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## **Domestic Violence & Sexual Assault in the United States: A Human Rights Based Approach & Practice Guide**

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# DOMESTIC VIOLENCE & SEXUAL ASSAULT IN THE UNITED STATES: A HUMAN RIGHTS BASED APPROACH & PRACTICE GUIDE

August 2014

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## ACKNOWLEDGMENTS

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# INTRODUCTION

The United States has a wide range of laws and policies to address gender-based violence. While valuable, these laws have not curbed the widespread phenomena of domestic violence and sexual assault, which disproportionately (though not exclusively) affect women and sexual minorities. Domestic violence and sexual assault are two of the most prevalent forms of gender-based violence, generally defined as violence directed against an individual based on her or his gender, or violence that has a disproportionate effect on a group that is identified with a particular gender(s).<sup>1</sup> In the U.S., there are approximately 237,800 sexual assault victims every year,<sup>2</sup> and one in four women and one in seven men will experience domestic violence in their lifetime.<sup>3</sup> Domestic violence and sexual assault have ongoing and destabilizing effects on individuals, families and communities, resulting in violations of dignity and human rights. They also have an enormous fiscal impact: a 2002 study found that intimate partner violence costs the U.S. economy \$12.6 billion annually in legal and medical services, judicial system costs and lost productivity.<sup>4</sup>

International human rights law provides a framework to evaluate existing problems and identify solutions aimed at preventing gender-based violence. Human rights principles focus on governmental responsibility to proactively take steps to prevent acts of gender-based violence committed by both private and governmental actors. This includes addressing the underlying conditions that perpetuate violations of rights (such as discrimination, social biases and a lack of adequate institutional responses).<sup>5</sup> Moreover, human rights principles insist that gender-based violence, which disproportionately impacts women and sexual minorities, receives the same treatment, attention and resources as other serious crimes of violence.<sup>6</sup> Additionally, a human rights-based approach demands an effective response to violations when they do occur.<sup>7</sup> It also prioritizes transparency, accountability and participation in government decision-making, as well as policies and programs that are responsive to community needs.<sup>8</sup> Further, the human rights framework prioritizes survivor dignity and empowerment.

This Guide provides an overview of human rights law's approach to addressing gender-based violence. **Section I distills the core human rights principles related to gender-based violence**, focusing on the "due diligence" standard: a comprehensive framework to address human rights violations in a systemic and proactive manner, whether committed by private or governmental actors. **Section II discusses the value added of human rights principles in the U.S. context, and identifies concrete ways to integrate core human rights principles into domestic policy.** **Section III describes seminal international law cases related to gender-based violence.** **Section IV concludes by offering several resources on human rights and gender-based violence**, including U.S. government and NGO reports and recommendations related to eradicating gender-based violence, reviews of other countries' approaches to these issues and a list of U.S.-based NGOs working on gender-based violence as a human rights issue. **The Appendix is a chart of the key provisions of international and regional human rights agreements** that relate to gender-based violence.

# SECTION I: HUMAN RIGHTS, GENDER-BASED VIOLENCE AND THE DUE DILIGENCE STANDARD

Human rights are internationally-recognized and accepted norms and values that promote dignity, fairness and opportunity for all people and enable individuals to meet their basic needs. The human rights framework also calls for government to create conditions where basic needs, such as adequate housing and access to health care, are met. This is important in the context of domestic violence, as safe and affordable housing and support services are essential to many survivors' ability to leave a violent relationship. Governments are also responsible for ensuring remedies for survivors, and providing legal representation where basic needs are at stake, so that such remedies can be meaningfully pursued.

A number of core human rights principles relate directly to preventing and eliminating domestic violence, sexual assault and other forms of gender-based violence. They help provide a roadmap for laws, programs and policies to combat gender-based violence and a means to assess the effectiveness of existing efforts. These principles are articulated in international human rights treaties and other agreements (many of which are included in the Appendix) and have been further interpreted by international human rights experts and bodies. In particular, "due diligence" has become the internationally-accepted standard to guide government efforts to address gender-based violence.

## DUE DILIGENCE DEFINED

Due diligence includes a government obligation to protect individuals from harm and calls for effective investigations and remedies when violations occur. **Governments must prevent and respond to domestic and sexual violence committed by public actors** – such as police officers or public school employees – **as well as private actors.**<sup>9</sup> Notably, both governmental action and inaction can give rise to human rights violations. This means that a direct violation by a government actor, such as a public school teacher's sexual assault of a student, would violate human rights. So too would a sexual assault of one student by another student if there was a known risk of such violence and the school failed to take steps to prevent the violence and protect the vulnerable student or respond to the violence appropriately. Under this framework, government responsibility ensues when the government **knew or ought to have known** of real and immediate risk to an identified individual **and fails to take reasonable steps** to prevent the harm.<sup>10</sup>

Due diligence calls for laws, policies, programs and practices that empower survivors of human rights violations, such as gender-based violence, and alleviate sources of disempowerment and discrimination that can occur on an individual or systemic level – whether intentional or unintentional. Initiatives that are preventative, such as proactive training of law enforcement, affirmative guidance on how to recognize and avoid gender bias and sex-based discrimination, as well as effective oversight and accountability mechanisms, are key.

The due diligence framework is a tool that governments can use to "transform the societal values and institutions that sustain gender inequality while at the same time effectively respond[ing] to violence against women when it occurs."<sup>11</sup> Due diligence underscores the importance of changing attitudes, policies and structures that are reflective of gender bias and that perpetuate gender-based violence. It shifts the focus from addressing violence after it occurs to addressing the systematic causes of domestic violence and preventing it from occurring in the first place. The due diligence concept similarly underscores the importance of governmental partnership with civil society actors and survivors themselves.

The remainder of this section describes the fundamental elements of due diligence and the foundational human rights principles that should inform efforts to effectively prevent and address gender-based violence.

*[T]he UN Declaration on Elimination of Violence against Women requires States to 'exercise due diligence to prevent, investigate and in accordance with national legislation punish acts of violence against women whether those actions are perpetrated by the State or private persons.' [CEDAW] and the work of the Committee reiterates the need for states to take appropriate measures to ensure women are free from all forms of violence. To achieve this, States must develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Thus a state not only has a negative obligation to refrain from acts of violence against women, but also has positive duties to prevent and protect women from violence, punish perpetrators and compensate victims of violence. . . .States must adopt more holistic, multi-pronged approaches to effectively implementing their due diligence obligations. State interventions must also be designed at the different levels at which violence occurs, namely at the individual, community, State and transnational levels. The state may be held responsible under international law for the failure to provide reasonable and adequate measures to prevent or address the violations of women's rights.*

-Special Rapporteur on Violence of Women, its Causes and Consequences, Rashida Manjoo

## CORE ELEMENTS OF THE DUE DILIGENCE STANDARD

The due diligence standard in the context of gender-based violence is drawn from a number of international treaties and agreements primarily focused on rights of women.<sup>12</sup> It is also reflected in broader international human rights treaties, several of which the United States has ratified.<sup>13</sup> The United Nations Special Rapporteur on Violence Against Women – an independent expert on human rights – has articulated core components of due diligence,<sup>14</sup> which require governments to (1) take all appropriate measures to **prevent** gender-based violence from occurring; (2) offer appropriate **protections to** potential targets; (3) **investigate violence when it does occur**; (4) **hold offenders to account** for their actions; and (5) **provide remedies and compensation** for victims.<sup>15</sup>

This multipronged, proactive approach, grounded in the right to be free from discrimination in all its forms, aims to address and alleviate the systemic causes of gender-based violence, and to ensure redress.. Proactive efforts that include collaboration between prosecutors and police, consistent and effective procedures/protocols, training and accountability mechanisms are all part of a comprehensive, preventative approach. This framework, described more fully below, should guide government action in the United States, including at the federal, state and local levels.

### PREVENTION

Effective prevention targets the underlying factors that perpetuate gender-based violence and a culture where perpetrators are not always held to account. To this end, proactive measures that include education and awareness campaigns, training programs and additional complementary strategies to overcome gender stereotypes, biases and societal norms that treat gender-based violence as a private matter, are essential to curbing abuse and impunity and empowering women.<sup>16</sup> In order to address the root causes of gender-based violence, it is vital to address gender inequality and cultural perceptions of women, poverty and economic independence.<sup>17</sup>



## PROTECTION

Keeping potential victims of violence safe from harm is a key component of due diligence. Adequate legislative frameworks, policing systems and judicial procedures are critical to create a safe environment and enable women to report acts of violence and obtain effective measures of protection from harm. Such measures should be based on the needs of survivors, while guaranteeing the rights of those accused of perpetrating violence, and may include the adequate provision of restraining or expulsion orders where appropriate.<sup>18</sup>

Where violence has occurred, it is important to avoid recurrences and ensure that victims receive adequate and timely support services.<sup>19</sup> In this regard, governments must ensure that survivors of gender-based violence have access to justice, as well as basic support services (including health care, counseling and housing) that respond to their immediate needs, help protect them against further harm and address the longer-term consequences of violence.<sup>20</sup>

## INVESTIGATION, PUNISHMENT AND ACCOUNTABILITY

Due diligence also demands that the authorities (federal, state and/or local) duly investigate alleged rights violations, punish perpetrators appropriately, and adhere to principles of accountability and non-impunity. Human rights experts have noted that in the U.S., there is generally a “lack of adequate enforcement by police and the judiciary of civil remedies and criminal sanctions for violence.”<sup>21</sup> Effective government responses are critical to end gender-based violence. There is a strong correlation between the prevalence of domestic violence and “effective and responsive accountability measures.”<sup>22</sup> Special care must be taken to prioritize investigations into incidents of gender-based violence, which have historically been deprioritized by law enforcement agencies, schools, the military, and other governmental entities. Adequate investigation, and, where appropriate, arrest, prosecution and/or punishment of perpetrators of domestic and sexual violence, are important measures of accountability and indicators of compliance with the due diligence framework. Perpetrators of such acts must be punished in a manner that is consistent with the right to due process and that also emphasizes the dignity of survivors. Additionally, governmental agents who fail to respond appropriately to acts of gender-based violence (as was so often the case historically and unfortunately continues with frequency) must also be held accountable.<sup>23</sup>

Appropriate responses reassure victims and encourage them to seek assistance to stop violence without fear of repercussion. In contrast, a lack of accountability perpetuates individual recidivism and reinforces a culture “normalizing” gender-based violence.<sup>24</sup> Further, impunity can lead to cycles of violence within homes, families and law enforcement agencies more broadly.<sup>25</sup>

Although domestic and sexual violence are defined as crimes in the U.S., they systematically are not investigated or prosecuted with the same seriousness as other violent crimes. Some studies have shown that thirty percent of cases where victims of domestic violence request police assistance fail to result in an official report. Evidence also demonstrates that police are less likely to make an arrest when a husband feloniously assaults his wife than in other felony assault cases.<sup>26</sup> It is common too, for police officers to encourage informal resolution between the parties instead of arresting perpetrators.<sup>27</sup>

At the same time, mandatory arrest laws may have a particularly negative impact on women of color experiencing domestic violence.<sup>28</sup> Stemming from a history of discriminatory policing, in many cases victims in immigrant communities and communities of color are hesitant to seek intervention as an initial matter.<sup>29</sup> Where police intervention does occur, there is the possibility of “dual arrest,” whereby the victim is arrested alongside her abuser. In jurisdictions with mandatory arrest policies, police often either arrest both parties and leave the matter to the courts, or arrest the victim, as he/she might appear to be the aggressor, even when acting in self-defense.<sup>30</sup> This situation can have serious consequences, as victims, particularly women and sexual minorities, who are wrongfully arrested might have this fact used against them in a number of

ways, including subsequent child welfare or custody proceedings.<sup>31</sup>

Similarly, sexual violence survivors often face hostility and bias when they report sexual assault. It has been well-documented that law enforcement in many jurisdictions regularly fail to investigate cases reported by victims,<sup>32</sup> including survivors of sexual assault on campus, in Indian country and in the military. Survivors' reports are often dismissed if they were drinking alcohol, had a previous sexual relationship with the perpetrator, or did not go to law enforcement right away.

Because of the pervasive stereotypes and misconceptions of domestic violence and sexual assault held by law enforcement officers, the government must take special care to ensure that officers are held accountable when they fail to respond appropriately to acts of domestic and sexual violence. Accountability measures could include professional or criminal sanctions. Further, these principles articulated above should be incorporated into Department of Justice training protocols and other guidance.

### ELEMENTS OF EFFECTIVE INVESTIGATIONS

Human rights experts have proscribed practical requirements for effective investigations into human rights violations. They must be diligent, serious, prompt, thorough and impartial.<sup>33</sup> An effective investigation has been defined as one that is capable of leading to the identification and punishment of those responsible.<sup>34</sup> Authorities must take reasonable steps available to secure the evidence concerning the incident, including witness statements and forensic evidence.<sup>35</sup> Further, the complainant/survivor must have access to the investigation procedure and information uncovered.<sup>36</sup>

The failure to carry out an appropriate investigation undermines accountability and prevents effective remedies for survivors. Yet, an investigation of alleged violations alone is not enough to clear the state of liability. Ongoing monitoring of government responses, as well as accountability outside of litigation, is critical to addressing systemic causes and consequences of gender-based violence.

### REMEDY AND COMPENSATION

While effective criminal justice responses ensure that perpetrators of gender-based violence face the consequences of their action, remedy and compensation focus on the needs of victims and survivors. The aim is to address the harm or losses suffered and mitigate the effects of violence to the extent possible.<sup>37</sup>

Providing adequate reparations means that gender-based violence survivors have access to meaningful criminal and civil remedies. Governments must also facilitate access to appropriate rehabilitation and support services. Further, appropriate remedies often include compensation for physical and psychological injuries, loss of employment, educational opportunities and other benefits, as well as any legal, medical and other costs incurred as a consequence of violence.<sup>38</sup>

## FOUNDATIONAL HUMAN RIGHTS PRINCIPLES

A number of the fundamental human rights principles that inform the due diligence standard are described below: **equality and non-discrimination, transparency and dignity**. As already mentioned, human rights law also calls for government to address gender-based violence **whether perpetrated by government agents or private actors**, and emphasizes **accountability and effective remedies**.

### EQUALITY AND NON-DISCRIMINATION

These foundational human rights principles are included in all of the core human rights agreements, including the Universal Declaration of Human Rights and treaties ratified by the United States.<sup>39</sup> Achieving equality and non-discrimination requires that rights are guaranteed without distinction and further that governments take steps to protect against discrimination and “diminish or eliminate conditions which cause or help to perpetuate discrimination.”<sup>40</sup>

Violence against women has been repeatedly recognized as one of the most extreme and pervasive forms of discrimination, severely impairing the ability of women to enjoy their rights. Indeed, international and regional human rights systems have affirmed “the strong link between discrimination, violence and due diligence, emphasizing that a government’s failure to act with due diligence to protect women from violence constitutes a form of discrimination, and denies women their right to equality before the law.”<sup>41</sup> Governments are required to commit equally to prevent and police domestic violence and sexual assault as they do to other forms of violence.<sup>42</sup> This is true regardless of a survivor’s socio-economic status, race, national origin, immigration status, sexual orientation, geographical location or other status.

Discriminatory policing, including under-enforcement of established laws, and inadequate training and supervision, often stems from the reluctance of law enforcement agencies to acknowledge the extent of crime in their communities and from stereotypes and misapprehensions about domestic and sexual violence.<sup>43</sup> Because domestic and sexual violence are committed primarily against women, and because domestic and sexual violence survivors often are subjected to gender-based stereotypes, law enforcement’s failed responses can constitute impermissible discrimination.

International human rights law stresses an “intersectional” analysis, recognizing that individuals experience gender-based violence and multiple forms of discrimination based on their sex, race, national origin, ability, religion, sexual orientation or other identities.<sup>44</sup> The United Nations Special Rapporteur on Violence Against Women has emphasized that the “elimination of violence requires holistic measures that address . . . inequality and discrimination.”<sup>45</sup>

An intersectional approach fosters consideration of how different communities experience gender-based violence differently, and the need for targeted and culturally-appropriate solutions. This is critical because while domestic violence and sexual assault affect individuals from every community, factors such as poverty and residence make some groups of women, including African Americans, Latinas, American Indians, Alaska Natives and certain immigrants, more susceptible to this type of abuse and its negative consequences. “Approximately 4 out of every 10 non-Hispanic black women, 4 out of every 10 American Indian or Alaska Native women (43.7% and 46.0%, respectively), and 1 in 2 multiracial non-Hispanic women (53.8%) have been the victim of rape, physical violence, and/or stalking by an intimate partner in their lifetime.”<sup>46</sup> Women with disabilities are also at a higher risk of being victims of violence.<sup>47</sup> According to 2011 Department of Justice (DOJ) statistics, the rate of violence against women with disabilities was three times the rate of violence against women without disabilities: 53 in 1,000 for women with disabilities, compared to 17 in 1,000 for women without disabilities.<sup>48</sup> LGBT individuals are also targeted for gender-based abuse and violence because of their sexual orientation and gender identity.<sup>49</sup>

## **TRANSPARENCY AND NEED FOR DISAGGREGATED DATA**

A hallmark of human rights principles and good governance is transparency: government must be open with regard to both information and decision-making.<sup>50</sup> This is important because evidence-based solutions are essential to eradicate gender-based violence. International human rights treaties call on governments to accurately report on gender-based violence, and collect and publicize such data.<sup>51</sup> Research is also needed into the “causes, nature, seriousness and consequences of violence against women and the effectiveness of measures implemented to prevent and redress violence against women.”<sup>52</sup>

Currently, inadequate recordkeeping and reporting of domestic violence-related crimes is common within

police departments.<sup>53</sup> A series of open records requests involving a representative sample of police departments across the United States revealed that very few departments keep specific or disaggregated data on domestic violence arrests or complaints, including age, sex, race and ethnicity.<sup>54</sup> Often, calls for service are not properly categorized as related to domestic violence.<sup>55</sup> Systematic misclassification and inaction can constitute discrimination because it may result in an inadequate assessment of the nature of the problem, inadequate resources allocated toward addressing the problem, and inappropriate responses. Accurate data reporting and collection would provide much-needed information for evaluating legal and policy responses to domestic and sexual violence in a number of areas. For example, more information is needed to assess the impact of the criminal justice system on victim safety and batterer recidivism, as well as the broader impacts of gender-based violence and reporting of such violence on poor, minority and immigrant women.

## **EMPHASIS ON SURVIVOR DIGNITY**

The human rights framework emphasizes policies that empower victims and place their dignity and well-being at the fore.<sup>56</sup> Survivors of gender-based violence must be treated in a respectful and humane fashion. Demonstrating respect for survivors and their families includes developing culturally-sensitive and gender-appropriate responses to incidents of gender-based violence.<sup>57</sup> Accordingly, human rights bodies stress the importance of targeted law enforcement training regarding interactions with survivors and avoiding behaviors that can re-victimize and cause people to turn away from the justice system, such as victim blaming or overly aggressive policing in communities that have historically experienced tension with law enforcement.<sup>58</sup>

# **SECTION II: A HUMAN RIGHTS-BASED APPROACH TO GENDER-BASED VIOLENCE IN THE UNITED STATES**

As described above, the human rights framework offers a set of tools and principles to apply for a more holistic national approach to preventing and addressing gender-based violence. The following describes ways these principles have already been incorporated into U.S. policy, and how they add value, as well as specific strategies for further integrating human rights into federal policies and programs.

## **HUMAN RIGHTS DEVELOPMENTS IN U.S. POLICY**

Within the United States, the federal government, local governments and advocates have recognized that human rights principles and processes can advance a collective mission to end gender-based violence.

The Vice President has stated that “a nation’s decency is in large part measured by how it responds to violence against women... [O]ur daughters, our sisters, our wives, our mothers, our grandmothers have [the] right ... to be free from violence and sexual abuse.” Further, he expressed that “freedom from sexual assault is a basic human right.”<sup>59</sup> Likewise, the President of the United States has referred to sexual assault as “an affront to our basic decency and humanity.”<sup>60</sup>

Similarly, the U.S. Global Strategy to Prevent and Respond to Gender-Based Violence Globally states:

Regardless of the form that gender-based violence takes, it is a human rights violation or abuse, [that] undermines not only the safety, dignity, overall health status, and

human rights of the millions of individuals who experience it, but also the public health, economic stability, and security of nations.<sup>61</sup>

The former Ambassador to the United Nations for the United States, Susan Rice, reaffirmed the human right to a life free of gender-based violence in a statement to the U.N. Commission on the Status of Women, which highlights that it impacts women everywhere – in the U.S. and abroad.<sup>62</sup> Similarly, Sue Carbon, former Director of the DOJ Office on Violence Against Women, stated, during her tenure as Director: “I view violence against women, in all its forms, as a fundamental human rights issue. And whether it is used as a weapon of war against an entire people, or to break one individual’s spirit, we all know its impact is profound: it usurps victims of their rights to sovereignty over their own persons.”<sup>63</sup> The U.S. Interagency Council on Homelessness, too, has used the human rights framework to advance its work on behalf of homeless people in the U.S., including domestic and sexual violence survivors.<sup>64</sup>

Since 2011, a number of counties and cities in the United States have adopted resolutions declaring “freedom from domestic violence as a fundamental human right.” These resolutions indicate that support for a human rights based-approach to gender-based violence, rooted in the recognition of governmental responsibility to ensure this right, is emerging within local communities.<sup>65</sup> Several cities have also implemented local ordinances incorporating the Women’s Treaty (the Convention on the Elimination of Discrimination Against Women or CEDAW). These ordinances, which aim to foster equal opportunity and eliminate gender inequity, specifically address the prevention of violence against women as well as broader forms of discrimination against women.<sup>66</sup>

The U.S. also has noted domestic efforts to address gender-based violence when appearing before international human rights experts who are assessing the U.S.’ human rights record. In April 2014, a delegation of federal, state and local government representatives participated in the U.N. Human Rights Committee’s review of U.S. compliance with the International Covenant on Civil and Political Rights (ICCPR). The government delegation presented its report to the Committee on a range of issues, including U.S. response to violence against women. The delegation specifically noted that DOJ was hosting a Roundtable on Domestic and Sexual Violence, and referenced legal protections available to survivors of domestic and sexual violence under the Violence Against Women Act (VAWA).<sup>67</sup> (The Committee’s response, as well as the recommendations of other international human rights bodies and experts, is described in Section IV., *infra*).

Since 2011, the U.S. government has taken a number of important strides to address domestic and sexual violence and expand existing protections, including several reauthorizations of the federal Violence Against Women Act (VAWA),<sup>68</sup> the launch of the first-ever U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally,<sup>69</sup> and recent consent decrees and agreements reached by the DOJ with police departments in New Orleans, Louisiana, Missoula, Montana and Puerto Rico<sup>70</sup> to prevent and remedy gender discrimination in police responses to domestic violence and sexual assault. The resulting laws, policies and practices incorporate many of the principles outlined above, particularly the focus on non-discrimination, accountability and transparency.

## THE VALUE ADDED OF A HUMAN RIGHTS-BASED APPROACH IN THE UNITED STATES

Traditionally, under U.S. law the relationship between victims and perpetrators of gender-based violence has been treated as a “private” or “family” matter, beyond the reach of the law. This has led to inadequate legal and policy responses, and also contributes to under-reporting.<sup>71</sup> Furthermore, U.S. approaches to domestic violence have largely focused on remediation – interventions that take place after violence occurs. Even existing remedial avenues to addressing violence are inadequate because, under current law, there are limited opportunities for relief where violence is perpetrated by private actors.<sup>72</sup> For example, the Due Process Clause of the Fourteenth Amendment does not, in most cases, confer upon governmental actors a

constitutional duty to protect individuals from private acts of violence, even in instances where the government knew or should have known of a potential act of violence.<sup>73</sup> In light of Supreme Court jurisprudence, victims of gender-based violence cannot initiate a federal private right of action against their abusers,<sup>74</sup> and victims lack the right to procedural due process under the Fourteenth Amendment to enforcement of domestic violence restraining orders.<sup>75</sup> Additionally, claims alleging violations of Equal Protection under the Fourteenth Amendment require victims to show intent to establish discrimination, which is often difficult in the context of inadequate police responses to domestic violence and sexual assault.<sup>76</sup>

While attitudes toward state intervention in the home have begun to shift<sup>77</sup> and the United States has enacted the landmark Violence Against Women Act, human rights experts have continued to emphasize that programs and protections targeted toward preventing gender-based violence and vindicating survivors' human rights should be strengthened.<sup>78</sup> This can be a challenge under the existing domestic law paradigm, where the executive branch is precluded from compelling subnational compliance with human rights treaties, absent express authorization from Congress.<sup>79</sup>

As detailed in prior sections, a human rights based approach can inform and enhance responses to domestic violence. With an emphasis on prevention, in addition to strong and effective accountability measures and support for survivors, an approach based on due diligence offers an expansive view of where and how government can take steps to eradicate gender-based violence, using a range of policy and programmatic tools, as well as legal change. (Specific recommendations are laid out in the next section).

When ratifying human rights treaties, the United States has acceded that all levels of government – federal, state and local – share international responsibility for human rights implementation.<sup>80</sup> Indeed, fulfilling human rights obligations domestically requires cooperation and coordination among federal, state and local governments, and with all segments of society.<sup>81</sup> As the representative of the United States on the world stage, the federal government is responsible for fostering compliance and must promote and support state and local government efforts to implement human rights, including in the arena of gender-based violence.<sup>82</sup>

The federal government is well-situated to incentivize and encourage human rights compliance at the state and local levels.<sup>83</sup> This can be done through meaningfully incorporating human rights principles into policies, guidance, consent decrees and funding mechanisms. Human rights education and training, and sharing of effective practices, is also essential.<sup>84</sup> These efforts must be supported by financial resources and dedicated staff, to ensure coordinated and comprehensive human rights implementation.<sup>85</sup> Further, coordinated action to monitor, document and address human rights concerns, including gender-based violence, would enable the federal government to more effectively identify and address gaps in protections and develop effective solutions.<sup>86</sup>

## **RECOMMENDATIONS FOR INCORPORATING HUMAN RIGHTS PRINCIPLES AND STRATEGIES INTO DOMESTIC POLICIES AND PROGRAMS**

Advocates and government officials have identified numerous ways that a human rights framework can further inform federal policy and programs to reflect the human rights principles discussed above, infusing a clear focus on prevention and accountability, as well as emphasizing survivor dignity, effective investigations and greater transparency. The list below offers a number of broad strategies for infusing human rights into the daily work of eliminating gender-based violence. Several concrete examples are included to illustrate how these strategies could be implemented.

### **1. Ensure that Federal Level Guidance, Guidelines as well as Related Trainings, Policies and Resources**

**Reflect Human Rights Principles.** Proactive guidance would support the ability of agencies to analyze their practices and act preventively, rather than relying on federal investigations of departments that have been identified as violating the law.

- The Department of Justice should issue concrete guidance for law enforcement, explaining that a discriminatory police response to domestic and sexual violence can constitute a civil rights and human rights violation and outlining basic principles that should govern law enforcement practices. DOJ can also publicize and disseminate effective practices that develop in jurisdictions as the result of DOJ investigations (such as protocols and accountability mechanisms) to support local efforts to identify and eliminate the factors that lead to gender-biased policing.
- The Department of Justice should add “inadequate investigations of domestic and sexual violence and under-enforcement of laws relating to domestic and sexual violence,” as appropriate, to all of DOJ’s webpages and general publications concerning potential civil rights violations by law enforcement, and generally publicize the fact that gender-biased policing falls within DOJ’s mandate.
- Regulation and guidance from HUD on the obligation to affirmatively further fair housing (AFFH) under the Fair Housing Act that addresses the housing concerns of domestic and sexual violence survivors is one example. Guidance could be issued that requires grantees to analyze a number of policies and conditions relevant to gender-based violence and survivor dignity in housing, including: availability of anti-violence services, shelter and housing subsidies (as compared to demand); homelessness rates of domestic and sexual violence survivors; coordination between homeless and domestic violence shelter systems; enactment and implementation of “nuisance” or crime-free ordinances; awareness and implementation of VAWA’s housing protections within the jurisdiction by all covered owners; and fair housing resources and awareness focused on survivors’ rights.
- Regulation and guidance from HUD, the Internal Revenue Service and the U.S. Department of Agriculture on implementation of VAWA 2013’s housing protections that also provides a formal mechanism to allow for enforcement of VAWA rights – i.e., access to a remedy when rights are violated.
- Incorporating human rights principles regarding prevention, dignity, non-discrimination and empowerment into (1) the preambles and/or main text of agency guidelines, such as the Attorney General Guidelines for Victim and Witness Assistance or Guidelines for Treatment of Victims of Crime, and (2) manuals and trainings on effective investigations.
- Issuing a presidential proclamation declaring that freedom from gender-based violence is a fundamental human right.

**2. Provide Government-Sponsored Training and Education on Human Rights Standards Applicable to Substantive Legal Issues.** Education and awareness-raising campaigns among the public, including men, would play a valuable role in addressing stereotypes that undergird domestic violence and sexual assault. Likewise positive guidance for federal, state and local government, including law enforcement and court officers, would help promote effective approaches to addressing domestic violence and alleviate gender and cultural biases, fostering a more survivor-centered approach. There are many avenues to publicize and raise awareness of human rights, including government-sponsored formal trainings, brown bag lunches, newsletters and other public materials.

- Public education materials on the meaning and use of human rights, including a blog series by U.S. government employees and inclusion in agency newsletters and materials. The U.S. Inter-Agency Council on Homelessness has begun to undertake such efforts (*see* Section IV., *infra*).
- Creating a centralized website that catalogues effective practices in preventing and addressing gender-based violence - at the local, state, national and international levels. This could amplify positive policies and encourage more jurisdictions to take them on.

**3. Incorporate Human Rights Principles into Federal Grant Applications.** Grant applications offer an avenue for raising awareness of human rights principles, as well as fostering proactive, prevention-oriented policies and identifying effective local practices.

- Grants from federal agencies relevant to gender-based violence, such as those awarded through the DOJ, HUD and other agencies could include questions that allocate points for programs that reflect core human rights principles and prioritize prevention-oriented education programs, the collection of

disaggregated data, and the fostering of survivor participation and leadership in collaborations between government agencies, non-governmental organizations and survivors.

**4. Draw on Human Rights Principles in Crafting Findings Letters, Consent Decrees, Settlement Agreements and Remedies.** The due diligence framework can strengthen approaches to gender-based violence, protecting victims and eradicating gender bias. These principles are particularly important in articulating standards for reform and remediation along with the domestic rights the government enforces. The 2013 DOJ consent decree with New Orleans reflects elements of a rights-based approach. There is an emphasis on supervision to ensure improved responses to sexual assault by: “building relationships and enhancing cooperation with victim advocates and forensic examination programs, both to respond to and reduce the risk of sexual assault; demonstrating a detailed understanding of victim issues and setting clear expectations of detectives regarding their treatment of victims.” Regarding domestic violence, the New Orleans Police Department agreed to “continue close collaboration with the DA and community providers to ensure that policies and protocols remain victim-centered and effective.”<sup>87</sup>

**5. Mainstream Core Human Rights Principles Into Gender-Violence Programming.** The principles outlined in this Guide can inform multiple federal level efforts to address gender-based violence. Incorporating a rights-based, preventative focus would lead to stronger efforts to address systemic causes of violence and emphasize the importance of disaggregated data and the need for more expansive federal collection of statistics, among other aspects of policy and programming.

- Development of a policy assessment guide that can aid agencies and departments in efforts to more proactively think about how policies and decisions impact efforts to prevent gender-based violence and address survivors’ needs, using a human rights-based approach. This type of tool can help surface and prevent potential negative consequences. Such a tool would also help to identify areas where more data and information is needed.
- Work with international partners to collect good/best practices on law enforcement response to gender-based violence, which can, in turn, be incorporated into domestic programming and publications.

**6. Create a Formal Mechanism for Civil Society-Government Partnership on Gender-Based Violence.** Such a mechanism could take the form of a working group, task force, or some other entity that would provide a formal avenue for civil society engagement with the federal government on an ongoing basis, independent of grant programs. This body could help to implement the recommendations above and serve as a forum for regular discussions regarding initiatives to advance effective changes. (For example, ensuring that guidance for law enforcement continues to be responsive to needs on the ground, is disseminated and incorporated/implemented in a meaningful way).

## **SECTION III: SEMINAL INTERNATIONAL LAW CASES**

To enable government actors to effectuate the above strategies, the remainder of this Guide provides more information on the source of human rights principles, including case-law and relevant provisions of international human rights treaties and resources and reports developed by the United States government, civil society actors and international human rights experts. The relevant text of a number of regional and international human rights agreements is included in the Appendix.

This section distills the basic facts and outcomes of key decisions from the Inter-American and European Human Rights Systems, as well as from the U.N. Committee on the Elimination of Discrimination Against Women.



**JESSICA LENAHAN (GONZALES) ET AL. V. UNITED STATES**, INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (2011).

This petition was filed on behalf of a domestic violence survivor whose estranged husband violated a restraining order and kidnapped her three daughters, a scenario which ended in their death after multiple phone calls to the local police department failed to yield any action to locate her daughters. The Inter-American Commission on Human Rights concluded that the United States failed to act with due diligence to protect Jessica Lenahan and her daughters from domestic violence. It further held that the U.S. violated its obligation not to discriminate and to provide equal protection before the law, underscoring that gender-based violence, one of the most severe forms of discrimination, negatively impacts a woman's enjoyment of all other rights. The Commission also concluded that the U.S. violated the petitioner's and her daughters' rights to life and judicial protection. The Commission made multiple recommendations to promote the elimination of discrimination and address gender stereotypes, including through public policy and programming at the federal, state, and local levels, as well as training of public officials.

**MARIA DA PENHA V. BRAZIL**, INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (2001).

In this case, the Commission ruled that Brazil did not exercise due diligence to protect Maria da Penha from her husband, as the courts took extreme delay in convicting and detaining him, despite a history of violence against her. While he remained at large, he attempted to murder her, resulting in her permanent paralysis. The Commission held that failure to perform due diligence to protect a woman's right to be free from domestic violence constituted gender discrimination and that Brazil had an affirmative duty to protect Maria da Penha as a victim of domestic violence.

**GONZALEZ ET AL. ("COTTON FIELD") V. MEXICO**, INTER-AMERICAN COURT OF HUMAN RIGHTS (2009).

The Court concluded that Mexico violated its due diligence obligation by failing to investigate the murders of three women, part of a pattern of violence against women in Ciudad Juarez. Mexico was found to have violated the rights to life, personal integrity and liberty, judicial protection and due process, as well as in violation of its obligations to prevent, investigate, and penalize violence against women and adopt provisions to punish and prevent such violence. The Court reiterated that meeting the due diligence standard includes an adequate legal framework for protection, as well as prevention policies.

**OPUZ V. TURKEY**, EUROPEAN COURT OF HUMAN RIGHTS (2009).

In this landmark case on gender-based violence, the European Court of Human Rights held that Turkey failed to exercise due diligence. For years, the applicant's husband abused her and her mother, eventually murdering the mother. According to the decision, Turkey's failure to undertake timely criminal proceedings or grant protective orders violated customary international law as the state violated applicant's right to life and right to be free from torture or ill-treatment in a manner that constituted gender discrimination.

**BRANKO TOMASIC V. CROATIA**, EUROPEAN COURT OF HUMAN RIGHTS (2009).

Here the European Court of Human Rights found that Croatia violated the petitioners' right to life by failing to protect a woman and her daughter from an abusive husband, who murdered both of them one month following his release from prison. The government was on notice of the potential for harm as the prison sentence resulted from a criminal complaint for death threats lodged by the husband against his wife and child.

**GOEKCE V. AUSTRIA**, COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (2007).

In this case, the CEDAW Committee found that Austria failed to meet due diligence obligations when the police failed to protect the (deceased) petitioner from her abusive husband. The Committee held that because the police should have known that the petitioner was in serious danger, state actors were accountable for the failure to take appropriate preventive steps. These failures amounted to a violation of petitioner's right to life and right to mental and physical integrity.

**YILDIRIM V. AUSTRIA**, COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (2007).

The CEDAW Committee held that Austria violated due diligence obligations and the (deceased) petitioner's right to life and mental/physical integrity when the police failed to protect the petitioner from her abuser, who had made multiples threats against her and eventually followed her home and murdered her.

**A.T. v. HUNGARY**, COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (2005).

The CEDAW Committee held that Hungary failed to exercise due diligence for domestic violence victims by failing to provide a way to obtain restraining orders, which resulted in the common law husband remaining free during the criminal case against him. The Committee further held that Hungary violated equality before the law, in marriage, and the duty to adopt measures to eliminate discrimination against women.

## SECTION IV: FURTHER RESOURCES

This section offers a selection of reports, policy guidelines, comparative practices, and national and international organizations focused on eliminating gender-based violence. These resources go into greater depth on many of the issues introduced in this guide and provide multiple perspectives on ways to improve law, policy and practice in this arena. The views presented are not necessarily representative of the positions and recommendations of the authors of this Guide.

### U.S. GOVERNMENT RESOURCES

NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION, **INTIMATE PARTNER VIOLENCE IN THE UNITED STATES** – 2010 [BY M.J. BREIDING, ET AL] (FEBRUARY 2014)

Reflecting responses to the National Intimate Partner and Sexual Violence Survey, this report discusses the prevalence of intimate partner violence, its manifestations and impacts. It also discusses how existing data should inform prevention efforts.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, **MEMORANDUM ASSESSING CLAIMS OF HOUSING DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE UNDER THE FAIR HOUSING ACT (FHACT) AND THE VIOLENCE AGAINST WOMEN ACT** [BY SARA K. PRATT, DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT AND PROGRAMS] (FEB. 9, 2011).

This memorandum, distributed to Fair Housing and Equal Opportunity (FHEO) headquarters and field staff, explains how VAWA protects domestic violence victims from eviction, denial of housing and termination of assistance as a result of the violence perpetrated by their abusers. It also gives guidance to the FHEO on how to assess claims by domestic violence victims of housing discrimination under the Fair Housing Act.

U.S. DEPARTMENT OF JUSTICE, COMMUNITY ORIENTED POLICING SERVICES, NATIONAL CENTER FOR VICTIMS OF CRIME AND THE POLICE FOUNDATION, **A POLICE GUIDE TO FIRST RESPONSE: DOMESTIC VIOLENCE, RESIDENTIAL BURGLARY, AND AUTOMOBILE THEFT** (2002).

This toolkit provides guidance to community policing professionals who interact with victims and victim service organizations, addresses repeat victimization, and includes a section on first response to domestic violence.

U.S. DEPARTMENT OF JUSTICE, COMMUNITY ORIENTED POLICING SERVICES, **PROBLEM-ORIENTED GUIDES FOR POLICE: DOMESTIC VIOLENCE** [BY RANA SAMPSON] (2007).

The guide describes the problem of domestic violence, how an agency can analyze the issue in its jurisdiction and what is known about effective responses from evaluative research and police practice.

U.S. DEPARTMENT OF JUSTICE, COMMUNITY ORIENTED POLICING SERVICES, ET AL., **JOINT STATEMENT OF THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, THE OFFICE FOR VICTIMS OF CRIME, AND THE OFFICE ON VIOLENCE AGAINST WOMEN ON ADDRESSING GENDER-DISCRIMINATION IN POLICING** (2013).

This statement announces that because “gender bias plays a role in undermining the effective response by law enforcement to crimes against women,” the prevention of sex-based discrimination by law enforcement is a “top priority” of the Civil Rights Division of DOJ in its oversight of law enforcement agencies. It highlights that many law enforcement agencies need to improve their response to all forms of violence against women, encouraging jurisdictions to “review and revise policies, protocols, and, most importantly, practices, to ensure they are free from gender bias.” It further links to a number of resources, and recent findings letters and consent decrees from Montana, New Orleans and Puerto Rico.

U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, NATIONAL INSTITUTE OF JUSTICE, **PRACTICAL IMPLICATIONS OF CURRENT DOMESTIC VIOLENCE RESEARCH: FOR LAW ENFORCEMENT, PROSECUTORS AND JUDGES** (2009).

The report summarizes research on domestic violence, including its perpetrators and victims, the impact of current responses, and the implications of research findings on shaping responses by law enforcement officers, prosecutors and judges.

U.S. DEPARTMENT OF STATE, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT, **UNITED STATES STRATEGY TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE GLOBALLY** (2012).

This document outlines the federal strategy to prevent and respond more effectively to gender-based violence globally. The strategy lays out goals and actions to be implemented and monitored by federal agencies working abroad, and aims to establish an intra-governmental approach that identifies and leverages current efforts and resources.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, **QUESTIONS AND ANSWERS: THE APPLICATION OF TITLE VII AND THE ADA TO APPLICANTS OR EMPLOYEES WHO EXPERIENCE DOMESTIC OR DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.**

Examples provided in this publication show how Title VII of the Civil Rights Act of 1964 (prohibiting discrimination based on race, color, sex, religion, or national origin) and the Americans with Disabilities Act (prohibiting discrimination on the basis of disability) may apply to employment situations involving applicants and employees who experience domestic or dating violence, sexual assault or stalking.

U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, **PHA PROGRAMS AND POLICIES WORKING TO PREVENT HOMELESSNESS, PROTECTING VICTIMS OF DOMESTIC VIOLENCE.**

The Interagency Council on Homelessness explains how Public Housing Agencies may implement programs and policies to help ensure that victims of domestic violence, dating violence, sexual assault, and stalking do not become homeless as a result of their abuse. The Council has adopted a human rights framework to prevent homelessness and publicized them through a [blog](#) and reports.

WHITE HOUSE, OFFICE OF THE PRESS SECRETARY, **MEMORANDUM ESTABLISHING POLICIES FOR ADDRESSING DOMESTIC VIOLENCE IN THE FEDERAL WORKFORCE** [FROM BARACK OBAMA, PRESIDENT OF THE UNITED STATES] (APR. 18, 2012).

This White House memorandum directs the federal government and all of its agencies to adopt guidance and policies addressing the effects of domestic violence on federal employees by providing support and assistance.

WHITE HOUSE TASK FORCE TO PROTECT STUDENTS FROM SEXUAL ASSAULT, **FIRST REPORT** (2014)

Recognizing the pernicious impacts of sexual assault and its prevalence, this report introduces the Task Force and its initial findings. It then describes strategies to deepen an understanding of, and address, sexual assault on college campuses, working with colleges, federal agencies and the public.

## INTERNATIONAL BODIES AND EXPERTS

### RECOMMENDATIONS TO THE UNITED STATES

A number of recommendations for ways the U.S. can strengthen its approach to addressing and eliminating gender-based violence have been made by United Nations human rights bodies reviewing United States compliance with the Race Convention (CERD) and the Covenant on Civil and Political Rights (ICCPR), as well as independent experts who have visited the U.S., such as the U.N. Special Rapporteur on Violence Against Women, its causes and consequences. These recommendations echo the principles reflected in this Guide.

COMMITTEE ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, **CONCLUDING OBSERVATIONS ON THE FOURTH, FIFTH AND SIXTH PERIODIC REPORTS OF THE UNITED STATES OF AMERICA** (72<sup>TH</sup> SESSION, 2008), U.N. Doc. CERD/C/USA/CO/6 (2008).

After reviewing a number of periodic reports by the United States on measures taken to implement the provisions of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Committee adopted its concluding observations and provided several concrete recommendations. Among other things, the Committee expressed a deep concern regarding the incidence of rape and sexual violence experienced particularly by American Indian, Alaska Native women and female migrant workers and the alleged “insufficient will” of federal and state authorities to take action. The Committee recommended the United States take several specific actions in order to increase its efforts to prevent and punish violence and abuse against women belonging to racial, ethnic and national minorities, who are often deprived of “access to justice and the right to obtain adequate reparation or satisfaction for damages suffered.” The Committee called for preventive efforts, including funding for counseling services and temporary shelters; specific training for law enforcement officers; campaigns to raise awareness; and reporting of rape and sexual violence that is met with promptness, thoroughness, and diligence on behalf of the state.

HUMAN RIGHTS COMMITTEE, **CONCLUDING OBSERVATIONS ON THE FOURTH REPORT OF THE UNITED STATES OF AMERICA** (110<sup>TH</sup> SESSION, 2014), U.N. Doc. CCPR/C/USA/CO/4 (2014).

After reviewing the fourth periodic U.S. report on compliance with the International Covenant on Civil and Political Rights, the Human Rights Committee expressed concern about the fact that domestic violence continues to be prevalent in the country and that law enforcement authorities are not legally required to act with due diligence to protect survivors of domestic violence. The Committee called on the U.S. to take a number of steps to strengthen existing responses and recommended specific measures to prevent and combat domestic violence. The Committee called on the United States to undertake:

[F]ull and effective implementation of the Violence against Women Act and the Family Violence Prevention and Services Act, strengthen measures to prevent and combat domestic violence, as well as to ensure that law enforcement personnel appropriately respond to acts of domestic violence. The State party should ensure that cases of domestic violence are effectively investigated and that perpetrators are prosecuted and sanctioned. The State party should ensure remedies for all victims of domestic violence, and take steps to improve the provision of emergency shelter, housing, child care, rehabilitative services and legal representation for women victims of domestic violence. The State party should also take measures to assist tribal authorities in their efforts to address domestic violence against Native American women.

*(Several articles of the ICCPR are in the Appendix)*

SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, **REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES—MISSION TO THE UNITED STATES**, U.N. Doc. A/HRC/17/26/ADD.5 (JUN. 6, 2011).

In 2011, the U.N. Special Rapporteur on Violence Against Women made a country visit to the U.S., met with government officials, advocates, and survivors and examined the situation of violence against women in the country. After the visit, the Special Rapporteur issued this report summarizing her findings and making recommendations focused on providing remedies for women victims of violence, investigating and prosecuting violence against women in the military, improving the conditions of women in detention and

tackling the multiple forms of discrimination faced by certain groups of women, which make them more vulnerable to violence.

## GENERAL RECOMMENDATIONS AND REPORTS

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, [ACCESS TO JUSTICE FOR WOMEN VICTIMS OF SEXUAL VIOLENCE: EDUCATION AND HEALTH](#) (2011).

This Commission report distills the barriers that victims of sexual violence face in accessing effective and timely judicial remedies throughout the Inter-American region. It focuses specifically on the prevalence of sexual violence in schools and health facilities. From a human rights perspective, the report also looks at how sexual violence against women prevents them from exercising their rights to education and health. The report also identifies positive developments by governments, as well as ongoing challenges and offers a series of recommendations.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, [LEGAL STANDARDS RELATED TO GENDER EQUALITY AND WOMEN'S RIGHTS IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM: DEVELOPMENT AND APPLICATION](#) (2011).

This report analyzes key Inter-American human rights standards related to gender equality and women's rights, including recent developments. With a focus on notable judgments and input from an array of stakeholders, the report highlights decisions, laws and policies related to discrimination against women and violence against women.

UNITED NATIONS, DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, DIVISION FOR THE ADVANCEMENT OF WOMEN, [HANDBOOK FOR LEGISLATION ON VIOLENCE AGAINST WOMEN](#) (2010).

This Handbook outlines the international and regional legal obligations pertaining to violence against women and presents a model framework for States' legislation in this area. The Handbook highlights the importance of identifying a clear, legislative goal; undertaking comprehensive consultation with relevant stakeholders, particularly victims/survivors; and adopting an evidence-based approach to legislative drafting.

UNITED NATIONS ENTITY FOR GENDER EQUALITY AND EMPOWERMENT OF WOMEN (U.N. WOMEN), [GOOD PRACTICES IN NATIONAL ACTION PLANS ON VIOLENCE AGAINST WOMEN](#) (2010).

U.N. Women, in collaboration with the United Nations Economic Commission for Latin America and the Caribbean (ECLAC)/Subregional Headquarters for the Caribbean, convened an expert group meeting on good practices in national action plans on violence against women, in September 2010. The purpose was to review and analyze national action plans on violence against women from different parts of the world; identify key elements and good practices in the development, content and implementation of such national action plans, as well as their monitoring and evaluation; and elaborate a model framework for national action plans on violence against women. This document provides the model framework elaborated by the expert group meeting. The framework sets out guidelines to help policy makers formulate effective national plans, and identifies good practices in national plans of different countries.

SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, [THE DUE DILIGENCE STANDARD AS A TOOL FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN](#), U.N. Doc. E/CN.4/2006/61 (2006).

The Special Rapporteur's report examines the due diligence standard in relation to violence against women. The report begins by explaining the due diligence standard's background and principles, identifying challenges and obstacles to its use, and exploring the potential of the due diligence standard at the individual, community, State, and transnational level.

SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, [MULTIPLE AND INTERSECTING FORMS OF DISCRIMINATION AND VIOLENCE AGAINST WOMEN](#), U.N. Doc A/HRC/17/26 (2011).

This report seeks to analyze and expand the global discourse on women's human rights through an examination of equality and discrimination as they play out amongst different women based on their backgrounds and characteristics. It calls for comprehensive measures to eliminate violence against women

and girls based on a framework where “rights are treated as universal, interdependent and indivisible; situating violence on a continuum that spans interpersonal and structural violence; accounting for both individual and structural discrimination, including structural and institutional inequalities.”

SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, **STATE RESPONSIBILITY FOR ELIMINATING VIOLENCE AGAINST WOMEN**, U.N. Doc. A/HRC/23/49 (2013).

The Special Rapporteur describes existing international and regional normative standards for state responsibility and delves into the principle that governments bears responsibility for human rights violations when it fails to exercise due diligence to prevent or respond to certain acts or omissions of non-State actors. The report distills State practice related to legislation, national action plans, policing, prosecution and punishment, data collection, social services and cooperation with civil society, among other areas, based on information received from governments and civil society.

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, **GENERAL RECOMMENDATION 19**, VIOLENCE AGAINST WOMEN (ELEVENTH SESSION, 1992), U.N. Doc. A/47/38 AT 1 (1993).

Interpreting the Convention on the Elimination of All Forms of Discrimination against Women, the Committee on the Elimination of Discrimination against Women made this general recommendation to State Parties elaborating the Committee’s view of the obligations under the Convention regarding violence against women. The Committee emphasizes that “states may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.” (Key language from this General Recommendation is in the Appendix)

WORLD HEALTH ORGANIZATION, DEPARTMENT OF INJURIES AND VIOLENCE PREVENTION, **THE ECONOMIC DIMENSIONS OF INTERPERSONAL VIOLENCE** (2004).

Adopting a public health and economics perspective, the World Health Organization examines the effects of both interpersonal violence and interventions intended to reduce interpersonal violence, as well as the effects on interpersonal violence caused by economic conditions and policies.

## CIVIL SOCIETY PUBLICATIONS AND AMICUS BRIEFS

AMERICAN CIVIL LIBERTIES UNION, **BRIEF AS AMICI CURIAE, WASHBURN V. CITY OF FED. WAY, 178 WASH. 2D 732** (2013).

The brief argues that state law, particularly as interpreted in light of international human rights law, supports a legally enforceable duty for local police agencies to take reasonable measures to separate parties to a gender-based violence incident and ensure the safety of a victim when serving a protection order. It describes the City’s duty to the victim of domestic violence derived from state law obligations when authorities’ affirmative acts increase the risk faced by a domestic violence victim. The brief further analyzes how this duty is consistent with relevant international human rights law. The Washington Supreme Court ultimately concluded that the police owed a duty to the victim.

AMERICAN CIVIL LIBERTIES UNION, **BRIEF AS AMICI CURIAE, UNITED STATES V. PUERTO RICO, 922 F. SUPP. 2D 185** (D.P.R. 2013).

The brief highlights the severe problem of domestic violence and sexual assault in Puerto Rico. Endorsing the terms of the DOJ consent decrees that reform the Puerto Rico Police Department’s practices in domestic violence and sexual assault cases, it offers guidance on how to effectively implement the reforms in conformity with domestic and international human rights law. The federal court endorsed the proposed consent decree.

AMERICAN CIVIL LIBERTIES UNION, **ISLAND OF IMPUNITY: PUERTO RICO’S OUTLAW POLICE FORCE** (2012).

After a six-month investigation of policing practices in Puerto Rico, built on past work of the ACLU of Puerto Rico documenting cases of police brutality, this report catalogues how Puerto Rico’s Police Department systematically committed serious abuses of Puerto Ricans’ constitutional and human rights, including the use of excessive and lethal force against civilians, violent suppression of peaceful protestors and the failure

to protect victims of domestic violence. It further documents how lack of investigation of reported crimes of domestic violence, rape and other gender-based offenses constitutes a failure to comply with domestic and international law. The report offers numerous detailed recommendations to address these violations. AMERICAN CIVIL LIBERTIES UNION, WOMEN'S RIGHTS PROJECT, **GENDER-BASED VIOLENCE & HARASSMENT: YOUR SCHOOL, YOUR RIGHTS**.

Know your rights information for students and others.

AMERICAN CIVIL LIBERTIES UNION, WOMEN'S RIGHTS PROJECT, **DOMESTIC VIOLENCE: PROTECTIVE ORDERS AND THE ROLE OF POLICE ENFORCEMENT**.

Written as a Q&A, this factsheet briefly explains protective orders as well as police response to domestic violence victims.

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, CENTER FOR HUMAN RIGHTS AND HUMANITARIAN LAW, LOCAL HUMAN RIGHTS LAWYERING PROJECT, **HUMAN RIGHTS IN THE U.S.: A HANDBOOK FOR LEGAL AID ATTORNEYS** (2013).

The Handbook is designed to give U.S. legal aid attorneys and advocates specific information in support of making human rights arguments in state and federal court. The Handbook covers specific legal issue areas, offering background information, statistics and relevant human rights law and cases, as well as related state and federal court cases citing human rights law. Also included are recommendations from international experts, sample arguments to add to briefs and pleadings, talking points, as well as links to sample briefs and petitions, and additional resources.

AMNESTY INTERNATIONAL, **MAZE OF INJUSTICE: THE FAILURE TO PROTECT INDIGENOUS WOMEN FROM SEXUAL VIOLENCE IN THE USA** (2007).

Based on research gathered from government and non-governmental reports, a review of federal and state case law, and interviews conducted with indigenous survivors of sexual violence and public officials at the tribal, state, and federal level, this report examines the epidemic of sexual violence in the United States' indigenous communities. The report looks at the history of sexual violence in these communities, details international legal obligations on the State, and makes recommendations to improve government responses, focusing on problems related to jurisdiction, policing, forensic examinations, barriers to prosecution and support services for survivors.

CAROLINE BETTINGER-LOPEZ, **THE INTER-AMERICAN HUMAN RIGHTS SYSTEM: A PRIMER**, 42 CLEARINGHOUSE REV. 581 (2009).

This article provides an introduction to the Inter-American Human Rights System, tips for U.S. advocates looking to engage effectively within it, and how the system serves a complement to efforts to advance domestic human rights protections, offering several cases studies.

COLUMBIA LAW SCHOOL HUMAN RIGHTS CLINIC & COLUMBIA LAW SCHOOL GENDER & SEXUALITY CLINIC, **HUMAN RIGHTS AND DOMESTIC VIOLENCE, AN ADVOCACY MANUAL** (2010).

This manual offers guidance on how relevant human rights treaties, instruments, jurisprudence, and other sources may be useful for domestic violence advocacy. It distills sources of human rights and international law, as well as the international mechanisms for claiming human rights violations. The manual also discusses the dimensions of state responsibility and individual rights in several substantive areas, including sexual and psychological abuse, as well as child custody in the context of gender-based violence, and housing. It looks at impacts on particular groups, including the LGBT community.

COLUMBIA LAW SCHOOL HUMAN RIGHTS INSTITUTE, **PRIMER ON RECOMMENDATIONS FROM THE INTER-AMERICAN HUMAN RIGHTS COMMISSION & THE UNITED NATIONS** (2014).

This primer gives an overview of the Inter-American Human Rights System to U.S. advocates. In addition to highlighting the benefits of a human rights approach to social advocacy and explaining the U.S.' relationship with the Inter-American Commission, the primer provides an overview of the U.S. jurisprudence within the Inter-American System.

DUE DILIGENCE PROJECT, **DUE DILIGENCE FRAMEWORK: STATE ACCOUNTABILITY FRAMEWORK FOR ELIMINATING VIOLENCE AGAINST WOMEN** [BY ZARIZANA ABDUL AZIZ & JANINE MOUSSA] (2014).

In addition to providing background on the due diligence standard, this report presents findings from a multi-country study of the standards employed by governments in the formulation, implementation, and enforcement of policies, laws and procedures concerning violence against women. The report identifies global trends and practices, and offers recommendations for government compliance in areas of prevention, protection, prosecution, punishment and provision of redress.

ELIZABETH SCHNEIDER, *ET AL.*, **IMPLEMENTING THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS' DOMESTIC-VIOLENCE RULING**, 46 CLEARINGHOUSE REV. 113 (2012).

The article discusses potential strategies for using the decision issued by the Inter-American Commission on Human Rights in the case of *Jessica Lenahan (Gonzales) et al. v. United States* in domestic violence advocacy in the U.S., including federal litigation, state litigation, community organizing, federal agency advocacy, family law litigation and advocacy, fatality reviews, court watching and safety audits.

HUMAN RIGHTS WATCH, **CAPITOL OFFENSE: POLICE MISHANDLING OF SEXUAL ASSAULT CASES IN THE DISTRICT OF COLUMBIA** (2013).

This research and documentation report concludes that in many sexual assault cases in the District of Columbia, the police did not file incident reports or misclassified serious sexual assaults as lesser or other crimes. The report also reveals that many cases where police requested warrants from prosecutors were inadequately investigated and, as a consequence, prosecutors refused them. The report shows that procedural formalities are often used to close cases with only minimal investigation. Human Rights Watch recommends that the Mayor and City Council create of an independent mechanism to monitor police department response to sexual assault complaints, among other changes.

HUMAN RIGHTS WATCH, **CULTIVATING FEAR, THE VULNERABILITY OF IMMIGRANT FARMWORKERS IN THE U.S. TO SEXUAL VIOLENCE AND SEXUAL HARASSMENT** (2012).

This report describes the multiple forms of sexual abuse that immigrant farmworkers endure from those in positions of power in their workplace. It further documents the fear of reporting, due to reprisals, and describes that those who report usually do so with support from survivors or attorneys, and still face myriad challenges. The report concludes with recommendations to employers, federal state and local governments and service providers.

NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY, **THERE'S NO PLACE LIKE HOME: STATE LAWS THAT PROTECT HOUSING RIGHTS FOR SURVIVORS OF DOMESTIC AND SEXUAL VIOLENCE** (2012).

This 50 state review looks at state laws designed to provide housing protections for victims of domestic violence. The guide also highlights noteworthy statutes in issue areas of concern to provide guidance on ways to foster greater housing stability for domestic violence survivors.

UNIVERSITY OF MIAMI SCHOOL OF LAW HUMAN RIGHTS CLINIC & COLUMBIA LAW SCHOOL HUMAN RIGHTS CLINIC, **RECOGNIZING FREEDOM FROM DOMESTIC VIOLENCE AND VIOLENCE AGAINST WOMEN AS A FUNDAMENTAL HUMAN RIGHT** (AUGUST 2014).

This resource includes resolutions from the cities and counties across the United States that have recognized freedom from domestic violence and/or violence against women as a fundamental human right.

VARIOUS AUTHORS, CIVIL SOCIETY BRIEFING PAPERS: **VIOLENCE AGAINST WOMEN IN THE UNITED STATES AND THE STATE'S OBLIGATION TO PROTECT** (2011).

Prepared in advance of U.N. Special Rapporteur on Violence against Women, Rashida Manjoo's mission to the United States in early 2011, this report compiles a series of background papers by civil society organizations outlining the situation of violence against women in the United States. The topics covered



include due diligence obligations, domestic violence, the role of guns in perpetuating violence against women, violence against women in the military and violence against women in detention.

## COMPARATIVE PRACTICES

DUE DILIGENCE PROJECT, **DUE DILIGENCE AND STATE RESPONSIBILITY TO ELIMINATE VIOLENCE AGAINST WOMEN, REGIONAL REPORT: AUSTRALIA, CANADA, NEW ZEALAND & U.S.A.** [BY ZARIZANA ABDUL AZIZ & JANINE MOUSSA] (2014).

The report analyzes how Australia, New Zealand, Canada and the U.S. have responded to their international obligations regarding violence against women in accordance with the due diligence standard. It highlights existing policy and legal frameworks, identifies good practices and describes challenges in fulfilling the due diligence standard obligations.

DUE DILIGENCE PROJECT, **DUE DILIGENCE AND STATE RESPONSIBILITY TO ELIMINATE VIOLENCE AGAINST WOMEN, REGIONAL REPORT: EUROPE** [BY ZARIZANA ABDUL AZIZ & JANINE MOUSSA] (2014).

This report examines how European States measure up against the due diligence standard, reviewing actions taken to prevent, protect, prosecute, punish and provide redress for acts of gender-based violence. In addition, the report highlights examples of positive practices where this obligation is deemed to have been fulfilled, either in whole or in part, and provides recommendations for preventing violence and protecting women in the region.

DUE DILIGENCE PROJECT, **DUE DILIGENCE AND STATE RESPONSIBILITY TO ELIMINATE VIOLENCE AGAINST WOMEN, REGIONAL REPORT: LATIN AMERICA AND THE CARIBBEAN (LAC)** [BY ZARIZANA ABDUL AZIZ & JANINE MOUSSA] (2014).

The report discusses the forms of gender-based violence particularly visible in the Latin American and Caribbean region and the extent to which the due diligence standard has been applied, identifying promising practices and offering recommendations.

INTERNATIONAL CENTER FOR RESEARCH FOR WOMEN, **RECOGNIZING RIGHTS PROMOTING PROGRESS** [BY ANN WARNER] (2010).

This paper looks at the impact CEDAW has had on the lives of women and girls through ratification and implementation. In particular, the paper looks at ending violence and trafficking in women and girls, improving conditions for women's economic opportunity, increasing political participation by women, and advancing women's human rights through the promotion of equality.

NATIONAL CENTRE FOR DOMESTIC VIOLENCE, ET AL., **BRIEF AS AMICI CURIAE, JESSICA LENAHAN (GONZALES) ET AL. V. UNITED STATES, INTER-AMERICAN COMMISSION ON HUMAN RIGHTS** (2011).

Looking at the legal protections afforded to domestic violence survivors in England and Wales, New Zealand, Canada and Australia, and the powers available to law enforcement agencies to protect them, this brief addresses how law enforcement and other government agencies can be shaped to maximize protection for survivors of domestic violence.

REFUGE, **MAKING THE GRADE? THE THIRD ANNUAL INDEPENDENT ANALYSIS OF UK GOVERNMENT INITIATIVES ON VIOLENCE AGAINST WOMEN** (2007).

This report examines various departments of the U.K. government and provides a scorecard that analyzes and rates responses to a set of survey questions on gender-based violence. It concludes with recommendations to the United Kingdom.

U.N. DEVELOPMENT FUND FOR WOMEN, **DOMESTIC VIOLENCE LEGISLATION AND ITS IMPLEMENTATION: AN ANALYSIS FOR ASEAN COUNTRIES BASED ON INTERNATIONAL STANDARDS AND GOOD PRACTICES** (2009).

This publication is comprised of two research papers commissioned for the ASEAN regional workshop on domestic violence legislation: (i) *International Standards on Domestic Violence Legislation and a Review of ASEAN Laws* and (ii) *Overview of Global Good Practices on Domestic Violence Response Systems*. The first discusses the international framework on domestic violence, analyzing domestic violence legislation in

ASEAN countries. The second discusses various efforts to coordinate responses to domestic violence and highlights good practices from around the world.

U.N. DIVISION FOR THE ENHANCEMENT OF WOMEN, **GOOD PRACTICE IN DESIGNING A COMMUNITY-BASED APPROACH TO PREVENT DOMESTIC VIOLENCE** [BY LORI MICHAU] (2005).

This paper discusses the rationale for developing primary prevention programs on violence against women and reorienting programs toward prevention. It also discusses a conceptual framework and approach designed by Raising Voices (a nonprofit organization working toward the prevention of violence against women and children) to mobilize communities to prevent domestic violence. The paper ends with lessons learned and recommendations.

## **GUIDELINES AND RECOMMENDATIONS FOR DOMESTIC AND SEXUAL VIOLENCE RESPONSES**

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, **ADDRESSING SEXUAL OFFENSES AND MISCONDUCT BY LAW ENFORCEMENT: EXECUTIVE GUIDE (2011)**.

The guide explains the complexities of sexual offense and misconduct cases involving officers and describes effective policies and practices.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, **DISCUSSION PAPER ON IACP'S POLICY ON DOMESTIC VIOLENCE BY POLICE OFFICERS** (2003).

This policy paper offers guidance to police executives, officers and department employees in addressing incidents where one (or more) party to a reported domestic violence incident is an employee of the department.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, **DOMESTIC VIOLENCE MODEL POLICY** (2006).

This model policy provides guidelines for law enforcement officers responding to domestic violence calls.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, **INVESTIGATING SEXUAL ASSAULTS MODEL POLICY** (2005).

This model policy provides officers and investigators with guidelines for responses to reports of sexual assault, as well as in assisting victims, collaborating with local health and service agencies, conducting interviews with victims, witnesses and suspects. It covers first response, investigation and prosecution.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, **PROTECTING VICTIMS OF DOMESTIC VIOLENCE: A LAW ENFORCEMENT OFFICER'S GUIDE TO ENFORCING ORDERS OF PROTECTION NATIONWIDE** (2006).

The guide explains how full faith and credit should be applied to orders of protection issued in another jurisdiction.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, **SEXUAL ASSAULT INCIDENT REPORT: INVESTIGATIVE STRATEGIES** (2008).

These guidelines and interview strategies are based upon national practices regarding sexual assault incident investigations and were developed in collaboration with local, state, and federal law enforcement, prosecutors, advocates, and medical and forensic professionals. The goal is to support police departments in the preparation of sexual assault cases to facilitate successful prosecution through detailed case documentation and thorough investigations.

INTERNATIONAL CENTER FOR RESEARCH FOR WOMEN, **RECOGNIZING RIGHTS PROMOTING PROGRESS** [BY ANN WARNER] (2010).

This paper looks at the impact CEDAW has had on the lives of women and girls through ratification and implementation. In particular, the paper looks at ending violence and trafficking in women and girls, improving conditions for women's economic opportunity, increasing political participation by women, and

advancing women’s human rights through the promotion of equality.

JOINT CONSORTIUM OF IRISH HUMAN RIGHTS, HUMANITARIAN & DEVELOPMENT AGENCIES, IRISH AID AND GOVERNMENT AGENCIES, **GENDER BASED VIOLENCE: IRELAND RESPONDING** (2007).

This report provides guidance on how to institutionalize gender-based violence responses within organizations. The document focuses on developing appropriate internal policies and strategies on gender-based violence protection, staff capacity development and training, as well as ways to support gender-based violence responses internally.

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, **CIVIL PROTECTION ORDERS: A GUIDE FOR IMPROVING PRACTICE** [BY EMILIE MEYER] (2010).

Provides guidelines to law enforcement officials on serving protection orders and responding to violations of protection orders.

PRAXIS INTERNATIONAL, **PLANNING AND CONDUCTING A BEST-PRACTICE ASSESSMENT COMMUNITY RESPONSE TO DOMESTIC VIOLENCE - CRIMINAL JUSTICE SYSTEM RESPONSE: EMERGENCY COMMUNICATIONS (911) AND POLICE PATROL** [BY JANE M. SADUSKY ET AL.] (2010).

This guide is designed to assist emergency communications, police patrol services, and community-coordinated response programs to assess their policies and practices.

PRAXIS INTERNATIONAL, **PLANNING AND CONDUCTING A BEST-PRACTICE ASSESSMENT COMMUNITY RESPONSE TO DOMESTIC VIOLENCE - CRIMINAL JUSTICE SYSTEM RESPONSE: POLICE FOLLOW-UP INVESTIGATIONS & PROSECUTION CHARGING DECISIONS** [BY JANE M. SADUSKY ET AL.] (2010).

This guide is designed to assist police investigators, prosecutors, and community-coordinated response programs to assess their policies and practices.

SHIFT: THE PROJECT TO END DOMESTIC VIOLENCE, **HOW PUBLIC POLICY AND LEGISLATION CAN SUPPORT THE PREVENTION OF DOMESTIC VIOLENCE IN ALBERTA** (2012).

This paper focuses on primary prevention of domestic violence and is intended for use by the government of Alberta, Canada. It focuses on what policies, legislation, research, and resources may be used to address current gaps or shortcomings in current domestic violence prevention efforts.

U.N. WOMEN, **VIRTUAL KNOWLEDGE CENTRE TO END VIOLENCE AGAINST WOMEN AND GIRLS**.

This website, designed to serve policymakers and other practitioners, offers specific tools and evidence for addressing gender-based violence. The site includes programming modules, which provide step-by-step guidance on how to address violence against women and girls within a particular sector, such as health, along with resources for implementation. It further includes a summary of large-scale, global and/or multi-country programs and campaigns; and includes links to institutions with experts and expertise on gender-based violence.

## **CIVIL SOCIETY ORGANIZATIONS WORKING TO ADDRESS GENDER-BASED VIOLENCE AS A HUMAN RIGHT IN THE UNITED STATES**

### **AMERICAN CIVIL LIBERTIES UNION – WOMEN’S RIGHTS PROJECT**

The ACLU works to secure gender equality and ensure that all women and girls are able to lead lives of dignity, free from violence and discrimination, including discrimination based on gender stereotypes. This means an America where all women and girls have equal access to quality education, employment, housing, and health, irrespective of race, class, income, immigration status or involvement with the criminal justice system.

#### **AMNESTY INTERNATIONAL USA**

Amnesty International addresses a wide range of women's rights issues, including gender-based discrimination and violence against women. Amnesty International USA works in the same areas and in recent years has focused specifically on expanding protections of VAWA and addressing sexual violence against indigenous women.

#### **AVON FOUNDATION FOR WOMEN**

The Avon Foundation for Women's global Speak Out Against Domestic Violence initiative aims to build awareness and educate the public on domestic violence, as well as improve and expand prevention and direct services programs. The foundation works in support of its mission in over fifty countries.

#### **HUMAN RIGHTS WATCH**

Human Rights Watch works on a broad range of human rights issues around the world, including women's rights and sexual violence specifically. Recent documentation and advocacy regarding gender-based violence in the U.S. relates to rapes on campus, police responses to sexual assault in Washington, DC and sexual violence and harassment among immigrant farmworkers.

#### **INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)**

ICRC is committed to responding to humanitarian needs of people affected in areas of armed conflict. The organization works to prevent sexual violence in these circumstances and provide assistance to victims.

#### **INTERNATIONAL CENTER OF RESEARCH ON WOMEN (ICRW)**

ICRW is a global research institute that works on a variety of issues, including gender-based violence. The Center conducts empirical research to better understand the incidence of violence, studies interventions designed to prevent violence against women, evaluates the impact of and challenges to existing legislation on violence prevention, and advocates for stronger laws to prevent gender-based violence.

#### **GLOBAL WOMEN'S INSTITUTE**

The GWI at the George Washington University was launched as a university-wide initiative to advance gender equality through interdisciplinary research, education and civic engagement. GWI links faculty and students with international researchers, practitioners, activists, and policymakers to end violence against women and girls, empower women economically, and increase women's participation and leadership in society.

#### **HUMAN RIGHTS CLINIC, UNIVERSITY OF MIAMI SCHOOL OF LAW**

The Human Rights Clinic (HRC) engages in human rights litigation and advocacy at the local, state, national, regional, and international levels, to effect change and promote social and economic justice both locally and globally. The Clinic's Gender Justice Project addresses domestic violence and discrimination against women in the U.S. and abroad through individual client representation and broader advocacy. Working in collaboration with non-profit organizations and governmental entities, the Clinic advocates for proactive and survivor-centered laws and policies, particularly in the arenas of law enforcement and housing. The Clinic has worked in partnership with international organizations on issues including murders and disappearances of Aboriginal women and girls in Canada, violence against poor women and girls in Haiti, and reproductive rights and maternal health in Latin America and Eastern Europe.

#### **HUMAN RIGHTS INSTITUTE, COLUMBIA LAW SCHOOL**

HRI serves as the focal point of international human rights education, scholarship and practice at Columbia Law School, and coordinates the Bringing Human Rights Home Lawyers' Network, comprised of over 500 lawyers using human rights standards and strategies in their U.S. advocacy. The Institute's work includes addressing domestic violence through strategic litigation in the Inter-American system and advancing gender equality through domestic and U.N. advocacy, as well as partnerships with state and local agencies and officials across the United States. In recent years, HRI has focused on issues that have a particular

disparate impact on women, including the right to counsel, access to healthcare, employment equity and paid leave, as well as supporting local implementation of CEDAW.

#### **LEGAL MOMENTUM**

Legal Momentum is a legal defense and education fund dedicated to advancing the rights of women and girls. For more than 40 years, Legal Momentum has made historic contributions through litigation and public policy advocacy to advance economic and personal security for women, including at the Inter-American Commission and the United Nations. Expanding legal rights and services for women who are victims of violence is one of the organization's five strategic goals.

#### **U.N. WOMEN**

The U.N. General Assembly created the United Nations Entity for Gender Equality and the Empowerment of Women to address gender inequality around the world. U.N. Women is intended to be a champion for women and girls, providing them with a powerful voice at the global, regional and local levels. Grounded in the vision of equality enshrined in the U.N. Charter, U.N. Women works for the elimination of discrimination against women and girls; the empowerment of women; and the achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action and peace and security, among other issues.


#### **VITAL VOICES**

Vital Voices Global Partnership is an NGO that identifies, trains and empowers emerging women leaders and social entrepreneurs around the globe. Its mission is to identify, invest in and bring visibility to women around the world by unleashing their leadership potential to transform lives and accelerate peace and prosperity in their communities.

# APPENDIX: INTERNATIONAL & REGIONAL HUMAN RIGHTS AGREEMENTS AND GENDER-BASED VIOLENCE

Human rights documents offer guidance on the principles and human rights norms implicated by gender-based violence. Below are key excerpts from international and regional agreements, some which the U.S. has signed and ratified; some of which the U.S. has signed but not yet ratified (agreeing not to act in contravention of the intent of the treaty); and all of which more broadly constitute the *corpus juris* of human rights law relevant to U.S. practice. Links to the complete text of each document are included.<sup>88</sup>

## RELEVANT PROVISIONS OF TREATIES THE U.S. HAS RATIFIED/COMMITTED TO

TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>INTERNATIONAL COVENANT ON CIVIL &amp; POLITICAL RIGHTS (ICCPR)</b> 	<b>Article 2(1) of the ICCPR:</b> "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." International Covenant on Civil and Political Rights, art. 2(1), Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.
	<b>Article 3 of the ICCPR:</b> "The State Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant." International Covenant on Civil and Political Rights, art. 3, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.
	<b>Article 6 of the ICCPR:</b> "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." International Covenant on Civil and Political Rights, art. 6, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.
	<b>Article 7 of the ICCPR:</b> "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." International Covenant on Civil and Political Rights, art. 7, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.
	<b>Article 14 of the ICCPR:</b> "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." International Covenant on Civil and Political Rights, art. 14, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.
	<b>Article 17 of the ICCPR:</b> "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation; and 2. Everyone has the right to the protection of the law against such interference or attacks." International Covenant on Civil and Political Rights, art. 17, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.

	<p><b>Article 26 of the ICCPR:</b> "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." International Covenant on Civil and Political Rights, art. 26, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), <i>ratified by the U.S.</i> Sept. 8, 1992.</p>
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<p><b>INTERNATIONAL CONVENTION AGAINST TORTURE &amp; OTHER FORMS OF CRUEL, INHUMAN, &amp; DEGRADING TREATMENT OR PUNISHMENT (CAT)</b></p> 	<p><b>Article 2(1) of CAT:</b> "Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2(1), Dec. 10, 1984, 1465 U.N.T.S. 85, 113; S. Treaty Doc. No. 100-20(1988); 23 I.L.M. 1027(1984), <i>as modified by</i> 24 I.L.M.535 (1985), <i>ratified by the U.S.</i> Nov. 20, 1994.</p>
	<p><b>Article 4 of CAT:</b> "1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 4, Dec. 10, 1984, 1465 U.N.T.S. 85, 113; S. Treaty Doc. No. 100-20(1988); 23 I.L.M. 1027(1984), <i>as modified by</i> 24 I.L.M.535 (1985), <i>ratified by the U.S.</i> Nov. 20, 1994.</p>
	<p><b>Article 13 of CAT:</b> "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 13, Dec. 10, 1984, 1465 U.N.T.S. 85, 113; S. Treaty Doc. No. 100-20(1988); 23 I.L.M. 1027(1984), <i>as modified by</i> 24 I.L.M.535 (1985), <i>ratified by the U.S.</i> Nov. 20, 1994.</p>
	<p><b>Article 16 of CAT:</b> "Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence as a public official or other person acting in an official capacity." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 16, Dec. 10, 1984, 1465 U.N.T.S. 85, 113; S. Treaty Doc. No. 100-20(1988); 23 I.L.M. 1027(1984), <i>as modified by</i> 24 I.L.M.535 (1985), <i>ratified by the U.S.</i> Nov. 20, 1994.</p>
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<p><b><u>AMERICAN DECLARATION ON THE RIGHTS &amp; DUTIES OF MAN</u></b></p>	<p><b>Article 6 of the Declaration:</b> "Every person has the right to establish a family, the basic element of society, and to receive protection therefor." American Declaration of the Rights and Duties of Man, art. 6, O.A.S. Res. XXX, Int'l Conf. of Am. States, 9th Conf., OEA/ser.L/V/II.23 doc.21 rev.6 (May 2, 1948).</p>
	<p><b>Article 24 of the Declaration:</b> "All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law." American Declaration of the Rights and Duties of Man, art. 24, O.A.S. Res. XXX, Int'l Conf. of Am. States, 9th Conf., OEA/ser.L/V/II.23 doc.21 rev.6 (May 2, 1948).</p>

## RELEVANT PROVISIONS FROM HUMAN RIGHTS INSTRUMENTS NOT RATIFIED BY THE U.S.:

TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>INTERNATIONAL COVENANT ON ECONOMIC, CULTURAL &amp; SOCIAL RIGHTS (ICESCR)</b>	<b>Article 3 of the ICESCR:</b> “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.” International Covenant on Economic, Social, and Cultural Rights, art. 3, Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); S. Treaty Doc. No. 95-19, 6 I.L.M. 360, <i>entered into force</i> Jan. 3, 1976.
	<b>Article 10 of the ICESCR:</b> “1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses. 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits. 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions...” International Covenant on Economic, Social, and Cultural Rights, art. 10, Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); S. Treaty Doc. No. 95-19, 6 I.L.M. 360, <i>entered into force</i> Jan. 3, 1976.
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)</b>	<b>Article 2 of CEDAW:</b> “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.” Convention on the Elimination of Discrimination Against Women, art. 2, Sept. 3, 1981, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, <i>entered into force</i> Sept. 3, 1981.
	<b>Article 5(a) of CEDAW:</b> “States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” Convention on the Elimination of Discrimination Against Women, art. 5(a), Sept. 3, 1981, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, <i>entered into force</i> Sept. 3, 1981.



	<p><b>Article 16(1) of CEDAW:</b> “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women.” Convention on the Elimination of Discrimination Against Women, art. 16(1), Sept. 3, 1981, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, <i>entered into force</i> Sept. 3, 1981.</p> <p><b>General Recommendation 19:</b> “Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention” Further, “States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act” Comm. On the Elimination of Discrimination Against Women, Violence Against Women (11<sup>th</sup> sess., 1992).</p>
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>CONVENTION ON THE RIGHTS OF THE CHILD (CRC)</b>	<p><b>Article 1 of CRC:</b> “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Convention on the Rights of the Child, art. 1, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p>
	<p><b>Article 2 of CRC:</b> “States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.” Convention on the Rights of the Child, art. 2, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p>
	<p><b>Article 5 of CRC:</b> “States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.” Convention on the Rights of the Child, art. 5, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p>
	<p><b>Article 6 of CRC:</b> “1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.” Convention on the Rights of the Child, art. 6, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p>
	<p><b>Article 9 of CRC:</b> “1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence. 2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known. 3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.” Convention on the Rights of the Child, art. 9, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p>

	<p><b>Article 12 of CRC:</b> “1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.” Convention on the Rights of the Child, art. 12, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p> <p><b>Article 16 of CRC:</b> “1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation. 2. The child has the right to the protection of the law against such interference or attacks.” Convention on the Rights of the Child, art. 16, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p> <p><b>Article 19 of CRC:</b> “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” Convention on the Rights of the Child, art. 19, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p> <p><b>Article 34 of CRC:</b> “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse...” Convention on the Rights of the Child, art. 34, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p> <p><b>Article 37 of CRC:</b> “(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily...” Convention on the Rights of the Child, art. 37, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), <i>entered into force</i> Sept. 2, 1990.</p>
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>AMERICAN CONVENTION ON HUMAN RIGHTS (ACHR)</b>	<p><b>Article 1 of ACHR:</b> “The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.” American Convention on Human Rights, art. 1, Nov. 21, 1969, O.A.S. T.S. No. 36; 1144 U.N.T.S. 143; S. Treaty Doc. No. 95-21, 9 I.L.M. 99, <i>entered into force</i> July 18, 1978.</p>
	<p><b>Article 8 of ACHR:</b> “Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.” American Convention on Human Rights, art. 8, Nov. 21, 1969, O.A.S. T.S. No. 36; 1144 U.N.T.S. 143; S. Treaty Doc. No. 95-21, 9 I.L.M. 99, <i>entered into force</i> July 18, 1978.</p>
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (DEVAW)</b>	<p><b>Article 4 of DEVAW:</b> “States should pursue by all appropriate means and without delay a policy of eliminating violence against women...” and “[e]xercise due diligence to prevent, investigate and . . . punish acts of violence against women, whether ... perpetrated by the State or by private persons.” Declaration on the Elimination of Violence against Women, art. 4, Dec. 20, 1993, G.A. Dec. 48/104, U.N. Doc. A/RES/48/104 (1993).</p>

TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT, &amp; ERADICATION OF VIOLENCE AGAINST WOMEN</b> <u>(CONVENTION OF BELÉM DO PARÁ)</u>	<b>Article 3 of the Convention of Belém do Pará:</b> "Every woman has the right to be free from violence in both the public and private spheres." Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), art. 3, June 9, 1994, 33 I.L.M. 1534 (1995).
	<b>Article 5 of the Convention of Belém do Pará:</b> "Every woman is entitled to free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights." Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), art. 5, June 9, 1994, 33 I.L.M. 1534 (1995).
	<b>Article 6 of the Convention of Belém do Pará:</b> "The right of every woman to be free from violence includes, among others: a. The right of women to be free from all forms of discrimination; and b. The right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination." Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), art. 6, June 9, 1994, 33 I.L.M. 1534 (1995).
TREATY OR DECLARATION	ARTICLE/ DESCRIPTION
<b>EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS &amp; FUNDAMENTAL FREEDOMS</b> <b>(EUROPEAN CONVENTION ON HUMAN RIGHTS OR ECHR)</b>	<b>Article 1 of the ECHR:</b> "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention." European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 1, Nov. 4, 1950, Europ.T.S. No. 5, 213 U.N.T.S. 221, <i>entered into force</i> Sept. 3, 1953.
	<b>Article 3 of the ECHR:</b> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 3, Nov. 4, 1950, Europ.T.S. No. 5, 213 U.N.T.S. 221, <i>entered into force</i> Sept. 3, 1953.
	<b>Article 6 of the ECHR:</b> "In the determination of his civil rights and obligations . . . everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law." European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 6, Nov. 4, 1950, Europ.T.S. No. 5, 213 U.N.T.S. 221, <i>entered into force</i> Sept. 3, 1953.

# ENDNOTES

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<sup>1</sup> Gender-based violence includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. See Comm. on the Elimination of All Forms of Discrimination Against Women, *General Recommendation No. 19, Violence against women*, ¶ 6, U.N. Doc. A/47/38 (Jan. 29, 1992), available at <http://www1.umn.edu/humanrts/gencomm/gener19.htm>. [hereinafter CEDAW General Recommendation 19]. One of the most pervasive forms of gender-based violence is violence against women. This Guide uses these terms (gender-based violence, violence against women, domestic violence, and sexual assault) interchangeably or in reference to one another.

<sup>2</sup> Rape, Abuse & Incest National Network (RAINN), *How often does sexual assault occur*, at <https://www.rainn.org/get-information/statistics/frequency-of-sexual-assault> (aggregating results from the U.S. Census Bureau for the Bureau of Justice Statistics National Crime Victimization Survey from 2008-2012).

<sup>3</sup> Michele C. Black *et al.*, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report 2* (2011), available at [http://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf).

<sup>4</sup> Hugh Waters *et al.*, World Health Organization, Department of Injuries and Violence Prevention, *The economic dimensions of interpersonal violence*, x, 18, 20 (2004), available at <http://whqlibdoc.who.int/publications/2004/9241591609.pdf?ua>.

<sup>5</sup> See Convention on the Elimination of All Forms of Discrimination Against Women, arts. 2;5, Dec. 18, 1979, 1249 U.N.T.S. 13, U.N. Doc. A/34/46, entered into force Sept. 3, 1981, available at [http://www.unesco.org/education/nfsunesco/pdf/WOMEN\\_E.PDF](http://www.unesco.org/education/nfsunesco/pdf/WOMEN_E.PDF). [hereinafter CEDAW].

<sup>6</sup> Declaration on the Elimination of Violence Against Women, art. 4(c), U.N. Doc. A/RES/48/104 (Dec. 20, 1993), available at <http://www.un.org/documents/ga/res/48/a48r104.htm>. [hereinafter DEVAW]; General Recommendation 19, *supra* note 1, ¶ 19; see also Written Statement submitted by the Am. Civil Liberties Union to the Commission on the Status of Women (Nov. 15, 2012), available at [https://www.aclu.org/files/assets/121115\\_csw\\_final.pdf](https://www.aclu.org/files/assets/121115_csw_final.pdf).

<sup>7</sup> CEDAW, *supra* note 5, arts. 2(c); 16(1); Comm. on the Elimination of All Forms of Discrimination Against Women, *General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, ¶¶ 10; 17, U.N. Doc. CEDAW/C/GC/239 (Dec. 16, 2010), available at <http://www1.umn.edu/humanrts/gencomm/CEDAW%20Gen%20rec%2028.pdf>; ]; General Recommendation 19, *supra* note 1, ¶ 19; *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, submitted in accordance with Comm'n on Human Rights res. 1995/85*, U.N. Doc. E/CN.4/1996/53 (Feb. 5, 1993) (by Radhika Coomaraswamy), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G96/105/09/PDF/G9610509.pdf?OpenElement>.

<sup>8</sup> Int'l Council on Human Rights Policy, *Local Government and Human Rights: Doing Good Service*, 19 - 21 (2005), available at [http://www.ichrp.org/files/reports/11/124\\_report.pdf](http://www.ichrp.org/files/reports/11/124_report.pdf); see also San Francisco Dep't. on the Status of Women, *Human Rights in Action: San Francisco's Local Implementation of the United Nations' Women's Treaty (CEDAW)* (2010), available at <http://www.sfgov3.org/Modules/ShowDocument.aspx?documentid=314>; Caroline Bettinger-Lopez, *Human Rights at Home: Domestic Violence as a Human Rights Violation*, 40 COLUM. HUM. RTS. L. REV. 19 (2008-2009).

<sup>9</sup> See, e.g., Human Rights Comm., *General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 8, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/419/56/PDF/G0441956.pdf> [hereinafter HRC General Comment 31]; CEDAW General Recommendation 19, *supra* note 1, ¶ 9; DEVAW, *supra* note 6, art. 4(c).

<sup>10</sup> See, e.g., *Lenahan (Gonzales) v. United States*, Case 12.626, Inter-Am Comm'n H.R., Report No. 80/11, OEA/Ser.L/V/II.142, doc. 11 (2011) ¶¶ 132-34 (2011), available at <https://www.oas.org/en/iachr/decisions/2011/USPU12626EN.DOC> (citing multiple cases from the European Court of Human Rights, as well as the Inter-American Court of Human Rights and the Committee that oversees compliance with CEDAW).

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<sup>11</sup> Special Rapporteur on Violence against Women, *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, ¶ 17, U.N. Doc. E/CN.4/2006/61 (Jan. 20, 2006) (by Yakin Ertürk) [hereinafter SRVAW Report on the Due Diligence Standard], available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/103/50/PDF/G0610350.pdf?OpenElement>.

<sup>12</sup> DEVAW, *supra* note 6, at art. 4(c); CEDAW, *supra* note 5. These instruments and subsequent “General Comments” published by the CEDAW Committee call on countries (“States” or “States Parties” under international law) to prevent, investigate and punish acts of violence against women, whether by government or private actors. See CEDAW General Recommendation 19, *supra* note 1, ¶ 19.

<sup>13</sup> The International Covenant on Civil and Political Rights (ICCPR) has been interpreted to include an obligation to “exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.” HRC General Comment 31, *supra* note 9, ¶ 19. Further, the Human Rights Committee, the body responsible for monitoring compliance with the ICCPR, has expressed its concern “that domestic violence continues to be prevalent in the [United States] [...] and that law enforcement authorities are not legally required to act with due diligence to protect victims of domestic violence.” Human Rights Comm., *Concluding observations on the fourth periodic report of the United States of America*, ¶ 16, U.N. Doc. CCPR/C/USA/CO/4 (Apr. 23, 2014), available at

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2FCO%2F4](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2FCO%2F4) [hereinafter 2014 ICCPR Concluding Observations] (Regarding domestic violence the Human Rights Committee stated that the United States of America “should, through the full and effective implementation of the Violence against Women Act and the Family Violence Prevention and Services Act, strengthen measures to prevent and combat domestic violence and ensure that law enforcement personnel appropriately respond to acts of domestic violence. The [United States] should ensure that cases of domestic violence are effectively investigated and that perpetrators are prosecuted and sanctioned. The [United States] should ensure remedies for all victims of domestic violence and take steps to improve the provision of emergency shelter, housing, child care, rehabilitative services and legal representation for women victims of domestic violence.”).

<sup>14</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11.

<sup>15</sup> See e.g., Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to the United States*, U.N. Doc. A/HRC/17/26/Add.5 (Jun. 6, 2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/138/26/PDF/G1113826.pdf?OpenElement> [hereinafter SRVAW Report on U.S. Mission]; SRVAW Report on the Due Diligence Standard, *supra* note 11.

<sup>16</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11, ¶¶ 40; 46; 78-81.

<sup>17</sup> See Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), arts. 6; 8, June 9, 1994, 33 I.L.M. 1534 (1995); United Nations General Assembly, *Resolution adopted by the General Assembly on 20 December 2012, Intensification of efforts to eliminate all forms of violence against women*, U.N. Doc A/Res/67/144 (Feb. 27, 2013), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/487/24/PDF/N1248724.pdf?OpenElement>.

<sup>18</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11, ¶ 82.

<sup>19</sup> See *Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 1995/85, A framework for model legislation on domestic violence*, E/CN.4/1996/53/Add.2 (Feb. 2, 1996) (by Radhika Coomaraswamy), available at <http://www1.umn.edu/humanrts/commission/thematic52/53-add2.htm>.

<sup>20</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11, ¶ 82.

<sup>21</sup> *Id.*, ¶ 65.

<sup>22</sup> *Id.*, ¶ 76.

<sup>23</sup> See DEVAW, *supra* note 6, art. 4(c); SRVAW Report on the Due Diligence Standard, *supra* note 11.

<sup>24</sup> Abdul Aziz & Janine Moussa, Due Diligence Project, *Due Diligence Framework: State Accountability Framework for Eliminating Violence against Women* 67 (International Human Rights Initiative ed., 2014), available at [http://www.duediligenceproject.org/Resources\\_files/Due%20Diligence%20Framework%20Report%20Ooi.pdf](http://www.duediligenceproject.org/Resources_files/Due%20Diligence%20Framework%20Report%20Ooi.pdf).

<sup>25</sup> For information on the impact of lack of accountability on Puerto Rico’s police force, see Am. Civil Liberties Union, *Island of Impunity: Puerto Rico’s Outlaw Police Force* (2012), available at <https://www.aclu.org/human-rights/island-impunity-puerto-ricos-outlaw-police-force>. Puerto Rico is not alone; police forces around the country

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have been plagued by lack of accountability, leading to a number of tragedies. See, e.g., Walt Bogdanich and Glenn Silber, *Two Gun Shots On a Summer Night*, N.Y. TIMES, Nov. 23, 2012, <http://www.nytimes.com/projects/2013/two-gunshots/>.

<sup>26</sup> Lawrence A Greenfeld *et al.*, U.S. Dep't of Justice, Bureau of Justice Statistics Factbook, *Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends*, 38 NCJ 167237 (Mar. 1998), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/vi.pdf>; Edem F. Avakame & James J. Fyfe, *Differential Police Treatment of Male-on-Female Spousal Violence*, 7 VIOLENCE AGAINST WOMEN 22, 35–36 (2001). These statistics are part of a pattern of failure to treat domestic violence seriously. Caroline Bettinger-Lopez *et al.*, *Domestic Violence in the United States, in Violence Against Women in the United States and the State's Obligation to Protect: Civil Society briefing papers on community, military and custody* (2011), available at <https://www.law.virginia.edu/pdf/hr/vaw.pdf>.

<sup>27</sup> SRVAW Report on U.S. Mission, *supra* note 15, ¶ 15.

<sup>28</sup> Minority women are arrested more often than white women when the police arrive at the scene of a domestic violence incident. In particular, police are more likely to arrest women of color based on stereotypes that they are aggressive. Leigh Goodmark, *When is a Battered Woman Not a Battered Woman? When She Fights Back*, 20 YALE J.L. & FEMINISM 75 (2008); Donna Coker, *Special Issue Feminism And The Criminal Law: Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review*, 4 BUFF. CRIM. L. REV. 801, 810–11 (2001); E. Assata Wright, *Not a Black and White Issue: For Battered and Abused Latinas and Black Women, Dialing 911 May Be Risky Business*, ON THE ISSUES, Jan. 31, 1998, at 42.

U.S. advocates have raised the negative impact of domestic violence on women in communities of color, and gaps in human rights protections during U.N. reviews of U.S. compliance with the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). See, e.g., University of Miami School of Law *et al.*, *United States' Compliance with the International Covenant on Civil and Political Rights (ICCPR), Written Statement on Domestic Violence, Gun Violence, and "Stand Your Ground" Laws* (October 2013), available at <http://www.law.miami.edu/human-rights-clinic/pdf/2013/ICCPR-Shadow-Report-Domestic-Violence.pdf>; Human Rights Project at the Urban Justice Center, *Race Realities in New York City*, 75-89 (Dec. 2007), available at [http://www.hrpjuc.org/documents/RaceRealities\\_001.pdf](http://www.hrpjuc.org/documents/RaceRealities_001.pdf).

<sup>29</sup> Amy Eppler, *Battered Women and the Equal Protection Clause: Will the Constitution Help Them When the Police Won't?*, 95 YALE L.J. 788, 790 (1986); E. Assata Wright, *supra* note 28, at 42; *Domestic Violence Statistics*, AM. BAR ASS'N, [http://www.americanbar.org/groups/domestic\\_violence/resources/statistics.html#african\\_americans](http://www.americanbar.org/groups/domestic_violence/resources/statistics.html#african_americans).

<sup>30</sup> Emily Sack, *Battered Women and the State: The Struggle for the Future of Domestic Violence Policy*, 2004 WIS. L. REV. 1657, 1680 (2004); Margaret Martin Barry, *Protective Order Enforcement: Another Pirouette*, 6 HASTINGS WOMEN'S L.J. 339, 344 (1995).

<sup>31</sup> SRVAW Report on U.S. Mission, *supra* note 15, ¶ 18.

<sup>32</sup> DOJ has documented these findings in a number of investigations and consent decrees, including in New Orleans, Puerto Rico and Missoula, Montana. See *infra* note 70. Civil society groups have also reported on the mishandling of sexual assault and domestic violence, as well as related concerns of impunity and lack of accountability. See, e.g., Human Rights Watch, *Capitol Offense: Police Mishandling of Sexual Assault cases in the District of Columbia* (2013), available at [http://www.hrw.org/sites/default/files/reports/us0113ForUpload\\_2.pdf](http://www.hrw.org/sites/default/files/reports/us0113ForUpload_2.pdf); Am. Civil Liberties Union, *Island of Impunity*, *supra* note 25.

<sup>33</sup> See, e.g., *Lenahan (Gonzales) v. United States*, *supra* note 10, ¶ 181; Comm. on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination, United States of America*, ¶ 26(iv), CERD/C/USA/CO/6 (May 8, 2008), available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-USA-CO-6.pdf>. [hereinafter CERD Concluding Observations].

<sup>34</sup> The European Court of Human Rights has affirmed this repeatedly in its jurisprudence regarding investigations into ill treatment and other arenas. See, e.g., *Aydin v. Turkey*, 1997-VI Eur. Ct. H.R. 1866.

<sup>35</sup> See, e.g., *Bati and Others v. Turkey*, 2004-VI Eur. Ct. H.R. 217; see also Resolution on New EU policy framework to fight violence against women, Eur. Parl. Doc. A7-0065/2011, ¶ S(2) (2011), available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0127&language=EN&ring=A7->

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2011-0065 (proposing a comprehensive policy approach including development of protocols for police investigations that secure evidence in cases of gender-based violence).

<sup>36</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11; see *Najafli v. Azerbaijan*, Eur. Ct. H.R., App. No. 2594/07 (2012), available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-113299>.

<sup>37</sup> Thematic Report of the Special Rapporteur on violence against women, its causes and consequences, ¶¶ 49-85, U.N. Doc. A/HRC/14/22 (Apr. 23, 2010) (by Rashida Manjoo), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/131/09/PDF/G1013109.pdf?OpenElement>.

<sup>38</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11, ¶ 84.

<sup>39</sup> See Universal Declaration of Human Rights, arts. 7, 10, 16, 21, 23, U.N. Doc. A/810 at 71 (1948).

<sup>40</sup> See, e.g., ICCPR, arts. 2, 26, Dec. 16, 1966, 999 U.N.T.S. 171, entered into force Mar. 23, 1976, available at <http://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>; Human Rights Comm., *CCPR General Comment No. 18: Non-discrimination*, ¶ 10, U.N. Doc. HRI/GEN/1/Rev.6 (2003), available at <http://www.refworld.org/docid/453883fa8.html>. The Human Rights Committee has clarified that discrimination refers to “any distinction, exclusion, restriction, or preference . . . on any grounds . . . which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise” of human rights. *Id.* at ¶ 7 (emphasis added).

<sup>41</sup> CEDAW General Recommendation 19, *supra* note 1; Convention of Belém do Pará, *supra* note 17; see also *Lenahan (Gonzales) v. United States*, *supra* note 10, ¶111 (citing Case of *Gonzales et al. (“Cotton Field”) v. Mexico*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C.) No. 205 (Nov. 16, 2009); *Case of Opuz v. Turkey*, App. No. 33401/02, Eur. Ct. H.R. (2009); *Claudia Ivette Gonzales and Others v. Mexico*, Cases 12.496–12.498, Inter-Am. Comm’n H.R., Report No. 16/05 (2007); Comm. on the Elimination of Discrimination against Women, *A.T. v. Hungary*, Comm. No. 2/2003, U.N. Doc. CEDAW/C/32/D/2/2003 (2005)).

<sup>42</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11, ¶ 35.

<sup>43</sup> U.S. Dep’t of Justice, Civil Rights Div., Investigation of the New Orleans Police Department, xi (2011), available at [http://www.justice.gov/crt/about/spl/nopd\\_report.pdf](http://www.justice.gov/crt/about/spl/nopd_report.pdf).

<sup>44</sup> SRVAW Report on the Due Diligence Standard, *supra* note 11, ¶ 16.

<sup>45</sup> SRVAW Report on U.S. Mission, *supra* note 15, ¶ 20 (“The holistic approach requires rights to be treated as universal, interdependent and indivisible; situating violence on a continuum that spans interpersonal and structural violence; accounting for both individual and structural discrimination, including structural and institutional inequalities; and analyzing social and/or economic hierarchies among women, and between women and men, i.e. both intra- and inter-gender.”).

<sup>46</sup> Michele Black *et al.*, *supra* note 3, at 3.

<sup>47</sup> *Id.*

<sup>48</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (2012), *Crime Against Persons with Disabilities, 2009-2011 - Statistical Tables*, 4-6, available at <http://www.bjs.gov/content/pub/pdf/capd0911st.pdf>.

<sup>49</sup> See, e.g., National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence in 2012* (2013).

<sup>50</sup> See University of Essex Human Rights Clinic, *Disaggregated Data and Human Rights: Law, Policy and Practice 20* (2013), available at <http://www.humanrightsatlas.org/wp-content/uploads/2013/12/Disaggregated-Data-and-Human-Rights-Law-Policy-and-Practice.pdf>.

<sup>51</sup> See, e.g., CEDAW General Recommendation 19, *supra* note 1, ¶ 24(u) (“States parties should report on all forms of gender-based violence and such reports should include all available data on the incidence of each form of violence, and on the effects of such violence on the women who are victims.”).

<sup>52</sup> See Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, ¶ 129(a), A/CONF.177/20 (Sept. 15 1995), available at <http://www.un.org/documents/ga/conf177/aconf177-20en.htm>.

<sup>53</sup> See, e.g., Betty Caponera, *Incidence and Nature of Domestic Violence in New Mexico V: An Analysis of 2004 Data from the New Mexico Interpersonal Violence Data Central Repository* (June 2005).

<sup>54</sup> In November 2005, the American Civil Liberties Union submitted open records requests to thirteen representative police departments across the United States asking for data and statistics pertaining to domestic

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violence crimes committed in the departments' jurisdictions during the years 1999-2005. To date, eight police departments have responded.

<sup>55</sup> Telephone Conversation between Counsel for Jessica Lenahan and Kim Brooks, Legal Advisor to the Baton Rouge Police Department (Nov. 29, 2005).

<sup>56</sup> See Inter-Am. Comm. on Human Rights, *Access to Justice for Women Victims of Violence in the Americas*, ¶ 134, OEA/Ser. L/V/II. doc.68 (2007), available at <https://www.oas.org/en/iachr/women/docs/pdf/WOMEN%20MESOAMERICA%20ENG.pdf>; CEDAW General Recommendation 19, *supra* note 1, ¶ 24.

<sup>57</sup> See, e.g., U.S. Dep't of State and U.S. Agency for Int'l Dev., *United States Global Strategy to Prevent and Respond to Gender-Based Violence Globally*, 14 (Aug. 10, 2010), available at <http://www.state.gov/documents/organization/196468.pdf> [hereinafter U.S. Global Strategy].

<sup>58</sup> See, e.g., CEDAW General Recommendation 19, *supra* note 1, ¶ 24; DEVAW, *supra* note 6, art. 4(i).

<sup>59</sup> Joe Biden, U.S. Vice President, Remarks at an Event for the Council on Women and Girls (Jan. 22, 2014) (transcript available at <http://www.whitehouse.gov/the-press-office/2014/01/22/remarks-president-and-vice-president-event-council-women-and-girls>).

<sup>60</sup> Barack Obama, U.S. President, Remarks at an Event for the Council on Women and Girls (Jan. 22, 2014) (transcript available at <http://www.whitehouse.gov/the-press-office/2014/01/22/remarks-president-and-vice-president-event-council-women-and-girls>). In 2010, the President emphasized the importance of support and resources for those who experience domestic violence: "Nobody in America should live in fear because they are unsafe in their own home -- no adult, no child. And no one who is the victim of abuse should ever feel that they have no way to get out. We need to make sure every victim of domestic violence knows that they are not alone; that there are resources available to them in their moment of greatest need. And as a society, we need to ensure that if a victim of abuse reaches out for help, we are there to lend a hand. This is not just the job of government. It's a job for all of us. So I want to thank all of you for the work that you do in your respective communities. And I want you to know that this administration is going to stand with you each and every step of the way." See Barack Obama, U.S. President, Remarks at Domestic Violence Awareness Event (Oct. 27, 2010) (transcript available at <http://www.whitehouse.gov/photos-and-video/video/2010/10/27/domestic-violence-awareness-month#transcript>).

<sup>61</sup> U.S. Global Strategy, *supra* note 57, at 7.

<sup>62</sup> Susan E. Rice, Ambassador, U.S. Permanent Representative to the United Nations, Remarks at the Commission on the Status of Women (Mar. 6, 2013) (transcript available at <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/usa.pdf>) (stating that "All women and girls have a fundamental right to live free from violence and fear. Whenever one woman suffers physical or sexual abuse, our common humanity is assaulted along with her. Violence against women takes many forms, whether inflicted by a family member or a stranger, by a state-backed militia or by an abusive partner. When women are attacked, so is their full and equal participation in society and that of all of us.").

<sup>63</sup> Rahim Kanani, *DOJ Director on Violence Against Women in the United States*, FORBES, Mar. 8, 2012, available at <http://www.forbes.com/sites/rahimkanani/2012/03/08/doj-director-on-violence-against-women-in-the-united-states/>.

<sup>64</sup> *Rights for People Experiencing Homelessness*, U.S. Interagency Council on Homelessness, <http://usich.gov/issue/human-rights/human-rights-article-2/> (last visited July 7, 2014) (discussing the rights of domestic and sexual violence survivors).

<sup>65</sup> The following jurisdictions passed "freedom from domestic violence resolutions" or other similar resolutions between 2011 and 2014: Albany, NY; Austin, TX; Baltimore, MD; Boston, MA; Cincinnati, OH; Miami Springs, FL; Miami-Dade County, FL; Montgomery City and County, AL; Seattle, WA; Travis County, Texas; and Washington, DC. See Columbia Law School Human Rights Clinic & University of Miami School of Law Human Rights Clinic, *Recognizing Freedom From Domestic Violence as a Fundamental Human Right: Local Resolutions Across the United States* (2014), available at <http://www.law.miami.edu/human-rights-clinic/pdf/2014/local-resolutions-2014.pdf>.

<sup>66</sup> Berkeley, San Francisco and Los Angeles had passed these ordinances and there is currently a "Cities for CEDAW" campaign, encouraging other cities to implement the human rights principles found in CEDAW. See San Francisco Department on the Status of Women, *Cities for CEDAW*, at <http://sfgov.org/dosw/cities-cedaw>.



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<sup>67</sup> U.S. Dep't of State, *Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights Concerning the International Covenant on Civil and Political Rights* (2011), available at <http://www.state.gov/j/drl/rls/179781.htm>; U.S. Dep't of State, *United States Written Response to Questions from the United Nations Human Rights Committee Concerning the Fourth Periodic Report* (July 3, 2013), available at <http://www.state.gov/j/drl/rls/212393.htm>; 2014 ICCPR Concluding Observations, *supra* note 13; Am. Civil Liberties Union, *United States' Compliance with the International Covenant on Civil and Political Rights* (2013), available at [https://www.aclu.org/sites/default/files/assets/american\\_civil\\_liberties\\_union\\_shadow\\_report\\_to\\_the\\_u.s.\\_fourth\\_periodic\\_report\\_final.pdf](https://www.aclu.org/sites/default/files/assets/american_civil_liberties_union_shadow_report_to_the_u.s._fourth_periodic_report_final.pdf).

<sup>68</sup> See, e.g., Violence Against Women Act, 42 U.S.C.A. § 13925 (b)(13)(a)(2013) (prohibiting discrimination based on race, color, religion, national origin, sex, gender identity, sexual orientation, or disability by grantees); *Frequently Asked Questions - Nondiscrimination Grant Condition in the Violence Against Women Reauthorization Act of 2013*, U.S. DEP'T. OF JUSTICE 1-9 (April 9, 2014), available at <http://ojp.gov/about/ocr/pdfs/vawafaqs.pdf>.

<sup>69</sup> U.S. Global Strategy, *supra* note 57, at 6.

<sup>70</sup> U.S. Dep't of Justice, Civil Rights Div., Case No. 2:12-cv-01924-SM-JCW, *Investigation of the New Orleans Police Department* (2011), available at [http://www.laed.uscourts.gov/Consent/12cv01924\\_Doc1-1.pdf](http://www.laed.uscourts.gov/Consent/12cv01924_Doc1-1.pdf) (complaint filed with E.D. La. on July 24, 2012 as *United States v. City of New Orleans*, Case No. 12-1924); U.S. Dep't. of Justice, Civil Rights Div., *Memo of Understanding between the U.S. Department of Justice and the City of Missoula regarding the Missoula Police Department's Response to Sexual Assault* (2013), available at [http://www.justice.gov/crt/about/spl/documents/missoulapdsettle\\_5-15-13.pdf](http://www.justice.gov/crt/about/spl/documents/missoulapdsettle_5-15-13.pdf); *Agreement for the Sustainable Reform of the Puerto Rico Police Department, United States of America v. Commonwealth of Puerto Rico et al.*, U.S. Dep't of Justice, Civil Rights Div. No. 3:12-cv-02039 (July 17, 2013), available at [http://www.justice.gov/crt/about/spl/documents/prpd\\_agreement\\_7-17-13.pdf](http://www.justice.gov/crt/about/spl/documents/prpd_agreement_7-17-13.pdf).

<sup>71</sup> See Bettinger-Lopez, *Domestic Violence in the United States*, *supra* note 26, 38-39 (internal citations omitted).

<sup>72</sup> See Bettinger-Lopez, *Human Rights at Home*, *supra* note 8, at 21.

<sup>73</sup> *Deshaney v. Winnebago County Dept. of Soc. Services*, 489 U.S. 189 (1989).

<sup>74</sup> *United States v. Morrison*, 529 U.S. 598 (2000).

<sup>75</sup> *Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005).

<sup>76</sup> See Bettinger-Lopez, *Human Rights at Home*, *supra* note 8, at 35 (describing claims made in a seminal Inter-American Commission case regarding domestic violence and citing Supreme Court and Circuit Court cases).

<sup>77</sup> See Bettinger-Lopez, *Domestic Violence in the United States*, *supra* note 26, 46.

<sup>78</sup> See e.g., SRVAW Report on U.S. Mission, *supra* note 15 (noting that “a lack of legally binding federal provisions providing substantive protection against or prevention of acts of violence against women” as well as “inadequate implementation of some laws, policies and programmes” has resulted in the continued prevalence of violence against women in the United States, as well as the discriminatory treatment of victims). See CERD Concluding Observations, *supra* note 33, ¶ 26 (stating deep concern about rape and sexual violence experienced by women belonging to racial, ethnic, and national minorities and noting the “alleged insufficient will of federal and state authorities to take action with regard to such violence and abuse” which results in a deprivation of “their right to access to justice and the right to obtain adequate reparation or satisfaction for damages suffered [....]” The Committee recommended that the United States increase its efforts to prevent and punish violence and abuse against women belonging to racial, ethnic and national minorities by setting up and adequately funding prevention centers and temporary shelters; providing specific training to those working within the criminal justice system; undertaking information campaigns to raise awareness among women about the legislative mechanisms in place to protect them; and ensuring that reports of rape and sexual violence against women belonging to racial, ethnic, and national minorities are independently, promptly, and thoroughly investigated).

<sup>79</sup> *Medellin v. Texas*, 552 U.S. 491(2008); see also Risa E. Kaufman, “By Some Other Means”: *Considering the Executive's Role in Fostering Subnational Human Rights Compliance*, 33 CARDOZO L. REV. 1971, at 2009.

<sup>80</sup> Reservations, Understandings and Declarations to the International Covenant on Civil and Political Rights, 138 Cong. Rec. S4781-01 (daily ed. Apr. 2, 1992) (indicating that the treaty “shall be implemented by the Federal Government to the extent that it exercises legislative and judicial jurisdiction over the matters covered therein, and otherwise by the state and local governments; to the extent that state and local governments exercise

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jurisdiction over such matters, the Federal Government shall take measures appropriate to the Federal system to the end that the competent authorities of the state or local governments may take appropriate measures for the fulfillment of the Covenant.”); *see also* 140 CONG. REC. 14326 (1994) (same understanding regarding CERD); 136 CONG. REC. S17486 (daily ed. Oct. 27, 1990) (same understanding for CAT).

Treaties to which the U.S. is a party apply at the federal, state and local levels. The ICCPR applies to all levels of government within federal systems, including states and localities “without any limitations or exceptions.” *See ICCPR, supra* note 40, art 2.2, HRC General Comment 31, *supra* note 9, ¶ 4. The text of the CERD states that “all public authorities and public institutions, national and local, shall act in conformity with” the obligation not to engage in racial discrimination. The International Convention on the Elimination of All Forms of Racial Discrimination, art 2, Dec. 21, 1965, 660 U.N.T.S. 195, entered into force Jan. 4, 1969, *available at* <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>.

<sup>81</sup> *See* Tara Melish, *From Paradox to Subsidiarity: The United States and Human Rights Treaty Bodies*, 34 YALE J. INT’L L. 389 (2009).

<sup>82</sup> Vienna Convention on the Law of Treaties, art. 29, May 23, 1969, 1155 U.N.T.S. 33, entered into force Jan. 27, 1980, *available at* [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf). (“[A] treaty is binding upon each party in respect of its entire territory.”); Louis Henkin, *U.S. Ratification of Human Rights Conventions: The Ghost of Senator Bricker*, 89 AM. J. INT’L 341, 346 (1995); Columbia Law School’s Human Rights Institute and the International Association of Official Human Rights Agencies, *Closing the Gap: the Federal Role in Respecting & Ensuring Human Rights at the State and Local Level* at 14 (August 2013), *available at* [https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/State%20and%20Local%20Shadow%20Report%20\(ecopy\).pdf](https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/State%20and%20Local%20Shadow%20Report%20(ecopy).pdf).

<sup>83</sup> The Inter-Agency Council of Homelessness has been a leader in this regard. *See, e.g.*, U.S. Interagency Council on Homelessness, *Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness* (2012), *available at* [http://usich.gov/resources/uploads/asset\\_library/RPT\\_SoS\\_March2012.pdf](http://usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf); *Human Rights and Alternatives to Criminalization*, U.S. Interagency Council on Homelessness Blog, <http://usich.gov/issue/human-rights>.

<sup>84</sup> *Closing the Gap, supra* note 82, 32-35.

<sup>85</sup> *Id.*

<sup>86</sup> *See* Kaufman, *supra* note 79, at 2018.

<sup>87</sup> *See* Consent Decree Regarding the New Orleans Police Dep’t, *U.S.A vs. City of New Orleans* (E.D.L.A), Case No.2:12-cv-019240SM0JCW (Jan. 11, 2013), 54-60.

<sup>88</sup> This chart is excerpted from the 2013 Handbook *Human Rights in the U.S.: A Handbook for Legal Aid Attorneys* developed by the Local Human Rights Lawyering Project, Ctr. for Hum. Rts. & Humanitarian Law at Am. U. Wash. Coll. of Law, *available at* [http://www.wcl.american.edu/humright/center/documents/13-04-22LHRLHandbook\\_FullDraft.pdf](http://www.wcl.american.edu/humright/center/documents/13-04-22LHRLHandbook_FullDraft.pdf).