

# Money Talks, and the Law Won't Listen

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

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### PROLOGUE

*"In this country, men murder women because they can."*<sup>1</sup>

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In January, 2022, hundreds of protesters took to the streets of La Paz, Bolivia.<sup>2</sup> 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 seventy more.<sup>3</sup> Due to blatant judicial and prosecutorial corruption, Choque Flores had been granted near impunity, which enabled his continued predation.<sup>4</sup> In fact, Choque Flores was arrested in 2013 and sentenced to thirty years in prison.<sup>5</sup> His sentence was later reduced to a house arrest, allowing him to murder Lucy Maya Ramírez Zambrana and Iris Maylin Villca Choque from the comfort of his own home.<sup>6</sup>

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\* The Author thanks Professor David Patrick Lopez and her classmates from the Spring 2023 seminar, "Law and the Legal System through the Lens of Latinx/a/o Communities." This Note expands upon an article published in the Global Anticorruption Blog run by Professor Matthew Stephenson. 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/> [<https://perma.cc/JPE2-4HX4>].

1. Sarah Morland & 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/> [<https://perma.cc/AD9T-Q24L>] (quoting Melissa Fernandez, a prominent Mexican feminist and academic who specializes in gender violence).

2. *Marcha de las mujeres alteñas contra las violencias machistas y contra la corrupción de la justicia*, MUJERES CREANDO (last visited May 4, 2024), <https://mujerescreando.org/marcha-de-las-mujeres-alteñas-y-pacenas-contra-las-violencias-machistas-y-contra-la-corrupcion-de-la-justicia/> [<https://perma.cc/3C9M-3GXT>].

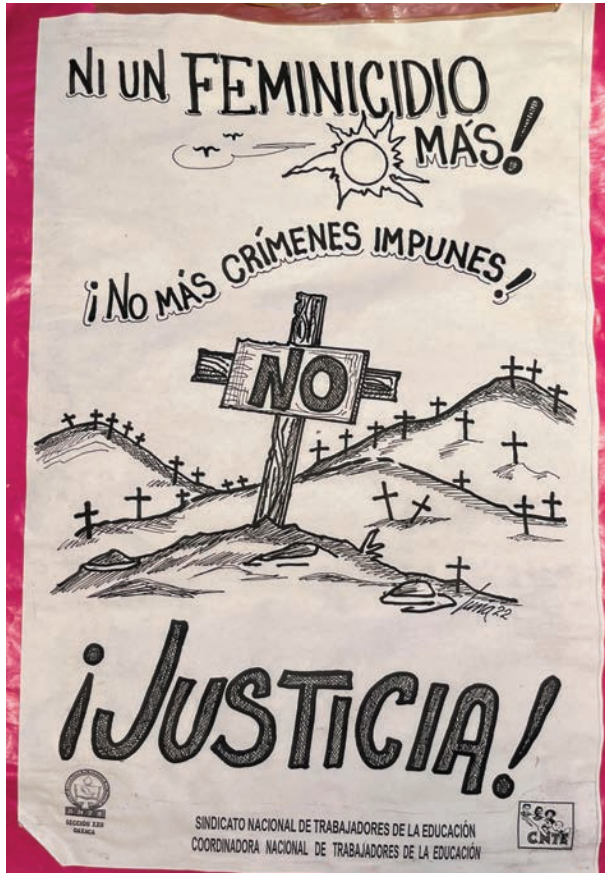
3. Mariela Cossío M., *Richard Choque: el escalofriante historial del asesino y violador serial*, OPINIÓN: DIARIO DE CIRCULACIÓN NACIONAL (Feb. 6, 2022), <https://www.opinion.com.bo/articulo/escena-del-crimen/richar-choque-escalofriante-historial-asesino-violador-serial/20220204224721853999.html> [<https://perma.cc/G83V-NJ7R>]; *Richard Choque Flores: el perfil del psicópata sexual y desalmado asesino serial de Bolivia*, REDACCIÓN ACTUALIDAD (Feb. 4, 2022), <https://www.bolivia.com/actualidad/nacionales/richard-choque-flores-perfil-asesino-serial-bolivia-335858> [<https://perma.cc/2TJR-XS5C>].

4. See *Feministas bolivianas activan líneas para denunciar a feminicidas liberados*, MUY WASO (Feb. 15, 2022), <https://muywaso.com/feministas-bolivianas-activan-lineas-para-denunciar-a-feminicidas-liberados/> [<https://perma.cc/QS4S-VF6C>].

5. *Mujeres marchan con fotos de violadores y fiscales corruptos en Bolivia*, SWISSINFO (Mar. 7, 2022, 8:41 PM), [https://www.swissinfo.ch/spa/id%3C%ADa-mujer-bolivia\\_mujeres-marchan-con-fotos-de-violadores-y-fiscales-corrup-tos-en-bolivia/47411032/](https://www.swissinfo.ch/spa/id%3C%ADa-mujer-bolivia_mujeres-marchan-con-fotos-de-violadores-y-fiscales-corrup-tos-en-bolivia/47411032/) [<https://perma.cc/3U6H-F7SW>].

6. See *Richard Choque Flores*, *supra* note 3.

How did Richard Choque Flores manage to get his sentence reduced in the first place? With a bribe of USD \$3,500 and a bottle of whisky.<sup>7</sup>



*The image depicts a flyer taped to a wall denouncing the impunity surrounding the femicide epidemic in Oaxaca, Mexico. The flyer says “Not one more Femicide! No more criminal impunity! Justice!”<sup>8</sup>*

7. 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/> [https://perma.cc/3FP9-QZW3].

8. Photo taken by the author.

## INTRODUCTION

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*“They do everything contrary to what the law says. The law is very clear: it says that women must be guaranteed the right to a life free of violence . . . But what do the authorities do? The opposite.”*<sup>9</sup>

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The manifestation of gender-based violence in its most gruesome form,<sup>10</sup> femicide (or “*femicidio*”) refers to the intentional murder of women because they are women.<sup>11</sup> In Bolivia as well as other Latin American countries (such as Argentina<sup>12</sup> and Brazil<sup>13</sup>), femicides not only occur at appallingly high rates, but they are rarely ever resolved, let alone investigated.<sup>14</sup> For example, of the 3,754 women who were murdered in Mexico in 2022, only 947 were investigated as femicides.<sup>15</sup> The rampant scale of femicides therefore cannot merely be explained by the misogyny of individual perpetrators.

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9. Quote from Mexican lawyer Karla Micheel Salas. See Diana Hurtado, María Rocha & Rafael E. Lozano, *Juicio De Las Víctimas De Femicidio En Oaxaca Alcanza A Las Autoridades*, CORRIENTE ALTERNA (Mar. 27, 2022), <https://corrientalterna.unam.mx/genero/juicio-de-las-victimas-de-femicidio-en-oaxaca-alcanza-a-las-autoridades/> [https://perma.cc/S6A7-8XFU] (“Hacen todo lo contrario a lo que dice la ley. La ley es muy clara: dice que se debe garantizar a las mujeres el derecho a una vida libre de violencia; que se le tiene que creer a las víctimas; que se tienen que hacer peritajes especializados; que no se debe revictimizar, que ningún funcionario puede maltratar o violentar a las víctimas, que tiene que respetarles plenamente su dignidad. Pero ¿qué es lo que hacen las autoridades? Lo opuesto.”) (English translation provided by the author).

10. 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. OFF. DRUGS & CRIME, *Gender-Related Killings of Women and Girls (Femicide): Global Estimates of Gender-Related Killings of Women and Girls in the Private Sphere in 2021*, at 5 (2022), <https://www.unwomen.org/en/digital-library/publications/2022/11/gender-related-killings-of-women-and-girls-improving-data-to-improve-responses-to-femicide-feminicide/> [https://perma.cc/K96L-GLBJ].

11. The popularization of the term “femicide” to refer to the killing of women “because they are female,” is largely credited to American feminist Diana Russell in the 1970s. See Diana Russell, *Preface, in FEMICIDE: THE POLITICS OF WOMAN KILLING XI, XIV* (Jill Radford & Diana Russel eds., 1992) (elaborating on the early use of “femicide”); see also World Health Organization [WHO], *Understanding and addressing violence against women: Femicide*, 1 (2012), [https://apps.who.int/iris/bitstream/handle/10665/77421/WHO\\_RHR\\_12.38\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/77421/WHO_RHR_12.38_eng.pdf) [https://perma.cc/6G5V-JNFF] (providing a more recent definition of the term “femicide”).

12. In 2021, there were at least 251 known victims of femicide in Argentina. See Oficina de la Mujer & Corte Suprema de Justicia de la Nación, *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-pa-s.html#:~:text=La%20Oficina%20de%20la%20Mujer,1%20femicidio%20cada%2035%20horas/> [https://perma.cc/KW64-GE3F].

13. 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*, 1–2 (2022), <https://forumseguranca.org.br/wp-content/uploads/2022/03/violencia-contra-mulher-2021-v5.pdf> [https://perma.cc/BM92-6SHA].

14. See generally Guillermo Raúl Zepeda Lecuona & Paola Guadalupe Jiménez Rodríguez, *Impunidad en homicidio doloso y feminicidio en México: Reporte 2020*, IMPUNIDAD CERO, <https://www.impunidadcero.org/uploads/app/articulo/142/contenido/1605024010E66.pdf> [https://perma.cc/5C9V-CCEF].

15. México rompió cifra histórica de mujeres asesinadas por homicidio doloso en el 2022; los feminicidios no bajan, INFOBAE (Feb. 5, 2023, 6:12 AM), <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/>

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.<sup>16</sup> 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.<sup>17</sup> Though the terms are highly related, they are not interchangeable.<sup>18</sup> For the purpose of this Article, “femicide” refers to the murders themselves, whereas “feminicide” more broadly encompasses the overarching culture of patriarchy under which such murders flourish.<sup>19</sup> Ultimately, the feminicide epidemic is not “accidental, ‘involuntary,’ or the result of ‘mere institutional incapacity.’”<sup>20</sup> 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.

It was ultimately because of women-led advocacy that the terms “femicide” and “feminicide” emerged in common parlance to describe these particular

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[<https://perma.cc/G6EG-ZGKQ>]; 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/> [<https://perma.cc/6G7Q-GS7U>].

16. Marcela Lagarde, *Del Femicidio al Feminicidio*, DESDE EL JARDÍN DE FREUD 216, 221 (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).

17. Michelle Carrigan & Myrna Dawson, *Problem Representations of Femicide/Feminicide Legislation in Latin America*, 9 INT’L J. FOR CRIME, JUST. & SOC. DEMOCRACY 1, 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 COLOR OF VIOLENCE: THE INCITE! ANTHOLOGY (INCITE! Women of Color Against Violence ed., 2016)).

18. In other words, “femicides” are the symptom, while “feminicide” is the disease. See Marcela Lagarde, *Preface: Feminicide 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, *feminicidio* 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.”) (trans. Charlie Roberts).

19. Marylène Lapalus & Mariana R. Mora, *Femicide/feminicide: The politics of a legal and activist category*, 43 TRAVAIL, GENRE ET SOCIÉTÉS 155, 158 (2020), [https://www.cairn-int.info/abstract-E\\_TGS\\_043\\_0155-femicidefeminicide-the-political.htm/](https://www.cairn-int.info/abstract-E_TGS_043_0155-femicidefeminicide-the-political.htm/) [<https://perma.cc/R6F9-LP3B>] (“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.”).

20. Alejandro Anaya Muñoz, James Cavallaro & Patricia Cruz Marín, *La impunidad activa en México Cómo entender y enfrentar las violaciones masivas a los derechos humanos*, ITESO, UNIVERSIDAD JESUITA DE GUALAJARA & UNIV. NETWORK HUM. RTS. 1, 11 (2021), <https://rei.iteso.mx/bitstream/handle/11117/7444/La%20impunidad%20activa%20PDF.pdf?sequence=1&isAllowed=y/> [<https://perma.cc/Q85R-PQ9C>].

iterations of gendered violence.<sup>21</sup> Nevertheless, femicide is by no means an exclusively Latin American issue. In fact, the United States itself experiences similarly high documented rates of femicide as Mexico.<sup>22</sup> Nor can it be said that the U.S. justice system has been any better at ameliorating the issue.<sup>23</sup> On the contrary, Mexico passed a federal law criminalizing “femicidal violence” in 2007.<sup>24</sup> Similarly, in Bolivia, Law 348 (“*Ley 348*”) has codified the right of women to be free from violence—including femicide—since 2013.<sup>25</sup> Meanwhile, no such law exists in the United States.<sup>26</sup> To regard femicide as a crime unique to Latin America would thus be both disingenuous and highly inaccurate.<sup>27</sup> It is a 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 femicide exist, women continue to be murdered with no real accountability. It is thus within this contradictory landscape that this Article situates its analytical focus on two nations, Bolivia and Mexico, which embody the tension between affirmative legal rights and blatant institutional disregard for those rights.

This Article examines the tragic injustice of femicide by way of the widespread legal and political corruption driving its sustained endurance in Latin America. Drawing mostly on laws and case studies in Mexico and Bolivia, this Article builds upon the theory of discriminatory corruption, defined by

21. 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 femicide as if it already existed in law, consequently rising up against resistance by authorities to implement a label that would acknowledge women as complainants despite the fact that this term already categorically exists in public opinion and is accepted by the media.”) (English translation provided by author), <http://mujeresdeguatemala.org/wp-content/uploads/2014/06/Femigenocidio-como-crimen-en-el-fuero-internacional-de-los-Derechos-Humanos.pdf> [https://perma.cc/FVS3-43FB].

22. Vera Jonsdottir, *Is the US Still Too Patriarchal to Talk About Women?*, 1 CHI. POL’Y REV. ONLINE (July 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/> [https://perma.cc/M6MQ-MB3F] (“Of all femicide cases in the high-income world, 70% are committed in the United States.”).

23. Rose Hackman, *Femicides in the US: the silent epidemic few dare to name*, THE GUARDIAN (Sept. 26, 2021, 4:00 AM), <https://www.theguardian.com/us-news/2021/sep/26/femicide-us-silent-epidemic/> [https://perma.cc/89CT-5L27] (“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.”).

24. Fòs Feminista, *A strong legal framework on gender-based violence rooted in international agreements: the case of Mexico*, INT’L PLANNED PARENTHOOD FED. W. HEMISPHERE REGION, at 4 (Jan. 2021), [https://fosfeminista.org/wp-content/uploads/2021/01/Mexico-Eng-to\\_read.pdf](https://fosfeminista.org/wp-content/uploads/2021/01/Mexico-Eng-to_read.pdf) [https://perma.cc/F4EL-VFMS].

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

26. Caroline Davidson, *Speaking Femicide*, 71 AM. U. L. REV. 377, 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.”).

27. Matthias Nowak, *Femicide: A Global Problem*, 14 SMALL ARMS SURVEY, at 1–3 (Feb. 2012) (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. . . . [I]n this context, femicides often take place in a general climate of indifference and impunity.”).

Transparency International as the mutually reinforcing and cyclical relationship between corruption and inequality.<sup>28</sup> 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 Article 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 Article is divided into three parts. Part I identifies the concept of discriminatory corruption as the theoretical framework through which to understand the femicide epidemic and the rampant corruption that fuels it. Looking specifically at the laws in place in Mexico and Bolivia to combat femicide, this Part posits that legal distinctions between private and public spheres fail to address power inequities that are intrinsically oppressive toward women. Although 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 Juárez, a city in Mexico. In sum, discriminatory corruption is in accordance with, and not an aberration from, patriarchal power.

Once discriminatory corruption is framed as a function of power that is violent by design, Part II proceeds to explore the various ways that corruption specifically exacerbates femicide. It posits that the corruption involved with femicide is a self-perpetuating cycle. It begins when 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.<sup>29</sup> Through this financial alliance between violent offenders and public servants, law enforcement officers are subsequently incentivized to not only fail to properly investigate femicide cases, but to actually interfere with their resolution.<sup>30</sup> With a precedent of bribery established, corruption becomes a normalized practice in law enforcement.<sup>31</sup> 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 will more than likely remain unresolved.<sup>32</sup> The result of

28. *Double Harm When Corruption Meets Discrimination*, TRANSPARENCY INT'L (July 6, 2021), <https://www.transparency.org/en/news/double-harm-corruption-discrimination-sdgs-leave-no-one-behind/> [<https://perma.cc/SDK8-CE4C>].

29. See *infra* Part III.

30. Patricia Cruz Marín, James Cavallaro & Alejandro Anaya Muñoz, *More than lack of capacity: active impunity in Mexico*, OPEN GLOB. RTS. (Aug. 16, 2021), <https://www.openglobalrights.org/more-than-lack-of-capacity-active-impunity-in-mexico/> [<https://perma.cc/TL4W-RM8C>] (“In the May 2015 killings of 42 civilians in Tlanahuato, 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.”).

31. See *infra* Part III.A.

32. See, e.g., Vice News, *The Femicide Crisis in the State of Mexico (Full Length)*, YOUTUBE (June 23, 2015), <https://www.youtube.com/watch?v=UB69VbhxmUk/> [<https://perma.cc/7GLR-WKPU>].



this cyclical pattern is a law enforcement apparatus plagued with so much corruption, mismanagement, and ineptitude, that victims and their families are even further deterred from seeking justice.<sup>33</sup>

Part III 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 emerge through the development of collective, feminist alliances grounded in transformative justice models.

## I. DISCRIMINATORY CORRUPTION

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*"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?"<sup>34</sup>*

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Corruption, defined by Transparency International as "the abuse of entrusted power for private gain,"<sup>35</sup> is a pervasive issue, one that by certain estimates costs the global economy trillions of dollars per year.<sup>36</sup> In Latin America specifically, corruption has been identified as a significant impediment to economic development,<sup>37</sup> as well as one of the most pressing political issues in the region.<sup>38</sup> And though corruption certainly has negative impacts in general, its repercussions acutely affect the most marginalized groups.<sup>39</sup> Corruption exacerbates and reinforces cycles of inequality, thereby disproportionately affecting those already rendered vulnerable by existing hegemonic structures, such as gender and racial minorities, refugees, migrant workers,

33. See *infra* Part III.B.

34. ALICIA GASPAR DE ALBA, *DESERT BLOOD: THE JUÁREZ MURDERS* 333 (2005).

35. *What is Corruption*, TRANSPARENCY INT'L (last visited May 4, 2024), <https://www.transparency.org/en/what-is-corruption/> [<https://perma.cc/9GP8-C494>]. 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 *Our Impact*, TRANSPARENCY INT'L (last visited May 4, 2024), <https://www.transparency.org/en/our-impact> [<https://perma.cc/93S5-LCNY>].

36. Paolo Mauro, Paulo Medas & Jean Marc Fournier, *The Cost of Corruption*, INT'L MONETARY FUND (Sept. 2019), <https://www.imf.org/en/Publications/fandd/issues/2019/09/the-true-cost-of-global-corruption-mauro/> [<https://perma.cc/XSPY-N346>].

37. See generally Lucas Dutra de Paulo, Ricardo Carvalho de Andrade Lima & Robson Tigre, *Corruption and economic growth in Latin America and the Caribbean*, 26 REV. DEV. ECON. 756–73 (2022).

38. Teresa Romero, *Corruption in Latin America—statistics & facts*, STATISTA (July 21, 2023), <https://www.statista.com/topics/6468/corruption-in-latin-america/#topicOverview/> [<https://perma.cc/QN5Y-Q9SS>].

39. Transparency Int'l, *Monitoring Corruption and Anti-Corruption in the Sustainable Development Goals: A Resource Guide*, at 8 (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.").

and people in poverty.<sup>40</sup> In short, there is a deep nexus between systemic corruption and oppression.<sup>41</sup>

The mutually reinforcing connection between oppression and corruption, otherwise known as “discriminatory corruption,” is well documented.<sup>42</sup> Corruption serves “as a vehicle for discrimination” by “skewing resource distribution to the advantage of the powerful.”<sup>43</sup> When corruption is ubiquitous, stigmatized communities are exposed to greater extortion and abuse. For example, empirical studies show that those with the least financial resources pay the highest percentage of their incomes in bribes.<sup>44</sup> Given that an estimated seventy percent of the world’s poor are women, this adds an additional layer to gender inequality in corrupt countries.<sup>45</sup>

Though discriminatory corruption is by no means an exclusively gender-based issue, this Article posits that examining it through a feminist lens offers an insightful point of entry into how it manifests in practice. This Section examines discriminatory corruption as the nefarious repercussion of men manipulating the rules of a “game” that they themselves legislatively concocted. With every iteration of this rigged game, the outcomes grow increasingly skewed and predictable. From notions of privacy rights to even the very statutes regulating femicide, laws have been—and continue to be—written with the clear intention of enshrining male dominance over women. Thus, if corruption is 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.

40. See generally Int’l Council Hum. Rts. Pol’y & Transparency Int’l, *Corruption and Human Rights: Making the Connection* (2009), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1551222/](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1551222) [<https://perma.cc/SN48-QCZJ>].

41. See Matt Jenkins & Theo Van der Merwe, *Opinion: We must recognize links between corruption and discrimination*, DEVEX (July 12, 2021), <https://www.devex.com/news/opinion-we-must-recognize-links-between-corruption-and-discrimination-100313/> [<https://perma.cc/N6FC-ZFN9>] (“Discrimination enables and encourages corruption.”).

42. See *Double Harm When Corruption Meets Discrimination*, TRANSPARENCY INT’L (July 6, 2021) <https://www.transparency.org/en/news/double-harm-corruption-discrimination-sdgs-leave-no-one-behind/> [<https://perma.cc/SDK8-CE4C>] (“We 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.”).

43. Jessie Bullock & Matthew Jenkins, *Corruption and marginalisation*, TRANSPARENCY INT’L, at 1–3 (June 26, 2020), <https://knowledgehub.transparency.org/helpdesk/corruption-and-marginalisation/> [<https://perma.cc/T566-K4Q9>].

44. *Combating Corruption*, WORLD BANK (Mar. 15, 2021), <https://www.worldbank.org/en/topic/governance/brief/combating-corruption/> [<https://perma.cc/RW5D-8YVV>].

45. Angélica Fuentes Téllez, *The Link Between Corruption and Gender Inequality: A Heavy Burden for Development and Democracy*, WILSON CENTER (last visited Mar. 29, 2024), <https://www.wilsoncenter.org/publication/the-link-between-corruption-and-gender-inequality-heavy-burden-for-development-and/> [<https://perma.cc/AA63-NAY9>].



## A. Power, Privacy, Domination and Death

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*“The dichotomy between the public and private spheres has been utilized widely to justify the subordination of women, predominantly to the men of her family or her significant other. This way, human rights abuses committed in the private sphere are excluded from public scrutiny.”*<sup>46</sup>

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The notion that discriminatory corruption cyclically perpetuates violent oppression is in accordance with a line of feminist thought that views power as a form of domination,<sup>47</sup> whereby “women/men is a distinction not just of difference, but of power and powerlessness.”<sup>48</sup> Under this understanding of power, inequality is the reified effect of domination, through which gender constructs are defined structurally as relations of power.<sup>49</sup> Whereas masculinity is construed as “active and aggressive,” femininity is viewed as “receptive and passive.”<sup>50</sup> Consequently, gender is defined in terms of “social status,

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46. Viviane Monteiro Santana García, *Misoginia en el espacio público, femicidio no íntimo y prueba criminal*, ESTADO & COMUNES 21, 31 (July 22, 2018) [https://www.redalyc.org/journal/6842/684272385001/html/\[https://perma.cc/DMW5-AA8E\]](https://www.redalyc.org/journal/6842/684272385001/html/[https://perma.cc/DMW5-AA8E]) (“La dicotomía entre las esferas pública y privada se ha utilizado de manera amplia para justificar la subordinación de las mujeres predominantemente a los hombres de la familia o pareja; y, de esta forma, excluir del escrutinio público los abusos en materia de derechos humanos cometidos en el ámbito privado.”) (English translation provided by the author).

47. This Article advances an analytical framework 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 48–51. However, this Article acknowledges that this framework is not 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 1, 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 and oppression 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. The aim of this article is to challenge the assumptions about power in studies of this work to propose that, in addition to power, it is necessary to include an empirical analysis of the management of power asymmetries through the exercise of authority, taking into account its intimate and affective dimension.”) (English translation provided by the author).

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

49. See Marta Lamas, *Opinión y debate: El enfoque de género en las políticas públicas*, CORTE IDH, at 1 (last visited May 4, 2024), <https://www.corteidh.or.cr/tablas/r23192.pdf> [<https://perma.cc/YX9P-Y6ZQ>] (“[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 93–94 (1974) (“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.”).

50. Jill Radford, *Introduction to FEMICIDE: THE POLITICS OF WOMAN KILLING* 1, 6 (Jill Radford & Diana E.H. Russell eds., 1992).

sexual roles, and social stereotypes, as well as power relations expressed in terms of domination and subordination.”<sup>51</sup>

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.”<sup>52</sup> Consider the laws that govern violence toward women. Historically, the physical chastisement of women by their husbands was not only a legal right in many cultures, but in fact a moral duty.<sup>53</sup> This legacy of male supremacy endures under the nefarious guise of legal privacy rights.<sup>54</sup> 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.<sup>55</sup> Critics have thus argued that “privacy is a right for men ‘to be let alone’ to oppress women” with no liability.<sup>56</sup> Moreover, they assert that legal entitlements to substantive privacy rights

51. MARTA LAMAS, *Feminismo y americanización. La hegemonía de gender*, in *DIMENSIONES DE LA DIFERENCIA: GÉNERO Y POLÍTICA* 165, 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, *Historiografía, apuntes para una definición en femenino*, 20 *DEBATE FEMINISTA* 131, 154 (1999) (“[G]énero es un concepto analítico que implica un estudio y reflexión sistemáticos sobre la relación de poder desigual que existe entre los sexos.”) (trans. “[G]ender is an analytic concept that implicates a study and systematic reflection of the unequal power relations that exist between the sexes.”) (English translation provided by the author).

52. Radford, *supra* note 50, at 6.

53. 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.” DIANE ROSENFELD, *THE BONOBO SISTERHOOD* 33–34 (2022). See also Diane Rosenfeld, *Sexual Coercion, Patriarchal Violence, and Law*, in *SEXUAL COERCION IN PRIMATES AND HUMANS: AN EVOLUTIONARY PERSPECTIVE ON MALE AGGRESSION AGAINST FEMALES* 424, 433–34 (Martin N. Muller & Richard W. Wrangham eds., 2009), [https://www.law.northwestern.edu/research-faculty/events/colloquium/law-gender/documents/2021\\_sp\\_wrangham\\_sexual\\_coercion.pdf](https://www.law.northwestern.edu/research-faculty/events/colloquium/law-gender/documents/2021_sp_wrangham_sexual_coercion.pdf) [<https://perma.cc/NHH7-84HX>].

54. This Article 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, *La bioética: proeso social y cambio de valores*, in *DIMENSIONES DE LA DIFERENCIA*, *supra* note 51, at 299, 313 (“[La privacidad como un concepto] 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.* 973, 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.”).

55. See Reva B. Siegel, “*The Rule of Love*”: *Wife Beating as Prerogative and Privacy*, 105 *YALE L.J.* 2117, 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.’”).

56. MACKINNON, *supra* note 48, at 102; see also Danielle Keats Citron, *Sexual Privacy*, 128 *YALE L.J.* 1870, 1896 (2019).

often emerge from “a hierarchical ordering of intimate relations . . . [wherein] the family as a social unit is beyond the purview of the state.”<sup>57</sup>

Legal institutions continue to enshrine the sanctity of the proverbial domestic home, placing immense value on the need for its privacy.<sup>58</sup> In contrast, the female body—particularly when mangled, violated, and deformed—rarely receives such deference, despite there being perhaps no greater violation of privacy than murder itself. Femicide is the systemic specter of privacy afforded to domestic violence, the unspoken rule that abuse must remain unspoken. As one Mexican activist stated, “[t]here is a saying . . . that dirty clothes should be washed at home, that gender violence should not be publicly discussed.”<sup>59</sup> 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 that, “[i]n Bolivia, what happens in the house, stays in the house.”<sup>60</sup>

It is within this context of public and private distinctions that femicide laws in Mexico and Bolivia are situated. In Mexico, for example, “femicidal violence” is criminalized under Article 21 of the *Ley General de Acceso de las Mujeres a una vida libre de Violencia* (“General Law on Women’s Access to a Life Free of Violence”).<sup>61</sup> Incorporated within this law is Article 325 of the Federal Penal Code, which sets out the various circumstances under which the murder of a woman may be considered a femicide.<sup>62</sup> Among those factors is that “the victim’s body is exposed or displayed in a public place.”<sup>63</sup> By statutorily affiliating femicide with publicity, Article 325 detaches private, interpersonal abuse from the systemic inequalities underpinning that violence.<sup>64</sup> Elizabeth Levya has posited that the public display of femicide victims sends the “psychological message” that “women do not belong in the public sphere, so when we decide

57. Celina Romany, *Women as Aliens: A Feminist Critique of the Public/Private Distinction in International Human Rights Law*, 9 HARV. HUM. RTS. J. 87, 101 (1993).

58. For an early articulation of this concept that has been influential in U.S. jurisprudence, see Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193, 195–96 (1890) (calling for tort law to recognize a “right ‘to be let alone’” in the “sacred precincts of private and domestic life”); see also Siegel, *supra* note 55, at 2118 (describing how courts would excuse male batterers from punitive consequences in the name of “family privacy”).

59. Rebecca Conan, *Not a suicide: Mexico Murder Case Challenges Views of Gender Violence*, CHRISTIAN SCI. MONITOR (July 29, 2016), <https://www.csmonitor.com/World/Americas/2016/0729/Not-a-suicide-Mexico-murder-case-challenges-views-of-gender-violence/> [<https://perma.cc/VU8T-9AG4>].

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

61. See Pablo Navarrete Gutiérrez, *Tipificar el delito de feminicidio en México, una asignatura pendiente*, REVISTA DE DERECHOS HUMANOS, at 26 (Mar. 2011), <https://www.corteidh.or.cr/tablas/r26769.pdf> [<https://perma.cc/P67V-WLAY>].

62. Código Penal Federal (Federal Criminal Code) [CPF], Libro Segundo Título Decimonoveno - Delitos contra la Vida y la Integridad Corporal, Capítulo V—Feminicidio, Diario Oficial de la Federación [DOF] 14-08-1931, últimas reformas DOF 08-05-2023.

63. *Id.*

64. Segato, *supra* note 21, at 10 (“[L]as agresiones mayores a mujeres cometidas ‘en el ámbito privado o íntimo’ impedirían comprobar la intención de ataque generalizado y sistemático a ellas como grupo.”) (trans. “Major assaults on women committed ‘in the private or intimate sphere’ prevents proving the intention of a widespread and systematic attack on them as a group.”) (English translation provided by the author).

to enter it, this (death) is what can happen to us.”<sup>65</sup> However, asserting that the subversion of normative gender roles leads to femicide neglects the violence that is also enacted against those women who abide by expectations of feminine domesticity.<sup>66</sup> Put differently, by viewing human rights as a public issue, “the family becomes a space that is excluded from protection, regardless of the affront to human dignity involved in family violence.”<sup>67</sup>

Whereas Mexican law risks perpetuating the “de-privatization” of gender-based violence,<sup>68</sup> Bolivian femicide law has been criticized for focusing too heavily on domestic violence, at the expense of addressing harms committed in the “multiple spheres of asymmetric power relations.”<sup>69</sup> Enacted in 2013, *Ley 348* articulates nine circumstances under which a murder may be considered a femicide, including “when the perpetrator was a husband, cohabitant, boyfriend, partner, sweetheart, lover or has or has had any kind of romantic relationship” with the victim.<sup>70</sup> Unlike Mexico’s law, *Ley 348* includes no provision for public instances of violence. By framing femicide as innately intimate, *Ley 348* individualizes gender-based violence to the point of diverting attention from the systemic inequities that so often instigate such violence. As a result, *Ley 348* has been weaponized by perpetrators of gender-based violence,

65. Elizabeth V. Leyva, *El mosaico legal del feminicidio en México*, NEXOS (Dec. 11, 2017), [https://eljuegodelacorte.nexos.com.mx/el-mosaico-legal-del-feminicidio-en-mexico/#\\_ftnref2/](https://eljuegodelacorte.nexos.com.mx/el-mosaico-legal-del-feminicidio-en-mexico/#_ftnref2/) [<https://perma.cc/XZM3-VRSS>].

66. Segato, *supra* note 21, read at the table “Postcolonial and decolonial feminisms: other epistemologies” during the II Mesoamerican Meeting of Gender Studies and Feminisms, May 4–6, 2011, Guatemala City, <https://repositorio.ciem.ucr.ac.cr/bitstream/123456789/151/1/RCIEM132.pdf> [<https://perma.cc/976C-ED9F>] (“¿[D]ebemos englobar dentro de esta categoría [de femicidio] a todos los asesinatos de mujeres, sean domésticos, sean a manos de asesinos seriales, sean lo que he llamado “públicos”, o debemos seleccionar específicamente los “públicos” para que la categoría sea eficiente? Por supuesto que sería posible sostener que todos y cada uno de los crímenes de género tienen una dimensión de impersonalidad y antagonismo genérico emanada de la estructura de poder jerárquica y patriarcal.”) (trans. “Should we include within this category [of femicide] all murders of women, regardless of whether they were domestic, committed at the hands of serial killers, or supposedly done in ‘public’? Or should we specifically select the ‘public’ ones to be efficient? Of course it is possible to maintain that each and every gender-based crime has a dimension of impersonality and generic antagonism emanating from the hierarchical and patriarchal power structure.”) (English translation provided by the author).

67. Santiago Massolo, *La violencia contra la mujer. Entre lo público y lo privado*, 53 REVISTA IIDH 77, 80 (2011) <https://www.corteidh.or.cr/tablas/r26675.pdf> [<https://perma.cc/5U2Y-MSJ4>] (“[L]a familia es un ámbito que quedaría excluido de su eventual protección sin importar la afrenta a la dignidad humana involucrada en la violencia familiar.”) (English translation provided by the author).

68. See generally Segato, *supra* note 21.

69. Mujeres en Busca de Justicia, *Observaciones, Críticas Y Propuestas A La Ley N° 348 Ley Integral Para Garantizar A Las Mujeres Una Vida Libre De Violencia*, MUJERES CREANDO, AT 1, 7 (Dec. 2020), <https://mujerescreando.org/wp-content/uploads/2021/01/MODIF-Y-OBSERVAC..348-2020.pdf> [<https://perma.cc/96CQ-ZRRC>] (“[L]a violencia machista no solo está presente en el medio familiar privado, sino se evidencia también en lo público, donde los agresores no solamente son las parejas, sino se da en múltiples esferas donde se existen relaciones asimétricas de poder, como comunidades barrios, vecindarios, sindicatos, espacios educativos, ámbito laboral, etc.”) (English translation provided by the author).

70. Defensoría del Pueblo, *Ley Para Garantizar A Las Mujeres Una Vida Libre De Violencia N° 348*, at 1, 28 (2014), <https://www.defensoria.gob.bo/uploads/files/cartilla-ley-348-en-43-preguntas-y-respuestas.pdf> [<https://perma.cc/VJ3N-TGJK>] (“Cuando el autor sea o haya sido esposo, conviviente, novio, pareja, enamorado o tenga o haya tenido cualquier tipo de relación afectiva, aun sin convivencia.”) (English translation provided by the author).

who wield the vague neutrality of the law to enact strategic “counter-attacks” against their victims.<sup>71</sup>

As they pertain to the lives of women, legal distinctions between private and public matters are contradictory in theory and lethal in practice.<sup>72</sup> The inadequacy of femicide laws to properly define, prevent, and address gender-based violence ultimately affirms the continuity of patriarchal power. When power is understood as a form of domination, perhaps corruption and other legal violations should be analyzed not as abuses of power, but as yet further iterations of power’s brute impact. Indeed, for there to be an “abuse” of power would imply the *non*-abusive iteration of that power. Yet when patriarchy cements self-reinforcing institutions of power, those who commit and enable acts of corruption are not abusing their power but simply wielding it. The unrelenting silence and institutional inaptitude that has come to be attributed to the feminicide epidemic is therefore not an abuse of power—it is by design.

### B. How Discriminatory Corruption Exacerbates Gender-Based Violence

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*“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.”<sup>73</sup>*

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The connection between discriminatory corruption and gender-based violence 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.<sup>74</sup> In fact, law enforcement has been “consistently named by grassroots women” as wielding the most amount of corruption to the disadvantage of women.<sup>75</sup> Though gender-based discriminatory corruption can manifest in mundane ways, such as when law enforcement officials demand bribes in return for access to public

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71. Mujeres en Busca de Justicia, *supra* note 69, at 5–6 (“Pero, lamentablemente este artículo es utilizado por la mayoría de los agresores de mujeres para ejercer en su contra más violencia, bajo la estrategia de denunciarlas como contrataque, dando como resultado temor de las mujeres a ser sancionadas por el solo hecho de querer romper con el ciclo de violencia.”) (trans. “But, unfortunately, this article is used by the majority of women’s aggressors to exert more violence against them, under the strategy of denouncing them as a counterattack, resulting in women’s fear of being punished for the mere fact of wanting to break with the cycle of violence.”) (English translation provided by the author).

72. María de la Fuente Vázquez, *Ideas de poder en la teoría feminista*, 39 REVISTA ESPAÑOLA DE CIENCIA POLÍTICA 173, 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).

73. Morland & Pulice, *supra* note 1.

74. See Naomi Hossain, Jessica J. Hughes & Celestine Nyamu Musembi, *Corruption Accountability and Gender: Understanding the Connections*, U.N. DEV. PROGRAMME [hereinafter UNDP] & U.N. DEV. FUND FOR PEACE & SECURITY, at 12 (2010), <https://www.undp.org/sites/g/files/zskgke326/files/publications/Corruption-accountability-and-gender.pdf> [<https://perma.cc/XC97-YA78>].

75. Francisco Sebastián Sánchez Lay, *Gender and Corruption*, UNDP, at 13 (Feb. 28, 2019), [http://mddb.apec.org/Documents/2019/ACT/CF/19\\_act\\_cf\\_007.pdf](http://mddb.apec.org/Documents/2019/ACT/CF/19_act_cf_007.pdf) [<https://perma.cc/N4U4-AJQN>].

services, it can also be notably violent.<sup>76</sup> 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.<sup>77</sup> Discriminatory corruption has also been intertwined with the trafficking of women.<sup>78</sup> Corrupt police forces and other law enforcement agents have frequently been complicit in or actively facilitated human trafficking.<sup>79</sup> From sextortion to human trafficking, and ultimately femicide, violent attitudes toward women fuel corruption, undermining access to justice and rendering women’s bodies quite literally disposable.

An abundance of scholarship shows 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.<sup>80</sup> Corruption has also been shown to undermine subjective wellbeing, which may cause marginalized individuals to feel less risk averse and more likely to commit violence as their only available recourse.<sup>81</sup> Corruption is even more tellingly linked with permissive attitudes and perceptions of violence.<sup>82</sup> Therefore, individuals who engage in acts of corruption are more likely to view violence as justifiable.<sup>83</sup> Such generally lax attitudes toward 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,

76. See generally U.N. OFF. DRUGS & CRIME, *Gendered impacts of corruption*, <https://www.unodc.org/e4j/en/anti-corruption/module-8/key-issues/gendered-impacts-of-corruption.html/> [<https://perma.cc/Z73W-6G98>].

77. For further insight into sextortion, see Helen Lindberg & Helena Stensöta, *Corruption as Exploitation: Feminist Exchange Theories and the Link Between Gender and Corruption*, in GENDER AND CORRUPTION 3, 3–21 (Helena Stensöta & Lena Wängnerud eds., 2018), <https://content.e-bookshelf.de/media/reading/L-10910002-57d48c93a9.pdf/> [<https://perma.cc/LK4A-RQK8>]; 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/> [<https://perma.cc/NFM6-55V9>].

78. See Téllez, *supra* note 45.

79. See generally Bullock & Jenkins, *supra* note 43.

80. See Jeannie Annan & Moriah Brier, *The risk of return: Intimate partner violence in Northern Uganda’s armed conflict*, 70 SOC. SCI. & MED. 152, 157 (2010) (“Women also described concerns about corruption; only 2% reported on the survey that they would trust the police to help them.”) see also Robert Gillanders & Lisa van der Werff, *Corruption experiences and attitudes to political, interpersonal, and domestic violence*, 35 GOVERNANCE 167, 167–68 (2022) (“Police corruption can foster violence, particularly intimate partner violence, by deterring victims lacking in monetary or political resources from reporting crimes.”).

81. See Simeon Djankov, Elena Nikolova & Jan Zilinsky, *The happiness gap in Eastern Europe*, 44 J. COMPAR. ECON. 108, 109 (2016); see also Robert Gillanders, *Corruption and anxiety in Sub-Saharan Africa*, 17 ECON. GOVERNANCE 47, 48 (2016); Margit Tavits, *Representation, Corruption, and Subjective Well-Being*, 41 COMPAR. POL. STUD. 1607, 1607–12 (2008).

82. See generally Gillanders & van der Werff, *supra* note 80.

83. *Id.* at 168 (“[E]xperiencing corruption is a statistically significant predictor of attitudes to violence and that the magnitude of the association is meaningful. Respondents are 7% more likely to view political violence as justifiable if they have been exposed to corrupt public officials. We show that attitudes to interpersonal violence and domestic violence are also significantly associated with exposure to corruption. Respondents who have experienced corruption are approximately 3% more likely to feel that such violence is acceptable.”).



and the police.<sup>84</sup> Studies have shown a positive correlation between misogynistic attitudes and the acceptance of so-called “rape myths” that downplay the harms of abuse while placing blame on the victims.<sup>85</sup> 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.<sup>86</sup>

Misogynistic mentalities undermine justice by precluding victims from being taken seriously from the outset, as corrupt public servants already function under preconceived biases that 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.”<sup>87</sup> Jessica Echeverría, a Bolivian lawyer who represents families and victims of femicide, also noted the deterring effect of insensitive interviews and examinations, particularly when they force victims to relive their traumas while having their first-hand experiences called into question and challenged.<sup>88</sup> In the 2009 proceeding at the Inter-American Court of Human Rights regarding Ciudad Juárez (described in greater detail in the following subsection), the state conceded that “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.’”<sup>89</sup>

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84. See Harriet Wistrich, *Misogyny in the Criminal Justice System*, 93 POL. Q. 64, 65 (2022) (“[O]ur justice system, a system that mirrors our political system and its dominant male culture, continues to maintain and foster sexual stereotypes, and is resistant to change.”); see also Marisol Lila, Enrique Gracia & Fernando García, *Actitudes de la policía ante la intervención en casos de violencia contra la mujer en las relaciones de pareja: influencia del sexismo y la empatía*, 25 REVISTA DE PSICOLOGÍA SOCIAL 313, 315 (2010) (describing how police officers who maintain misogynistic or sexist attitudes tend to justify gender-based violence or blame the victim, and tend to have a greater inclination towards discouraging victims from pressing charges).

85. See Amy Dellinger Page, *Judging Women and Defining Crime: Police Officers' Attitudes Toward Women and Rape*, 28 SOCIO. SPECTRUM 389, 391 (2008) (“[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.”).

86. See Marisol Lila, Enrique Gracia & Fernando García, *Ambivalent sexism, empathy and law enforcement attitudes towards partner violence against women among male police officers*, 19 PSYCH., CRIME & L. 907, 908 (2012) (“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.”).

87. Vice News, *supra* note 32.

88. See 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/> [<https://perma.cc/3FP9-QZW3>].

89. 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 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, Inter-Am. Ct. H.R. (ser. C) No. 205, ¶ 152 (Nov. 16, 2009). [hereinafter Cotton Field Case].

Such disregard for the lives of women is further exacerbated by the predominance of hypermasculinity embedded within police culture.<sup>90</sup> Nigel Fielding described police culture as “an almost pure form of ‘hegemonic masculinity,’” embodying “patriarchal and misogynistic attitudes toward women.”<sup>91</sup> These patriarchal biases in turn induce law enforcement officials to blame victims and discount important evidence.<sup>92</sup> Indeed, the “pervasiveness of machismo culture” in Latin America has resulted in “reduced levels of priority for investigations of gender-based murders.”<sup>93</sup>

When violence against women is seen as a “lesser issue,” law enforcement officials are less likely to prioritize those investigations and more likely to cut procedural and ethical corners.<sup>94</sup> In such cases, officers are often more inclined to engage in bribe-seeking.<sup>95</sup> A study by Oxfam found that the Bolivian judicial system is especially manipulable by the money and power of defendants in cases of gender-based violence.<sup>96</sup> Further, the study found that male defendants receive, in most cases, more credibility than female victims.<sup>97</sup> Just as corruption fuels greater acceptance of violence, this Article argues that the reverse is therefore also true: Violent attitudes toward women fuel greater acceptance, or even the expectation, of corruption.

### C. Ciudad Juárez: An Intersectional Analysis of Discriminatory Corruption

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“It’s not just corruption, it’s also poverty.”<sup>98</sup>

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Of course, endemic corruption undermines investigations and prosecutions for all kinds of crimes, not just those against women. For example, the

90. Page, *supra* note 85, at 394; see also Frank Rudy Cooper, “Who’s the Man?”: Masculinities Studies, Terry Stops, and Police Training, 18 COLUM. J. GENDER & L. 671, 680 (2009) (describing how “basic police practices of enacting command presence and punishing disrespect express masculine impulses”).

91. Nigel Fielding, *Cop Canteen Culture*, in JUST BOYS DOING BUSINESS? 46, 47 (Tim Newburn & Elizabeth A. Stanko eds., 1994).

92. See Thomas Becker, “No Justice For Me” Femicide and Impunity in Bolivia, HARV. L. SCH. INT’L HUM. RTS. CLINIC, at 20–21 (2019), <http://hrp.law.harvard.edu/wp-content/uploads/2019/03/No-Justice-for-Me.pdf> [<https://perma.cc/TV7U-PHZZ>].

93. *Exploring the Legal Context of Femicide in Mexico*, JUSTICE IN MEXICO (June 12, 2020), <https://justicemexico.org/legal-context-femicide-mexico/> [<https://perma.cc/X66K-A4E4>].

94. Ari Medina, *The growing epidemic of femicide and impunity*, GLOBAL CITIZEN (Nov. 5, 2015), <https://www.globalcitizen.org/en/content/growing-epidemic-of-femicide-and-impunity/> [<https://perma.cc/7WS8-4DR7>] (“Impunity for femicide is routine because violence against women is viewed as a lesser issue.”)

95. See generally J. Octavio Gutierrez-García & Luis-Felipe Rodríguez, *Social determinants of police corruption: toward public policies for the prevention of police corruption*, 37 POL’Y STUD. 216–35 (2016) (identifying a positive correlation between propensity towards corruption and the societal exclusion of women); see also Rebecca Grant, *How To Get Women To Trust The Police? ‘Gender’ Desks*, NPR (Aug. 15, 2018) <https://www.npr.org/sections/goatsandsoda/2018/08/15/638872938/how-to-get-women-to-trust-the-police-gender-desks/> [<https://perma.cc/S45T-U2RL>] (describing the experiences of female victims with law enforcement dismissing their cases and requesting bribes in return for their services).

96. See Oxfam, *Violencia contra las mujeres. Entre avances y resistencia. Estudio en tres ciudades de Bolivia*, at 189 (last visited Mar. 2, 2024), [https://www.academia.edu/27222103/Violencia\\_contra\\_las\\_mujeres\\_Entre\\_avances\\_y\\_resistencias\\_Estudio\\_e](https://www.academia.edu/27222103/Violencia_contra_las_mujeres_Entre_avances_y_resistencias_Estudio_e) [<https://perma.cc/8PUE-4785>].

97. See *id.* at 191.

98. Interview with Thomas Becker, *supra* note 60.

double-edged effect of discriminatory corruption gravely affects members of the LGBTQ+ community, particularly when homosexuality is not only stigmatized, but explicitly criminalized.<sup>99</sup> 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 smoke-screen for political corruption.”<sup>100</sup>

The lens of femicide illuminates the intersecting ways that corruption discriminates across race, class, and gender. Many political, legal, and financial systems of patriarchal dominance in Latin America come from the legacy of Spanish colonization and conquest over indigenous communities.<sup>101</sup> 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.”<sup>102</sup> Therefore, although femicide is normatively understood to predominantly affect women, the necessity of an intersectional approach to its analysis and subsequent response cannot be understated.

Encapsulating the multifaceted forces driving discriminatory corruption is the case of Ciudad Juárez, a city known as both “the laboratory of our future”<sup>103</sup> as well as the “capital of murdered women.”<sup>104</sup> Located across the border from El Paso, Texas, Ciudad Juárez has become emblematic of the brutal slaying of women.<sup>105</sup> Between 1993 and 2008, hundreds of mutilated bodies—most 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

99. See generally Victoria Abut, *Corruption's Queer History: Stonewall's Seedy Underside*, GLOB. ANTICORRUPTION BLOG (June 6, 2022), <https://globalanticorruptionblog.com/2022/06/06/corruptions-queer-history-stonewalls-seedy-underside/> [https://perma.cc/X5BD-E7TQ]; see also Victoria Abut, *Bribe to Survive: Sextortion and LGBTQ Discrimination*, Glob. Anticorruption Blog (June 13, 2022), <https://globalanticorruptionblog.com/2022/06/13/bribe-to-survive-sextortion-and-lgbtq-discrimination/> [https://perma.cc/HUE2-AJPT].

100. Bullock & Jenkins, *supra* note 43, at 1.

101. David Pavón-Cuéllar, *Violencia colonial y daño subjetivo en el presente Latinoamericano*, in SUJETOS Y CONTEXTOS DE LAS VIOLENCIAS EN AMÉRICA LATINA: APORTE TEÓRICOS Y EVIDENCIAS EMPÍRICAS 27, 38 (Germán Alejandro García Lara, Óscar Cruz Pérez & Jesús Ocaña Zúñiga eds., 2020) (“La europeización fue también una patriarcalización, una consolidación del machismo, una exacerbación de la violencia estructural de género.”) (trans. “Europeanization was also a patriarchalization, a consolidation of machismo, an exacerbation of structural gender violence.”).

102. Jane Miller, *Femicides in Mexico: The War on Women*, DEMOCRATIC EROSION CONSORTIUM (Dec. 15, 2020), <https://hir.harvard.edu/indigenous-women-victims-of-femicide-in-mexico/> [https://perma.cc/4ULA-54TG].

103. See generally CHARLES BOWDEN, JUÁREZ: THE LABORATORY OF OUR FUTURE (1998).

104. Evelyn Nieves, *To Work and Die in Juarez*, MOTHER JONES (May/June, 2002), <https://www.motherjones.com/politics/2002/05/work-and-die-juarez/> [https://perma.cc/SDQ7-JTV8].

105. In his novel titled “2666,” based largely on the lore of violence surrounding Ciudad Juárez, writer Roberto Bolaño begins with an epigraph from Charles Baudelaire, whereby Ciudad Juárez is an “Oasis of Horror in a Desert of Boredom.” Ryan J. Meehan, *The Topography of Hell: Roberto Bolaño's '2666'*, HARV. CRIMSON (Dec. 4, 2009), <https://www.thecrimson.com/article/2009/12/4/2666-novels-bolaos-section/> [https://perma.cc/DYJ3-L273]; see also Alicia Gaspar de Alba & Georgina Guzman, *Feminicidio: The “Black Legend” of the Border*, in MAKING A KILLING: FEMICIDE, FREE TRADE, AND LA FRONTERA 1, 1 (Alicia Gaspar de Alba & Georgina Guzman eds., 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.”).

station.<sup>106</sup> 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. Here, the Court found that Mexico had violated its human rights obligations to adequately prevent, investigate, and prosecute the killing of three young women.<sup>107</sup> The Court rendered its assessment within the broader context of the widespread disappearances of women in the border town.<sup>108</sup>

The femicide epidemic in Juárez, beyond its sheer scale, was also notable for its direct ties with race, class, and labor under globalized capitalism.<sup>109</sup> It was not until shortly after the North American Free Trade Agreement entered into force, thus expanding the free trade zone along Mexico's northern border, that the femicide rate in Juárez began to soar.<sup>110</sup> 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 goods such as automobiles for export.<sup>111</sup> The working conditions at these plants were brutal, consisting of long hours, minimal pay, and callus-inducing physical labor. Moreover, male supervisors would frequently demand sexual favors from their female subordinates in return for "(promises of) advancement."<sup>112</sup> The working-class female victims of the Ciudad Juárez murders thus suffered the same level of neglect—informed by hegemonic notions of race, class, and gender—in death as they did in life.

Ultimately, the tragic deaths of the women of Juárez represent 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."<sup>113</sup> 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.

106. de Alba & Guzmán, *supra* note 105, at 3.

107. Cotton Field Case, 2009 Inter-Am. Ct. H.R. ¶¶ 402, 602(6).

108. 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.* ¶ 121.

109. See Deborah M. Weissman, *The Political Economy of Violence: Toward an Understanding of the Gender-Based Murders of Ciudad Juarez*, 30 N.C. J. INT'L L. 795, 798 (2005) ("The impact 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.").

110. See, e.g., Debbie Nathan, *Work, Sex, and Danger in Ciudad Juarez*, NACLA (Sept. 25, 2007), <https://nacla.org/article/work-sex-and-danger-ciudad-juarez/> [https://perma.cc/G3SW-Y2HT].

111. de Alba & Guzmán, *supra* note 105, at 1.

112. Steven S. Volk & 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 121, 127 (Alicia Gasper de Alba & Georgina Guzmán eds., 2010).

113. 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, *supra* note 112, at 25, 52.

## II. FEMINICIDE AND CORRUPTION

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*“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.”*<sup>114</sup>

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This Section closely examines how 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 investigative ineptitude and judicial apathy that define the femicide epidemic is not only itself the result of corruption, but also further precludes victims from accessing the justice system. Third, the personal and political ties of the accused, often reinforced by notions of hypermasculine camaraderie, ensure that those with power remain immune from the law. What these themes consequently elicit 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 ties femicide together with corruption is the understanding of patriarchal power as intrinsically violent. Within patriarchy, 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*

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*“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.”*<sup>115</sup>

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Following the news that bribery and fraud enabled the reign of terror of serial rapist and murderer Richard Choque Flores,<sup>116</sup> the Bolivian Minister of Government announced that a commission had been established to investigate a whopping 135 cases involving perpetrators of the murder and aggravated assault of women.<sup>117</sup> Already, the commission has resentenced twenty-one perpetrators and placed fifteen judges on trial for corruption charges involving

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114. Andalusia Knoll, *Justice Is Scarce for Female Murder Victims in the State of Mexico*, VICE NEWS (Apr. 30, 2014, 4:50 PM), <https://www.vice.com/en/article/kz5pjn/justice-is-scarce-for-female-murder-victims-in-the-state-of-mexico/> [<https://perma.cc/M25C-3435>].

115. *Id.*

116. See *supra* Prologue.

117. *Femicidio, Infanticidio y violación son delitos imprescriptibles en Bolivia*, BAE NEGOCIOS (July 4, 2022, 10:10 PM), <https://www.baenegocios.com/mundo/Femicidio-Infanticidio-y-violacion-son-delitos-imprescriptibles-en-Bolivia-20220704-0143.html/> [<https://perma.cc/8GUU-5U73>].

improper sentencing in violent gender-based crimes.<sup>118</sup> Further, the commission has detained three judges, including the judge who oversaw the Choque Flores case, for bribery.<sup>119</sup> However, *Mujeres Creando*, a feminist collective in La Paz, has demonstrated that these developments, though certainly in the right direction, are still only a drop in the bucket toward the systemic reforms required.<sup>120</sup> According to María Galindo, founder of *Mujeres Creando*, “what Richard Choque shows is that the central problem is state corruption.”<sup>121</sup>

Even when a perpetrator is found guilty, those responsible for enforcing accountability simply do not consider the crimes 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 prosecuting crimes, thereby undermining investigative procedures.<sup>122</sup> In Bolivia, 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.<sup>123</sup> Delay tactics utilized under *chicana judicial* include “frivolous motions, unreasonable paperwork, or other delays in order to favor one of the parties.”<sup>124</sup> As a result of *chicana judicial*, “affluent defendants pay for justice networks that include bribed lawyers, judges and/or prosecutors . . . to secure an acquittal.”<sup>125</sup>

With bribery so normalized, victims’ families repeatedly find that their cases will not be resolved unless they themselves bribe investigators with cash.<sup>126</sup> For many families, however, this expectation that they provide law enforcement with additional financial incentives is simply untenable. Liliana Sánchez describes the heavy economic burden imposed by the disappearance of her daughter, María de Lourdes Martínez Sánchez.<sup>127</sup> In addition to suffering

118. *Id.*

119. *Id.*

120. *Mujeres Creando* has denounced over 240 feminicides, rapists, and justice officials complicit in perpetuating the femicide crisis in Bolivia, thereby indicating there is still much more to be done to hold corrupt officials accountable. See *Hay 9 tipos de abuso judicial contra víctimas de violencia*, MUJERES CREANDO (last visited Mar. 2, 2024), <https://mujerescreando.org/mujeres-creando-hay-9-tipos-de-abuso-judicial-contra-victimas-de-violencia/> [https://perma.cc/SV56-ETKK].

121. Thomas Graham, *Bolivia’s corrupt system failed to stem femicide. Now, feminists are fighting back*, THE GUARDIAN (June 28, 2022, 5:15 AM), <https://www.theguardian.com/global-development/2022/jun/28/bolivia-femicide-violence-feminists/> [https://perma.cc/G8YP-EHK7].

122. Open Soc’y Just. Initiative, *Corruption that Kills: Why Mexico Needs an International Mechanism to Combat Impunity*, at 43 (2018), <https://www.justiceinitiative.org/uploads/5071ab37-003f-003f-46b1-9e1f-700bbdae34a3/corruption-that-kills-en-20180502.pdf> [https://perma.cc/R2WJ-JJ83].

123. *Auditoría internacional desnuda falencias de la justicia en casos de femicidio en Bolivia*, EL PAÍS (Mar. 21, 2019, 2:16 PM), [https://elpais.bo/nacional/20190321\\_auditoria-internacional-desnuda-falencias-de-la-justicia-en-casos-de-femicidio-en-bolivia.html](https://elpais.bo/nacional/20190321_auditoria-internacional-desnuda-falencias-de-la-justicia-en-casos-de-femicidio-en-bolivia.html) [https://perma.cc/X74F-T2AN].

124. Becker, *supra* note 92, at 17.

125. *Id.*

126. Interview with Thomas Becker, *supra* note 60 (“If they didn’t pay, it didn’t happen.”).

127. Tanya Guerrero, *A un año de femicidio familiares no tienen apoyo*, EL GRÁFICO (Jan. 21, 2020, 10:04 AM), <https://www.elgrafico.mx/ni-una-menos/un-ano-de-femicidio-familiares-no-tienen-apoyo/> [https://perma.cc/736D-GSWJ].



from debilitating pre-existing health conditions,<sup>128</sup> Liliana struggled to provide enough food for herself and her four orphaned grandchildren, for whom she now assumes full caretaking responsibility.<sup>129</sup> Thus, when faced with the choice between “whether to eat that day or using the money to pay for transportation to the prosecutor’s office, the answer is obvious.”<sup>130</sup> However, Liliana would soon discover that transportation was not the only cost she had to cover to ensure the proper management of her daughter’s case: The first investigator assigned to her daughter’s case demanded money to continue his investigation.<sup>131</sup> Unable to make these additional payments, Liliana has since collided with an apathetic law enforcement apparatus entirely unwilling to find justice for her daughter, let alone give her support in raising the four orphaned children left behind.<sup>132</sup>

Liliana’s case is by no means an anomaly.<sup>133</sup> In numerous femicide cases, victims’ families have been expected to cover the significant costs of the investigations themselves, including the costs of transportation for forensic analysts as well as for supplies and internal administrative paperwork.<sup>134</sup> Either because of insufficient resources or mere apathy among investigators, victims seeking justice must therefore absorb costs that police departments should be absorbing. In other words, justice is available only for a price. As the mother of a victim in Ciudad Juárez reported, “[w]e were told by one police officer that they

128. Liliana has diabetes, arthritis, and has lost seventy percent of her vision. See Angélica Jocelyn Soto Espinosa, *Exigen procuración de justicia mujeres de Ixtapaluca*, CIMACNOTICIAS (Mar. 8, 2021) <https://cimacnoticias.com.mx/2021/03/08/exigen-procuracion-de-justicia-mujeres-de-ixtapaluca/#gsc.tab=0> [<https://perma.cc/24WB-M678>].

129. Nancy Gómez, *Feminicidio de María de Lourdes no avanza en Edomex; familia exige justicia por sus 4 hijos*, SDPNOTICIAS (May 13, 2020, 2:10 PM), <https://www.sdpnoticias.com/local/edomex/maria-de-lourdes-martinez-sanchez-feminicidio-ixtapaluca-edomex-febrero-2019.html/> [<https://perma.cc/S8UX-JBPB>].

130. Paola Sánchez Castro, *A Lulú la asesinaron y arrojaron a un desagüe, dejó 4 huérfanos y las autoridades pidieron dinero para investigar*, EL HERALDO DE MÉXICO (May 20, 2021, 6:03 PM), <https://heraldodemexico.com.mx/nacional/2021/5/20/lulu-la-asesinaron-arrojaron-un-desage-dejohuerfanos-las-autoridades-pidieron-dinero-para-investigar-298002.html/> [<https://perma.cc/U68H-THUJ>]. (English translation provided by the author).

131. *Id.* (“Los funcionarios que llevan el caso de su hija le han pedido dinero, ‘el primer investigador era un corrupto, me pidió dinero, le dio carpetazo y me dijo que ellos comían, que necesitaban gasolina.”) (trans. “The officials overseeing her daughter’s case demanded money, ‘the first investigator was corrupt, he demanded money, he put an end to the investigation and said they needed to eat, they needed gas.”) (English translation provided by the author).

132. Espinosa, *supra* note 128 (describing how the Mexican government had failed to provide Liliana and her orphaned grandchildren support with regards to supplying food, education, or psychological care).

133. Another emblematic case is that of Marisela Escobedo. See *infra* Part III.B; Angélica Saharaí Nava Contreras, *¿Qué pasa después de un feminicidio?*, CENTRO DE INVESTIGACIÓN Y DOCENCIA ECONÓMICAS, at 42–43 (2022) (describing how Marisela Escobedo assumed the sole responsibility of leading the investigation of her daughter’s murder after the authorities in Chihuahua declined to take the case, upon which Marisela spent countless days as well as paid substantial monetary sums to find her daughter’s murderer).

134. EL PAÍS, *supra* note 123.

would look into my daughter's case a little more closely if we could provide him an incentive."<sup>135</sup>

Although no reliable study exists to quantify the extent of such bribe-seeking behavior in either Mexico or Bolivia, initial studies by *Mujeres Creando* confirm that such practices are widespread.<sup>136</sup> 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.<sup>137</sup> Unless victims and families are willing to pay hefty sums for investigations, law enforcement will likely not take their claims seriously or investigate them at all.<sup>138</sup> Even then, families are often unsuccessful in finding justice for their daughters.<sup>139</sup> 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."<sup>140</sup> In sum, cash infusions alone are not 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 USD \$3,500.<sup>141</sup> In another case, a man accused of femicide offered police officers 500 Mexican pesos and two cell phones in exchange for his freedom.<sup>142</sup> In contrast, victims and families in Bolivia have spent anywhere from USD \$5,000 to USD \$25,000 in the investigations and adjudications for their cases.<sup>143</sup> 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 often glaringly mismanaged.

135. Kathleen Staudt & Irasema Coronado, *Binational Civic Action for Accountability: Antiviolence Organizing in Ciudad Juárez/El Paso*, in *MAKING A KILLING*, *supra* note 112, at 157, 161 (citing field notes from between 2002 and 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).

136. Interview with Paola Gutiérrez, Social Worker and Activist, *Mujeres Creando* (Mar. 2023).

137. For more information about the hotline, see *El Hueco En El Muro: Mujeres En Busca De Justicia, Una Lucha Colectiva. Entrevista A Paola Gutiérrez (Mujeres Creando)*, *LOS MUROS* (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/> [<https://perma.cc/2DXZ-JWXL>].

138. *Vice News*, *supra* note 32.

139. Between 2016 and 2021, the impunity rate for femicide investigations in Mexico was 56.6%. Impunidad Cero, *Impunidad en Homicidio Doloso y Femicidio 2022*, at 27 (2022), <https://www.impunidad-cero.org/uploads/app/articulo/175/contenido/1669895146115.pdf> [<https://perma.cc/CZ7N-UWS9>].

140. Knoll, *supra* note 114.

141. *See supra* Prologue.

142. Grupo REFORMA, *Procesan a presunto feminicida por intento de soborno*, *MURAL* (July 9, 2023, 1:21 PM), <https://www.mural.com.mx/procesan-a-presunto-feminicida-por-intento-de-soborno/ar2637189/> [<https://perma.cc/3YB6-C2CJ>].

143. Becker, *supra* note 92, at 16.

B. *Deliberate Mismanagement Disguised as Incompetence*

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“No one ever knows where this incompetence ends . . . and where the collusion or interference with investigations begins.”<sup>144</sup>

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The documentary film *Señorita Extraviada* focuses on the grim first-hand experiences of the victims in Ciudad Juárez.<sup>145</sup> One family member describes requesting DNA tests on a body that reportedly belonged to her missing sister: “They exhumed the wrong body . . . When I asked the prosecutor [about this discrepancy], he said it was just a small typo.”<sup>146</sup>

As the murders in Ciudad Juárez gained greater global recognition, the glaring mismanagement of their investigations has attracted great scrutiny.<sup>147</sup> 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 treated the victims’ clothing and remains.<sup>148</sup> 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.<sup>149</sup> Rather than provide crucial information, “the files showed a pattern of un-interest, lack of effort, and/or inability to identify the victims, to classify and analyze evidence, or to conduct forensic tests.”<sup>150</sup>

Improper implementation of requisite protocols also undermines femicide investigations. For example, autopsies are often carried out after significant delays, and investigators often fail to collect or properly store important evidence.<sup>151</sup> Moreover, police files are frequently riddled with errors and left incomplete.<sup>152</sup> Such investigative mismanagement directly correlates with

144. Gabriel Moysen, *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/> [<https://perma.cc/AF3H-Q99Z>].

145. SEÑORITA EXTRAVIADA (Xochitl Productions 2001).

146. *Id.*

147. Ariola, *supra* note 113, 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 & Paulina Olivares Hernandez, *Responding to Femicide: From #NiUnaMas to #MeToo*, 34 BERKELEY LATINE J.L. & POL’Y (forthcoming 2024) (“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.”).

148. Staudt & Coronado, *supra* note 135, at 161.

149. Clara E. Rojas, *The V-Day March in Mexico: Appropriation and Misuse of Local Women’s Activism*, in MAKING A KILLING, *supra* note 112, at 201, 201–02 (citing ADRIANA CANDIA ET AL., EL SILENCIO QUE LA VOZ DE TODAS QUIEBRA: VIOLENCIA Y VICTIMIZACIÓN EN CIUDAD JUÁREZ (1999)).

150. *Id.*

151. Becker, *supra* note 92, at 10–13.

152. *See, e.g.*, MARTHA ESTELA PÉREZ GARCÍA, LUCHAS DE ARENA: LAS MUJERES EN CIUDAD JUÁREZ 172–74 (2011).

corruption. Many investigators in Bolivia not only completely lack training and prior expertise, but have themselves been hired through bribery, as “personal favors.”<sup>153</sup>

Rampant mismanagement also erodes any remaining trust in law enforcement, leading many families to believe that the investigatory incompetence is intentional.<sup>154</sup> Consider the testimony of Lidia Florencio, who describes her daughter’s corpse being falsely registered as male: “Imagine our horror, they did not even register her as a woman, when they found her, they registered her as male.”<sup>155</sup> This ineptitude may have been malicious—if a body is incorrectly classified, officials can evade the requisite protocols that accompany femicide investigations, ensuring that the search is unresolved and archived.<sup>156</sup> In another example, a family received a threatening message telling them to drop their case, and “the caller identification showed that the state judicial police number was the source.”<sup>157</sup> The distrust families have developed for law enforcement has led to a “do it yourself” dynamic, wherein families of victims assume the responsibility of conducting searches, gathering evidence, and even securing the scenes of the crime.<sup>158</sup>

As the tragic story of Marisela Escobedo demonstrates, however, families taking it upon themselves to seek justice for their loved ones risk putting their own lives in danger.<sup>159</sup> Following the disappearance of her daughter, Rubí Marisol Frayre Escobedo, Marisela Escobedo singlehandedly undertook an exhaustive investigation, which she conducted “without the help of police . . . [who] barely lifted a finger.”<sup>160</sup> This relentless investigation led to Marisela finally locating her daughter’s suspected murderer, Sergio. As Marisela’s son recounts, “my mom was the one who found him. It wasn’t the authorities. It was all her, thanks to

153. Becker, *supra* note 92, at 15.

154. Staudt & Coronado, *supra* note 135, at 161.

155. Brenda Vivian Rico Rios, *El largo camino a la justicia: familiares de víctimas de feminicidio ante la maquinaria legal*, 1 REVISTA DE CIENCIAS SOCIALES DE LA UNIVERSIDAD IBEROAMERICANA 1, 27 (May 3, 2021) (“[I]magínate que horror, ni siquiera estaba registrada como mujer, cuando la encontraron la registraron como hombre”) (English translation provided by the author).

156. Nicole Chavez & Rikki Klaus, *Shanquella Robinson death being investigated as femicide. Here is what it means*, ABC 7 NEWS (Nov. 30, 2022), [https://abc7news.com/what-is-femicide-meaning-update-shanquella-robinson-mexico/12511385/#:~:text=In%20most%20countries%2C%20femicide%20is,years%20in%20prison%20if%20convicted/\[https://perma.cc/3Z89-MYDV\]](https://abc7news.com/what-is-femicide-meaning-update-shanquella-robinson-mexico/12511385/#:~:text=In%20most%20countries%2C%20femicide%20is,years%20in%20prison%20if%20convicted/[https://perma.cc/3Z89-MYDV]) (“[W]hen a femicide isn’t classified legally for what it is, police cannot investigate properly.”).

157. Staudt & Coronado, *supra* note 135, at 161.

158. Angélica Saharaí Nava Contreras, *¿Qué afrontan las familias de las víctimas de feminicidio?*, NEXOS (July 28, 2022), <https://anticorruccion.nexos.com.mx/que-afrontan-las-familias-de-las-victimas-de-feminicidio/> [https://perma.cc/XV3C-T88P]. Consider the story of Laura Curiel, who recalls being told by a police officer in charge of her daughter’s investigation: “the people who look for them are you, the people who raised the complaint, [...] because the police officer assigned to your case is working on other things.” *Id.* (“A ver, señora, las personas que la van a buscar son ustedes, las personas que levantaron la denuncia, [...] porque el policía que le asignaron me está ayudando en otras cosas.”) (English translation provided by the author).

159. See Georgina Jiménez & Bianca Ferrari, *Her Child Was Killed. Then She Was Assassinated Investigating the Murder*, VICE NEWS (Nov. 15, 2020, 5:00 AM), <https://www.vice.com/en/article/889wbz/the-three-deaths-of-marisela-escobedo-documentary/> [https://perma.cc/3YC5-X5E6].

160. *Id.*

her research.”<sup>161</sup> Marisela did not just invest her time and energy finding her daughter, however. Indeed, Marisela paid a bribe to obtain Sergio’s phone number, which allowed her to track him down.<sup>162</sup>

Once in custody, Sergio confessed to the murder, and even led Marisela and law enforcement agents to the precise location where he buried Rubí.<sup>163</sup> Nevertheless, a court still acquitted him due to a purported lack of evidence.<sup>164</sup> By the time an appeals court convicted him, Sergio was once again at large.<sup>165</sup> Even after Marisela located him a second time, law enforcement “botched the arrest, because they didn’t care.”<sup>166</sup> According to her son, Sergio was able to escape the unsuccessful arrest attempt after the police intentionally failed to call for sufficient backup, because they wanted to claim the cash reward for capturing Sergio. Ironically, the police “couldn’t even claim the reward, because that was their job.”<sup>167</sup> Marisela’s son suggests a perhaps more insidious reason for their ineptitude—that Sergio was affiliated with the Zetas criminal organization.<sup>168</sup> “Everyone knows that there’s an arrangement between the authorities and criminal organizations. At that point, we stopped getting any kind of support.”<sup>169</sup>

Incensed by the repeated failures of law enforcement to capture her daughter’s murderer, Marisela continued to advocate fearlessly for justice.<sup>170</sup> Because of her courageous and unrelenting crusade, Marisela was murdered on December 8, 2010, in front of the Government Palace of Chihuahua.<sup>171</sup> In Marisela’s case, as with so many others, the deliberate mismanagement of law enforcement investigations goes far beyond mere bureaucratic incompetence. To seek justice for her daughter, Marisela not only had to sacrifice her money, time, and dignity—she ultimately sacrificed her life.

161. Jiménez & Ferrari, *supra* note 159.

162. *Id.* Marisela’s son said in an interview, “Someone sold the information to my mom. The phone number of the house he was living in.”

163. Contreras, *supra* note 133, at 52.

164. Olivia Torres, *Family’s triple tragedy highlights Mexico impunity*, SAN DIEGO UNION TRIB. (Dec. 21, 2010, 12:41 PM), <https://www.sandiegouniontribune.com/sdut-family-s-triple-tragedy-highlights-mexico-impunity-2010dec21-story.html> / [https://perma.cc/Y35T-55JQ].

165. *Eleventh anniversary of the murder of Marisela Escobedo Ortiz “The shame of the Government”*, CENTRO DE DERECHOS HUMANOS DE LAS MUJERES A.C. [hereinafter CEDEHM] (Dec. 16, 2021), <https://cedehm.org.mx/en/2022/01/18/eleventh-anniversary-of-the-murder-of-marisela-escobedo-ortiz-the-shame-of-the-government/> [https://perma.cc/26TK-BA9F].

166. THE THREE DEATHS OF MARISELA ESCOBEDO (Netflix 2019).

167. *Id.*

168. *Los Zetas: la organización criminal que terminó con la vida de Maricela Escobedo y mantiene en la cárcel al Teniente Francisco Soto*, INFOBAE (Nov. 7, 2020, 3:46 PM) <https://www.infobae.com/america/mexico/2020/11/07/los-zetas-la-organizacion-criminal-que-termino-con-la-vida-de-maricela-escobedo-y-mantiene-en-la-carcel-al-teniente-francisco-soto/> [https://perma.cc/WE7D-QSUB].

169. THE THREE DEATHS OF MARISELA ESCOBEDO, *supra* note 166.

170. Following the initial acquittal of her daughter’s murderer, Marisela would lead daily marches. In one march, she and other activists dressed up as clowns, saying “what we saw was a circus; we were the clowns, and they were the ones who got the last laugh.” See Grillonautas2, *Recuento de la lucha de Marisela Escobedo Ortiz*, YOUTUBE (Apr. 29, 2012), <https://www.youtube.com/watch?v=SmFDP0wpEho&t=411s/> [https://perma.cc/5DWQ-FXX6]. In another, Marisela marched naked, wearing nothing but a photo of her daughter. “They left me naked, with no guarantees, no rights. They stripped me of the right to defend my daughter.” THE THREE DEATHS OF MARISELA ESCOBEDO, *supra* note 166.

171. CEDEHM, *supra* note 165.

C. *He's One of Us*

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“(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.’”<sup>172</sup>

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On June 29, 2010, Mariana Lima Buendía’s husband, Julio César Hernández Ballinas, called his mother-in-law, Irinea Buendía. He said her daughter was dead and it was a suicide.<sup>173</sup> He worked in Chimalhuacán, Mexico, as a police officer.<sup>174</sup> 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 suicide. 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.<sup>175</sup>

However, Irinea suspected “from the beginning” that her daughter was murdered by her husband.<sup>176</sup> 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 he pointed the gun at her [and] accused her of stealing money.”<sup>177</sup> 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.”<sup>178</sup> Victims are often discouraged from reporting their abusers, particularly when those abusers have direct ties with law enforcement, as they are led to believe that they will simply be ignored.<sup>179</sup> 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 evokes the perverse relationship between abuse of authority and gender-motivated violence writ large. When the weapons that abusers use to

172. Irinea Buendía, ‘My daughter did not commit suicide. Here’s how I proved that her husband killed her’, UNIVISONNEWS (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/> [<https://perma.cc/2KGE-S99Q>].

173. *The long road to justice, prosecuting femicide in Mexico*, U.N. WOMEN (Nov. 29, 2017), <https://www.unwomen.org/en/news/stories/2017/11/feature-prosecuting-femicide-in-mexico#notes/> [<https://perma.cc/4JT8-2T2G>].

174. Irinea Buendía, *supra* note 172.

175. *Id.*

176. *Id.*

177. *Sentenced to 70 years the femicide of Mariana Lima, the woman who changed justice in Mexico*, RIVAL TIMES (Mar. 14, 2023), <https://rivaltimes.com/sentenced-to-70-years-the-femicide-of-mariana-lima-the-woman-who-changed-justice-in-mexico/> [<https://perma.cc/YUX6-MXJD>].

178. Irinea Buendía, *supra* note 172.

179. 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 to as “Officer-involved domestic violence.” See Philip M. Stinson & John Liederbach, *Fox in the Henhouse: A Study of Police Officers Arrested for Crimes Associated with Domestic and/or Family Violence*, 6 CRIM. JUST. FAC. PUB. 1, 1 (2013).



enact such violence are supplied by the state in furtherance of their positions as law enforcement agents, they function as reminders of the authority men wield to subjugate their victims to violence.

Tragically, stories like Mariana Lima Buendía's are far too common.<sup>180</sup> As with Mariana's case, Frida Santamaria Garcia's murder was also initially treated as a suicide.<sup>181</sup> It was only after Frida's boyfriend, Juan Paulo, confessed to her murder, that charges were brought against him by the public prosecutor's office at all. And yet, even despite his confession, the attorney general's office's investigation of Frida's murder "was not carried out correctly, neither in substance, nor in form."<sup>182</sup> Notably, Juan Paulo was charged only with involuntary homicide, which carries a far more lenient sentence than femicide.<sup>183</sup> As it turns out, Juan Pablo is the son of the former mayor of Sahuayo city, Alejandro Amezcua Chavez, himself the brother-in-law of Alfredo Inaya, a former secretary of economic development in the cabinet of the governor of Michoacán state.<sup>184</sup> 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 the charges for this crime."<sup>185</sup> In sum, justice operates entirely differently when the accused is a member of the political or prosecutorial elite.<sup>186</sup>

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180. 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 that she committed suicide. Authorities, who eventually ruled the death a femicide, took two years to apologize. See Morland & Pulice, *supra* note 1.

181. 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/> [https://perma.cc/NF7L-5PZS].

182. *Id.*

183. Involuntary homicide in Mexico typically carries a sentence of three to six years, whereas femicide carries a sentence between forty to sixty years. See *Homicidio involuntario—Derecho Penal*, CONCEPTOS JURÍDICOS, <https://www.conceptosjuridicos.com/mx/homicidio-involuntario/#:~:text=Art%C3%ADculo%2060%20del%20C%C3%B3digo%20Penal,%2C%20autorizaci%C3%B3n%2C%20licencia%20o%20permiso/> [https://perma.cc/96TM-MBHW]; see also *¿Cuál es la diferencia entre feminicidio y homicidio en México?*, NMAS, (Mar. 3, 2023, 2:42 PM) <https://www.nmas.com.mx/nacional/cual-es-la-diferencia-entre-feminicidio-y-homicidio-en-mexico/> [https://perma.cc/9UWK-WA5X].

184. *Id.*; Rouquette, *supra* note 181.

185. Rouquette, *supra* note 181.

186. Consider also the recent announcement by a Mexican anti-corruption agency of an investigation into the alleged cover up by the state attorney's office in Morelos of the murder of Ariadna Lopez. See Morland & Pulice, *supra* note 1.

## III. CONCLUSION

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*"The solution does not lie within the law. We must find other mechanisms."<sup>187</sup>*



*Graffiti on a wall in La Paz, Bolivia, says: "A feminazi is someone who kills a woman—Mujeres Creando."<sup>188</sup>*

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Before her husband murdered her, Mariana Lima Buendía was studying to become a lawyer.<sup>189</sup> In 2015, her name was at the center of a landmark Mexican Supreme Court decision, which held that all female homicides must be investigated “from a gender perspective” as possible femicides.<sup>190</sup> After years of insidious impunity, wherein countless deaths—including Mariana’s—were apathetically written off as suicides, this decision represented an important

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

188. Photo taken by the author.

189. For more information about the Mariana Lima Buendía case, see generally Karla I. Quintana Osuna, *El Caso De Mariana Lima Buendía: Una Radiografía Sobre La Violencia y Discriminación Contra La Mujer*, 38 CUESTIONES CONSTITUCIONALES: REVISTA MEXICANA DE DERECHO CONSTITUCIONAL (2018), <https://revistas.juridicas.unam.mx/index.php/cuestiones-constitucionales> [https://perma.cc/8WFE-52PW].

190. Carlos Navarro, *Supreme Court Landmark Decision Could Transform Investigations of Violence Against Women*, LATIN AM. DATABASE, 2 (2015), <https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=7154&context=sourcemex> [https://perma.cc/323S-UV7V].

step forward in eradicating the femicide epidemic.<sup>191</sup> Yet at the time of the decision, only one justice sitting on the bench was a woman. Years later, around ten women continue to be murdered in Mexico per day.<sup>192</sup> 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.<sup>193</sup> Such is the case in Mexico, which criminalized "femicidal violence" in 2007,<sup>194</sup> as well as in Bolivia, which passed *Ley 348* in 2013.<sup>195</sup> Yet for many of the families and victims that these laws purport to protect, the state not only fails to prevent femicidal abuse, but in fact exacerbates this culture of gender-based violence.<sup>196</sup>

By examining the sustained endurance of the femicide epidemic in Mexico and Bolivia, this Article has illustrated that anti-femicide laws are more than insufficient in addressing gender-based violence. On the contrary, anti-femicide laws neither prevented nor resolved violence because the carceral state functions to impede emancipatory justice, not enforce it.<sup>197</sup> According to

191. See Osuna, *supra* note 189, at 143 (referring to the decision as constituting a "form of reparation, and a guarantee for the right to truth").

192. David Agren, *Ten women and girls killed every day in Mexico, Amnesty report says*, THE GUARDIAN (Sept. 20, 2021, 1:13 PM), <https://www.theguardian.com/global-development/2021/sep/20/mexico-femicide-women-girls-amnesty-international-report/> [<https://perma.cc/73GN-ENAN>].

193. See generally *Femicide and International Women's Rights: An Epidemic of Violence in Latin America*, GLOB. AMS., <https://theglobalamericans.org/reports/femicide-international-womens-rights/> [<https://perma.cc/D6CD-3BUR>] (providing a chart with a summary of the femicide legislation in each country); Alicia Deus & Diana Gonzalez, *Analysis of Femicide/Femicide Legislation in Latin America and the Caribbean and a Proposal for a Model Law*, U.N. WOMEN (2018) (analyzing current laws in Latin America and the Caribbean and creating a proposed model law on femicide/femicide for those regions).

194. *Mexico: Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico*, AMNESTY INT'L, at 17 n.34 (Sept. 20, 2021), <https://www.amnesty.org/en/documents/amr41/4556/2021/en/> [<https://perma.cc/D8BG-P42F>].

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

196. In Nicaragua, for example, a study has shown a perception that the rates of femicide have actually increased since the passage of a 2012 anti-femicide law. See Samantha M. Luffy, Dabney P. Evans & Roger W. Roach, "It is better if I kill her": *Perceptions and opinions of violence against women and femicide in Ocotul, Nicaragua, after Law 779, VIOLENCE & GENDER* 2, no. 2, at 107–11 (June 2015), <https://doi.org/10.1089/vio.2015.0008> [<https://perma.cc/3EW8-HUJH>] ("The opinion of the men now is that they prefer to kill the woman instead of hitting her because although they will go to jail for hitting her, they will also go to jail for killing her, so they say '[i]t is better if I kill her.' . . . This began because of Law 779. The law started it.")

197. Many feminist legal scholars have critiqued the carceral state as an intrinsically oppressive apparatus and have urged feminist activists against seeking criminal legal reform to combat gender-based violence. See, e.g., Leigh Goodmark, *The Unintended Consequences of Domestic Violence Criminalization: Reassessing a Governance Feminist Success Story*, in *GOVERNANCE FEMINISM: NOTES FROM THE FIELD* 124, 132 (Janet Halley et al. eds, 2019) (Arguing that the criminalization of domestic violence had resulted in, among other things, "increased arrest and incarceration of women . . . unintentional support for racist policies and practices; and a failure to address the structural factors that create and exacerbate domestic violence"); see also Lena Palacios, "Something Else to Be": *A Chicana Survivor's Journey from Vigilante Justice to Transformative Justice*, 6 *PHILOSOPHIA* 93, 104 (2016) ("[T]he boundaries separating intimate partner violence, sexual assault, mass incarceration, and structural violence are porous at best, nonexistent at worst.").

Thomas Becker, these laws are simply “on the books to placate the public,” under the performative guise of progressive rhetoric.<sup>198</sup> When legal justice is structured under the oppressive parameters of power, no law passed within this unjust system will ever suffice.<sup>199</sup>

But however discouraging the existing legal environment may seem, there is still cause for hope. Activists have begun organizing outside the unjust confines of law enforcement to protect women from patriarchal violence, using strategies grounded instead in transformative justice.<sup>200</sup> In Mexico, for instance, women have turned to social media—not local law enforcement—to proceed with their cases and find collective support.<sup>201</sup> The work done by Bolivian feminist collective *Mujeres Creando* also offers insight into potential solutions 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 carved an alternative route, one that combines legal and political advocacy with social support and a trauma-informed perspective.<sup>202</sup>

These grassroots coalitions do not seek to vilify or shame victims of violence from using the limited resources available to them to seek justice.<sup>203</sup> On the contrary, the transformative justice movement has in many ways supported those who are “in such shock by violent tragic loss that even monitoring whether the cops are doing their jobs feels almost impossible . . .”<sup>204</sup> Whereas law enforcement has proven to be a source of re-victimization, transformative justice movements hope to reclaim justice by keeping it “by the community and accessible to the community and for the community . . .”<sup>205</sup>

198. Interview with Thomas Becker, *supra* note 60.

199. Dabney P. Evans, *Why the Rule of Law is Not Enough*, WILSON CENTER (Dec. 2021), [https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/Why\\_the\\_Rule\\_of\\_Law\\_is\\_Not\\_Enough.pdf](https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/Why_the_Rule_of_Law_is_Not_Enough.pdf) [<https://perma.cc/9E2U-QS77>] (“[W]hile the rule of law is necessary, it is insufficient to ensure a world free from relationship violence.”)

200. Transformative Justice articulates a political organizing philosophy grounded in “addressing intimate, interpersonal, community, and structural violence from a political organizing and movement-building perspective in order to move beyond state-imposed, institutionalized criminal legal and punishment systems.” Palacios, *supra* note 197.

201. See Marquez & Hernandez, *supra* note 147.

202. Interview with Paola Gutiérrez, *supra* note 136; For more information on the multidisciplinary approach proposed by *Mujeres Creando*, see Paola Gutiérrez y la Propuesta Metodológica con Enfoque Feminista Para Enfrentar al Machismo, MUJERES CREANDO <https://mujerescreando.org/paola-gutierrez-y-la-propuesta-metodologica-con-enfoque-feminista-para-enfrentar-al-machismo/> [<https://perma.cc/58A2-MTZ7>].

203. See Ejeris Dixon, *Building Community Safety: Practical Steps Toward Liberatory Transformation*, TRANSFORM HARM (Dec. 12, 2018), [https://transformharm.org/tj\\_resource/building-community-safety-practical-steps-toward-liberatory-transformation/](https://transformharm.org/tj_resource/building-community-safety-practical-steps-toward-liberatory-transformation/) [<https://perma.cc/9EAL-FN3Y>] (“When people who’ve experienced life-threatening injuries or people witnessing violence decide to call an ambulance, we must acknowledge that we have yet to build an alternative to 911. However, if we create a culture in which people feel comfortable sharing stories of the times when they called emergency services but didn’t want to, we actually learn about really crucial needs for community safety projects.”)

204. Audrey Huntley, *From Breaking Silence to Community Control: Community-Controlled Databases, Murder Investigations, and Ceremony to Find Missing and Murdered Indigenous Women, Girls, and Two-Spirit People*, in BEYOND SURVIVAL: STRATEGIES AND STORIES FROM THE TRANSFORMATIVE JUSTICE MOVEMENT 25, 28 (Ejeris Dixon & Leah Lakshmi Piepzna-Samarasinha eds., 2020).

205. *Id.* at 25.

Ultimately, this Article 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 by it. And as long as discriminatory corruption remains pervasive, women 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.”<sup>206</sup> It is likewise imperative that women and activists look beyond the law, and instead to each other, to develop our own tools to build our own house, one that is free from the shackles of patriarchal violence.

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206. Audre Lorde, *The Master's Tools Will Never Dismantle the Master's House*, in *SISTER OUTSIDER: ESSAYS AND SPEECHES* 112, 113 (1984).

