

Waves of Disaster: The Normalization of exceptionality and (In)Security in Puerto Rico

Jose Atilés*

University of Illinois (United States)

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Abstract

Puerto Rico’s (PR) recent history (from 2016 to 2020) and its experience with a continuity of crises and disasters demonstrate the normalization of the use of the state of exception and executive orders to deal with threats to public safety and security. This paper looks at the United States and PR governmental imposition of the state of exception to: address the economic crisis; administer the aftermath of Hurricanes Irma and Maria (2017); police the anti-corruption mobilizations that ousted Governor Ricardo Rosselló in the summer of 2019; respond to the recent earthquakes (2019/2020) in the southern region of the Island, and to manage the COVID-19 pandemic. As a whole, my analysis shows how this normalization of exceptionality, and the militarization of policing during periods of “emergency” instead of guarantying public safety and security, creates the conditions for further waves of disaster.

Keywords

State of exception; disaster management; public insecurity; corruption; Puerto Rico.

* Ph.D. in Sociology of Law from the University of Coimbra (Portugal) and Ph.D. in Philosophy from the University of the Basque Country (Spain). Assistant Professor of Sociology at the University of Illinois at Urbana-Champaign (Urbana, United States). ORCID ID <https://orcid.org/0000-0001-5711-7101>. ✉ jatiles@illinois.edu.

Oleadas de desastres: La normalización de la excepcionalidad y la (in)seguridad en Puerto Rico

Resumen

La historia reciente de Puerto Rico (2016-2020) y su experiencia con una continuidad de crisis y desastres demuestra la normalización de los usos del estado de excepción y las órdenes ejecutivas para hacer frente a las amenazas a la seguridad pública. Este artículo analiza como los gobiernos de Estados Unidos y Puerto Rico han impuesto el estado de excepción para: abordar la crisis económica; administrar las secuelas de los huracanes Irma y María (2017); vigilar las movilizaciones anticorrupción que derrocaron al gobernador Ricardo Rosselló en el verano de 2019; atender los recientes terremotos (2019/2020) en la región sur de la Isla; y para manejar la pandemia de COVID-19. En conjunto, el análisis muestra cómo la normalización de la excepcionalidad y la militarización de la policía durante períodos de “emergencia”, en lugar de garantizar la seguridad pública, crea las condiciones para nuevas oleadas de desastres.

Palabras claves:

Estado de excepción; manejo de desastres; inseguridad ciudadana; corrupción, Puerto Rico.

INTRODUCTION

On June 6, 2020, amidst the Black Lives Matter (BLM) uprising and global anti-racist protests after the Minneapolis police murdered George Floyd, the Puerto Rican House of Representatives passed Bill 1915 to “amend the Military Code of Puerto Rico”.¹ The bill was intended to designate the Puerto Rican National Guard (PRNG) as a law enforcement agency, enhance the authority of the Governor to deploy the PRNG to maintain public order, and make the PRNG part of the asset and property forfeiture programs.² The government of Puerto Rico (PR) engaged in this further militarization of public safety, while hundreds of thousands of citizens in every US city and many other parts of the world were protesting against state violence and impunity, structural racism, anti-blackness, and white supremacy, and demanding the defunding and abolition of the police.

Bill 1915 is part of long-standing practices of the militarization of policing, public safety, and law enforcement agencies in PR. To be sure, in colonial contexts, public safety and security are always militarized.³ This is especially true when it comes to criminalizing and repressing

1 The bill, initially introduced in the Puerto Rican House of Representative on January 9, 2019, is still under consideration (March 12, 2021) by the Puerto Rican Senate.

2 For a detailed analysis of these programs see Alexander (2010).

3 José Atilés. “The Criminalisation of Anti-Colonial Struggle in Puerto Rico” in *Counter-Terrorism and State Political Violence: The ‘War on Terror’ as Terror*, edited by Scott Poynting & David Whyte (London & New York: Routledge, 2012) 156-177; José Atilés. “Colonial State Terror in Puerto Rico: A Research Agenda”. *State Crime Journal*, 5:2 (2016) 221-242, <https://doi.org/10.13169/statecrime.5.2.0220>

anti-colonial, sociopolitical, and socio-environmental movements, for which militarized counterinsurgency has been the norm. However, throughout Puerto Rican colonial history, the criminalization and repression of these movements have been based upon different invocations of state of emergency and different militaristic rhetoric (from counter-revolutionary to counterinsurgency, from risk management to neoliberal punishment).⁴ These practices have not been limited to sociopolitical movements, but rather after the 1990s, Puerto Rican society saw an exponential increase in the militarization of public safety, law enforcement, and policing of social and economic crimes. This was the result of the US and PR governments' neoliberal transformation and redefinition of public safety. While on the US level, PR was part and parcel of the process of militarization of local law enforcement agencies⁵ and affected by the US Supreme Court rulings on policing (see Alexander 2010). At the local level, militarization was the consequence of the war on drugs and the neoliberal policies of *Mano dura contra el crimen* (tough on crime and zero-tolerance policies)⁶ implemented by Governor Pedro Rosselló⁷ (1993-2000) and subsequent administrations.⁸

These transformations are important since they show the transposition of militarist discourses and practices employed to deal with sociopolitical movements to the realm of social and economic crimes. These practices also show a restrictive understanding of public safety and security. Public safety in PR, especially under colonial-neoliberalism, has been equated with punishment, retributive justice, and a strong (proto-authoritarian) criminal justice system. These restrictive public safety policies operate through racial and economic inequalities and the radical transformation of the colonial state from a welfare state (characterized by social investment) to a neoliberal punitive state (marked by investment in policing and punishment). The neoliberal disinvestment and delegitimization of broader understandings of public safety have produced systemic social harm,⁹ organized abandonment,¹⁰ and social death.¹¹

Recent Puerto Rican history has been marked by a continuity of disasters¹² and a multilayered political, financial, economic, and humanitarian crisis. Colonial-neoliberal policies have drastically exacerbated the consequences of that crisis and manufactured multiple waves of

4 For an analysis of the development of neoliberal punishment see Beckett and Herbert (2008), Cypher (2007), Harcourt (2010), Wacquant (2009) and Whitman (2013). Likewise, for an interesting analysis of neoliberal punishment in Latin America see Iturralde (2019).

5 For an exceptional discussion of the militarization of policing in the US see Schrader (2019) and Go (2020).

6 For an exceptional analysis of the different conceptualizations and implementations of Zero tolerance policies in Latin America, especially in Colombia, see Eslava and Buchely (2019).

7 Pedro Rosselló's administration was the first to systematically deploy the PRNG as a law enforcement measure. As this paper shows, this practice would become the norm in recent years.

8 Marisol LeBrón. *Policing Life and Death. Race, Violence, and Resistance in Puerto Rico* (Oakland: University of California Press, 2019).

9 Steve Tombs. *Social Protection After the Crisis. Regulation Without Enforcement*. (Bristol: Policy Press, 2016).

10 Luis Eslava & Lina Buchely. "Security and Development? A Story about Petty Crime, the Petty State and its Petty Law". *Revista de Estudios Sociales* 67 (2019): 40-55. <https://doi.org/10.7440/res67.2019.04>

11 Ruth Wilson Gilmore. *Golden Gulag: Prison, Surplus, Crisis, and Opposition in Globalizing California*. (Berkeley and Los Angeles: University of California Press, 2007).

12 In similar vein Garriga-López (2020) has coined the concept of compounded disaster to refer to this multiplicity of disasters affecting PR. Similarly, Bonilla (2020b) has coined the concept of swarm of disaster to describe the multiplicity of disasters affecting PR.

disaster. For example, in 2016, when the local government defaulted on and stopped paying its debt, the public debt amounted to \$72 billion.¹³ After the default in 2016, US Congress passed the *Puerto Rican Oversight, Management and Economic Stability Act* (PROMESA) and imposed a *Fiscal Oversight and Management Board* (FOMB) on PR. In this context, PROMESA and the FOMB have been the colonial neoliberal solution of the US government to ensure the survival of the capitalist financial system, guaranteeing the payment of the public debt and getting PR back into financial and stock markets. Against this background, in September 2017, Hurricanes Irma and María practically destroyed the archipelago. And then, in January 2020, a swarm of earthquakes devastated the southwestern region of the Island, worsening the already precarious economic situation. Later on, in March 2020, the COVID-19 global pandemic arrived, further damaging the already stagnant Puerto Rican economy and its legal and sociopolitical institutions. These “waves of disaster” have created an unequal recovery scenario, and with it, exacerbated citizens’ previously existing insecurities and vulnerabilities.¹⁴ As García argues, the multilayered crisis affecting PR can be understood as a result of the structure of colonialism rather than as a compounded set of random events.¹⁵ To be sure, colonialism is the catastrophe.¹⁶

By coining the concept of waves of disaster to refer to the manufactured dimension of the continuity of crises and the Puerto Rican experiences with catastrophe, I am expanding Bonilla’s conceptualization of coloniality of disasters to describe hurricane Maria and its aftermath. Bonilla point out that: 1) there is no such thing as a natural disaster, but rather all disasters are socially produced; 2) disasters should not be understood as sudden events, but rather the outcome of long processes of slow, structural violence; 3) vulnerability (both social and environmental) is not a natural state but the product of racio-colonial governance; 4), disasters do not operate as “great levelers,” but their effects are experienced differentially through pre-existing hierarchies of race, class, and gender, and in fact, they often sharpen those relations of inequality.¹⁷ Thus, disasters are manufactured by structures of power, domination, and violence.

This paper shows that the way in which US and PR governments have addressed the multilayered crisis affecting PR has exponentially exacerbated the consequences and the impact of disasters. That is, despite the systemic social harm produced by restrictive understandings of public safety, the US and PR governments continue to implement the same laws and public policies as disaster management measures – including the militarization of law enforcement

13 Saquib Bhatti & Carrie Sloan. Broken promise. PROMESA is a mode for undermining democracy and pushing austerity elsewhere in the U.S. *ReFund America Project*, 2017. <http://www.refundproject.org/#puerto-rico>.

14 Yarimar Bonilla & Marisol LeBrón (eds). *Aftershocks of Disaster: Puerto Rico Before and After the Storm*. (Chicago: Haymarket Books, 2019).

15 Gustavo García. “Reflection on Disaster Colonialism. Response to Yarimar Bonilla’s The Wait of Disaster”. *Political Geography*, 78 (2020) <https://doi.org/10.1016/j.polgeo.2020.102170>. It is important to bear in mind the multilayered crisis affecting PR is embedded as well in rapacious capitalism, climate crisis and racial violence. Therefore, when I defined disaster as part of the structure of colonialism, my intent is not to disregard the climate catastrophe, but rather place it in the context of coloniality.

16 Nelson Maldonado. “Afterword: Critiques and Decoloniality in the Face of Crisis, Disaster, and Catastrophe” in *Aftershocks of Disaster: Puerto Rico Before and After the Storm*, edited by Yarimar Bonilla and Marisol LeBrón (Chicago: Haymarket Books, 2019), 332-340.

17 Yarimar Bonilla. “The Coloniality of Disaster: Race, Empire, and the Temporal Logic of Emergency in Puerto Rico, USA”. *Political Geography*, 78 (2020), <https://doi.org/10.1016/j.polgeo.2020.102181>.

and recovery efforts, austerity measures, and disaster capitalism policies.¹⁸ Therefore, the US and PR governments' recurrent invocations of states of emergency as public safety and disaster management measures not only normalized citizens' insecurity but had also manufactured these waves of disasters.

This study is divided into five parts. Firstly, the paper introduces the legal and political concept of the state of exception and shows how the use of restrictive understandings of public safety to address the economic and financial crisis contributed to the emergence of a series of waves of disasters. Secondly, the paper shows the implementation of the state of exception and militarization of public safety in the aftermath of hurricanes Irma and Maria. Thirdly, it describes how the use of restrictive public safety took place in the context of the anti-corruption mobilizations that ousted Governor Ricardo Rosselló on August 2, 2019. Fourthly, the paper discusses the uses of the state of emergency and militarization in the context of the swarms of earthquakes in January 2020. Finally, it studies the context of the COVID-19 global pandemic. In every section, the paper shows how implementing a restrictive understanding of public safety and/or managing the disaster to maintain the colonial structure manufactures a new and more deadly disaster. To conclude, the paper sketches ongoing widespread efforts to build an alternative understanding of public safety based on decolonial justice, solidarity, self-reliance (*autogestión*), and popular democracy. These efforts signal to an emancipatory understanding of safety and a decolonial future capable of stopping the continuous waves of disaster affecting PR.

1. EXCEPTIONALITY, ECONOMIC CRISIS, AND THE RESIGNIFICATION OF PUBLIC SAFETY

The state of exception has been traditionally understood as the suspension of the rule of law to deal with situations that exceed the "normal" function of law and democracy. The use of the state of exception as a restrictive public safety dispositive can be found under three general circumstances: scenarios of political violence, natural disasters, and economic crises.¹⁹ As Mattei has shown: "in a state of emergency, no critique is acceptable, and there is no place for a loyal opposition. Thus, the state of emergency is a desirable condition for power. It is a highly effective way to avoid opposition".²⁰ In this sense, the state of exception has become the legal framework through which restrictive understandings of public safety operate. The rationale behind this is that crises need to be addressed not through democratic principles but through policing and authoritarian practices. Hence, the state of exception is key to maintain existing structures of power and domination. As Agamben points out, "we effectively live in a

18 For an in-depth analysis of disaster capitalism as public safety and recovery policy and the role of emergency administrators see Klein (2007) and Loewestein (2017).

19 Giorgio Agamben. *State of Exception (Homo Sacer II, 1)* (Chicago: University of Chicago, 2005).

20 Mattei, U. (2010). Emergency-based Predatory Capitalism: The Rule of Law, Alternative Dispute Resolution and Development, In Fassin, D. and Pandolfi, M. eds. *Contemporary States of Emergency: The Politics of Military and Humanitarian Interventions*. New York: Zone Books, 89-105.

society that has sacrificed freedom to so-called “security reasons” and as a consequence has condemned itself to live in a permanent state of fear and insecurity”.²¹

The use of the state of exception to deal with crises has led to the normalization of emergency measures as the only mechanism to guarantee public safety and security.²² However, as Reynolds points out, the state of exception has always been the norm in colonial contexts. That normalization is the result, as I mentioned early, of the disastrous and catastrophic structure of colonialism. Therefore, the current uses of the state of exception, as a public safety measure, have their root in colonial practices. That is, the application of the state of exception as a restrictive public safety measure to deal with crises in the Global North is rooted in a long history of application and normalization of this dispositive to rule colonies, criminalized anticolonial movements, and managed crises in the Global South. Hence, the state of exception further exemplifies the imperial boomerang effect described by Césaire.²³

The uses of the state of exception in PR are paradigmatic of the restrictive understanding of public safety to address every dimension of the multilayered crisis affecting the country since 2016. In previous analyses, I have shown that a double exceptionality operates in PR.²⁴ A colonial state of exception, which refers to the US’ uses of this paradigm as a colonial domination technique (exemplified by the legal-colonial design of PR, the criminalization of anticolonial movements and more recently PROMESA, and FOMB); and an internal state of exception, which refers to the uses of this paradigm by the Puerto Rican government as a dispositive to manage crises and criminalize sociopolitical movements. In short, Puerto Rican economic, political and legal developments have been based on a normalized state of exception. That is, the legal and political structure of colonialism in PR is defined by exceptionality, which in fact creates the conditions for the systemic manufacturing of waves of disaster. In what follows, I briefly describe how this double exceptionality was used to manage the Puerto Rican economic and financial crisis (2006 - present) and how that exceptional structure and restrictive understanding of public safety created the conditions for organized abandonment.

The economic development of PR has been based on the state of exception and a series of exceptional measures.²⁵ This created an unequal and often dysfunctional economy exemplified by the current fourteen years-long economic and financial crisis. The crisis began in 2006 as a result of eliminating the tax exemption known as Section 936,²⁶ which sought to encourage US corporations to establish themselves in the archipelago with the promise that they would be able to repatriate profits as soon as they were realized. This tax exemption was

21 Giorgio Agamben. Clarifications. Coronavirus and Philosophers. *European Journal of Psychoanalysis*, 2020. <https://www.journal-psychoanalysis.eu/coronavirus-and-philosophers/>

22 Recent studies in the field of security studies, law and public safety have engaged with Agamben’s (2005) study of the normalization uses of the state of exception to address period of crises (Bishai 2020; Cercel, Fusco and Lavis 2020; Gerstle and Isaac 2020; Neal 2019). However, these studies continue lacking a colonial approach to the state of exception similar to the one developed in this paper.

23 Aimé Césaire. *Discourse on Colonialism*. (New York: New York University Press, 2000).

24 José Atilés. *El derecho en conflicto: Despolitización y resistencia en Puerto Rico* (Bogotá: Universidad de los Andes, 2018).

25 José Atilés. “Colonial State of Exception as Economic Policy: A Socio-Legal analysis of the Puerto Rican Case”. *Oñati Socio-Legal Series*, 8:6 (2018): 819-844, <https://doi.org/10.35295/osls.iisl/0000-0000-0000-0975>.

26 Section 936 of the U.S. Internal Revenue Code of 1976 (26 U.S. Code, 1976).

the last major economic policy legislated by the US Congress for PR before PROMESA, and it was directed at banking, financial services, pharmaceutical, and electronics industries. By providing tax exemptions to these corporations, Section 936 contributed to the current fiscal crisis²⁷ by normalizing tax-exemption policies as economic development and disinvestment in public services.

Lacking proper crisis management strategies, the local government resorted to the internal state of exception as a legal and political technique to address this economic crisis. For example, Acevedo Vilá's Popular Democratic Party administration (2005–2008) was the first to employ the internal state of exception as a strategy for economic crisis management. In May 2006, Acevedo decreed a partial shutdown of the government, given that it had no money to pay public employees. Later, his administration created the Urgent Interest Fund or Sales Tax Financing Corporation, which was key in the rapid increase of indebtedness.²⁸ Therefore, Acevedo's administration laid the foundations for the resignification of public safety, and the general imposition of austerity and exceptionality measures.

In 2009, Luis Fortuño of the New Progressive Party (2009-2012) took office and continued to implement neoliberal policies and the internal state of exception. For example, Fortuño declared a state of fiscal emergency and passed Law 7 of March 9, 2009, which allowed his administration to undertake a violent austerity campaign that produced (1) the dismissal of 20,000 public employees, (2) the privatization of public services, (3) the development of public-private partnerships, and (4) the removal of protections against Wall Street's predatory practices.²⁹ At the same time, Fortuño exacerbated the restrictive understanding of public safety, engaged in the systemic criminalization of student and socio-environmental protests, and further militarized the Puerto Rican police.³⁰ That is, at the same time that PR faced unprecedented austerity measures, Fortuño's administration devoted more public funds to law enforcement and security.³¹

Alejandro García Padilla's Popular Democratic Party administration (2013-2016) implemented the same neoliberal and exceptional practices developed over the preceding decade. For example, the Fiscal Stability Act (Law 66 of June 17, 2014) officially declared a state of fiscal emergency, and the Public Corporation Debt Enforcement and Recovery Act (Law 71 of June 28, 2014) was passed to address the exclusion of the government and its corporations from Chapter 9 (municipal bankruptcy) of the US Bankruptcy Code. In 1984, the US Congress adopted Section 903(1) of the Bankruptcy Code³² and introduced a new definition for "state" that excluded the PR government and its public corporations from Chapter 9. The exclusion of PR from the Bankruptcy Code made Puerto Rican bonds and public debt more appealing to

27 See GAO (2018).

28 Abner Dennis. "Wall Street vultures razed COFINA, and now they're coming for the central government". *Eye on the Ties* (2020). <https://news.littlesis.org>

29 Bhatti & Sloan. "Broken promise".

30 Atilas. *El derecho en conflicto*.

31 The PR police department is the only department that, despite the crisis, has not suffered budgetary cuts over the last fourteen years. On the opposite site, its budges and benefits for cops has increased steadily during this period.

32 See Public Law No: 98-353 July 10, 1984.

investors while leaving PR without any sort of protection against predatory lending.³³ Subsequently, the Law 71 of 2014 was challenged in courts by bondholders, going all the way to the US Supreme Court. In *Commonwealth of Puerto Rico et al. v. Franklin California Tax-Free Trust et al.* (2016), the US Supreme Court ruled that PR has no sovereignty to legislate a local bankruptcy law, since that area has been occupied by Congress, and only Congress can legislate a bankruptcy law for PR, which is in fact what happened with the legislation of PROMESA and the inclusion of a bankruptcy procedure in Chapter 3. Finally, on April 6, 2016, the passage of the Emergency Moratorium and Financial Rehabilitation Act (Public Law 21) gave the Governor the power to declare the non-payment of the public debt, and in May, PR defaulted on the payment of its public debt for the first time in its history.

After the default in 2016, all three branches of the US government exercised their colonial power over PR. As mentioned above, the US government imposed PROMESA and the FOMB; the US Supreme Court ruled *Commonwealth of Puerto Rico v. Sánchez Valle et al.* (2016), and *Commonwealth of Puerto Rico et al. v. Franklin California Tax-Free Trust et al.* (2016). Altogether, PROMESA, FOMB, and the US Supreme Court rulings have multiple implications: (1) the US showed that the PR governmental efforts to manage the fiscal and economic crisis should be limited to the scope defined by the US colonial state of exception; (2) the US solutions to the crisis entail a radicalization of the violence of austerity and enhanced organized abandonment; (3) the Supreme Court rulings legitimated restrictive approaches to public safety. These created the legal and neoliberal conditions for the local government to further expand the scope of the internal state of exception, normalize austerity and disinvestment.

Amidst this reaffirmation of the US colonial state of exception, Ricardo Rosselló of the New Progressive Party took office on January 2, 2017. Rosselló followed the lead of his predecessors. During his first days in office, on January 2, 2017, he issued six executive orders aimed at managing the economic crisis. Executive Order OE-001-2017 declared a state of fiscal emergency and introduced a new set of austerity measures to be applied to benefit economic and financial interests. Rosselló's administration also created the Fiscal Agency and Financial Advisory Authority (FAFAA) (Law 2 of January 18, 2017) to develop and implement a fiscal plan that would guarantee the payment of the public debt.

At the same time, the legislative branch approved Law 3 of January 23, 2017 to "Address the Economic, Fiscal and Budgetary Crisis to Guarantee the Functioning of the Government of PR," and Law 5 of January 29, 2017, in which the "Puerto Rico Financial Emergency and Fiscal Responsibility Act" was enacted. Law 5 made a legislative declaration of the state of fiscal emergency, legitimating the measures previously implemented by the Governor and normalizing the internal state of exception as the dispositive of governmentality.

Simultaneously, Rosselló's administration passed laws to modify or eliminate existing rights and facilitate accumulation by dispossession. For example, the Labor Transformation and Flexibility Act (Law 4 of January 26, 2017), which proposed a reform of the labor law for the private sector; the Administration and Transformation of Human Resources in the Government of Puerto Rico Act (Law 8 of February 4, 2017), which introduced a labor law reform for government employees; Enterprise Puerto Rico (Law 13 of February 20, 2017), aiming to promote economic development and growth; two different laws to encourage private investors to move

33 Bhatti & Sloan. "Broken promise".

to PR (Law 45 of July 11, 2018, and Law 46 of July 19, 2018); and two laws to encourage private capital funds to move to the Island (Law 93 of August 8, 2017, and Law 94 of August 8, 2017). It is important to note that almost every law references PROMESA, the FOMB, and the economic and financial crisis as justification.

At the same time that Rosselló's administration transformed social protections, on April 10, 2017, Law 20 of 2017 was passed with the intention of creating the Puerto Rico Department of Public Safety (a consolidation of all the different security and public safety agencies). Among the agencies included in this reorganization is the police department, which has been under a Federal Court mandate reform since 2012 after the ACLU sued for Civil Rights violations.³⁴ This law is important for two reasons. Firstly, by grouping the PR police department, the Bureau of Special Investigations, and the Institute of Forensic Sciences, the law technically eliminates the last two's independence to conduct investigations against the police. This created the conditions for lack of accountability and impunity.³⁵

Secondly, in article 6.10, the law gives the Governor extraordinary power in case of an emergency. This is yet another example of what Alford has called the overbroad executive authority or the normalization of the exercise of unchecked executive power.³⁶ Aside from reaffirming the power of the Governor to declare the state of emergency, the Law established in its article 6.10, section b, that the Governor can: amend and revoke regulations and amend and rescind orders he or she deems convenient to govern during the state of emergency or disaster. The regulations or orders issued during a state of emergency or disaster will have the force of law while the emergency or disaster lasts. Furthermore, sections e and f confer power to the Governor to acquire properties without the required due process in times of crisis, which was exactly what happened during the crisis generated by hurricane María, when Rosselló's administration used and abused these executive powers, generating several corruption scandals.³⁷

2. HURRICANES IRMA AND MARÍA: RESTRICTIVE PUBLIC SAFETY, DEVASTATION AND ABANDONMENT

After eleven years of economic crisis and restrictive public safety policies that dismantled the social welfare state (broad public safety), PR was unprepared to confront and resist hurricanes Irma and Maria in the span of a month.³⁸ The Rosselló administration confronted this second wave of disaster by again invoking the state of emergency and imposing further restrictive public safety measures. However, this strategy, together with the Trump administration's negligent and

34 Kilómetro Cero. "Skill over force. A critical analysis of the use-of-force statistics of the Puerto Rico Police against the people". *Kilómetro Cero* (2018) https://drive.google.com/file/d/0B3p2WIC_-VLibEJjc2pxZjZibWZvbGtBczNzdHVRS1JvNlU0/view

35 *Idem*.

36 Ryan Alford. *Permanent State of Emergency. Unchecked Executive Power and the Demise of the Rule of Law*. Montreal (London & Chicago: McGill-Queen's University Press, 2017).

37 Naomi Klein. *The Battle for Paradise. Puerto Rico takes on the Disaster Capitalists*. (Chicago: Haymarket Books, 2018).

38 Bonilla & LeBrón. *Aftershocks of Disaster*.

criminogenic response, worsened the humanitarian crisis and opened the doors for rapacious corruption and fraud. The fact that approximately 4,645 people died³⁹ as a consequence of the negligent (mis)management of the crisis proves the consequences of the imposition of restrictive understandings of public safety and the manufacturing of further waves of disaster.

Governor Rosselló systemically applied the state of the exception to address every aspect of hurricanes Irma and Maria. For example, Rosselló issued two executive orders before each hurricane made landfall in PR (OE-2017-045 September 4, 2017; OE-2017-47 September 17, 2017), enacting the state of emergency and activating the PRNG to help in the preparation and recovery. After hurricane María struck PR, Rosselló issued executive order OE-2017-53 of September 28, in which all rules and laws that regulate the hiring and contracting by governmental agencies were suspended. This executive order opened the doors to the contracting of corporations and contractors without the need to follow the PR Comptroller's Office and the PR Office of Government Ethics regulations. This created the conditions for disaster capitalism,⁴⁰ as Whitefish and Cobra energy corporations' cases showed.⁴¹

Simultaneously, Puerto Ricans saw an increase in US military and private security contractors. As Cintron reported, in October 2017, employees of Academi (formerly known as Blackwater) were providing security services (as mercenaries) in affluent areas of San Juan.⁴² This militarization of security, which has become the norm in the US after every "natural disaster," took place with the support of the US and PR governments.⁴³ These two cases (militarization and disaster capitalism) show how a restrictive understanding of public safety had become the norm in PR. That is, instead of focusing on recovery efforts, the PR government emphasized guaranteeing security and capitalist accumulation.

In tandem with this, Governor Rosselló issued two executive orders (OE-2017-65 and OE-2017-69) to create the Central Recovery and Reconstruction Office of Puerto Rico (CRO3). Together with the creation of the CRO3, other executive orders were issued with the intention of declaring a state of emergency regarding infrastructure. These executive orders were: OE-2017-78 of December 29, 2017; OE-2018-02 of January 5, 2018; and OE-2018-05 of February 8, 2018, which established the "Regulations for the Processing, Evaluation, and Designation of Strategic Projects." It is interesting to note that every executive order and law approved in the aftermath of Irma and Maria used as legitimation or justification the need to guarantee public safety and security. Even Law 122 of December 18, 2017, which gave the Governor more power to decide over the administration and the structure of the executive branch without the need to consult or inform the legislative branch, used the same rationale.

39 Nishant Kishore et al. Mortality in Puerto Rico after Hurricane Maria. *The New England Journal of Medicine*. May 29, 2018. <https://www.nejm.org/doi/pdf/10.1056/NEJMsa1803972>

40 Naomi Klein. *The Battle for Paradise. Puerto Rico takes on the Disaster Capitalists*. (Chicago: Haymarket Books, 2018).

41 Kate Aronoff. There's a shady Puerto Rico Contract you didn't hear about. *The Intercept*, October 31, 2017. <https://theintercept.com/2017/10/31/puerto-rico-electric-contract-cobra/>. Given the corruption scandals that cases such as Whitefish generated, on November 8, 2017, governor Rosselló issued executive order OE-2017-66, in which he delegated his power to regulate and to review contracts issued by PREPA to the FAFAA.

42 Joel Cintron. "Masked and Armed with Rifles: Military Security Roam the Street of San Juan". *Centro de Periodismo Investigativo*. October 10 (2017). <https://periodismoinvestigativo.com/2017/10/masked-and-armed-with-rifles-military-security-firms-roam-streets-of-san-juan/#>

43 Alleen Brown. "From North Dakota to Puerto Rico, Controversial Security Firm Profits from Oil Protests and Climate Disasters". *The Intercept*. March 12, (2018) <https://theintercept.com/2018/03/12/tigerswan-dapl-private-security-climate-disaster-response/>

The humanitarian crisis generated by the Trump and Rosselló administrations' mishandling of this second wave of disaster proves the utter inefficacy of the state of exception and restrictive understanding of public safety to deal with crises. That is, this authoritarian and undemocratic model has proved incapable of meeting the people's real needs and instead created the conditions for organized abandonment and further waves of disaster. The state of emergency and the curfew decreed by Rosselló were unable to address and solve the problems that Hurricane María generated. Likewise, the militarization of public safety did not solve the problems of shortages of fuel, water, electricity, and telecommunications.⁴⁴ This shows that, contrary to the doctrine and common sense generated by colonial-neoliberalism, crises are not solved with the imposition of restrictive understandings of public safety and the limitation of democracy.

3. REPRESSIVE PUBLIC SAFETY AND THE PUERTO RICAN SUMMER OF 2019

Ricardo Rosselló's resignation on the evening of July 24, 2019,⁴⁵ came after more than two consecutive weeks of a popular uprising, in which hundreds of thousands of Puerto Ricans protested, marched, and rallied (in PR, the US, and worldwide), demanding the end of his corrupt administration, and a different kind of politics. This anti-corruption uprising was catalyzed by the leak of a now-infamous chat,⁴⁶ multiple corruption scandals, and the negligent and criminogenic (mis)management of the aftermath of hurricanes Irma and Maria.

During these two weeks, the PR police engaged in excessive violence when faced with rioting under the justification that after 11 pm, the demonstrations were no longer protected by the PR Constitution.⁴⁷ At least 52 people were affected by different types of interventions by law enforcement officers during the protests. As Kilómetro Cero (2019) reports, this number does not include hundreds of persons estimated to have suffered the effects of the tear gas fired throughout the streets of Old San Juan on multiple occasions.⁴⁸ Additionally, Kilómetro Cero argues that at least 17 were arrested and 27 injured by police baton use, firing of rubber bullets, pepper spray, tear gas, beatings, property damage, and other assaults.⁴⁹ Kilómetro Cero reports 5 complaints regarding crowd management, use of force by police, and intimidations by law enforcement officers on social media.⁵⁰ These intimidations were made via social media, yet we do not necessarily have sufficient documentation of them as of yet.

44 Ed Morales. *Fantasy Island. Colonialism, Exploitation and the Betrayal of Puerto Rico*. (New York: Bold Type Books, 2019).

45 The resignation was effective on August 2. See: <https://www.nytimes.com/2019/07/24/us/rossello-puerto-rico-governor-resigns.html>

46 See: <http://periodismoinvestigativo.com/2019/07/las-889-paginas-de-telegram-entre-rossello-nevares-y-sus-allegados/>

47 Rima Brusi. "Why Puerto Rico's Cops Ignore the Constitution at Night". *The Nation*. July 30 (2019). <https://www.thenation.com/article/archive/puerto-rico-police-abuse/>

48 Kilómetro Cero. "Documentation on interventions and cases of use of force by the Puerto Rico Police Department during the #RickyRenuncia protests". *Kilómetro Cero* (2019). https://docs.google.com/document/d/1--IPFG_XwMppj71-v45EHeSe5Qulq0gRTXlWvDBGbg4/edit#heading=h.2et92p0

49 *Idem*.

50 *Idem*.

However, I do not consider this anti-corruption mobilization a wave of disaster; it is important to notice the uses of restrictive understanding of public safety to deal with the demonstrations. Many of the policing tactics implemented during these mobilizations will then be implemented in the context of COVID19 and further anti-corruption mobilizations. Furthermore, as I will show below, these two weeks have proven to be central in reconfiguring and proposing a new understanding of public safety based on radical democracy and decolonial justice.

After Ricardo Rossello resigned, Wanda Vázquez, former Secretary of Justice, became Governor of PR in August 2019. As previous governors did before, on December 31st, 2019, Vázquez issued yet another declaration of the state of emergency to deal with the economic crisis (OE-2019-66). This declaration of the state of emergency is the fifth extension since Law 5 of January 29, 2017, was passed. Later, on June 30, 2020, amidst the COVID-19 pandemic, Vázquez's administration issued OE-2020-50, which extended for the sixth time the state of fiscal emergency until December 31, 2020. These executive orders symbolize the continuation of austerity measures and the permanent state of emergency imposed since 2006.

4. EARTHQUAKES, CORRUPTION, AND ABANDONMENT

It is important to bear in mind that PR was under an economic and fiscal state of emergency and still recovering from hurricanes Irma and Maria when the swarm of earthquakes (or the third wave of disaster) shocked the Southwestern region of PR in January 2020.⁵¹ The fact that PR has been enduring the violence of austerity, and previous waves of disaster, exacerbated the impact of the swarm of earthquakes and the already unstable political landscape resulting from Rosello's resignation.

As in previous moments of crisis, between January 7, 2020, and March 12, 2020, Governor Vázquez issued 18 executive orders to address the swarm of earthquakes affecting the Southwestern region of PR. Among them, executive order OE-2020-01 declared the state of emergency in PR with the intention of addressing the effects of the earthquakes. Altogether, the 18 executive orders included: the activation of the PRNG to help with recovery and relief efforts (OE-2020-02) as well as the creation of "Peace Officers" to help maintain security and order (OE-2020-04; OE-2020-12); authorizing physicians and engineers from other jurisdictions to work in the recovery efforts (OE-2020-03; OE-2020-13); distributing recovery funds among affected municipalities and "freeing" governmental resources to help in the recovery efforts (OE-2020-07; OE-2020-08; OE-2020-09); deregulating the process of contracting out private corporations during the emergency (OE-2020-10); protecting animal welfare during the emergency (OE-2020-15; OE-2020-18; OE-2020-46); and establishing some transparency measures and delegation of powers (OE-2020-14; OE-2020-16; OE-2020-19).

All of these executive orders used Law 20 of April 2017 as the basis for the declaration of the state of emergency. It is important to remember that Law 20 of 2017 was passed with the

51 Catalina Onís, Hilda Lloréns & Ruth Santiago. "Puerto Rico's Seismic Shocks". *NACLA*. January 15, 2020. <https://nacla.org/news/2020/01/14/puerto-rico-earthquakes-renewable-energy>.

intention of creating the Puerto Rico Department of Public Safety. This further exemplifies that the state of exception has become the legal framework of restrictive understanding of public safety.

While the earthquakes were affecting the Island, and Puerto Ricans were enduring the scarcity of basic materials to deal with their aftermath (many living in makeshift outdoor shelters), and people from other towns scrambled to help the affected communities, a group of citizens discovered a warehouse with thousands of recovery and disaster relief materials. This led to a renewed set of anti-corruption and anti-impunity mobilizations. On Thursday, January 23, 2020, thousands of protesters gathered to demand the resignation of Wanda Vázquez for hiding essential supplies during the earthquake emergency. Shortly before 11 pm, and after allegedly announcing for the crowd to disperse 14 times, the police declared the protest illegal, and as Kilómetro Cero reports, the police proceeded to launch tear gas at the protesters and fire non-lethal ammunition.⁵² Despite these mobilizations implementing the same creativity, they didn't manage to mobilize thousands of Puerto Ricans as the Summer of 2019 did.

Later on, on May 1st, the Southwestern region was once again rattled by a new set of earthquakes. This time, the city of Ponce was affected the most. And as these new earthquakes were further destroying sections of PR, the COVID-19 crisis had already begun to take a toll on communities across the Island (now the fourth wave of disaster).

5. COVID19, NEOLIBERALISM AND THE INDIVIDUALIZATION OF PUBLIC SAFETY

Right from the beginning of the COVID-19 pandemic, Vázquez's administration declared a state of emergency (OE-2020-20, March 12, 2020). Following what has become a pattern to deal with any crisis or disaster, between March 12 and July 22th, Governor Vázquez issued 33 executive orders -all of them used Law 20 of 2017 as a legal framework. As the local administration has issued emergency measures, Puerto Ricans have been facing exponential increases in unemployment rates; lack of access to testing and proper monitoring of people infected by COVID-19; a dramatic escalation of families facing food insecurity; and unequal federal emergency relief (the great majority of Puerto Ricans had not yet received the economic support provided by the CARES Act or any other federal aid relief).

The different measures taken by Vázquez's administration to deal with COVID-19 have entailed a further exacerbation of restrictive public safety measures and insecurity. Many of them emphasize the individual responsibility to protect oneself against the virus (in a way that the state has renounced its public health responsibilities). This declaration of the state of emergency concerning COVID-19 (OE-2020-20) came as PR was already under two other states of emergency (concerning the economic and fiscal crisis and the earthquakes in the Southwest region). This is a telling example of how in the colonial-neoliberal imaginary, the state of emergency and executive orders has become the universal tool to deal with any crisis affecting the Island.

52 Kilómetro Cero. . "Documentación de intervenciones y casos de uso de fuerza de la Policía durante las protestas Wanda Renuncia". *Kilómetro Cero* (2020) <https://docs.google.com/document/d/1FoPzYOVckahXGUi9MB-ba2QOzGcT3wblCouXNXxdGXXg/edit#heading=h.rglndspa1ad3>

Executive order OE-2020-22 activated the PRNG and allowed the Department of Health to utilize medical resources from the PRNG. OE-2020-28 expanded the powers of and the instances in which the PRNG can “help” maintain public order/security in what constituted a militarization of public safety. OE-2020-23 of March 15, 2020, established a lockdown for 14 days, as well as a curfew from 9 pm to 5 am. This executive order imposed the closure of government offices as well as private businesses and corporations. The order provided some exceptions for emergencies and essential services to remain open, but otherwise, citizens are to remain at home 24 hours a day, 7 days a week.

Executive order OE-2020-24 deregulates the process of contracting out and buying essential materials, such as test kits and Personal Protective Equipment (PPE). It was in this context that the above-mentioned corruption scandal of Juan Maldonado, Apex corporation, and the \$38 million took place. At the same time, OE-2020-27 deregulates the process of hiring external experts to manage the crisis. There is thus a pattern in the strategies implemented by the administration to deal with periods of emergency consisting of 1) militarization, 2) deregulating, 3) opening the gates for “external experts” to perform their profession in PR. The recent history of PR shows that contracting and bringing external experts has meant an opportunity for corruption.⁵³

Parallely, OE-2020-26 created a Medical Task Force to advise the executive branch on combatting COVID-19 (also see OE-2020-031). In tune with disaster capitalism practices, members of the Medical Task Force have already been involved in cases of corruption regarding the purchase of test kits and ventilators.⁵⁴

Executive order OE-2020-29 of March 30, 2020, expanded the lockdown for another 14 days, modified the curfew from 7 pm to 5 am, and imposed additional limitations to “outdoors activities,” including limiting the circulation of cars on designated days based on their license plate. This executive order backfired by generating discomfort in the local population, preventing people from acquiring essential products for their survival. More restrictions came with OE-2020-32, which enforced the mandatory closure of essential services for the weekend of April 10 to April 12. These draconian measures not only generated a chaotic situation in local grocery stores but also put Puerto Ricans in a dire humanitarian crisis, to the point that Vázquez’s administration had to retract the exceptional measures.

Furthermore, Vázquez’s administration decided to grant immunity to “medical facilities and professionals” providing services to COVID-19 patients through executive order OE-2020-36. This provision generated discomfort among Puerto Ricans since it does not guarantee access to PPE, better salaries, or hazard pay for healthcare workers but rather focuses on guaranteeing immunity to corporations that administrate private hospitals.

Executive orders OE-2020-37 and OE-2020-38 established the process “to reopen the economy.” Similarly, OE-2020-40 of May 15th established the process to distribute the \$2 billion relief funds under the CARES acts. The strategic plan not only set an unequal distribution of the funds (giving more funds to private entities, including hospitals, than to public hospitals and public corporations) but also created a new Committee for the Oversight of Disbursements. The

53 José Atilés. “The COVID-19 Pandemic in Puerto Rico: Exceptionality, Corruption and State-Corporate Crimes”. *State Crime Journal*, 10:1 (2021) 104-125, <https://doi.10.13169/statecrime.10.1.0104>

54 *Idem*; Luis Valentín & Joel Cintrón. “El esquema de la venta de pruebas en PR”. *Centro de Periodismo Investigativo*. May 28 2020. <https://periodismoinvestigativo.com/2020/05/el-esquema-de-la-venta-de-pruebas-en-puerto-rico/>

Committee, made up of members of Vázquez's administration, would need to establish new accountability and oversight processes, ignoring previously existing emergency relief agencies, such as COR3, and which would certainly further delay the distribution of funds.

Finally, OE-2020-41 of May 21st provides further guidelines for the reopening of the economy. Despite the order reopening the economy, it maintains the curfew (7 pm to 5 am). OE-2020-44 of June 12 amended the curfew from 10 pm to 5 am and led the way to almost completely reopening the "economy." This curfew was one against extended until July 22 by OE-2020-48 of June 22. One striking aspect of these executive orders is their emphasis on the citizens' individual responsibility to protect themselves. The State, the executive orders say, has done everything to protect public safety; citizens are responsible for their wellbeing from now on.

The reopening of the economy comes alongside PR's lack of implementation of expansive testing and contact-tracing mechanisms, just as it has not provided transparent and necessary information on reported cases.⁵⁵ PR lacks the urgent and robust testing capacity, the necessary ventilators, and PPE to care for patients and health and frontline workers and does not know when the peak of infection will be reached. The reckless move by Vázquez's administration evidences negligent and chaotic management of the crisis, which will certainly generate another wave of disaster.

At the same time, the PR legislature approved Law 35 of April 5, 2020, which criminalizes any breaching of an executive order and the spreading of "misinformation during periods of crisis." As a result, hundreds of Puerto Ricans have been arrested, fined, and even sent to prison for curfew violations.⁵⁶ All of this occurs as people are enduring the effects of multiple waves of disaster without the necessary information, resources, and access to essential services. These detentions and Law 35 illustrated the current law enforcement and practices of state violence taking place in PR in the wake of the economic and financial crisis and during the various waves of disaster affecting the archipelago since 2016.

CONCLUSION

PR has been facing wave after wave of disaster since 2006. It is clear that the internal democracy and the constitutional and political structure have been waning since then. The normalization of the state of emergency and the systematic use of executive orders have not served to provide relief and recovery for the people but rather have facilitated corruption, disinformation, and chaotic (mis)management of the crisis and enabled disaster capitalism. However, as it happened during the Summer of 2019, there are important experiences and instances of resistance to these restrictive understandings of public safety. As PR is facing disasters and

55 Omayra Sosa & Jennifer Wiscovitch. "More Death in Puerto Rico than Announced During the Pandemic". *Centro de Periodismo Investigativo*. June 11, 2020. <https://periodismoinvestigativo.com/2020/06/more-deaths-in-puerto-rico-than-announced-during-the-pandemic/>

56 As of Monday, May 25 the PR Police had issued a total of 2,098 fines, while 850 people have been arrested in connection with alleged curfew violations. See: <https://www.elnuevodia.com/noticias/seguridad/nota/lapoliciaemitesobre2000denunciasporviolacionaltoquedequeda-2571567/>

organized abandonment, Puerto Ricans have been protesting and engaging in different creative demonstrations to demand its negligent government provide basic services and address peoples' needs.

For example, on April 30, 2020, amidst the COVID-19 pandemic, Giovanni Roberto, a well-known Puerto Rican anti-hunger advocate and organizer of *comedores sociales* (community kitchens), was arrested while leading a caravan of cars making their way through the streets of San Juan. The 'caravan for life' was aimed at distributing food in impoverished communities of San Juan and protesting the government's indifference to a growing hunger crisis as Puerto Rico entered its eighth week of lockdown.⁵⁷ Despite a judge dismissing the charges the same day, while in detention at the police station, Roberto was caught on audio chanting the following short but heartbreaking lines: "what I want is food for the poor; all I ask for is food for the poor".⁵⁸

Roberto's case shows the emergence of a new understanding of public safety, one not based on traditional state welfare or neoliberal logics but instead on the empowerment of communities to face organized abandonment, punitive public safety measures, and colonial neoliberalism. This new understanding, using Maldonado's (2007) framework, which I would situate as within the context of a call for decolonial justice, is rooted in the emergence of new strategies and tactics at the local and global level. These sociopolitical movements, especially since Occupy, Indignados, BLM, and the Student Strikes at the University of Puerto Rico 2010-2011 and 2017, developed polymorphous political strategies that emphasized horizontality, mutual-aid and solidarity, direct and radical democracy, assembly models, decoloniality, and the rejection of restrictive understandings of public safety and authoritarian practices. These strategies were widely implemented in the community-based recovery efforts after hurricanes Irma and Maria⁵⁹ and the swarms of earthquakes and in the anti-corruption mobilizations of the Puerto Rican Summer of 2019. These practices can be seen as well in the context of COVID-19 and the resistance to organized abandonment.

In short, all of these instances have produced a new understanding of public safety and sociopolitical mobilizations in PR, in which a plurality of subjectivities, tactics, and strategies converged to advance a specific demand or issue. Faced with austerity, exceptionality, and abandonment as a restrictive understanding of public safety and the structural dimension of disaster (or colonialism as catastrophe), these emerging sociopolitical movements and community-based organizations are rebuilding a safety network and demanding the US and PR governments protect the most vulnerable. The fight is on for this new understanding of public safety or decolonial justice to become the norm.

57 Adrian Florido. Advocate for The Poor in Puerto Rico Is Released After Arrest During Protest. *NPR*, April 30 (2020), <https://www.npr.org/2020/04/30/848684061/puerto-rico-police-arrest-advocate-for-the-poor>

58 See Pulso estudiantil: <https://twitter.com/pulsoest/status/1255992256651288576>

59 See Juan A. Davila. "A People's Recovery: Radical Organizing in Post-Maria Puerto Rico" *The Independent*, Issue 29, Oct 18 (2017). <https://independent.org/2017/10/a-peoples-recovery-radical-organizing-in-post-maria-puerto-rico/>

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