

EXECUTIVE SUMMARY

In 1989, the Puerto Rican legislature enacted a progressive and comprehensive domestic violence law, the Domestic Abuse Prevention and Intervention Act, Law 54 (“Law 54”).¹ After numerous failed attempts to pass the law and a long and arduous push from feminist organizations throughout the island, Law 54 became a model for the rest of Latin America to follow.² The Puerto Rican legislature’s recognition that penal codes prior to Law 54’s passing did not provide an adequate remedy to domestic violence incidents motivated legislative action. In passing the law, the legislature responded to a deep public need to address the egregious domestic violence problem that had been poisoning Puerto Rico for decades.³ Thus, Law 54 provided a specific criminal remedy to “promote the development, establishment and strengthening of efficient remedies to offer protection and help to the victims, and alternatives for the perpetrator’s rehabilitation, and strategies to prevent domestic violence.”⁴

Yet, twenty-five years after the passage of Law 54, the Domestic Violence crisis in Puerto Rico continues to be alarming. For example, Puerto Rico’s intimate partner homicide rate is six times higher than Los Angeles, even though both have a similar population sizes.⁵ In 2011, thirty women were killed by their intimate partners in Puerto Rico, but only five women were killed by their intimate partners in Los Angeles.⁶ Why is the law then failing Puerto Rican women? Does the rule of law actually change behavior? The short answer is that where the rule

¹ P.R. LAWS ANN. tit. 8, §§ 601-635 (1989).

² 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).

³ tit. 8, § 601.

⁴ *Id.*

⁵ ACLU, *Failure to Police Crimes of Domestic Violence and Sexual Assault in Puerto Rico*, ACLU.ORG, available at <https://www.aclu.org/human-rights/failure-police-crimes-domestic-violence-and-sexual-assault-puerto-rico> (Jun. 19, 2012).

⁶ *Id.*

of law is clearly established, but the public, the courts, and law enforcement refuse to embrace it, the law will ultimately fail.

The ultimate success of the law depends on a complete restoration of current social norms, and a strong systemic legal response to the domestic violence situation in Puerto Rico. The biggest challenges the law faces are overcoming enormous economic, social, and cultural obstacles. This paper examines the state of domestic violence in Puerto Rico, analyzing each of the challenges. Part I examines Law 54 in its text and legislative intent. Part II explores the role of law enforcement in adequately reporting and addressing domestic violence claims. It also unveils new systematic reforms happening throughout the Puerto Rico Police Departments, and the reform's projected effect on domestic violence management. Part III discusses Puerto Rico's *machista* culture, the correlation between society's views of women, and the way both contribute to domestic violence. It also discusses the role of religion and tradition in the way Puerto Rican women see gender roles and their obligations to uphold the family unit. Finally, Part IV concludes by introducing different types of viable solutions to contribute to positive enforcement of the law.

I. THE LAW

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.”⁷ The law pioneered domestic violence efforts in Latin America, as an ambitious showing of comprehensive approaches to domestic violence in its goals and language.⁸ The recognition from the Puerto Rican government that domestic violence was one of the most serious concerns in Puerto Rican society at that time, and it continues being so today, motivated Law 54 proponents:

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 access implementation. The goal was to transform gender relations in such a way as to genuinely empower women and girls.⁹

In reaching this goal, the government sought to develop, establish and strengthen the remedies for victims of domestic violence by creating efficient protection, help for victims, rehab for perpetrators, and strategies to prevent domestic violence.¹⁰ The law called for an interagency collaboration between the Justice Department in Puerto Rico, the Puerto Rican Police Department, the Department of Correction, The Judicial System, and the WAO in combating domestic violence.¹¹ Law 54 punishes a wide array of domestic violence crimes such as abuse,

⁷ tit. 8, § 601.

⁸ See Rivera, *supra* note 3.

⁹ Mary Strange, *From Domestic Terrorism to Armed Revolution: Women’s Rights to Self-Defense as an Essential Human Right*, 2 J.L. ECON. & POL’Y 385, 392-93 (2006).

¹⁰ tit. 8, § 601.

¹¹ Government of Puerto Rico, *Oficina de La Procuradora de las Mujeres: Implantación de la Ley 54 de Violencia Domestica: Compendio 25 Años* (hereinafter *WAO Report*), PR.GOV, available at

aggravated abuse, threatening abuse, abuse that restraints personal liberty, and sexual abuse.¹² It has even expanded to require rehabilitation for any perpetrator that enters the judicial system, regardless of a conviction in certain cases.¹³

Certainly Law 54 broadly criminalizes domestic violence, but yet, twenty-five years after the passage of the law, Puerto Rico has seen 558 women die at the hands of their spouse, which represents the number one cause of female deaths in Puerto Rico.¹⁴ Seventy percent of the victims range from 20 to 39 years of age, which is troublesome particularly as that represents the peak of reproductive age.¹⁵ Additionally, 20 to 39 year olds also represent the future of Puerto Rico in the professional and educational sense.¹⁶ The highest incidents of murder rates happened from 1995 to 1997, and 2004 to 2006.¹⁷ In 2006, the Puerto Rico Police Department (“PRPD”) reported 23 murders of women at the hands of their partners, placing Puerto Rico as the worst country in the world per capita of women killed, who were over the age of fourteen.¹⁸ Since 2006, the situation is still worrisome: 27 women were murdered in 2007, 19 in 2010, 30 in 2011, and 27 in 2012.¹⁹ Currently, since 2013 until June of 2014, 24 cases were reported.²⁰

A. Judicial Interpretation of Law 54

<http://www2.pr.gov/agencias/mujer/InvestigacionesEstudios/Documents/Implantación%20de%20la%20Ley%2054%20de%20VD%20Compendio%20de%2025%20Años.pdf>, 1-38, at 16.

¹² tit. 8, § 631-35.

¹³ *Id.* § 651.

¹⁴ *WAO Report*, supra note 14, at 6.

¹⁵ *Id.* at 9.

¹⁶ *Id.*

¹⁷ *Id.* at 27 (92 women dead in 1995-1997, and 75 women dead in 2004-2006).

¹⁸ Centro Reina Sofia, *Tercer Informe Internacional: Violencia Contra la Mujer en las Relaciones de Pareja, Estadísticas y Legislación* 89, 92 (2010) (The international list compared the number of women killed by their domestic partners in each country and territory per million women over the age of fourteen. Puerto Rico’s partner homicide rate of 1.4 per 100,000 women per year is higher than the United States’ rate at 0.78).

¹⁹ *WAO Report*, supra note 14, at 27.

²⁰ *Id.*

The Puerto Rican Supreme Court has a vital role in the enforcement and progress of Law 54 as the last authority in Puerto Rico’s judicial system. And yet, it could be argued that this same court has failed in protecting all social groups that should be covered under Law 54. First, the judiciary has failed to protect women that seek restraining orders or other remedies available through the law. From 1992 to 2012 more than 543,373 restraining orders were solicited, and yet, only 374,516 were granted.²¹ Even though domestic violence is the highest volume crime in Puerto Rico, it has the lowest conviction rate.²² The Puerto Rico Department of Justice concluded that out of 20,000 domestic violence incidents reported by the police, only 17% achieved a conviction.²³ This partly due to a “significant gaps in both the civil and criminal justice system response to domestic violence.”²⁴ The courthouse environment has also proven hardly accessible for victims, and difficult for those who wish to press charges and continue the process.²⁵

Second, the Puerto Rico Supreme Court’s interpretation of Law 54 is also troublesome and seems to run contrary to the law’s purpose. In 2011, Puerto Rico Supreme Court held that Law 54 did not extend to victims of violence in adulterous relationships.²⁶ Judge Edgardo García, writing for the majority, reasoned that the law’s intention was to protect family unit, and thus,

²¹ *WAO Report*, supra note 14, at 28.

²² Emily Sack, *Report on Domestic Violence Practices and Services of the Puerto Rico Court System and its Partners: Assessment, Evaluation and Recommendations* 1, 7 (2006). (“Further, the courthouse environment is very difficult for victims and does not encourage them to seek protection. There is inadequate security in many courthouses, and in particular, the Investigations Rooms and courtrooms where domestic violence cases are regularly heard. There is no childcare, so that petitioners must keep their children with them during court appearances where they are reliving the violence that often has been caused by the other parent. There are long waiting times for court appearances, where victims must sit in the same room with domestic violence offenders, and where their kids must wait without access to any food or playthings.”).

²³ *Id.*

²⁴ *Id.* at 5. (“The key issues in the order of protection process that require attention include: inconsistent and antiquated data collection systems that fail to produce reliable data, and do not capture statistics at key stages; lack of follow-up with petitioners between ex parte orders and the final protection order to ascertain the reasons for failing to appear; inadequate linkage between petitioners and victim advocates due to understaffing of advocate unit and its distant location from protection order courtrooms; delays in adjudication of protection orders, due in part to confusion over responsibility for service of summons and ex parte order; and dramatic under-enforcement of violations of protection orders.”).

²⁵ *Id.*

²⁶ *El Pueblo de Puerto Rico v. Jose Miguel Flores Flores*, 181 D.P.R. 225, 2011 WL 1107059 (Mar. 23, 2011).

adulterous relationships are outside the scope of the law.²⁷ Many feminist groups critiqued this decision as an overreliance by the court on the idea of “family unit,” rather than on women’s safety and overall existence as individuals.²⁸ Ultimately, three male legislators in 2013 overruled this decision by including Law 54 protections without discriminating by marital status or sexual orientation. Representative Luis Vega Ramos stated this amendment was “a measure of rightful justice, and the wish that every citizen must have the same access to be protected against aggression, intimidation, or violence in their domestic relationships.”²⁹

In another troublesome case, the Puerto Rico Supreme Court held that absent any legislative history giving same-sex couples protection under Law 54, the law simply did not apply to this group.³⁰ In *Pueblo v. Ruiz*, the court relied on legislative intent and the plain text of Law 54 in reasoning that the law was specifically enacted to protect Puerto Ricans in heterosexual relationships only.³¹ Thus, the law did not protect Mr. Ruiz against a same-sex partner that bit and punched him.³² The Puerto Rico Supreme Court differentiated same-sex protection from the law’s protection “to women and men” within the family unit.³³ The court relied on statements by the legislature from 1989, stating, “[D]omestic violence is one of the critical manifestations and showing of inequality in the relationship between *men and women*.”³⁴ The court used these statements to determine Law 54’s public policy purpose is to strengthen

²⁷ *Id.* at 229.

²⁸ Movimiento Amplio de Mujeres de Puerto Rico, Press Release: *Today the Supreme Court has Become another Aggressor to the Women in our Island, in Giving Permission to Violence Against Women*, available at <http://movimientoampliodemujeres.blogspot.com/2011/03/hoy-el-tribunal-supremo-se-convirtio-en.html> (Mar. 25, 2011).

²⁹ Primera Hora, Press Conference: *Someten Enmienda para Que Ley 54 Proteja Parejas del Mismo Sexo*, available at <http://www.primerahora.com/noticias/gobierno-politica/nota/sometenenmiendaparaqueley54protejaparejasdelmismosexo-758618/> (Jan. 10, 2013).

³⁰ *Pueblo v. Ruiz*, 2003 TSPR 52, 2003 WL 1861577 (Apr. 8, 2003).

³¹ *Id.*

³² *Id.*

³³ *Id.* (“Spouses, are defined as the figure of marriage, which relationship is defined by Art. 68 of the Civil Code , 31 LPRA sec. 221, as “a civil institution that issues from a civil contract under which a *man and a woman* mutually agree to become husband and wife, and fulfill one towards the other duties that the law imposes.”).

³⁴ *Id.* at 209.

family as an institution, which should be visualized as emergent from a political standpoint rooted in the sentimental and legal union of a man and a woman through marriage.³⁵ The court held same-sex marriage had never been mentioned, studied, or analyzed by the legislature in 1989 in enacting a law that would protect these couples.³⁶ Thus, they concluded that the only relationships effectively included in the law are those for heterosexual couples. Justice Hernández Denton, in his dissent, vehemently condemned the opinion as one that prevents a minority group from enjoying the benefits of fundamental rights recognized for other members of the community.³⁷ In 2013, Law 54 was once again amended to extend protection to same-sex couples, and effectively overrule *Pueblo v. Ruiz*.

Nevertheless, in other contexts, the Puerto Rico Supreme Court has shown Law 54 protection to some of the most vulnerable individuals in Puerto Rico. For example, in *Pueblo de Puerto Rico v. Castellón Calderón*:³⁸ the Puerto Rico Supreme Court held that a Law 54 case against an abuser can continue even when the victim has decided to drop the charges, or refuses to cooperate with the prosecution.³⁹ The court analyzed that specifically in domestic violence cases, the victims are often harassed, threatened or coerced into dropping the charges.⁴⁰ The court held that each case in which a victim has dropped the charges, the Court must still conduct a hearing with the prosecutors and must take into account the true interest of the victim in not proceeding with the case by analyzing a specific set of factors.⁴¹

³⁵ *Id.*

³⁶ *Id.* at 206. (“Notwithstanding the above mentioned, and despite being the mistreatment against married women the problem that motivated the legislative process of Law 54, the project ended up being approved with neutral language between man and woman, and protecting a series of relationships that transcend the conjugal bond. However, the fact that the marital relationship is transcended does not mean that it goes beyond the emotional relationship between men and women.”).

³⁷ *Id.* at 214.

³⁸ *Pueblo de Puerto Rico v. Castellón Calderón*, 151 D.P.R. 15, 2000 WL 622721 (P.R.) (May 12, 2000).

³⁹ *Id.* at 25.

⁴⁰ *Id.* at 24.

⁴¹ *Id.* at 29.

II. LAW ENFORCEMENT

The Puerto Rican Police Department (“PRPD”) is a fundamental instrument in dealing with domestic violence situations since “it is the organism in charge of ‘protecting the people and property, to maintain and observe public order, and to observe and procure absolute protection of the civil rights from all citizens, to prevent, discover and chase crime’”⁴² Specifically, Law 54 orders mandatory police intervention in cases of domestic violence, and it assigns certain tasks for officers to follow when enforcing the law.⁴³

Yet, the troublesome statistics of domestic violence in Puerto Rico can be directly traced to the failure of the PRPD to effectively respond to the domestic violence crisis. In 2012, the United States Department of Justice Civil Rights Division (“DOJ”) sued the Commonwealth for violating Puerto Ricans civil rights when using excessive force during peaceful protests, discriminating against immigrants, conducting illegal searches and seizures, and failing to provide adequate supervision and training for agents.⁴⁴ The DOJ investigated the PRPD from 2008 until 2011, identifying:

[S]everal additional areas of serious concern such as discriminatory policing and the investigation of sex crimes and *incidents of domestic violence*. The Report also identifies systemic deficiencies in PRPD’s policies and procedures; the conduct of specialized units; pre-service and in-service training; supervision; the intake, investigation, and adjudication of misconduct complaints; crime and corruption by officers; promotions; risk management; external oversight and accountability; and community engagement. The Report concludes that PRPD suffers from a number of deep rooted problems that have existed for many years that need to be addressed in a systemic manner.⁴⁵

The DOJ declared “PRPD’s longstanding failure to effectively address domestic violence . . . in Puerto Rico is clear and, in conjunction with its institutional deficiencies, may rise to the level of

⁴² P.R. Laws Ann. tit. 25, § 1003 (1974).

⁴³ tit. 8, § 627(d).

⁴⁴ Compl., United States v. Puerto Rico and Puerto Rico Police Department, No. 3:12-CV-2039 (P.R.D.C. Dec. 21, 2012).

⁴⁵ *Id.*

a pattern and practice of violations of the Fourteenth Amendment.”⁴⁶ In July 2012, both parties reached a consent decree designed to promote police services in accordance with the Constitution and optimize public security and trust.⁴⁷

The PRPD’s failure to protect Puerto Rican women has created a damaging cycle in which women distrust and lack faith in law enforcement, and thus, either stop reporting or do not receive proper responses when they seek help. Law 54 is supposed to limit the discretion of law enforcement agents in requiring mandatory arrest, particular conduct in preparation of domestic violence reports, and particular treatment of victims of domestic violence.⁴⁸ Officials do not need a warrant to make an arrest, so long as they have a well-founded belief that the perpetrator has committed the act.⁴⁹ But in practice these mandatory measures are not being followed. The ACLU documented cases of women killed by their partners and ex-partners who had repeatedly sought the help of the PRPD and were denied adequate assistance.⁵⁰

Ironically, a great contributor to the lack of law enforcement in this area is the alarming number of actual PRPD officers reported as domestic violence perpetrators themselves.⁵¹ The Puerto Rico Supreme Court has spoken on this well-known reality:

Nothing should be farthest from a man who upholds the law than recurring to violence, which is the antithesis and repudiation of judicial order. It should not be [a member of the PRPD] who turns to these aggression devices like a caveman. Our nation has the right that all their institutions, their professionals, and their leaders, protect civilization from this wave of violence, and lack of class that is a staple in our culture.⁵²

⁴⁶ *Id.* at 58.

⁴⁷ Agreement for the Sustainable Reform of the Puerto Rico Police Department, *United States v. Puerto Rico and Puerto Rico Police Department*, No. 3:12-CV-2039 (P.R.D.C. Dec. 21, 2012).

⁴⁸ tit. 8, §§ 638, 640, 641.

⁴⁹ *Id.* § 638.

⁵⁰ *See* Brief for the American Civil Liberties Union, et al., as Amici Curiae Supporting Plaintiff, *United States v. Puerto Rico and Puerto Rico Police Department*, No. 3:12-CV-2039 (P.R.D.C. Dec. 21, 2012) available at https://www.aclu.org/files/assets/aclu_pr_amicus_brief_-_dv_and_sv.pdf.

⁵¹ *Compl.*, *United States v. Puerto Rico and Puerto Rico Police Department*, No. 3:12-CV-2039 (P.R.D.C. Dec. 21, 2012).

⁵² *In re Vázquez Báez*, 110 D.P.R. 628, 636 (1981).

The Department of Justice concluded that 1,500 incidents had been reported against police officers from 2005 to 2010, and at least eighty-four of these officers are still on active duty.⁵³ The PRPD's internal administrative decision-makers have been partly at fault, proving unreliable in holding officers accountable when they violate Law 54.

Lastly, while the PRPD is also in charge of maintaining reliable statistics, they have also fallen short in that department. In 2011, forty-two women were murdered by their partner, but the PRPD reported only thirty homicides.⁵⁴ This type of systematic mismanagement only promotes a lack of faith by women in the system, and a freedom for men that do not believe they will be held accountable.

A. A New Beginning for the PRPD

Puerto Rico previously lacked external oversight of its police department, or any statewide mechanism for setting and monitoring training requirements. In August 2014, Federal District Court Judge Gustavo Gelpí ordered a report on the areas that must be improved in accordance with the DOJ's consent decree.⁵⁵ Judge Gelpí also ordered the appointment of a Technical Compliance Advisor ("TCA") that can oversee the consent decree and ensure changes are being made, while working closely with the superintendent of the PRPD.⁵⁶ Arnaldo Claudio,

⁵³ *Id.* at 16-17.

⁵⁴ ACLU, *Failure to Police Crimes of Domestic Violence and Sexual Assault in Puerto Rico*, ACLU.ORG, available at <https://www.aclu.org/human-rights/failure-police-crimes-domestic-violence-and-sexual-assault-puerto-rico> (Jun. 19, 2012).

⁵⁵ *United States v. Puerto Rico*, 922 F.Supp.2d 185 (P.R.D.C. Feb. 6, 2013).

⁵⁶ U.S. Dep't of Justice, *District Court Approves Selection of Arnaldo Claudio as Technical Compliance Advisor to Oversee Critical Reforms of Puerto Rico Police Department*, JUSTICE.GOV, available at <http://www.justice.gov/opa/pr/district-court-approves-selection-arnaldo-claudio-technical-compliance-advisor-oversee> (June 5, 2014) ("[T]he department and the Commonwealth of Puerto Rico agreed to jointly select a TCA to assist the court and the public in determining whether critical reforms are implemented fully and in a timely manner. The reforms cover 11 core areas, including use of force, searches and seizures, bias-free policing, recruitment, promotions, training, supervision, discipline, community engagement and information technology. The TCA will serve a vital role in promoting compliance and the sustainability of reforms. The TCA will also provide substantive expertise and technical assistance to guide PRPD in its implementation efforts and assures the public that PRPD's progress is evaluated in a reliable, independent and transparent manner.").

the TCA, has since met with four ex-governors, high police officials, and federal judges to gauge the true difficulties relating to the PRPD, and to give recommendations for its ordered reform.⁵⁷

His duties include a thorough review of PRPD's policies, training curricula, standard operating procedures, plans, protocols and other operational documents related to the consent decree.⁵⁸

The specific reforms deal with a variety of issues, and seek to improve the PRPD's accurate reporting of cases, handling of sexual assault investigations, and uniformity within the municipalities' efforts in combating domestic violent. For example, the agreement mandates the PRPD to "respond to and investigate reports of sexual assault and domestic violence professionally, effectively, and in a manner free of gender-based bias. PRPD shall appropriately classify and investigate reports of sexual assault and domestic violence, collaborate closely with community stakeholders, and apply a victim-centered approach at every stage of its response."⁵⁹ Individual officers caught abusing their partners, will be disarmed and their fitness for duty will be assessed.⁶⁰ The PRPD also has to improve the way in which investigations are conducted by tracking dispositions of each domestic violence investigations, capturing incidents by gender, and reporting each finding as part of its annual report.⁶¹ In an effort to improve communications between law enforcement and the judiciary, PRPD will use an Early Identification System (EIS) that includes a computerized relational database to collect all proceedings involving domestic violence.⁶²

⁵⁷ Primera Hora, *Activo el Monitor en la Reforma de la Policia*, available at <http://www.primerahora.com/noticias/policia-tribunales/nota/activoelmonitorenlareformadelapolicia-1025830/> (July 31, 2014).

⁵⁸ U.S. Dep't of Justice, *supra* note 136.

⁵⁹ Agreement for the Sustainable Reform of the Puerto Rico Police Department, *United States v. Puerto Rico and Puerto Rico Police Department*, No. 3:12-CV-2039 (hereinafter *DOJ Agreement*) (P.R.D.C. Dec. 21, 2012) ¶93.

⁶⁰ *Id.* ¶99.

⁶¹ *Id.* ¶100.

⁶² *Id.* ¶148.

In what could mean the most meaningful positive change to domestic violence issues and enforcement, the TCA will also “engage with a broad cross-section of community stakeholders, including representatives of civic and community organizations, minority communities, lesbian, gay, bisexual, transgender communities, student and labor groups, civil rights organizations, *women’s advocacy groups* and police officers to ensure they have a voice in the reform process.”⁶³ Mr. Claudio has already started working alongside representatives from Special Communities, the WTO, Department of the Family, Health Services, Office of Veteran Affairs, amongst others.⁶⁴ The TCA will conduct qualitative and quantitative assessments to measure the reforms and each action plan’s overall effect on domestic violence.⁶⁵ Ultimately, the outcome assessments will include satisfaction surveys by multiple domestic violence organizations, evaluating the labor of the PRPD in domestic violence reporting, management and intervention.⁶⁶

III. CULTURAL BARRIERS

A. Socio-Economic Factors

While domestic violence affects all types of women, it is more prevalent amongst those with lower socio-economic status.⁶⁷ Puerto Rico has experienced one of the toughest financial times in history. The median income for a Puerto Rican household currently barely tops \$18,660.⁶⁸ The percentage of Puerto Ricans receiving welfare grew to 37.5% in 2011.⁶⁹ In addition, Puerto Rico’s economic dependence on the United States perpetuates Puerto Rican

⁶³ U.S. Dep’t of Justice, *supra* note 136 (emphasis added).

⁶⁴ Mariana Colon, *Monitor de la Policía Entrega Informe*, ENDI.COM, available at <http://www.elnuevodia.com/XStatic/endi/template/content.aspx?id=1911426&se=nota> (Dec. 16, 2014).

⁶⁵ *DOJ Agreement*, *supra* note 160, at ¶243.

⁶⁶ *Id.* ¶243(c)(4).

⁶⁷ Theodora Ooms, *A Sociologist’s Perspective on Domestic Violence, A Conversation with Michael Johnson, Ph.D.* Center for Law and Social Policy (CLASP), at 4. (May 2006).

⁶⁸ Enrique Lamas, *U.S. Census Bureau Population Data for Puerto Rico*, Population Studies Conference of Puerto Rico, available at <http://www.estadisticas.gobierno.pr/iepr/LinkClick.aspx?fileticket=DhUavOY-CBE%3D&tabid=104> (Nov. 15, 2013).

⁶⁹ *Id.*

women giving birth at a young age, and raising their families wholly dependent on federal and state benefits. This type of economic dependency on the government and their husbands creates greater strains for women that lead to stronger domestic violence cycles. Studies show that “poor and working-class Puerto Rican women [are] committed to the strategic use of welfare and the appropriation of educational and employment opportunities, to the extent that such services enabled them to maintain and advance the standings of their families.”⁷⁰

However, Puerto Rico’s domestic violence problem is not only constrained to the poor class. In *International Perspectives on Intimate Partner Violence*, two Puerto Rican professors found that amongst the upper class, domestic violence is still prominent.⁷¹ Even more alarming, for wealthy women, most incidents are dealt with internally.⁷² Many never seek any help outside of personal psychologists and psychiatrists, or religious leaders.⁷³

The study concluded that those wealthy individuals with prominent positions in such a small island are prone to pay off their wives, or “buy” their forgiveness, instead of actually dealing with the actual problem.⁷⁴ For these women “there is no showing of remorse by their partners, instead they buy them cars, gifts, or take them in vacations.”⁷⁵ While all of the women that participated in this particular study had at least a bachelor’s degree, none had a career outside being a housewife, thus, becoming even more economically dependent than others similarly situated.⁷⁶

⁷⁰ Fine, Roberts, Weis, *Puerto Rican Battered Women Redefining Gender, Sexuality, Culture, Violence, and Resistance, in Domestic Violence at the Margins: Readings on Race, Class, Gender, and Culture* (Natalie J. Sokoloff, Christina Prat ed., 2005).

⁷¹ Helm, S., Baker, C., Morales Diaz, N. E., Rodriguez Del Toro, V., Colón-Castillo, M., *International Perspectives on Intimate Partner Violence, Glob. J. of Cmty. Psychology Prac.*, 4(3), 1-10. (2013). Retrieved Dec. 1, 2014, from (<http://www.gjcpp.org/>).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

Puerto Rican women (across all socio-economic classes), even more than white or African American females, struggle with gender roles and a culture embedded in “traditional” notions of how family relations ought to be.⁷⁷ For example, in a study interviewing 154 women among all races, Puerto Rican women “voiced the most profound and . . . the most disturbingly high levels of self-blame and beliefs that it is women’s responsibility to tame men, to care for mother, and to protect children.”⁷⁸ The effects of colonialism and economic dependency have led Puerto Rican women to “grow up understanding that women’s tasks sweep across nurturance and feeding of young and old, socialization for subordination to men, learning that they have responsibility for controlling men’s anger, [and] self-consciously “over protecting” children (especially daughters).”⁷⁹ Still, these same women are instilled with a sense of optimism despite all the obstacles in their lives. However, in traditionally patriarchal societies, holding on to a sense of optimism can lead to significant pushback. On the one hand, these women continually try to protect and advance their children’s well-being, while in the other hand “this sense of possibility bumps into culturally bound beliefs about being women.”⁸⁰ It ultimately leads women to stay in unhealthy relationships as their “search for the “peaceful family” and their protectiveness of Puerto Rican men may blunt their sight of, and therefore exit from, violent domestic relations. Their insistence on blaming themselves for the ruination of their communities and their home lives may keep them from seeking options.”⁸¹

B. The Role of Religion

Puerto Rican female’s devotion to traditional religious practices is a contributor to the domestic violence situation in the island. Christian theologians have raised the question of a

⁷⁷ *Fine, supra* note 191, at 288.

⁷⁸ *Id.* at 283.

⁷⁹ *Id.* at 280.

⁸⁰ *Id.* at 290.

⁸¹ *Id.*

close relationship between patriarchal Christianity and abusive relationships, where religious women in many instances refused to divorce their husbands:

As one pastor put it, divorce is violence against the heart of God. Divorce is therefore discouraged because the necessary personal transformation to stay together is always possible, given the power of God to change any man's heart. It is their view that God has given the wife responsibility to take care of the family, and the husband lays down his life for his wife. She should submit to him just like people submit to God because of God's love for them. The man is to make decisions, and though his wife is free to voice her opinions, she is to go along.⁸²

This problem is consistently seen in devout societies around the world. For example, in Ireland, the opposition of the Catholic Church to divorce legalization until its legalization in 1996 was based on the religious belief that "an Irish woman married to a wife-beating and incestuous drunk should never expect anything better, and might endanger her soul if she begged for a fresh start."⁸³ Bible passages also sometimes seem problematic, such as those that speak of wives subordination to their husbands, or those who could be interpreted to render the concept of marital rape impossible.⁸⁴ These religious scriptures are sometimes taken out of context, to support discriminatory practices against women. Also problematic is the unwillingness of many female religious followers to speak out at all when victimized by their partners. For example, in New York, when women became pastors, they found most of their time doing community outreach was spend supporting women and conducting crisis intervention for victims of domestic violence.⁸⁵

In Puerto Rico, men sometimes take advantage of religiously inculcated traditions to abuse their wives. This becomes of increasing concern, since "the ability of victims of DV to

⁸² Sally E. Merry, *Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization*, 35 *Law & Soc'y Rev.* 39, 60 (2001).

⁸³ Newsweek, *Book Excerpt: Hitchens's 'God is Not Great'*, NEWSWEEK.COM, available at <http://www.newsweek.com/book-excerpt-hitchens-god-not-great-99357> (Aug. 21, 2007).

⁸⁴ M BASHEER AHMED M.D., *DOMESTIC VIOLENCE CROSS CULTURAL PERSPECTIVE*, 22 (2009).

⁸⁵ ADAMS, CAROL J.; FORTUNE, MARY M., *VIOLENCE AGAINST WOMEN AND CHILDREN: A CHRISTIAN THEOLOGICAL SOURCEBOOK*, 9 (1998).

leave the violent relation is crucial for preventing further abuse. In traditional communities, divorced women often feel rejected and ostracized. In order to avoid this stigma, many women prefer to remain in the marriage and endure the abuse.”⁸⁶ The Puerto Rican religious community has been vocal about their strong disagreement to any gender-equality based curriculums at school; any rights for same-sex couples (including domestic violence protection under Law 54), and any rights under the Law 54 for women in adulterous relationships. For example, before Law 54 was amended to include protection for same-sex partners, the President of the Family Pastoral Community for the Dioceses of Arecibo stated, “the objective of Law 54 was only to work against violent situations that arise out of the family, and domestic relationships. [If same sex-couples] need remedies for violent situations they can rely on the Penal Code under the general law of the state.”⁸⁷ Inclusively, before the passage of Law 54, much of the pushback came from religious institutions, or conservative religious legislators that truly believed domestic violence should be dealt with inside the private home with the help of priests and ministers, but not through the legal system.

Nevertheless, there is still hope from many religious leaders around the island that criticize those that endorse domestic violence, and sometimes even promote violence within the home. Recounting a time when a woman feared to speak to him as a religious male, Pastor Pablo Jimenez encourages women to ignore those who encourage women to stay in violent marriages:

Sadly, some religious leaders don't take domestic violence seriously. However, once you see a woman that has been beat up, when you have seen a woman that has been hospitalized because of a beating, and when you hear about women being buried and murdered at the hands of their spouses, you clearly see God's

⁸⁶ RONA M. FIELDS, *AGAINST VIOLENCE AGAINST WOMEN: THE CASE FOR GENDER AS A PROTECTED CLASS*, 63-64 (2013).

⁸⁷ Antonio Gomez, *Regiosos Objetan Cambios a Ley 54, Pero Proponen Lenguaje Alternativo*, Primerahora.com, available at

<http://www.primerahora.com/noticias/gobierno-politica/nota/religiososobjetancambiosaley54peroproponenlenguajealternativo-911606/> (Apr. 12, 2013).

will. God wishes for the woman and for children to live free from emotional, verbal and physical violence.⁸⁸

Ultimately, he explains those leaders that support domestic violence become conspirators with the perpetrator, they in a sense, become criminals themselves.

IV. MOVING FORWARD

Prominent Puerto Rican women's right activist María Dolores Fernós, recently considered Law 54 and its effects since 1989:

There seems to be an alliance between some legislators, churches, pro-fatherhood organizations for shared custody, those who oppose child support laws, and those who oppose gender-equality in education. In conclusion, there is a type of coincidence, that does not seem coincidental to me, that has a lot to do with our beliefs of a patriarchal ideology that restricts the claim of women's rights and that intends to perpetuate the machismo culture over the values and measures we ought to take in order to become a more just society.

Still, others argue that just because the domestic violence situation in Puerto Rico is alarming, it does not mean that Law 54 has been a complete failure.⁸⁹ During the first 11 years after Law 54 was enacted, from 1990 until 2001, 31.4% of women murdered in Puerto Rico were in a domestic violence situation. The next 11 years, from 2002 until 2013 this average dropped to 21.8%. Thus, these activists argue that the drop in the average can be directly traced to Law 54's educational efforts in such a "dramatic reduction."⁹⁰ Instead, these activists argue that the law's main problem is actually the precise drastic change that Law 54 created in the Puerto Rican society, in which suddenly the male has no more control or power over that relationship.⁹¹ According to one proponent of Law 54, "[t]he laws cannot suddenly change what has been

⁸⁸ Column, Pablo Jimenes, *Religion y Violencia Domestica*, ENDI.COM, available at http://www.elnuevodia.com/blog-religion_y_violencia_domestica-416065.html (Jun. 8, 2008).

⁸⁹ Fernós, *supra* note 4.

⁹⁰ *Id.* (Year and number of women killed: 1990 – 21, 1991 – 39, 1992 – 26, 1993 – 42, 1994 – 30, 1995 – 38, 1996 – 34, 1997 – 27, 1998 – 30, 1999 – 27, 2000 – 32, 2001 – 23, 2002 – 18, 2003 – 25, 2004 – 31, 2005 – 18, 2006 – 21, 2007 – 16, 2008 – 26, 2009 – 17, 2010 – 19, 2011 – 30, 2012 – 27, 2013 – 19, 2014 – 9 (thus far)).

⁹¹ *Id.*

society's thinking, and what has been the norm for centuries. It not only requires those who are in charge of enforcing it to do so, but also the participation, education, and 'buy-in' of a whole society."⁹² This notion is exactly what this paper has attempted to establish. The passage of Law 54 is a historic feat in itself, and should be regarded as such. However, this is just one more example where the rule of law even if strongly established will not be efficient where the community, legislators, courts, and law enforcement rely solely on the law and do not compliment it with effective social support to give the law the power it commands and deserves.

Now where do we go from here? First and foremost, there has to be an increase in education of our children and society to shift the imbalance of gender-normative roles in our island. For the past six years multiple organizations have attempted to incorporate within public's school a curriculum that emphasizes gendered perspectives, in order to better educate kids about gender equality. In a recommended amendment to Law 149 of the Puerto Rico Department of Education, the WAO sought to establish a school curriculum that directly addresses gender equality, and prevention of domestic violence in public schools.⁹³ The amendment also sought to shape the meaning of "gender" within school curriculums, to encompass the characteristics of a person, attitudes, behavior and values that Puerto Rican as a society continue to perceive in an unequal way as it pertains to women and men.⁹⁴

Nonetheless, the attempts failed miserably, in part because of religious and conservative institutions' pushback on such a curriculum, fearing it may promote a homosexual agenda and disturb our children's notion of the traditional family. These groups fail to see that school program such as this one would create ginormous strides in improving inculcated social

⁹² *Id.*

⁹³ Commonwealth of Puerto Rico, Department of Education, *Carta Circular Núm. 3-2013-2014*, available at <http://intraedu.dde.pr/Cartas%20Circulares/03-2013-2014.pdf> (Jul. 20, 2013).

⁹⁴ *Id.*

perspectives that lead to domestic violence incidents. It is of utmost importance for Puerto Rican young boys to learn positive behavior beyond being the “strongest” or the “most powerful.” If young boys around the island started seeing girls as equal and respecting females, these girls will in turn perceive themselves as equal.

Second, there should be increased media campaigns on how to identify and prevent domestic abuse. Puerto Ricans use television and media sources at outstanding rates. In this way, Puerto Rico can focus on preventing domestic violence by prioritizing specific demographic groups within the female population in the island. For example, Michael Polenberg, vice president of government affairs for Safe Horizon in New York City reasoned that current forms of domestic violence help “might not work two blocks from where you’re standing.”⁹⁵ There should be a diverse range of options for victims of crime to get help that recognizes cultural . . . differences.” Puerto Rican women are less likely to seek other options away from help within their family and their churches. Thus, like in New York City, where organizations like Casa de Esperanza are looking further than short-term solutions such as shelters, and diving into more progressive solutions that educate Latinas about domestic violence, Puerto Rican organizations must follow.

Finally, I reiterate my findings in each individual section as to the specific reforms that the judiciary, the executive, and law enforcement must continue to enforce in order to make meaningful change when it comes to domestic violence. While positive strides happened in the past few years, the government still needs to prioritize budgeting for domestic violence agencies, even with the current pressures of economic instability. None of the reforms will have any meaningful impact if they are not fortified by constant financial support from the local

⁹⁵ Teresa Wiltz, *When It Comes To Handling Domestic Violence Cases, States are Still Falling Short*. HUFFINGTONPOST.COM, available at http://www.huffingtonpost.com/2014/09/17/don-oma-arrested-_n_5838652.html (Sep. 22, 2014).

governments. As we have already seen, domestic violence in Puerto Rico is a huge problem, but we all are part of the solution. Twenty-five years after the passing of Law 54, if law enforcement, the community, and the courts streamline their support towards positive reform that will aid domestic violence, the law will ultimately succeed.

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