

When Femicide Law isn't Enough

The Fatal Consequences of Discriminatory Corruption for Women in Mexico and Bolivia

Victoria Abut, JD '24
Professor David P. Lopez

Prologue	1
I. Introduction.....	3
II. Discriminatory Corruption.....	8
A. <i>How Discriminatory Corruption Exacerbates Sex Inequality</i>	11
B. <i>Ciudad Juarez: An Intersectional Approach to Discriminatory Corruption</i>	15
C. <i>Power, Privacy, Domination and Death</i>	18
III. Femicide and Corruption	22
A. <i>Bribery: Simultaneously Greasing and Sanding the Wheels of Justice</i>	23
B. <i>Mismanagement and Incompetence</i>	27
C. <i>He's One of Us</i>	30
IV. Conclusion	33

Prologue¹

“In this country, men murder women because they can.”²

~

In January, 2022, hundreds of protesters took to the streets of La Paz, Bolivia, led by the feminist activist collective *Mujeres Creando*.³ New revelations had come to fruition surrounding the heinous crimes committed by Richard Choque Flores, a serial predator who had murdered at least two women and raped upwards of 70 more.⁴ The macabre details of Choque Flores’ crimes were appalling enough on their own to have justified the mobilization of outraged civilians.⁵ And yet, protesters had gathered primarily to denounce the blatant judicial and prosecutorial corruption that granted Choque Flores near impunity and enabled his continued predation.⁶ In fact, Choque Flores had already been arrested in 2015, and sentenced to 30 years in prison.⁷ His sentence was later reduced to a house arrest in 2019, allowing him to murder Lucy Maya Ramírez Zambrana and Iris Maylin Villca Choque from the comfort of his own home.⁸

¹ This paper expands upon an introductory blog post written last year about the same topic. See Victoria Abut, *Corruption: Fuel for Femicide’s Fire*, THE GLOBAL ANTICORRUPTION BLOG (Jan. 3, 2023), <https://globalanticorruptionblog.com/2023/01/03/corruption-fuel-for-femicides-fire/>.

² Sarah Morland and Carolina Pulice, *Failures by Mexican law enforcement aggravate rise in killings of women*, REUTERS (Nov. 29, 2022, 7:13 PM), <https://www.reuters.com/world/americas/failures-by-mexican-law-enforcement-aggravate-rise-killings-women-2022-11-29/> (quoting Melissa Fernandez, a prominent Mexican feminist and academic who specializes in gender violence).

³ MUJERES CREANDO, *Marcha de las mujeres alteñas contra las violencias machistas y contra la corrupción de la justicia*, <https://mujerescreando.org/marcha-de-las-mujeres-altenas-y-pacenas-contra-las-violencias-machistas-y-contra-la-corrupcion-de-la-justicia/> (last visited Apr. 23, 2023).

⁴ WIKIPEDIA, *Richard Choque*, https://en.wikipedia.org/wiki/Richard_Choque (last visited Apr. 23, 2023).

⁵ Mariela Cossío M, *Richard Choque: el escalofriante historial del asesino y violador serial*, OPINIÓN: DIARIO DE CIRCULACIÓN NACIONAL (Feb. 6, 2022), <https://www.opinion.com.bo/articulo/escena-del-crimen/richard-choque-escalofriante-historial-asesino-violador-serial/20220204224721853999.html>.

⁶ MUY WASO, *Feministas bolivianas activan líneas para denunciar a feminicidas liberados*, (Feb. 15, 2022), <https://muywaso.com/feministas-bolivianas-activan-lineas-para-denunciar-a-feminicidas-liberados/>.

⁷ SWISSINFO.CH, *Mujeres marchan con fotos de violadores y fiscales corruptos en Bolivia*, (Mar. 7, 2022, 8:41 PM), https://www.swissinfo.ch/spa/d%C3%ADa-mujer-bolivia_mujeres-marchan-con-fotos-de-violadores-y-fiscales-corruptos-en-bolivia/47411032.

⁸ REDACCIÓN ACTUALIDAD, *Richard Choque Flores: el perfil del psicópata sexual y desalmado asesino serial de Bolivia*, (Feb. 4 2022, 4:51 PM), <https://www.bolivia.com/actualidad/nacionales/richard-choque-flores-perfil-asesino-serial-bolivia-335858>.

How did Richard Choque Flores manage to get his sentence reduced in the first place, despite undisputed evidence of his guilt? With a bribe of US\$3,500 and a bottle of whisky.⁹



10

⁹ Javier Aliaga, *Femicidios en Bolivia: la Justicia al banquillo*, FRANCE24 (Feb. 24, 2022, 2:22 AM), <https://www.france24.com/es/am%C3%A9rica-latina/20220224-bolivia-femicidios-justicia-corrupcion-genero>.

¹⁰ An image depicts a woman holding a flyer denouncing the impunity surrounding the femicide epidemic in Bolivia. In the background is a "carpet of shame," consisting of posters calling out specific public officials for their complicity in exacerbating the femicide crisis. MUJERES CREANDO, *Vigilia en Acción De Legítima Defensa De Las Vidas Y Libertades De Las Mujeres*, <https://mujerescreando.org/vigilia-en-accion-de-legitima-defensa-de-las-vidas-y-libertades-de-las-mujeres/> (last visited Apr. 23, 2023).

I. Introduction

“Sexism kills a woman every two hours in this country, while feminism kills no one.”¹¹

~

The manifestation of gender-based violence in its most gruesome form,¹² femicide (or “*femicidio*”) refers to the intentional murder of women because they are women.¹³ In Bolivia as well as other Latin American countries (such as Argentina,¹⁴ Brazil,¹⁵ and Mexico,¹⁶) femicides not only occur at appallingly high rates, but they are rarely ever resolved.¹⁷ In Mexico, for

¹¹ Quote from Mexican activist Olimpia Coral. See LATINUS, “*El machismo asesina cada dos horas a una mujer en este país y el feminismo no mata a nadie*”, dice Olimpia Coral frente a diputados en el 25N, (Nov. 25, 2021), <https://latinus.us/2021/11/25/el-machismo-asesina-cada-dos-horas-a-una-mujer-en-este-pais-y-el-feminismo-no-mata-a-nadie-dice-olimpia-coral-frente-a-diputados-en-el-25n/> (“El machismo asesina cada dos horas a una mujer en este país y el feminismo no mata a nadie”) (English translation provided by the author).

¹² The U.N. estimates that some “81,100 women and girls were killed intentionally in 2021,” the majority of whom by “intimate partners or other family members,” though these figures are almost certainly too low. See U.N. OFFICE ON DRUGS AND CRIME, *Gender-Related Killings of Women and Girls (Femicide/Feminicide): Global Estimates of Gender-Related Killings of Women and Girls in the Private Sphere in 2021*, (2022), <https://www.unwomen.org/sites/default/files/2022-11/Gender-related-killings-of-women-and-girls-improving-data-to-improve-responses-to-femicide-feminicide-en.pdf>.

¹³ The use of the term “femicide” to refer to the killing of women “because they are female,” is largely credited as being popularized by American feminist Diana Russell in the 1970s. see Diana Russell, *Defining Femicide and Related Concepts*, in FEMICIDE IN GLOBAL PERSPECTIVE (2001) (elaborating on the early use of “femicide”); see also WORLD HEALTH ORGANIZATION, *Understanding and addressing violence against women: Femicide*, (2012), https://apps.who.int/iris/bitstream/handle/10665/77421/WHO_RHR_12.38_eng.pdf (providing a more recent definition of the term “femicide”).

¹⁴ In 2021, there were at least 251 known victims of femicide in Argentina. See OFICINA DE LA MUJER, CORTE SUPREMA DE JUSTICIA DE LA NACION, *Registro Nacional de Femicidios: durante 2021 se produjeron 251 víctimas letales de violencia de género en todo el país*, CENTRO DE INFORMACIÓN JUDICIAL (May 31, 2022), <https://www.cij.gov.ar/nota-38847-Registro-Nacional-de-Femicidios--durante-2021-se-produjeron-251-victimas-letales-de-violencia-de-g-nero-en-todo-el-pais.html#:~:text=La%20Oficina%20de%20la%20Mujer,1%20femicidio%20cada%2035%20horas>; see also UN NEWS, *Tackling femicide in Argentina: a UN Resident Coordinator blog*, (Jan. 17, 2020), <https://news.un.org/en/story/2020/01/1055452>.

¹⁵ There were at least 1,319 known victims of femicide in Brazil in 2021. See FÓRUM BRASILEIRO DE SEGURANÇA PÚBLICA, *Violência contra mulheres em 2021*, (2022), <https://forumseguranca.org.br/wp-content/uploads/2022/03/violencia-contra-mulher-2021-v5.pdf>.

¹⁶ In 2022, the deaths of 947 women in Mexico were investigated as femicides, while 2,807 more were merely concluded to have been homicides. INFOBAE, *México rompió cifra histórica de mujeres asesinadas por homicidio doloso en el 2022; los feminicidios no bajan*, (Feb. 5, 2023), <https://www.infobae.com/mexico/2023/02/05/mexico-rompio-cifra-historica-de-mujeres-asesinadas-por-homicidio-doloso-en-el-2022-los-feminicidios-no-bajan/>; see also Rafael Castillo, *Murdered in Mexico State: The Silent Epidemic of Women Killings in Mexico*, VICE NEWS (June 22, 2015, 4:05 PM), <https://www.vice.com/en/article/ywjg9m/murdered-in-mexico-state-the-silent-epidemic-of-women-killings-in-mexico>.

¹⁷ See generally Guillermo Raúl Zepeda Lecuona and Paola Guadalupe Jiménez Rodríguez, *Impunidad en homicidio doloso y feminicidio en México: Reporte 2020*, IMPUNIDAD CERO,

example, around ten women are reportedly murdered per day.¹⁸ In a country where barely over one percent of all crimes are solved,¹⁹ let alone reported, the real number is likely much higher.²⁰

This is not to say that femicides exclusively occur in Latin America. In fact, the U.S. itself experiences similar documented rates of femicide as Mexico.²¹ Nor can it be said that the U.S. legal justice system has been any better at ameliorating the issue.²² On the contrary, Mexico passed a federal law criminalizing “femicidal violence” in 2007.²³ Similarly, in Bolivia, Law 348 (“*Ley 348*”) has codified the right of women to be free from violence—including femicide—since 2013.²⁴ Meanwhile, no such law exists in the United States.²⁵ To regard femicide as a crime unique to Latin America would thus be both disingenuous and highly inaccurate.²⁶ It is a

<https://www.impunidadcero.org/uploads/app/articulo/142/contenido/1605024010E66.pdf> (last visited Apr. 23, 2023).

¹⁸ REUTERS, *Violence against women in Mexico rises to over 70%, study finds*, (Aug. 31, 2022, 7:04 AM), <https://www.reuters.com/world/americas/violence-against-women-mexico-rises-over-70-study-finds-2022-08-31/>.

¹⁹ HUMAN RIGHTS WATCH, *Mexico: Events of 2020*, <https://www.hrw.org/world-report/2021/country-chapters/mexico> (last visited Apr. 23, 2023).

²⁰ Linnea Sandin, *Femicides in Mexico: Impunity and Protests*, CSIS (Mar. 19, 2020), <https://www.csis.org/analysis/femicides-mexico-impunity-and-protests#:~:text=Femicide%20is%20also%20an%20inherently.drowning%2C%20suffocation%2C%20and%20stabbing.ing.>

²¹ Vera Jonsdottir, *Is the US Still Too Patriarchal to Talk About Women?* CHICAGO POLICY REVIEW (Jul. 7, 2022) <http://search.proquest.com.ezp-prod1.hul.harvard.edu/scholarly-journals/is-us-still-too-patriarchal-talk-about-women/docview/2685452952/se-2> (“Of all femicide cases in the high-income world, 70% are committed in the United States”).

²² Rose Hackman, *Femicides in the US: the silent epidemic few dare to name*, THE GUARDIAN (Sep. 26, 2021, 4:00 AM), <https://www.theguardian.com/us-news/2021/sep/26/femicide-us-silent-epidemic> (“Year after year, FBI statistics on nationwide homicides reveal that a vast proportion of women killed in the US are killed by current or former intimate partners. According to the CDC, homicide is the fourth leading cause of death for girls and women one to 19 years old, and the fifth leading cause of death for women 20 to 44... This puts confirmed American female intimate gendered killings happening at a staggering rate of almost three women every day”).

²³ AMNESTY INTERNATIONAL, *Mexico: Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico*, (Sep. 20, 2021), <https://www.amnesty.org/en/documents/amr41/4556/2021/en/>.

²⁴ *Ley Integral Para Garantizar a Las Mujeres Una Vida Libre de Violencia* (Law No. 348/2013), art. 7 (Bol.).

²⁵ Caroline Davidson, *Speaking Femicide*, 71 AMERICAN UNIVERSITY LAW REVIEW 377 (2021) (“Proponents of the label of femicide seek to bring attention to gendered violence against women and end a culture of tolerance and impunity for such violence. Meanwhile, in the United States, it is neither legislated nor discussed”).

²⁶ SMALL ARMS SURVEY, A GENDERED ANALYSIS OF VIOLENT DEATHS, 1–3 (2016), <https://www.files.ethz.ch/isn/140363/SAS-Research-Note-14.pdf> (Describing the femicide situation in the U.S.: “About 66,000 women and girls are violently killed every year, accounting for approximately 17 percent of all victims of intentional homicides... in this context, femicides often take place in a general climate of indifference and impunity”).

global crisis, one that is rampant and universal, while also immune to the law: even in countries such as Mexico and Bolivia, where laws against femicides exist, women continue to be murdered with no real accountability.

While gender-based violence is certainly rooted in patriarchy, the rampant scale of femicides cannot merely be explained by the misogyny of individual perpetrators. In 2006, Mexican politician and feminist Marcela Lagarde introduced the term “*feminicide*,” (or “*feminicidio*”), to better encompass the universal, supra-legal, and institutionally self-reinforcing nature of femicides in Latin America.²⁷ Other Latin American activists soon joined the effort to direct attention towards this societally endemic—and fatal—form of patriarchal violence by “naming it, bringing attention to it, and conceptualizing it” as *feminicide*.²⁸ It was ultimately because of women-led advocacy that the terms “*femicide*” and “*feminicide*” emerged in common parlance to describe these particular iterations of gendered violence.²⁹

²⁷ Marcela Lagarde, *Del Femicidio al Feminicidio*, UNIVERSIDAD NACIONAL DE COLOMBIA (2006) (“Cuando traduje el texto de Diana Russell, me tomé la libertad de modificar el concepto, ella lo llama femicide y entonces yo lo traduje desde hace ya varios años como feminicidio, precisamente para que no fuera a confundirse en castellano como femicidio u homicidio femenino; no, yo quería que fuera un concepto claro [y] distinto.”) (trans. “When I translated Diana Russell’s term, I took the liberty of modifying the concept, she calls it femicide and I have since called it feminicide for the past several years, precisely to avoid confusion in Spanish between “*femicide*” and “*female homicide*,” rather, I wanted that there be a clear, [and] distinct concept.”) (English translation provided by the author).

²⁸ Dora Inés Munévar M., *Delito de femicidio. Muerte violenta de mujeres por razones de género*, 14 REVISTA ESTUDIOS SOCIO-JURÍDICOS 135, 143 (2012) (Colom.) (“De entre los entramados de esta composición estructural, emerge el potencial contestatario de un trabajo teórico-político orientado a problematizar las estructuras sociales, que suele recurrir a tres verbos muy presentes por configurar los fundamentos de acciones en clave feminista: *nombrar*, *visibilizar* y *conceptualizar*.”) (trans. “Within this structural framework, there emerges the responsive potential of a theoretical-political work directed at problematizing social structures, hinging on three concepts that are central to feminist organizing: nam[ing], render[ing] visible, and conceptualiz[ing].”)

²⁹ Rita L. Segato, *Femi-geno-cidio como crimen en el fuero internacional de los Derechos Humanos: el derecho a nombrar el sufrimiento en el derecho*, in UNA CARTOGRAFÍA DEL FEMINICIDIO EN LAS AMÉRICAS (Rosa-Linda Fregoso & Cynthia Bejarano eds., 2010) (“[L]as mujeres han pasado a usar el término “*feminicidio*” como si ya existiera en el derecho, alzándose, de esa forma, contra la resistencia de las autoridades a acoger la categoría que las consagra como demandantes a pesar de que ésta ya, de hecho, existe plenamente en los criterios de la población y es acatada por los medios”) (trans. “[W]omen began to use the term *feminicide* as if it already existed in law, consequently rising up against resistance by authorities to implement a label that would acknowledge women t them as complainants despite the fact that this term already categorically exists in public opinion and is accepted by the media”).

Whereas “femicide” can be normatively framed as an individual anomaly committed by a single violent criminal, “feminicide” necessarily implicates societal and governmental complicity in perpetuating the systems that permit so many murders to take place without any semblance of justice.³⁰ Though the terms are highly related, they are not interchangeable.³¹ For the purpose of this paper, “femicide” refers to the murders themselves, while “feminicide” more broadly encompasses the overarching culture of patriarchy under which such murders flourish.³² Ultimately, the feminicide epidemic is not “accidental, ‘involuntary,’ or the result of ‘mere institutional incapacity.’”³³ It is the product of the profound, systematic corruption that gives perpetrators carte blanche to violate women, while imposing prohibitive barriers to justice for victims and their families.

This paper examines the tragic injustice of feminicide by way of the widespread legal and political corruption driving its sustained endurance in Latin America. Drawing mostly on case studies in Mexico and Bolivia, this paper builds upon the theory of discriminatory corruption, defined by Transparency International as the mutually reinforcing and cyclical relationship

³⁰ Michelle Carrigan and Myrna Dawson, *Problem Representations of Femicide/Feminicide Legislation in Latin America*, 9 INTERNATIONAL JOURNAL FOR CRIME, JUSTICE AND SOCIAL DEMOCRACY 2 (2020) (Describing that the term feminicide is “rooted in gendered power structures” and “is also used to describe femicide-rooted impunity, functioning as a ‘tool of patriarchal oppression, while also serving as a tool of racism, economic oppression, and colonialism’”) (quoting Andrea Smith, *Heteropatriarchy and the three pillars of white supremacy: Rethinking women of color organizing in color of violence*, in INCITE! WOMEN OF COLOR AGAINST VIOLENCE (2016)).

³¹ In other words, “femicides” are the symptom, while “feminicide” is the disease. See Marcela Lagarde, *Preface: Feminist Keys for Understanding Feminicide: Theoretical, Political, and Legal Construction*, in TERRORIZING WOMEN: FEMINICIDE IN THE AMERICAS xi-xxv (Rosa-Linda Fregoso & Cynthia Bejarano eds., 2010) (“In Spanish, *femicidio* is homologous to homicide and solely means the homicide of women. For this reason, I preferred *feminicidio* in order to differentiate from *femicidio* and to name the ensemble of violations of women’s human rights.”) (translated by Charlie Roberts).

³² Marylène Lapalus and Mariana R. Mora, *Femicide/feminicide: The politics of a legal and activist category*, 43 TRAVAIL, GENRE ET SOCIÉTÉS (2020) (“In activism, the concept of feminicide is also used in direct action designed to redirect the offense and the shame suffered by the female victims toward the state apparatus”).

³³ Alejandro Anaya Muñoz, James Cavallaro, and Patricia Cruz Marín, *La impunidad activa en México Cómo entender y enfrentar las violaciones masivas a los derechos humanos*, ITESO, UNIVERSIDAD JESUITA DE GUADALAJARA and UNIVERSITY NETWORK FOR HUMAN RIGHTS (2021), <https://rei.iteso.mx/bitstream/handle/11117/7444/La%20impunidad%20activa%20PDF.pdf?sequence=1&isAllowed=y>.

between corruption and inequality.³⁴ Not only does corruption exacerbate and inflame violent and discriminatory attitudes, but misogynistic beliefs in turn open the doors for greater opportunities to engage in corruption. This paper posits that discriminatory corruption, as demonstrated by the manifest ways it perpetuates sex inequality, is unlike understandings of corruption as a *prima facie* abuse of power. Rather, discriminatory corruption illustrates that power is rooted in a form of domination that is itself abusive.

This paper is divided into four parts. Part I offered context by describing the global scale of the femicide epidemic. Part II identifies the concept of discriminatory corruption as the theoretical framework through which to understand the femicide epidemic and the rampant corruption that fuels it. While this Part applies a primarily gender-based approach to this analysis, it also recognizes the intersecting factors that compound discriminatory corruption's disproportionate impact on the most vulnerable communities, as demonstrated by the femicide crisis in Ciudad Juarez. Part II concludes by advancing an understanding of power as intrinsically oppressive. As such, discriminatory corruption is in accordance with, and not an aberration from, patriarchal power.

Once discriminatory corruption has been framed as a function of power that is violent by design, Part III proceeds to explore the various ways that corruption specifically exacerbates femicide. It posits that the corruption involved with femicide is a self-perpetuating cycle. First, men with access to financial resources are empowered to violate and assault women with few repercussions, as they can easily bribe their way out of legal consequences, or rely on their personal connections to evade accountability. Through this financial alliance between violent offenders and public servants, law enforcement officers are subsequently incentivized to not only

³⁴ TRANSPARENCY INTERNATIONAL, *Double Harm When Corruption Meets Discrimination*, (Jul. 6, 2021), <https://www.transparency.org/en/news/double-harm-corruption-discrimination-sdgs-leave-no-one-behind>.

fail to properly investigate femicide cases, but to actually interfere with their resolution.³⁵

Further, with a precedent of bribery established, corruption becomes a normalized practice in law enforcement. Victims and their families therefore repeatedly find that, unless they are able to offer investigators or prosecutors bribes to “grease the wheels” of justice, their cases are more than likely to remain unresolved. The result of this cyclical pattern is a law enforcement apparatus that is plagued with so much corruption, mismanagement, and ineptitude, that victims and their families are even further deterred from seeking justice.

Part IV concludes this discussion by looking beyond the confines of the law. Inspired by the groundbreaking initiatives undertaken by activist coalitions such as *Mujeres Creando* in Bolivia, it argues that any real solution to the femicide epidemic would not be tenable within a legal system designed to sustain violence against women. Solutions therefore must instead be constructed through the development of collective, feminist alliances.³⁶

II. Discriminatory Corruption

“This wasn’t a case of “whodunit,” but rather of who was allowing these crimes to happen? Whose interests were being served? Who was covering it up? Who was profiting from the deaths of all these women?”³⁷

~

³⁵ Patricia Cruz Marín, James Cavallaro and Alejandro Anaya Muñoz, *More than lack of capacity: active impunity in Mexico*, OPENGLOBALRIGHTS (Aug. 16, 2021), <https://www.openglobalrights.org/more-than-lack-of-capacity-active-impunity-in-mexico/> (“A few examples help illustrate the dynamics of active impunity. In the May 2015 killings of 42 civilians in Tanhuato, Michoacán, authorities altered the crime scene and manufactured evidence to support the false narrative that military forces had acted in self-defense. Three women who witnessed the massacre were tortured and threatened with sexual violence if they refused to recant their statements”).

³⁶ For an illuminating perspective of what the formation of a collective female alliance may entail, see generally DIANE ROSENFELD, *THE BONOBO SISTERHOOD* (2022).

³⁷ ALICIA GASPAR DE ALBA, *DESERT BLOOD: THE JUÁREZ MURDERS* (Houston: Arte Público Press, 2005).

Corruption, defined by Transparency International³⁸ as “the abuse of entrusted power for private gain,”³⁹ is a pervasive issue, one that by certain estimates costs the global economy trillions of dollars per year.⁴⁰ In Latin America specifically, corruption has been identified as a significant impediment to economic development,⁴¹ as well as one of the most pressing political issues in the region.⁴² And though corruption certainly has negative impacts in general, its repercussions are acutely felt by those belonging to the most marginalized groups.⁴³ Corruption exacerbates and reinforces cycles of inequality, thereby disproportionately affecting those who are already rendered vulnerable by existing hegemonic structures, such as gender and racial minorities, refugees, migrant workers, and people in poverty.⁴⁴ In short, there is a deep nexus between systemic corruption and oppression.⁴⁵

The mutually reinforcing connection between oppression and corruption, otherwise known as “discriminatory corruption,” is well documented.⁴⁶ Corruption serves “as a vehicle for

³⁸ Transparency International is a leading global organization aimed at combating corruption. Its annual “Corruptions Perception Index” is widely regarded as the world’s leading indicator of public sector corruption levels. See TRANSPARENCY INTERNATIONAL, *Our Impact*, <https://www.transparency.org/en/our-impact> [last visited May 9, 2023].

³⁹ TRANSPARENCY INTERNATIONAL, *What is Corruption?*, <https://www.transparency.org/en/what-is-corruption> (last visited May 9, 2023).

⁴⁰ Paolo Mauro, Paulo Medas, and Jean Marc Fournier, *The Cost of Corruption*, INTERNATIONAL MONETARY FUND (Sep. 2019), <https://www.imf.org/en/Publications/fandd/issues/2019/09/the-true-cost-of-global-corruption-mauro>.

⁴¹ Lucas Dutra de Paulo, Ricardo Carvalho de Andrade Lima, and Robson Tigre, *Corruption and economic growth in Latin America and the Caribbean*, REVIEW OF DEVELOPMENT ECONOMICS 26(2), (2022), at 756-773.

⁴² Teresa Romero, *Corruption in Latin America – statistics & facts*, STATISTA (Jun. 21, 2022) <https://www.statista.com/topics/6468/corruption-in-latin-america/#topicOverview>.

⁴³ TRANSPARENCY INTERNATIONAL, *Monitoring Corruption and Anti-Corruption in the Sustainable Development Goals: A Resource Guide*, (Apr. 4, 2017) (“Corruption represents a major obstacle to reaching many of these goals by hampering economic growth and increasing poverty in terms of income inequality, access to services and resource distribution.”)

⁴⁴ See generally INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY and TRANSPARENCY INTERNATIONAL, *Corruption and Human Rights: Making the Connection*, (2009), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1551222.

⁴⁵ See Matt Jenkins and Theo Van der Merwe, *Opinion: We must recognize links between corruption and discrimination*, DEVEX (Jul. 12, 2021), <https://www.devex.com/news/opinion-we-must-recognize-links-between-corruption-and-discrimination-100313> (“Discrimination enables and encourages corruption”).

⁴⁶ See TRANSPARENCY INTERNATIONAL, *Double Harm When Corruption Meets Discrimination*, (Jul. 6, 2021) <https://www.transparency.org/en/news/double-harm-corruption-discrimination-sdgs-leave-no-one-behind> (“We

discrimination,” by “skewing resource distribution to the advantage of the powerful.”⁴⁷ When corruption is ubiquitous, stigmatized communities are in turn more exposed to extortion and abuse, only further exacerbating their marginalization. For example, empirical studies show that those with the least financial resources pay the highest percentage of their incomes in bribes.⁴⁸ Given that an estimated 70 percent of the world’s poor are women, this adds an additional layer to the intensity of gender inequality in corrupt countries.⁴⁹

Though discriminatory corruption is by no means an exclusively gender-based issue, this paper posits that examining it through a feminist lens offers an insightful point of entry into how discriminatory corruption manifests in practice. This section examines discriminatory corruption as the nefarious repercussion of what can happen when men are able to manipulate the rules of a game that they themselves concocted. With every iteration of this rigged game, the outcomes grow increasingly skewed and predictable. From statutes of chastisement to modern day notions of privacy rights, laws have been—and continue to be—written with the clear intention of enshrining male dominance over women. Thus, if corruption is to be understood as an abuse of entrusted power, then discriminatory corruption is evidence that such power is inherently unequal. For when one’s attainment of power necessarily comes at the direct expense of another’s liberty, such power is conclusively zero-sum. It is therefore no wonder that discriminatory corruption, particularly as it pertains to women, is so often expressed through violence; it is, after all, the abuse of a kind of power that is itself abusive.

found compelling evidence that discrimination - whether on the basis of race, ethnicity, age, gender, sexual orientation or belief - enables and fuels corruption, creating a vicious cycle that deepens inequality”).

⁴⁷ Jessie Bullock and Matthew Jenkins, *Corruption and marginalisation*, TRANSPARENCY INTERNATIONAL (Jun. 26, 2020), <https://knowledgehub.transparency.org/assets/uploads/helpdesk/Corruption-and-marginalisation.pdf>.

⁴⁸ THE WORLD BANK, *Combating Corruption* (last updated Oct. 19, 2021), <https://www.worldbank.org/en/topic/governance/brief/anti-corruption>.

⁴⁹ Angélica Fuentes Téllez, *The Link Between Corruption and Gender Inequality: A Heavy Burden for Development and Democracy*, WILSON CENTER, <https://www.wilsoncenter.org/publication/the-link-between-corruption-and-gender-inequality-heavy-burden-for-development-and> (last visited Apr. 23, 2023).

A. How Discriminatory Corruption Exacerbates Sex Inequality

“The most tragic part is that this tendency to re-victimize and victim-blame doesn't even require corruption...It's a question of culture and bias.”⁵⁰

~

The connection between discriminatory corruption and gender-inequality is especially profound. For example, the reliance on anecdotal evidence by law enforcement leaves room for discretion by officials, subsequently permitting discriminatory attitudes as well as bribe-seeking and extortion.⁵¹ In fact, law enforcement has been “consistently named by grassroots women” as wielding the most amount of corruption to the disadvantage of women.⁵² Though gender-based discriminatory corruption can manifest in mundane ways, such as when law enforcement officials demand bribes in return for access to public services, it can also be notably violent.⁵³ For example, one of the more extreme yet endemic forms of corruption that disproportionately affects women is sexual extortion, or “sextortion,” which entails the exploitation of the human body as a form of sexual currency.⁵⁴ Discriminatory corruption has also been intertwined with

⁵⁰ Sarah Morland and Carolina Pulice, *Failures by Mexican law enforcement aggravate rise in killings of women*, REUTERS (Nov. 29, 2022, 7:13 PM), <https://www.reuters.com/world/americas/failures-by-mexican-law-enforcement-aggravate-rise-killings-women-2022-11-29/>.

⁵¹ See Naomi Hossain, Jessica J. Hughes, and Celestine Nyamu Musembi, *Corruption Accountability and Gender: Understanding the Connections*, UNDP and UNIFEM (2010), <https://www.undp.org/sites/g/files/zskgke326/files/publications/Corruption-accountability-and-gender.pdf>.

⁵² Francisco Sebastián Sánchez Lay, *Gender and Corruption*, UNPD, (Feb. 28, 2019), at 13. http://mddb.apec.org/Documents/2019/ACT/CF/19_act_cf_007.pdf

⁵³ See generally UNODC, *Gendered impacts of corruption*, <https://www.unodc.org/e4j/en/anti-corruption/module-8/key-issues/gendered-impacts-of-corruption.html> (last visited Apr. 23, 2023).

⁵⁴ For further insight into sextortion, see Helen Lindberg and Helena Stensöta, *Corruption as Exploitation: Feminist Exchange Theories and the Link Between Gender and Corruption*, in GENDER AND CORRUPTION (Helena Stensöta, and Lena Wängnerud eds., 2018), at 237-256; see also Sarah Gitlin, *Beyond Sextortion: How Corruption Uniquely Affects Women*, THE GLOBAL ANTICORRUPTION BLOG (Jan. 2, 2015), <https://globalanticorruptionblog.com/2015/01/02/beyond-sextortion-how-corruption-uniquely-affects-women/>.

the trafficking of women.⁵⁵ Corrupt police forces and other law enforcement agents have frequently been complicit in or actively facilitated human trafficking.⁵⁶ From sextortion to human trafficking and ultimately femicides, violent attitudes toward women thus fuel corruption, undermining access to justice, and rendering women's bodies quite literally disposable.

There is an abundance of scholarship showing that corruption may enable politically and interpersonally violent behavior. Police corruption, for example, may deter victims from reporting crimes, subsequently encouraging greater and more frequent incidents of violence.⁵⁷ Corruption has also been shown to undermine subjective wellbeing, which may cause marginalized individuals to feel less risk averse and more prone to violence as their only available recourse.⁵⁸ Corruption is even more tellingly linked with causing more permissive attitudes and perceptions of violence.⁵⁹ As such, individuals who engage in acts of corruption are more likely to view violence as justifiable. Such generally lax attitudes towards violence are particularly lethal for female victims of gender-based violence, as it is combined with the widespread misogyny that prevails among the ranks of judges, prosecutors, and the police. Studies have shown a positive correlation between misogynistic attitudes and the acceptance of

⁵⁵ See Angélica Fuentes Téllez, *The Link Between Corruption and Gender Inequality: A Heavy Burden for Development and Democracy*, WILSON CENTER, <https://www.wilsoncenter.org/publication/the-link-between-corruption-and-gender-inequality-heavy-burden-for-development-and> (last visited Apr. 23, 2023).

⁵⁶ See generally Jessie Bullock and Matthew Jenkins, *Corruption and marginalisation*, TRANSPARENCY INTERNATIONAL (Jun. 26, 2020), <https://knowledgehub.transparency.org/assets/uploads/helpdesk/Corruption-and-marginalisation.pdf>.

⁵⁷ See Jeannie Annan and Moriah Brier, *The risk of return: Intimate partner violence in Northern Uganda's armed conflict*, SOCIAL SCIENCE & MEDICINE 70(1), (2010), at 152–159 (“Police corruption can foster violence, particularly intimate partner violence, by deterring victims lacking in monetary or political resources from reporting crimes”).

⁵⁸ See Simeon Djankov, Elena Nikolova, and Jan Zilinsky, *The happiness gap in Eastern Europe*, JOURNAL OF COMPARATIVE ECONOMICS 44(1), (2016), at 108–124; see also Robert Gillanders, *Corruption and anxiety in sub-Saharan Africa*, ECONOMICS OF GOVERNANCE, 17(1), (2016) 47–69; Margit Tavits, *Representation, corruption, and subjective well-being*, COMPARATIVE POLITICAL STUDIES 41(12), (2008), at 1607–1630.

⁵⁹ See generally Robert Gillanders and Lisa van der Werff, *Corruption experiences and attitudes to political, interpersonal, and domestic violence*, GOVERNANCE 35(1), (2022), at 167–185.

so-called “rape myths” that downplay the harms of abuse, while placing blame on the victims.⁶⁰

Law enforcement officers with patriarchal or misogynistic biases are therefore more likely to disbelieve female victims or to deem their claims unworthy of legal intervention.⁶¹

Misogynistic mentalities undermine justice by precluding victims from being taken seriously from the outset, as corrupt public servants are already functioning under preconceived biases that will make them disinclined to believe—let alone care about—victims of gender-based abuse. As one activist put it, “[t]he attitude of police, investigators, experts, and prosecutors is that women are murdered because their skirts are too short, [or] because they get involved with the wrong men.”⁶² Jessica Echeverría, a Bolivian lawyer who represents families and victims of femicide, also noted the deterring effect of insensitive interviews and cross examinations, particularly when they force victims to relive their traumas while having their first-hand experiences called into question and challenged.⁶³ In the 2009 proceeding by the Inter-American Court of Human Rights regarding Ciudad Juárez (described in greater detail in the following subsection), the State conceded that a “a culture of discrimination against women contributed to the fact that ‘the murders were not perceived at the outset as a significant problem requiring immediate and forceful action.’”⁶⁴

⁶⁰ See Amy Dellinger Page, *Judging Women and Defining Crime: Police Officers’ Attitudes Toward Women and Rape*, SOCIOLOGICAL SPECTRUM 28(8), (2008) 391 (“[Rape myths] refer to the stereotypical and empirically incorrect beliefs that an individual holds concerning rape, rapists, and the victims of rape. Some examples of rape myths include: ‘only bad girls get raped,’ ‘women ask for it,’ and ‘women ‘cry rape’ only when they’ve been jilted or have something to cover up’”).

⁶¹ See Marisol Lila, Enrique Gracia, and Fernando García, *Ambivalent sexism, empathy and law enforcement attitudes towards partner violence against women among male police officers*, PSYCHOLOGY, CRIME & LAW (2012), at 908 (“In this regard, several studies have found that those police officers who held patriarchal or misogynistic beliefs tend to justify violence or blame the women for their own victimization, and show greater preference to arrest the victim, or believe that they should not make arrests in such cases”).

⁶² Vice News, *The Femicide Crisis in the State of Mexico (Full Length)*, YOUTUBE (Jun. 23, 2015), <https://www.youtube.com/watch?v=UB69VbhxmUk>.

⁶³ Javier Aliaga, *Feminicidios en Bolivia: la Justicia al banquillo*, FRANCE24 (Feb. 24, 2022, 2:22 AM), <https://www.france24.com/es/am%C3%A9rica-latina/20220224-bolivia-feminicidios-justicia-corrupcion-genero>.

⁶⁴ Mexico also acknowledged the precipitating roles played by “the absence of basic public services in the underprivileged areas; and drug-trafficking, arms trafficking, crime, money-laundering and people trafficking, which

Such disregard for the lives of women is even further exacerbated by the predominance of hypermasculinity that is embedded within police culture.⁶⁵ Nigel Fielding described police culture as “an almost pure form of ‘hegemonic masculinity,’” in the form of “‘patriarchal and misogynistic attitudes toward women.’”⁶⁶ These patriarchal biases in turn lead to law enforcement officials “engaging in victim-blaming and discounting important evidence”⁶⁷ Moreover, when the gravity of a crime is clouded by bias, officers are more likely to be receptive to bribery, because they perceive the crime to not merit serious consideration. A study by OXFAM found that the judicial system is especially manipulable by the money and power of defendants in cases of gender-based violence. Further, the study found that male defendants are, in most cases, given more credibility than female victims on the basis of gender alone.⁶⁸

Just as corruption fuels greater acceptance of violence, this paper argues that the reverse is therefore also true: violence fuels greater acceptance, or even the expectation, of corruption. As it pertains to gender-based violence, this expectation means that perpetrators abuse their victims because they know that, for a small fee, they can.

take place in Ciudad Juárez because it is a border city; the consumption of drugs, the high rate of school desertion, and the presence of ‘numerous sexual predators’ and ‘military officials . . . who have participated in armed conflicts,’ in the neighboring city of El Paso.” See Gonzalez et al. (“Cotton Field”) v. Mexico, 2009 Inter-AM. Ct. H.R. (ser. C) No. 205 (Nov. 16, 2009) ¶ 152).

⁶⁵ Amy Dellinger Page, *Judging Women and Defining Crime: Police Officers’ Attitudes Toward Women and Rape*, SOCIOLOGICAL SPECTRUM 28(8), (2008).

⁶⁶ Nigel Fielding, *Cop Canteen Culture*, in JUST BOYS DOING BUSINESS? (Tim Newburn and Elizabeth A. Stanko, eds., 1994), at 47.

⁶⁷ Thomas Becker, “No Justice For Me” *Femicide and Impunity in Bolivia*, HARVARD LAW SCHOOL INTERNATIONAL HUMAN RIGHTS CLINIC (2019), <http://hrp.law.harvard.edu/wp-content/uploads/2019/03/No-Justice-for-Me.pdf>.

⁶⁸ See Carmen Elena Sanabria Salmón, *Violencia contras las mujeres. Entre avances y resistencia. Estudio en tres ciudades de Bolivia*, OXFAM (2016), at 189. https://www.academia.edu/27222103/Violencia_contras_las_mujeres_Entre_avances_y_resistencias_Estudio_e.

B. Ciudad Juarez: An Intersectional Analysis of Discriminatory Corruption

“It’s not just corruption, it’s also poverty.”⁶⁹

~

Of course, endemic corruption undermines investigations and prosecutions for all kinds of crimes, not just those against women. For example, the double-edged effect of discriminatory corruption gravely affects members of the LGBTQ+ community, particularly when homosexuality is not only stigmatized, but explicitly criminalized.⁷⁰ Meanwhile, indigenous and rural communities are exposed to particular risks of corruption, such as land grabbing, while other minorities may be used as scapegoats to sow “division as a smokescreen for political corruption.”⁷¹

The intersecting ways corruption discriminates across race, class, and gender is distinctly demonstrable through the lens of femicide. Indeed, many political, legal, and financial systems of patriarchal dominance in Latin America can be attributed to the legacy of Spanish colonization and conquest over indigenous communities.⁷² In Mexico, for example, “women with dark-skin and long hair, those with indigenous roots, are statistically at a higher risk of becoming a victim of femicides.”⁷³ As such, while femicide is normatively understood to

⁶⁹ Interview with Thomas Becker, Lecturer in Law, Columbia Law School (Dec. 2022).

⁷⁰ See generally Victoria Abut, *Corruption’s Queer History: Stonewall’s Seedy Underside*, THE GLOBAL ANTICORRUPTION BLOG (Jun. 6, 2022), <https://globalanticorruptionblog.com/2022/06/06/corruptions-queer-history-stonewalls-seedy-underside/>; see also Victoria Abut, *Bribe to Survive: Sextortion and LGBTQ Discrimination*, THE GLOBAL ANTICORRUPTION BLOG (Jun. 13, 2022), <https://globalanticorruptionblog.com/2022/06/13/bribe-to-survive-sextortion-and-lgbtq-discrimination/>.

⁷¹ Jessie Bullock and Matthew Jenkins, *Corruption and marginalisation*, TRANSPARENCY INTERNATIONAL (Jun. 26, 2020), <https://knowledgehub.transparency.org/assets/uploads/helpdesk/Corruption-and-marginalisation.pdf>.

⁷² Azucena Marquez and Paulina Olivares Hernandez, *Responding to Femicide From #NiUnaMás to #MeToo: How Mexico’s Government and Legal Institutions and Entrenched Machismo Failed Women and Sparked a Movement* (2022) (J.D. Final Paper, Law and the Legal System through the Lens of Latinx/a/o Communities, Harvard Law School) (on file with author).

⁷³ Madison Eagon, *Indigenous Women: The Invisible Victims of Femicide in Mexico*, HARVARD INTERNATIONAL REVIEW (Nov. 30, 2022, 9:00 AM), <https://hir.harvard.edu/indigenous-women-victims-of-femicide-in-mexico/>.

predominantly affect women, the necessity of applying an intersectional approach to its analysis and subsequent response cannot be understated.

The multifaceted forces driving discriminatory corruption are encapsulated by the case of Ciudad Juárez, known as both “the laboratory of our future”⁷⁴ as well as the “capital of murdered women.”⁷⁵ Located across the border from El Paso, Texas, Ciudad Juárez has become emblematic of the brutal slaying of women.⁷⁶ Between 1993 and 2008, hundreds of mutilated bodies—most of them belonging to poor, working class, dark-skinned migrant women—were found in deserted lots, dumpsters, brick ovens, and even across the street from a police station.⁷⁷ The staggering extent of the murders in Juárez culminated in the seminal *Cotton Fields* case of 2009 before the Inter-American Court of Human Rights, which found that the state of Mexico had violated its human rights obligations to adequately prevent, investigate, and prosecute the killing of three young women, whose bodies were found in a cotton field in Ciudad Juárez in 2001.⁷⁸ The court rendered its assessment within the broader context of the widespread disappearances of women in the border town.⁷⁹

The femicide epidemic in Juárez, beyond its sheer scale, was also notable for its direct ties with race, class, and labor under globalized capitalism.⁸⁰ It was not until shortly after the

⁷⁴ See generally CHARLES BOWDEN, *JUAREZ: THE LABORATORY OF OUR FUTURE* (1998).

⁷⁵ Evelyn Nieves, *To Work and Die in Juarez*, MOTHER JONES (2002), <https://www.motherjones.com/politics/2002/05/work-and-die-juarez/>.

⁷⁶ In his novel based largely on the lore of violence surrounding Ciudad Juarez, writer Roberto Bolaño famously called it an “Oasis of Horror in a Desert of Boredom.” See ROBERTO BOLAÑO, *2666* (2004); see also Alicia Gaspar de Alba and Georgina Guzman, *Femicidio: The “Black Legend” of the Border*, MAKING A KILLING: FEMICIDE, FREE TRADE, AND LA FRONTERA 1 (2010) (“Since May 1993, over five hundred women and girls have been found brutally murdered on the El Paso/Juárez border, and thousands more have been reported missing and remain unaccounted for, making this the longest epidemic of femicidal violence in modern history”).

⁷⁷ Alicia Gaspar de Alba and Georgina Guzmán, *supra* note 76 at 3.

⁷⁸ Gonzalez et al. (“Cotton Field”) v. Mexico, 2009 Inter-AM. Ct. H.R. (ser. C) No. 205 (Nov. 16, 2009).

⁷⁹ The Court noted that “there [were] no reliable assumptions about the number of murders and disappearances of women in Ciudad Juárez,” but that “whatever the number, it is alarming.” *Id.*

⁸⁰ See Deborah M. Weissman, *The Political Economy of Violence: Toward an Understanding of the Gender-Based Murders of Ciudad Juarez*, NORTH CAROLINA JOURNAL OF INTERNATIONAL LAW 30(4), (2005), at 798 (“The impact

signing of the North American Free Trade Agreement, which marked the expansion of the free trade zone along Mexico's northern border, that the femicide rate in Juárez began to soar.⁸¹ The victims, known colloquially as "*las inditas del sur*" ("the little Indian girls from the south of Mexico"), came mostly to Juárez to work in the *maquiladoras*, the foreign-owned assembly plants located in Mexico that produce for export.⁸² The working conditions at these plants were brutal, consisting of long hours, minimal pay, and callous-inducing physical labor. Moreover, male supervisors would frequently demand sexual favors from their female subordinates in return for "(promises of) advancement."⁸³

One of the individual cases addressed in the *Cotton Fields* case concerned the death of Claudia Ivette Gonzalez, who was refused entry into the maquiladora for which she worked simply because she was four minutes late to her shift.⁸⁴ Sent to fend for herself in the streets of Juárez by herself, Claudia disappeared that night; her mutilated body was later found in a clandestine grave with several other unidentified women. Claudia's tragic death is just one example of the overarching "powerlessness of the working poor that makes daughters, mothers, and sisters vulnerable to a violent environment, whether in the form of exploitative working conditions or in exposure to fatal assault on their way to and from work."⁸⁵

of economic liberalization policies on labor and trade unions, habitability, environment and health, infrastructure and social programs, and crime and drugs is examined as the context for the rise of the murder rate of women").

⁸¹ See, e.g., Debbie Nathan, *Work, Sex and Danger in Ciudad Juarez*, NACLA (Sep. 25, 2007), <https://nacla.org/article/work-sex-and-danger-ciudad-juarez>.

⁸² Alicia Gasper de Alba and Georgina Guzmán, *supra* note 76 at 3.

⁸³ Steven S. Volk and Marian E. Schlotterbeck, *Gender, Order, and Femicide: Reading the Popular Culture of Murder in Ciudad Juárez*, in *MAKING A KILLING: FEMICIDE, FREE TRADE, AND LA FRONTERA* (Alicia Gasper de Alba and Georgina Guzmán, eds., 2010), at 127.

⁸⁴ Jessica Livingston, *Murder in Juarez: gender, sexual violence, and the global assembly line*, *FRONTIERS: A JOURNAL OF WOMEN'S STUDIES* 25(1), (Jan. 2004).

⁸⁵ Elvia R. Arriola, *Accountability for Murder in the Maquiladoras: Linking Corporate Indifference to Gender Violence at the U.S.-Mexico Border*, in *MAKING A KILLING: FEMICIDE, FREE TRADE, AND LA FRONTERA* (Alicia Gasper de Alba and Georgina Guzmán, eds., 2010), at 52.

Ultimately, the working-class female victims of the Ciudad Juárez murders were treated with the same level of neglect—informed by hegemonic notions of race, class, and gender—in death as they were in life. It is within this environment of compounded disregard for the lives of poor, brown, working class women that lethal violence flourished in Juárez, enabled by a toxic blend of corruption, impunity, and oppression.

C. Power, Privacy, Domination and Death

“Mexican women workers have become as expendable as pennies in the hungry slot machine of transnational capitalism...the tragedy of the dead women’s lives did not begin when their bones were dumped in the desert.”⁸⁶

~

The notion that violent oppression is cyclically perpetuated by discriminatory corruption is in accordance with a line of feminist thought⁸⁷ that views power as a form of domination, whereby “women/men is a distinction not just of difference, but of power and powerlessness.”⁸⁸ Under this understanding of power, inequality is the reified effect of domination, through which

⁸⁶ Alicia Gasper de Alba, *Poor Brown Female: The Miller’s Compensation for “Free” Trade*, in *MAKING A KILLING FEMICIDE, FREE TRADE, AND LA FRONTERA* (Alicia Gasper de Alba and Georgina Guzmán, eds., 2010), at 63.

⁸⁷ This paper advances an analytical framework that has been posited by radical feminist legal theorists such as Catharine MacKinnon and Andrea Dworkin in the U.S., as well as by prominent Mexican scholars such as Carmen Ramos-Escandón and Marta Lamas. See *infra* notes 87-92. However, this paper acknowledges that this framework has not been met without critique. For example, Chilean scholar Rosario Fernández Ossandón recently argued that this framework precludes considerations of intersecting causes of inequality. See Rosario Fernández Ossandón, *Asimetrías de poder y el ejercicio de la autoridad en el trabajo doméstico pagado*, 28 *CONVERGENCIA* 2 (2021) (“Argumentamos que la adopción de una noción de poder como forma de dominación y opresión es producto de cómo los estudios de género y feministas han privilegiado esta definición del poder y han descuidado otra categoría que creemos puede entregarnos luces sobre la gestión de las asimetrías de poder: el ejercicio de la autoridad. El objetivo del presente artículo es tensionar los supuestos respecto al poder en los estudios sobre este trabajo, para proponer que, además del poder, es preciso incluir un análisis empírico de la gestión de las asimetrías de poder a través del ejercicio de la autoridad, atendiendo a su dimensión íntima y afectiva”) (trans. “We argue that the adoption of a notion of power as a form of domination is the product of how gender studies and feminists have privileged this definition of power, at the expense of another category that we believe may present illuminating perspectives regarding power asymmetries: the exercise of authority”) (English translation provided by the author).

⁸⁸ CATHARINE MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987), 123.

gender constructs are defined structurally as relations of power.⁸⁹ Whereas masculinity is construed as “active and aggressive,” femininity is viewed as “receptive and passive.”⁹⁰ Consequently, gender is defined in terms of “social status, sexual roles, and social stereotypes, as well as power relations expressed in terms of domination and subordination.”⁹¹

Under this analytical framework, where power is perceived to be synonymous with domination, patriarchy is the legal, social, and political construction of male hegemony, which, “like all oppressive structures, is rooted in violence.”⁹² Consider that, historically, the physical chastisement of women by their husbands was not only a legal right in many cultures, but in fact a moral duty.⁹³ For example, fifteenth century Italian Friar Cherubino of Siena wrote: “when you see your wife commit an offense... readily beat her, not out of rage, but out of charity and concern for her soul.”⁹⁴ The physical subjugation of women was similarly legally codified in British common law under Sir William Blackstone’s highly influential 18th century *Commentaries on the Laws of England*. According to Blackstone, if a man killed his wife, it was “the same as if he had killed a stranger or any other person.”⁹⁵ However, if a woman killed her

⁸⁹ See Marta Lamas, *Opinión y debate: El enfoque de género en las políticas públicas*, CORTE IDH <https://www.corteidh.or.cr/tablas/r23192.pdf>, [last visited May 8, 2023] (“[E]l género es más que un poderoso principio de diferenciación social: es un brutal productor de discriminaciones y desigualdades”) (trans. “Gender is more than a powerful principal of social differentiation: it is a brutal producer of discrimination and inequality”) (English translation provided by the author); see also ANDREA DWORKIN, *WOMAN HATING* (1974), at 93–94 (“That women have not been exterminated, and will not be (at least until the technology of creating life in the laboratory is perfected) can be attributed to our presumed ability to bear children and, more importantly no doubt, to the relative truth that men prefer to fuck cunts who are nominally alive . . .”).

⁹⁰ Jill Radford, Introduction, in *FEMICIDE: THE POLITICS OF WOMAN KILLING* (Jill Radford & Diana E.H. Russell eds., 1992), at 6.

⁹¹ MARTA LAMAS, *DIMENSIONES DE LA DIFERENCIA. GÉNERO Y POLÍTICA* 179 (2022) (“El género también es definido en términos de estatus social, de papeles sexuales y de estereotipos sociales, así como de relaciones de poder expresadas en dominación y subordinación”) (English translation provided by the author); see also CARMEN RAMOS ESCANDÓN, *EL GÉNERO EN PERSPECTIVA: DE LA DOMINACIÓN UNIVERSAL A LA REPRESENTACIÓN MÚLTIPLE* (1991).

⁹² *Id.*

⁹³ See Diane Rosenfeld, *Sexual Coercion, Patriarchal Violence, and Law*, in *SEXUAL COERCION IN PRIMATES AND HUMANS: AN EVOLUTIONARY PERSPECTIVE ON MALE AGGRESSION AGAINST FEMALES* (Martin N. Muller and Richard W. Wrangham, eds., 2009), at 433.

⁹⁴ DIANE ROSENFELD, *THE BONOBO SISTERHOOD* (2022), at 33-34.

⁹⁵ *Id.* at 43.

husband, “it is regarded by the laws as a much more atrocious crime, as she...throws off all subjection to the authority of her husband. And therefore the law denominates her crime a species of treason, and condemns her to the same punishment as if she had killed the king.”⁹⁶ By writing into law that men are functionally the kings of their households, Blackstone explicitly enshrined men with sovereign authority over women.

Though legalized chastisement has long been formally repudiated by most legal systems, its legacy of male supremacy continues to endure under the nefarious guise of privacy rights.⁹⁷ Even without the affirmative right of men to corporally punish their wives, legal authorities in many countries remain wary of intervening in domestic violence cases out of concern for the sanctity of privacy rights.⁹⁸ Critics have thus argued that “privacy is a right for men ‘to be let alone’ to oppress women” with no liability.⁹⁹ Moreover, they assert that legal entitlements to substantive privacy rights have often been rooted in “a hierarchical ordering of intimate relations... [wherein] the family as a social unit is beyond the purview of the state”¹⁰⁰

⁹⁶ *Id.*

⁹⁷ This paper is not alone in critiquing normative conceptions of substantive privacy rights, founded in arbitrary distinctions between public and private spheres. *See, e.g.*, MARTA LAMAS, DIMENSIONES DE LA DIFERENCIA. GÉNERO Y POLÍTICA 313 (2022) (“[el concepto de privacidad] ha sido muy cuestionada por el feminismo, justamente porque está fundada sobre la distinción artificial de las esferas pública y privada”) (trans. “[The concept of privacy] has been subject to much feminist critique, precisely because it is founded on an artificial distinction between public and private spheres”) (English translation provided by the author); *But see* Elizabeth M. Schneider, *The Violence of Privacy*, 23 CONN. L. REV. 975 (1991) (“The notion of marital privacy has been a source of oppression to battered women and has helped to maintain women’s subordination within the family. However, a more affirmative concept of privacy, one that encompasses liberty, equality, freedom of bodily integrity, autonomy, and self-determination, is important to women who have been battered. The challenge is not simply to reject privacy for battered women and opt for state intervention, but to develop both a more nuanced theory of where to draw the boundaries between public and private and a theory of privacy that is empowering”).

⁹⁸ *See* Reva B. Siegel, “*The Rule of Love*”: *Wife Beating as Prerogative and Privacy*, 105 YALE LAW JOURNAL 8 2118 (1996) (“While authorities denied that a husband had the right to beat his wife, they intervened only intermittently in cases of marital violence: Men who assaulted their wives were often granted formal and informal immunities from prosecution, in order to protect the privacy of the family and to promote ‘domestic harmony’”).

⁹⁹ CATHARINE MACKINNON, FEMINISM UNMODIFIED (1987) at 102; *See also* Daniel Keats Citron, *Sexual Privacy*, 128 YALE LAW JOURNAL 7 (2019).

¹⁰⁰ Celina Romany, *Women as Aliens: A Feminist Critique of the Public/Private Distinction in International Human Rights Law*, 6 HARV. HUM. Rts. J. 101 (1993).

Ultimately, as they pertain to women, legal distinctions between private and public matters are contradictory in theory and, particularly as it pertains to femicide, lethal in practice.¹⁰¹ Indeed, femicide is the systemic specter of privacy afforded to domestic violence, the unspoken rule that abuse must remain unspoken. Such silence is deeply embedded in the laws of the United States as well as in Latin America. In 1868, a U.S. judge held that “trivial complaints arising out of the domestic relations” were outweighed by the “evil of publicity.”¹⁰² Over a century later, in 2016, a Mexican activist stated, “There is a saying...that dirty clothes should be washed at home, that gender violence should not be publicly discussed.”¹⁰³ Likewise, Thomas Becker, a human rights attorney who has worked extensively in Bolivia to address its femicide crisis, has noted the importance of privacy within the realm of Bolivian law enforcement, stating: “In Bolivia, what happens in the house, stays in the house.”¹⁰⁴

Legal institutions continue to enshrine the sanctity of the proverbial domestic home, placing immense value on the need for its privacy. In contrast, the female body—particularly when mangled, violated, and deformed—is rarely afforded such deference, despite the fact that there is perhaps no greater violation of privacy than murder itself.

When power is understood as a form of domination, perhaps corruption would be better served to be analyzed not as an abuse of power, but as yet another iteration of power’s brute impact. Because institutions of power were created by, and structured to reinforce, patriarchy,

¹⁰¹ María de la Fuente Vázquez, *Ideas de poder en la teoría feminista*, 39 REVISTA ESPAÑOLA DE CIENCIA POLÍTICA 178 (2015) (“Esta ficción de una esfera pública que es anterior y, por tanto está libre de las dinámicas subordinación del ámbito privado, es una idea muy problemática para el feminismo”) (trans. “This fiction that there is a public sphere that is unlike, and therefore free from the dynamics of subordination of, the private sphere, is a very problematic concept for feminism”) (English translation provided by the author).

¹⁰² *State v. Rhodes*, 61 N.C. 453 (1868), at 454.

¹⁰³ Rebecca Conan, *Not a suicide: Mexico Murder Case Challenges Views of Gender Violence*, THE CHRISTIAN SCIENCE MONITOR (Jul. 29, 2016), <https://www.csmonitor.com/World/Americas/2016/0729/Not-a-suicide-Mexico-murder-case-challenges-views-of-gender-violence>.

¹⁰⁴ Interview with Thomas Becker, Lecturer in Law, Columbia Law School (Dec. 2022).

those who commit and enable acts of corruption are not abusing their power, but simply wielding it. In this regard, the unrelenting silence and institutional betrayal that has come to be attributed to the femicide epidemic is not an abuse of power; it is by design.

III. Femicide and Corruption

*“Their assassination marks only one of the grave moments in the life and death of these women. Prior to their deaths they suffered economic, physical and psychological violence, and following their deaths, their families then suffer institutional violence and constant corruption.”*¹⁰⁵

~

This section closely examines the tangible and interconnected ways in which corruption enables, reinforces, and perpetuates the femicide epidemic in Latin America. It identifies three central and correlated themes. First, bribery payments function as a double-edged sword, demonstrating that law enforcement is driven not by justice, but rather by money—and relatedly, by power. Second, the insidious investigative ineptitude and judicial apathy that defines the femicide epidemic is not only itself the result of corruption, but also functions to further preclude victims from accessing the justice system. Third, the personal and political ties of the accused, which are oftentimes reinforced by notions of hypermasculine camaraderie, ensure that those with power remain immune from the law. What consequently emerges from these themes is the distressing image of a society where the lethal predation of women runs rampant, while those in positions of authority are apathetic at best and complicit at worst.

Ultimately, the proverbial string that conceptually ties femicide together with corruption is the understanding of patriarchal power as intrinsically violent. Within patriarchy,

¹⁰⁵ Andalusia Knoll, *Justice Is Scarce for Female Murder Victims in the State of Mexico*, VICE NEWS (Apr. 30, 2014), <https://www.vice.com/en/article/kz5pjn/justice-is-scarce-for-female-murder-victims-in-the-state-of-mexico>.

the use of corruption to conceal, enable, and even reward murder is simply the logical byproduct of power, and not an erroneous aberration.

A. Bribery: Simultaneously Greasing and Sanding the Wheels of Justice

*“Here machismo, corruption and cover-ups are what reign. For two pesos or cronyism or friendship, they’ll charge someone with a crime or delete their charge.”*¹⁰⁶

~

Following the news that bribery and fraud enabled the reign of terror of serial rapist and murderer Richard Choque Flores,¹⁰⁷ the Bolivian Minister of Government announced that a commission had been established to investigate a whopping 135 cases in which known perpetrators of the murder and aggravated assault of women were, for whatever reason, “not in prison as they should be.”¹⁰⁸ Already, the commission has resented 21 perpetrators, and it has put 15 judges on trial for corruption charges involving the improper adjudication of violent gender-based crimes.¹⁰⁹ Three judges, including the one who oversaw the Choque Flores case, have already been detained for bribery. However, *Mujeres Creando*, a feminist collective in La Paz, has demonstrated that these developments, while certainly in the right direction, are still only a drop in the bucket towards the systemic reforms required.¹¹⁰ Indeed, according to María

¹⁰⁶ Andalusia Knoll, *Justice Is Scarce for Female Murder Victims in the State of Mexico*, VICE NEWS (Apr. 30, 2014), <https://www.vice.com/en/article/kz5pjn/justice-is-scarce-for-female-murder-victims-in-the-state-of-mexico>.

¹⁰⁷ See *infra* Prologue.

¹⁰⁸ BAE NEGOCIOS, *Femicidio, Infanticidio y violación son delitos imprescriptibles en Bolivia*, (Jul. 4, 2022), <https://www.baenegocios.com/mundo/Femicidio-Infanticidio-y-violacion-son-delitos-imprescriptibles-en-Bolivia-20220704-0143.html>.

¹⁰⁹ *Id.*

¹¹⁰ *Mujeres Creando* has denounced over 240 officials complicit in perpetuating the feminicide crisis in Bolivia, thereby indicating there is still much more to be done to hold corrupt officials accountable. See *MUJERES CREANDO, hay 9 tipos de abuso judicial contra víctimas de violencia*, <https://mujerescreando.org/mujeres-creando-hay-9-tipos-de-abuso-judicial-contras-victimas-de-violencia/> [last visited May 8, 2023].

Galindo, founder of *Mujeres Creando*, “what Richard Choque shows is that the central problem is state corruption.”¹¹¹

Even when a perpetrator is found guilty, those responsible for enforcing accountability simply do not view the crimes committed to be serious enough to withstand the temptation of a few thousand dollars. Not only can perpetrators weaponize bribery to reduce their sentences or even exonerate themselves, but bribery can also purchase the loyalty of public officials entrusted with persecuting crimes, thereby undermining investigative procedures.¹¹² In Bolivia and Paraguay, for example, bribed lawyers, judges, and prosecutors secure acquittals for defendants by utilizing a delay tactic known as *chicana judicial*, which frustrates the judicial process by making it impossibly difficult for victims to continue paying the prohibitive costs of litigation.¹¹³ Delay tactics utilized under *chicana judicial* include “frivolous motions, unreasonable paperwork, or other delays in order to favor one of the parties.”¹¹⁴ As a result of *chicana judicial*, “affluent defendants pay for justice networks that include bribed lawyers, judges and/or prosecutors...to secure an acquittal.”¹¹⁵

With bribery so normalized, victims’ families repeatedly find that their cases are unlikely to be resolved unless they themselves bribe investigators with cash to “grease the wheels” of justice.¹¹⁶ Consider the 2022 film *Noise*, which documents a mother’s harrowing search for her

¹¹¹ Thomas Graham, *Bolivia’s corrupt system failed to stem femicide. Now, feminists are fighting back*, THE GUARDIAN (Jun. 28, 2022, 5:15 AM), <https://www.theguardian.com/global-development/2022/jun/28/bolivia-femicide-violence-feminists>.

¹¹² OPEN SOCIETY JUSTICE INITIATIVE, *Corruption that Kills: Why Mexico Needs an International Mechanism to Combat Impunity*, (2018), <https://www.justiceinitiative.org/uploads/5071ab37-003f-46b1-9e1f-700bbdae34a3/corruption-that-kills-en-20180502.pdf>.

¹¹³ EL PAÍS, *Auditoría internacional desnuda falencias de la justicia en casos de femicidio en Bolivia*, (2019), <https://elpais.bo/nacional/20190321-auditoria-internacional-desnuda-falencias-de-la-justicia-en-casos-de-femicidio-en-bolivia.html>.

¹¹⁴ Thomas Becker, *supra* note 67.

¹¹⁵ *Id.*

¹¹⁶ Interview with Thomas Becker, Lecturer in Law, Columbia Law School (Dec. 2022) (“If they didnt pay, it didnt happen”).

missing daughter, Ger.¹¹⁷ After losing faith in the rotating cast of impotent investigators overseeing her daughter's case, the mother, Julia, takes it upon herself to visit the remote town where Ger was last seen. The police officer there is apathetic, yet she nevertheless assists Julia in her search. The reasons for this officer's uncharacteristic benevolence are soon revealed, as Julia is shown inserting her debit card into an ATM. Once the officer receives payment, however, Julia is yet again left to navigate an antagonistic legal justice system on her own. In the film's final scene, Julia is trampled by armed guards during a violent raid. As the camera fades, the scene shifts from a cacophonous riot to Julia standing serenely on a field with a young woman. It is implied that Julia ultimately suffers the same fate as her daughter: discarded by a society so permeated with gender-based violence, that its repeated occurrence simply becomes, well, *Noise*.



118

Though the movie itself is fiction, neither the violence nor the corruption it depicts is fabricated.¹¹⁹ In numerous femicide cases, victims' families have been expected to cover

¹¹⁷ *Ruido*, (Netflix, 2022).

¹¹⁸ *Id.*

¹¹⁹ For example, the character of Julia is reminiscent of the real life activist Marisela Escobedo, who herself was murdered as a consequence of her efforts to bring justice for the disappearance of her daughter. See Georgina Jiménez and Bianca Ferrari, *Her Child Was Killed. Then She Was Assassinated Investigating the Murder*, VICE

significant costs of the investigations themselves, including the costs of transportation for forensic analysts as well as for supplies and internal administrative paperwork.¹²⁰ Either because of insufficient resources, or because of mere apathy among investigators, victims seeking justice are therefore required to absorb costs that police departments should be absorbing. In other words, justice is only available for a price. As the mother of a victim in Ciudad Juárez reported, “[w]e were told by one police officer that they would look into my daughter’s case a little more closely if we could provide him an incentive.”¹²¹

While no reliable study exists to quantify the extent of such bribe-seeking behavior in either Mexico or Bolivia, initial studies done by the anarcho-feminist collective, *Mujeres Creando*, confirm that such practices are widespread. After opening its own investigation, which included creating a hotline for victims’ families to share their experiences, the collective documented thousands of cases where law enforcement officials demanded bribes. Of these reports, the collective has already been able to independently corroborate at least 380 such cases.¹²²

Unless victims and families are willing to pay hefty sums for investigations to take place, they are unlikely to get law enforcement to take their claims seriously, or investigate them at

NEWS (Nov. 15, 2020, 5:00 AM), <https://www.vice.com/en/article/889wbz/the-three-deaths-of-marisela-escobedo-documentary>.

¹²⁰ EL PAÍS, *Auditoría internacional desnuda falencias de la justicia en casos de feminicidio en Bolivia*, (2019), <https://elpais.bo/nacional/20190321-auditoria-internacional-desnuda-falencias-de-la-justicia-en-casos-de-feminicidio-en-bolivia.html>.

¹²¹ Kathleen Staudt and Irasema Coronado, *Binational Civic Action for Accountability: Antiviolence Organizing in Ciudad Juarez/El Paso*, in *MAKING A KILLING: FEMICIDE, FREE TRADE, AND LA FRONTERA* (Alicia Gasper de Alba and Georgina Guzmán, eds., 2010), at 161 (citing field notes from between 2002– 2004 taken by the civic organization “Amigos de las Mujeres de Ciudad Juárez” in its meetings with New Mexico legislators, U.S. consul, and the Coalition against Violence.)

¹²² Interview with Paola Gutiérrez, Social Worker and Activist, *Mujeres Creando* (Mar. 2023). For more information about the hotline, see RADIO TV, *El Hueco En El Muro: Mujeres En Busca De Justicia, Una Lucha Colectiva. Entrevista A Paola Gutiérrez (Mujeres Creando)*, (Feb. 18, 2022) <https://losmuros.org/3570/el-hueco-en-el-muro-mujeres-en-busca-de-justicia-una-lucha-colectiva-entrevista-a-paola-gutierrez-mujeres-creando/>.

all.¹²³ Yet, *Noise*'s ending indicates that even after paying bribes, Julia was still unsuccessful in finding justice for her daughter. As author Humberto Padgett notes, “[p]olice demand money from the family so that they can carry out a proper investigation and regardless of whether they receive the money they still don't investigate the crime.”¹²⁴ In sum, not even cash may be enough to overcome prosecutorial apathy and ingrained misogyny.

Consider how the costs of femicide investigations differ between the victims and the accused. Richard Choque Flores purchased a lower sentence for US\$3,500.¹²⁵ In contrast, victims and families in Bolivia have spent anywhere between US\$5,000 and US\$25,000 in the investigations for their cases.¹²⁶ This financial disparity reflects the biases that inform systemic corruption in femicide investigations. Misogynistic law enforcement officers will allow an accused man to purchase his freedom at a relatively low cost, but those same officers will not investigate women's claims without significant monetary incentives. And even then, such investigations are far too often glaringly mismanaged.

B. Mismanagement and Incompetence

*“No one ever knows where this incompetence ends... and where the collusion or interference with investigations begins.”*¹²⁷

~

¹²³ Vice News, *The Femicide Crisis in the State of Mexico (Full Length)*, YOUTUBE (Jun. 23, 2015), <https://www.youtube.com/watch?v=UB69VbhxmUk>.

¹²⁴ Andalusia Knoll, *Justice Is Scarce for Female Murder Victims in the State of Mexico*, VICE NEWS (Apr. 30, 2014), <https://www.vice.com/en/article/kz5pjn/justice-is-scarce-for-female-murder-victims-in-the-state-of-mexico>.

¹²⁵ See *infra* Prologue.

¹²⁶ Thomas Becker, *supra* note 67.

¹²⁷ Gabriel Moyssen, *El movimiento contra el feminicidio en México alcanza un punto de inflexión*, EL UNIVERSAL (Mar. 6, 2020, 5:11 PM), <https://www.eluniversal.com.mx/english/el-movimiento-contra-el-feminicidio-en-mexico-alcanza-un-punto-de-inflexion>.

The award-winning documentary film *Señorita Extraviada* focuses on the grim first-hand experiences of the victims in Ciudad Juárez.¹²⁸ One family member describes requesting that DNA tests be done on a body that reportedly belonged to her missing sister: “The test results arrived after a long time and were negative... They exhumed the wrong body. My sister’s plot is number 74, and the document said number 73. When I asked the prosecutor [about this discrepancy], he said it was a small typo, but [not to worry because] it was done in tomb 74. That simply isn’t true.”¹²⁹

As the murders in Ciudad Juárez gained greater global recognition, the glaring mismanagement of their investigations have since been especially scrutinized.¹³⁰ For example, volunteers in search coalitions would find “underwear and other objects that the police had left behind,” demonstrating the carelessness with which law enforcement was treating the victims’ clothing and remains.¹³¹ Indeed, femicide investigations are frequently undermined by the improper implementation of requisite protocols. For example, autopsies are often carried out after significant delays, and investigators often fail to collect or properly store important evidence.¹³² Moreover, police files are frequently riddled with errors and left incomplete.¹³³

¹²⁸ *Señorita Extraviada* (Xochitl Productions, 2001).

¹²⁹ *Id.*

¹³⁰ Elvia R. Arriola, *supra* note 85 at 26 (“The lack of coordination among public authorities has only worsened the perception that the government is too corrupt, too indifferent, or too incompetent to address the problem of systematic violence against women.”); *see also* Azucena Marquez and Paulina Olivares Hernandez, *Responding to Femicide From #NiUnaMás to #MeToo: How Mexico’s Government and Legal Institutions and Entrenched Machismo Failed Women and Sparked a Movement* (2022) (J.D. Final Paper, Law and the Legal System through the Lens of Latinx/a/o Communities, Harvard Law School) (on file with author) (“These deficiencies, due to the inaction and negligence of the authorities, have led to a loss of evidence, the poor analysis of cases, and the failure to adequately consider the role that gender played in the killing of these women. These deficiencies are not just law enforcement failures. They also hinder the judicial process and increase the probability of impunity”).

¹³¹ Kathleen Staudt and Irasema Coronado, *supra* note 121 at 161 (citing field notes from between 2002–2004 taken by the civic organization “Amigos de las Mujeres de Ciudad Juárez” in its meetings with New Mexico legislators, U.S. consul, and the Coalition against Violence.)

¹³² Thomas Becker, *supra* note 67.

¹³³ *See, e.g.,* Martha Estela Pérez García, *Luchas de arena: las mujeres en Ciudad Juárez*, UNIVERSIDAD AUTÓNOMA DE CIUDAD JUÁREZ (2011) at 172-174.

The correlation between such investigative mismanagement and corruption is direct. Many investigators in Bolivia have been found to not only completely lack training and prior expertise, but to have themselves been hired through bribery, as “personal favors.”¹³⁴ Moreover, this mismanagement erodes any remaining trust in law enforcement.¹³⁵ One family even received a threatening message about dropping their case, and “the caller identification showed that the state judicial police number was the source.”¹³⁶

Beyond demonstrating corruption through indifference or collusion, prosecutorial ineptitude is itself traumatizing, forcing victims’ families “to relive the murders over and over.”¹³⁷ Consider the botched investigation that went into the murder of 18-year-old Debanhi Escobar, and the impact that police inconsistency would have on a grieving family seeking clarity: “the first autopsy ruled accidental death; a second found sexual assault and battery; and a third concluded she had died of asphyxiation.”¹³⁸

Following the public outcry that emerged surrounding the inept investigations into Ciudad Juárez’s femicide epidemic, state judicial authorities eventually offered documentation of all the available data they had on the murders. Rather than provide much needed information, “the files showed a pattern of uninterest, lack of effort, and/or inability to identify the victims, to classify and analyze evidence, or to conduct forensic tests.”¹³⁹

¹³⁴ Thomas Becker, *supra* note 67.

¹³⁵ Kathleen Staudt and Irasema Coronado, *supra* note 121 at 161.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Sarah Morland and Carolina Pulice, *Failures by Mexican law enforcement aggravate rise in killings of women*, REUTERS (Nov. 29, 2022, 7:13 PM), <https://www.reuters.com/world/americas/failures-by-mexican-law-enforcement-aggravate-rise-killings-women-2022-11-29/>.

¹³⁹ Clara E. Rojas, *The V-Day March in Mexico: Appropriation and Misuse of Local Women’s Activism*, in MAKING A KILLING: FEMICIDE, FREE TRADE, AND LA FRONTERA (Alicia Gasper de Alba and Georgina Guzmán, eds., 2010), at 201 (citing ADRIANA CANDIA, ET AL., EL SILENCIO QUE LA VOZ DE TODAS QUIEBRA: VIOLENCIA Y VICTIMIZACIÓN EN CIUDAD JUÁREZ, (1999)).

C. He's One of Us

“[T]here is an unwritten code between public officials: ‘I am guilty now but protect me and, later on, if one of you commits a crime, I will do the same for you.’”¹⁴⁰



On June 29, 2010, Mariana Lima Buendía’s husband, Julio César Hernández Ballinas, called his mother in law, Irinea Buendía. He said her daughter had hung herself. He said it was a suicide. Afterwards he drove to the Ministerial Police Headquarters in Chimalhuacán, Mexico, where he worked as a police officer.¹⁴² When police agents drove to the house where the suicide allegedly took place, they did not store any evidence or section off the scene of the so-called

¹⁴⁰ Irinea Buendía, ‘My daughter did not commit suicide. Here’s how I proved that her husband killed her’, UNIVISION (Mar. 7, 2017, 5:32 PM), <https://www.univision.com/univision-news/latin-america/my-daughter-did-not-commit-suicide-heres-how-i-proved-that-her-husband-killed-her>.

¹⁴¹ Irinea Buendía holds a photo of her daughter, which says: “I did not commit suicide! You Killed me!” see UN WOMEN, *The long road to justice, prosecuting femicide in Mexico* (Nov. 29, 2017), <https://www.unwomen.org/en/news/stories/2017/11/feature-prosecuting-femicide-in-mexico#notes>.

¹⁴² *Id.*

accident. Among the agents in charge of protecting and analyzing the scene was Julio César himself. Mariana's autopsy did not analyze whether she had been the victim of sexual violence. The case was closed: it was a suicide.¹⁴³

However, Irinea suspected “from the beginning” that her daughter was murdered by her husband.¹⁴⁴ According to Irinea, as well as Mariana's sister and close friends, Mariana had long suffered verbal, physical, financial and sexual abuse at the hands of her husband, who, among other things, “raped her while pointing his gun at her, forced her to stop working and accused her of stealing his money.”¹⁴⁵ Mariana never reported her husband for his abuse; one time she told her mother that “if I file a complaint they will not listen to me because he's a cop.”¹⁴⁶ Indeed, victims are oftentimes discouraged from reporting their abusers, particularly when those abusers have direct ties with law enforcement, as they are lead to believe that they will simply be ignored.¹⁴⁷ In the aftermath of Mariana's death, Irinea would herself discover the extent of such impunity, when law enforcement initially refused to indict Julio César of any crime.

The haunting image of Julio César raping Mariana while pointing his gun at her head is evocative of the perverse relationship between abuse of authority and gender-motivated violence writ large. In the U.S. for example, there is no shortage of reports of police officers who have

¹⁴³ Irinea Buendía, ‘My daughter did not commit suicide. Here's how I proved that her husband killed her’, UNIVISION (Mar. 7, 2017, 5:32 PM), <https://www.univision.com/univision-news/latin-america/my-daughter-did-not-commit-suicide-heres-how-i-proved-that-her-husband-killed-her>.

¹⁴⁴ *Id.*

¹⁴⁵ RIVAL TIMES, *Sentenced to 70 years the femicide of Mariana Lima, the woman who changed justice in Mexico*, (Mar. 14, 2023), <https://rivaltimes.com/sentenced-to-70-years-the-femicide-of-mariana-lima-the-woman-who-changed-justice-in-mexico/>.

¹⁴⁶ Irinea Buendía, ‘My daughter did not commit suicide. Here's how I proved that her husband killed her’, UNIVISION (Mar. 7, 2017, 5:32 PM), <https://www.univision.com/univision-news/latin-america/my-daughter-did-not-commit-suicide-heres-how-i-proved-that-her-husband-killed-her>.

¹⁴⁷ Perhaps in part because of this affiliation, there is a disproportionate incidence of domestic violence among police officers. In fact, this phenomenon is often referred as “Officer-involved domestic violence.” See Philip M. Stinson and John Liederbach, *Fox in the Henhouse: A Study of Police Officers Arrested for Crimes Associated with Domestic and/or Family Violence*, 6 CRIMINAL JUSTICE FACULTY PUBLICATIONS (2013).

shot and killed their wives or domestic partners with their service weapon.¹⁴⁸ And yet, a 2019 report found that police officers who commit domestic violence often are allowed to keep their weapons.¹⁴⁹ When the weapons themselves have been supplied to these abusers by the state, they function as reminders of the authority men yield over their victims to subjugate them to violence.

Tragically, stories like Mariana Lima Buendía's are far too common.¹⁵⁰ As with Mariana's case, Frida Santamaria Garcia's murder was also initially treated as a suicide.¹⁵¹ It was only after Frida's boyfriend, Juan Paulo, confessed to her murder, that charges were brought against him at all. And yet, even despite his confession, the investigation of Frida's murder "was not carried out correctly, neither in substance, nor in form."¹⁵² Notably, Juan Paulo was charged only with involuntary homicide, which is a far more lenient sentence than femicide. As it turns out, Juan Pablo is the son of the former mayor of Sahuayo city, Alejandro Amezcua Chavez, who is himself the brother-in-law of Alfredo Inaya, a former secretary of economic development in the cabinet of the governor of Michoacán state.¹⁵³ In response to the reduced charge brought against their daughter's murderer, Frida's family stated: "We therefore understand why Juan Paulo's father and his brother-in-law acted with impunity, and corruptly, to redefine and reduce

¹⁴⁸ 2KUTV, *Utah officer who killed family used service weapon*, (Aug. 14, 2014, 12:44 PM), <https://kutv.com/archive/utah-officer-who-killed-family-used-service-weapon>.

¹⁴⁹ Robert Lewis and David DeBolt, *Police Officers Who Commit Domestic Violence Often Get to Keep Their Guns*, VOICE OF SAN DIEGO (Nov. 10, 2019), <https://voiceofsandiego.org/2019/11/10/police-officers-who-commit-domestic-violence-often-get-to-keep-their-guns/>.

¹⁵⁰ There is a concerning pattern of women's deaths being automatically, and erroneously, dismissed as suicides. Consider the 2017 case of Lesvy Berlin, who was found strangled in a phone box in Mexico City. Investigators initially told her family she committed suicide. Authorities, who eventually ruled the death a femicide, took two years to apologize. See Sarah Morland and Carolina Pulice, *Failures by Mexican law enforcement aggravate rise in killings of women*, REUTERS (Nov. 29, 2022, 7:13 PM), <https://www.reuters.com/world/americas/failures-by-mexican-law-enforcement-aggravate-rise-killings-women-2022-11-29/>.

¹⁵¹ Pauline Rouquette, *Mexican mother confronts loss, corruption and impunity in a 'femicide nation'*, FRANCE24 (Jan. 17, 2023, 7:09 PM), <https://www.france24.com/en/americas/20230117-mexican-mother-confronts-loss-corruption-and-impunity-in-a-femicide-nation>.

¹⁵² *Id.*

¹⁵³ *Id.*

the charges for this crime.”¹⁵⁴ In sum, justice operates entirely differently when the accused is a member of the political or prosecutorial elite.¹⁵⁵

IV. Conclusion

*“The solution does not lie within the law. We must find other mechanisms.”*¹⁵⁶



157

~

Before she was murdered by her husband, Mariana Lima Buendía was studying to become a lawyer.¹⁵⁸ In 2015, her name was at the center of a landmark Mexican Supreme Court

¹⁵⁴ *Id.*

¹⁵⁵ Consider also the recent announcement by a Mexican anti-corruption agency of an investigation into the alleged coverup by the state attorney’s office in Morelos of the murder of Ariadna Lopez. See Sarah Morland and Carolina Pulice, *Failures by Mexican law enforcement aggravate rise in killings of women*, REUTERS (Nov. 29, 2022, 7:13 PM), <https://www.reuters.com/world/americas/failures-by-mexican-law-enforcement-aggravate-rise-killings-women-2022-11-29/>.

¹⁵⁶ Interview with Paola Gutiérrez, Social Worker and Activist, Mujeres Creando (Mar. 2023) (Original Spanish: “Nosotras estamos convencidas que la solución no está en la ley - hay que encontrar otros mecanismos”).

¹⁵⁷ Graffiti on a wall in La Paz, Bolivia, says: “A feminazi is someone who kills a woman – Mujeres Creando.” Photo taken by author.

¹⁵⁸ For more information about the Mariana Lima Buendía case, see Karla I. Quintana Osuna, *El Caso De Mariana Lima Buendía: Una Radiografía Sobre La Violencia y Discriminación Contra La Mujer*, 38 CUESTIONES

decision, which held that all female homicides be investigated, “with a gender perspective,” as possible femicides.¹⁵⁹ After years of insidious impunity, where countless deaths—including Mariana’s—were apathetically written off as suicides, this decision was considered by many to represent an important step forward in eradicating the feminicide epidemic. Yet, at the time of the decision, only one justice sitting on the bench was a woman. Years later, and around ten women continue to be murdered in Mexico per day.¹⁶⁰ Despite this Supreme Court decision, the fact remains that in Mexico, a woman’s best shot at entering a courtroom is not as a judge or a lawyer, but as posthumous remains, sterilely labeled for evidence.

There is no shortage of laws or statutes in Latin America aimed specifically at femicides. In fact, almost every Latin American country has made femicide a crime or an aggravating circumstance in homicide cases.¹⁶¹ Such is the case in Mexico, where “femicidal violence” has been criminalized since 2007,¹⁶² as well as in Bolivia, under *Law 348*, which was passed in 2013.¹⁶³ And yet, to many activists, these laws have not succeeded because they were never

CONSTITUCIONALES: REVISTA MEXICANA DE DERECHO CONSTITUCIONAL (2018), <https://revistas.juridicas.unam.mx/index.php/cuestiones-constitucionales/article/view/11878/13654>.

¹⁵⁹ AMNESTY INTERNATIONAL, *Mexico: Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico*, (Sep. 20, 2021), <https://www.amnesty.org/en/documents/amr41/4556/2021/en/>.

¹⁶⁰ David Agren, *Ten women and girls killed every day in Mexico, Amnesty report says*, THE GUARDIAN (Sep. 20, 2021, 1:13 PM), <https://www.theguardian.com/global-development/2021/sep/20/mexico-femicide-women-girls-amnesty-international-report>.

¹⁶¹ See *Femicide and International Women’s Rights: An Epidemic of Violence in Latin America*, GLOB. AMS., <https://theglobalamericans.org/reports/femicide-international-womens-rights> (providing a chart with a summary of the femicide legislation in each country); see also Alicia Deus & Diana Gonzalez, U.N. WOMEN, *Analysis of Femicide/Feminicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law* (2018) (Analyzing current laws in Latin America and the Caribbean and creating a proposed model law on femicide/feminicide for those regions).

¹⁶² AMNESTY INTERNATIONAL, *Mexico: Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico*, (Sep. 20, 2021), <https://www.amnesty.org/en/documents/amr41/4556/2021/en/>.

¹⁶³ Ley Integral Para Garantizar a Las Mujeres Una Vida Libre de Violencia (Law No. 348/2013), art. 7 (Bol.).

meant to work. According to Thomas Becker, they are simply “on the books to placate the public,” under the performative guise of progressive law.¹⁶⁴

By examining the sustained endurance of the femicide epidemic in Mexico and Bolivia, this paper has illustrated that anti-femicide laws are more than insufficient. Indeed, when legal justice is structured under the oppressive parameters of power, no law that is passed within this unjust system will ever suffice. However discouraging the existing legal environment may seem, there is still cause for hope. Women and activists have begun organizing outside the unjust confines of law enforcement to protect women from patriarchal violence while holding perpetrators to account. In Mexico, for instance, women have turned to social media—not local law enforcement—to proceed with their cases and find collective support.¹⁶⁵ The work done by Bolivian anarcho-feminist collective *Mujeres Creando* also offers insight into the potential solutions that may be found beyond the law. By implementing strategies they describe as “a-legal,” meaning outside of (though not in express conflict with) the law, *Mujeres Creando* has been able to carve an alternative route, one that combines legal and political advocacy with social support and a trauma-informed perspective.¹⁶⁶

Ultimately, this paper has demonstrated that patriarchal power structures as enshrined by legal and political doctrines are neither impeded nor abused by discriminatory corruption, but rather upheld and sustained. And as long as discriminatory corruption remains pervasive, women

¹⁶⁴ Interview with Thomas Becker, Lecturer in Law, Columbia Law School (Dec. 2022).

¹⁶⁵ See Azucena Marquez and Paulina Olivares Hernandez, Responding to Femicide From #NiUnaMás to #MeToo: How Mexico’s Government and Legal Institutions and Entrenched Machismo Failed Women and Sparked a Movement (2022) (J.D. Final Paper, Law and the Legal System through the Lens of Latinx/a/o Communities, Harvard Law School) (on file with author).

¹⁶⁶ Interview with Paola Gutiérrez, Social Worker and Activist, Mujeres Creando (Mar. 2023); For more information on the multidisciplinary approach proposed by Mujeres Creando, see MUJERES CREANDO, Paola Gutiérrez y la Propuesta Metodológica con Enfoque Feminista Para Enfrentar al Machismo, <https://mujerescreando.org/paola-gutierrez-y-la-propuesta-metodologica-con-enfoque-feminista-para-enfrentar-al-machismo/> (last visited Apr. 24, 2023).

and other marginalized communities will continue to feel the brutal—even fatal—impacts of a legal system built with a boot on their necks. As Audre Lorde said, “[t]he master’s tools will never dismantle the master’s house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change.”¹⁶⁷ It is likewise imperative that women and activists look beyond the law, and look instead to each other, to develop our own tools to build our own house, one that is free from the shackles of patriarchal violence.

¹⁶⁷ Audre Lorde, *The Master’s Tools Will Never Dismantle the Master’s House*, in *SISTER OUTSIDER: ESSAYS AND SPEECHES* (1984).