

Quiero a Mis Hermanas Vivas:
Femicides in Puerto Rico

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Images: Puerto Rico's location in North America, flag, and administrative map

Sources: Wikimedia Commons & Publicdomainpictures.net

“There is no scale of human suffering. Suffering is suffering.” – Dr. Ellen Kennedy

Introduction

Domestic violence is a global problem that encompasses acts of violence committed against a large group of people like the elderly, children, and same sex couples. This article, however, examines the state of domestic violence against women—a specific strand called femicide or *feminicides/dios*—in Puerto Rico, by analyzing the related legal reform on the island within the context of human rights. The challenge is to combat a high domestic violence rate, while also working to overcome the enormous economic, social, and cultural obstacles exacerbated by the pandemic that perpetuate the violence and discrimination against women.¹ Police and political corruption especially have

¹ This article's focus on heterosexual couples and the state of domestic violence against women is in no way meant to negate or discredit the women and girls killed by unknown or unrelated perpetrators, nor is

posed problems. A 2019 report by feminist group Proyecto Matria and anti-police brutality organization Kilómetro Cero found that gender-based killings on the archipelago occurred at a greater rate than in the continuous United States (U.S.) from 2014-2018.²

The movement to recognize gender-based violence as a human rights violation is a relatively recent worldwide development.³ The General Assembly released its first resolution on domestic violence in 1985,⁴ and in 1989, the United Nations (U.N.) released a report on *Violence Against Women in the Family*, arguing that domestic violence is not random, but “associated with inequality between women and men.”⁵ This report was especially important for three main reasons. First, the report identified domestic violence as a grave problem in every country. Second, the report linked domestic violence to the international right to health by showing that domestic violence was one of the most serious causes of health problems among women. Third, the report established that the gender-based violence targeted at women is based in inequality and subordination, and thus, categorized such violence as a human rights issue.⁶

Part I presents the stories of three women whose femicides recently sparked Puerto Rican outrage and protests, encouraging the Governor of Puerto Rico to issue an emergency order denouncing gender-based violence. Part II defines femicide and distinguishes it from the broader term: gender-based violence. Part III discusses predictors of femicides on the island. This section particularly focuses on how Puerto Rico’s colonial relationship with the US prevents Puerto Rico from entering international treaties and conventions designed to ensure equal rights for women. Part IV contemplates avenues for prosecuting perpetrators of femicide. In sum, a call-to-action urges Puerto Ricans to continue to demand swift action rather than rely on government to do the right thing.

I. An Epidemic of Domestic Violence is Hidden in Plain Sight.

In 2006, the American Civil Liberties Union (ACLU) detailed that the Puerto Rico Police Department reported 23 murders of women at the hands of their partners or spouses, placing Puerto Rico first on an international list comparing the number of

it intended to overlook the hate crimes facilitated against transgender women. It does show that, although most murdered women are killed by their abusive partners or exes, it is hidden in plain sight.

² “La persistencia de la indolencia: feminicidios en Puerto Rico” Available at: https://6b021097-00e8-4f75-9e0b-ea681c4435f9.filesusr.com/ugd/8a0229_51b4d8d21ba047f69d0895c26b5f5342.pdf

³ Dorothy Q. Thomas & Michelle E. Beasley, *Domestic Violence as a Human Rights Issue*, 58 Alb. L. Rev. 1119 (1995).

⁴ *Domestic Violence*, adopted 29 Nov. 1985, G.A. Res. 40/36, U.N. GAOR, 40th Sess., 96th mtg., at 215-16, U.N. Doc. A/RES/40/36 (1985). Available at: <http://www.un.org/documents/ga/res/40/a40r036.htm>.

⁵ Division for the Advancement of Women, The U.N. Work on Violence Against Women, available at <http://www.un.org/womenwatch/daw/news/unwvaw.html> (last visited Nov. 18, 2021).

⁶ *Ibid.*

women killed in each country/territory.⁷ “The number of women killed by their intimate partners jumped significantly in 2011, to 30 women killed. That year, the number of women killed by their partners in Puerto Rico was six times higher than Los Angeles, which had about the same population of 3.7 million. In 2012, Puerto Rico had the highest per capita rate in the world of women over 14 killed by their partners.⁸

A. Valerie Ann Almodóvar Ojeda (23)

Theatress Valerie Ann Almodóvar Ojeda was one of at least 63 women and girls killed on the island in 2018. On December 17, graffiti artist Juan Luis Cornier Torres, in a residence in the Baldorioty neighborhood, in Ponce, Puerto Rico, stabbed Almodóvar Ojeda 34 times. Authorities found Almodóvar Ojeda’s body in a paint-splattered black plastic garbage bag off a highway in Garzas de Adjuntas, a rural mountainous town northeast of Ponce approximately 30 kilometers away, or 18.6 miles.

While Cornier Torres was charged with first-degree murder on January 10, 2019, the criminal trial against Cornier Torres lasted from April 7 through May 28, 2020. Before submitting the case, the Public Ministry sat down with ten witnesses, including a man who testified that he saw Cornier Torres stab the victim. The witness indicated that Cornier Torres went looking for him because “he had killed the girl and needed to clean and throw her away.” The witness added that upon arriving at the residence, he saw that the victim was still “trying to breathe” and that at that moment Cornier Torres stabbed her four more times, for a total of 38 stab wounds. The witness described how he helped clean the blood in exchange for \$20 that he used to buy controlled substances.

Moreover, Cornier Torres’ ex-girlfriend testified as an eyewitness at the crime scene. She stated that Cornier Torres came looking for her on the day he murdered Almodóvar Ojeda, and that he told her he stabbed Almodóvar Ojeda in self-defense. Cornier Torres’ ex-girlfriend, at the request of Cornier Torres, helped him wrap Almodóvar Ojeda’s body in plastic bags. Both witnesses pleaded guilty to concealment and destruction of evidence in separate cases.

B. Keishla M. Rodríguez Ortiz (27)

Thursday, April 29, 2021, was the last time Rodríguez Ortiz spoke to her mother on the phone. Rodríguez Ortiz was nearly two months pregnant and about to show her pregnancy test results to Félix Verdejo Sánchez, a former Puerto Rican Olympic boxer. Verdejo Sánchez, who is married, had kept in touch with Rodríguez Ortiz since they met in middle school. Rodríguez Ortiz’s mom had reason to worry when Rodríguez Ortiz did not show up at work that day—a pet grooming job that she was passionate about. “He

⁷ ACLU, “Failure to Police Crimes of Domestic Violence and Sexual Assault in Puerto Rico,” Available at: <https://www.aclu.org/other/failure-police-crimes-domestic-violence-and-sexual-assault-puerto-rico>

⁸ *Ibid.*

had threatened her before to not have the baby, to get an abortion [because] he has a family, he is a boxer [and] a public figure.”⁹

On Saturday, April 31, 2021, authorities found Rodríguez Ortiz’s lifeless body in a San Juan lagoon. The next day, Verdejo Sánchez turned himself in to the Federal Bureau of Investigation (FBI) to face kidnapping and murder charges for killing Rodríguez Ortiz. The criminal complaint alleges that Verdejo Sánchez contacted Rodríguez Ortiz and arranged to meet at her house. Rodríguez Ortiz walked into Verdejo Sánchez’s car and moments later, he punched her in the face. Then, “she was injected with a syringe filled with substance.”¹⁰

According to a witness who later cooperated with authorities, Verdejo Sánchez contacted the witness on April 27 and “requested his help to terminate the pregnancy.” Verdejo Sánchez and the witness, after drugging Rodríguez Ortiz, bound her hands and feet with wire, tied a block to her, and dumped her over a bridge; when her body hit the water, he shot at Rodríguez Ortiz from above. At that point, the witness took Rodríguez Ortiz’s keys and drove her sedan to a bridge where the witness met Verdejo Sánchez and Verdejo Sánchez dumped the body in the lagoon. This all happened at 8:30 a.m. on a Friday, on one of Puerto Rico’s most heavily-trafficked bridges.

C. Andrea Cristina Ruiz Costas (35)

For eight uninterrupted minutes, Ruiz Costas told a judge of the Caguas Court one Friday at 7:50 p.m. all the reasons why Ruiz Costas believed that her ex-partner, Miguel Ángel Ocasio Santiago, harassed and abused her emotionally. Ruiz Costas detailed these events in the presence of her abuser, who was not arrested and who police in the case described as “at all times cooperative with the authorities.” Ruiz Costas appeared in three hearings held between March 25 and March 31, 2021, seeking an order for protection against her abuser; the third sought an order for his arrest.

A leaked court recording details the third hearing.¹¹ Judge Ingrid Alvarado Rodríguez presided over the last hearing from her home and concluded the hearing—that lasted only 12 minutes—with the following: “Based on the evidence presented and believed, the court determines no cause at this stage of the procedure. Ehh, that will be all for me, have a good night.”

⁹ Salcedo, Andrea. “Boxer Félix Verdejo charged with killing pregnant woman whose body was found in a lagoon,” The Washington Post. Available at: <https://www.washingtonpost.com/nation/2021/05/03/felix-verdejo-boxer-killing-keishla-rodriguez/>

¹⁰ See *United States v. Félix Verdejo-Sánchez*, et. al., 21-161 P.R. (2021).

¹¹Serrano, Oscar J. “Grabación revela lo que ocurrió en una de las tres ocasiones en que Ruiz Costas pidió protección al tribunal sin éxito,” Tribunales. Available at: <https://www.noticel.com/tribunales/ahora/top-stories/20210510/grabacion-revela-lo-que-ocurrio-en-una-de-las-tres-ocasionen-en-que-ruiz-costas-pidio-proteccion-al/>

This is the recording that the Supreme Court refused to release and make public—despite requests for publication from the Ruiz Costas’ family, the Department of Justice, and the Puerto Rican Association of the Judiciary (APJ).¹² What is more, the recording shows that the hearing began at 7:50 p.m., which indicates that Judge Alvarado did not attend to the case as part of the Specialized Chamber for Domestic Violence, but instead as part of her on-call duties as a municipal judge.

The court did not issue the protection order or find cause for arrest against the man who, only a month later, would kill Ruiz Costas. Ruiz Costas’ partially burned body was found on April 29, 2021, at the side of a rural road located in Cayey, Puerto Rico. Ocasio Santiago took his own life shortly after in a Bayamón jail cell.¹³ Former Judge Alvarado Rodríguez eventually submitted his resignation to Governor Pierluisi in November, and his resignation took effect on December 14, 2021.

II. Declaring a State of Emergency Over “Gender-Based Violence” Does Not Address the Emergency Over “Femicides” Occurring on the Island.

One in three *women* have experienced physical or sexual violence in their lifetime—that is not including emotional, financial, or verbal abuse. Puerto Rico especially has experienced an increase in the killings of women in recent years. The Observatory for Gender Equity, a coalition of academics and women’s rights groups considered a leading authority in tracking gender-based violence on the island, has recorded a total of 38 femicides in 2021—and counting.¹⁴

“For far too long, vulnerable victims have suffered the consequences of systemic machismo, inequality, discrimination, lack of education, lack of guidance and, above all, lack of action,” Puerto Rican Governor Pedro Pierluisi posted in a string of tweets declaring a state of emergency over *gender-based violence*.¹⁵ There is one glaring problem with this declaration: nowhere does it mention *women* as the victims of such violence. Language matters. While it may seem redundant or superficial to insist on the term “femicide” when “gender-based violence” denotes the same type of violence, the distinction is important because the two terms are not synonymous. **All femicide is**

¹² *Asociación de Periodistas de Puerto Rico v. Commonwealth of Puerto Rico, et al.*, No. 21-659. Available at: <https://ntc-prod-public-pdfs.s3.us-east-2.amazonaws.com/6LyweELYyhSleu-12kGcZEeG69M.pdf>

¹³ Violence Policy Center. [VPC], *American Roulette: Murder-Suicide in the United States* 11 (May 2006), available at <http://www.vpc.org/studies/amroul2006.pdf>. Domestic violence is associated with a very significant number of murder suicides. Stronger domestic violence legislation may be one avenue of intervention, including programs that assist men with coping with issues of control and separation. Experts also suggest that more research should be focused on the impact that domestic violence murder-suicides have on the families in which they occur.

¹⁴ “Available at: <https://www.miamiherald.com/news/nation-world/world/americas/article253941708.html#storylink=cpy>

¹⁵ Twitter, Available at: <https://twitter.com/GovPierluisi/status/1353418643820965894>

gender-based violence, but not all gender-based violence constitutes femicide. Creating a distinction allows for clarity, transparency, and accountability.

As seen through the naming of crimes such as “genocide” and “sexual harassment,” naming a crime accurately has many important benefits. These benefits include validating the experiences of survivors and their families by accurately describing the crime, identifying larger social patterns, allowing law enforcement to collect accurate data, allowing the legal system to reform the justice process, and bolstering efforts to build support for a global movement dedicated to challenging violence against women.

The existence of different elements for femicide and homicide could show that there are different levels of culpability because there are distinct elements to prove for each crime: homicide and femicide. Violence against women comprises a wide range of acts – from verbal harassment and other forms of emotional abuse to physical or sexual abuse. At the far end of the spectrum is femicide: the killing of women and girls because of their gender.¹⁶ According to the UN, these crimes are rarely investigated and prosecuted because of the lack of data; this is due to most of these crimes taking place in the domestic context.¹⁷ In Puerto Rico, femicide occurs approximately once a week,¹⁸ making Puerto Rico among the regions with the highest femicide rate in the Americas.

Feminist sociologist Diana E.H. Russell spent years campaigning for the term “femicide.”¹⁹ Although the term is now spreading in several countries in Western Europe, as well as Latin America, it is not yet widely used in the U.S.

III. There Have Been Many Predictors of the Surge in Femicides in Puerto Rico

A. The United States is a Government That Lacks Political Will to Protect its Women and Girls.

The U.S. failure to ratify The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) signals a federal government lacking the

¹⁶ “Symposium on Femicide: A Global Issue that Demands Actions!” United Nations Office on Drugs and Crime. Available at: <https://www.unodc.org/unodc/en/ngos/DCN5-Symposium-on-femicide-a-global-issue-that-demands-action.html>. Femicide can take the form of, among other things the (1) murder of women as a result of intimate partner violence; (2) torture and misogynist slaying of women; (3) killing of women and girls in the name of “honor”; (4) targeted killing of women and girls in the context of armed conflict; (5) dowry-related killings of women; (6) killing of women and girls because of their sexual orientation and gender identity; (7) killing of aboriginal and indigenous women because of their gender; (8) female infanticide and gender-based sex selection feticide; (9) genital mutilation related deaths; (10) accusations of witchcraft; and (11) other gender-based murders connected with gangs, organized crime, drug dealers, human trafficking and the proliferation of small arms.

¹⁷ *Ibid.*

¹⁸ Gracias, Carmen. “La Persistencia de la Indolencia,” (2018). Available at: <https://static1.squarespace.com/static/5af199815cfd796ad4930e20/t/5dca948508f69e3b5b6c85c9/1573557399490/La+persistencia+de+la+indolencia+2019.11.12-vf.pdf>

¹⁹ Russell, Diana E. H. (2021) “My Years Campaigning for the Term ‘Femicide’,” *Dignity: A Journal of Analysis of Exploitation and Violence*: Vol. 6: Iss. 5, Article 6. Available at: <https://digitalcommons.uri.edu/dignity/vol6/iss5/6>.

political will to protect its women and girls. CEDAW is a U.N. treaty focusing on women’s rights and women’s issues worldwide. It acts as “both an international bill of rights for women and agenda of action.”²⁰ To date, 186 nations, including the US, have become signatory states to CEDAW; of these states, 185 have ratified CEDAW, and thus become parties to the convention. Signatory states can list any “reservations” they may have about articles of the convention, and such reservations are adopted as necessary for legal, religious, or cultural reasons—with the exception that the reservations not be contrary to the purpose of the Convention.²¹ Countries that ratify CEDAW agree to take concrete steps to improve the status of women and end discrimination and violence against women by focusing on three key areas: civil rights, reproductive rights, and gender relations.²²

The UN originally adopted this treaty in 1979, and nearly all member nations ratified the document—with the US among the few that did not.²³ Thus it should come as no surprise that Puerto Rico, a U.S. territory, is suffering a surge in femicides with little to no media attention in the States.

B. The Colonial Relationship Between the U.S. & Puerto Rico Muddies Jurisdictional Lines.

Currently, people born in Puerto Rico are granted U.S. citizenship, but they cannot vote in presidential or congressional elections unless they reside on the mainland of the US²⁴ “[U]nder the current Commonwealth arrangements, authority over defense, international relations, external trade, and monetary matters remain with the US, while Puerto Rico has autonomy on tax matters, social policies, and most local affairs.”²⁵ Thus, any actions by Puerto Rico that have implications on an international level must also be consistent with the foreign policy set by the U.S. federal government.

Puerto Rico’s colonial status continues to be a matter of global debate. Within the UN, there has been a long history of efforts to decolonize the island,²⁶ all while the US maintains that the US is a democratic republic (i.e., that it has no colonies). Puerto Rico receives most of its funding for domestic violence programs from the U.S. federal government because of its political status. Thus, the fact that such programs have been

²⁰ Lowen, Linda. (2020) “Why Won’t the U.S. Ratify the CEDAW Human Rights Treaty?”, ThoughtCo. Available at: <https://www.thoughtco.com/why-wont-u-s-ratify-cedaw-3533824>

²¹ Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* 18 Dec. 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., U.N. Doc A/34/46 (1980), 1249 U.N.T.S. 13 (*entered into force* 3 Sept. 1981).

²² *Ibid.*

²³ United Nations Entity for Gender Equality and the Empowerment of Women, Available at: <https://www.un.org/womenwatch/daw/cedaw/reports.htm>

²⁴ Special Committee Decision of 9 June 2008 Concerning Puerto Rico, U.N. GAOR, U.N. Doc. A/AC.109/2009/L.13 (17 Mar. 2009) [hereinafter UN Special Committee Decision on Puerto Rico].

²⁵ *Ibid.*

²⁶ Ana M. López & Gabriela Reardon, *Puerto Rico at the United Nations*, North American Congress on Latin America, Nov–Dec. 2007, at 22–23, available at <https://nacla.org/node/4325>.

historically underfunded is parallel to the historically underfunded domestic violence projects on the mainland.

C. The State of Emergency Declared Does Not Allow for Any Real Change.

On January 25, 2021, newly-elected Puerto Rican Governor Pierluisi declared a state of emergency over widespread violence against women on the island. As a result, the declaration allows for (1) more resources to be allocated to fight against gender-based violence in Puerto Rico, (2) the appointment of a special government representative on the issue, and (3) new programs to integrate women into the labor market.²⁷

The largest source of funding to combat domestic violence in the US is the *Family Violence and Prevention Service Act (FVPSA)*. It would cost \$175 million to fully fund the FVPSA; however, in 2008 President Bush requested only \$125 million to fund the program. Under President Obama's administration, the 2011 budget provided a record total of \$730 million to combat violence and sexual assault against women. Despite the funding increase, the budget was not fully funded. In May 2021, the Financial Oversight Management Board approved \$7 million for various programs aimed at preventing gender-based violence.

These are all positive steps that are overshadowed by the fact that related initiatives are also not being fully funded, which further compounds the problem of a lack of services. What governments everywhere fail to realize is that violence against women has economic costs. The UN identified at least seven major categories of those costs: Justice, Health, Social Services, Education, Business Costs, Personal or Household Costs, and Intangibles.²⁸

IV. Putting Together the Case: Prosecuting Perpetrators of Sexual Violence

²⁷ Exec. Order No. OE-2021-013, Available at: <https://ayudalegalpr.org/files/CE6D35A7-B0DD-E05A-5001-17185067F894/attachments/AA245475-8382-4461-8478-9D66D65746B5/oe-2021-013.pdf>

²⁸ Audra Bowlis, Tanis Day, and Katherin McKenna, "The Economic Costs of Violence Against Women: An Evaluation of the Literature," U.N. (2005). Available at: <https://www.un.org/womenwatch/daw/vaw/expert%20brief%20costs.pdf>



2020 ICC Prosecutor, Fatou Bensouda

Source: Wikimedia Commons

A. The Need to Enforce Human Rights Violations Should Challenge State Sovereignty.

Holding states accountable becomes particularly difficult when “the state” constitutes both the main actors and the agents of international law. This holds true because international law relies on the premise that states have sole sovereign authority. This tension is seen in the Charter of the UN, wherein it promotes both the idea of human rights and the principle of non-intervention in the sovereign equality of states.²⁹ State sovereignty, however, is not a guarantee, as it can be overridden by the United Nations Security Council (UNSC). The UNSC can recommend, shame, create policies, and more; but it cannot implement enforcement measures when there is a threat to peace, a breach of peace, or acts of aggression on the part of the state. There are no UN police, for example, and most UN peacekeepers have limited resources.

The four Puerto Rican government bodies that currently report on intimate partner violence have not developed a unified reporting standard for the issue. The police, judiciary, the Puerto Rico Department of Justice, and the Women’s Advocate Office all log different numbers. It adds to frustration that the Puerto Rico Police Department (PRPD) holds a reputation of mishandling domestic violence statistics by undercounting the murders of women by between 11% and 27% every year between 2014 and 2018.³⁰ So, while in 2019 the PRPD stated the number of reported domestic violence deaths dropped to 10, the real numbers are likely much higher.

B. The US Could Adopt the European Human Rights Court’s Due Diligence Standard.

²⁹ United Nations. (1945). Charter of the United Nations. [online]. New York: UN. Available at: <http://www.un.org/en/documents/charter/>

³⁰ Gracias, Carmen. “La Peristencia de la Indolencia,” (2018). Available at: <https://static1.squarespace.com/static/5af199815cfd796ad4930e20/t/5dca948508f69e3b5b6c85c9/1573557399490/La+persistencia+de+la+indolencia+2019.11.12-vf.pdf>

The current challenge in combating violence against women is implementing existing human rights standards to ensure that the root causes and consequences of violence against women are addressed at all levels. The 1993 Declaration on the Elimination of Violence Against Women (as well as other international documents) adopted the concept of due diligence, in relation to violence against women, to assess whether the State meets its obligation to protect women.³¹ The 1994 resolution established the mandate of the UN Special Rapporteur on Violence Against Women, the causes and consequences of violence against women, and highlighted that States have a due diligence obligation with regard to preventing, investigating, punishing, and providing redress for acts of violence against women. The due diligence obligation challenges the public-private divide that historically undercuts international law by linking human rights violations by non-State actors to State responsibility.

In her 1999 report on domestic violence, the first person to hold the position of Special Rapporteur, Radhika Coomaraswamy, developed the following list of considerations for determining State compliance with obligations of due diligence: (1) ratification of international human rights instruments; (2) constitutional guarantees of equality for women; (3) the existence of national legislation and/or administrative sanctions providing adequate redress for women victims of violence; (4) policies or plans of action that deal with the issue of violence against women; (5) the gender-sensitivity of the criminal justice system and police; (6) accessibility and availability of support services; (7) the existence of measures to raise awareness and modify discriminatory policies in the field of education and the media, and (8) the collection of data and statistics concerning violence against women.³²

Subsequent Special Rapporteurs have issued thematic reports that further contributed to the development of the due diligence concept.³³ Moreover, the UN Secretary-General's 2006 in-depth study on violence against women and other UN resolutions affirm the due diligence obligation.³⁴

³¹ Julie Goldscheid & Debra J. Liebowitz, "Due Diligence and Gender Violence: Parsing its Power and its Perils," *Cornell Int'l L.J.* 301 (2015). Available at:

<https://www3.lawschool.cornell.edu/research/ILJ/upload/Goldscheid-Liebowitz-final.pdf>

³² See Special Rapporteur on Violence Against Women, *Its Causes and Consequences, Violence Against Women in the Family*, 22– 25, Commission on Human Rights, U.N. Doc. E/CN.4/1999/68ds (Mar. 10, 1999). Available at: [hereinafter Coomaraswamy 1999 Report].

³³ See generally Special Rapporteur on Violence Against Women, *Its Causes and Consequences, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*, ¶ 34, U.N.Doc. A/HRC/23/ 49 (May 14, 2013) (by Rashida Manjoo); Special Rapporteur on Violence against Women, *its Causes and Consequences, The Due Diligence Standard As a Tool for the Elimination of Violence Against Women*, Commission on Human Rights, ¶ 19, U.N. Doc. E/CN.4/2006/61 (Jan. 20, 2006) (by Yakin Ertürk).

³⁴ See Secretary-General, *In Depth Study on All Forms of Violence Against Women*, U.N. Doc. A/61/122/Add.1 (July, 6 2006).

There are still valid concerns with this approach. The due diligence standard's explicit focus on prosecution and punishment amplifies concerns about inviting an enhanced State role in criminal justice interventions. For many, the State, typically as embodied by the criminal justice system, is a perpetrator of, rather than a protector of, violence. Accordingly, the limits of the criminal justice system should be a part of the calculus when locals decide what reform to advocate for.

C. The Emergence of the International Criminal Court (ICC) Could Prove Useful for Holding Perpetrators of Femicide Internationally Accountable

The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and crimes of aggression. Thus, unlike domestic courts, the ICC's main function is to express global norms in the hopes that, over time, global society will also reflect those norms. This Court, established in 2002, is the first of its kind. Contrary to skepticism about the legitimacy of the ICC,³⁵ the ICC's failure to prosecute defendants from the US and U.S. territories does not indicate invidiously selective prosecution. Rather, it reflects the general understanding that most courts are selective in deciding which cases to hear to preserve valuable resources and effect efficient decision-making. In other words, there is hope for this young tribunal.

The ICC has specifically recognized issues of violence against women in much of its work.³⁶ Although terminated by the ICC in 2011 because of insufficient evidence, *The Prosecutor v. William Samoei Ruto, et al.*³⁷ clarifies principles for prosecuting gender-based violence in general, sexual violence and rape. The 2012 case of *The Prosecutor v. Thomas Lubanga Dyilo*³⁸ concerned the war crimes of enlisting and conscripting children in the DRC. The ICC encouraged a gender-inclusive approach, promoting reparations that contribute to advance gender equality—granted, not equity. This approach, nonetheless, advanced the ICC's emphasis on considering the needs of victims of sexual or gender-based violence; also, prioritizing vulnerable victims (especially when plastic surgery or HIV treatments are necessary) and severely traumatized children. The latest sexual violence ICC caselaw from 2014, *Prosecutor v. Germain Katanga*,³⁹ is significant for being the first case in which crimes of sexual violence, including rape and sexual slavery, were addressed, despite Katanga's ultimate acquittal.

D. Puerto Rico's Laws Do Not Allow for Any Real Change Due to Corrupt Courts and Corrupt Law Enforcement.

³⁵ Allen Buchanan. "The Complex Epistemology of Institutional Legitimacy Assessments, 33 Temp. Int'l & Comp. L. J. 323 (2019).

³⁶ "Women and Justice: Court: International Criminal Court," LII. Available at: https://www.law.cornell.edu/women-and-justice/court/international_criminal_court

³⁷ *The Prosecutor v. William Samoei Ruto, et al.*, Int'l Criminal Court (2011).

³⁸ *The Prosecutor v. Thomas Lubanga Dyilo*, Int'l Criminal Court (2012).

³⁹ *The Prosecutor v. Germain Katanga*, Int'l Criminal Court (2014).

Law 54 was designed to change the perceptions of domestic violence and to contribute to the “development, establishment, and strengthening of effective measures to give protection and help to the victims, options for the rehabilitation of transgressors, and strategies for the prevention of domestic abuse.”⁴⁰ It is preventive and punitive and includes statutory mandates on defining such abuse. It defines domestic abuse as,

[A] constant pattern of conduct involving physical force or psychological violence, intimidation, or persecution against a person by his/her spouse, former spouse, a person with whom he/she cohabits, or has cohabited, with whom he/she has, or has had, a consensual relationship, or a person with whom a son or daughter has been procreated, to cause physical harm to their self, their property, or another’s self, or to cause him/her grave emotional harm.⁴¹

The importance of this definition is that Law 54 emphasizes the harmful conduct of the aggressor and rejects the idea that women “provoked” such aggression. Furthermore, Law 54 makes the aggressor responsible for his or her actions, regardless of the status of the relationship the aggressor has with the victim. That is, the victim can be a current or former spouse/intimate partner. Law 54 aimed to define the rights of women to live free of violence while in a relationship and this intent mirrors various international conventions that promote the protection of this right.⁴² However, in some judicial decisions, the law has been interpreted and applied in a manner that has been counter-productive for protecting women.

For example, in the 1999 case of *People v. Valentín Capó*, the Tribunal of the Appeals Circuit limited the scope of protection of the law to exclude couples in same-sex and adulterous relationships.⁴³ To add to this discriminatory interpretation of law, domestic violence protection in general has been compromised by “drawn-out and expensive procedures.”⁴⁴ Since Act 54 passed in 1989, thousands of people who pleaded guilty to domestic violence crimes have avoided jail by participating in re-education programs. The entity created to supervise these programs formed a reputation of having long periods of inactivity. While its operating conditions are a mystery, its effectiveness is not. Chillingly, Andrea Ruiz Costas’ confessed killer had been in one of these programs and his criminal record had been cleared.

⁴⁰ P.R. Laws Ann. tit. 8, § 601.

⁴¹ P.R. Laws Ann. tit. 8, § 602(p).

⁴² See U.N. Charter (establishing international human rights standards); International Convention on the Elimination of All Forms of Racial Discrimination, adopted 21 Dec. 1965, G.A. Res. 2106 (XX), U.N. GAOR, 20th Sess., art. 1, 660 U.N.T.S. 195 (entered into force 4 Jan. 1969), reprinted in 5 I.L.M. 352 (1966) (requires member states of the International Convention on the Elimination on all Forms of Racial Discrimination (“ICERD”) to condemn all forms of racial discrimination); International Decade of the World’s Indigenous People, adopted 18 Feb. 1994, G.A. Res. 48/163, U.N. GAOR, 48th Sess., Agenda Item 114, Supp. No. 49, U.N. Doc. A/Res/48/163 (1993); United Nations Draft Declaration on the Rights of Indigenous Peoples, U.N. ESCOR, Comm. on Hum. Rts., 11th Sess., Annex I, U.N. Doc. E/CN.4/Sub.2 (1993).

⁴³ *Pueblo v. Valentín Capó*, KLCE 99-01307 (April 30, 1999).

⁴⁴ *Ibid.*

On May 5, 2021, the Financial Oversight and Management Board for Puerto Rico, which manages Puerto Rico's debt crisis, approved only \$7 million in funding (after initially rejecting this amount). On August 27, 2021, Governor Pierluisi signed into law a measure that turned "femicides" and "transfemicides" into separate categories of crimes, designating them as first-degree murder. While international law, NGOs, and locals are paving the way for a more equitable world for women and girls, it is naive to ignore or discredit the rational, human emotional responses to witnessing slow progress in the fight for basic human rights.

Conclusion: Call to Action

Efforts to eliminate violence against women and girls have mainly focused on responding to and providing services for survivors of violence. Equally important is prevention—addressing the structural causes, risk, and protective factors. In the same vein, adoption of the term "femicide" in legislation is necessary to accurately name and charge these atrocities of misogynistic female killings.

The study of domestic violence as a human right violation means that the application of international human rights law can reinforce the state's obligation to respect the individual rights of every person and therefore be accountable for abuse of those rights by private individuals. Although the state does not actually commit the abuse, its failure to prosecute the abuse and to guarantee legal protection to women victims amounts to complicity in the abuse. As a result—despite Puerto Rico's colonial status—domestic violence against women can be a matter subject to scrutiny and review by the international community.

Nonetheless, waiting for any government to act could take years, if not decades, and by then it may be too late for hundreds of women. The lack of funding provided by the U.S. federal government and the Puerto Rican legislature for domestic-violence shelters and programs over the years is clear. So, what *Boricuas* can do is make this another defining issue on the island—harnessing the same power they used to oust Governor Ricardo Rosselló in 2019.

Image Sources

Puerto Rico's location in North America - https://commons.wikimedia.org/wiki/File:Puerto_Rico_in_North_America.svg

Puerto Rico's flag - <https://www.publicdomainpictures.net/en/view-image.php?image=228892&picture=puerto-rico-flag>

Administrative map - https://commons.wikimedia.org/wiki/File:USA_Puerto_Rico_labeled.svg