

The Third Space of Puerto Rican Sovereignty: Reimagining Self-Determination Beyond State Sovereignty

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ABSTRACT: The relationship between Puerto Rico and the United States has long been a story of empire and colonization. From the island’s annexation to today, Puerto Ricans have struggled for their right to self-determination. The fiscal control board, housing crisis, austerity measures, Hurricane María, and the recent resignation of former governor Ricardo Rosselló have revived social, economic, and political debates about Puerto Rico’s status. This Note illustrates how struggles for self-determination and sovereignty manifest themselves beyond the legal and political realms, inspiring local fights for a just recovery in the country. It argues that the *third space* of Puerto Rican sovereignty exists outside of dominant expressions of citizenship and state sovereignty. It presents three case studies of organizations led by women who are promoting self-determination through concrete fights on the ground: cancelling the public debt, advocating for dignified housing, and defending food sovereignty. By analyzing grassroots efforts and looking outside the hegemonic framework of state sovereignty, a better understanding of the relationship between social movements and the law can emerge, particularly at a time when there seems to be no realistic alternative in sight to the political status of the island.

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INTRODUCTION

The relationship between Puerto Rico and the United States has long been a story of empire and colonization. From the island's annexation to today, Puerto Ricans have struggled for their right to self-determination. The recently installed fiscal control board, housing crisis, austerity measures, Hurricane Maria, and the resignation of former governor Ricardo Rosselló have revived social, economic, and political debates about Puerto Rico's political status. In light of the current challenges of attaining real independence and the failure of both the United States and the island's government to protect Puerto Ricans, several communities, activists, and lawyers continue to reimagine self-determination on their own terms. In particular, women across the island have created and led initiatives to assert control over their lives at a moment when neoliberal economic policies and colonial legacies continue to shape the future of Puerto Rico.

Sovereignty in this context implies much more than the mainstream political science definition of *state* sovereignty. Traditionally, sovereignty has been used in post-colonial settings to describe a state's autonomy over its political, economic, and social life, independent from the former colonial power. Bruyneel describes state sovereignty as existing

in a mutually constitutive relationship with the international state system. In tandem, this conceptual system reflects and imposes a hegemonic way of seeing and knowing the political world, and this is a world where marginalized groups . . . are presumptively unwelcome, where they seem mute politically when it comes to claims about people, power, and space.¹

In Puerto Rico, the discussion about sovereignty has been dominated by debates over the island's status vis-à-vis the United States. Now, in light of the island's history, recent crises have led to new forms of resistance to U.S. dominance, or what I call the *third space* of Puerto Rican sovereignty. I am inspired by Chief Justice Emeritus of the Navajo Nation Robert Yazzie's description of "sovereignty" as "the ability of a group of people to make their

1. KEVIN BRUYNEEL, *THE THIRD SPACE OF SOVEREIGNTY* 23 (2007).

own decisions and control their own lives.”² Throughout this Note, I will use “sovereignty” not only to refer to Puerto Ricans’ ability to make their own decisions regarding the future of the island, but also over their everyday lives.

In this Note, I aim to illustrate how struggles for self-determination and sovereignty manifest themselves beyond the legal and political realms, inspiring local fights for a just recovery in the country.³ I analyze the ways in which Puerto Ricans assert their own visions of sovereignty as opposed to relying on traditional notions of sovereignty that focus on state sovereignty alone, which are often linked to the island’s legal status. By studying how communities and groups have mobilized in response to different systems of oppression and a legacy of imperialism, I show how grassroots resistance can circumvent hegemonic notions of state sovereignty, claiming new definitions of individual and collective independence. I aim to center the voices and stories of marginalized groups in Puerto Rico and U.S. society: women, people of color, low-income communities. This is a deliberate effort to understand sovereignty through the eyes of those on the receiving end of state violence as opposed to through the dominant lens of state sovereignty. In particular, I focus on women-led organizations to highlight the ways in which women respond to and resist structural violence fueled by a neocolonial relationship with the United States and the imposition of neoliberal economic policies.

This piece situates itself in the literature on the legal status of U.S. territories, in particular with respect to Puerto Rico.⁴ The *Insular Cases* constitute the foundational jurisprudence on the relationship between the United States and the annexed territories. Since the Supreme Court held that there may be territories subject to U.S. jurisdiction that are not part of the United States, most scholarship on the historical, legal, and political implications of the relationship between the United States and Puerto Rico has focused on the incomplete citizenship of Puerto Ricans as a result of their legal status.⁵ Scholars have presented

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2. *Id.* (citing Robert Yazzie, *Indigenous Peoples and Postcolonial Colonialism*, in RECLAIMING INDIGENOUS VOICES AND VISION 39, 46 (Marie Battiste ed., 2000)).
 3. The term *recuperación justa*, or just recovery, has been used by many activists, leaders, and community members who hope that Puerto Rico’s recovery after Hurricane María is inclusive and just.
 4. See, e.g., JORGE DUANY, THE PUERTO RICAN NATION ON THE MOVE: IDENTITIES ON THE ISLAND AND IN THE UNITED STATES 122-36 (2002); GUSTAVO A. GELPÍ, THE CONSTITUTIONAL EVOLUTION OF PUERTO RICO AND OTHER U.S. TERRITORIES (1898-PRESENT) (2017); JOSÉ TRÍAS MONGE, PUERTO RICO: THE TRIALS OF THE OLDEST COLONY IN THE WORLD 177-96 (1997); RECONSIDERING THE INSULAR CASES: THE PAST AND FUTURE OF THE AMERICAN EMPIRE (Gerald L. Neuman & Tomiko Brown-Nagin eds., 2015); Joel Colón-Ríos & Martin Hevia, *The Legal Status of Puerto Rico and the Institutional Requirements of Republicanism*, 17 TEX. HISP. J.L. & POL’Y 2 (2011); Margaret Power & Andor Skotnes, *Editor’s Introduction*, 128 RADICAL HIST. REV. 1, 3 (2017); *The International Place of Puerto Rico*, 130 HARV. L. REV. 1656 (2019).
 5. See, e.g., NELSON A. DENIS, WAR AGAINST ALL PUERTO RICANS: REVOLUTION AND TERROR IN AMERICA’S COLONY (2015); FOREIGN IN A DOMESTIC SENSE: PUERTO RICO, AMERICAN EXPANSION, AND THE CONSTITUTION (Christina Duffy Burnett & Burke Marshall eds., 2001); Pedro Caban, *Puerto Ricans as Contingent Citizens: Shifting Mandated Identities and Imperial*

competing views of what the legal status of the island should be; always locating their analysis within the framework of U.S. domination. The array of proposals includes full independence or autonomy, statehood, a mixed system, or the perpetuation of the status quo (i.e., commonwealth).

One of the limitations of this debate is that it misunderstands or overlooks how everyday Puerto Ricans—and not just their political leaders or political parties—conceive of independence. Puerto Ricans find themselves in a complex colonial relationship where none of the schemes proposed seem to be feasible, mainly for political and economic reasons. Nonetheless, they are willing to imagine and work towards their own vision of sovereignty: control over their economy, control over their bodies, control over their energy system. Far from lofty theoretical discussions, people inside the island are fighting for real and concrete changes in how they exert power over their nation. When no single conception of legal status presents a clear solution, Puerto Ricans assert a grassroots vision of self-determination.

By looking at sovereignty only through the traditional lens of state sovereignty, past scholarship limits our understanding of the ways in which social movements organize themselves to resist colonization on an everyday basis. We miss an entire dimension of society by merely focusing on judges and judgments, even if their decisions impose real consequences on the ground. By focusing instead on social movements and distinct subsets of groups mobilizing against the legacy of colonial status—which mostly operate outside the mainstream political discussions about the island's legal status as a commonwealth, state, or independent country—we gain insight into how people, especially women, interact with the law, including by deliberately not engaging with it. By analyzing grassroots efforts in Puerto Rico, we can better understand the relationship between social movements and the law at a time where there seems to be no alternative to the political status of the island. Even when these movements are not cognizable as law may be, they continue to be essential to the ongoing struggle for Puerto Rican independence.

First, I offer a brief overview of Puerto Rico's historical relationship with the United States, focusing on the legal, social, and economic implications of the colonial status today. This Part includes the implications of second-class citizenship on the island, including some of the effects of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) and Hurricane Maria. Second, I present the theoretical framework. I borrow Kevin Bruyneel's concept of the *third space of sovereignty* to discuss resistance in the Puerto Rican context and apply an alternative lens to our understanding of sovereignty. Third, I offer a preliminary view of what is happening outside of the legal and political debates on status, focusing on the meaning of autonomy

in everyday struggles. I present three case studies of organizations led by women who are promoting self-determination through concrete fights on the ground: canceling the public debt, advocating for dignified housing, and defending food sovereignty. All of these organizations fight for a just recovery, although they implement different strategies and tools to claim their rights. Finally, I raise additional questions regarding the extent to which local struggles can successfully resist efforts to undermine local autonomy and reinvent traditional conceptions of sovereignty.

I. THE WORLD'S OLDEST COLONY

On July 25, 1898, the United States invaded Puerto Rico and seized the island from Spain, which had colonized it since 1493. The U.S. government then appointed a civilian government, with governors directly chosen by the U.S. President.⁶ In 1917, Puerto Ricans received U.S. citizenship through the Jones Act.⁷ The timely passage of the Act allowed the military conscription of Puerto Ricans in World War I.⁸ However, a few years later in *Balzac v. Porto Rico*, the Supreme Court determined that not even the grant of citizenship changed the constitutional rights of Puerto Ricans as long as they lived on the island.⁹ In his majority opinion, Chief Justice Taft argued that locality, not individual status, determined what constitutional rights were bestowed upon individuals.¹⁰ This further demonstrated the “unilateral nature of the conferral of citizenship” under the conquest paradigm.¹¹ This citizenship was not equivalent to the citizenship of residents of the fifty states since Puerto Ricans—like other colonial subjects—were seen as inherently inferior and unruly, a kind of second-class citizen that could not fully access the benefits of full membership in society.¹²

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6. Acting pursuant to the U.S. Constitution's Territory Clause, Congress initially established a “civil government” for Puerto Rico possessing significant authority over internal affairs. Organic Act of 1900, ch. 191, 31 Stat. 77; see U.S. CONST., Art. IV, § 3, cl. 2 (granting Congress the “Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States”). Puerto Ricans were only allowed to elect representatives to the lower house; the Governor, supreme court, and upper house of the legislature were all appointed by the U.S. President. See §§ 17–35, 31 Stat. at 81–85.
 7. Jones Act, Pub. L. No. 64-368, 39 Stat. 951 (1917).
 8. Ren/Rachel Ellis Neyra, *Towards an Un-American Solidarity: Thinking with Puerto Rico After Hurricane María*, INDEP. CURATORS INT'L (Oct. 30, 2017), <http://curatorsintl.org/research/towards-an-un-american-solidarity-thinking-with-puerto-rico-after-hurricane> [https://perma.cc/SWV8-F9M5].
 9. *Balzac v. Porto Rico*, 258 U.S. 298 (1922) (holding that the right to trial by jury was not a fundamental right applicable to the U.S. citizens who resided in Puerto Rico).
 10. *Id.* at 309.
 11. Chiméne I. Keitner, *From Conquest to Consent: Puerto Rico and the Prospect of Genuine Free Association*, in RECONSIDERING THE INSULAR CASES, *supra* note 4, at 77, 82.
 12. José I. Fusté, *Repeating Islands of Debt: Historicizing the TransColonial Relationality of Puerto Rico's Economic Crisis*, 128 RADICAL HIST. REV. 91, 96 (2017).

The Insular Cases (1901-1922) legitimized the colonization of Puerto Rico and other territories, while codifying territorial residents' status as second-class citizens. In *Downes v. Bidwell*, the Supreme Court stated that "there may be territories subject to the jurisdiction of the United States, which are not of the United States."¹³ The Court concluded that overseas territories were not incorporated into the political body of the United States, yet belonged to the United States, limiting the application of constitutional rights and creating a state of constitutional exception for colonies.¹⁴ The Court decided that colonial subjects were unfit for automatic citizenship, self-rule, and representation in the federal government.¹⁵ Inhabitants of territories could not immediately upon annexation be "entitled to all the rights, privileges, and immunities of citizens."¹⁶ Thus, an unincorporated territory could be kept in subordination indefinitely, until Congress decided to incorporate it into the United States.¹⁷ In this way, the Court reasoned that territories like Puerto Rico were "foreign to the United States in a domestic sense."¹⁸

The *Insular Cases* succeeded in lending legitimacy to the category of second-class citizenship, rendering territories invisible since they lacked voting power at the federal level and independent status in the international stage.¹⁹ As Efrén Rivera Ramos explained:

The *Insular Cases* represented both a continuation of and a break from the past. The continuity included resorting to concepts such as the long-existing plenary power doctrine and creating a symbolic space to be inhabited by peripheral populations, similar to the spaces designed that

13. *Downes v. Bidwell*, 182 U.S. 244, 263 (1901).

14. *Id.* According to historian José I. Fusté, the Court did not invent a new territorial designation per se; it was "reminiscent of how Native American communities besieged by settler colonial expansion had been similarly deprived of constitutional protections and full US citizenship." Fusté argued that legal scholars overlooked the similarities between the *Insular Cases* and how U.S. judges constructed indigenous colonial subjects. Fusté, *supra* note 12, at 95.

15. The legal reasoning underlying the *Insular Cases* was heavily influenced by the work of legal scholars, officials, judges, and lawyers, who sought to modernize colonial jurisprudence. For instance, Elihu Root filed an 1899 report with Congress where he outlined how to avoid incorporating territories and granting voting rights to their residents. Fusté, *supra* note 12, at 95. Similarly, Abbott Lawrence Lowell published an article in the *Harvard Law Review* suggesting the distinction between incorporated and unincorporated territories. Abbott Lawrence Lowell, *The Status of Our New Possessions—A Third View*, 13 HARV. L. REV. 155 (1899). In addition, Yale Law School professor Simeon Baldwin wrote an article stating that it would be unwise "to give . . . the ignorant and lawless brigands that infest Puerto Rico . . . the benefit[s] of [the Constitution]." Simeon E. Baldwin, *The Constitutional Questions Incident to the Acquisition and Government by the United States of Island Territory*, 12 HARV. L. REV. 393, 415 (1898-99).

16. *Downes*, 182 U.S. at 279.

17. RECONSIDERING THE INSULAR CASES, *supra* note 4, at xiv.

18. *Downes*, 182 U.S. at 341.

19. Christina Duffy Ponsa, *When Statehood Was Autonomy*, in RECONSIDERING THE INSULAR CASES, *supra* note 4, at 1, 2.

had been designed for African Americans, Native Americans, new immigrants, and women.²⁰

In essence, the *Insular Cases* replicated the legal doctrine of *Plessy v. Ferguson*.²¹ Their logic directly clashed with the U.S. Constitution, ran contrary to express positions of international treaties ratified by the United States, and violated the equality of all citizens before the law.²² They also conveniently reflected the racist views prevalent in U.S. society at the time.²³

Soon after the creation of the United Nations, the colonial relationship between the United States and Puerto Rico—and, arguably, the implication of the *Insular Cases*—became a point of international concern. The United States presented itself as the defender and leader of the “Free World,” and having a colony undermined its position. In 1952, Puerto Rico’s Governor Luis Muñoz Marín announced the creation of the Commonwealth of Puerto Rico through the newly enacted constitution, which supposedly granted Puerto Ricans self-government.²⁴ Muñoz Marín said that the relationship between Puerto Rico and the United States had become consensual since Puerto Ricans had approved of this new government through a referendum.²⁵ His administration was unwilling to demand a clear definition of the new configuration, but the State Department was nevertheless successful in presenting the commonwealth arrangement internationally as a noncolonial status.²⁶

While the word to describe that status in English is “Commonwealth,” the Spanish term is *Estado Libre Asociado* or “Freely Associated State.”²⁷ This discrepancy stems from the different ways in which the United States and Puerto Rico interpreted this new arrangement. Although Congress understood exactly what it was and was not granting to the island, Muñoz Marín and the Popular Democratic Party were not completely transparent when conveying this information to Puerto Ricans. The term has since then generated confusion because of its inherent ambiguity.²⁸ Nonetheless, the fact remains that the Commonwealth of Puerto Rico was designed within the colonial relationship with the United States, creating U.S. congressional supremacy over the island.²⁹

20. Efrén Rivera Ramos, *The Insular Cases: What Is There to Reconsider?*, in RECONSIDERING THE INSULAR CASES, *supra* note 4, at 29, 36.

21. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

22. Torruella, *supra* note 5, at 62-63.

23. *Id.* at 64.

24. Public Law 600, “recognizing the principle of government by consent,” authorized the island’s people to “organize a government pursuant to a constitution of their own adoption.” Act of July 3, 1950, § 1, Pub. L. No. 600, 64 Stat. 319.

25. DANIEL IMMERWAHR, *HOW TO HIDE AN EMPIRE: A HISTORY OF THE GREATER UNITED STATES* 699 (2019).

26. Keitner, *supra* note 11, at 87.

27. See P.R. CONST. art. I, § 1.

28. Keitner, *supra* note 11, at 89.

29. *Id.* at 88.

This is what writer Irene Vilar calls a “no-nation,” a “somewhat shapeless” polity suspended uncomfortably between inclusion and independence.³⁰

As a result of this historical development, Puerto Ricans are second-class citizens in the United States. Puerto Ricans operate both inside and outside the U.S. legal and political constitutional jurisdiction. They are bound by U.S. law but are also subject to their own constitution and government. They must obey U.S. courts and yet they have no federal representation in U.S. Congress and cannot vote in presidential elections while residing on the island.³¹ Even their efforts to hold referendums on Puerto Rico’s status are merely symbolic and seen more as opinion polls. Any attempt to change the island’s status necessitates congressional approval, evidencing the legacies of the conquest model and the existence of colonial rule.³² Judge Juan R. Torruella has said of this situation, “I cannot imagine a more egregious civil rights violation, particularly in a country that touts itself as the bastion of democracy throughout the world.”³³

Puerto Rico’s second-class status is also evidenced by the fact that it cannot access international fora in the way that sovereign states do. Puerto Rico cannot enter the United Nations or be a party to any major treaty or international agreement; it can only be an observer in most international organizations.³⁴ Even then, it requires U.S. approval since the island is subject to the plenary powers of Congress under the Territorial Clause. While it can petition before the Inter-American Commission on Human Rights (IACHR), it is still not recognized as a state.³⁵

More recently, in *Puerto Rico v. Sanchez Valle*, the Supreme Court reaffirmed the precedent established by the *Insular Cases*: the island lacks any sovereignty of its own, with U.S. Congress as the sole source of Puerto Rican sovereignty.³⁶ Writing for the majority, Justice Kagan explained:

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30. IRENE VILAR, *THE LADIES’ GALLERY: A MEMOIR OF FAMILY SECRETS* 72 (Gregory Rabassa trans., 1996).
 31. Puerto Rico has one resident commissioner representing the island in the House of Representatives, with no power to vote on the floor of the House.
 32. Keitner, *supra* note 11, at 79. The conquest paradigm entailed the power to acquire territory by conquest and the ability to determine the status of the territory conquered. *Id.* at 81.
 33. Torruella, *supra* note 5, at 74.
 34. See *The International Place of Puerto Rico*, *supra* note 4, at 1673.
 35. Telephone Interview with Verónica Figueroa Huertas, Organizer, Formerly of Colectiva Feminista en Construcción (Apr. 16, 2019). Nonetheless, in 2018, the IACHR expressed deep concern about the human rights situation in Puerto Rico, urging the United States to adopt measures to respond to the devastation brought by Hurricanes Maria and Irma. The IACHR found that scarcity and shortages of basic services have resulted in obstacles to the exercise of civil, political, economic, social, cultural, and environmental rights. See *IACHR Expresses Deep Concern About the Human Rights Situation in Puerto Rico*, OAS (Jan. 18, 2018), http://www.oas.org/en/iachr/media_center/preleases/2018/004.asp [<https://perma.cc/PKK8-KBPH>].
 36. *Puerto Rico v. Sanchez Valle*, 136 S. Ct. 1863 (2016) (holding that the Double Jeopardy Clause bars the federal government and Puerto Rico from “twice put[ting]” a defendant in jeopardy for the same offence); Fusté, *supra* note 12, at 107.

If two entities derive their power to punish from wholly independent sources (imagine here a pair of parallel lines), then they may bring successive prosecutions. Conversely, if those entities draw their power from the same ultimate source (imagine now two lines emerging from a common point, even if later diverging), then they may not.³⁷

Justice Kagan ruled that because the dual-sovereignty doctrine focuses not on the mere existence of self-rule but on its origins, the Court is forced to go to the “ultimate source” of power, which, in the case of Puerto Rico, is the U.S. Congress.³⁸

This treatment of Puerto Ricans can be understood as the result of what Bruyneel called *American colonial ambivalence*, which refers to the inconsistencies in the application of colonial rule and the product of institutional and cultural dynamics.³⁹ Thus, it is colonial because the United States holds power in defining the terms of the Puerto Rico-United States relationship, but it is also ambivalent in that it changes.⁴⁰ Bill Ashcroft explained that ambivalence is not only “the sign of the failure of colonial discourse to make the colonial subject conform, it is the sign of the agency of the colonized.”⁴¹ I argue this relationship is also ambivalent in that it offers second-class citizenship to Puerto Ricans, where there are partial benefits, but not all the characteristics of full membership. In turn, Puerto Ricans’ resistance to this arrangement contests the boundaries of colonial rule and thus contributes to the ambivalence of the island’s relationship with the mainland.

The political and legal sources of second-class citizenship have also accompanied and justified specific economic policies for Puerto Rico.⁴² First, Puerto Rico suffers from an economy built around specific economic interests, which remain virtually unchanged since the interwar period when Congress passed section 262 of the 1921 Revenue Act. The island’s economic model shares remarkably similar variables:

a sizeable proportion of internal production executed by US transnational companies, financed by US capital, buttressed by US technology, focused almost exclusively on exporting to the US market, and heavily dependent on the availability of prohibit enhancing mechanisms exempting those companies from all applicable federal and local taxes Consequently, Puerto Rico today bears the heavy brunt of all the regulatory costs flowing from the island’s insertion into the US economy, without any control over such economic variables and,

37. *Sanchez Valle*, 136 S. Ct. at 1871.

38. Case Comment, *Puerto Rico v. Sanchez Valle*, 130 HARV. L. REV. 347, 350 (2019).

39. BRUYNEEL, *supra* note 1, at 10.

40. *Id.*

41. BILL ASHCROFT, POST-COLONIAL TRANSFORMATION 23 (2001).

42. Historian José A. Fusté has analyzed how the United States developed “interrelated geostrategic and economic logics” that facilitated wealth extraction by the U.S. government and private capital, undermining Puerto Rico and other territories’ potential for independent economic development. *Supra* note 12, at 94.

equally importantly, without any possibility of engineering yet another fiscal mechanism at the federal level for offsetting these costs.⁴³

Tax policies offering exemptions to U.S. companies essentially made Puerto Rico a tax haven for decades and were a direct result of the *Insular Cases*, which denied the extension of federal law to other colonies and unincorporated territories. When the 1990s Congress began to phase out the loophole in the tax code previously used to attract companies, public borrowing skyrocketed.⁴⁴ At the same time, companies searching for cheaper operational costs and tax incentives relocated abroad.

Second, through the Jones Act, the island became increasingly dependent on the economy of the mainland by having tariffs imposed on any shipped good. On average, the Act imposes an additional \$500 million each year.⁴⁵ It also allows a triple-tax exemption for bonds to allow the local government access to cheaper credit. While the dependency on bonds decreased in the 1940s, it rose again by the mid-1950s, and has only increased since then.⁴⁶

Third, disparate federal aid has also resulted from and fueled the disparate treatment between states and Puerto Rico under the law.⁴⁷ For instance, for federal programs like Medicaid, the U.S. government has capped the amount of money that Puerto Rico can receive when compared to states. The island receives less money in Medicaid reimbursements than all other states, despite having much lower income levels.⁴⁸ Other federal programs that have been capped by Congress include Supplemental Security Income (SSI) and Supplementary Nutrition Assistance Program (SNAP). According to a report by the federal Government Accountability Office,⁴⁹ Puerto Rico could have received approximately \$3 billion in additional funding for Medicaid and SSI payments alone if it had been treated as a state.⁵⁰

43. Rafael Cox Alomar, *The Ideological Decolonization of Puerto Rico's Autonomist Movement*, in RECONSIDERING THE INSULAR CASES, *supra* note 4, at 129, 133.

44. Fusté, *supra* note 12, at 105.

45. Jeremy Scahill, *Hurricane Colonialism: The Economic, Political, and Environmental War on Puerto Rico*, INTERCEPT (Sept. 19, 2019), <https://theintercept.com/2018/09/19/hurricane-colonialism-the-economic-political-and-environmental-war-on-puerto-rico> [<https://perma.cc/KZ7J-9YVW>].

46. Fusté, *supra* note 12, at 104.

47. Paige Winfield Cunningham, *The Health 202: Puerto Rico's Problems Include a Medicaid Shortfall*, WASH. POST (Oct. 4, 2017), <https://www.washingtonpost.com/news/powerpost/paloma/the-health-202/2017/10/04> [<https://perma.cc/FC4H-WCMY>].

48. Scahill, *supra* note 45.

49. *PUERTO RICO: Information on How Statehood Would Potentially Affect Selected Federal Programs and Revenue Sources*, U.S. GOV'T. ACCOUNTABILITY OFFICE (Mar 31, 2014), <https://www.gao.gov/products/GAO-14-31> [<https://perma.cc/89QC-JPEU>].

50. Courts have also upheld this disparate treatment. For instance, in *Califano v. Torres*, the Supreme Court refused to restore the petitioner's SSI benefits when she moved from Connecticut to Puerto Rico because the program only applied to residents of one of the states. The Court held that Puerto Rican residents did not contribute to the public treasury, that the costs of granting SSI benefits to all eligible Puerto Ricans residing in the island would be too great, and that the inclusion of Puerto Ricans to the SSI program "might seriously disrupt the Puerto Rican economy." *Califano v. Torres*, 435 U.S. 1 (1978).

The economic structure described above served to facilitate the perfect conditions for the debt crisis. When tax breaks for U.S. manufacturers expired and prompted a wave of capital flight in 2006, the island's debt soared. The government temporarily shut down and attempted to hold its deficit by borrowing additional money. In 2016, President Barack Obama signed into law the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) after the bill received bipartisan support in Congress. The law created the Financial Oversight and Management Board for Puerto Rico, composed of non-Puerto Ricans appointed by the federal government, to restructure the \$122 billion debt, excluding the voice of the people of Puerto Rico.⁵¹ While the governor and the legislature remain in office, no executive action or law can be issued without the prior approval of the Board or, as it is locally known, *La Junta*.⁵² In this way, the Board's power eroded even further the limited sovereignty of Puerto Rican voters and elected representatives over their territory. The Puerto Rican legislature had attempted to pass its own version of PROMESA, but it was later declared unconstitutional by the Supreme Court.⁵³ Unlike states, the island could not declare bankruptcy because Congress removed it from federal bankruptcy protections in 1984 through changes in the Bankruptcy Code.⁵⁴

After PROMESA became law, the Puerto Rican government cut funding for social services including education, health care, public pensions, and public transportation. More than 17,000 public sector workers were fired.⁵⁵ Between 2010 and 2017, 340 public schools were shut down.⁵⁶ In 2018, then-Secretary of Education Julia Keleher announced that an additional 283 schools would close.⁵⁷ Privatization of social services has also accompanied austerity measures. For example, the Board has ordered that the electric company be privatized, and a

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51. Scahill, *supra* note 45 (Puerto Rico owes approximately \$73 billion to bondholders and approximately \$40 billion in unfunded pensions). The Board commissioned a report to investigate the root causes of Puerto Rico's debt. It found that about \$46 billion dollars alone were originally borrowed to pay back previous debts. Lenders also played a significant role by crafting new instruments to allow Puerto Rico to continue borrowing money when the official bonding capacity had been reached. For instance, Lehman Brothers advised the island to create a sales tax and earmark a portion of it to securitize additional bonds. The government also purchased other high-risk capital appreciation bonds with excessive interest rates, allowing the unsustainable debt to explode. *Id.*
 52. *In re* Financial Oversight and Management Board for Puerto Rico, 916 F.3d 98 (1st Cir. 2019).
 53. *Puerto Rico v. Franklin Cal.-Tax Free Trust*, 136 S. Ct. 1938 (2016) (holding that Chapter 9 of the Bankruptcy Code, 11 U.S.C. § 903(1), preempted the Puerto Rico Public Corporation Debt Enforcement and Recovery Act, which allowed public utilities to restructure their debt).
 54. Section 903(1) of Chapter 9 of the Bankruptcy Code included a new definition of "State" that excluded Puerto Rico. 11 U.S.C. § 903(1); *see also* 11 U.S.C. § 101(52).
 55. Naomi Klein, *Puerto Ricans and Ultrarich "Puertopians" Are Locked in a Pitched Struggle Over How to Remake the Island*, INTERCEPT (Mar. 20, 2018), <https://theintercept.com/2018/03/20/puerto-rico-hurricane-maria-recovery> [<https://perma.cc/ND6R-8YEJ>].
 56. *Id.*
 57. Rafael Bernal, *Puerto Rico to Close 283 schools*, THE HILL (Apr. 6, 2018), <https://thehill.com/latino/381963-puerto-rico-to-close-283-schools> [<https://perma.cc/EA32-HCQX>].

similar reform is expected in the transportation system.⁵⁸ Furthermore, labor “reform” has curbed workers’ rights. PROMESA includes a provision reducing the minimum wage for newly hired workers under the age of twenty-five to as little as \$4.25 an hour.⁵⁹ The result of these policies is that the financial burden has shifted to a population with a low capacity to face additional economic restraints, since 43.5% of the island already lived in poverty before Hurricane Maria hit.⁶⁰

Critics like Naomi Klein have written extensively on how entrepreneurs, bondholders, investors, and financiers taken advantage of the fiscal crisis in Puerto Rico, pushing an agenda of privatization, deregulation, and austerity.⁶¹ They have created wealth for themselves by imposing neoliberal policies that further perpetuate inequality in the island in relation to the United States. For example, as part of the recovery program, the Puerto Rican government created an incentive for high-net-worth individuals to move to Puerto Rico and relocate the address of their business or hedge fund to the island. In exchange, they do not need to pay capital gains tax or taxes on any dividends paid to Puerto Rican residents.⁶² In addition, a clause in the federal tax code allows U.S. citizens who move to the island to avoid paying federal income tax on any income earned in Puerto Rico.⁶³ Meanwhile, real estate agencies and developers have sought an opportunity to continue selling property to outsiders, while the tourist industry promotes better infrastructure for hotels, restaurants, and bars.⁶⁴ Entrepreneurs have also arrived in Puerto Rico to build a crypto-utopia, hoping to make Puerto Rico “the epicenter of this multi-trillion-dollar market.”⁶⁵ The model supported by both the Board and the current government reinforces the island’s contrasting realities: a highly unequal country where a majority of the wealth is concentrated in the hands of outsiders.

The economic crisis was further aggravated by Hurricanes Maria and Irma, which both struck Puerto Rico in September 2017. Maria alone was the third

58. Scahill, *supra* note 45.

59. D. Andrew Austin, *The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA)*, H.R. 5278, S. 2328), CONGRESSIONAL RESEARCH SERV. (July 1, 2016), <https://fas.org/sgp/crs/row/R44532.pdf> [<https://perma.cc/P2YQ-ECV9>] (Section 403 modifying 29 U.S.C. § 206).

60. Jeff Goodell, *The Perfect Storm: How Climate Change and Wall Street Almost Killed Puerto Rico*, ROLLING STONE (Sept. 12, 2018), <https://www.rollingstone.com/politics/features/puerto-rico-hurricane-maria-damage-722570> [<https://perma.cc/UY2L-ZVNB>].

61. Klein, *supra* note 55.

62. *Id.*

63. 26 U.S.C. § 933 (1).

64. Klein, *supra* note 55.

65. *Id.*; see also Nellie Bowles, *Making a Crypto Utopia in Puerto Rico*, N.Y. TIMES (Feb. 2, 2018), <https://www.nytimes.com/2018/02/02/technology/cryptocurrency-puerto-rico.html> [<https://perma.cc/RK37-T9LQ>].

most costly storm in U.S. history.⁶⁶ Given the immense deficit, the island had not had any major investment in infrastructure before the storm hit. The electrical and water systems were paralyzed after the storm. Roughly 300,000 homes were damaged or destroyed, costing approximately \$100 billion.⁶⁷ The cap on public federal funds also limited the assistance that Puerto Rico could receive, even during emergencies. SNAP, for example, could not be expanded in response to the emergency—as often occurs in other states—because there is a cap to the amount of funds the island can receive.⁶⁸

The response of the Trump administration was woefully inadequate, despite assertions by the President that it was an “unsung success.”⁶⁹ The government’s response was slow, ineffective, and immoral.⁷⁰ One month after the hurricane, eighty percent of people were left without power and about a third could not access clean water.⁷¹ Five months after the disaster, a third of Puerto Ricans still did not have electricity.⁷² A year after the disaster, some people remained without power.⁷³

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66. National Hurricane Center, *Costliest U.S. Tropical Cyclones Tables Updated*, U.S. DEP’T OF COMMERCE (Jan. 26, 2018), <https://www.nhc.noaa.gov/news/UpdatedCostliest.pdf> [<https://perma.cc/27TR-BSFV>].
67. Goodell, *supra* note 60.
68. *PUERTO RICO*, *supra* note 49. After mounting pressure to update the official death toll of 64, the Puerto Rican government reported the death of nearly 2975 Puerto Ricans. Other studies estimate the death toll to be closer to 4645. See Nishant Kishore et al., *Mortality in Puerto Rico After Hurricane Maria*, *NEW ENG. J. MED.* (July 12, 2018), <https://www.nejm.org/doi/10.1056/NEJMsa1803972> [<https://perma.cc/A42H-QGWY>].
69. Partly in response to Trump’s discourse, media outlets, public figures, and journalists repeated that Puerto Ricans deserved aid because they were U.S. citizens. Nelson Maldonado Torres, Frances Negrón-Muntaner, and others have criticized this approach because it again looks at Puerto Rico through the lens of colonialism and erodes a rights-based approach by creating a distinction between those who are deserving and those who are not. The depiction of Puerto Ricans not just as “Americans,” but as “our fellow Americans,” fails to recognize that “citizenship status alone has never guaranteed rights for racialized people, who are not seen as fully human to begin with.” Furthermore, calling Puerto Ricans “our fellow Americans” erases their national identity and neglects a long history of resistance against the colonial relationship. Frances Negrón-Muntaner, *Our Fellow Americans*, *DISSENT* (Jan. 10, 2018), https://www.dissentmagazine.org/online_articles/our-fellow-americans-puerto-rico-hurricane-maria-colonialism-rhetoric [<https://perma.cc/A6KX-VDSM>].
70. Amanda Holpuch, *Trump Calls Puerto Rico Hurricane Effort an ‘Unsung Success’ – Here’s the Reality*, *GUARDIAN* (Sept. 12, 2018), <https://www.theguardian.com/world/2018/sep/12/trump-puerto-rico-maria-hurricane-claim-fact-check-reality> [<https://perma.cc/BCX4-5CL8>].
71. Yochi Dreaze, *Darkness: Life in Puerto Rico Without Electricity*, *VOX* (Oct. 23, 2017), <https://www.vox.com/2017/10/23/16501164/puerto-rico-hurricane-maria-power-water-sewage-trump> [<https://perma.cc/V462-M7W9>]; John D. Sutter, *About 1 Million Americans Without Running Water. 3 Million Without Power. This is Life One Month after Hurricane Maria*, *CNN* (Oct. 29, 2017), <https://www.cnn.com/2017/10/18/health/puerto-rico-one-month-without-water/index.html> [<https://perma.cc/RJH2-BC2E>].
72. Jed Gottlieb, *Puerto Ricans Deserve Aid Not Because They Are Americans, But Because They Are Humans*, *QUARTZ* (Jan. 31, 2018), <https://qz.com/1194200/fema-puerto-ricans-deserve-aid-not-because-they-are-american-but-because-they-are-human> [<https://perma.cc/TFU7-Z96J>].
73. The problem around the provision of electricity was further aggravated by the multiple scandals surrounding contractors hired to fix the electrical grid, which delayed a full recovery. The Puerto Rico Electric Power Authority was scrutinized for specific provisions in one of the contracts charging exorbitant rates for a company with no expertise in disaster scenarios. The contract also

The story of Puerto Rico as the story of the world's oldest colony is essential to understanding how empire shapes the life of the island and its people. But it is also an incomplete story if we fail to account for the ways in which Puerto Ricans assert their self-determination in light of the complex colonial relationship that they find themselves in.

II. THE *THIRD SPACE* OF SOVEREIGNTY

Sovereignty in the Puerto Rican context has often been debated as a goal that is strictly achieved through political and legal changes; a discussion about national boundaries and membership. Leaders and activists such as Pedro Albizu Campos, Lolita Lebrón, the Fuerzas Armadas de Liberación Nacional (Armed Forces of National Liberation), Oscar López Rivera, Marie Haydée Beltrán Torres, and others have sought a transformation in the relationship between the island and the United States. Since 1898, there have been over two thousand political prisoners arrested for their resistance to U.S. rule over the island.⁷⁴ Sovereignty, however, is a complicated concept that encompasses issues beyond the legal status of a territory.

This focus on state sovereignty or legal status obscures other important struggles for self-determination. At the same time, it “reflects and imposes a hegemonic way of seeing and knowing the political world,” where colonized and marginalized people seem “mute politically when it comes to claims about people, power, and space.”⁷⁵ This dominant notion of statist sovereignty presumes that “legitimate, viable sovereignty can be secured and expressed only through statist institutions.”⁷⁶ Puerto Ricans, however, have claimed a *third space of sovereignty*. They move across and push against political boundaries “to gain the fullest possible expression of political identity, agency, and autonomy.”⁷⁷

exempted certain provisions from the purview of the Federal Emergency Management Agency (FEMA). Other legal obstacles to recovery exist. For instance, the Stafford Act of 1988 prevents FEMA funds to be used for renewable energy systems since it requires that any infrastructure built after a disaster replicates more or less what existed before. The Act prohibits the modernization of infrastructure and allows only emergency aid, not long-term improvements. 42 U.S.C. § 5172(a)(1)(A)-(B); see also Vann R. Newkirk II, *The Puerto Rico Power Scandal Expands*, ATL. (Nov. 3, 2017), <https://www.theatlantic.com/politics/archive/2017/11/puerto-rico-whitefish-cobra-fema-contracts/544892> [<https://perma.cc/47V7-K4X3>].

74. Jan Susler, *More Than 25 Years: Puerto Rican Political Prisoners*, NACLA (Nov. 26, 2007), <https://nacla.org/article/more-25-years-puerto-rican-political-prisoners> [<https://perma.cc/R2JW-XJG5>].

75. BRUYNEEL, *supra* note 1, at 23.

76. *Id.* at 219.

77. *Id.* at 6. Alternate methods of conceptualizing sovereignty reimagine the relationship between people, power, and space over time. Building on Jens Bartelson's work, Bruyneel warns us to “take heed of what we lose by not opening ourselves up to at least a consideration of alternatives” and to decolonize our spatial imaginations. *Id.* at 222. He reminds us of the words of Chief Justice Robert

The *third space of sovereignty* questions the notion that expressions of citizenship and sovereignty are limited by dominant political boundaries.⁷⁸ This is particularly relevant in the context of Puerto Rico, where self-determination has been defined in the context of its relationship with the United States. The history behind the concept of self-determination is beyond the scope of this text, but the end of World War II marked an important moment for colonies around the world and, thus, for common understandings about political sovereignty. In 1945, countries declared through the UN Charter their intention to foster the “creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.”⁷⁹ Similarly, UN General Assembly Resolution 1514, also known as the Declaration on the Granting of Independence to Colonial Countries and Peoples, declared that “all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”⁸⁰ Both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights have an article that recognizes the right to self-determination.⁸¹ In these documents, the international community has characterized self-determination as “the gateway for the full enjoyment of human rights,” both economic, social, and cultural rights as well as civil and political rights.⁸²

Sovereignty is more complicated than the question of political status. Professor Kevin Bruyneel defines sovereignty as “the ability of a group of people to make their own decisions and control their own lives in relation to the space where they reside and/or that they envision as their own.”⁸³ Bruyneel’s work focuses on the struggles of indigenous peoples and their relationships with the U.S. political system, arguing that the imposition of U.S. colonial rule and the indigenous struggles against it constitute a conflict over boundaries. The resistance of indigenous people to this process creates what Bruyneel calls the *third space of sovereignty*, which “resides neither simply inside nor outside the American political system but rather exists on these very boundaries, exposing both the practices and contingencies” of U.S. domination. I argue that a similar space has existed and continues to exist as Puerto Ricans resist colonialism and

Porter of the Supreme Court of the Sac and Fox Nation of Kansas and Missouri: “a decolonized relationship does not mean that there is no relationship at all.” *Id.* at 223.

78. *Id.* at 25.

79. U.N. Charter art. 55.

80. G.A. Res. 1514 (XV) (Dec. 14, 1960).

81. International Covenant on Civil and Political Rights art. 1, Dec. 16, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights art. 1, Dec. 16, 1966, 993 U.N.T.S. 3.

82. Carlos Iván Gorrín Peralta, *Puerto Rico and the United States at the Crossroads, in RECONSIDERING THE INSULAR CASES*, *supra* note 4, at 183, 197.

83. *Id.*

reimagine their own sovereignty. While this comparison is by no means perfect, it captures the similar experience of groups who have been subjected to the logic of imperialism. It also serves as another option “for defining and seeing expressions of citizenship and sovereignty that are not confined by dominant political boundaries.”⁸⁴

This *third space* encompasses resistance to the current status and all its implications for everyday life, spanning beyond the legal and political realm. It exists as a space that Puerto Ricans build and inhabit everyday. The *third space* occurs when people resist the lack of sovereignty over their own food production, energy generation, evictions, and visitor economy. It manifests itself when people resist the economic and political spaces created by over a century of colonial rule over the island. The spatial boundaries are not inflexible or static. They are contested precisely because Puerto Ricans—and colonized people generally—seek to move forward by challenging colonial impositions and colonial rule to “gain fuller expression of their agency and autonomy.”⁸⁵ This contestation is “not only about state-sanctioned geographic boundaries, which, although violent and oppressive, are also the most apparent and thus slightly less insidious form of boundaries imposed.”⁸⁶ Ultimately, the *third space* allows groups to refuse to conform to the binaries of inside-outside, modernity-traditionalism, and assimilation-independence. People search for a more profound sense of what it means to exercise their right to self-determination and to have a political identity. In essence, the *third space* problematizes the boundaries of colonial U.S. rule.⁸⁷

Using the lens of the *third space* allows us to understand the implications of and responses to colonialism in the context of Puerto Rico. It enriches our current understanding, while challenging the hegemonic notion of state sovereignty. This in turn allows us to broaden our analysis and learn from the ways in which social movements reimagine their existence in a colonized space, resist structural violence, and seek to redefine their reality. It enriches current legal scholarship by going beyond the question of Puerto Rico’s political status. Furthermore, in light of the political impasse and the seeming absence of real alternatives to the island’s existing political configuration, we must look beyond the obvious places to better understand how legal structures imposing second-class citizenship on Puerto Ricans are contested, particularly by women.

As in all patriarchal societies, women are vulnerable to structural violence. Women are often relegated to the private sphere, with a high number of female

84. BRUYNEEL, *supra* note 1, at 25.

85. *Id.* at 1.

86. *Id.* at 20.

87. *Id.* at 21.

heads of household and low representation in public office.⁸⁸ Women also suffer endemic gender-based violence, with one woman being killed every week and police undercounting femicides.⁸⁹ Puerto Rican women are also often at the end of facially neutral policies and are hardest hit by austerity measures. They experience poverty at disproportionately high rates compared to men and are particularly vulnerable after natural disasters and in times of economic crisis.⁹⁰ It is precisely because of the position of women in Puerto Rico that exploring and understanding their role and visions of self-determination is imperative. There is much to learn when we extend our analytical lens to include understandings of sovereignty beyond state sovereignty, especially as we focus on the role of women resisting subordination.

III. THE *THIRD SPACE* OF PUERTO RICAN SOVEREIGNTY

In the context of compounded natural and manmade crises, what does sovereignty mean for Puerto Ricans? In the absence of state sovereignty in Puerto Rico, what solidarities emerge and what is the interplay between a weak state and a resilient society? When traditional avenues for political change are inaccessible, what is the alternative? In this moment, where the island is experiencing multiple crises, different models of change emerge. As Klein and others describe, the island faces the choice between two utopian projects:

the vision of Puerto Rico in which the wealth of the island is carefully and democratically managed by its people, and the libertarian project some are calling “Puertopia” that is being conjured up in the ballrooms of luxury hotels in San Juan and New York City. One dream is grounded in a desire for people to exercise collective sovereignty over their land, energy, food, and water; the other in a desire for a small elite to secede from the reach of government altogether, liberated to accumulate unlimited private profit.⁹¹

After the *Junta* began dictating economic policy in Puerto Rico—and the current government was unable or unwilling to challenge the austerity measures being pushed through—people took to the streets and organized. Students at the University of Puerto Rico protested for almost three months in the spring of 2017 against budget cuts and a raise in tuition. A few months later, approximately one hundred thousand people marched on the streets to demand an end to austerity

88. Alieza Durana, *Gender Inequality in Puerto Rico Is About to Get Worse*, SLATE (Oct. 12, 2017), <https://slate.com/human-interest/2017/10/gender-inequality-in-puerto-rico-is-going-to-get-worse-after-hurricane-maria.html> [<https://perma.cc/T6G7-YRBU>].

89. Alleen Brown, *Dozens of Murdered Women Are Missing from Puerto Rican Police Records, New Report Finds*, INTERCEPT (Nov. 16, 2019), <https://theintercept.com/2019/11/16/puerto-rico-murders-femicide-police> [<https://perma.cc/7DWW-GUC7>].

90. Durana, *supra* note 88.

91. Klein, *supra* note 55.

and what they see as an illegitimate debt.⁹² In 2018, the Citizen Front for the Debt Audit (*Frente Ciudadano por la Auditoría de la Deuda*) asked the U.S. Congress not only for a cancellation, but also for a comprehensive audit of the debt.⁹³ Many feel, however, that social movements resisting the Board have been debilitated as a result of trauma, displacement, and neoliberal policies.⁹⁴ After the 2017 protests, for instance, the government cracked down on the organizations involved in the mobilization, threatening them with litigation and arrests.⁹⁵

Despite the suppression of social mobilization, a growing movement reimagines a just recovery that encompasses energy sovereignty, food security, access to healthcare, and adequate education as the pillars of reform. Over sixty groups and individuals have come together to create *JunteGente*, a political program to bring sovereignty to Puerto Rico beyond political independence. Their platform begins by stating:

Puerto Rico suffers from an unprecedented political, economic, environmental, and social emergency. Every day more people feel the urgency to come together, intertwine efforts, and take concerted actions that turn the direction of our collective lives Before feeling the first hurricane gusts, the people of this archipelago carried a decade of economic depression and austerity, feeling handcuffed before the blatant looting and dismantling of the basic institutions that guarantee our well-being. The immense crisis we are facing is not Hurricane Maria's fault, but the result of decades of misguided public policies and the actions of corrupt politicians⁹⁶

As this statement illustrates, the aftermath of PROMESA and Maria increased the visibility of the role of the U.S. government not only in undermining sovereignty, but also in blocking it. These crises have reenergized a demand to redefine the relationship between the island and the United States, while creating a deeper interdependence of grassroots communities. Puerto Ricans have been forced to organize and respond on a massive scale.

After Maria hit Puerto Rico, local communities mobilized to clear the debris on the roads, deliver aid, remove trees, cook meals, and take care of children.⁹⁷ Women in particular helped connect Puerto Ricans with aid groups, raised

92. *Id.*

93. *Members of Congress Asked to Include Audit in Puerto Rico Debt-Cancellation Bill*, CARIBBEAN BUS. (Feb. 13, 2018), <https://caribbeanbusiness.com/congress-asked-to-include-audit-in-puerto-ricos-debt-cancellation-bill> [<https://perma.cc/7JYN-BRBM>].

94. Telephone Interview with Verónica Figueroa Huertas, *supra* note 35.

95. *Id.*

96. *Manifiesto de la Emergencia y la Esperanza*, JUNTEGENTE (June 2, 2018), <http://juntegente.org/manifiesto> [<https://perma.cc/76TC-RQ7T>] (author's translation).

97. Mariel Cruz, *Puerto Rico Se Transforma*, VOGUE (Mar. 8, 2018), <https://www.vogue.com/projects/13542078/puerto-rico-after-hurricane-maria-2> [<https://perma.cc/N7N9-RC6D>].

money to rebuild, and drove the reconstruction of the island.⁹⁸ They also distributed solar-powered lights, generators, water, clothes, batteries, and medication, among other basic necessities. In response to the problem of standing water and the mosquito population, a group of women known as *Las Tres Mosquiteras* (a play on the Three Musketeers) devised a way to make mosquito nets without sewing machines.⁹⁹ With the support of a number of aid groups, women canvassed in their own neighborhoods, created handmade nets to cover as many beds as possible, and taught other women how to do the same.¹⁰⁰ Another organization, *Casa Pueblo*—a community and ecology center—became a community hub for self-organized relief efforts, in large part because its solar panels generated power for a large number of homes after most of the island was left without electricity.¹⁰¹ The organization is advocating for an off-grid energy system, where people no longer rely on fossil fuels for their energy needs.¹⁰² Like many others, *Las Tres Mosquiteras* and *Casa Pueblo* are not waiting on the U.S. government to lead the way to a just recovery. They are pushing for their own vision of change, exemplifying the *third space of sovereignty* in the Puerto Rican context.

Out of the diverse range of actors fighting for self-determination today, I selected three case studies to explore the concept of the *third space of sovereignty*. All three organizations are led by women, operate at the grassroots level, and connected broader fights for structural change with the particular conditions of the Puerto Rican context. Their efforts illustrate the importance of thinking about self-determination and sovereignty beyond the independence movement and the political status question.

The case studies presented here also demonstrate the distinct ways in which social groups engage with the law. Some groups, like *Ayuda Legal Puerto Rico*, use law as a central tool to effect change and ameliorate the impacts of austerity measures and eviction. Other groups, like the *Feminista Colectiva en Construcción*, prefer a more confrontational approach, in which advocacy is centered around feminist and anti-patriarchal ideology and there is very limited engagement with law as a tool to vindicate rights. The *third space* reflects how the law is contingent and thus, “how it matters for social movements varies with the context and character of struggle.”¹⁰³

98. Mayra Cuevas, *Meet the Puerto Rican Sisterhood Reinventing the Island's Future After Maria*, CNN (Mar. 7, 2019) <https://www.cnn.com/2018/09/19/us/iyw-puerto-rico-women-rebuild-trnd/index.html> [https://perma.cc/B5SG-98AQ].

99. Cruz, *supra* note 97.

100. Cruz, *supra* note 97.

101. Klein, *supra* note 55.

102. The island currently receives 97% of its electricity from fossil fuels. *Puerto Rico Territory Energy Profile*, U.S. ENERGY INFO. ADMIN. (Nov. 21, 2019), <https://www.eia.gov/state/print.php?sid=RQ> [https://perma.cc/U5RL-9YRM].

103. Michael McCann, *Law and Social Movements: Contemporary Perspectives*, 2 ANN. REV. L. & SOC. SCI. 17 (2006).

A. Feminista Colectiva en Construcción

Feminista Colectiva en Construcción (Feminist Collective in Construction, or the Collective) actively resists forms of patriarchal domination over women in the island, fighting for concrete policies against widespread gender-based violence in the island. The Collective is a political group with a black feminist, anti-patriarchal, anti-black violence, and anti-capitalist platform. Founded in 2014, the group has been active in response to the devastation brought by *La Junta* and the hurricanes. After Hurricane Maria and the ineffective U.S. response, for example, the Collective occupied a public building to fill in the gaps left by the Federal Emergency Management Agency (FEMA).¹⁰⁴ Instead of waiting for the Puerto Rican or U.S. government to respond, members of the Collective took matters into their own hands. The organization began distributing food and water supplies. It connected pregnant women with medical and legal services. It also supported the 2017 student strike against the massive proposed budget cut affecting the University of Puerto Rico along with other protests. In this way, the group supported Puerto Ricans in struggles to assert control over their everyday lives.

Although the Collective is politically aligned with the left in Puerto Rico (including those supporting independence), it has encouraged debates regarding the meaning of sovereignty, autonomy, and self-determination.¹⁰⁵ While feminists at the Collective believe that a broader national discussion on the legal status of the island and the relationship with imperialism and colonialism is central to the island's future, they are imagining a broader platform that also centers liberation in everyday life.¹⁰⁶ They fight gender and racial inequality, using an intersectional framework to analyze social problems. While the Collective supports having more women and people of color in positions of power, they are keen to promote public policy and social programs geared towards vulnerable populations. They are tackling issues like the public debt, food sovereignty, and the visitor economy. The Collective has several projects, including a feminist school in which members are assigned and discuss specific readings each session.¹⁰⁷

The Collective has been one of the most, if not the most, outspoken civil society group against endemic gender-based violence in Puerto Rico. In November 2018, the group led a series of protests demanding that Governor Rosselló declare a state of emergency after a spike in the number of femicides

104. Jhoni Jackson, *La Colectiva Feminista en Construcción is Helping Puerto Rico Recover from Hurricane Maria*, TEEN VOGUE (Oct. 27, 2017), <https://www.teenvogue.com/story/la-colectiva-feminista-en-construccion-is-helping-puerto-rico-recover-from-hurricane-maria> [https://perma.cc/6T69-9BMT].

105. Telephone Interview with Verónica Figueroa Huertas, *supra* note 35.

106. *Id.*

107. *Id.*

on the island.¹⁰⁸ According to the Collective, forty women were murdered in Puerto Rico in 2018 and twenty-four of those were cases of domestic violence.¹⁰⁹ Three of the murders were committed by police officers, none of whom have been convicted.¹¹⁰ Through the *plantón contra la violencia machista* (strike against sexist violence), activists urged the governor to issue an executive order to guarantee an emergency governmental plan against gender-based violence.¹¹¹ The Collective believes declaring a state of emergency would

establish a precedent for the level of urgency with which sexist and gendered violence should be treated. [The executive order] declares that this violence is not a private or interpersonal issue alone, but a public one created by many intervening factors that the state is responsible for taking on and working to reduce. It promotes the immediate allocation of funds for public agencies and nongovernmental organizations to address the crisis, and allows the mobilization of the directors of public agencies to prioritize services and establish plans to work together.¹¹²

The group presented a draft order with concrete proposals to tackle the situation from a holistic and public health perspective. The proposal was the result of a 2017 broad-based national feminist assembly where more than four hundred women discussed gender-based violence in Puerto Rico.¹¹³ Activist Vanesa Contreras said:

Here people worry more about keeping the *bonistas* [bondholders] happy than about offering women a dignified life. We have to develop a fiscal emergency plan because we have to pay the investors, and yet there is no fiscal emergency plan to eradicate sexist violence. These are the government's priorities.¹¹⁴

Although the governor did not sign the order, the media covered the protests and gender-based violence reports extensively, with Puerto Rican celebrities

108. Osman Pérez Méndez, *Manifestantes exigen plan para frenar feminicidios*, PRIMERA HORA (Nov. 25, 2018), <https://www.primerahora.com/noticias/gobierno-politica/nota/manifestantesexigenplanparafrenarfemicidios-1313786> [<https://perma.cc/2HDDH-WGS8>].

109. *Women Demand Governor Ricardo Rosselló Address Gender-Based Violence in Puerto Rico*, NOW THIS NEWS (Nov. 27, 2018), <https://nowthisnews.com/videos/her/women-want-government-to-address-gender-based-violence-in-puerto-rico> [<https://perma.cc/2DTT-YP5D>]. This is the second highest rate in the last decade. *Reclamo contra la violencia de género en Isleta de San Juan*, PRIMERA HORA (Dec. 7, 2018), <https://www.primerahora.com/noticias/policia-tribunales/nota/reclamocontralaviolenciadegeneroenisletadesanjuan-1315652> [<https://perma.cc/XB5A-6GNJ>]; see also Gia Berrios, *The Crisis of Violence Against Women in Puerto Rico*, TRUTHOUT (Dec. 21, 2018), <https://truthout.org/articles/the-epidemic-of-violence-against-women-in-puerto-rico> [<https://perma.cc/4EH9-RHTH>].

110. Only fourteen percent of domestic violence complaints result in a conviction. Berrios, *supra* note 109.

111. *Women Demand Governor Ricardo Rosselló Address Gender-Based Violence in Puerto Rico*, *supra* note 109.

112. Berrios, *supra* note 109.

113. Berrios, *supra* note 109.

114. Pérez Méndez, *supra* note 108 (author's translation).

joining in support.¹¹⁵ A few days later, the Collective also met with two staff members from the governor's office and a representative of the Women's Advocate Office (WAO). The Collective and the government agreed to work jointly on a media campaign against sexism in the island. Given the legal and financial implications of declaring an emergency, however, the government did not agree to label the current situation as such.¹¹⁶ WAO director Lersy Boria Vizcarrondo also admitted that there were no funds for campaigns after *La Junta* cut their budget by \$1 million.¹¹⁷ Boria did commit to set a meeting between women advocates and the Governor, which took place on January 14, 2019.¹¹⁸ As a result, the government agreed to provide legal support to women victims of domestic violence, open the first shelter in Ponce (south of Puerto Rico) to assist victims, and create a specialized chamber on domestic violence in the Ponce Tribunal.¹¹⁹

In spring 2019, the organization led what they called *La primavera feminista*, or the Feminist Spring. The campaign sought to raise awareness about the debt as a tool of controlling the colony and disproportionately affecting women and black Puerto Ricans.¹²⁰ While the Collective has raised the visibility of gender-based violence, it understands patriarchy as also exerting structural violence on women. For instance, the debt has been used to cut funding to programs that primarily affect women, such as schools and hospitals. Since both nurses and teachers are predominantly women, the Collective sees austerity measures as another tool to directly oppress women.¹²¹

The work of the Collective contributes to the *third space of sovereignty*, whereby Puerto Rican feminists demand autonomy over their bodies and territory. By claiming freedom from gender-based violence and austerity law, they resist structural violence and its everyday impacts on the safety of women and people of color.

115. *Residente defiende a la Colectiva Feminista: El reclamo de ellas fue ignorado*, PRIMERA HORA (Jan. 12, 2019), <https://www.primerahora.com/entretenimiento/musica/nota/residentedefiendealacolectivafeministaelreclamodeellasfueignorado-1321002> [https://perma.cc/X36U-9WJX].

116. Frances Rosario, *Feministas logran acuerdos con la Procuradora de las Mujeres*, PRIMERA HORA (Nov. 28, 2018), <https://www.primerahora.com/noticias/gobierno-politica/nota/feministaslogranacuerdosconlaprocuradoradelasmujeres-1314062> [https://perma.cc/3QYE-YGFA].

117. *Id.*

118. *Gobernador de Puerto Rico se reúne con grupos para erradicar la violencia machista*, HOY (Jan. 14, 2019), <https://www.hoylosangeles.com/efe-3866882-15019076-20190114-story.html> [https://perma.cc/64FZ-SH5M].

119. *Roselló se reúne con líderes de movimiento feminista*, PRIMERA HORA (Jan. 14, 2019), <https://www.primerahora.com/noticias/gobierno-politica/nota/rossellosereuneconlideresdemovimientofeminista-1321263> [https://perma.cc/ZP7B-5482].

120. Telephone Interview with Verónica Figueroa Huertas, *supra* note 35.

121. Berrios, *supra* note 109.

B. Ayuda Legal Puerto Rico

Ayuda Legal Puerto Rico (*Ayuda Legal*) is a women-led, non-profit legal organization supporting women and low-income communities as they reclaim control over basic aspects of their own lives, including housing and education. Based in San Juan, *Ayuda Legal* offers direct legal services to low-income Puerto Ricans. It is also the first free disaster legal aid initiative in the island. It focuses on legal education and legal counseling as a tool to mobilize people and transform society. The staff is made up mainly of women who have worked on economic and social rights in the past and who apply a community lawyering perspective to their work. Some of the lawyers have supported activists in recent protests, particularly after the 2017 student strike where students were arrested and faced charges.¹²² The organization wants to make lawyers accessible and continue a long-time tradition of community lawyering in Puerto Rico.¹²³ Its members believe that legal knowledge should not be held exclusively by a group that is already privileged and powerful.¹²⁴ Many identify as lawyers, feminists, and activists.¹²⁵

Similar to other organizations in Puerto Rico, *Ayuda Legal* sees the austerity measures and the fiscal reconfiguration of the island as structural violence. The organization's vision presumes that Puerto Ricans' interaction with the law is often violent, and at times even traumatic—with parents having their children taken away, people losing their homes, and more.¹²⁶ They see their role as radical lawyers, focusing on “enabling poor and powerless people to petition rather than on changing legal doctrine.”¹²⁷ In this way, the organization empowers people to assert control over basic elements of their lives.

Ayuda Legal was first founded after Hurricane Maria struck the island to provide free legal services to low-income Puerto Ricans whose property had been affected. Near two hundred lawyers and two hundred law students helped people navigate the processes required by FEMA to file a claim.¹²⁸ The director

122. Telephone Interview with Verónica Figueroa Huertas, *supra* note 35.

123. See Valeria M. Pelet del Toro, *Beyond the Critique of Rights: The Puerto Rico Legal Project and Civil Rights Litigation in America's Colony*, 128 YALE L.J. 792, 823-24 (2019).

124. Telephone Interview with Ariadna M. Godreau-Aubert, Director, *Ayuda Legal Puerto Rico* (Apr. 16, 2019).

125. Lawyers at *Ayuda Legal* illustrate what Betty Hung has identified as three essential threads of movement lawyering: (1) to be grounded in a place of humility that recognizes lawyering as one of several strategies necessary to advance social movements; (2) to act from a place of love that affirms intersectionality in order to build movements; and (3) to practice courage and be willing to relinquish privileges in order to act and stand up for justice. Betty Hung, *Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage*, 23 CLINICAL L. REV. 663 (2017).

126. Interview with Ariadna M. Godreau-Aubert, *supra* note 124.

127. Anita Hodgkiss, *Petitioning and the Empowerment Theory of Practice*, 96 YALE L.J. 569, 576 (1987).

128. Raquel Reichard, *100 Days After Hurricane Maria this Puertorriqueña Continues Helping Her People in a Major Way*, FIERCE (Dec. 28, 2017), <https://fierce.waremitu.com/fierce-boss->

of the organization, Ariadna M. Godreau-Aubert, has referred to this event as “a crisis inside another crisis.”¹²⁹ *Ayuda Legal* soon developed distinct areas of work focused on the right to housing. They helped homeowners file FEMA applications for federal assistance and meet the eligibility requirements. Providing the requisite documentation to FEMA poses a challenge because many Puerto Ricans, especially those living in remote areas, lack deeds to their homes, which are often passed through generations without any legal documentation.¹³⁰ *Ayuda Legal* also deployed legal brigades in almost seventy-eight municipalities and drafted a legal manual for attorneys focused on natural disasters.¹³¹

From Monday to Friday, the organization staffs a free hotline to help anyone with housing issues. In addition, *Ayuda Legal* holds Know Your Rights trainings and represents individual clients who cannot afford legal counsel.¹³² Training sessions also serve as community spaces for people to meet and discuss what they envision as a just recovery.¹³³ These community spaces raise the visibility of the structural nature of evictions, displacement, violence, and debt.¹³⁴

Ayuda Legal unofficially subscribes to a theory of practice that advocates using the legal system to empower people by increasing their sense of personal and political power.¹³⁵ They seek to accomplish what Peter Gabel and Paul Harris identified as the three general ways to achieve empowerment: (1) develop a lawyer-client relationship of genuine equality and mutual respect; (2)

ladies/meet-the-woman-behind-a-brigade-providing-free-legal-services-to-puerto-ricans-impacted-by-hurricane-maria [https://perma.cc/5XR5-7AE8].

129. Interview by Colectiva Feminista en Construcción with Ariadna M. Godreau-Aubert, Director, *Ayuda Legal Puerto Rico* (Apr. 4, 2019), <https://www.facebook.com/Colectiva.Feminista.PR/videos/451694595572183> [https://perma.cc/95BT-Q7QZ].
130. Estimates indicate that 62% of applications were denied. On average, assistance has not been enough to cover the costs of repairing an entire house. Approximately seventy-seven thousand families did not receive funding because they do not have a deed of their house. Families without internet access have difficulty filing the online forms. Interview by Colectiva Feminista en Construcción with Ariadna M. Godreau-Aubert, *supra* note 129.
131. Jeanne Ortiz, *Lawyering in a Crisis: What Five Puerto Rican Women Did in the Aftermath of a Major Hurricane*, MS. JD (June 14, 2018), <https://ms-jd.org/blog/article/radical-lawyering> [https://perma.cc/VX88-ATUR].
132. In accordance with Anita Hodgkiss’s argument about the radical lawyer’s task, the organization encourages individual and collective empowerment. Hodgkiss, *supra* note 127, at 570.
133. Interview by Colectiva Feminista en Construcción with Ariadna M. Godreau-Aubert, *supra* note 129. Helping residents file FEMA claims may, as Hodgkiss suggests in her characterization of petitioning, serve as a catalyst to generate political organization and movement-building, strengthen local involvement, foster a sense of collective identity, and suggest areas and specific ways for seeking redress. See Hodgkiss, *supra* note 127, at 584.
134. The organization estimates that at least one hundred communities are at risk of forced displacement based on statements made by local government and the media. Some communities, like Salinas and Loíza, have already seen displacement. Interview by Colectiva Feminista en Construcción with Ariadna M. Godreau-Aubert, *supra* note 129.
135. Peter Gabel & Paul Harris, *Building Power and Breaking Images: Critical Legal Theory and the Practice of Law*, 11 N.Y.U. REV. L. & SOC. CHANGE 369, 376 (1982-83); see also Hodgkiss, *supra* note 127, at 579.

demystify the symbolic authority of the state in the court; and (3) reframe legal conflicts to highlight their social, economic, and political foundations.¹³⁶

Ayuda Legal is also working on education issues, which they see as connected to the right to housing. More than two hundred schools have closed around the island, which has forced people to move because they no longer have a place to send their children during the day. The organization also sees women's rights as inextricably linked to housing—the right to physical integrity and to occupy a space depends on having a safe and dignified home.¹³⁷ After the hurricane hit, the organization moved from FEMA appeals to evictions and other related issues, including the removal of minors by the Department of Social Services. The department sought to remove minors because families lacked adequate housing, which was only an issue because FEMA had not responded to Puerto Rican's claims requesting financial assistance to fix property damages.¹³⁸

Ayuda Legal sees the right to housing as a feminist claim because denying women and their families a space to live is a form of structural violence. Godreau-Aubert said:

Our initiative is a feminist process. The economic crisis in Puerto Rico does not affect us equally. The most challenging part has been discerning the process of receiving funds. This is a project of constructing social justice. Most people affected by the hurricane were women. It's the feminization of poverty. If you pay close attention, most of the people at FEMA answering questions about applications and cases are women. Our work is necessarily feminist and the accompanying process is necessarily feminist.¹³⁹

Ayuda Legal grounds its work in a broader structural analysis where debt and fiscal control have resulted in gentrification, a tourist-based economy, the erosion of social fabric, and forced displacement. They advocate for a rights-based approach, where people have a right to dignified housing and to self-determination. Mayté Rivera Rodríguez, another lawyer working on recovery and public interest issues, described their role as lawyers:

We must think not only about what our role as lawyers should be but also our role as women. I think people are impressed when they see a group of women doing this. We provide information that empowers

136. Gabel & Harris, *supra* note 135, at 376.

137. Interview by Colectiva Feminista en Construcción with Ariadna M. Godreau-Aubert, *supra* note 129; see also Vianne Timmons, Melissa Coomber-Bendtsen & Alexis Zederayko, *Gender-Based Violence and Homelessness: Two Sides of the Same Coin*, JOHNSON SHOYAMA GRADUATE SCH. PUB. POLICY (Nov. 23, 2018), <https://www.schoolofpublicpolicy.sk.ca/research/publications/policy-brief/Gender-Based-Violence-and-Homelessness.php> [<https://perma.cc/PWF6-LW4G>] (finding a correlation between lack of housing and gender-based violence).

138. Cruz, *supra* note 97.

139. Ortiz, *supra* note 131.

people but also helps them challenge the system. Our work is a response to the struggles of our country.¹⁴⁰

Ayuda Legal's work encompasses the act of petitioning the government for a particular change or to claim a right. Their work has served as a way to publicize issues and demand attention in the legislative agenda, in addition to offer aggrieved parties a way "to seek relief unavailable through other channels such as the courts or the ballot box."¹⁴¹ By having citizens bring their grievances to government, petitioning serves as a way to empower individuals and society as a whole.¹⁴² According to Anita Hodgkiss, petitioning

involves a change in consciousness and social relations so that people see themselves as able to join, and actually do join, in making decisions, along with their community, which affect their lives in important ways. Empowerment—the opposite of alienation—cannot be achieved by a simple attitude change; it depends, to a certain extent, on actual participation in a political movement or some other collective activity by which people try to influence decisions that affect their lives.¹⁴³

A rights-based discourse in Puerto Rico has historically provided a framework for effective organizing and community-driven action.¹⁴⁴ The work done by lawyers at *Ayuda Legal* empowers Puerto Ricans affected by the financial crisis and the hurricanes while constructing new claims to sovereignty in everyday life.

C. El Departamento de la Comida

El Departamento de Comida seeks to promote food sovereignty in Puerto Rico by helping residents reassert control over their food and food sources. Despite efforts after 2016 to increase the food security of the island, imported food constituted up to ninety percent of the total food supply in Puerto Rico.¹⁴⁵ After Hurricanes Irma and Maria destroyed restaurants, greenhouses, food trucks, and farms, the food sovereignty movement rebounded with an impressive

140. *Id.*

141. Hodgkiss, *supra* note 127, at 571. Critical Legal Studies (CLS) scholars question the notion that petitioning by itself is enough to serve justice and equality when rights discourse can be used to give legitimacy to oppression. See ROBERTO MANGABEIRA UNGER, KNOWLEDGE AND POLITICS 69-72 (1975); Mark Tushnet, *An Essay on Rights*, 62 TEX. L. REV. 1363, 1363-94 (1984). In the context of colonized people, CLS posits that "having people mobilize against colonial laws by demanding and articulating their rights would ultimately be pointless, as broader power structures limit what those rights can secure." Pelet del Toro, *supra* note 123, at 799. This Note does not intervene directly in this debate, but does suggest that there could be value in mobilization for the purpose of raising awareness, building solidarity, and empowering people to act.

142. Hodgkiss, *supra* note 127, at 573.

143. *Id.* at 581.

144. Pelet del Toro, *supra* note 123, at 800.

145. Julia Moskin, *Local Food in Puerto Rico Finds Energy in Recovery*, N.Y. TIMES (Mar. 19, 2019), <https://www.nytimes.com/2019/03/19/dining/puerto-rico-farmers-local-food.html> [<https://perma.cc/R2K8-Z63Z>].

commitment to the island.¹⁴⁶ *El Departamento de la Comida*, primarily led by women, is one of the most visible organizations working on Puerto Rico's recovery. The agroecological collective was created in 2010 by Tara Rodríguez Besosa to encourage local and regional food systems, including sustainable farming practices and farmers' markets.¹⁴⁷ It first aggregated produce from farms and sold it to 150 families and restaurants in San Juan.¹⁴⁸

El Departamento is an effort to promote small family farming and resist the industrial agriculture model, which has historically profited from monocrops of sugarcane, coffee, corn, and bananas.¹⁴⁹ As a result of economic policies, including the high tariffs on the import of goods, Costco and Walmart dominate the market. The large percentage of imported food left the island extremely susceptible when the hurricane hit.¹⁵⁰ With a limited number of local food sources, Puerto Ricans are vulnerable to shifts in price, natural disasters, and the whims of outside producers. As San Juan Mayor Carmen Yulín Cruz said:

I hate to say anything positive about Maria. But what the hurricane did was force us to look at the realities of life here and how our dependency on the outside weakens our ability to ensure our people are taken care of. Maria made it evident that we need agricultural sovereignty.¹⁵¹

El Departamento de la Comida has undergone several transformations since its founding, shifting from community-supported agriculture (CSA) to a food hub to a restaurant to a fund supporting volunteer brigades and food sovereignty. The organization has adapted according to the island's needs, particularly after the hurricane destroyed eighty percent of Puerto Rico's agricultural crops, costing as much as two billion dollars.¹⁵² *El Departamento de la Comida* seeks to embody self-determination and sustainability through a revolution in the food system on the island.¹⁵³ Rodríguez Besosa explained:

A lot of our farmers—a lot of people in general—have been through a very devastating situation. Not only economically devastating, but

146. *Acciones Alimentarias Sustentables Puerto Rico*, FONDO DE RESILIENCIA P.R., <http://fondoderesilienciapuertorico.tumblr.com> [<https://perma.cc/C5ZE-QJCM>].

147. Martha Bayne, *Rebuilding Puerto Rico, from the Ground Up*, EATER (Aug. 22, 2018), <https://www.eater.com/2018/8/22/17761062/puerto-rico-hurricane-maria-recovery-fondo-de-resiliencia> [<https://perma.cc/6Z4F-49T3>]. Rodríguez Besosa became a public figure in the island after she organized the Puerto Rico Resilience Fund to assist farmers after Hurricane Maria. She also coordinated the *GuaGua Solidaria* (Solidarity Bus), which traveled across the country to help farmers recover, repair, and restore their land. Kela Mastrianni, *The Kitchen Renegade*, EATER (Mar. 27, 2019), <https://www.eater.com/2019/3/27/18281527/vero-veronica-quiles-puerto-rico-profile> [<https://perma.cc/3W4J-N97F>].

148. Bayne, *supra* note 147.

149. *Id.* Between 1950 and 1965, Puerto Rico lost 104,000 fishing and farming jobs. Thousands of farmers left the countryside for factory jobs in San Juan and other urban centers.

150. *Id.*

151. Tamar Adler, *The Young Farmers Behind Puerto Rico's Food Revolution*, VOGUE (June 20, 2018), <https://www.vogue.com/article/rebuilding-puerto-rico-farms-agriculture-vogue-july-2018> [<https://perma.cc/GPA3-3YU8>].

152. Bayne, *supra* note 147.

153. *Id.*

emotionally and physically devastating. So that's something we think is important, to give support to farmers and to people that work within resilient food economies in Puerto Rico.¹⁵⁴

In 2019, the nonprofit will focus on four areas: agency, resource library, farm, and kitchen. The agency components will support three farm projects (a community run-garden, an agroforestry project, and a permaculture farm), while the resource library will offer farm tools and equipment to local farms.¹⁵⁵ *El Departamento de la Comida* has also led a network of advocates inside and outside of Puerto Rico who want not only to reconstruct farms, but also to reinvent and reclaim food sovereignty in Puerto Rico.¹⁵⁶

Rodríguez Besosa sees the government using the hurricane as an excuse to privatize social services to give economic control to outsiders. She believes that by working to get two hundred sustainable food projects off the grid—with their own water collection systems, renewable energy, seeds, and farmland—Puerto Rican farmers and producers can resist the privatization trend and live a just recovery.¹⁵⁷ This is another example of Puerto Ricans and community-led organizations inhabiting a *third space of sovereignty*, whereby they empower each other and resist the legacies of U.S. rule.

IV. THE LIMITS OF THE *THIRD SPACE*

In addition to the *Colectiva Feminista en Construcción*, *Ayuda Legal Puerto Rico*, and *El Departamento de la Comida*, there are numerous organizations reimagining self-determination at the local level. Artists and musicians, for example, have their own visions of resistance.¹⁵⁸ The hurricane and the debt restructuring have set the stage for new proposals of what self-determination and a just recovery mean in the Puerto Rican context: debt cancellation, dignified housing, and food sovereignty.

This Note has illustrated the inadequacy of the presumption that sovereignty in Puerto Rico only raises questions about the island's political and legal status. Sovereignty is a profoundly rich and varied concept. The notion of the *third space of sovereignty* recognizes that power and resistance can take different

154. *Id.*

155. *Id.*

156. *Id.*

157. "A Colony of the United States." *A Just Recovery for Puerto Rico - Tara Rodriguez Besosa*, 350.ORG (Mar 22, 2018), <https://www.facebook.com/watch/?v=10156445655132708> [<https://perma.cc/T2C9-TWV4>].

158. See, e.g., Milena Mikael-Debass, *These Anonymous Street Artists Want an Independent Puerto Rico*, VICE NEWS (June 14, 2017), https://news.vice.com/en_us/article/d3xjdw/these-anonymous-street-artists-want-an-independent-puerto-rico [<https://perma.cc/U8P4-7SAU>]; Raquel Reichard, *In Puerto Rico, A New Generation of Women's Plena Groups Are Raising Their Voices*, REMEZCLA (Apr. 18, 2019), <https://remezcla.com/features/music/plena-combativa-women-plena-profile> [<https://perma.cc/R98J-FVX3>].

forms. It challenges the traditional understanding of sovereignty—dominated by the logic of the international state system—which inhibits our ability to “conceive other possibilities, other forms of political identity and community, other histories, other futures.”¹⁵⁹

At the same time, the installment of *La Junta* and the aftermath of Hurricane Maria and Irma made it clear that the current political status of the commonwealth is not only immoral but also deeply unsustainable. While activists, lawyers, farmers, musicians, and many others are connecting local strategies of resistance to broader historical, political, and legal questions, it is unclear the extent to which they serve to politicize or depoliticize communities. Shifting the analytical lens beyond state sovereignty sheds light on more local forms of resistance, but it can also detract from the ongoing struggle over Puerto Rico’s political and legal status vis-à-vis the United States. Moreover, it might incentivize Puerto Ricans to remove themselves from broader conversations about the island’s status in order to focus more on concrete fights over housing, food, and education. The spaces of autonomy through everyday strategies of resistance are important, but if they satisfy only immediate material needs such as food or housing, what does this mean for questions around political status and other long-term goals? Can these efforts coexist with more traditional configurations and visions of autonomy? Are they able to sustain themselves over time and fuel broader political campaigns?

CONCLUSION

This Note has explored the different meanings of sovereignty in Puerto Rico, challenging the notion that sovereignty can only be understood within the political and legal frameworks of states. The Note described a *third space of sovereignty* in the space created by the resistance of Puerto Ricans to the extreme austerity, failing infrastructure, and economic crisis created and continuously fueled by the United States. The *third space* exists when the island contests U.S. control by resisting the everyday implications of having the mainland dictate Puerto Rico’s past, present, and future. This Note does not aim to capture Puerto Rico’s immensely complex, nuanced, and rich history, but to highlight the diversity of social groups and organizations claiming their right to self-determination.

Legal scholars have extensively debated the origins and implications of Puerto Rico’s status in relation to the United States. By focusing on this question, they have overlooked the importance of broader concepts of sovereignty. A different approach sheds lights on the role of women-led organizations,

159. BRUYNEEL, *supra* note 1, at 23 (citing ROBERT WALKER, *INSIDE/OUTSIDE: INTERNATIONAL RELATIONS AS POLITICAL THEORY* 165 (2011)).

demonstrating how different groups can organize around government institutions to challenge their impacts on everyday life beyond electoral politics. While understanding the independence movement's history and its struggle to enact legal change—through political reform, violence, or mass protests—remains important, looking at grassroots efforts outside of the traditional political space can improve our understanding of Puerto Rican society. Although the potential of the organizations featured in this Note to transform Puerto Rican society in the mid- and long-term remains unclear, they are currently aiding thousands of people in need, shedding light on the oppressive structures that impose austerity measures, drawing communities closer together, and empowering Puerto Ricans, especially Puerto Rican women, to claim their fundamental rights to self-determination, housing, and food sovereignty. Even if their influence is limited to these contemporary effects, their efforts will have been worthwhile.