

Gender Justice in Puerto Rico: Domestic Violence, Legal Reform, and the Use of International Human Rights Principles

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ABSTRACT

This article examines the state of domestic violence in Puerto Rico. It investigates the ways by which grassroots movements and governmental agencies work collaboratively and independently towards the eradication of violence and discrimination against women on the islands. It also explores the island's past experience in managing change to create systems and programs that ensure women's human rights and gender equality. It analyzes related legal reform in Puerto Rico within the context of human rights.

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I. INTRODUCTION

Domestic violence is a global problem.¹ Every day this epidemic affects the lives of women in Puerto Rico.² In 2004, 22,274 incidents of domestic violence were reported to the police, and thirty-one women were killed as a result of domestic violence.³ The global problem of domestic violence encompasses acts of domestic violence committed against a larger group of people including the elderly, children, and same sex couples; however, this article will focus on the crimes committed between heterosexual couples, commonly referred to as intimate partner violence. On the islands of Puerto Rico, Vieques, and Culebra, which combined are roughly the size of Connecticut, the challenge is to combat a high domestic violence rate, while also working to overcome the enormous economic, social, and cultural obstacles that impede the eradication of violence and discrimination against women. The violence is compounded when as many as 100,000 Puerto Ricans are homeless and 45 percent live below or at the poverty line, many of whom are women.⁴

Globally, violence against women causes more death and disability among women aged fifteen to forty-four than cancer, malaria, traffic acci-

1. The reach of the pandemic of violence against women in Puerto Rico, coupled with the island's lack of sovereignty to directly enact international law, inspired the author to convene a workshop entitled "Incorporation of International Human Rights Law into Local Domestic Violence Laws: Meeting the Challenge" in San Juan, Puerto Rico on 11 June 2008. John Jay College of Criminal Justice's VII International Conference on Justice and Policing in Diverse Societies, San Juan, Puerto Rico (11 June 2008) [hereinafter, John Jay VII International Conference]. The workshop brought together domestic violence scholars and practitioners familiar with Puerto Rico's situation to discuss creating a space regarding the formation and utility of social and judicial solutions. At the workshop, the best methods and strategies to eradicate domestic violence both within Puerto Rico and on the international level were discussed. In turn, the group contemplated, developed, and assessed which methods and strategies could eventually be realized in Puerto Rico, and some of these will be discussed in this article.
2. Oficina de la Procuradora de Mujeres, *Estadísticas, 2007*, available at <http://www.mujer.gobierno.pr/>.
3. National Coalition Against Domestic Violence, *Puerto Rico Domestic Violence Facts*, available at <http://www.ncadv.org/files/PuertoRico.pdf>.
4. Teresa Zarcón-Pérez, *Working to Address Poverty in Puerto Rico*, EQUAL JUSTICE MAGAZINE, Spring 2005, at 20, available at <http://ejm.lsc.gov/EJMIssue8/povertyinpuertorico.htm>; see also Alice Colón Warren, *The Feminization of Poverty Among Women in Puerto Rico and Puerto Rican Women in the Middle Atlantic Region of the United States*, 5 BROWN J. WORLD AFF. 263 (1998). While 45 percent of Puerto Ricans live below the poverty level, 58.8 percent of female headed households live in poverty. US Census Bureau, *2005-2009 American Community Survey*, available at http://factfinder.census.gov/servlet/ACSSAFFacts?_event=&geo_id=04000US72&_geoContext=01000US%7C04000US72&_street=&_county=&_cityTown=&_state=04000US72&_zip=&_lang=en&_sse=on&ActiveGeoDiv=&_useEV=&pctxt=fph&pgsl=040&_submenuId=factsheet_1&ds_name=null&_ci_nbr=null&qr_name=null®=null%3Anull&_keyword=&_industry=

dents, and war.⁵ Domestic violence is a growing global pandemic. However, there is an emergent norm in international law to be free from extreme and systemic forms of domestic violence.⁶ International laws and principles have increased awareness of violence against women and have brought about changes in domestic reform. Countries that are able to sign and ratify conventions of this type can benefit from the procedures in place. Puerto Rico, because of its political status, cannot directly enact international law. Yet, it may model its own policies and principles after such laws and use international law as support for existing or future legislation.⁷

This article examines the state of domestic violence in Puerto Rico from a human rights perspective and encourages the promotion of international human rights principles. Using a socio-judicial perspective, this article begins with a discussion of how women in Puerto Rico have created multidimensional opportunities to fight physical exclusion and social control with the goal of achieving gender justice and equality under the law. Part II provides a global snapshot of the gravity of the domestic violence epidemic as well as an outlook on the current domestic violence crisis in Puerto Rico. As a result of Puerto Rico's political status, this section also draws comparisons to the progress made in the United States. Part III discusses how Puerto Rico's political status results in its inability to enter into international treaties and conventions aimed to ensure equal rights for women. This section also discusses how, in spite of its political status, Puerto Rico has provided legal protections and various types of support to women.⁸ Part IV investigates

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5. See Rhonda Copelon, *Violence Against Women: The Potential and Challenges of a Human Rights Perspective*, 2–3 *WOMEN'S HEALTH J.* 62, 64 (2004). See also WORLD BANK, *WORLD DEVELOPMENT REPORT 1993: INVESTING IN HEALTH* (1993), available at <http://files.dcp2.org/pdf/WorldDevelopmentReport1993.pdf>.
 6. See *General Recommendation No. 19: Violence Against Women*, U.N. GAOR, Comm. on Elim. of Discrim. Against Women, 11th Sess., at 1, U.N. Doc. A/47/38 (1993) (interpreting CEDAW to denote the norm that gender-based violence is a violation of women's fundamental human rights). See also Bonita Meyersfeld, *Domestic Violence, Health, and International Law*, 22 *EMORY INT'L L. REV.* 61, 63, 77–91 (2008); Katernine M. Culliton, *Finding a Mechanism to Enforce Women's Right To State Protection from Domestic Violence in the Americas*, 34 *HARV. INT'L L.J.* 507, 526 (1993) (noting that “[a]lthough the Women's Convention, the Optional Protocol, and customary human rights law establish norms requiring each state to respect women's rights as human rights, only the Inter-American system provides a practical means for enforcement of such rights.”).
 7. The Commonwealth has already done this to some extent. See, e.g., Statement of Act No. 20 of 11 Apr. 2001, available at <http://www.gobierno.pr/NR/rdonlyres/2AD3788A-6075-44BA-8103-1B28E26E4882/0/LeydelaOficinadelaProcuradoradelasMujeres.pdf>, which directly references CEDAW. See also EFRÉN RIVERA RAMOS, *THE LEGAL CONSTRUCTION OF IDENTITY: THE JUDICIAL AND SOCIAL LEGACY OF AMERICAN COLONIALISM IN PUERTO RICO* (2001).
 8. Besides international treaties, conventions, and bodies, there are also regional mechanisms that protect the rights of women, such as the Convention of Belem do Pará and the Inter-American Commission on Human Rights. However, a discussion of these regional mechanisms is beyond the scope of this article.

these issues further by exploring the ways by which grassroots movements and governmental agencies, specifically *La Oficina de la Procuradora de las Mujeres* (Women's Advocate Office (WAO)) work collaboratively and independently towards the eradication of violence and discrimination against women on the island. The efforts and work product of the WAO of Puerto Rico discussed in this article are limited to those efforts directed by former Procuradoras Maria D. Fernos and Marta Mercado Sierra. Part IV also explores the island's past experience in prompting change by creating systems and programs to ensure women's human rights and gender equality, and especially the right to live free from violence. Part V concludes by analyzing the legal reforms in Puerto Rico.

II. DOMESTIC VIOLENCE: GLOBALLY AND IN PUERTO RICO

Violence against women is a global epidemic that plagues women of all ages. From the selective abortions of female fetuses and the killing of female babies, to the sexual abuse and exploitation of the girl child and the murder of teenage and adult females in torturous relationships, violence is prevalent across the globe.⁹ Some scholars estimate that more than half the world's women experience violence in intimate relationships.¹⁰ This type of violence—committed by the person a woman trusts most, the person a woman knows best, and interacts with the most—receives the least recognition and the least relief.

The movement to recognize gender-based violence as a human rights violation is a relatively recent global development.¹¹ It was not until 1985 that the General Assembly released the first resolution on domestic violence.¹² Then, in 1989, the United Nations released a report on Violence Against Women in the Family, resulting in a shift in the international legal landscape.¹³ This report was important for several reasons. First, the report

9. HUM. RTS. WATCH, *WORLD REPORT 2000: WOMEN'S HUMAN RIGHTS* (2000), available at <http://www.hrw.org/legacy/wr2k/Wrd.htm#TopOfPage>.

10. Meyersfeld, *supra* note 6, at 62.

11. See generally Dorothy Q. Thomas & Michele E. Beasley, *Domestic Violence as a Human Rights Issue*, 58 ALB. L. REV. 1119 (1995). See also ECLAC Women and Development Unit, Nieves Rico, *Gender-Based Violence: A Human Rights Issue* (June 1997), available at <http://www.eclac.cl/mujer/noticias/paginas/9/27409/genderbasedviolence.pdf>.

12. *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>. See also Information Note, Division for the Advancement of Women, *UN Work on Violence Against Women*, available at <http://www.un.org/womenwatch/daw/news/unwvaw.html>.

13. UNITED NATIONS OFFICE AT VIENNA, CENTRE FOR SOCIAL DEVELOPMENT AND HUMANITARIAN AFFAIRS, *VIOLENCE AGAINST WOMEN IN THE FAMILY*, U.N. Doc. ST/CSDHA/2, U.N. Sales No. E.89.IV.5 (1989).

identified domestic violence as a problem in almost every country. Second, domestic violence was cited as one of the more serious causes of health problems among women, thereby linking it to the existing international right to health. Third, the report established that “the gender-based nature of violence against women and its linkage to subordination, inequality between women and men, and discrimination, led to its categorization as a matter of human rights.”¹⁴ Finally, the report urged a change in the emphasis of international law. With the publication of this study came “a growing understanding of the link between gender and violence, [thus] the approach to the issue within the United Nations shifted.”¹⁵ However, it was not until 1993, at the World Conference on Human Rights in Vienna, that violence against women really became part of the international agenda.¹⁶ In 1994, following the initiative set by the World Conference on Human Rights, the UN General Assembly adopted the Declaration on the Elimination of Violence against Women.¹⁷ In 1995, during the Fourth World Conference on Women in Beijing, the United Nations identified violence against women as one of twelve critical areas of concern.¹⁸ Most recently, some structural progress has been made in the area of domestic violence. A complaint mechanism was adopted in 2000 as part of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW OP), which allows individual abused women to directly petition CEDAW once domestic relief has been exhausted.¹⁹ The CEDAW OP is also significant because it allows the CEDAW Committee itself to inquire into grave or systematic violations in a country, which would include all forms of violence against women.²⁰

To date, 186 nations, including the United States, have become signatory states to CEDAW; of these countries, 185 have ratified the document, becoming parties to the Convention.²¹ Any signatory state can articulate

14. Information Note, *supra* note 12.

15. *Id.*

16. Vienna Declaration and Programme of Action, *adopted* 25 June 1993, U.N. GAOR, World Conf. on Hum. Rts., 48th Sess., 22d plen. mtg., ¶ 18, 38, 40, U.N. Doc. A/CONF.157/23 (1993), *reprinted in* 32 I.L.M. 1661 (1993). See also Caroline Sweetman, *Editorial*, in *VIOLENCE AGAINST WOMEN* 2, 3 (Caroline Sweetman ed., 1998); Noeleen Heyzer, *Working Towards a World Free from Violence Against Women: UNIFEM's Contribution*, in *VIOLENCE AGAINST WOMEN* 17, 18 (Caroline Sweetman ed., 1998).

17. Declaration on the Elimination of Violence Against Women, *adopted* 23 Feb. 1994, G.A. Res. 48/104, U.N. GAOR, 48th Sess., U.N. Doc. A/RES/48/104 (1994).

18. U.N. CHILDREN'S FUND [UNICEF], *DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS* (2000), available at <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>.

19. *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*, *adopted* 15 Oct. 1999, G.A. Res. 54/4, U.N. GAOR, 44th Sess., Agenda Item 109, U.N. Doc. A/RES/54/4 (1999).

20. *Id.* art. 8.

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).

“reservations” about articles of the convention, and such reservations are usually espoused as necessary for legal, religious, or cultural reasons. However, these reservations cannot be contrary to the object and purpose of the treaty. Despite the ability to articulate particular reservations, the United States has yet to ratify CEDAW; therefore the United States is not bound to put the provisions of the Convention into practice. However, since the United States did sign CEDAW in 1980, under the Vienna Convention it is bound in good faith to uphold the object and purpose of the treaty pending a decision on ratification.²² This is particularly important with regard to Puerto Rico, and will be discussed briefly in the next section. It is important to note here that because Puerto Rico is a territory of the United States, it does not possess the sovereignty to become a signatory of international conventions.

The issue of violence against women has been mainstreamed at the UN level via agencies that address health, human rights, women’s rights, and refugee protection. Many agencies, including the World Health Organization, UNICEF, the Office of the UN High Commissioner for Human Rights, the UN Population Fund, and the UN Development Fund for Women (UNIFEM) have taken efforts to stop violence against women.²³ Over the last decade, some significant progress has been made in the area of domestic violence in Latin America.²⁴ In 1996, after the Beijing Conference, only twelve Latin

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22. See Vienna Convention on the Law of Treaties, U.N. Doc. A/CONF.39/27 (1969), 1155 U.N.T.S. 331, art. 18 (*entered into force* 27 Jan. 1980). The United States, although not a signatory to the Vienna Convention, regards it as “the authoritative guide to current treaty law and practice.” Message from the President of United States Transmitting the Vienna Convention on the Law on the Law of Treaties, S. Exec. Doc. L., 92d Cong., 1st sess. (18 Oct. 1971) at 1.
23. WORLD HEALTH ORG [WHO], WHO MULTI-COUNTRY STUDY ON WOMEN’S HEALTH AND DOMESTIC VIOLENCE AGAINST WOMEN (2005), *available at* http://www.who.int/gender/violence/who_multicountry_study/en/; Joint Press Release, UNICEF, Some of the Biggest Victims of Domestic Violence are the Smallest: New Global Report Reveals Impact of Domestic Violence on Children (1 Aug. 2006), *available at* http://www.unicef.org/media/media_35151.html; Office of the UN Comm. for Hum. Rts. [UNHCR], Special Rapporteur on Violence Against Women, Its Causes and Consequences, *Statement on the Occasion of International Women’s Day, 2011, Introduction* (2011), *available at* <http://www2.ohchr.org/english/issues/women/rapporteur/> (“The United Nations Commission on Human Rights in resolution 1994/45, adopted 4 Mar. 1994, decided to appoint a Special Rapporteur on violence against women, including its causes and consequences. The mandate was extended by the Commission on Human Rights in 2003, at its 59th session in resolution 2003/45.”); UNFPA, Gender Equality, *Ending Widespread Violence Against Women*, *available at* <http://www.unfpa.org/gender/violence.htm>; UNIFEM, Campaigns: Say No, Unite- End Violence Against Women, *Violence Against Women- Facts and Figures*, *available at* <http://www.saynotoviolence.org/issue/facts-and-figures>.
24. This progress has included ratification of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women, “Convention of Belem do Pará,” by every Organization of American States member state, except for the United States and Canada. Thus, because the United States is not party to this Convention neither is Puerto Rico a party. For a list of the countries that have ratified the convention, see Inter-American Convention on the Prevention, Punishment, and Eradication of Violence

American countries had domestic violence laws.²⁵ The Commonwealth of Puerto Rico, through the enactment of Law 54,²⁶ was included as one of these Latin American nations acting to end impunity for domestic violence perpetrators. Today, every country in Latin America except Cuba, which is currently in the process of legislative reform, has some form of domestic violence legislation.²⁷ There are, however, many countries that still do not

Against Women, art. 12, 9 June 1994, 27 U.S.T. 3301, 1438 U.N.T.S. 63, available at <http://www.oas.org/juridico/english/signs/a-61.html>. For more on the Inter-American Commission on Human Rights see Karla I. Quintana Osuna, *Recent Development: Recognition of Women's Rights Before the Inter-American Court of Human Rights*, 21 HARV. HUM. RTS. J. 301 (2008). See also Copelon, *Violence Against Women*, *supra* note 5.

25. UNICEF, DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS, *supra* note 18.
26. Puerto Rico's Domestic Abuse Prevention and Intervention Act (Act 54), P.R. LAWS ANN. tit. 8, §§ 601–64 (1996).
27. The following is a list of the domestic violence legislation in Latin America:

Argentina: Act No. 25.087 modifies the Penal Code (1999); Act No. 24.417, "Protection against Family Violence" (1994); Law No. 4377 creates a provincial program for prevention of inter-family violence and assistance to victims in the province of Chaco (1993); Law No. 2212, on inter-family violence in the province of Neuquen (1993); Law 11529, on domestic violence in the province of Santa Fe (1993). Belize: Sexual Offenses and Domestic Violence Act (1991); Domestic Violence Act (1992). Bolivia: Act No. 1674, "Law Against Domestic and Family Violence" (1995); Law 1678 modifies the Penal Code concerning sexual offenses (1997). Brazil: Legislative Decree 107 converts into law the text of the Convention of Belém do Pará, Article 226 of the Federal Constitution of 1988, and various articles of the Penal Code; Law 11.340 contra la violencia doméstica y familiar, known as "María da Penha" (2006); Chile: Act No. 20066 on Domestic Violence (2005), which replaces Act No. 19.325, "Establishing Standard Procedures and Penalties for Acts of Violence within the Family" (1994) and modifies the Penal Code. Colombia: Law 294 to Prevent, Punish, and Eradicate Domestic Violence (1996); Law 360 on Offenses against Sexual Liberty and Human Dignity (1997); Law 575, which modifies parts of Law 294 (2000). Costa Rica: Act No. 7142, Promoting the Social Equality of Women (1990), which addresses violence in the family in Chapter 4; Act 7586 Against Domestic Violence (1996). Dominican Republic: Law 24–97, defining domestic violence, sexual harassment, and incest as crimes (1997). Ecuador: Law against Violence toward Women and the Family (1995). El Salvador: Law 902 against Family Violence (1996). Guatemala: Law 97–96 to Prevent, Punish and Eradicate Family Violence; Congressional Decree 7–99; "Law for the Dignity and Integral Promotion of Women" (1999). Haiti: Decret modifiant le régime des Agressions Sexuelles et éliminant en la matière les Discriminations contre la Femme (2005). Honduras: Law for the Prevention, Punishment, and Eradication of Violence against Women; Decree No. 132–97 (1997); the Law on Domestic Violence. Mexico: Law on Prevention of Family Violence and Provision of Related Assistance (1996); Decree to reform the Civil Code and Penal code in reference to Family Violence and Rape (1997); laws on domestic violence have been adopted in eight states; Ley General de Acceso de las Mujeres a una Vida Libre de Violencia (2007). Nicaragua: Law on the Creation of the Special Police Office for Women and Children as expressed in the National Police Law (1996); Law 230 which establishes protection for women who are victims of domestic violence (1996). Panama: Act No. 27 on Domestic Violence Offenses and Mistreatment of Minors (1995); Law Number 4 "Equal Opportunities for Women" (1999). Paraguay: Law 1600/00 against Domestic Violence (2000). Peru: Act 26260 establishes State and social policy on domestic violence (1993); Act No. 26763 establishes mechanisms to guarantee greater protection for domestic violence victims (1997); Act 26770 reforms the Penal Code, establishing that marriage does not vitiate grounds for prosecution of crimes against sexual freedom (1997); Act 27115 establishes Public Penal Action for Offenses against Sexual Liberty (1999); Act 27306 modifies Act 26260 (2000). Uruguay: Act No. 16707, "Law on the Safety of Citizens" (1995), adds to the Criminal Code Art. 321 (bis), defining domestic violence as a crime and stipulating punishment; Law 17514 on Domestic Violence (2002). Venezuela: Law on Violence against Women and the Family (1998); Law 4635 concerning equal opportunities for women, specifically, Chapter 5 concerning rights in case of violence and abuse. See Organization for American States, Inter-American Commission on Women (CIM): Violence Laws, available at <http://www.oas.org/cim/English/Laws/Violence.htm>. See also BONITA MEYERSFELD, DOMESTIC VIOLENCE AND INTERNATIONAL LAW, at xxix–xxxii (2010).

recognize domestic violence as a crime, thereby reinforcing the aggressors' behavior.²⁸ Moreover, countries that do recognize domestic violence as a crime frequently have cultures of impunity, which make the enforcement of laws and protections much more difficult.

It is important to turn to the rate of domestic violence crimes in Puerto Rico to better understand the consequences of violence against women. In a 2003 study, Puerto Rico was found to have the sixth highest rate of femicide per one million among fourteen countries in the Americas, and was found to have the seventh highest rate worldwide.²⁹ Furthermore, when the same study examined the rates of femicides committed by partners or ex-partners, Puerto Rico had the second highest rate at 14.81 partner femicides per one million women over fourteen years.³⁰ In 1995–1996, 13 percent of adult women in Puerto Rico reported that they had been physically assaulted by an intimate partner.³¹ From 1997 to 2003, women were the large majority of domestic violence victims, comprising approximately 83–90 percent of the targets in domestic violence incidents.³² In 2003, a woman was killed on average every 15.2 days.³³ The data from 2001 to 2008 indicates that 178 women were killed by their partners or ex-partners on the island.³⁴

In terms of age, the average age of women killed by their partners from 2003 to 2008 was 34.6 years, 67 percent of whom were between twenty and

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28. U.N. DEV. PROGRAM (UNDP), *VIOLENCE AGAINST WOMEN WIDESPREAD ACROSS ASIA-PACIFIC 1* (Mar. 2010), available at <http://hdru.aprc.undp.org/ext/pvr/pdf/report4.pdf>; Cheryl A. Thomas, *Legal Reform on Domestic Violence in Central and Eastern Europe and the Former Soviet Union* (2008) (paper presented at the Expert Group Meeting on Good Practices in Legislation on Violence Against Women, UN Office at Vienna, Austria, 26–28 May 2008), available at [http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/expertpapers/EGMGPLVAW%20Paper%20\(Cheryl%20Thomas\).pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/expertpapers/EGMGPLVAW%20Paper%20(Cheryl%20Thomas).pdf).
 29. JOSÉ SANMARTÍN, CENTRO REINA SOFÍA: PARA EL ESTUDIO DE LA VIOLENCIA, 2ND INTERNATIONAL REPORT, STATISTICS AND LEGISLATION: PARTNER VIOLENCE AGAINST WOMEN 30–31 (2003), available at <http://www.centroreinasofia.es/informes/11Informe.pdf>.
 30. *Id.* at 45. (In this section of the study, the rates of twenty-three countries were reported).
 31. Data from United Nations Statistics Division, Demographics and Social Statistics: Statistics and Indicators on Women and Men, Table 6.C, Physical Abuse against Women by an Intimate Partner (1991–99), available at <http://unstats.un.org/unsd/demographic/products/indwm/table6C.htm>. This source was formatted from the original source, WHO, *WORLD REPORT ON VIOLENCE AND HEALTH* (Etienne G. Krug et al. eds., 2002), available at <http://whqlibdoc.who.int/hq/2002/9241545615.pdf> [hereinafter WHO 2002 REPORT]. See also *Puerto Rico: Encuesta de salud reproductiva 1995–1996*, Resumen de los Hallazgos (Universidad Puerto Rico, and Atlanta, Centers for Disease Control and Prevention, 1998).
 32. Estado Libre Asociado De Puerto Rico, Oficina De La Procuradora De Las Mujeres 2008, *Resumen del Perfil de las Mujeres Asesinadas por Violencia Doméstica (2003–2008)* [hereinafter OPM 2008] (the author utilized the WAO library in San Juan, Puerto Rico to conduct the archival research in this section under the supervision of Procuradora Marta Mercado Sierra).
 33. *Id.*
 34. *Id.*

thirty-nine years old.³⁵ Furthermore, the average age of the domestic violence aggressor was forty years. Fifty percent of the aggressors were between the ages of twenty and thirty-nine years old.³⁶ Unfortunately, these statistics do not mean domestic violence is not prevalent among the youth in Puerto Rico. In 2000, the rate of youth homicide by interpersonal violence was among the highest in the world, at 41.8 per 100,000.³⁷ The laws have yet to fully include the types of technologically advanced violence committed among this group, such as text and email stalking.

The research also indicates that of all domestic violence cases involving spouses or intimate partners, 55 percent of the murders occurred in the home of the victim or a residence shared by the victim and the aggressor.³⁸ This demonstrates that women are not safe in their own homes, as they are more likely to be killed by their aggressor in their homes than anywhere else. In 36 percent of the cases, the aggressors committed suicide.³⁹ This fact is important to highlight because it reflects the lack of preventative measures and other resources available to perpetrators of domestic violence. When more than one-third of such crimes result in the aggressor committing suicide, preventative interventions are necessary. Also, although the impact of such crimes on the surviving family members is often overlooked, it is an additional reason to work toward the eradication of domestic violence.⁴⁰ Among the women killed, 17 percent had orders of protection, 2 percent had orders of arrest against their aggressors, and 4 percent had expired orders of protection.⁴¹ These low statistics highlight the following issues: few women in violent relationships are seeking protection, perhaps in large part because they distrust the system; women fear their aggressors; and the system is failing to grant adequate protection to victims.⁴² All scenarios are problematic

35. *Id.*

36. *Id.*

37. WHO 2002 REPORT, *supra* note 31, at 25.

38. WAO 2008, *supra* note 32, at 2.

39. *Id.*; 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. Therefore stronger domestic violence legislation may be one avenue of intervention, including programs that assist men with coping with issues of control and separation. Moreover, experts have suggested that more research should be focused on the impact that domestic violence murder-suicides have on the families in which they occur.

Id. at 11.

40. However, this issue, although important, is not the focus of this article.

41. WHO 2002 REPORT, *supra* note 31, at 25.

42. There are 20,000 protective orders issued annually and a similar number of incidents are reported to the police, while less than 500 convictions are made annually. WAO 2008, *supra* note 32 at 5. Arrests are usually not made for violating protective orders issued by the courts and, even worse, a significant number of public servants of the criminal justice system in our country show resistance to the full implementation of the law. The result of this situation is a lack of safety guarantee for the victim and a strong sense of

for the women of Puerto Rico and must be researched with more accuracy, and in greater depth. Accordingly, reforms need to be made.

As noted previously, victims of domestic violence crimes are not always women. However, the number of victims of domestic violence crimes disaggregated by sex demonstrates that women fall victim to this crime at an exceedingly higher rate than men.

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| 2001 | Reported victims of domestic violence⁴³ |
| <i>Female</i> | 15,612 |
| <i>Male</i> | 2,154 |
| 2007 | Victim versus Aggressor Percentages⁴⁴ |
| <i>Domestic Violence Victims</i> | 85% Female |
| <i>Domestic Violence Offenders</i> | 85% Male |
| 2008 | Reported victims of domestic violence crimes⁴⁵ |
| <i>Female</i> | 15,476 |
| <i>Male</i> | 2,824 |

Although the numbers are strikingly disparate, it is likely that in reality an even greater disparity exists. A culture of male dominance and patriarchy in Puerto Rico plays a major role in the underreporting of domestic violence by female victims.⁴⁶ In rural sections of the island, subordination of women through organized religion and a “family-like culture among community members,”⁴⁷ plays a major role in the underreporting of domestic violence

impunity among aggressors that is reflected in the statistics. Between 1990 and 2004, 277,959 cases of domestic violence were reported to the Puerto Rico Police; among those, 90 percent (248,741) were directed against women. In addition, 443 women were murdered in domestic violence disputes during this period. Commonwealth of Puerto Rico: Office of the Advocate for Women, *The Institutional Response of the Criminal Justice System in Managing Domestic Violence Cases: Evaluation and Identification of the Needs to Promote Safety for the Victim and Intervention with the Aggressor* 1 (March 2006) [hereinafter WAO Summary 2006]. See also Marta A. Mercado Sierra, Women’s Advocate, VII International Conference of Criminal Justice: Rural Communities Responding to Domestic Violence 1–2 (11 June 2008) [hereinafter Rural Communities Responding to DV Report] (“[L]ow levels of education and lack of available services might be affecting the number of cases being reported in the rural area.”).

43. See WAO Summary 2006, *supra* note 42.

44. *Id.*

45. *Id.*

46. See generally Dallan F. Flake & Renata Forste, *Fighting Families: Family Characteristics Associated with Domestic Violence in Five Latin American Countries*, 21 J. FAM. VIOLENCE 19 (2006).

47. Rural Communities Responding to DV Report, *supra* note 42, at 6.

and requests for direct services.⁴⁸ Police agents and prosecutors do not fully comply with domestic violence protocols and judges were found to be among the most resistant employees of the criminal justice system.⁴⁹ “Prejudices, preconceptions and value judgments”⁵⁰ have been cited as key factors that influence the sentencing for domestic violence crimes.⁵¹

Domestic violence continues to be a growing problem worldwide⁵² and violence against women has increased in recent decades. The insufficient representation of women⁵³ in the discussions on how to combat violence against women has resulted in inadequate funding of preventive and reactive violence projects.⁵⁴ Advocates in Puerto Rico blame the Commonwealth’s

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48. *Id.* See also Rural Communities Responding to DV Report, *supra* note 42, at 3 (“These numbers do not take into account the many women who do not report incidents; a general projection estimates this number close to 30,000”).
49. *Id.*
50. *Id.*
51. In June 2006, the Rural Women Mountain Project put on a performance with this message at the WAO in San Juan, Puerto Rico observed by the author and available in the WAO archive library. During the performance, women, via the skit, reported that physical, social, and cultural isolation imposed on victims by their communities served to deter reporting and that social cooperatives and support groups formed in their communities were utilized as means of escape from domestic violence aggressors.
52. WHO SUMMARY REPORT, MULTI-COUNTRY STUDY ON WOMEN’S HEALTH AND DOMESTIC VIOLENCE AGAINST WOMEN 1 (2005), available at http://www.who.int/gender/violence/who_multicountry_study/summary_report/summary_report_English2.pdf (“International research has signaled that violence against women is a much more serious and widespread problem than previously suspected”). See also LORI HEISE, MARY ELLSBERG & MARY GOTTEMOELLER, POPULATION REPORTS, ENDING VIOLENCE AGAINST WOMEN 1 (Dec. 1999), available at <http://info.k4health.org/pr/111edsum.shtml>. (“Around the world, at least one woman in every three has been beaten, coerced into sex, or otherwise abused in her lifetime. Most often the abuser is a member of her own family.”)
53. *Report of the Committee on the Elimination of Discrimination against Women*, U.N. GAOR, 52nd Sess., Supp. No. 38, at 61, U.N. Doc. A/52/38 (1997). This recommendation is frequently invoked by the committee to highlight the slow and uneven political representation of women across the world. See, e.g., *The Convention on the Elimination of All Forms of Discrimination Against Women*, U.N. CEDAW, 37th Sess., ¶¶ 17, 18 at 3,4, U.N. Doc. CEDAW/C/NLD/CO/4 (2007).
54. Domestic violence emergency shelter programs have not been fully funded in the past six years. Without full funding state and local DV programs will be devastated and services will be eliminated. Although FVPSA has never been fully funded at \$175 million, the president’s 2008 budget only requests \$125 million for this program. FVPSA was amended in 2003 to provide a portion of all appropriations over \$130 million to programs serving children who witness domestic violence. NAT’L COAL. AGAINST DOMESTIC VIOLENCE, FY 2008 APPROPRIATIONS: NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, available at http://www.ncadv.org/unordered/FY2008Appropriations_222.html. See also NAT’L COAL. AGAINST DOMESTIC VIOLENCE, CAMPAIGN FOR FUNDING TO END DOMESTIC AND SEXUAL VIOLENCE: VAWA APPROPRIATIONS FOR FISCAL YEARS 2006 AND 2007, AND FISCAL YEAR 2008 REQUESTS (27 Jul. 2007), available at <http://www.ncadv.org/files/appropschartfy08briefingbook7.27.07.pdf>; Press Release, Security Council, Security Council Deeply Concerned about “Pervasive” Gender-Based Violence, As it Holds Day-Long Debate on Women, Peace, and Security: Members Adopt Presidential Statement as Secretary-General Urges Strengthening of Collective Response to “Hideous” Behaviour, U.N. Doc. SC/9151 (23 Oct. 2007) available at <http://www.un.org/News/Press/docs/2007/sc9151.doc.htm>.

high rates of intimate-partner violence on the situation of “inadequate funding for women’s rights policies and weak political support for implementing the law.”⁵⁵ Furthermore, “Jacqueline Padilla Muñoz, who has worked in that agency [WAO] for eight years, said massive budget cuts in March 2009 reduced the staff to 34; in September 2009 it was 56. The annual budget is now \$6,769,000, down from \$8,041,000 in 2009.”⁵⁶ Puerto Rico receives most of its funding for domestic violence programs from the US federal government as a result of its political status. Hence, the fact that such programs are underfunded is not surprising since the United States has historically underfunded domestic violence projects.⁵⁷

All governments need to realize that violence against women also has real economic costs.⁵⁸ For example, one study in the United States found that medical attention and loss of productivity due to violence against women resulted in an annual cost of \$5–10 billion.⁵⁹ Over the past six years, there has not been full funding of domestic violence emergency shelter programs.⁶⁰ This lack of funding translates directly into lack of services, for example, “[i]n 2008, a twenty-four-hour survey of domestic violence programs across the nation found that 60,799 victims were served in one day. Unfortunately, due to lack of resources, there were 8,927 unmet requests for services.”⁶¹ If this lack of funding continues, such programs will be eliminated.⁶²

The largest source of funding to combat domestic violence in the United States is the Family Violence and Prevention Service Act (FVPSA). To fully fund the FVPSA would cost \$175 million, however, in 2008 President Bush requested only \$125 million to fund this program.⁶³ Under President Obama’s

55. Firuzeh Shokooh Valle, *Puerto Rican Women Face Rising Tide of Violence*, WE NEWS, 24 Aug. 2010, available at <http://www.womensenews.org/story/domestic-violence/100820/puerto-rican-women-face-rising-tide-violence>.

56. *Id.*

57. Campaign for Funding to End Domestic and Sexual Violence, FY 2010 Appropriations Briefing Book 5 (Apr. 2009), available at <http://www.nnedv.org/docs/Policy/fy10briefingbook.pdf> [hereinafter Campaign FY 2010] (“Despite the progress made by FVPSA and VAWA, they remain seriously underfunded, well below their authorized funding levels.”).

58. See Karen P. West et al., *The Mandatory Reporting of Adult Victims of Violence: Perspectives from the Field*, 90 Ky. L.J. 1071, 1072 (2001) (stressing that domestic violence related medical expenses in the United States total between an estimate of \$3 and \$5 billion a year). See also Yvette Lopez, *Sleeping with the Enemy: Mexico and Domestic Violence, Out for a Rude Awakening or Rising in Time?* 25 WOMEN’S RTS. L. REP. 1, 2–3 (2003) (stating that domestic violence costs the United States approximately 67 billion annually); UNICEF, DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS, *supra* note 18, at 13 (stating that in Chile, women who suffer from domestic violence earn an average of \$150 USD per month, while women who are not victimized by domestic violence earn an average of \$385 USD).

59. Harris Meyer, *The Billion-Dollar Epidemic*, 35 AM. MED. NEWS 7 (1992).

60. NAT’L COAL. AGAINST DOMESTIC VIOLENCE, *supra* note 54.

61. Campaign FY 2010, *supra* note 57.

62. NAT’L COAL. AGAINST DOMESTIC VIOLENCE, *supra* note 54.

63. *Id.*

administration, a bill to reauthorize the FVPSA was introduced in the House of Representatives on 19 November 2009.⁶⁴ Earlier that year, in June 2009, the White House announced the first-ever position of White House Advisor on Violence Against Women, Lynn Rosenthal.⁶⁵ She has led the first-ever White House effort to stop violence and sexual assault against women and to continue and expand Violence Against Women Act (VAWA) initiatives. As per the White House, President Obama's FY 2011 budget will provide a record total of \$730 million to combat violence against women—a \$130.5 million increase in funding from the previous fiscal year.⁶⁶ Despite the funding increase, the budget will not be fully funded.

In addition, related initiatives have also not been fully funded, which further compounds the problem of a lack of services. This discussion is pertinent because Puerto Rico is dependent on US funding for related and direct services and often to enforce such laws. Thus, if the FVPSA is underfunded, Puerto Rico's domestic violence programs can be affected. To understand this relationship more clearly, a brief and general discussion of Puerto Rico's political status is necessary.

III. PUERTO RICO'S POLITICAL STATUS

The United States acquired the islands of Puerto Rico in 1898 after the Spanish-American War. Since then, Puerto Rico's political status has not notably changed. Although residents of Puerto Rico hold US citizenship, imposed by the US through the 1917 Jones Act, the rights afforded to Puerto Ricans, as interpreted by the US Supreme Court, apply the doctrine of separate and unequal.⁶⁷ Most significantly, as earlier noted, Puerto Rico remains unequal in terms of adopting international human rights treaties and conventions. Instead, Puerto Rico must rely on the United States to represent its interests and utilize its voting capabilities at the United Nations. As such, Puerto Rico's non-territorial status has affected its ability to adopt international law. Puerto Rico's barrier to adopt international law is particularly noteworthy

64. NJ Coalition for Battered Women, *NJCBW Update* (Dec. 2009), available at <http://www.njcbw.org/documents/UpdateDec09.pdf>.

65. Overview & Outlook: The White House's Commitment to Combating Violence Against Women Nationwide (2009), available at <http://www.whitehouse.gov/sites/default/files/20100202-whitehouse-combating-violence-against-women.pdf>.

66. *Id.*

67. See JUAN R. TORRUELLA, *THE SUPREME COURT AND PUERTO RICO: THE DOCTRINE OF SEPARATE AND UNEQUAL* 21 (1985). See also JOSÉ LUIS MORIN, *LATINO/A RIGHTS AND JUSTICE IN THE UNITED STATES: PERSPECTIVES AND APPROACHES* 24–25 (Carolina Academic Press 2009) (2005) (delineating the series of cases that have never been overturned, known as the *Insular Cases*, in which the Supreme Court denied Puerto Ricans full constitutional rights); JOSÉ TRÍAS MONGE, *PUERTO RICO: THE TRIALS OF THE OLDEST COLONY IN THE WORLD* (1997).

with regard to domestic violence. Therefore, although this article focuses on domestic violence issues in Puerto Rico, a discussion of the United States in this context is necessary given this colonial relationship.

Puerto Rico's colonial status has been and continues to be a matter of global debate. Within the United Nations there is a long history of efforts to decolonize the island.⁶⁸ In 1953, shortly after the establishment of Puerto Rico as a Commonwealth, the General Assembly of the United Nations passed Resolution 748, which removed the island's classification as a non-self governing territory.⁶⁹ However, despite this resolution "the Department of Justice concluded in 1959, that Puerto Rico remained a territory."⁷⁰ Thus, the struggle for the rights of Puerto Rico's inhabitants continues today. Most recently, on 15 June 2009, the United Nations Special Committee on Decolonization "approved a draft resolution calling upon the Government of the United States to expedite a process that would allow the Puerto Rican people to exercise fully their inalienable right to self-determination and independence."⁷¹

Currently, people born in Puerto Rico are granted US citizenship, but they cannot vote in presidential or congressional elections unless they reside

68. 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>.

69. *Cessation of the Transmission of Information under Article 73 of the Charter in Respect to Puerto Rico*, G.A. Res. 748 (VIII), U.N. GAOR, 8th Sess., ¶¶ 4–5, U.N. Doc A/Res/748 (1953), available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3b00f1de10&skip=0&query=Cessation%20of%20the%20Transmission%20of%20Information%20under%20Article%2073%20of%20the%20Charter%20in%20Respect%20to%20Puerto%20Rico>. (In this Resolution, the US represented to the General Assembly an assurance that "the people of the Commonwealth of Puerto Rico have effectively exercised their right to self-determination...invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity..." Furthermore, the US expresses assurances that in accordance with the political advancement attained by the people of Puerto Rico, "due regard will be paid to the will of both the Puerto Rican and American peoples in the conduct of their relations under their present legal statute, and also in the eventuality that either of the parties to the mutually agreed association may desire any change in the terms of this association.). See also MONGE, *supra* note 67, at 136.

On November 27th 1953, the same day the General Assembly of the United Nations decided that the United States could cease sending information on Puerto Rico, the list of factors for determining when a colony has achieved full self-government was approved. The Puerto Rican case had just been decided and was not analyzed in light of this list.

70. REPORT BY THE PRESIDENT'S TASK FORCE ON PUERTO RICO'S STATUS 6 (DEC. 2007), available at <http://www.justice.gov/opa/documents/2007-report-by-the-president-task-force-on-puerto-rico-status.pdf>.

71. *Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 2008*, U.N. GAOR, 63rd Sess., Supp. No. 23, at 9, U.N. Doc. A/63/23 (2008).

on the mainland of the United States.⁷² “[U]nder the current Commonwealth arrangements, authority over defense, international relations, external trade and monetary matters remain with the United States, while Puerto Rico has autonomy on tax matters, social policies and most local affairs.”⁷³ Therefore, any actions by Puerto Rico that have implications on an international level must be consistent with the foreign policy set and pursued by the federal government of the United States.⁷⁴

While over 90 percent of the members of the United Nations have ratified CEDAW,⁷⁵ the United States has chosen not to do so. Therefore, the United States is unable to work alongside other states that are party to the Convention in order to eliminate all forms of discrimination against women. As a result, the human rights protections provided through the ratification of such treaties are not afforded to the full citizens of the United States or to the “second class” citizens of the Commonwealth of Puerto Rico.⁷⁶ In addition, the United States has not ratified the 2000 Optional Protocol to CEDAW. Thus Puerto Rico cannot avail itself of the ability to petition CEDAW directly for relief nor of the inquiry procedure which allows the Committee to investigate situations of grave or systematic violations of women’s rights.

Individual US cities and states, such as San Francisco, have incorporated CEDAW into local legislation, bypassing the obstacle of being unable to utilize the protections afforded via the international human rights protocols that the United States has yet to ratify.⁷⁷ Similarly, women in Puerto Rico have also taken a preventative approach in utilizing pre-existing human rights principles to develop domestic protections through the legislative process.⁷⁸ Despite such obstacles that serve to impede many human rights protections,

72. *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*].

73. *Id.*

74. MONGE, *supra* note 67, at 27. See generally *UN Special Committee Decision on Puerto Rico*, *supra* note 72.

75. Convention of the Elimination of All Forms of Discrimination against Women, *UN Treaty Series*, vol. 1249 at 13 (18 Dec. 1979), available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en (listing the participant states in the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women).

76. JOSÉ LUIS MORIN, *LATINO/A RIGHTS AND JUSTICE IN THE UNITED STATES* 19 (2d ed. 2009). See generally MONGE, *supra* note 67, at 138.

77. DEPARTMENT ON THE STATUS OF WOMEN, CITY AND COUNTY OF SAN FRANCISCO, *CEDAW IN ACTION: LOCAL IMPLEMENTATION IN THE CITY AND COUNTY OF SAN FRANCISCO* (2010), available at http://www.sfgov3.org/ftp/uploadedfiles/dosw/Resources/CEDAW_in_Action_April2010.pdf. (Stating that “In April 1998, San Francisco became the first city in [the United States] to adopt an ordinance implementing CEDAW locally. It also established a Task Force which works with the Commission and City departments to identify discrimination against women and girls, and to implement human rights principles.”)

78. See, e.g., Statement of Act No. 20 of 11 Apr. 2001, *supra* note 7.

including the right to self-determination and specifically the right for women to live free of violence, women on the island are mobilizing. Therefore, an examination of the steps that women and grassroots organizations have taken, despite the Commonwealth's inability to adopt international law, is essential. The enactment of Law No. 54 and Law No. 20,⁷⁹ which created domestic violence legal reform and protection for women and men alike, as well as the establishment of the Women's Advocate Office, provide examples of such development of domestic violence legislation, prevention efforts, and reform in Puerto Rico.

A. Background on Puerto Rico's Domestic Violence Prevention and Intervention Law

Women around the world, especially since the Fourth World Conference on Women in Beijing (1995), have been instrumental in coming together to eradicate violence against women, particularly domestic violence. International human rights law has been one of the most powerful tools for change, having been successfully utilized to achieve domestic legal reform worldwide. Women in Puerto Rico are part of this global effort and have managed to create a space, despite their political status, to deal with the issue of domestic violence, which is a crime that increasingly affects women of all ages on the island. Despite the Puerto Rican government's inability to ratify international human rights treaties and conventions on its own, it has taken part in international discussions on women's rights. For example, during the Beijing conference the government participated as an observer country and women's nongovernmental organizations (NGOs) from Puerto Rico participated in the parallel NGO forum.⁸⁰ "As a result of this Fourth World Conference on Women, the NGOs of the country conducted an action plan for women in Puerto Rico and began a review of progress obstacles and constraints in the development of [women's] human rights."⁸¹ It also brought about the adoption of legislation to afford women human rights protections.⁸²

79. P.R. LAWS ANN. tit. 1, §§ 311–29 (2001), available at <http://www.gobierno.pr/NR/rdonlyres/2AD3788A-6075-44BA-8103-1B28E26E4882/0/LeydelaOficinadelaProcuradoradelasMujeres.pdf>.

80. Statement of Act No. 20 of 11 Apr. 2001, *supra* note 7 at 2 (author's translation).

81. *Id.*

82. This legislation includes: Law No. 102 of 2 June 1976, which declared 8 Mar. as the International Day for Women; Act No. 69 of 6 July 1985, discrimination based on sex; Act No. 77 of 9 July 1986, the Protection of Victims and Witnesses; Act No. 18 of 18 May 1987, which declared 25 Nov. of each year as the Day of No More Violence Against Women; Act No. 17 of 22 Apr. 1988, Prohibiting Sexual Harassment in the Workplace, and Act No. 54 of 15 Aug. 1989, on the Prevention and Intervention in Domestic Violence; Act No. 233 of 13 Aug. 1999, which considers the prior

Notably, it is also important to highlight that the women's movement in Puerto Rico has been proactive with instrumental domestic violence policies and legislation, including Law No. 54 and Law No. 20, preceding the passage of CEDAW.⁸³ "For example, the first shelter in Latin America and the Caribbean for 'battered women' (the term most frequently used during early organizing efforts) was the Julia Burgos Protected House in Puerto Rico, established in 1979."⁸⁴ In 1989, when Law No. 54 was passed, "feminists quickly hailed [it] as an international model for legal reform,"⁸⁵ as it was the first legal instrument against domestic violence in Latin America.⁸⁶ At its

conduct record for domestic violence in the award of custody cases; Act No. 212 of 3 Aug. 1999, that orders public agencies to implement affirmative action plans to ensure non-discrimination against any employee or job applicant on grounds of gender; Act No. 129 of 17 July 1998, eliminating discriminatory provisions in business trade regarding married woman; Act No. 3 of 4 Jan. 1998 ([MJCLPRA] 3LPRA400 [MJMCLPRA] 3 LPRA sec. 400 [MJFCLPRA]), which prohibits sexual harassment against students in teaching institutions; Act No. 16 of 10 Jan. 1998, established the rules to follow regarding evidence in constituting sexual harassment; Act No. 245 of 28 Oct. 2000, which obliges the employer to pay full wages to the workers during maternity leave; Act No. 181 of 30 July 1999, equalizing maternal rights between adopting mothers and biological mothers; Act No. 188 of 26 Dec. 1997, impose on the employer the penalty of suspension or revocation of license to conduct business or practice, in cases where employer dismisses employees due to pregnancy or refuses a mother maternity leave and increases the fine to \$5,000.00, the maximum fine of violation of these provisions; Act No. 123 of 11 Nov. 1994, eliminates the requirement of corroborative evidence in a prosecution for the crime of rape or attempt to commit rape, when evidence emerges of the existence of friendly or romantic or intimate relations with the defendant; Act No. 226 of 13 Sept. 1996, to create a pilot program to establish a medical protocol to serve victims of domestic violence; Act No. 284 of 21 Aug. 1999, law against stalking in Puerto Rico, among others.

83. Esther Vicente, *Beyond Law Reform: The Puerto Rican Experience in the Construction and Implementation of the Domestic Violence Act*, 68 REV. JURID. 553, 576 (1999) (citing Puerto Rico's Domestic Abuse Prevention and Intervention Act, Law 54, P.R. LAWS ANN. tit. 8, §§ 602(c)-(d), (f), (k), (l), 632-635. Law 54 recognizes "intimate violence as a manifold experience which is not limited to physical acts, but also manifests itself through verbal, psychological, sexual and economic actions." Law 54 broadly criminalizes domestic violence, including within its ambit psychological abuse, which it defines as a "constant pattern of conduct" causing "grave emotional harm." P.R. LAWS ANN. tit. 8, §§ 602(c), (k), (l). Law No. 20 established the Women's Advocate Office and gave it "investigative, prosecutorial and quasi-judicial powers to implement the government policy guaranteeing the full development and observance of the human rights of women in the exercise of their fundamental freedoms." See also WOMEN WATCH, REPORT OF PUERTO RICO ON IMPLEMENTATION OF THE BEIJING PLATFORM FOR ACTION (1995), available at <http://www.un.org/womenwatch/daw/Review/responses/PUERTO-RICO-English.pdf>.
84. Susan T. Fried, *Violence Against Women*, 6 HEALTH & HUM. RTS. 88, 97 (2003).
85. Mary Zeiss Stange, *From Domestic Terrorism to Armed Revolution: Women's Right to Self-Defense as an Essential Human Right*, 2 J.L. ECON. & POL'Y 385, 392 (2006). See also COMMISSION FOR WOMEN'S AFFAIRS OFFICE OF THE GOVERNOR OF PUERTO RICO, SECOND REPORT ON THE PROGRESS OF THE IMPLEMENTATION IN PUERTO RICO OF THE DOMESTIC VIOLENCE PREVENTION AND INTERVENTION LAW (Law 54 of 15 Aug. 1989 (1993)).
86. See Ana Elena Obando, *How Effective is a Human Rights Framework in Addressing Gender-Based Violence?* (Feb. 2004), available at <http://www.awid.org/eng/Issues-and-Analysis/Library/How-Effective-is-a-Human-Rights-framework-in-addressing-Gender>

inception, Law 54 was one of the most advanced legal reforms for domestic violence. The progress of the law is evidenced by a number of integral parts of the legislation, including the recognition of psychological abuse as domestic violence, the importance of education, and ensuring that the victim is not blamed. Professor Mary Zeiss Stange has summarized the law in her important work on women's right to self-defense as indispensable human rights:

Significantly, Law 54 was intended not only to apprehend and punish abusers, but to transform social relations between men and women. It mandated extensive community education on domestic violence, and the development of social services to address the needs of women and children, not only via providing shelter and psychological counseling, but also through loans and job-training programs. It also mandated a reorganization of government service agencies addressing abuse situations, to guarantee efficient and rapid response. And it empowered the Puerto Rico Commission for Women's Affairs to monitor and assess implementation. The goal was to transform gender relations in such a way as to genuinely empower women and girls.⁸⁷

In addition to these social service and structural requirements instituted by the law, it is also important as it mandates the arrest of the abuser. This arrest can take place without a warrant and without the victim having to file charges. The hybrid nature of this law necessitates both public policy and the judicial system working in concert in order to succeed.

Despite the advanced protections of Law 54, it also has its flaws. Statistical data supports the continual need for improved domestic violence legislation in the Commonwealth of Puerto Rico,⁸⁸ and "[e]valuations of the Law's impact reveal that the legislation has encountered ongoing resistance and skepticism from law enforcement officials and politicians."⁸⁹ Further, under the law, the court has the discretion to overrule a case on an individual basis, looking at various mitigating factors—this means that the abuser can be sentenced to a rehabilitation program or even have his/her charges dismissed in their entirety. Additionally, the progressive reform process of domestic violence laws in Puerto Rico must constantly adapt in order to

based-Violence. See also DIANE ALMÉRAS ET AL., UN ECLAC WOMEN AND DEVELOPMENT MOVEMENT, VIOLENCE AGAINST WOMEN IN COUPLES: LATIN AMERICA AND THE CARIBBEAN: A PROPOSAL FOR MEASURING ITS INCIDENCE AND TRENDS 18–19 (Oct. 2004); ISIS International: 16 Days of Activism Against Violence Against Women (Feb. 2010), available at http://www.isiswomen.org/index.php?option=com_content&view=article&id=1435:16-days-of-activism-to-end-gender-based-violence-isis-international-in-action-&catid=22:movements-within&Itemid=229.

87. Stange, *supra* note 85, at 392–393.

88. See *supra* note 29.

89. Jenny Rivera, *Puerto Rico's Domestic Violence Prevention and Intervention Law and the United States Violence Against Women Act of 1994: The Limitations of Legislative Responses*, 5 COLUM. J. GENDER & L. 78, 83 (1995).

be inclusive of various types of crimes that have not yet been recognized by the judiciary, such as crimes involving technological advances including cell phones and text messaging.⁹⁰

Women grassroots organizations and other contributors have been aware of the need for not only a legal remedy, but also for an ongoing social and communal remedy as well. The need for these remedies will be discussed in the next section, and they have been and continue to be developed through community-based organizing.

B. The Need for a Remedy: The Law and Community-Based Organizing

Through the strategic planning of women leaders, the Commonwealth of Puerto Rico enacted the Domestic Violence Prevention and Intervention (Law 54) in 1989.⁹¹ The women's movement mobilized the wives of all the male legislators that were to vote on the passage of Law 54 to appear at the Capitol on the day of the vote. At the actual vote in the Capitol building, the wives stood in the presence of their husbands and the message was clear: vote for Law 54.⁹² The notorious case of Richie Pietri, a famous basketball player, was the catalyst that affected the passage of Law 54. Pietri bludgeoned his wife to death in 1988 by hitting her in the head with a hammer eighty-eight times. He hired an experienced lawyer and successfully pleaded temporary insanity. He received no jail time and was put on probation.⁹³ "Women everywhere were incensed, and citizens began to round up support for the enactment of Law 54. The *Comisión de Asuntos de la Mujer*—the Commission for Women's Affairs—was founded, and men and women collaborated to strengthen public opinion in favor of passing the law."⁹⁴

90. SARAH TUCKER ET. AL., A HIGH TECH TWIST ON ABUSE, FAMILY VIOLENCE PREVENTION AND HEALTH PRACTICE 1 (2005), available at <http://endabuse.org/health/ejournal/archive/1-3/Tucker.pdf>. See also Marie Tessie, *Hi-Tech Stalking Devices Extend Abusers' Reach*, WENews, 1 Oct. 2006, available at <http://womensenews.org/story/061001/hi-tech-stalking-devices-extend-abusers-reach>. The influence of information technology on violence against women has been researched by GenderIT in three Latin American Countries: Argentina, Colombia, and Brazil. See generally GenderIT.org.

91. Rosario Ferré, *Women on the Verge: The Fight Against Silence*, 2 HOPSCOTCH: A CULTURAL REVIEW 176, 179 (2000). Notably, this law was enacted the same year the UN published the VIOLENCE AGAINST WOMEN IN THE FAMILY REPORT, *supra* note 13.

92. Maria Fernos, Speech at the John Jay VII International Conference (11 June 2008), *supra* note 1.

93. *Id.* See also Pueblo v. Pietri Villanueva SSCE 93-0050 (resolución del 7 de abril de 1993), panel integrado por la jueza Liana Fiol Matta y los jueces Antonio J. Amadeo Murga y Angel Gonzalez Roman; Illiana Delgado Martinez, *Violencia Domestica en el Noviazgo: Una Situacion Alarmante*, 39 REV. D.P. 93, 101-03 (2000).

94. Ferré, *supra* note 91, at 179.

The Pietri case was instrumental in ensuring that Law 54 incorporated both civil and criminal remedies for domestic violence crimes. The law was amended in 1998 to make violating a protection order a felony crime.⁹⁵ Its passage was possible only through extensive community organizing and the mobilization of NGO's and women's organizations.⁹⁶ Law 54 is recognized as one of the most advanced legal reforms for domestic violence, and is considered an integral piece of legislation within the international legal community.⁹⁷ However, despite these acknowledgements, "[e]valuations of the Law's impact reveal that the legislation has encountered ongoing resistance and skepticism from law enforcement officials and politicians."⁹⁸ As such, a general overview of the law here is necessary.

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."⁹⁹ It is preventative and punitive and includes statutory mandates on defining such abuse.¹⁰⁰ 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.¹⁰¹

95. *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women*, U.N. ESCOR, 59th Sess., Agenda Item 12(a), U.N. Doc. E/CN.4/2003/75/Add.1 257 (2003). In 1998 a provision in the Penal Code was introduced to establish the prescriptive term of the penal action for sexual and maltreatment offenses. It is for five years if the victim is older than twenty-one at the time the offense is committed and, in the cases that the victim is under twenty-one, five years as of the date at which the victim reaches that age. The legislation prohibits sexual harassment against students of public or private schools. When Puerto Rico updated their domestic violence law in 1998, the text of the law itself stated that it was needed because "60% of married women are victims of spousal abuse." 1989 Puerto Rico Laws 1st Reg. Sess. Act 54. S.B. 90 at 1. Additionally, "[t]he number of incidents of domestic violence [in Puerto Rico] has increased each year since 2002." National Coalition Against Domestic Violence, *Puerto Rico Domestic Violence Facts*, available at <http://www.ncadv.org/files/Puerto%20Rico%20new%202009.pdf>.

96. OLATZ LANADA ET. AL., GENDER, PEACE, AND DEVELOPMENT IN THE CARIBBEAN, CENTRE FOR GENDER AND DEVELOPMENT STUDIES 33 (2001) (describing the efforts of the NGO Coordinating Agency Peace for Women, which was created in 1989 as the group of organizations working for the passage of Law 54).

97. Rivera, *supra* note 89 at 83.

98. *Id.*

99. P.R. LAWS ANN. tit. 8, § 601.

100. See Rivera, *supra* note 89, at 85.

101. P.R. LAWS ANN. tit. 8, § 602(p).

The importance of this definition is that Law 54 emphasizes the harmful conduct of the aggressor, and rejects the principle 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, for example, the victim can be a current or former spouse/intimate partner.¹⁰² In addition, Law 54 gives comprehensive protection for emotional harm, as well as psychological violence, and provides a specific definition of psychological abuse.¹⁰³

Law 54 was born out of the Women’s Commission in Puerto Rico and allowed community organizations to become empowered through the incorporation of protections not previously afforded in Puerto Rico. Through this development, women in Puerto Rico were able to fortify their ability to advocate and create new legislation, and more importantly, make legislative reform on an as needed basis. As Professor Maria D. Fernos, Puerto Rico’s first Women’s Advocate stated, “When a law does not work, we change it.”¹⁰⁴ 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.¹⁰⁵ However, in some judicial decisions, the law has been interpreted and applied in a manner that has been a counter-conductive step for protecting women. For example, in the 1999 case of *People v. Valentín Capo*, the Tribunal of the Appeals Circuit limited the scope of protection of the law to exclude couples in same sex and adulterous relationships.¹⁰⁶ In addition to this discriminatory interpretation of law, domestic violence protection in general has been compromised by “drawn out and expensive procedures.”¹⁰⁷

In the late 1980s, women leaders at the time, including Fernos, legislators Velda González and Cucusa Hernández, and many others in the Commonwealth of Puerto Rico, were instrumental in the momentous strides

102. See Rivera, *supra* note 89, at 84.

103. P.R. LAWS ANN. tit. 8, § 602(q).

104. *Id.*

105. 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 of 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); Study of the Problem of Discrimination Against Indigenous Populations, E.S.C. Res. 1982/34, U.N. ESCOR, 35th Sess. 28th plen. mtg., U.N. Doc. A/Res/1982/34 (1982).

106. See *Pueblo v. Valentín Capo*, KLCE 99-01307 (resolución del 30 de abril de 1999).

107. *Id.*

achieved through the implementation of Law 54.¹⁰⁸ However, as is commonly the case with the implementation of legislation, the rights protected must be continually developed and methods of protection and enforcement must evolve, as the law does not always keep up with the needs of society. According to Celina Romany, former President of the Puerto Rican Bar Association, the Women's Advocate Office, the Judicial Academy, and the Commonwealth's educational system will become extremely influential in furthering the development and realization of Law 54.¹⁰⁹ This collaborative approach is vital to the manifestation of the law at a local level and allows for the law to affect women's lives in a positive way. However, passage of effective legislation alone is not enough.¹¹⁰ Therefore, the women's movement pushed for the creation of the Women's Advocate Office through the passage of Law 20.

C. Background: The Women's Advocate Office in Puerto Rico

The existence of the Women's Advocate Office (WAO) in Puerto Rico is in itself a paradox when juxtaposed to the United States, in that the Commonwealth of Puerto Rico effectively maintains an office for the protection of women's rights that has not existed in the continental states, Alaska, or Hawaii. As stated previously, it was only very recently that the new position of White

108. Esther Vicente, *Beyond Law Reform: The Puerto Rican Experience in the Construction and Implementation of the Domestic Violence Act*, 68 REV. JURID. 573 (1999). See also Ferré, *supra* note 91, at 179.

109. Celina Romany, *Killing "The Angel in the House": Digging for the Political Vortex of Male Violence Against Women*, in *THE PUBLIC NATURE OF PRIVATE VIOLENCE: THE DISCOVERY OF DOMESTIC ABUSE* 285, 293 (Martha A. Fineman & Roxanne Mykitiuk eds., 1994) (describing the deficiency of Puerto Rico's domestic violence legislation). Romany states:

The experience with protective orders is a showcase of the resistance displayed by enforcement agents. Women engage in forum shopping for sympathetic judges, since they are frequently confronted with judges' reluctance to deal with the serious implications of violence with its lethal nature. At times judges make derogatory comments about Law 54, revoke orders granted by other courts, while granting the batterer temporary custody of the children. They attempt to reconcile the couple, advising women to give their husbands or partners another opportunity; grant the order for a relatively short period of time; grant "mutual orders of protection" ordering both parties "to refrain from harming each other." In short, battered women are not given adequate protection. *Id.* at 293.

110. UN Dep't of Econ. & Soc. Rights, Div. for the Advancement of Women, *Background Paper for the Expert Group Meeting on Good Practices in Legislation on Violence against Women* (26–28 May 2008), available at http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Background%20Paper%20vaw%20legislation.pdf; EXPERT GROUP MEETING ORGANIZED BY THE U.N. DIV. FOR THE ADVANCEMENT OF WOMEN & U.N. OFFICE ON DRUGS AND CRIME, REPORT OF THE EXPERT GROUP MEETING 7 (2008) (held 26–28 May 2008, UN Office at Vienna, Austria), available at [http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20\(final%2011.11.08\).pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20(final%2011.11.08).pdf) ("The expert group meeting emphasized that the enactment of legislation is only the first step and that, where legislation exists, measures must be in place to ensure that it is implemented effectively.").

House Advisor on Violence Against Women was created in the continental United States.¹¹¹ However, this position is not nearly as comprehensive as that of the WAO in Puerto Rico. The WAO is distinct because it is granted significant authority as a governmental agency to prevent the violation of women's rights. The WAO of the Commonwealth of Puerto Rico created by Puerto Ricans through the enactment of Act No. 20 on 11 April 2001, has been an instrumental facilitator of the strategically coordinated efforts to eradicate discrimination and violence against women in Puerto Rico.¹¹²

Law 20 was passed after an extensive legislative history that afforded women protections and equal rights, and its passage is indicative of the effectiveness of a human rights framework in addressing gender-based violence. Puerto Rican women have long participated in island-wide and international discussions and conferences on women's rights as human rights, and have a longstanding background of grassroots organizing. Therefore, to understand the creation of the WAO, it is important to take a look at the history, developments, and international movements that have supported the eradication of violence against women.

Domestically, the most vital support comes from the Constitution of the Commonwealth of Puerto Rico, which provides in Section One of its Charter that: "No discrimination shall be made on account of race, color, sex, birth, social origin or condition, political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality."¹¹³ According to historical accounts found in the legislation, these constitutional guarantees were made in light of the adoption of the United Nation's Universal Declaration of Human Rights on 10 December 1948.¹¹⁴ Puerto Rican women, longstanding stakeholders in upholding human rights, utilized the human rights agenda to promote change for women that was in line with the international agenda. Puerto Rico was no stranger to this international process. Various governmental and women's NGOs used this as a framework and they promoted the study of the status of women and conducted research that culminated in the report of the Civil Rights Commission in 1972. The study concluded that there was an acute situation of gender discrimination in Puerto Rico.¹¹⁵ These are landmark findings in the

111. Press Release, White House Office of the Vice President, Vice President Biden Announces Appointment of White House Advisor on Violence Against Women (26 June 2009), available at http://www.whitehouse.gov/the_press_office/Vice-President-Biden-Announces-Appointment-of-White-House-Advisor-on-Violence-Against-Women/.

112. Statement of Act No. 20 of 11 Apr. 2001, *supra* note 7.

113. CONSTITUCIÓN DEL ESTADO LIBRE ASOCIADO DE PUERTO RICO [CONSTITUTION] art. II, § 1 (1952).

114. Statement of Act No. 20 of 11 Apr. 2001, *supra* note 7.

115. The Women's Affairs Commission was created by Law No. 57 of 30 May 1973, as amended by Law No. 56 of 30 May 1979, by Law No. 11 of 29 Nov. 1990, and finally by Law No. 20 of 11 Apr. 2001. See Comisión de Derechos Civiles, *Informes de la Comisión de Derechos Civiles del Estado Libre Asociado de Puerto Rico*, Vol. 1 (1973a);

recognition of women's human rights. In addition, this report led to the creation of Act No. 57 of 30 May 1973, which created the Commission for the Improvement of Women's Rights, also known as the Commission for Women's Affairs, and organized the revised Civil Code in the areas of individual and family law.¹¹⁶

The Commission for Women's Affairs sponsored research in several areas. These areas included the eradication of domestic violence, which is one of the most serious forms of discrimination against women; equality in education, which produced modules for curricula that promote gender equality in the primary grades; and research within government agencies on the payment of lower wages to women, which resulted in an Executive Order to promote affirmative action plans in government agencies.¹¹⁷ Despite these significant advances, discrimination against women and social resistance to comply with constitutional and legislative guarantees continue to exist. This was recognized in the Report of the Special Judiciary Committee to Investigate the Discrimination by Gender in the Courts of Puerto Rico in August 1995.¹¹⁸ It became evident that there was a need for an office to prevent the violation of women's rights and, among other duties, enforce the law. Hence, Law 20 was passed creating the Women's Advocate Office.

The WAO is a governmental agency that possesses oversight authority and enables the establishment of special community-based projects aimed at promoting the protection of women's rights.¹¹⁹ The WAO provides the community with guidance and coordination of services through legal counseling and support services. Also, it coordinates services with public agencies and NGOs for victims and survivors of domestic violence, sexual abuse, and other types of violence. It also runs a twenty-four-hour hotline seven days a week for victims in crisis situations, and for survivors of violence. The Office's Division of Prevention and Education offers educational talks and workshops throughout communities, schools, churches, workplaces, and universities. This division also coordinates and provides training to police officers, lawyers, prosecutors, magistrates/judges, social workers, teachers, doctors, and other professionals that come into contact with situations of domestic violence, sexual assault, stalking, and sexual harassment. The train-

Comisión de Derechos Civiles, *Informes de la Comisión de Derechos Civiles del Estado Libre Asociado de Puerto Rico*, Vol. 2 (1973b). See also José Toro-Alfonso, *COMMONWEALTH OF PUERTO RICO CIVIL RIGHTS COMMISSION, BY WAY OF EXCLUSION: HOMOPHOBIA AND CITIZENSHIP IN PUERTO RICO* (2007), available at <http://www.gobierno.pr/NR/rdonlyres/95731A06-15C0-47DF-AF70-5386AED79A1E/0/ByWayofExclusionHomophobiaandCitizenshipinPR.pdf>.

116. Ley de la Oficina de la Procuradora de las Mujeres, available at <http://www.gobierno.pr/NR/rdonlyres/2AD3788A-6075-44BA-8103-1B28E26E4882/0/LeydeLaOficinadelaProcuradoradelasMujeres.pdf>.

117. *Id.*

118. *Id.*

119. See Oficina de la Procuradora de Mujeres, *supra* note 2.

ings discuss women's rights, specifically the laws that protect women and the professional's responsibility in upholding them. Through the Information Center, the WAO offers students, researchers, and the general public specialized information on topics of relevance to women. It also has a library that collects relevant data.¹²⁰

The WAO exists separately and independently from any other agency or public entity in Puerto Rico. The head of the office is the Women's Advocate and is appointed by the Governor with the advice and consent of the Puerto Rican Senate, for a term of ten years. This term period is particularly important, at least theoretically, because politics play such a major role in Puerto Rican society.¹²¹ As a result, the term of ten years aims to help provide continuity and furthers the protection and development of consistent women's rights policies. The first Woman's Advocate was Maria D. Fernos who served from April 2001 through January 2008, and is currently a Professor of Law at Inter American University School of Law in Puerto Rico. Prior to assuming the Women's Advocate position from January 2008 through January 2009, Marta A. Mercado Sierra served as the Deputy Women's Advocate and previously worked as a social worker. Governor Luis G. Fortuño appointed Johanne Vélez on 6 January 2009, to serve as the third Women's Advocate.

The principal mandate of the WAO is to research, investigate, compile, and analyze statistics on the status of women in Puerto Rico. This research and investigative process examines criteria including but not limited to the social, political, and civil obstacles that impede equitable human rights for all women in Puerto Rico. The WAO also analyzes the roots of disparate treatment, access, and participation of women in areas such as education, training, health, employment, self-management, and economic development. The WAO also oversees public agencies' compliance with public policy and assures the adoption of affirmative or corrective action programs. Finally, the WAO promotes the ideology that private entities must also act in accordance with public policy, and in doing so, it evaluates existing programs aimed at the eradication of discrimination and inequality, thereby promoting the "full" citizenship and participation of women.¹²²

The WAO can file complaints through "the courts, administrative forums and instrumentalities, and political subdivisions of the Commonwealth" on behalf of women as individuals or as a class action suit, for actions that it

120. Estado Libre Asociado de Puerto Rico, Oficina de la Procuradora de las Mujeres, <http://www.mujer.gobierno.pr/>.

121. JUAN GONZALEZ, *HARVEST OF EMPIRE: A HISTORY OF LATINOS IN AMERICA* 188 (2000).

122. "Full" citizenship is put in quotes, because generally women in Puerto Rico suffer from being twice removed as "full" citizens. First, Puerto Rico's status as a commonwealth of the United States relegates all Puerto Ricans to second class citizenship, as discussed herein. Second, Puerto Rican women are further removed from "full" citizenship because of the country's male dominant society.

deems pertinent to violations of public policies established in the Act.¹²³ To this extent, the Office can also conduct ongoing reviews and assessments of public agencies and private entities aimed at the prevention of the violation of women's rights. The Women's Advocate works with private and nongovernmental women's entities, such as direct service providers, the Police, Department of Justice, Office of the Courts Administration, and the Department of Corrections and Rehabilitation, in order to guarantee that the Office is responding to the current needs of all women in Puerto Rico.¹²⁴ It assists in establishing networks between NGOs, private women's entities, and municipal, state, and federal agencies engaged in the promotion of women's rights. The Office can propose legislation pertinent to the development of the public policy spelled out in the Act.¹²⁵

By law, the Women's Advocate can grant pertinent remedies and "order corrective action to any natural and juridical person, or to any agency that denies, obstructs, violates or impairs women's rights and benefits."¹²⁶ The Office can investigate and conduct onsite inspections with or without a complaint. Hearings are held at the WAO and are public unless there is a public interest that reasonably justifies a private hearing.¹²⁷ During an investigation, the Office may also order witnesses to appear and testify and may require that evidence relevant to the investigation or complaint be considered.¹²⁸ When witnesses fail to appear or produce requested evidence, the Women's Advocate may order per se or via any Court of First Instance for the appearance, testimony, reproduction, or inspection thus required. Legal Aid to the Women's Advocate is provided by the Secretary of Justice of the Commonwealth.

Furthermore, in Puerto Rico, through the National Commission to Eradicate Domestic Violence, Sexual Assault, and Stalking Against Women (CNEV), the Women's Advocate functions as the facilitator of the services provided to victims of violence.¹²⁹ The organizations that theoretically work together to achieve these protections include the Women's Advocate Office, the Departments of the Police, Corrections and Rehabilitation, Health, Family, Labor, Housing, the Commonwealth of Puerto Rico's Office of Court

123. Marta A. Mercado Sierra, Former Women's Advocate, Puerto Rico's Office of Women's Affairs, Speech at Milestones & Momentum: Strengthening Community Responses to Violence Against Women in Saint Paul, Minnesota: Managing Systematic Change from the State Government: Puerto Rico's Experience (26 June 2007).

124. Rural Communities Responding to DV Report, *supra* note 42, at 5–6.

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

129. Oficina de la Procuradora de Mujeres, *Nuestras Funciones*, available at <http://www.gobierno.pr/mujeres/QuienesSomos/NuestrasFunciones.htm>.

Administration, and NGOs. The CNEV meets on a trimester schedule, both at the national and regional levels.¹³⁰ This coordinated approach is slowly being developed and the results it aims to achieve are a work in progress. However, the framework is in place at a national level to tackle serious issues of gender equality in Puerto Rican society. The next section will discuss the ways the WAO has served as a source of support that did not previously exist to assist women on the ground daily.

IV. HOW DOES THE WORK OF THE WOMEN'S ADVOCATE OFFICE MANIFEST INTO A REAL SOURCE OF SUPPORT AND ASSISTANCE FOR VICTIMS OF VIOLENCE?

The WAO reported a significant decrease in the total number of domestic violence incidents in 2007. The number decreased from 22,951 cases reported in 2006¹³¹ to 19,222 cases reported in 2007.¹³² In addition, 2007 represented the lowest annual number of murders by an aggressor/partner in the previous five year period.¹³³ A decline in crime can be attributed to many factors, including improvements in the handling and reporting of domestic violence cases, state accountability, and the rise of social consciousness throughout civil society. This section will briefly discuss two of the several projects facilitated through the Women's Advocate Office to assist women on a broader scale. The ARREST Project is a criminal justice system audit of domestic violence cases and is exemplary of a systemic approach. The Rural Women's Project is a community-based initiative aimed at empowering women on the ground, and represents a social approach.

The ARREST Project is an audit/evaluation project aimed at identifying the implementation and practices of the criminal justice system responsible for the domestic violence cases.¹³⁴ Through a safety and accountability audit of the criminal justice system, the ARREST Project has evaluated the Com-

130. There are four regions and they are designated as follows: the North Central and Western region, the South Central region, Metropolitan region, and the Eastern region.

131. OFICINA DE LA PROCURADORA DE LAS MUJERES, *VIOLENCIA DOMÉSTICA EN PUERTO RICO 1990–2006*, ESTADO LIBRE ASOCIADO DE PUERTO RICO 5 (2009), available at <http://www.gobierno.pr/NR/rdonlyres/796A6DDD-0996-4570-ADFA-129C66225D89/0/violenciadom%C3%A9sticaenPuertoRico19902006.pdf>.

132. ESTADÍSTICAS DE VIOLENCIA DOMÉSTICA, VÍCTIMAS DE VIOLENCIA DOMÉSTICA POR EDAD Y SEXO, DIVISIÓN DE ESTADÍSTICAS 1 (2007), available at http://www.gobierno.pr/NR/rdonlyres/13FA3EE9-E87C-41E3-9ABB-BB2B5A0926F0/0/IncidentesdeVDPolicia2007_Preliminar.pdf.

133. OFICINA DE LA PROCURADORA DE LAS MUJERES, *INFORME DE ASESINATOS DE MUJERES POR VIOLENCIA DOMÉSTICA PUERTO RICO 2007*, ESTADO LIBRE ASOCIADO DE PUERTO RICO 5 (2008), available at <http://www.gobierno.pr/NR/rdonlyres/4714036B-6669-42F6-8EE9-F76A6C09DBED/0/Informe deasesinatosdemujeresporviolenciadom%C3%A9sticaPuertoRico2007.pdf>.

134. Mercado Sierra, *supra* note 123.

monwealth's institutional response to violence against women, specifically domestic violence. This evaluation is necessary to reassess the practices being utilized in domestic violence cases and to generate recommendations for better standards and best practices of the procedures to be developed by agents of the criminal justice system. It is an ongoing project.¹³⁵ The process allows for development of educational programs and promotional campaigns that can be utilized by all participants to help eradicate violence against women.¹³⁶

Education and promotional campaigns are essential in obtaining regional/island-wide support for domestic legal reform and in ending cultural differentiation of the treatment of domestic violence crimes. Through this study, the WAO has taken steps to properly identify the social, judicial, and administrative obstacles in the criminal justice system. According to the ARREST Project Summary Report, there were several obstacles to overcome while conducting the study.¹³⁷ Among the obstacles, it is important to highlight several areas of difficulty. It was challenging for the WAO investigators to access internal information and statistics from the various agencies being audited.¹³⁸ The lack of accurate data allows for the underreporting of crimes regardless of the sex of the victim, and does not provide an accurate depiction of the severity of the violence across the Commonwealth of Puerto Rico.¹³⁹ Another obstacle encountered while conducting the audit was resistance from governmental agencies to the constructive feedback provided based on the assessments conducted. For the Women's Advocate, it was also challenging to clearly designate agency liaisons. This is significant because with proper designation of accountable officials, the WAO could delegate or enforce state accountability, thereby facilitating the process of accurate data collection and information gathering.

135. *Id.* at 7. The Arrest Project sought to identify the implemented practices by each of the components of the criminal justice system responsible to attend domestic violence cases. The audit began in 2003 and took two years to complete. In Phase I, the Project faced resistance from the agencies to receive internal statistics and constructive input. Several general needs were identified through the project and they included the need to: (1) identify funding sources to increase the amount of available funds, and (2) to evaluate services offered by agencies to avoid duplicative work. Phase II focused on implementing correction plans mainly with trainings, evaluation, and technology. The goal was to centralize and coordinate police enforcement, prosecution, judicial, and corrections responsibility for domestic violence cases. Prior to the implementation of the correction plan, there was no communication between the courts. Currently, there is the creation of an electronic registry of protective orders and a pilot project on domestic violence specialized courts. Another achievement of Phase II has been the revising of the Department of Justice Manual for the Prosecutor.

136. *Id.*

137. *Id.*

138. *Id.*

139. *Id.*

Despite these obstacles, Project ARREST was able to identify and evaluate the efficiency of practices used by the criminal justice system.¹⁴⁰ The audit allowed for the creation of appropriate measures to remedy faulty practices, and corrective actions were ordered. Collectively, the Advisory Council and each of the criminal justice system agencies proposed solutions to remedy ineffective practices. These solutions were then approved by each agency accordingly. The audit identified a need for the development and distribution of educational materials aimed at the eradication of violence against women and publishing manuals to assist agencies in better handling domestic violence cases. It also called for the improvement of communications between and within agencies, and improved training for all agents who serve victims of violence. The ARREST audit brought to light many of the obstacles that impeded the protection of women's rights and the eradication of violence and discrimination against women on the island. This initial audit was one step in addressing the systemic problems of violence against women.

The second project designed to assist women on a broader scale and used to exemplify the resources provided by the Women's Advocate Office is the Rural Community Response to Domestic Violence Project. This project focuses on engaging rural communities to respond to domestic violence. It was created in 2003 and funded by a two year grant from the US Department of Justice. Through the project, the Women's Advocate office trained twenty-five women from rural areas of Puerto Rico, specifically the municipalities of Lares, Utuado, Adjuntas, and Jayuya.¹⁴¹ At the commencement of the project, the domestic violence murder rate was at an all time high in Puerto Rico. For example, twenty-five women were killed that year and there were twenty-five episodes of attempted murder against women during domestic violence incidents reported.¹⁴² Through the project, the WAO helped empower women in the area using grassroots organizing techniques, and constructed a community response to help report, prevent, and eradicate domestic violence in the area. The idea behind the project was that the training and education received by these women would be used to empower other women in rural areas. The grassroots approach allows rural women to orient and train other rural women and creates bonds of solidarity.¹⁴³

140. *Id.* Over the course of twenty months, 298 interviews were conducted with victims of domestic violence, 357 interviews with aggressors, and many more with public servants in charge of implementing Law 54.

141. Rural Communities Responding to DV Report, *supra* note 42, at 3 (noting that Jayuya and Utuado have greater than island averages for prevalence of domestic violence).

142. *Id.*

143. Though this project emphasizes rural areas, it is also important to identify the needs of all geographical areas in order to develop a plan of action that enables local agencies to better respond to domestic violence cases.

Over the course of two years, a variety of training and services were provided to the women in the group, including a series of weekly sessions.¹⁴⁴ These sessions provided the group with an opportunity to understand and help create suitable community responses to domestic violence. It also provided a space for reflection and for focal groups to deconstruct traditional gender roles and attitudes with the goal of creating a Paulo Freire model of community response to end domestic violence.¹⁴⁵ The program developed leadership skills among the participating women, and also provided educational activities and support to facilitate the women's presentations of the community response model to their respective communities. These women were then charged with providing the next cohort of women with domestic violence training. The women leaders also received further training in other areas including sexual assault education, thereby allowing the model to continually expand its services to the community.

The participants in this program, according to Marta Mercado Sierra, "have identified strategies for the prevention of domestic violence, strategies to provide security and support to victims/survivors, strategies to improve service provision by the criminal justice components, and to achieve multi-sector coordination for the prevention of domestic violence."¹⁴⁶ This project is one example of the ways by which the WAO provides direct assistance on the ground to the women of Puerto Rico. It also illustrates the utility of a human rights and grassroots framework in combating domestic violence at a community level. The adoption of human rights law and principles at a larger scale could enhance and support the ARREST Project and the community-based projects of the WAO.

V. LEGAL REFORM IN PUERTO RICO AND THE UTILITY OF INTERNATIONAL HUMAN RIGHTS PRINCIPLES

In some ways, the work of the ARREST Project mirrors a checks and balances system implemented through international human rights audits.¹⁴⁷ Human rights can serve as another vehicle to effect change for women who are victims of domestic violence. Both NGOs and community organizers must

144. Rural Communities Responding to DV Report, *supra* note 42, at 4.

145. *Id.* For more on the use of Freire's model in addressing domestic violence, see Julia L. Perilla, *Domestic Violence as a Human Rights Issue: The Case of Immigrant Latinos*, 21 *HISP. J. BEHAV. SCI.* 107, 128 (1999) ("For Freire, *concientización* is the process of personal and social transformation experienced by oppressed people when they become literate in their world.").

146. Rural Communities Responding to DV Report, *supra* note 42, at 10.

147. Professor Rhonda Copelon, Speech at the John Jay VII International Conference (11 June 2008), *supra* note 1.

continually expound on the state's obligations with regard to human rights. One way to begin this process is for communities to take it upon themselves to adopt human rights instruments into local law, an issue previously mentioned herein. An August 2009 study reports that eighteen US states and the territory of Guam have passed resolutions adopting the principles of CEDAW, and forty-seven cities and nineteen counties have done the same.¹⁴⁸ For example, the City of San Francisco has been able to bypass their citizens' inability to receive the human rights protections afforded through CEDAW by implementing a local ordinance which included the principles of the treaty.¹⁴⁹ These cities and states have adopted standards and principles, and sometimes the same language used in the international treaties, to incorporate the principles of international law through local legislation. Another means to ensure due diligence and compliance with the law is through human rights audits.¹⁵⁰ "The Beijing Platform for Action and subsequent documents required that States undertake an audit of their legal framework, taking whatever measures necessary to ensure that all forms of violence are addressed in criminal and civil law."¹⁵¹ Despite the inability to sign on to international treaties, Puerto Rico can still benefit from some international human rights auditing mechanisms. For example, Puerto Rico can benefit from the work of the Special Rapporteur on Violence against Women, which serves as a type of audit.¹⁵²

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148. THE CAMPAIGN FOR A NEW DOMESTIC HUMAN RIGHTS AGENDA, STATE AND LOCAL HUMAN RIGHTS AGENCIES: RECOMMENDATIONS FOR ADVANCING OPPORTUNITY AND EQUALITY THROUGH AN INTERNATIONAL HUMAN RIGHTS FRAMEWORK 25 (Aug. 31, 2009), available at http://www.law.columbia.edu/null/download?&exclusive=filemgr.download&file_id=162402.
149. WILD FOR HUMAN RIGHTS, RESPECT, PROTECT, FULFILL: RAISING THE BAR ON WOMEN'S RIGHTS IN SAN FRANCISCO (2008), available at <http://www.wildforhumanrights.org/documents/resources/respectprotect.pdf>. See also *Id.* at 8.
150. The "Global Charter Agenda for Human Rights in the City," a provisional document that is projected to be adopted in 2010, "suggests that all municipal personnel should be required to take human rights training courses and that cities be obligated to undergo human rights 'audits.'" Jim Kelly, *Coming to a City Near You: Global Charter-Agenda for Human Rights in the City*, GLOBAL GOVERNANCE WATCH, 10 Feb. 2009, available at http://www.globalgovernancewatch.org/spotlight_on_sovereignty/coming-to-a-city-near-you--global-charteragenda-for-human-rights-in-the-city.
151. *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural, Including the Right to Development, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Mr. Yakin Erturk*, U.N. GAOR, Hum. Rts. Council., 7th Sess., Agenda Item 3, ¶ 78, U.N. Doc. A/HRC/7/6 (29 Jan. 2008), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/104/47/PDF/G0810447.pdf?OpenElement>.
152. According to his/her mandate the Special Rapporteur is requested to:
- (a) Seek and receive information on violence against women, its causes and consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;
 - (b) Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;

In fact, in 1998, the Special Rapporteur conducted a fact finding mission in the United States on the issue of violence against women in state and federal prisons. This mission took place at the request of the US government, however, only select states were visited on this trip and Puerto Rico was not included in the visit.¹⁵³ A future visit from this Special Rapporteur to Puerto Rico could prove especially beneficial to the women there. The findings of such audits are instrumental, as demonstrated by the ARREST project and as stated by Professor Copelon: “reliance on the police is not enough and often has devastating results for victims of domestic violence.”¹⁵⁴ Audits can serve as a necessary tool to ensure the systems and processes are working effectively to eradicate violence against women. Addressing police bias and erroneous attitudes toward domestic violence is central in the effort to eliminate violence against women. The pre-CEDAW women’s movement in Puerto Rico began implementing a human rights framework and this case study can serve as a model to other US states, and nation states, on how to utilize human rights principles to help eradicate violence against women, even without human rights instruments in place.

(c) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights – and since March 2006 of the Human Rights Council—and with the treaty bodies, taking into account the Commission’s request that they all regularly and systematically include in their reports available information on human rights violations affecting women; and cooperate closely with the Commission on the Status of Women in the discharge of its functions.

In the discharge of the mandate, the Special Rapporteur transmits urgent appeals and communications to States regarding alleged cases of violence against women, undertakes fact-finding country visits, and submits annual thematic reports. UNHCR, Special Rapporteur on Violence Against Women, Its Causes and Consequences, *Statement on the Occasion of International Women’s Day, 2011, Introduction* (2011), available at <http://www2.ohchr.org/english/issues/women/rapporteur/>.

153. *Integration of the Human Rights of Women and the Gender perspective: Violence Against Women, Report of the Special Rapporteur on Violence Against Women Mission to the United States of America on the Issue of Violence Against Women in State and Federal Prisons*, ¶ 1, U.N. ESCOR, Comm’n on Hum. Rts., 55th Sess., Agenda Item 12(a), U.N. Doc E/CN.4/1999/68/Add.2 (2 Jan. 1999).
154. Professor Rhonda Copelon, Speech at the John Jay VII International Conference (11 June 2008), *supra* note 1. Police-reported domestic violence statistics are gathered based on the monthly reports sent by field commanders to the Assistant Superintendent of Field Operations of the Police of Puerto Rico. There is no uniformity in how the various command posts report, as there are no standard procedures for producing these reports. The police-reported statistics are based on Form 581, which normatively should be completed by the officer attending a domestic violence complaint. The study shows evidence of complaints that only partially meet this standard. Also, the sample taken from the log of complaints shows that in the final resolution, 44 percent of complaints end up in the category of “other services” or a nonspecific response. That is to say, the police officer who took the complaint made the decision that there were no grounds for action in the justice system, or it cannot be specified what determination was made by the police. The action outside the justice system, according to the book of complaints, is more than five times greater than the statistics of Form 581. It can be inferred that about 9,000 complaints of domestic violence are not reported as such by the police, because the required Form 581 was not completed. (Author’s translation). WAO Summary 2006, *supra* note 42 at 11.

Although progress has been made in addressing violence against women, significant deficiencies persist in Puerto Rico's legal framework. On the international level in 2006, the Secretary-General of the United Nations launched a thorough study on all forms of violence against women.¹⁵⁵ In response to the Secretary-General's study, the General Assembly adopted a resolution, calling upon member states to intensify their efforts to eliminate forms of violence against women. Although the Commonwealth of Puerto Rico was not a party to these conversations, it should still analyze the varying approaches taken by other states and the lessons learned in order to identify effective approaches and good practices.

Notwithstanding Puerto Rico's inability to enact international law, the country is still a pioneer in its policy on women's rights.¹⁵⁶ A unique characteristic of the WAO is that it can impose and collect administrative fines up to a maximum of \$10,000 per action or omission found to impair women's rights as protected by the Constitution and the laws of the Commonwealth of Puerto Rico.¹⁵⁷ It can set compensation according to damages caused where so ordered, and also, via a quasi-judicial procedure, the WAO can order attorney and court costs to be paid by the party that does not prevail. From a general perspective, the WAO is enforcing the message throughout society that women have the same rights as men and that a violation of such rights will find no impunity.

VI. RECOMMENDATIONS AND CONCLUSION

As a society, Puerto Rico must aggressively continue to build upon the work of the Women's Advocate Office and grassroots organizations. It has demonstrated the ability to do so via the passage of Law 54 and 20. The most effective strategy would incorporate different members of the community to protect battered women while holding batterers consistently accountable. This approach is important because of the connection between violence and patriarchy. "Violence is seen as a form of control that takes a gendered form because men are 'socialized to be dominant and women to be subordinate.'"¹⁵⁸ The Women's Advocate Office is already working towards this end, developing an educational campaign that emphasizes citizen responsibility and victims' protection as part of their empowerment

155. U.N. DEP'T OF ECON. AND SOC. AFFAIRS, ENDING VIOLENCE AGAINST WOMEN: FROM WORDS TO ACTION, STUDY OF THE SECRETARY-GENERAL (2007).

156. See Fried, *supra* note 84.

157. P.R. LAWS ANN. tit. 8, art. 13.

158. Sally Engle Merry, *Rights, Religion, and Community: Approaches to Violence against Women in the Context of Globalization*, 35 LAW & SOC'Y REV. 39, 50 (2001).

process.¹⁵⁹ One of the latest campaign slogans of the WAO: "Love doesn't kill, but machismo does," had two objectives: (1) to engage the community and (2) educate women.¹⁶⁰ These types of grassroots efforts are essential to combating domestic violence. There is a clear need for the integration of a domestic violence prevention curriculum at all levels of public school education. However, an obstacle to the development of these types of programs is funding. For example, under VAWA, the amount of the Rape Prevention and Education (RPE) Grant for Puerto Rico has consistently dropped since 2005, and this has resulted in real consequences for prevention efforts.¹⁶¹ Another example is the media campaign conducted by the WAO in 2006, which used *telenovela* commercial time to advertise a domestic violence hotline. The advertisement encouraged the reporting of domestic violence and advocated that it is not a private crime. The study showed that when these commercials were broadcasted, the hotline calls increased.¹⁶² However, the airtime for these commercials was too costly and not feasible for the given budget. Hence, state accountability becomes another vitally important issue when such budget constraints are present.

In order to successfully execute a coordinated community response, state responsibility must be defined. Without the state taking responsibility, accountability will be difficult to enforce, as demonstrated by the ARREST Audit conducted by the WAO. Furthermore, this level of responsibility should not only include upper governmental officials, but also the people who work every day with domestic violence victims and batterers. State responsibility denotes the duty of the state to identify and support the action that will take place against a domestic violence crime. There often exists a social differentiation between public and private conduct, but there must be recognition of violations against women at all levels. There is a need for ongoing dialogue between the state, the victims, and the community organizers in order to define the inclusiveness of a state's responsibility to its citizens. The educational training must also reach the upper echelons of higher education and should include the proper education and training of lawyers and law students, as part of the law school curriculum or required Continuing Legal Education (CLE) courses.

As Professor Copelon suggests, states should focus on teaching the principles of torture with respect to women.¹⁶³ It is important that the com-

159. Interview with Marta A. Mercado Sierra, former Women's Advocate, at the Women's Advocate Office in San Juan, Puerto Rico (4 June 2006).

160. The author viewed these slogans in the WAO lobby on 5 June 2006.

161. Campaign FY 2010, *supra* note 57.

162. Interview with Mercado Sierra, *supra* note 159.

163. Rhonda Copelon, *Recognizing the Egregious in the Everyday: Domestic Violence as Torture*, 25 COLUM. HUM. RTS. L. REV. 291, 362 (1994).

munity understands that domestic violence is torture because this concept enables communities to understand how troubling domestic violence is to society as a whole. Once this is understood, the community will more likely feel comfortable with reporting domestic violence incidents. However, this process of conceptual understanding may be limited by those victims of domestic violence who may not concede to being a subject of torture. This, coupled with the fact that historically, domestic violence has existed as a private matter, complicates the manifestation of this approach.

However, such limitations can evolve, as seen with the passage of Law 54 in Puerto Rico. Although the passage of a law criminalizing domestic violence may not go far enough, it is a starting point. Law 54 was enacted without any funds set aside for its implementation.¹⁶⁴ This obstacle did not result in Law 54 becoming completely ineffective. Instead, in part due to the small size of Puerto Rico, the passage of Law 54 spread quickly by word of mouth. However, as Professor Copelon and many others point out “[s]imply passing a law is not enough, and many of the current ones are inadequate. . . . [However, international human rights law can help because of the] broad range of effective measures—including educational, protective and rehabilitative, as well as criminal, sanctions—it provides a framework for a continuing evaluation and improvement of state responses.”¹⁶⁵ Even though Puerto Rico cannot directly utilize these measures, it can still adopt similar frameworks for evaluation as discussed herein, and to some extent it already has.

Lastly, human rights curricula in schools are essential to building consciousness in all citizens that violence against women is not acceptable and that a life free of domestic violence is a human right. Education has and will continue to play an important role in the transformation of socially accepted roles for women. Educational reforms recommended by international bodies should be implemented at all levels of instruction, as it is essential to the protection and promotion of rights for women. Empowering victims with education will allow them to better assess their situations and develop choices that are best suited for them. The use of international human rights principles in education can help improve conditions for women, which has been demonstrated through the efforts of feminist activists and grass-roots organizations. As stated herein, the Commission for Women’s Affairs

164. In 2009 Puerto Rico was awarded \$2,135,243 to combat violence against women. See 2009 Stop Violence against Women Formula Grant Awards to States, American Reinvestment and Recovery Act of 2009, available at <http://www.ovw.usdoj.gov/recovery-grants-awards.htm>.

165. Copelon, *Violence Against Women*, *supra* note 5, at 64.

sponsored research on the eradication of domestic violence and equality in education. It should continue to produce these types of modules for curricula that promote gender equality not only in the primary grades, but throughout the educational system including non-traditional education and technical training programs.

Puerto Rico and its feminist activism can serve as a model to other nations that are participating in domestic violence reforms. Women in Puerto Rico have taken a preventative approach in utilizing pre-existing human rights principles to develop domestic protections through the legislative process. The need for global attention to the issue of domestic violence in Puerto Rico has been demonstrated through the efforts of feminist activists and the work of the WAO. The work of Puerto Rican feminist activism and the WAO can serve as a model to other nations that are pursuing domestic violence reform.