

2016

#NiUnaMenos : Femicide in Argentina

Hannah Jean Musgrave

Follow this and additional works at: [http://chicagounbound.uchicago.edu/
international_immersion_program_papers](http://chicagounbound.uchicago.edu/international_immersion_program_papers)

 Part of the [Law Commons](#)

Recommended Citation

Hannah Musgrave, "#NiUnaMenos : femicide in Argentina," Law School International Immersion Program Papers, No. 15 (2016).

This Working Paper is brought to you for free and open access by the Student Papers at Chicago Unbound. It has been accepted for inclusion in International Immersion Program Papers by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

Hannah Musgrave

April 28, 2016

International Immersion Program

Argentina Research Paper

#NiUnaMenos- Femicide in Argentina

“Femicide is the most extreme form of violence that crosses every social class, beliefs or ideas. But femicide is also a political concept: it’s the word that reveals the way in which a society sees something as natural when it isn’t: sexist violence.”¹

Introduction

‘Femicide’ is the intentional murder of a woman or girl on account of her gender.² It is often a form of domestic violence. On June 3, 2015, hundreds of thousands of Argentines met in Plaza de Mayo, Buenos Aires in protest against femicide. Journalists, intellectuals and activists who initiated the protest motivated the masses with the hashtag ‘#NiUnaMenos’ (#NotOneMore) to express their determination not to allow one more woman to be lost to violence.³ Protestors also developed a 5-point plan that, in their view, would more effectively implement legislative measures directed at tackling femicide.⁴

This paper will explain the problem of femicide that Argentina faces. It will then outline the measures, both legislative and administrative, that have been taken to address the problem.

¹ Organizers of the protest on June 3, 2015 reported in _____ *#NiUnaMenos: a deafening cry sweeps the country*, Buenos Aires Herald (June 4, 2015), <http://www.buenosairesherald.com/article/190835/>.

² Shena Cavallo, *Outrage Erupts in Argentina Over Brutal Murders of Women*, International Women’s Health Coalition (June 10, 2015), <https://iwhc.org/2015/07/outrage-erupts-in-argentina-over-brutal-murders-of-women/>.

³ Id.

⁴ Id.

Finally, the reasons for the ineffectiveness of these measures will be explored. I will argue that cultural norms, namely the idea of 'machismo', are preventing Argentina's legislative efforts to curb gendered violence from having meaningful impact.

Femicide: the problem

Feminist, Diane Russell pioneered the term 'femicide' when she was addressing the International Tribunal on Crimes Against Women in 1976.⁵ Russell defines femicide as the "the killing of females by males because they are female." In her view, males commit femicide with sexist motives, including misogyny, a sense of superiority over females, sexual pleasure or an assumption of ownership over women.⁶ Jane Caputi defines it as "an extreme expression of patriarchal 'force'."⁷

Domestic violence, including femicide, has long been an issue in Argentina. This has been recognized by both the international community and the Argentine government. For example, the Committee for Elimination of Discrimination Against Women ("CEDAW") issued General Recommendation No. 19 that countries recognise the discrimination caused by gender violence and take positive measures to eliminate all forms of violence against women.⁸ CEDAW then expressly referred to this Recommendation in its Concluding Comments to Argentina, urging Argentina to ensure that a comprehensive approach is taken

⁵ DIANA RUSSELL, "FEMICIDE." CRIMES AGAINST WOMEN: PROCEEDINGS OF THE INTERNATIONAL TRIBUNAL 104-108 (Diana Russell & Nicole Van de Ven, 1990).

⁶ DIANA RUSSELL, FEMICIDE IN A GLOBAL PERSPECTIVE (Diana Russell & Roberta Harnes, 2001) at 13-14.

⁷ JANE CAPUTI, *Advertising Femicide: Lethal Violence Against Women in Pornography and Goreography*, in ADVERTISING FEMICIDE: LETHAL VIOLENCE AGAINST WOMEN IN PORNOGRAPHY AND GOREOGRAPHY, 203-221 (J Radford & D.E.H. Russell. Eds., 1992) at 205.

⁸ Committee for the Elimination of Discrimination Against Women, General Recommendation No. 19 on its Eleventh Session at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (1992).

to address violence against women and girls.⁹ Furthermore, in a response to CEDAW in 2010, domestic violence, including femicide, was described as a “social problem with human rights implications”. The eradication of it is described as a “priority” for the Argentine government.¹⁰ The National Women’s Council of Argentina that was established in 1992 also noted that violence against women is a “present and worrisome reality.”¹¹

Yet, the true extent of this “worrisome reality” is unknown because there is no official data on femicide. There are a number of approximations, however. Some report that femicides are increasing in their frequency. In 2008, a woman is said to have been killed every 40 hours. 2014 estimates suggest a woman is killed every 30 hours.¹² This is consistent with The Meeting House’s estimates that there were 277 femicides in Argentina in 2014.¹³ The Observatory of Femicide Zambrano Marisel, which is part of the Non-Governmental Organization La Casa del Encuentro, continue to paint a picture of escalating levels of femicide, suggesting that there were at least 286 femicides in 2015. The latter goes on to state that there have been 2094 femicides since 2008.¹⁴ The under-reporting of instances of femicide have led some to suggest that this is just the tip of the iceberg.¹⁵

⁹ Committee on the Elimination of Discrimination Against Women, Concluding Comments of the Argentina Committee on the Elimination of Discrimination against Women on its Thirty-First session, Excerpt from Supplement No. 38, UN Doc A/59/38 (2004).

¹⁰ Argentina, Argentina’s Response to the List of Issues and Questions with Regard to Consideration of the Sixth Periodic Report to the Committee for the Elimination of Discrimination Against Women, UN Doc. CEDAW/C/ARG/Q/6/Add.1 (2010).

¹¹ Correspondence from a representative of the National Women’s Council to the Research Directorate, Immigration and Refugee Board of Canada (January 13, 2016).

¹² Buenos Aires Herald, *Supra* note 1.

¹³ Buenos Aires Herald, *Supra* note 1.

¹⁴ _____ *Violencia de género: hubo 286 femicides en 2015*, La Nación (March 31, 2016), <http://www.lanacion.com.ar/1884894-violencia-de-genero-hubo-286-femicidios-en-2015>

¹⁵ Hinde Pomeraniec, *How Argentine Rose Up Against the Murder of Women*, The Guardian (June 8, 2015), <http://www.theguardian.com/lifeandstyle/2015/jun/08/argentina-murder-women-gender-violence-protest>.

In addition, as the International Women's Health Coalition notes, levels of violence involved in instances of femicide are escalating. This elevates the seriousness of the problem.¹⁶

Chiara Pàez was 14 years old and pregnant when she was killed by her boyfriend and buried in his house. She had been forced to take medication to terminate her pregnancy and then was beaten to death.¹⁷

The Guardian continues:¹⁸

“A couple of months earlier, the body of Daiana Garcia, 19, was found by the roadside. Her remains were inside a rubbish bag. The body of another young girl, Melina Romero, was found a few metres away from a waste-processing plant last year. She had gone missing after celebrating her 17th birthday at a dance club. In another case, the body of Angeles Rawson, 16, was found inside a rubbish-compacting machine.”

Another case illustrating the extent of violence associated with femicide is María Eugenia Lanzetti's death. She was a pre-school teacher. Despite a restraining order forbidding her former husband from coming near her, the mother of his two children, he slit her throat in front of a class of students.¹⁹

¹⁶ Cavallo, *Supra* note 2.

¹⁷ Buenos Aires Herald, *Supra* note 1.

¹⁸ Pomeraniec, *Supra* note 15.

¹⁹ _____ *Argentina: thousands of protestors call for the end of 'femicide'*, Euronews (June 6, 2015), <http://www.euronews.com/2015/06/04/argentina-thousands-of-protesters-call-for-end-to-femicide/>; LAURA RODERIGUES CLAROS, *Femicide in Argentina* in *WOMEN ACROSS FRONTIERS*, Issue 2 Features (November 2015).

Attempts to address the issue

These instances, particularly Chiara Pàez's death, was the main impetus behind the June 3 protests in 2015. Within 24 hours of these protests, Supreme Court Justice Elena Highton announced that the Court would establish a registry of femicides. Her Honour noted:²⁰

“The many causes and complex nature of this problem, as well as jurisdiction issues inherent to the federal organization of our country, have not yet allowed this information to be organized. Therefore, until the registration system is complete, it is essential to begin by quantifying the greatest expression of violence against women: femicide. To accomplish this, the Supreme Court of the Nation has created an online system which allows individual jurisdictions to publish data for cases initiated during the year of 2014 on homicides of women (girls, adolescents and/or adults) perpetrated by men, which for reasons owing to their gender, have been classified as femicide or otherwise.”

The government's Human Rights Secretariat also promised to start compiling statistics on femicide. This step responds to concerns expressed by CEDAW in its Concluding Observations in relation to Argentina in 2010 and the 5-point plan that the protestors viewed as necessary to respond to instances of femicide.²¹

²⁰ Press Release, Justice Elena Highton, Vice President of the Supreme Court of Argentina, Statement on Justice Register of Femicides Argentina (June 4, 2015), http://www.csjn.gov.ar/om/nl/15_bol.html.

²¹ Committee on the Elimination of Discrimination Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women: Argentina on its Forty-Sixth Session, UN Doc CEDAW/C/ARG/CO/6 at [18]; Cavallo, *Supra* note 2.

The collection of data adds to the long list of legal mechanisms directed at tackling the problem of femicide and domestic violence in general. On its face, the Argentine government seems to be committed to addressing this issue.

Argentina's first law against domestic violence was enacted in 1994 in response to international pressure.²² Law 24417 defined domestic violence as "injury or physical or psychological abuse" by family members.²³ The perpetrators of such injury or abuse could be evicted from the family home.²⁴ Public servants and healthcare professionals were required to report instances of domestic violence where the victim was a minor, elderly or incapacitated;²⁵ providing additional protection for the particularly vulnerable. A judge could also recommend that the victim and aggressor attend rehabilitation.²⁶

This opened the floodgate for legal mechanisms directed at addressing femicide and domestic violence. Law 26.485 is widely regarded as one of the most significant.²⁷ It extended the definition of domestic violence to include different types and methods of

²² SUSAN FRANCESCHET, Explaining domestic policy outcomes in Chile and Argentina in *LATIN AMERICAN POLITICS AND SOCIETY*, Vol. 52, No. 3, 1-29 (Fall 2010) at 4.

²³ Law No. 24.417, December 28, 1994, B.O. January 3, 1995 (Arg).

²⁴ *Id.*, art. 4a.

²⁵ *Id.*, art. 2.

²⁶ *Id.*, art. 5.

²⁷ Committee on the Elimination of Discrimination Against Women, Consideration of Reports Submitted by State Parties under Article 18 of the Convention, Seventh Periodic Report of States Parties due 2014 (January 28, 2015) at 4.

exacting such abuse.²⁸ The National Women's Council was also delegated the authority to design public policies to implement the Law.²⁹

The inclusion of femicide in the Argentine Penal Code is another initiative which is often referred to in this context. Argentina is one of eight Latin American countries to expressly incorporate, and therefore recognise, the notion of femicide into its Penal Code. Femicide is defined as 'murder perpetrated by a man against a woman in the context of gender violence'.³⁰ Article 80 makes femicide an aggravating feature of offending, carrying a maximum penalty of life imprisonment when the victim is the man's relative, spouse or former spouse, irrespective of whether they were living together at the time.³¹

From an administrative perspective, measures to address femicide include the establishment of a Special Prosecutor for Gendered Violence. Founded in 2011, the Special Prosecutor's office in Buenos Aires was part of a pilot model aimed at addressing misdemeanours in domestic violence at a federal level. There is now a Special Prosecutor for Gendered Violence in each of the five prosecution units in Buenos Aires, and each of Argentina's provinces now have special prosecutors. There is also a Domestic Violence Office within the Supreme Court that refers cases to the Special Prosecutor.³²

²⁸ The types of domestic violence were expanded to include physical, psychological, sexual, economic, patrimonial and symbolic. Methods now include household, institutional, labor obstetric and media. International Special Representative on Women Issues of the Ministry of Foreign Affairs and Worship of the Argentine Republic, *Commission on the Status of Women* on the Fifty-Seventh Session, <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/Argentina.pdf> (March 7, 2013).

²⁹ Id.

³⁰ _____ *El Femicidio Fue Aprobado en Diputados y Esta Cerca de Ser Ley*, CLARIN (Apr. 19, 2012).

³¹ Id at 5.

³² Interview with Gabriela Inés Morelli, Special Prosecutor for Gendered Violence, in Buenos Aires. (March 16, 2016).

While the scope of this paper precludes an exhaustive recital of the all the legislative and policy initiatives directed at tackling femicide, it is clear that Argentina's formal framework is relatively comprehensive.

Why the problem remains – machismo

Despite such extensive measures, femicide remains a significant problem for Argentina. In fact, as noted above, the rate and seriousness of instances of femicide seem to be increasing.

There must be something else that accounts for the country's inability to provide greater protection for its women. I argue that this something else is 'machismo'.

'Machismo' is a social attitude often associated with Latin American and Hispanic cultures. There are both negative and positive connotations to this attitude. From a positive perspective, machismo is associated with protecting one's family, community and country;³³ and financially providing for wife and family.³⁴ Yet, it is the negative connotations associated with machismo that I view as precluding Argentina from effectively addressing femicide. These negative connotations include mind-sets such as the use of violence is a way to demonstrate physical strength and masculinity;³⁵ the idea that men are superior to women

³³ AMERICO PAREDES, *The United States, Mexico, and "Machismo"* in RSA JOURNAL, Vol 1, 17-37 (March 14, 2014).

³⁴ ALREDO MIRANDE *A Reinterpretation of Male Dominance in the Chicano Family* in THE FAMILY COORDINATOR, Vol 4, 473-479 (1979).

³⁵ Id.

and women are reliant on them;³⁶ and that control over women can and should be exercised through domestic and/or sexual violence.³⁷ Such mind-sets seem to normalise men behaving violently towards women.

Some commentators have argued that the ineffectiveness of anti-femicide laws can be attribute to a lack of policies, implementation tools and funding.³⁸ For example, the Special Prosecutor for Gendered Violence in Buenos Aires currently deals with around 500 cases per year, with a six-person staff.³⁹ Shelter homes for women leaving their abusive husbands and the National Women's Council are seriously underfunded.⁴⁰ The police, medical professionals and schools need greater training to understand how to tackle problems of domestic violence and femicide.⁴¹ Roberto Castro from the Regional Center for Multidisciplinary Research of the National Autonomous University of Mexico agrees: "The main problem with the current policies in many countries of Latin America is that there are sometimes very good laws, but its implementation is difficult."⁴² Without this necessary infrastructure to provide support, women are reluctant to report instances of domestic violence. The levels of violence then escalate to such an extent that femicide becomes more likely.

³⁶ R P RESNICK & YOLANDA QUINONES MAYO, *The Impact of Machismo on Hispanic Women* in AFFILIA, Vol 11(3), 257–277 (October 1996).

³⁷ ROSINA CIANELLI, LILIAN FERRER & BEVERLY MCELMURRY, HIV Prevention and Low-Income Chilean Women: Machismo Marianismo and HIV Misconceptions in CULTURE, HEALTH AND SEXUALITY, Vol 3, 297-306 (April 2008).

³⁸ For example, see SUSAN FRANCESCHET, Explaining Domestic Violence Policy Outcomes in Chile and Argentina in LATIN AMERICAN POLITICS AND SOCIETY, Vol 52 No. 3 (Fall 2010) at 3.

³⁹ Interview with Gabriela Inés Morelli, *Supra* note 32.

⁴⁰ Interview with Gabriela Inés Morelli, *Supra* note 32; Interview with Congresswoman Carla Pitiot in Buenos Aires (March, 24 2016).

⁴¹ Interview with Carla Pitiot.

⁴² Kamilia Lahrichi, *Thousands Take to the Street in Argentina to Protest Violence Against Women*, USA Today (June 3, 2015) <http://www.usatoday.com/story/news/world/2015/06/03/buenos-aires-protest-argentina-women/28435939/>

I view these problems as one bi-product of the machismo culture. While the legislation in place acts as lip service to Argentina's international obligations, the lack of funding and implementation mechanisms mean the legislation has little practical effect. Despite the Argentine government's assertion that tackling femicide is a priority, there seems to be a lack of political commitment to the issue. As Pamela Martin Garcia, a feminist activist from the Foundation for the Health of Adolescents, notes there is a lack of political will to implement and enforce the laws. Social norms play a critical role in this.⁴³ Macho mentalities continue to dominate Argentine social norms and therefore its politics.

A number of others have recognised that machismo has affected Argentina's ability to address femicide. Susan Franceschet notes that the ideological structure in which these laws are based is a significant contributor to the problem. Domestic violence is viewed as a family matter and therefore ought to be dealt with inside the home.⁴⁴ A representative from Victims Against All Forms of Violence Program, which provides assistance to victims of domestic and sexual violence, also commented that Argentina is a patriarchal society where social organizations, the media and several institutions ignore violence against women, blames the victim and do not hold aggressors accountable.⁴⁵ Finally, Congresswoman Carla Pitiot notes that male legislators seem reluctant to support measures to give anti-femicide legislation some teeth. Supporting such a cause is viewed as weak.⁴⁶ This might explain why, despite the quota requiring at least one-third of Members of Congress be women, Caitlin

⁴³ Cavallo, *Supra* note 2.

⁴⁴ SUSAN FRANCESCHET, *Supra* note 22, at 5.

⁴⁵ César G. Calero, *Cada 30 horas muere una mujer en Argentina víctima de la violencia de género*, El Mundo (November, 28 2014), <http://www.refworld.org/docid/56af19434.html>.

⁴⁶ Interview with Carla Pitiot, *Supra* note 40.

Guse has noted that the frequent correlation between the number of women in government and the number of social policies directed at gender violence is not seen in Argentina.⁴⁷ Argentina's social climate is similar to that of Guatemala's expressed in Madre's Shadow Report that was submitted to the United Nations Human Rights Committee in 2012. That report states: "Cases involving femicide and violence against women are not prioritized due in part to held-over beliefs and historic assumptions about what role women play in society."⁴⁸

The ramifications of the machismo culture means that the United Nations has expressed concerns about further steps that are required to bring Argentina into compliance with its international obligations. In March 2015, CEDAW noted that measures are required to "combat discriminatory practices and traditional stereotypes that impede women's full enjoyment of human rights".⁴⁹ I interpret that to relate to machismo and associated mind-sets. CEDAW requested further information about the implementation of legislative measures, and what is being done to address the need for shelters, counselling, rehabilitation and support services for women who are victims of domestic violence. Detailed statistics were also requested.⁵⁰ It is clear that, despite the extensive legislative

⁴⁷ CAITLIN GUSE, *Take You Rosaries out of Your Ovaries: Women's Rights in Argentina and Bolivia*, CONSTELLATIONS, Vol 1, No. 2 (Spring 2010) at 2.

⁴⁸ Madre: International Women's Human Rights Clinic City University of New York Law School, Report on Violations of Women's Human Rights in Guatemala: In Response to the Third Periodic Report of Guatemala to the Tenth Session of the United Nations Human Rights Committee (March 13, 2012) at 10.

⁴⁹ Committee on the Elimination of Discrimination Against Women, List of Issues in Relation to the Seventh Periodic Report of Argentina, UN Doc CEDAW/C/ARG/Q/7 (March, 11 2015).

⁵⁰ Id.

measures taken, CEDAW agrees that more is required to make the aspirations expressed in anti-femicide legislation a reality.

Conclusion

Those involved in the June 3, 2015 protests devised a 5-point plan to make the seemingly comprehensive legislative framework addressing femicide more meaningful. There is an apparent disjoint between legislation addressing domestic violence, including femicide, and a corresponding reduction in incidence rate of such violence. Some blame the absence of implementation mechanisms, and a lack of funding and policies for this. Yet, I see the problem lying with the machismo culture that prevails in Argentina. Unless something is done to address the social norms that place women subordinate to and reliant on men, and normalize the use of violence to control others and demonstrate strength, there will be many more women who, like Chiara Pàez and María Eugenia Lanzetti, will fall victim to femicide.