who 'speak out' are often pejoratively labeled. As evidence, Anzaldúa (1987) offers metalinguistic labels, common in Spanish to refer to women who speak up. These labels include: *habladora* [someone who speaks too much or lies]; *malcriada* [someone who talks back to parents/elders; not being well-bred or respectful]; *chismosa* [someone who gossips or likes *chismes*]; *repelona* [someone who complains and whines]; *hocicocona* [someone who talks excessively, a loudmouth]' (Anzaldúa 1987: 54). Anzaldúa (1987: 54) states, 'in my culture they are all words that are derogatory if applied to women – I've never heard them applied to men'. Galindo (1999) adds to this list the words, *maldiciente* [someone who curses/uses expletives a lot] and *malhablada* [someone who curses, insults others, confronts others]. Yet, Galindo (1999), herself, examines how Mexican-American women actually employ taboo registers such as *caló* and *pachuco* in their discourse in certain contexts.⁴ My analysis here examines these cultural proscriptions often associ-

ated with Latina women's speech, and it identifies the ways in which these Latinas subvert the gendered communication rules that supposedly keep them silent. While upholding and obeying gender norms can reinforce women's oppression, capitalizing on them can also be a strategy one uses to achieve specific goals.

Legal narratives of domestic abuse and sexual violence provide useful data for a study of gender construction, because their common themes often center on failed expectations of idealized gender behavior for dominant Anglo-American culture. In addition to descriptions of violent and abusive behavior, the cross-culturally gendered themes of parenting and sexuality recur throughout the corpus. These themes coincide with the construction of idealized Western identities of masculinity and femininity. For women, the stereotypical gender ideals include 'the good, self-sacrificing mother', 'the dutiful unquestioning wife', and 'the respectful daughter-in-law' (Anzaldúa 1993; Abalos 1993; Vega 1995). For men, the gendered stereotypes include the 'reliable provider', 'the family protector', 'the devoted son', 'the wise father', and 'the father as role model' (Coltrane and Valdez 1997; Marín and Marín 1990; Perilla 1999). While it is likely that within the Latino community, gender roles are probably quite fluid and responsive to situational needs (Vega 1995), in these abuse narratives, women frequently discuss conflict in the relationship as having been caused by their partners' transgressions of ideal gender roles.

The methodology I use to examine the way that gendered themes are presented is informed by a narrative analysis (Labov and Waletzky 1967) combined with an analysis of discourse frames (Tannen 1993) and primary social frameworks (Goffman 1974, 1981). Discourse frames, Tannen explains, are people's mental representations of culture expressed through communication that corresponds to their expectations about the world. In protective order interviews clients perform gender using an array of linguistic devices to communicate their expectations about how men and women should act and in so doing, they perform gender. Among these devices are lexical intensifiers, direct quotation, indirect citations, intonation patterns, the introduction of topics, hedges, tag questions and requests. Complementing the findings from the analysis of discourse frames, I find that the women's strategic performance of gender surfaces frequently in the evaluative devices they use to judge their own and their partners' behavior (Labov and Waletzky 1967; Linde 1993).

Previous research on language and gender focused on certain linguistic forms, such as interruptions, directness, volubility, topic raising and adversativeness. These forms were seen as inherently powerful linguistic techniques and thus, it was argued that these conversational tactics belonged to the discursive strategies of men. Conversely, supportive devices, indirectness, silence, euphemism, and tag questions were seen to function as women's language or as powerless

speech (O'Barr and Atkins 1980). Tannen (1994) argues that linguistic items must be seen in relative terms:

...each of the linguistic strategies that have been claimed to show dominance can also show solidarity. For example, one can talk while another is talking in order to wrest the floor; ... Yet one can also talk along with another in order to show support and agreement ... The two, however are not mutually exclusive. If both speakers are engaged in a ritual struggle for the floor, they might experience the entire conversation as a pleasurable one: an exercise of solidarity on the metalevel ... there is never an enduring one-to-one relationship between a linguistic device and an interactive effect (Tannen 1994: 19–20).

Likewise, in this article, linguistic items are not understood as having fixed or assigned meanings outside of their conversational context. Instead, this analysis attempts to understand how language serves to sustain gender dichotomies by examining how narrators perform traditional gender roles in order to achieve their communicative goals.⁵

Given that Latina battered women probably have conversational goals that go beyond solely wanting to receive a protective order, it is not unusual to find that they speak from frames other than the victim/interviewee nexus. My examples indicate how we can interpret Latina women as utilizing the dialogical space of these interviews to stake out an identity that is more complex and more powerful than simply that of 'the victim'. Ironically many of the identities Latinas put forward to construct themselves as powerful, competent and positive coincide with traditional gender roles commonly associated with passivity and dependence. The data suggest that Latina battered women speak as capable mothers, nurturers, and moral citizens. From the discourse frames then, I extract these other roles of social agency that often run counter to the cultural norms and expectations of victims in institutional settings.

Analyzing gender: referential and non-referential linguistic devices

Interlocutors produce narrative, identity and gender through their use of both referential and non-referential linguistic units. Referential evaluations are explicit utterances (e.g. 'I am a virtuous woman and my husband is not loyal' or 'He's a big guy. He beat me up real, real bad'). Non-referential evaluations are subtle discursive strategies employed by narrators to imply meaning and judgment. The analysis shows that while women use referential characterizations to discuss their own idealized feminine gender roles and their partners' failed masculine gender roles, they also use non-referential techniques that index gendered language ideologies. These language ideologies, or beliefs about language

and language use, are used by community members to regulate who gets to speak, when they get to talk and how much they should say. In these narratives of domestic violence and sexual assault, such non-referential techniques allow women an opportunity to embark on at least a localized performance of their own gendered linguistic competence at the same time they emphasize their partners' failed gendered identities. The performance allows them to act out, rather than merely state, rightness and wrongness. An example of referential and non-referential techniques used by a client to show herself to be virtuous while at the same time painting her husband to be, as is said in Spanish, *grosero*, meaning 'coarse', 'rude' or 'vulgar', is shown in Example #1 below.⁶

Example #1: Client's identity construction as virtuous woman⁷

(.06)

- P: OK, ¿me puede decir qué sucedió durante ese incidente? Estamos hablando de que sucedió el ((date))
- C: Bueno, porque él, él, el chamaco se está quedando conmi(go) es mi hijo. Y él me tiene muchos celos a miyo. ¿Por qué? Yo no sé. (.02) ¿Verdad? Y como mi primer esposo fue americano,
- P: [Mhnh
- C: el papá de mis chamacos, y él dice que quiere familia y yo ya no puedo tener familia.
- P: O.K.
- C: Y yo le digo, '¿Tú pa' qué quieres familia si ya tienes sesenta-y-un años?'
- P: [Mhnh
- C: Pero, después sale él de bronca, **y con su permiso, dice que soy puta, que estoy wonga, que estoy todo y luego quiere sexo por, por donde no se debe. Y yo no soy una persona que a mí, me más no** ().
- P: ¿So intentó violarla señora?
- C: Sí, por el, por el otro la(d)o. (.03) Y, eso fue el pleito, porque no me dejé.

Translation of Example #1

(.06)

- P: O.K. can you tell me what happened during this incident? We're talking about what happened on ((date)).
- C: Well, because he, he, the boy who is staying with me is my son. And he is very jealous of my son. Why? I don't know. (.02) You know? And since my first husband was American,
- P: [Mhnh
- C: the father of my children, and he says that he wants a family. And I can't have any more children .
- P: O.K.
- C: And I say to him, 'Why do you want children if you are already sixty-one years old?'
- P: [Mhnh

- C: But, he got angry, and with your permission, ((lowers voice)) he says that I'm a whore, that I'm loose among other things, and then he wants to have sex where you're not supposed to have sex. And I'm not a person that, no, to me ().
- P: So, did he try to rape you ma'am?
- C: Yes, through, through the other end. (.03) And that's what started the argument, because I wouldn't let him.
- (.07)

As she narrates one of the most recent incidents of violence, the client speaks from three frames at once: an interviewee, a verbally abused spouse, and sexually assaulted woman. She does this with her utterance: 'y con su permiso, dice que soy puta, que estoy wonga, que estoy todo y luego quiere sexo por, por donde no se debe. Y yo no soy una persona que a mí, me más no (). In English, 'And with your permission, he called me a whore and said I was loose and all of this stuff, and then he wants sex where you're not supposed to have sex'. However, this client does much more than assume these victim identities with her non-referential linguistic resources. In addition to reporting what happened, the client performs a speech act that can be interpreted as either a request or an apology (as in the sense of Austin and Searle). As a request, one could say the utterance, 'y con su permiso' ('and with your permission'), expresses her desire to have the right to repeat the profanities, because it indicates that she knows that women are not supposed to swear. Along these lines, if read as an apology, the utterance, 'y con su permiso' functions as the narrator's regretful acknowledgement that what she is about to say might be offensive to her interlocutor. Indeed what follows is a short list of indecorous words that refer to the allegations of sexual promiscuity that her husband has leveled at her. By embedding her husband's accusations in what is either a request to repeat or an apology for saying the profanities, the client performs her own sexual identity as a virtuous woman. At the same time, she is able to define the sexual identity of her husband as completely lacking in decency. Her use of the apology/request allows her to do this without having to explicitly state as much. The linguistic device she chooses maximizes what Briggs and Bauman (1992) have called the intertextual gap (or the distinction) between what her husband said she was and who she is, or at least, how she wants to be perceived. The client achieves this dissociation from her husband and his words by capitalizing on what González-López (2005) and Carrillo (2002) refer to as the Mexican moral values of *moralidad*, *decencia y de buenas costumbres* meaning, 'morality, decency and good social mores'. Essentially these principles define Mexican women as responsible for upholding these values and teaching them to their children, especially their chaste girls. Young women are supposed to marry as virgins and maintain morally pure values and thoughts – even once sexually active with their husbands. Artfully, the client shows that she knows what 'ladies' are not supposed to say, and she exploits this

principle on two levels. First, by showing her interlocutor her socio-cultural knowledge of gender, she successfully performs the role of a woman who is pure of thought and conduct. And second, her utterance minimizes the difference between morality and good manners as her words suggest that she would not even utter, let alone participate in acts that she considers to be 'unlawful' types of sexual intercourse. Ironically, her verbal strategy allows her the freedom to say exactly that which she implies she would not say.

This client's linguistic strategies continue to function in this way when she reports the sexual violence she has experienced. Again, she indicates her righteousness over her husband by reporting a sexual assault with euphemism that shows that she is able to speak about such indecorous topics with delicacy. My prior research indicates that Latina women do not always, as the ideal assumes, demurely adhere to taboo avoidance when reporting sexual assault (see Trinch 2001 and Trinch 2003). As I would hypothesize to be the case among all groups of women, I find that Latinas exhibit a variety of strategies for reporting rape that range from very direct, non-euphemistic legal language to quite indirect, highly euphemistic language. Nevertheless, Example #1 above offers a case of a Latina client who downgrades the force and offense of her sexual assault report by employing euphemism. Instead of blatantly stating, 'Then he tried to rape me,' or 'Then he tried to sodomize me,' she selects a descriptive phrase, '*...y luego quiere sexo por, por donde no se debe*,' or '*then he wants sex where you're not supposed to have sex*,' in order to explain what happened. In analyzing the way this woman performs gender, this type of language usage can be considered a powerful pragmatic strategy to show one's self in the best possible light – that is, as an upstanding woman who knows how to act and how to talk. Put another way, rather than seeing her euphemism as an indicator of powerlessness or as a sign of linguistic deficit, meaning that she does not possess or know how to use the more 'powerful' forms, it could be analyzed as allowing her to present her own decency to a legal authority at the same time she is able to contrast it with her husband's vulgar brutishness. Not only is she careful not to offend her interlocutor by forthrightly stating that her husband tried to rape her, she also suggests with the euphemistic construction she selects to stand in for 'rape' that she has an omnipotent understanding of good (or proper) sex (i.e., penile/vaginal) and bad (or improper) sex (i.e., penile/anal); one that her husband lacks.

The data suggest that some service providers are more willing to accept clients' gendered proposals if these in fact meet the needs of their institutions. Although the most favored client identity in these interviews is the victim-construct, there are cases in which paralegals and volunteers support other gender constructions as well. Interviewers signal their acceptance of clients' gender performance when they give clients the opportunity to manage the topics of

the interview. Interviewers permit client-topic management by ratifying, or acknowledging, the women's utterances, by refraining from interrupting them, and by aiding them in topic development through questions that contribute to the narrative trajectory that the clients initiate. Below, Example #2 illustrates how clients make the 'good mother identity' salient in their narratives, and that such an identity construction is embraced by this particular paralegal.

In this section of the interview, the paralegal is recapping information given by the client previously in a clarification check.

Example #2: Paralegal co-constructs client's identity proposal

- P: You were gonna grab with, you were gonna dance with your friend, right?
- C: With my friend. And I turned around and I seen he was there, and he was like grabbing my arms and saying, 'Dance with me.' I just looked at him and I walked (.01). He went up to my friend and he goes, he got real close to his face and then, um, ((in near whispers)) 'You take (care of her)' and '(You've got a good fucking woman.)'
- P: Uh!
- C: **It's hard that, it's hard to, for for it to come out of my mouth.** That's what he told him.
- P: Oh.
- C: **In fact, my son was there also.** () In fact we ().
- P: And then what happened.
- C: **After that, he went up to my son and he said, 'They're gonna kick me out' and my son went into a fetal position right there, he curled up, he went into a fetal position and he was crying like crazy. Um, I tried to comfort him, but, uh, it's, it's him the one that's hurting him.**
- P: *Your son? How old is your son? Fourteen?*
- C: **He just turned fourteen, but he's the one that hurts, that hurts, the ex-husband knows that when he does things like that to my son, it hurts me.**
- P: Yeah.
- C: **So he's really hurting my son.**
- P: *But he knows to get to you*
- C: He knows to get to me to use my son. And when I told my son that I was coming over here, it was like uh
- P: [*a relief?*]
- P: Yes. It was like, you know, 'he can't get near mom?'
- ((paralegal types for 55 seconds))

Throughout the above interview this client, along with her recognized status as victim chooses also to construct herself as 'the good parent' and conversely to characterize her ex-husband as either 'the bad parent' or as not much of a parent at all. These identities are crafted through a series of sophisticated narrative techniques. First, as does the client in the previous interview, this woman

also utilizes referential as well as non-referential devices to assert that she is a respectable Latina. While neither woman suggests that they are non-sexual, both emphasize the boundaries and limits between what is morally and socially acceptable sexual behavior and what is considered by them to be deviant sexual behavior. In both cases, the women lower their voices for utterances of reported speech in which they report their husbands' use of profanity. In so doing, they indicate that they know that women are not to utter such 'bad words.' While in the first example the client uses a request/apology strategy and asks for permission to repeat the profanities, the client in Example #2 hesitates with her use of 'um' and then begins to whisper. Not only do they utilize these techniques to juxtapose their moral rectitude with their partners' boorishness, but they both also seem to need to reiterate the meaning of their non-referential techniques in referential metalinguistic utterances. In the first example, the woman says, 'Yo no soy una persona que a mí, me más no ()' or, '*Because I am not the type of person who ()*', and then as the single parentheses indicate, it becomes difficult to make out exactly what she says. Yet clearly, she wants to talk about the kind of person she is. In the second example, the client literally tells the interviewer that the utterance is difficult for her to repeat. It is also worth noting that the paralegal in this case responds to the constructed dialogue regarding what the client's ex-husband presumably told her friend with an exclamatory, 'Uh!'. This sudden, forceful interjection seems to support the client's interpretation of her ex-husband's speech act to her friend as 'out of line' or 'inappropriate'. If this reading is correct, then it also could be argued that the paralegal's response is a ratification of the modest and reserved gender identity put forth by the client. Further evidence for this analysis comes from the fact that the paralegal actually writes the quotation into the affidavit even though it is technically hearsay and does not belong in legal testimony.

Topic management is another technique that these women commonly employ to construct themselves as good mothers. In Example #2 above, the client (as do others in the corpus) performs this identity by highlighting her superb parenting skills and her ex-husband's lack thereof. Notably, she does this by juxtaposing parenting with sexuality. In reporting the penultimate incident of violence, the client states that she was dancing with a man, and she goes to great lengths to ensure that her interlocutor sees this act as non-sexual. She does this first by continually calling the man with whom she was dancing 'a friend'. She then points out that she was dancing with him a second time because '...he uh, uh, he wanted to learn how to dance a *cumbia*', emphasizing that her reasons for dancing with him were not romantic but, in fact, were charitable, even pedagogical. By using reported speech, which included the word 'fucking', to represent what her ex-husband said to her dance partner, she suggests that it was her ex-husband who sexualized both her and the act of dancing with her

friend. She places this sexualization immediately next to the topic of parenting by saying 'In fact, my son was there also'. Interestingly, at this point in the conversation, the interviewer does not ratify the client's utterance about her son's witnessing the confrontation, but rather she asks her what happened next. The client then states that when her husband told her son that he was going to be thrown out, her son went into a fetal position and started 'crying like crazy'. Arguably, this part of the narrative functions to construct gendered identities on several levels. In addition to indicating that her ex-husband is inappropriate enough to sexualize a mother right in front of her child, it also serves to show how the ex-husband fails to meet Latino and dominant Anglo cultural expectations of male gender. Fathers are supposed to be mature role models who not only protect their wives and children, but who also will guide their sons in their journey toward manhood. Instead though, this client is asserting that her ex-husband's childish antics are the only model that he has to offer and thus, rather than making his son a 'man', he stifles his son's growth, makes him cry in public and even encourages him to regress. According to the client, the child, as a result of the father's acts, curled up into a fetal position. Where her ex-husband fails in his gendered role, she succeeds in hers as a good mother, for she is supposed to be the nurturer and the one who provides comfort.

We see that the service provider comes around to accept the narrative line of good/bad parenting and thus, the client as a good mother. The paralegal's questions about the age of the son and her finishing the client's utterance with the word, 'relief' serve to support this identity trajectory. This narrative also illustrates how women, in addition to these other strategies, utilize the pronominal system to perform gendered ideals of proper parenting. In this example, even though both the client and her ex-husband are the parents of the 14-year old mentioned in the narrative, the client continually uses the first person singular pronoun 'my' to refer to the son. Thus, she uses both content and form to let her interlocutor know that her ex-husband is not only an inadequate father, but also that she knows that the important and effective parts of 'fatherhood' are socially prescribed, as opposed to biologically driven, roles. Seemingly, because her ex-husband does not meet the social expectations of 'fatherhood', he gets erased from the pronominal system in her narrative. Never does she refer to their child as 'our son'.

But, as Hirsch (1998) and others (Taylor 1997; Fisher 1989) point out however, there is a caveat inherent in women's use of these gendered strategies to get what they want. In the next part of the interview, as shown in Example #3 below, the caveat becomes clear as the interviewer invokes the client's maternal identity to keep her focused on the legal task of creating a convincing narrative of abuse.

Example #3: Paralegal invokes client's legal identity to keep the client focused⁸

- C: He wants me to get him fired from his job so he can go ahead and do what he's, what he's always wanted to do. What he's always wanted to do to me.
- P: Has he told you that?
- C: Uhuh.
- P: Well, when did he tell you this?
- C: He, he, he told me this yesterday.
- P: Yesterday.
- C: That he's going to beat me up, that he uh, he wants me to uh, to get him fired from his job so that he, he can do, 'Now he can do what he's always wanted to do.'
- P: And did he tell you what that was?
- C: To ().
- P: [To get rid of you?
- C: Yeah. To just, he's gonna get to do what he's always wanted to do. I don't remember. You get tired after awhile and it's like, whatever happens, you know, happens.
- P: *But can you imagine how that's gonna affect your son?*

A convincing legally relevant narrative of domestic abuse contains, among other elements, specific dates and times of abusive incidents, and detailed threats of force and violence (see Trinch 2003). In this part of the narrative, the client begins to explain that her ex-husband has threatened to kill her, but the client gives exhaustion as an excuse for not remembering her ex-husband's exact words regarding how he was going to kill her. Notice near the end of Example #3, the client states that she does not remember the words her ex-husband used to threaten her: 'Yeah. To just, he's gonna get to do what he's always wanted to do. I don't remember. You get tired after awhile and it's like, whatever happens, you know, happens.' In response to the client's imprecision, admitted exhaustion and reason for defeat, the paralegal responds to the client with, 'But can you imagine how that's gonna affect your son?' This paralegal appeals to the 'mother' identity by suggesting that the client, over and above her own victimization, needs to be concerned about how her son might react to her letting 'whatever happens, you know, happen[]'. Death threats are important evidence that paralegals like to include on affidavits. Though they rarely incorporate verbatim death threats as reported by victims, they do try to get victims to represent them as accurately as they can. This client's admission of not remembering exactly how her abuser threatened her is not what the paralegal needs to hear. The paralegal uses the client's desire to be seen as a good mother to reprimand, albeit gently, the client for this admission of defeat by focusing on the fact that she has a son to take care of.

Thus, clients' strategic use of gender ideals can also serve to reinforce some cultural stereotypes about men and women, and it may keep women from being understood first and foremost as individuals. In this case, the paralegal

re-introduces the 'self-sacrificing mother' theme, but this time she seems to do so to suggest that the client's first responsibility is to her son and not necessarily to herself. As has been identified to be the case in battering situations, it is often the children who get viewed as the ultimate victims, while women themselves are sometimes seen as expendable, or responsible for the fact that their children witness abuse, as was noted in the introduction. Thus, being a 'good mother' is a gender role that women can use to their advantage, but it is also a role that the legal system can use against them. Below we will see how women use topic management to suggest that they are 'good mothers' and to suggest that their intimate partners are less than good fathers.

Topic management and gender construction

An interesting pattern of topic management emerges in the data whereby clients juxtapose the theme of sexual assault to topics that relate to their children. This pattern of making references to children in close conversational proximity to sexual violence appears in nine of the 22 interviews in which clients report sexual assault. As was the case above (in Example #2) where the client downplays the sexual nature of dancing with another man and suggests that her ex-husband exaggerated it, the nine different clients in the examples below (Examples 4–12) appear to aggravate their partners' violence by associating their children with the sexualized aggression of their partners' abuse.

In both U.S. Latino and dominant Anglo cultures in the United States, the combination of sex and children is understood as taboo. For this reason, in narratives of abuse and sexual aggression, the clients' connecting the children to such violence is likely to heighten their own and their interlocutors' estimation of the abuse endured. As some clients tether the topic of sexual violence to their children in their narratives, they thus manage to create topical coherence of victimization and motherhood. Tannen has defined topical coherence as 'underlying organizing structure making the words and sentences into a unified discourse that has cultural significance for those who create or comprehend it' (Tannen 1984, xiv as cited in Tannen 1994: 86). In establishing the link between sexual aggression and children, clients manage to suggest that their abusive husbands victimize them sexually by using their children in one way or another. The offense is aggravated because it is an affront to the clients both as people (i.e., no one should be sexually assaulted) and as mothers (i.e., no mother should have to endure the cruelty of having their children made aware of and/or a part of their sexual victimization). Additionally, the women are able to capitalize on the fact that the abusers make the children victims as well. All nine interviews in which this pattern emerges are included to show how women construct their gender and sexuality in these abuse narratives.⁹ It is important

to notice that none of these women claims to be asexual or non-sexual. What they do seem to be saying is that there are appropriate and inappropriate ways to be sexual and that for them, violent sex is not appropriate.

We see in these narratives of sexual assault how the theme of children surfaces in relation to the notion of protection, a core characteristic in the positive meaning and definition of *machismo*, or the idealized gendered persona for Latino males. In Example #4, for instance, the client states that she asks her 13-year old son to sleep with her, because his presence will discourage her husband from coming into the bedroom to rape her. Conversely, the client in Example #5 reports that sometimes she submits to her husband and allows him to rape her, because she wants to protect her children from knowing about the violence that he enacts upon her. Both instances drive home the notion that these husbands/fathers are unfit in their male duty as *protector*. The clients create scenarios where the abusers' bad behavior forces the children and women, respectively, to be the protectors. The husbands, by outwardly performing their masculinity through violence and sexual aggression, are assigned the negative roles of perpetrator and penetrator.

Example #4: Client sleeps with 13-year old son to keep husband from raping her

- P: O.K. Any other incident beside, that has occurred during the past few months, whether he threatened to harm you, or maybe attempted to, rape you, or force you to do something?
- C: No, that was, that was, like I said.
- P: That's been the only time that that has happened?
- C: Well no. It occurred other times but, I can't recall.
- P: O.K.
- C: *I mean it happened frequent. And um, I even had my thirteen year-old son come over and stay with me to sleep with me cause I knew that if my son was there, he wouldn't come in the bedroom and*
- P: *[force himself?*
- C: *[try anything.*
- P: O.K. *So he has forced you to have sex several times during, during your*
- C: *[Yeah*
- P: *[your marriage?*
- C: *Yeah.*

Example #5: Client allows husband to rape her so children will not be frightened

- C: *...And um, and then also, like if I don't um, if I don't go sleep with him,*
- P: *Mhmh*
- C: *uh, he, he twists my arm. And he knows that I have a lot of stomach problems and I always have a pain on my left side, so what he does, he's, he always stabs me there with his hand. And*
- P: *When was the last time that that happened? That you can remember.*

C: About two weeks ago, maybe.

P: About two weeks ago?

C: *Yeah, most of the time, you know, I just take it, 'cause I don't want to scare my kids.*

In a vein similar to the excerpted narratives above, here the client in Example #6 shows herself as having to protect her children from their father's violence towards her. She also states that she does not want her kids to know that her husband sexually abused her. But her story goes one step further in developing her identity as a good mother (and partner, for that matter)¹⁰ and her husband's identity as a bad father. She tells the paralegal that the husband not only is a rapist, but also that he is the kind of man who has threatened to involve the children as spectators to the sexual violence she endures. When the paralegal asks if the abuser threatened her in anyway during the sexual assault, the client offers the statement, 'Que iba a hacer escándalo pa' que los niños miraran todo' meaning, '*That he was going to create a scandal of it by making the children watch it all*'. This statement, in addition to constructing her husband as a poor father, also explains why the client did not further resist his sexual attack. One could interpret this client's topic management as a strategy to subvert what Ehrlich (2001) has called 'the primary ideological frame' of the 'utmost resistance standard' that she finds to be tacitly employed by Canadian legal authorities charged with establishing whether a woman was raped.

Example #6: Husband threatens to make children watch him rape client

P: ¿Usted, ha, ha sostenido algún moretón o ah, golpes?

C: **Hace, la última vez que tuvo relaciones sexuales conmigo, hace como un mes y medio. Fue a fuerzas.** Regresé al trabajo toda la semana, no podía ni trabajar (.02). **Pero eso no le quiero decir a los niños (.03).**

P: ¿Además del alcohol, él usa alguna otra droga?

...

P: O.K., durante un incidente, dice usted que había sexualmente, la, la

C: [Sí

P: se aprovechó de usted. Y eso, ¿cuándo sucedió señora, más o menos?

C: Hará, como un mes y medio también.

P: So más o menos también en ((month)).

C: Mhmh, y yo pensé de que lo vuelva a intentar, y ahora sí lo reporto porque pos no, eso no debe ser a fuerzas. Y fui al trabajo con todas las manos a adoloridas y todo.

(.04)

P: So la agarró fuerte sus ah,...

C: [Sí eso que se ((showing her wrists and forearms)) me (haya) hinchado me dolía.

- P: Y, y hizo alguna amenaza si acaso, usted no (.)
 C: [Mhmh
 P: [lo hacía. ¿Que le dijo?
 C: *Que iba a hacer escándalo pa' que los niños miraran todo.* ((.21 seconds of silence while paralegal types)).

Translation of Example #6

- P: Have you sustained any bruises
 C: **It was, the last time he had sexual relations with me, about a month and a half ago. He forced me.** I returned to work all that week, I couldn't even work (.02). **But I don't want to tell the children that.**
 ((.03))
 P: Besides alcohol, does he use any other drug?
 ...
 P: O.K., during an incident you said that there was sexually, the, the
 C: [Sí
 P: He took advantage of you. And that, when did that happen ma'am, approximately.
 C: That would be about a month and a half ago also.
 P: So more or less also ((month))
 C: Mhmh, and so I thought that in case he tried to do it again, and now I am reporting it because well, that should not be forced. And I went to work with sore hands and everything.
 (.04)
 P: So he grabbed on hard to your ah,
 C: [Yes that ((showing her wrists and forearms)) was swollen, it was painful.
 P: And did he happen to threaten you if you didn't...
 C: [Mhmh
 P: [do it. What did he say to you?
 C: **That he was going to make a scandal so that the children watch.** (.02) And all the time he asked me why I didn't want to have relations with him, he said, um, he asked if I had someone else and I told him no, 'It's the situation that we live in, what do you want?' (.07)
 P: So did you fill out a police report on this, for that, on this occasion.
 C: No.
 P: And, and during the incident that happened, when, um, but whenever he tried um...
 C: I just told him that so he wouldn't try it again.

The client in Example #7 reports that her husband forces her to work as a prostitute. She provides linguistic evidence beyond mere topic management that indicates that these forced sexualized roles are more heinous when one's status changes from childless to childbearing. After stating once that the abuser forces her to work as a prostitute, the client repeats herself, but adds that he

also pimped her when she was pregnant. By repeating and adding to the fact in this way, coupled with her employment of the intensifier, 'aun' in Spanish, meaning 'even' in, 'Aun cuando yo estaba embarazada, él me ponía a trabajar', interpreted as, 'Even when I was pregnant, he was there to take me to work', the client suggests the abuser has done the unthinkable. The intensifier, 'even' stands in for the meaning, 'to a higher degree or extent', and it allows the client to comment on how the presence of a 'child', in this case, a fetus, makes sexual violence all the worse. It seems the client is saying that by making her sell her body to other men while pregnant, the abuser has forced her to defile the sacred state of motherhood. It is at this point in the narrative that she begins to cry as well – a further indication of the emotionally charged nature of this crime.

Example #7: Husband forces client to work as prostitute EVEN while pregnant

- P: Do you know what provokes him to get angry and, start hitting you?
- I: ¿Qué es lo, sabe usted qué es lo que provoca a él y se enoja y qué es lo que le hace que le pega? ('What is the, do you know what it is that provokes him and he gets mad, what is it that you do that he hits you?')
- C: Ah, eh, pues que yo no hago lo que él dice ('Ah, um, that I don't do what he tells me to do')
- I: That I, when I don't do what he wants me to do.
- P: O.K., but uh, usually, it's not anything big, right?
- I: () Normalmente, no es algo grave? ('Normally it isn't any big thing, right?')
- C: *Bue, lo que pasa es que, cuando yo vine con él, él me puso a trabajar de prostituta* ('Well, what happens is that, when I came with him, he made me work as a prostitute').
- I: When I was, ¿Cuándo vino de dónde? ('When you came from where?')
- C: De México. ('From Mexico').
- I: When we got here from Mexico, he, ah, had me working as a prostitute.
- P: And when was that?
- I: ¿Cuándo sucedió eso? ('When did that happen?')
- C: Desde que yo vine. ('Ever since I got here.')
- I: ¿Desde que llegó aquí? ('Since you arrived here?')
- C: Sí.
- I: Ever since they got here.
- P: So
- C: [*Aun cuando yo estaba embarazada, él me ponía a trabajar.* ((*She is crying*)).
(*'Even when I was pregnant, he made me work.'*)
- I: *Even when I was pregnant, he was there to take me to work.*
- C: Y los problemas (iban creciendo) ('And the problems kept getting bigger')
- I: [And the problems
- C: [*porque yo no quería trabajar.* ('because I did not want to work')
- I: And that was the problem, because I didn't want to go and he would obligate me to

Though presenting different circumstances, the client in Example #8 might be trying to achieve a similar result. She relates that during her childhood, her stepfather sexually molested her, and that in her current relationship, the husband not only brings this fact up, but that he does so 'in front of the kids'. By reporting that her husband talks about an instance of molestation from the client's childhood, she too might be trying to create a narrative about his sexualization of her to emphasize that his abuse goes beyond the pale precisely because it involves her children and the image they have of her as well. Again, the client creates topical coherence by describing not just how the abuser hurts her, but also by tying his abuse to the fact that he does so in a culturally inappropriate way for fathers. According to the client, the abuser makes matters worse by lying about the molestation and saying that the client enjoyed her stepfather's advances. Again, the theme of protection surfaces as the client states that when the husband says these things, she denies having been victimized as a way to guard her children from knowing these facts. These linguistic maneuvers could be employed so that women make the case that indeed they have been victimized by their partners, but that they also never let their victimization impinge on their felicitous mothering.

Example #8: Abuser uses stepfather's molestation of client to sexualize her

- P: ((types for several seconds)).
- C: *And see, I had a stepfather, right? And when I was seven years old, or six, he uh, he sexually, um, molested me, you know, right?*
- P: Mhmh.
- C: And, when I got married, I told my husband. And he always brings that to me. Always.
- P: He brings it up again and again?
- C: Uhuh, He knows that that stuff hurts me, right? And he goes, 'Well, you and your stepfather, you must have liked it with him, and in front of the kids. ((.02)). And I said, 'You better,' I told him, 'you better not say anything in front of the kids cause that's not true, about me an my, and my stepfather.' He always says that, he always says that stuff about him and me. About my stepfather, he always says that.

This act of putting one's self as 'mother' before one's self as a 'victim' is illustrated well in Example #9, where the client spends a great deal of time giving a graphic, moment-by-moment account of her rape. After the rape description, the client mentions that 'she jumped into the shower' to prepare herself for her children's return to their home. She implies that needing to be ready for the children to come home made her forget that one should not take a shower before going to the police.

Example #9: A mother's preoccupations go beyond victimization and sexual assault

And he took that and he left. And he didn't leave at that time, but I was worried that the phone call had been my children so I got up to the phone, my, to check my caller I.D. And it was my oldest daughter that they were on their way home, so I jumped in the shower. Um, while he was um, *actually raping me*, I did tell him, 'You better enjoy this because I'm gonna report it.' And um, since the children were on the way home, I jumped in the shower and at that time, I realized, '*I'm going to the police, I'm not supposed to be taking a shower.*' But, um, I got out of the shower and that's when the children got home. **I intended to tell his mother**, but he has a fifth child with another girl and they had been taking care of her also. But since she was asleep, his mother had not gotten off the vehicle. So, since I had just gotten out of the shower, I didn't go out.

In the last three narratives, clients make mention of children as part of domestic life, which, for them, happens to lead to domestic violence. In Example #10, the client states that the abuser wanted to see the children. She offers this either as an excuse for her having allowed the abuser access to her or as a reason for his having had access to her. Though the client had already separated from the abuser, as many clients had, mutual children create inevitable common ground that keeps victims and abusers in contact with one another. Without explicitly stating that the children are the tie that continues to make her vulnerable to the abuser, she nonetheless implies this.

Example #10: Abuser uses kids as pretense to see client

P: Is, does he follow her, does he, try to find her in other places?

I: Le, le sigue, o la busca en otros lugares también? ('*Does he look for you in other places, too?*')

C: No, pero no, so, como yo no trabajo, nomás anda allí, vuelta y vuelta a ver (lo que estoy haciendo allí) ('*No, but well, since I don't work, he just around there, walking around and around to see what I am doing*')

I: No, since I don't work, he's around the house, making sure where I'm at.

P: Mhmh

I: or what I'm doing

((pause for typing))

P: O.K., and then, what happened next?

I: Y después, qué sucedió?

C: Um, en la, como en enero, él, él fue a la casa, (dijo), '*quiero ver a los niños,*' y yo le dije, '*si me das dinero, ()*' y, *entonces, este, y me forzó a tener relaciones con él.* ('*um, well, it was like in January, he, he came to the house and said, 'I want to see the kids.'* And I said, '*If you give me Money,*' then, *he, and he torced me to have relations with him.*')

I: In January, he went over because he wanted to see the kids, and I told him that if he would give me money, he would be able to see them. **And he forced me to sleep with him.**

((pause for typing))

P: Is he, there's no divorce yet?

I: No hay divorcio?

C: Todavía, no.

I: Not yet.

((pause for typing))

P: **Was he angry?**

I: Estaba enojado? ('Was he angry')

C: **Se enoja porque yo no quiero** ('He gets angry if I don't want')

I: He gets mad because I don't want to

C: **[Es a fuerza.** ('He does it by force')

I: **He's just forcing her.**

C: **Y a veces, me dejo, porque...** ('Sometimes, I let him because')

I: **And I just, I let him have sex.**

H: **Was she scared, was she frightened.**

I: O sea, le tiene miedo? ('Um, were you afraid of him?')

C: () es gordo. '()('He is fat.')

I: He's a big guy. ()

C: **[Me agarra a la fuerza** ('He grabs me so forcefully')

I: He gets me by, by force

((pause for typing))

Often people that do not study domestic violence ask why women stay with abusive partners. These inquisitors fail to realize that a considerable amount of abuse continues even once women leave. When children are involved, it is difficult if not impossible to sever all ties, and most courts in the United States insist on visiting rights for fathers, irrespective of the type of abuse they have enacted upon their children's mothers.

Example #11: Domestic chores lead to domestic violence

C: And I told him 'o.k.' cause it was getting cold. *And, I put the kids asleep, and he held on the baby and he put him to sleep. I put the twins and he put the baby to sleep.* And, and then, he started accusing me of sleep, of going and being with somebody else and stuff, and, we, I went to the kitchen to get some water, and he, he stood there and he asked me, he grabbed me and pushed me, and hit me and threw me on the floor and stuff, and, that's when, he tore my bra and started taking off my shirt. And I was trying to scream and yell and he kept covering my face to shut up and not to scream. And, and I was scared. And then he tried to pull off my shorts, but he didn't.

P: O.K., let me back up a little bit. You said that he was accusing you, first and then he, he began to hit you.

C: Mhmh

In Examples #11 and #12, the narratives do not explicitly involve the children in the rape scenes, but the proximity of the reference to the children could, at the very least, serve to remind their listeners/co-narrators that these abusers are raping not just women, but mothers – and not just any mothers, but the mothers of the abusers' very own children.

Example # 12: Rape takes place in the kids' bedroom

- P: Would he push you against certain things?
 C: Yeah, I was actually in the restroom and he pushed me towards the wall. And then we have like a sliding glass door, and he was trying to push me to it. And eventually, I got some, from, where he was holding on my arms,
 P: Mhmb
 C: [I had some bruises there. And we were just like, chasing me all over the house.
 P: Mhmb.
 C: **And then, finally in the kids' room, he pushed me down, (.05).** And he's complaining about how he hadn't done anything with me, you know, as far as sex, for like whatever number of months it was, I think it was like six months. So he tried to rape me, and it was just ... the same thing, chasing me, pushing me.
 P: O.K., I'm sorry. When you say that he tried to rape you, did he, did he strike you? Or did he hold you down?
 C: Yes.

In light of the fact that it is not uncommon to see a strong mother identity construct in these narratives of domestic violence, it should not be surprising that in almost half of the sexual assault narratives, clients juxtapose their maternal identity with sexuality and sexual violence by invoking their children. They do this, I argue, not because they wish to be seen as virginal, as a stereotypical analysis of *marianismo* might suggest. It is important to underscore the fact that no woman in the corpus claims that she is non-sexual. Instead, it is likely that as mothers and members of both Latino and Anglo dominant cultures, the women themselves and their interlocutors are going to abhor the combination of sex/sexual violence and children. Their juxtaposition of children with sexual violence suggests how they themselves make sense of the issue.

Service providers making sense of victimization and representation

But victims are not the only interview participants able to make sense of violence in these interactions. In these interviews, service providers also invoke what they know about gender to try to create coherence and to try to make sense of what they are hearing. To do so, interviewers sometimes impose certain constructs in order to create an identity that coincides with stereotypical victim behavior. In Example #13 below, a client tells the interviewer of an incident in

which her estranged husband tried to choke her. The interviewer interrupts the client's narrative path to impose the gender identity of the self-sacrificing woman who tries to resolve domestic problems for the good of her family. The following excerpt illustrates how the interruption occurs:

Example #13: Interviewer imposes self-sacrificing identity construct

- C: Entonces cuando yo lo resistí (*'And when I resisted him'*)
 I: And when I wouldn't let him do that
 C: me trató de ahorcar, aquí traigo las marcas. (*'He tried to choke me. I have the marks to prove it'*).
 I: He tried to choke me, and I have those
 P: [O.K., so, then, at, at one point,
 were you trying to work out the, work it out so that you could
 move back with the kids?

In the above excerpt, the client narrates the violence that ensued during an attack and the interpreter renders her Spanish words into English for the interviewer. She states not only that he choked her, but that she has physical evidence in the way of bruises as a result of his brutality. The interpreter, doing his job, is able to translate only a portion of the woman's words by saying, 'He tried to choke me, and I have those,' before he is interrupted by the interviewer. With the question, 'O.K., so, then, at, at one point, were you trying to work out the, work it out so that you could move back with the kids?' the interviewer imposes his own version of the events and misses the physical evidence in the process.

The client did mention earlier that the abuser was trying to convince her to come back to him with the children, but she never stated that she was complicit in this discussion. It is the interviewer who, obviously in trying to make sense for himself (and arguably for the judge as well), imposes the 'self-sacrificing woman' role on the client with his inquiry. Perhaps he wants to clarify why she would be talking to an abusive man, so he interrupts the interpreter, muffles the client's message regarding her bruises and offers his own reasonable explanation for her involvement with the abuser. Consequently, the affidavit makes no mention of the strangulation marks on the woman's neck.

Later, the interviewer continues to impose stereotypical gender constructs that coincide with cultural notions of gender and victimization. He asks again how the alleged abuser came to stop choking her, and dissatisfied with the client's answer, 'He left me alone. I told him, I said, 'All right, leave me alone', the interviewer persists with victim- and gender-labeling questions such as 'Did you scream?', 'Did you cry?' Arguably, interviewers that make such suggestions use these techniques to put women in their pragmatolinguistic place. In other words, interviewers approach the interaction with victims with their own notions of what 'good victims' look/sound like, and it seems that with

these types of questions, they try to direct women's narratives toward their idealized representations. The interviewer in Example #13, for instance, with his questions 'Did you cry? Did you scream?' arguably attempts to construct a representation of this victim that shows her to be distraught about having been choked. It seems that for the interviewer, the 'correct' pragmatic and linguistic response for a woman victimized in such a way would be to cry or to scream. When the interviewee herself did not mention these responses, the interviewer tried to elicit them with questions that could help to put her in a convincing (and stereotypical) pragmalinguistic role (or place) within her own narrative of abuse.

Clients construct identities for the purpose of suggesting to service providers how they and their alleged abusers ought to be perceived, and service providers work in the interview to do so as well. What we find is that clients do not always and only want to be considered victims and that service providers tend to allow them to construct other gendered identities as long as those identities coincide with the gender ideals that satisfy the needs of their institutions.

Discussion and conclusion

Latina women, who are not silent about abuse, linguistically construct their gender identity with service providers for specific conversational reasons. My analysis has included an examination of both implicit and explicit linguistic techniques. Rather than focusing on how rigid gender roles perpetuate abusive relationships between men and women, I focus on how Latina women construct themselves as agents or subjects and not just as victims by selecting and performing gender to suit their conversational needs. Concomitantly, I suggest that some women perform traditional gender types not for the purpose of justifying their having stayed in a relationship, but as a means to justify their ending their relationships with abusive men. My data reveal that Latina women, using traditional gender, not only transform their relationships on the domestic front, but also attempt to transcend their status as victims on the institutional front. As capable mothers, they are seeking remedies to end the violence that they and their children must witness and suffer because of the poor (and criminal) gender performances of their intimate partners. These data suggest that courts and social workers involved in battering cases need to hear what women say about their partners' abuse when child custody decisions are being made, because some mothers seem to be saying that men who abuse them are also not likely to have the best interests of their children in mind. The Latina women in this study, although using different words, seem to be making this point.

When we view gender as locally constructed or as Butler (1997) states 'tenuously constituted in time' and space, we can also link gender with recent writings on the problematics of the binary identity constructs of *victim* and *survivor* found in legal and health professions for women who are raped or battered. In Lamb's (1999) edited volume, several researchers discuss how such binarisms strip women of their agency and their coping mechanisms, because service providers often end up assuming that women are in denial if they do not self-identify as either a *victim* or a *survivor*. The narratives analyzed here show us that Latinas utilize their linguistic resources to capitalize on cultural notions of gender in order to begin the process of freeing themselves from abusive situations. They construct themselves as agents who, while certainly victimized, are not about to remain within the confines of the identity construct of a passive victim. Though they, and perhaps even their children, have suffered from the blows of a violent partner, the women's words in these interviews suggest that as capable mothers, Latina women try to use the law to find ways to protect themselves and their children.

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Notes

- 1 Collier (1986) conducts a material analysis of gender in Spanish agrarian societies in the 1960s, where wealth was tied to the idea of legitimate children's inheritance. Within this context, 'proper' married women appeared to act in self-sacrificing ways that placed their familial obligations over and above their own enjoyment. The women in Collier's study wore shapeless and drab clothing that masked their often bloated and heavy bodies. Collier argues that with this gender performance in such a society, women were suggesting that they made sacrifices so that their children would have more to inherit. They portrayed themselves as unwilling to fritter their resources away on

fancy clothes or entertainment. And their drab and unflattering clothing indicated their own sexual modesty as their way of doing their part to make themselves unattractive to other men. Presumably these measures helped them protect their families' honor by warding off other possible 'fathers' of their children. In a society where birth legitimacy was the only way in which a family could accumulate wealth, women (as penetrable) were seen as the way through which a family's fortune could be placed at risk.

- 2 Contemporary understandings of *macho* illustrate the fact that its meanings are fluid, contested and contextual in U.S. Latino and Latin American cultures (Gutmann 1996; Mirandé 1997). In fact, Gutmann (1996: 17) argues that an analysis of masculinity and what it means to be macho must focus on 'what men say and do to be men, and not simply what men say and do'. It is in this vein that I study gender in these Latinas' narratives. This analysis examines what these Latina women say and do to be women in these legal interviews.
- 3 For insightful reviews of the overemphasis of victimization see Dunn 2005 and Picart 2003.
- 4 *Caló* is the Spanish word for 'slang', either in general or in particular cases where it may also refer to a particular type of slang, also known as *pachuco*. *Pachuco* is also referred to as Chicano Caló (ChC) because it is widely spoken throughout the U.S. southwest and was popularized by a group of young, alienated men known as *Pachucos* in the 1940s (Hutter 1984; Ornstein-Galicia 1987). Today many different meanings are attached to the dialect, some of them quite negative: criminality, drug abuse, drug dealing, anger, disorientation. More innocuous definitions defend Chicano Caló as a dialect that represents Chicano resistance to mainstream oppression. According to Ornstein-Galicia (1987), today ChC enjoys widespread usage among Mexican-American men of all socioeconomic classes. Ornstein-Galicia explains that even though ChC is still somewhat stigmatized, the dialect indexes the history of the Chicano movement, and it augments southwest Spanish speakers language repertoires.
- 5 Determining the precise goals of Latina women in these interviews is difficult. While some narrate only because their accounts are elicited, and others do so because they want an injunction, the data indicate that these two reasons do not represent the desires of all women. As Conley and O'Barr (1990) find to be the case for some litigants in small claims court, my data also suggest that some Latina women come to the institutional setting simply to be heard. The act of narrating in this official space is likely to serve an array of conversational purposes.
- 6 The transcription conventions used here have been adapted from those found in Matoesian (1993: 53–6). They are as follows:

- P: Refers to the paralegal or volunteer interviewers.
- I: Refers to the interpreter in the interview.
- C: Refers to the client in the interview.
- CF: Refers to the client's friend or family member who acted as an interpreter in the interview.
- [A single left-hand bracket indicates an overlap.
- (.00) Timed intervals indicate pause-lengths to nearest second.
- () Single empty parentheses indicate that audio material is inaudible.
- (with words) Single parentheses that enclose words indicate transcriber's best guess.
- ((with words)) Double parentheses enclosing words denote the description of a sound such as ((laughter)) and the analyst's commentary.
- (.) A period enclosed by parentheses indicates a brief pause or less than a second.
- 'Words' Single quotation marks with italicized words, immediately following Spanish data are my translations of the Spanish into English.
- 7 Parts of this example have been analyzed to show other sociolinguistic phenomena in Trinch 2001 and Trinch 2003.
- 8 Parts of this example have been analyzed to illustrate a different sociolinguistic device (namely, generic time narratives) in Trinch and Berk-Seligson 2002.
- 9 Parts of these examples are likely to have been analyzed for euphemism in Trinch 2001 and Trinch 2003.
- 10 It could be argued that in shielding her children from the truth about their father, she is also managing to protect the abuser from himself by keeping his identity as 'violent rapist' a secret from their children. Also, several women throughout the interviews suggest that their adult children would try to protect them by physically 'going after' the abuser. These women then also stated that they did not want their children to know about the violence because they did not want them to do something rash or illegal that would cause them to become involved with authorities. In this way, these women become omnipotent protectors, so to speak. The protective order serves to protect not only the women themselves, but also all of the men in their lives – from themselves and from each other as well.

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