



Improving Law Enforcement Responses to
Gender-Based Violence:
A Human Rights Analysis



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I. INTRODUCTION

GBV includes intimate partner violence, sexual assault, and stalking and encompasses “physical, sexual, psychological or economic harm or suffering ..., threats of such acts, harassment, coercion and arbitrary deprivation of liberty.” - the CEDAW Committee

Gender-based violence (“GBV”) is a pandemic that is globally ubiquitous and pervasive, despite decades of efforts to address it through the criminal justice, public health, education, and social welfare sectors. Under international human rights law, GBV includes intimate partner violence, sexual assault, and stalking and encompasses “physical, sexual, psychological or economic harm or suffering ..., threats of such acts, harassment, coercion and arbitrary deprivation of liberty.”¹ GBV respects no geographic, social or economic boundaries, although it poses especially complex challenges to marginalized populations. While its primary targets are women, girls, and LGBTIQI+/gender-non-conforming individuals, it also causes serious harm to families and communities. GBV undermines fundamental human dignity and the rights to equality and non-discrimination,² life,³ health,⁴ security of person,⁵ privacy,⁶ and freedom from torture and cruel, inhuman or degrading treatment.⁷ Moreover, GBV can prevent individuals from exercising additional economic and political rights.⁸

GBV undermines fundamental human dignity and the rights to equality and non-discrimination, life, health, security of person, privacy, and freedom from torture and cruel, inhuman or degrading treatment.

GBV further has dire consequences for society as a whole. The World Bank estimates that violence against women costs some countries up to 3.7% of their GDP, which is more than double what most governments spend on education.⁹ Other research indicates that the

cost of violence against women could be as much as 2% of global gross domestic product or approximately \$1.5 trillion, the size of the economy of Canada.¹⁰ A recent study estimating the United States (U.S.) lifetime per-victim cost and economic burden of intimate partner violence found a population economic burden of nearly \$3.6 trillion (2014 U.S.\$) over victims’ lifetimes.¹¹

According to the United Nations (UN) and other agencies, worldwide:

- One in three women worldwide have experienced physical and/or sexual violence at some point in their lives (in some countries, lifetime prevalence is 50-60%);¹²
- Two in three victims of intimate partner/family-related homicide are women;¹³
- An estimated 7.9% of men and 19.7% of women globally experienced sexual abuse prior to the age of 18;¹⁴ and
- Between 2008-2014, at least one transgender person was murdered every two days.¹⁵

Despite these statistics highlighting the devastating prevalence of GBV, **the UN has reported that in most countries, less than 40% of women who experienced violence sought any sort of help, and of those, less than 10% sought help from the police.**¹⁶ This reflects a profound mistrust by survivors of state systems whose frontline responders are usually law enforcement officers and whose purported mission is to protect and serve.

The reasons behind the fraught relationship between survivors and law enforcement are complex. They range from a lack of effective trainings on responding to GBV and communicating with survivors, to the use of investigation and prosecution policies and practices that do not account for the effects of trauma, to a lack of accountability mechanisms for misconduct, including GBV perpetrated by law enforcement officers themselves, to biases (gender and otherwise) that are ingrained in state systems. These dynamics particularly impact survivors from marginalized, underserved, and exploited communities, who often have a deep mistrust of the police and other actors in criminal legal systems across the globe.

Over the past three decades, advocates, organizations, and governments have identified gender bias in law

enforcement responses to GBV as a significant problem. Organizations have, in turn, produced a small but growing body of training tools, model policies, and accountability mechanisms for police officers who commit acts of GBV or fail to respond appropriately to survivors.¹⁷ Take, for instance, the International Association of Chiefs of Police (“IACP”), a global professional association for police leaders, claiming more than 30,000 members in 150 countries.¹⁸ Through its Model Policy, Concepts and Issues Paper on Domestic Violence, and other resources,¹⁹ the IACP has created policies for officer-perpetrated GBV, setting a “zero tolerance” model policy for offenders, and placing an emphasis on effective investigations.²⁰ Further, the IACP’s training approach targets eradication of bias and misunderstanding by providing “information on the neurobiological impact of trauma, the influence of societal myths and stereotypes, understanding perpetrator behavior, and conducting effective investigations.”²¹ Recently, as part of its federally-funded *Enhancing Community Trust: Proactive Approaches to Domestic & Sexual Violence* initiative, the IACP released a toolkit containing a law enforcement agency (LEA) self-assessment, community assessment, sample outreach letter, action planning guide, and additional considerations and resources to support enhancing agency response to victims.²² The assessments contain sections on departmental policies and practices, hiring and promotion practices, training, data collection and analysis, culture and accountability, and collaboration, “to help guide agencies in thinking critically about current practices and identifying areas with opportunities to update and enhance services provided to the community.”²³

Over the past decade, advocates in the U.S. have increasingly documented inappropriate and discriminatory law enforcement responses to GBV, which manifest as both “overresponses” (that is, the phenomenon of increasing arrests of and hostility to survivors) and “under-responses” (that is, the police failing to respond at all, even when their assistance is solicited by survivors). These problems have persisted for decades, despite the fact that domestic and sexual violence calls comprise the majority of 911 calls to many U.S. police departments and are among the most dangerous assignments for responding officers.²⁴ Beginning in 2011, after conversations with advocates and a landmark decision in *Jessica Lenahan v. United States* from the Inter-American Commission on Human Rights, the U.S. Department of Justice (DOJ) began stepping up investigations into discriminatory law enforcement responses to domestic violence and sexual assault in several U.S. cities.²⁵ Subsequently, a survey of individuals who called the U.S. National Domestic Violence Hotline revealed a strong reluctance on the

part of many survivors to turn to law enforcement for help, as well as significant barriers that many survivors encounter when they do seek law enforcement assistance.²⁶ These developments took place in the context of national conversations about bias in policing that tended to focus more on race and national origin than sex or gender identity, and also had not addressed the intersection of these issues with respect to police response to GBV.

In 2015, the U.S. DOJ released guidance entitled **Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence** (“DOJ Guidance”). The Guidance was developed to help law enforcement agencies prevent gender bias in their response to sexual assault and domestic violence, highlighting the need for clear policies, robust training and responsive accountability systems.²⁷ It articulates two key purposes: “first, to examine how gender bias can undermine the response of law enforcement agencies to sexual assault and domestic violence. Second, it provides a set of basic principles that – if integrated into [law enforcement] policies, trainings and practices – will help ensure that gender bias, either intentionally or unintentionally, does not undermine efforts to keep victims safe and hold offenders accountable.”²⁸

The eight principles articulated in the DOJ Guidance are:

1. Recognize and address biases, assumptions and stereotypes about victims;
2. Treat all victims with respect and employ interviewing tactics that encourage a victim to participate and provide facts about the incident;
3. Investigate sexual assault or domestic violence complaints thoroughly and effectively;
4. Appropriately classify reports of sexual assault or domestic violence;
5. Refer victims to appropriate services;
6. Properly identify the assailant in domestic violence incidents;
7. Hold officers who commit sexual assault or domestic violence accountable;
8. Maintain, review and act upon data regarding sexual assault and domestic violence.

This report uses the DOJ Guidance as a starting point, providing a human rights framework for improving the law enforcement response to GBV. Specifically, **this report focuses on four of the Guidance principles—addressing gender bias in policing (Principle 1), accountability for officer-perpetrated GBV (Principle 7), employing respectful and trauma-informed interviewing tactics (Principle 2), and the need for an effective and thorough investigation (Principle 3)—as well as the importance of an “intersectional” approach that considers the ways that race, gender, and other identities interact to shape the lived experiences of survivors from marginalized or underserved populations with the police.**²⁹ For each of these principles, it provides a human rights analysis, examining both international and regional human rights law, and drawing on the United Nations, European, Inter-American, and African human rights law systems.

Specifically, this report’s human rights analysis considers standards and interpretations from several international and regional human rights treaties and instruments, including the:

- Universal Declaration of Human Rights³⁰
- Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”),³¹
- International Covenant on Civil and Political Rights (“ICCPR”),³²
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“UNCAT”),³³
- European Convention on Preventing and Combating Violence against Women and Domestic Violence (“Istanbul Convention”),³⁴
- European Convention on Human Rights (“ECHR”),³⁵
- Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (“Belém do Pará Convention”),³⁶
- American Convention on Human Rights (“ACHR”),
- American Declaration on the Rights and Duties of Man (“American Declaration”),³⁷
- Protocol to the African Charter on Human and Peoples’ Rights on The Rights of Women in Africa (“Maputo Protocol”),³⁸ and

- African Charter on Human and Peoples’ Rights (“Banjul Charter”).³⁹

Why consider international human rights in conducting this analysis? First, the human rights framework provides global norms and legally binding obligations, and in particular, useful standards and frameworks for a deeper understanding of the principles in the DOJ Guidance. The international human rights framework also provides tools for mobilization, coalition-building, and exerting political pressure. In the GBV context specifically,

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). 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. Additionally, a human rights-based approach demands an effective response to violations when they do occur. It also prioritizes transparency, accountability and participation in government decision-making, as well as policies and programs that are responsive to community needs. Further, the human rights framework prioritizes survivor dignity and empowerment.⁴⁰

The issue of criminal legal system responses to GBV has received substantial attention by international human rights bodies, and so the human rights framework is especially useful to match against that of the DOJ Guidance.

This report centers the concept of ‘intersectionality,’ as defined in the landmark work of Kimberlé Crenshaw, as a primary factor in a human rights analysis of law enforcement response to GBV.

Like the Guidance, this report considers domestic violence and sexual assault together, as both are forms of GBV under international human rights law, and the failure of state actors (including law enforcement) to provide appropriate forms of protection for both is often a reflection of gender bias. While the Guidance notes that “[t]he intersection of racial and gender stereotypes and biases can also pose unique difficulties for women and LGBT individuals of color seeking police services to address sexual assault and domestic violence incidents,”⁴¹ this report centers the concept of “intersectionality,” as defined in the landmark work of Kimberlé Crenshaw,⁴² as a primary factor in a human rights analysis of law enforcement response to GBV. Moreover, this report considers how **a trauma-informed approach can and should be used not only in the context of interviews (a focus of the DOJ Guidance), but also in the context of all law enforcement interactions with survivors. The report further includes recommendations to the international human rights community, as well as a glossary of key terms related to GBV.** Additionally, a series of accompanying case study reports explore good practices and challenges in implementing the key principles in particular countries and provide country-specific recommendations.

This report and the case studies are intended as a resource for global advocates, law enforcement, and policymakers who seek to strengthen prevention and accountability for GBV. While the law enforcement response is only one component of a comprehensive approach to GBV, it is a critical piece, and it is the state’s responsibility to ensure that it is effective. Moreover, given the heavy reliance by states on law enforcement as a frontline responder to GBV worldwide, addressing current gaps is all the more critical. In light of the alarming GBV statistics globally,⁴³ a rights-based and effective response is essential to health and well-being worldwide.

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This report was largely written before the trifecta of the COVID-19 pandemic, a deep global economic

recession, and civil unrest in the U.S. over systemic and overt racism by police and demands for accountability for the murders by police of Breonna Taylor, George Floyd, Tony McDade, and others. As the Black Lives Matter movement has emerged on an unprecedented scale and the “defund” and “abolition” movements have gained steam in the U.S., anti-GBV advocates and scholars are taking a hard and critical look at, and circling back to past critiques of, the reliance of the movement to end violence against women on the criminal legal system, for which law enforcement serves as the gateway.⁴⁴ We recognize the perspectives of those who believe that police intervention in GBV crimes is not a proxy for justice, and that such intervention all-too-often results in unjust outcomes. We hope that this report will provide various perspectives and resources for advocates, law enforcement leaders, and others who are considering ways to improve law enforcement responses to GBV, particularly in unserved or marginalized communities. Our hope is to expand and improve pathways to safety for survivors.

We use the term “GBV” to refer to the harms inflicted on women, girls, and LGBT/gender-non-conforming people disproportionately or due to prevailing gender norms—that is, stereotypes and roles attributed to or expected of them according to their biological sex or gender identity.

Finally, a note about terminology: In this report, we use the term “GBV” to refer to the harms inflicted on women, girls, and LGBT/gender-non-conforming people disproportionately or due to prevailing gender norms—that is, stereotypes and roles attributed to or expected of them according to their biological sex or gender identity. The terms *gender violence*, *intimate partner violence*, *domestic violence*, and *sexual violence* “refer generally to the range of violent acts that are committed primarily by men against women, including physical and coercive violence between intimate partners, sexual assault, and stalking.”⁴⁵ Under international and regional human rights law, GBV has usually been framed around those who experience (rather than perpetuate) violence and has been defined as synonymous with “violence against women” (though as noted further below, that is beginning to change in some domains). For instance, the UN Committee on the Elimination of

Discrimination against Women (“CEDAW Committee”) has defined GBV as “violence that is directed against a woman because she is a woman or that affects women disproportionately.”⁴⁶ Over the past decade, various UN bodies have recognized violence against individuals based on their sexual orientation and/or gender identity—including physical (including murder, beatings, kidnappings, rape and sexual assault) or psychological (including threats, coercion and arbitrary deprivations of liberty) violence—as a form of GBV, since they are “driven by a desire to punish those defying gender norms.”⁴⁷ We endeavor to embrace a widened definition of GBV in this report, to account for the devastating experiences of not only women and girls, but also gender-nonconforming and LGBTQI+ individuals, with GBV globally.

II. A HUMAN RIGHTS APPROACH TO LAW ENFORCEMENT RESPONSES TO GENDER-BASED VIOLENCE (GBV)

A. The Impact of Gender Bias on Policing

While the DOJ Guidance does not define gender bias, we use the term in this report to refer to the belief that men are stronger and smarter than women, justifying traditional gender roles and male control over women.⁴⁸ The Guidance makes clear that “[e]xplicit and implicit biases, including stereotypes about gender roles, sexual assault, and domestic violence, are embedded in our culture and can affect people in all different professions. With respect to policing, these biases may affect law enforcement officers’ perceptions of sexual assault and domestic violence incidents and prevent them from effectively handling allegations of these crimes. The intersection of racial and gender stereotypes and biases can also pose unique difficulties for women and LGBTQI+ individuals of color seeking police services to address sexual assault and domestic violence incidents.”⁴⁹

The Guidance highlights how gender bias—whether explicit or implicit, conscious or unconscious—can include:

- police officers misclassifying or underreporting GBV cases;

- inappropriately concluding that sexual assault cases are unfounded;
- failing to test sexual assault kits;
- interrogating rather than interviewing victims and witnesses;
- treating domestic violence as a family matter rather than a crime;
- failing to enforce protection orders; or
- failing to treat same-sex domestic violence as a crime.⁵⁰

The Guidance makes clear that when a police officer acts on stereotypes about why women or LGBTQI+ individuals are sexually assaulted, or about how a victim of domestic violence or sexual assault should look or behave, this can profoundly undermine an effective response to these crimes and constitute unlawful discrimination under U.S. constitutional and common law. Accordingly, Principle 1 of the Guidance addresses the issue of gender bias in policing, instructing officers to “[r]ecognize and address biases, assumptions and stereotypes about victims.”⁵¹

International and regional human rights systems have found gender bias and GBV to constitute a means for subordinating women and gender minorities and perpetuating inequality and discrimination. The Convention on the Elimination of Discrimination Against Women (CEDAW) calls for the modification of “social and cultural patterns of conduct” to eliminate “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,”⁵² and regional human rights treaties in Europe, the Americas, and Africa make similar calls for wholesale socio-cultural change on gender norms.⁵³

It is not just a matter of the existence of training; to be meaningful, trainings need to be connected to practice and accountability for officer behavior and be informed by the experiences of marginalized groups.

International human rights law expresses particular concern with gender bias in the GBV context. **International and regional human rights bodies have recognized state responsibility to respond to acts of GBV with due diligence (i.e. prevent,**

investigate, punish, and remedy), regardless of whether the perpetrator is a state or non-state actor, and whether an act is committed in an official or private capacity.⁵⁴ Additionally, human rights law underscores the importance of education and training for the judiciary, lawyers and law enforcement officers concerning the “impact of gender stereotypes and bias, leading to gender-based violence against women and inadequate responses to it.”⁵⁵

In many countries, law enforcement training on GBV varies by jurisdiction, and is often not offered or required. In the U.S., for example, as of 2019, only 12 states require at least 20 hours of training on GBV-related topics in the police academy curriculum, and only 13 states and 1 territory require GBV-related continuing education for law enforcement officers.⁵⁶

However, it is not just a matter of the existence of training; to be meaningful, trainings need to be connected to practice and accountability for officer behavior and be informed by the experiences of marginalized groups.⁵⁷ Trainings must also be rigorously evaluated and modified in accordance with the evaluation results, including examining impacts on the community experience.⁵⁸ As the remainder of this report underscores, addressing gender bias in policing requires not only adequate training, but also accountability for officer-perpetrated GBV, trauma-informed interactions with survivors, effective investigations of GBV crimes, and attention to intersecting forms of discrimination.

B. Addressing Officer-Perpetrated GBV

Consider a situation where sexual violence is perpetrated by the very individual whose job is to aid a victim: the law enforcement officer. Or a situation involving intimate partner abuse by a police officer. Although comprehensive global data on officer-perpetrated GBV is scant, journalistic and anecdotal accounts indicate this is a significant problem worldwide, which plays out to varying degrees in different countries.

The issue of officer-perpetrated GBV raises serious concerns about impunity for state actors. In light of the broad discretion given to police officers, combined with a police culture of masculinity⁵⁹ and mutual loyalty,⁶⁰ **many police officers who commit GBV are not held accountable, undermining the state’s ability to address GBV.** Commentators have even developed a

term—“**the blue wall of silence**”—to refer to an unwritten code within police departments to protect fellow officers from investigation for the commission of GBV and other crimes. A recent 10-country study of officer-involved domestic violence found that relatively few departments have a specific policy to address domestic violence committed by officers, and that many turn a blind eye to this pervasive problem.⁶¹

The problem plays out across the globe, as documented in the book *Police Wife*,⁶² governmental investigations, and the media. Take, for instance, the following:

- In **Australian state of Victoria**, between 2011-14, courts issued family violence protection orders against 190 police officers, and officers breached those protection orders 41 times.⁶³
- In **South Africa**, a 2008-09 study from the South African Institute of Race Relations found 25 reports of officer-perpetrated rapes with only 3 convictions, and 828 reports of assault with grievous bodily harm and only 6 convictions.⁶⁴
- Also in **South Africa**, 117 police officers at 91 police stations nationwide were investigated as alleged perpetrators of domestic violence between April and September 2017.⁶⁵ The officers’ firearms were seized in only 47 cases. None were found guilty; instead, they received sanctions ranging from verbal to written warnings.⁶⁶ One survivor whose fiancé was a police officer noted, “The police are often biased. When it is a guy in blue, they don’t want to touch him ... When women reach out, they (police) should not make it worse. It is not like they say on their pamphlets. They need to understand that how they treat a person can help save or end a life.”⁶⁷
- In the **United Kingdom**, a 2014 government inquiry found that police officer-perpetrated domestic violence “is an uncomfortable fact that cannot be ignored.”
- In the U.S., 98 officers in the **Puerto Rico Police Department (PRPD)** were arrested more than once on domestic violence charges between 2007 and 2010. Of these, 84 remained active on the force, 9 had been terminated, and 5 were placed on leave. Even among the 17 officers with three or more domestic violence arrests, 11 remained on duty.⁶⁸

An adequate law enforcement response to GBV requires an institutional commitment to holding officers who commit GBV accountable—the equivalent of the

“first, do no harm” guiding principle for physicians.⁶⁹ Principle seven of the DOJ Guidance (hold officers who commit GBV accountable) echoes IACP’s longstanding “zero-tolerance policy” for GBV perpetrated by police officers.⁷⁰ International and regional human rights law not only explicitly condemn State actor perpetration of GBV, but also express concern with officer behavior generally in this context, highlighting the importance of professionalism and sensitivity training. In fact, states arguably have a heightened duty to hold officers who commit GBV accountable. This is because state officials, particularly law enforcement, have command authority, possess weapons, and have access to information (such as how to manipulate legal systems, and the location of confidential shelters) and technology that can allow them to facilitate GBV, requiring heightened vigilance to prevent impunity and safeguard the justice system’s integrity. Additionally, police departments that turn a blind eye toward officers who perpetrate GBV send an unmistakable message to both their personnel and the community that responding to GBV is not a departmental priority. Indeed, there is a high correlation between impunity for officer-perpetrated GBV and inappropriate responses to acts of GBV committed by private actors.⁷¹

An adequate law enforcement response to GBV requires an institutional commitment to holding officers who commit GBV accountable—the equivalent of the “first, do no harm” guiding principle for physicians.

Human rights law expressly prohibits the commission of GBV, including sexual assault or domestic violence, by state actors. Article 5 of the Istanbul Convention requires states to “refrain from engaging in any act of violence against women” and “ensure that State authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation.”⁷² The language of Article 7(a) of the Belém do Pará Convention is almost identical.⁷³ Similarly, under CEDAW, Article 2(d), states have an obligation “[t]o 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.”⁷⁴ (CEDAW General Recommendation 35 clarifies that “discrimination against women” encompasses GBV.⁷⁵) These human rights instruments

underscore the importance of state responsibility for acts of GBV committed by state actors.

Human rights law further recognizes the particular role and authority of law enforcement officers, mandating trainings to enable them to address GBV with professionalism and sensitivity, and to identify and prevent bias in their responses to GBV. Article 50(1) of the Istanbul Convention requires that “responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims,” thereby emphasizing law enforcement’s critical role with regards to GBV.⁷⁶ Under Article 15 of the Istanbul Convention, states must “provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence ... on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation.”⁷⁷ **There is thus a particular state responsibility to prevent not just primary victimization, but also secondary victimization by officers, and to ensure officers are equipped to address GBV.** The CEDAW Committee, charged with monitoring implementation of CEDAW, likewise calls for “mandatory, recurrent and effective capacity-building, education and training of ... law enforcement officers ... to adequately prevent and address gender-based violence against women.”⁷⁸ For its part, Article 8 of the Belém do Pará Convention calls upon states “to promote the education and training of all those involved in the administration of justice, police and other law enforcement” in order to advance “prevention, punishment and eradication of violence against women.”⁷⁹ These articles highlight state responsibility for appropriate officer behavior in the context of GBV.

Moreover, **states arguably have a heightened duty to address officer-perpetrated GBV.**⁸⁰ Security sector officials, including law enforcement, the military, and correctional officers, have access to state knowledge and influence that can facilitate GBV, requiring heightened vigilance by the state to prevent impunity. The European Court of Human Rights has recognized that the unequal power dynamic between security sector officials and civilians has implications for state responsibility to address GBV perpetrated by these officials. It has addressed violations of officer-perpetrated GBV during detention and custody,⁸¹ as well as during public stops and interactions.⁸² In *Maslova and Nalbandov v. Russia*, for instance, the European Court observed that GBV against an individual while in custody or detention, “must be considered an especially

grave and abhorrent form of ill-treatment given the ease with which the offender can exploit the vulnerability and weakened resistance of his victim.”⁸³ The Inter-American Court of Human Rights has likewise highlighted state responsibility for GBV, especially in instances involving sexual violence and variations of torture⁸⁴ perpetrated by security sector actors—military,⁸⁵ police,⁸⁶ and corrections officers.⁸⁷

Officer knowledge and influence that can facilitate GBV is not limited to instances of custody and detention, but also pertains to acts of private violence within relationships. In fact, officer-perpetrated domestic violence is a pervasive global issue⁸⁸ that poses unique and specific risks, in several respects.⁸⁹ First, police officers in most countries⁹⁰ have access to—and in fact, are required to possess—firearms as a part of their job; meaning, so as long as abusers are employed, they have access to a deadly weapon. Second, the abuser has knowledge of and the ability to manipulate state legal systems. Police officers are trained to use deception on criminals in order to build a case, routinely interact with domestic violence survivors and prosecutors, and appear as witnesses in court. These skills and experiences can equip abusive officers to themselves avoid domestic violence charges, as they understand where physical abuse leaves visible marks and can use their authority to intimidate survivors.⁹¹ Additionally, police officers have knowledge of the confidential locations of local domestic violence shelters, and relationships with shelter staff, which disincentivizes their intimate partners from seeking safety at shelters. Similarly, state officials have access to databases inclusive of other important information for GBV reporting that provides consistent, continued, and updated access to a victim, even while that individual is in pursuit of help.⁹²

Officer-perpetrated domestic violence is a pervasive global issue that poses unique and specific risks.

As described above, IACP’s model policy sets zero-tolerance for officer-perpetrated GBV while providing important guidance. It recommends establishing internal structures to advise police departments and prevent the hiring of individuals with a history of GBV, monitor current officers for signs of abuse, and handle GBV charges and investigations against fellow officers.⁹³ It further highlights that when an officer is the perpetrator, “standard domestic violence response and investigation procedures should be followed,”⁹⁴ but also that “[d]epartments shall conduct separate parallel administrative and criminal investigations of alleged

incidents of police officer domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance.”⁹⁵ In addition to the officer-focused components, the model policy establishes proper protocol for working with survivors of officer-perpetrated GBV and for preventing abuse by outlining the duties of the department and supervisors in recognizing warning behaviors.⁹⁶

As the foregoing examination demonstrates, international and regional human rights law as well as subject matter experts place special emphasis on state accountability for effectively responding to acts of officer-perpetrated GBV. State authority and resources create an uneven power dynamic that can facilitate abuse by officers, requiring heightened vigilance to prevent impunity. Officer-perpetrated GBV is also the proverbial tip of the iceberg—an indicator of how a police department views its obligation to respond to GBV at the community level generally. As such, states must commit to policies and trainings to prevent violations by officers themselves, and, as described below, ensure they handle GBV in the community with professionalism and sensitivity to trauma.

C. Trauma-Informed Interactions with Survivors

Law enforcement officers may revictimize GBV survivors (also known as “secondary victimization”) in interactions that fail to take account of trauma.⁹⁷ Trauma results from physical and/or emotional harm and can impact an individual’s functioning and mental, physical, social, emotional, and spiritual well-being. Trauma is rooted in experiences of helplessness and terror that then “overwhelm the ordinary systems of care that give people a sense of control, connection, and meaning.”⁹⁸ While most analyses of trauma have focused on the individual, experts are increasingly focusing on concepts of group, community, and historical trauma.⁹⁹

At the individual level, a person will generally plummet into a primal response of fight, flight or freeze, which can have crippling psychological and physiological consequences, both directly after an event and for a significant time later.¹⁰⁰ A person’s response to trauma often depends on the internal and external resources available to them to help them cope. Left unaddressed, trauma can result in a loss of self-identity, mental health issues, substance abuse, or other self-deprecating tendencies that further reduce an individual’s ability to function in daily life and can lead to social disconnection and distrust. In its starkest form, trauma

can leave individuals feeling “that they belong more to the dead than to the living.”¹⁰¹

GBV survivors experience trauma in unique ways. The trauma associated with GBV is distinct because “the violation involved is extremely invasive and gives rise to feelings of shame, self-blame and guilt.”¹⁰² Survivors of GBV can face “intense intrusive re-experiencing of the original trauma”¹⁰³ and they can often develop mental health disorders such as Post Traumatic Stress Disorder (“PTSD”), depression, anxiety, substance abuse, and suicidal behavior.¹⁰⁴ Ultimately, GBV can “induce feelings of shock, disbelief, confusion, terror, isolation, and despair,” so as to undermine a person’s sense of self. The social stigma associated with GBV can also create “an intense form of psychological trauma caused by the rejection [from one’s community].”¹⁰⁵

Trauma can also be experienced at a collective level, often as a result of historical injustices experienced by communities. **Intergenerational trauma refers to collective trauma that spans across generations.**¹⁰⁶ Trauma caused by GBV directed at members of a particular community “extends beyond the individual,”¹⁰⁷ and “the victims of extreme violence often have difficulties relating to others because violence harms the internalized culturally constituted webs of trust based on social norms, world-views, and moral conventions.”¹⁰⁸ **While trauma on an individual level “damages the inner structure of a person, collective trauma damages the structure of a community.”**¹⁰⁹ Sousan Abadian describes the most extreme type of collective trauma as “not just an aggregation of individual traumas, but [a] disruption of the fundamental institutions of society, and of its ‘immune system’ that can restore people and repair a culture.”¹¹⁰ Trauma passed down to future generations may also have a genetic component, as indicated by a study with the children of Holocaust survivors.¹¹¹

GBV survivors from marginalized communities will often experience multiple and overlapping forms of trauma. “By definition, and through social exclusion, marginalized women are systematically blocked or denied full access to various rights, opportunities and resources that are fundamental to social integration and observance of human rights. For these reasons, the effects of GBV are likely to be particularly high impact on marginalized women’s health and well-being.”¹¹² According to a report by the Office of the Special Representative of the Secretary-General on Violence against Children, certain factors that greatly affect marginalized communities such as discrimination, poverty, exclusion, limited access to services, and lack of legal recognition “not only contribute to the underlying causes of [GBV] but may also mitigate the

protective factors that typically prevent or reduce the likelihood of its occurrence.”¹¹³

Trauma can also be experienced at a collective level, often as a result of historical injustices experienced by communities.

Trauma-Informed Approaches

Individuals who regularly come into contact with traumatized individuals should be trained in the dynamics of trauma, and in how to interact with trauma survivors—sometimes referred to as a “trauma-informed approach.” According to the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”), a trauma-informed approach: (1) recognizes the symptoms and impact of trauma and pathways to recovery; (2) integrates this knowledge into policies and practices; and (3) seeks to avoid re-traumatization.¹¹⁴

A trauma-informed approach is based on a few key principles. First, it is survivor-centered, respecting fundamental dignity and addressing survivors’ safety and immediate needs. Second, it seeks to reinstate a sense of control and agency, allowing for choice and the survivor’s voice to shape next steps. Third, it integrates peer support. Finally, it provides attention to culture, history, and intersecting forms of discrimination.¹¹⁵

Law Enforcement Responses to GBV Survivors

Law enforcement officers often come into contact with GBV survivors and witnesses who have experienced multiple forms of trauma—at the individual, group, and community levels—in their lives. By the time a law enforcement officer arrives at the scene of a GBV incident, a survivor has already endured a primary trauma and the police officer is likely the first official they encounter.¹¹⁶ This interaction with the law enforcement officer not only comes at a painful physical and/or psychological moment, but at an extremely vulnerable one. The law enforcement officer has the power to help or to damage: this can be a positive experience toward remedying deep personal darkness or it can revictimize.¹¹⁷ A trauma-informed approach in interactions with GBV survivors is thus critical.

In writing for the Vera Institute's *Police Perspectives: Building Community Trust blog series*, Captain Altovise Love-Craighead described the following manifestations of trauma that police officers should look for and address in interactions with survivors:

- *Symptoms such as nausea, flashbacks, trembling, memory gaps, fear, and anger. These same symptoms can trigger behaviors that police may misinterpret as not cooperating, appearing adversarial, or behaving in an aggressive manner.*
- *Acting in a hypervigilant state or in a constant state of arousal. These individuals may come off as hostile, particularly when they are feeling threatened.*
- *Disengaging, "tuning out," or avoiding being out in the world. Traumatized individuals may feel numb and show no outward signs of distress, which police can misinterpret as suggesting that there is little or no trauma because the person is not acting out.*
- *In teens, trauma can affect their brain development by interrupting the creation of coping strategies to deal with difficult situations and their ability to trust others. This will impede any effort of law enforcement to effectively relate to them and gain their trust.¹¹⁸*

International and regional human rights law emphasizes the importance of trainings for law enforcement to equip them to respond to GBV survivors. In its General Recommendation on GBV, the **CEDAW Committee has specifically called for "mandatory, recurrent and effective capacity-building, education and training for . . . law enforcement officers"¹¹⁹ including on "[t]rauma and its effects."¹²⁰ Law enforcement trainings should cover "adequate ways of interacting with women in the context of their work and eliminating factors that lead to their revictimization and weaken their confidence in State institutions and agents."¹²¹ Article 15 of the Istanbul Convention likewise expresses concern for revictimization and requires "appropriate training for the relevant professionals dealing with victims . . . of all acts of [gender-based] violence . . . on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation."¹²² The UN Special Rapporteur on Violence against Women also highlighted the importance of training for "professionals working with victims" and an "awareness of the different forms of violence and their traumatizing nature."¹²³**

In line with this approach, Principle 2 of the DOJ Guidance instructs police officers to "[t]reat all victims with respect" and employ "trauma-informed interviewing techniques."¹²⁴ A trauma-informed approach is particularly critical in interviewing a GBV survivor. As recognized by End Violence Against

Women International ("EVAWI"), "the victim interview is perhaps the most important element of a sexual assault investigation, and it is absolutely essential for successful prosecution."¹²⁵ Law enforcement officers arrive on the scene with the objective of extracting information, and an understanding of the impact of trauma "may help to explain many of the challenges that officers face in interviewing victims (e.g., memory gaps, inconsistent accounts, or delayed reporting) and prevent inappropriate questioning."¹²⁶

The DOJ Guidance highlights the importance of "*how* and *when*" law enforcement officers ask difficult questions in investigating complaints. As an initial matter, investigations should respect the survivor's privacy and never be conducted in public areas.¹²⁷ Additionally, if survivors desire, they should have the support of a victim advocate.¹²⁸ Law enforcement officers should be non-judgmental and seek to establish trust,¹²⁹ asking "neutral, open-ended questions that elicit a narrative of the events."¹³⁰ Furthermore, certain questions are always inappropriate since they ignore the emotional impact of trauma, blame the victim, challenge credibility, or indicate that a survivor should not have reported a complaint.¹³¹ Reports from interviews should present events from the survivor's perspective and incorporate the "victim's words, spontaneous statements, and narrative as much as possible, as opposed to providing the officer's summary."¹³² EVAWI further recommends both a preliminary and follow-up interview since people need time to process a traumatic event, and a full sleep cycle can help "restore physical and cognitive impairment."¹³³

"All measures should be implemented with an approach centered around the victim/survivor, acknowledging women as right holders and promoting their agency and autonomy." - the CEDAW Committee

In further support of trauma-informed approaches, a March 2014 report by the Battered Women's Justice Project on *Shifting the Paradigm for Investigating Trauma Victimization*, outlines the **Forensic Experiential Trauma Interview**, an interviewing method that uses information about the parts of the brain that experience trauma and recommends a technique to elicit high quality

information from victims or witnesses of crime.¹³⁴ This technique entails asking such questions as “[w]hat are you able to tell me about your experience?” and “[w]hat was your thought process during this experience?”¹³⁵ It also calls for pursuing a “three dimensional” approach to collecting information about a victim’s traumatic experience such that “the gut-wrenching fear a victim experienced, her perception of danger, what she smelled perhaps, need to be collected and preserved along with facts.”¹³⁶

While the DOJ Guidance focuses on a trauma-informed approach to interviewing, this should apply to all interactions with survivors. The CEDAW Committee urged, “All measures should be implemented with an approach centered around the victim/survivor, acknowledging women as right holders and promoting their agency and autonomy.”¹³⁷ Captain Altovise Love-Craighead underscored the need for officers to “cultivate and sustain effective relationships” with survivors.¹³⁸ He provided the following guidance:

*When encountering someone who appears to be experiencing symptoms of trauma, law enforcement must first address the victim’s safety and security needs by ensuring his or her physical concerns are acknowledged and addressed. Next, officers should allow the traumatized person to vent about his or her feelings, and should validate those feelings. Listen attentively with a non-judgmental demeanor. Approach victims by asking, “What has happened to you?” instead of “What is wrong with you?” Finally, enable prediction and preparation by explaining to the victim what happens next in processing of the case and his or her role in that process. Identify information about the criminal justice system that will help victims heal and prepare for their future.*¹³⁹

Various resources and tools can help states meet their responsibility to implement trainings on a trauma-informed approach. The IACP, for instance, provides a two-day course on “Trauma Informed Sexual Assault Investigation Training,” focused on understanding “how specific experiences impact victim trauma, memory, reactions and behavior and how officer interpretation of this behavior impacts sexual assault investigations.”¹⁴⁰ The training provides law enforcement officers and community partners with information on the neurobiology of trauma and on investigative strategies that may be used in responding

to sexual assault crimes in a “victim centered, trauma informed manner.”¹⁴¹ Additionally, the Battered Women’s Justice Project (“BWJP”) developed “The Trauma-Informed Practice (TIP) Scales for Domestic Violence Programs” to assesses and strengthen six domains of trauma-informed practices: “Environment of Agency and Mutual Respect, Access to Information on Trauma, Opportunities for Connection, and Emphasis on Strengths, Cultural Responsiveness, and Inclusivity, and Support for Parenting.”¹⁴²

As the DOJ Guidance recognizes, taking a trauma-informed approach is not only important for survivors, but also critical to the success of GBV investigations:

“A victim who is treated with respect is more likely to continue participating in an investigation and prosecution than one who feels judged or blamed for a sexual assault or domestic violence incident.”¹⁴³ Moreover, “by taking affirmative steps to respect the dignity of all complainants, law enforcement officers may be able to increase the quality and quantity of the information they receive.”¹⁴⁴ According to the Council of State Government Justice Center’s police training, “a greater knowledge of sustained trauma and its effects can facilitate criminal investigation and improve policing skills, reduce recurrence of criminal behaviour including retaliations and leverage additional community resources.”¹⁴⁵ Captain Love-Craighead likewise explained,

*For law enforcement officials, trauma-informed policing practices that enhance officers’ understanding of trauma and its effects can facilitate criminal investigations through a greater awareness of a victim’s needs, reduce the potential recurrence of criminal behavior through early intervention and community trust in police, and connect traumatized individuals to appropriate community services and supports.*¹⁴⁶

In sum, international and regional human rights law promote instruction and trainings in trauma, sensitivity, and care for police officers who interact with survivors of GBV. A trauma-informed response that takes account of survivors’ needs and approaches them with respect and patience will facilitate an officer’s ability to investigate and properly respond to GBV. Moreover, trauma-informed approaches build trust between the community and law enforcement officers—a critical ingredient for effective policing.

D. Effective Investigation

Law enforcement officers too-often fail to conduct effective investigations into GBV crimes due to underlying gender bias and other biases. Flawed interviewing yielding inadequate information may further lead to a failure to conduct an effective investigation. Effective investigations are a critical first step toward justice and realizing fundamental rights. The failure to investigate properly not only prevents survivors from obtaining a remedy, but also normalizes and reinforces tolerance of GBV crimes.

Principle 3 of the U.S. Department of Justice Guidance emphasizes the importance of law enforcement officers conducting thorough and effective investigations into GBV. This can be particularly challenging for GBV cases, which “[u]nlike many other crimes, ... frequently occur in more private settings, with few, if any, witnesses present.”¹⁴⁷ Because survivors are so often not believed and even blamed when they experience sexual assault or domestic violence, many will choose not to report the crime;¹⁴⁸ and those who do report may delay reporting, be unwilling to share all of the details related to the assault, or ultimately recant their original complaint.¹⁴⁹ These characteristics of sexual assault reporting often lead officers to improperly conclude, on the grounds of the “particular reactions of the victim” as opposed to on “investigative facts,” that the report of assault is false.¹⁵⁰ Only through a proper, trauma-informed investigation of the complaint can officers move toward getting to the heart of what is really going on in each particular case.

Further, conducting a thorough and effective investigation is a critical step in overcoming the systemic and widespread bias that too-often characterizes police response to reports of GBV. This is epitomized by the common practice of improperly “unfounding” sexual assault cases, which “is essentially a statement that police do not believe a crime occurred”¹⁵¹ or that a case is “lacking a sound base, groundless, [and] unwarranted.”¹⁵²

The phenomenon of biased and improper investigations into violence against women has been addressed in the international human rights context. The UN Special Rapporteur on Violence Against Women has found that “investigations are halted as soon as a victim withdraws her statement,” and the persistence of gender stereotypes among the police “frequently mean[s] that women’s complaints are turned away and, at times, victims are even intimidated or warned against attempting to file charges, exacerbating the issue of the underreporting of violence against women.”¹⁵³ Additionally, bias in police response to

reports of GBV also occurs when claims by certain groups of women are taken less seriously or dismissed entirely as a result of their conduct or background. For example, in the CEDAW Committee’s 2005 Report regarding the abduction, rape, and murder of women in the Ciudad Juárez area of Chihuahua, Mexico, the Committee expressed grave concern at the “distinction made between women who are considered at ‘high risk’ and those who are not when deciding whether to launch an immediate search or determination of their whereabouts.”¹⁵⁴ All women have an equal right to life, the Committee explained, and the practice of delaying an investigation based on whether a woman’s conduct conforms to the accepted “moral code” is inherently discriminatory.¹⁵⁵

The failure to investigate properly not only prevents survivors from obtaining a remedy, but also normalizes and reinforces tolerance of GBV crimes.

Not only does a failure to investigate affect the individual GBV victim, but as explained by the UN Human Rights Council, “a lack of accountability unacceptably reinforces social normalization of and tolerance for these crimes.”¹⁵⁶ As such, both international and regional human rights law recognize the right to an effective investigation in GBV cases. **An effective investigation is not just critical for individual accountability; it also provides a foundation for systemic and transformative measures to address GBV.** Realization of this right requires legislation and public policy.

The right to an effective investigation is linked to the fundamental right to an effective remedy, recognized under human rights law. Article 2 of the ICCPR establishes the right to “an effective remedy” for violations of all Covenant rights.¹⁵⁷ The European Convention contains nearly identical language.¹⁵⁸ Likewise, Article 7 of the Belém do Pará Convention obligates states to undertake to “establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies.”¹⁵⁹ An effective investigation provides the foundation for any remedies, including preventive measures, reparations to the victim, and punishment of the perpetrator.

Human rights law further specifically highlights the role of investigations in addressing GBV. As the CEDAW Committee explained, a state must exercise “due diligence” and “take all appropriate measures” to investigate acts of GBV.¹⁶⁰ In *Angela González Carreño v. Spain*—a case where the state repeatedly failed to respond to Ms. González Carreño’s fears and complaints of the violence she and her daughter were suffering at the hands of her husband—the CEDAW Committee found that the state did not meet its due diligence obligations where it had failed “to investigate the existence of failures, negligence or omissions on the part of public authorities which may have caused victims to be deprived of protection.”¹⁶¹ The Istanbul Convention and Convention of Belém do Pará similarly call upon the state to apply due diligence in GBV investigations.¹⁶² Recently, the Economic Community of West African States (“ECOWAS”) Court of Justice focused on the importance of investigation in *Njemanze v. Fed. Republic of Nigeria*, involving the abduction, assault, and unlawful detention of four women at the hands of various Nigerian government agencies. **The Court highlighted that “[t]he state has the responsibility once aware of an incident . . . to carry out impartial and effective investigation as a means to unravel the truth.”¹⁶³**

Furthermore, not only is the duty to investigate important as a necessary first step in providing reparations to an individual victim of GBV, but it is also important as a foundation for ensuring transparency and accountability for these violations. In *Jessica Lenahan v. U.S.*—a case involving the state failure to protect and investigate after a domestic violence victim repeatedly reported that her estranged husband had kidnapped her three daughters, who ultimately were killed—the **IACHR called for “a serious, impartial and exhaustive investigation with the objective of ascertaining the case, time and place of the deaths” of the girls, and it further maintained that where a state fails to protect women from violence, it must “investigate systemic failures to prevent their repetition in the future.”¹⁶⁴** The CEDAW Committee likewise emphasizes the importance of systemic solutions and an “adequate investigation” into “inefficiency, complicity and negligence by public authorities responsible for the registration, prevention or investigation of . . . violence.”¹⁶⁵

An effective investigation forms the basis for transformative redress and remedies that address GBV as a cultural and societal problem, beyond the specific facts of an individual, egregious case of misconduct.¹⁶⁶ **In *Jessica Lenahan v. U.S.* the IACHR recognized the importance of such remedies when it recommended that the U.S. continue “adopting**

policies and institutional programs aimed at restructuring the stereotypes of domestic violence victims,” and to “promote the eradication of discriminatory socio-cultural patterns that impede women and children’s full protection from domestic violence acts, including programs to train public officials in all branches of the administration of justice and police, and comprehensive prevention programs.”¹⁶⁷ Similarly, in the *Cotton Field Case*, which dealt with the abduction, sexual abuse, and killing of three young Mexican women and the subsequent failure of the state to investigate and prosecute the perpetrators, the Inter-American Court of Human Rights established that a gender approach to reparations should be informed by a transformative dimension.¹⁶⁸ It explained that “bearing in mind the context of structural discrimination in which the facts of this case occurred . . . the reparations must be designed to change this situation, so that their effect is not only of restitution, but also of rectification.”¹⁶⁹ Moreover, the Inter-American Court noted that reparations should be “designed to identify and eliminate the factors that cause discrimination.”¹⁷⁰ Informed and effective investigation of GBV violations is critical to the prevention of these offenses.

Human rights law specifically requires legislation and policy to ensure effective investigations of GBV. Under Article 49(2) of the Istanbul Convention, “[p]arties shall take the necessary legislative or other measures . . . to ensure the effective investigation and prosecution” of GBV offences.¹⁷¹ Within the Inter-American system, the IACHR similarly recognizes the importance of legislation and public policy in providing for the right to an effective investigation. In the case of *Maria da Penha v. Brazil*, the IACHR found that Brazil had failed for over 15 years to prosecute and sanction Ms. Penha’s husband for his repeated domestic violence abuses, which resulted in her irreversible paraplegia. In its recommendations to Brazil, the IACHR stated that it should increase “the number of special police stations to address the rights of women and to provide them with the special resources needed for the effective processing and investigation of all complaints related to domestic violence, as well as resources and assistance from the Office of the Public Prosecutor in preparing their judicial reports.”¹⁷² (Today, there are almost 500 women’s police stations in Brazil. These stations have the authority to investigate crimes against women, and have been associated with a reduction in the female homicide rate in metropolitan areas).¹⁷³ Similarly, in *X and Y v. Georgia*—a case in which the state lacked legislation criminalizing domestic violence, as well as policy ensuring the investigation, prosecution, and punishment of domestic violence—the CEDAW

Committee stated that the state failed in its duty to “ensure, through competent tribunals and other public institutions, the effective protection of women against discrimination” and to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women.”¹⁷⁴

Thus, as the foregoing discussion illustrates, throughout the various human rights systems, effective investigation is integral to prevention and accountability for GBV. Effective investigation is not only essential for individual accountability, but it provides a foundation for systemic and transformative measures. Moreover, specific legislation and public policy must provide for effective investigations.

E. Attention to Intersecting Forms of Discrimination

Gender bias in law enforcement is further compounded by intersecting forms of discrimination, including on the basis of race, ethnicity, immigration status, gender orientation or sexual identity, disability, and economic status. Survivors from marginalized groups are disparately impacted by biased law enforcement responses because they are often not believed and have fewer resources.¹⁷⁵ **In a 2015 American Civil Liberties Union (ACLU) report surveying advocates and other professionals who work with GBV survivors in the U.S., 55% of respondents identified “police bias against particular groups of people” as a problem in their community, and over 80% “believe that police-community relations with marginalized communities influenced survivors’ willingness to call the police.”**¹⁷⁶

The DOJ Guidance acknowledges that “the intersection of racial and gender stereotypes and biases can also pose unique difficulties for women and LGBT individuals of color seeking police services to address sexual assault and domestic violence incidents,”¹⁷⁷ but does not delve further into this. However, a subsequent report from the DOJ’s Office on Violence Against Women (OVW), *The Impact of Incarceration and Mandatory Minimums on Survivors: Exploring the Impact of Criminalizing Policies on African American Women and Girls*, does examine these intersectional themes.¹⁷⁸ An intersectionality approach, originally developed by Black feminists, highlights the inseparability of different identities and the accumulation of vulnerabilities.¹⁷⁹ Human rights advocates have embraced this concept and argued for “a shift in institutional frameworks that will facilitate intersectional human rights analysis and reflect the complex reality of women experiencing the

intersection of human rights abuses based simultaneously on gender and other factors.”¹⁸⁰ This would “develop, expand, and transform the content and meaning of ... rights to reflect women’s realities and compel women’s equality.”¹⁸¹

Human rights law recognizes the importance of an intersectional lens. For instance, CEDAW General Recommendation 25 discusses how the discrimination women experience varies based on a number of factors:

Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.¹⁸²

Furthermore, CEDAW General Recommendation 33 points out that “discrimination against women is compounded by intersecting factors,” making it more difficult for women from certain groups to access justice.¹⁸³ The Committee on the Elimination of Racial Discrimination (“CERD”) likewise recognizes the gender dimensions of racial discrimination, noting in General Recommendation 25 that “racial discrimination does not always affect women and men equally or in the same way.”¹⁸⁴ The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity further explained that “violent actions against a person will often result from intersecting factors that create a continuum of violence and a dynamic of disempowerment.”¹⁸⁵

Furthermore, international human rights law highlights the importance of an intersectional approach in the context of GBV, taking account of various vulnerabilities and enabling a fuller understanding of the causes, risks, and impacts of violence. CEDAW General Recommendation 35, focused on GBV, recognizes that “women experience varying and intersecting forms of discrimination, which have an aggravating negative impact” and that GBV “may affect some women to different degrees, or in different ways,” requiring particular legal and policy responses.¹⁸⁶ In an inquiry concerning missing and murdered Indigenous women and girls in Canada, the CEDAW Committee underlined that “intersectional discrimination increases the risk of violence and

heightens the adverse consequences of violence when it occurs.”¹⁸⁷

“[I]ntersectional discrimination increases the risk of violence and heightens the adverse consequences of violence when it occurs.” - the CEDAW Committee

The CEDAW Committee has explicitly condemned intersectional discrimination in its case law on GBV. In *Kell v. Canada*, an Indigenous woman subjected to domestic violence, including economic abuse, alleged that Canada had violated her rights by discriminating against her on the grounds of sex, marital status, and cultural heritage. The Committee recognized the additional vulnerability of Indigenous women and found that “an act of intersectional discrimination ha[d] taken place.”¹⁸⁸ It held that states “must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned.”¹⁸⁹ Similarly, in *R. P. B. v. The Philippines*—a case involving a deaf and mute woman who was raped by her 19-year-old neighbor and was subsequently denied suitable access to the Philippine court system—the Committee emphasized how “it is crucial to ensure that women with disabilities enjoy effective protection against sex and gender-based discrimination by States parties and have access to effective remedies.”¹⁹⁰ The Committee found that in this particular case, the Philippines’ compliance with its obligation to banish gender stereotypes needed to be assessed “in the light of the level of gender, age and disability sensitivity applied in the judicial handling of the author’s case.”¹⁹¹

The Inter-American human rights system has likewise addressed intersecting discrimination in the GBV context. Article 9 of the Belém do Pará Convention provides that “the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons.”¹⁹² In addition, it also calls for similar consideration “to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom.”¹⁹³ In *Jessica Lenahan (Gonzales) v. United States*, the IACHR noted “certain groups of women as being at particular risk for acts of violence due to having been subjected to discrimination based on more than one factor,

among these girl-children, and women pertaining to ethnic, racial, and minority groups; a factor which must be considered by States in the adoption of measures to prevent all forms of violence.”¹⁹⁴

GBV further has a critical economic dimension. Human rights law identifies “economic harm or suffering to women” as part of GBV.¹⁹⁵ **Economic violence may be defined as “[a]cts of control and monitoring of the behaviour of an individual in terms of the use and distribution of money, and the constant threat of denying economic resources.”**¹⁹⁶ Such acts are intended to manufacture economic dependency, one of the most common reasons why victims find it difficult to escape abusive relationships.¹⁹⁷ As recognized by CEDAW General Recommendation 19, “[l]ack of economic independence forces many women to stay in violent relationships.”¹⁹⁸ However, across the world, economic opportunities are marked by gender differences. For instance, women earn, on average, approximately 24% less than men for the same work, and in the majority of countries women’s salaries represent between 70 and 90% that of men’s.¹⁹⁹ Yet economic empowerment is essential to realizing women’s rights and ending GBV.²⁰⁰

Human rights law expressly addresses the importance of eliminating gender-based economic discrimination. CEDAW Article 13 requires states to take all appropriate measures to eliminate discrimination in areas of “economic and social life in order to ensure, on a basis of equality of men and women, the same rights.”²⁰¹ Similarly, Article 18 of the Istanbul Convention calls on states to ensure they take measures “aim[ed] at the empowerment and economic independence of women victims of violence.”²⁰² Economic status can thus determine vulnerability to GBV and is important to consider in an intersectional approach.

Additionally, ignoring intersectionality can lead to further marginalization. As the UN Special Rapporteur on Violence against Women explained:

The lack of an intersectional approach can lead to the reinforcing of one form of discrimination in attempts to alleviate another. At the practical level, the norm is to use a silo approach of service delivery which addresses a narrowly defined set of issues, and operates alongside other institutions which deliver services to another narrowly defined issue. For example, domestic violence shelters in many countries do not have the capacity, or the trained staff, to assist women who have

problems such as both substance misuse and violence in their lives.²⁰³

An intersectional approach is thus critical to an effective response to GBV. CEDAW General Recommendation 35 on GBV recommends disaggregated data, studies, and programs that take account of “intersecting forms of discrimination.”²⁰⁴ The collection of disaggregated data enables accountability and the tracking of improvements, an approach echoed in Principle 8 of the DOJ Guidance.²⁰⁵ CEDAW General Recommendation 35 further calls for law enforcement regulations and trainings that take into account “the diversity of women and the risks of intersecting forms of discrimination.”²⁰⁶ It specifically emphasizes training and education for law enforcement officers on “the intersecting forms of discrimination affecting specific groups of women.”²⁰⁷

The CEDAW Committee has also pointed to the need for training on an appropriate intersectional approach in its case law. For instance, in *Jallow v. Bulgaria*—a case in which Bulgarian authorities failed to provide Jallow and her daughter with effective protection from the harassment and violence they underwent at the hands of Jallow’s husband—the Committee recommended that Bulgaria take

measures to provide for appropriate and regular training on the Convention, its Optional Protocol and its general recommendations for judges, prosecutors, the staff of the State Agency for Child Protection and law enforcement personnel in a gender-sensitive manner, having particular regard to multiple discrimination, so as to ensure that complaints regarding gender-based violence are received and considered adequately.²⁰⁸

In making its recommendation, the Committee noted that the Bulgarian authorities had relied exclusively on the statements and actions of Jallow’s husband, despite their awareness of Jallow’s vulnerable position as an illiterate migrant woman.²⁰⁹

III. RECOMMENDATIONS TO THE INTERNATIONAL HUMAN RIGHTS COMMUNITY²¹⁰

The following recommendations to the international human rights community draw on the above analysis:

- Define GBV beyond a narrow gender binary, to encompass all violence disproportionately impacting individuals based on their gender or due to prevailing gender norms.
- Call on states to interrogate their criminal legal responses to GBV, with an eye toward identifying and preventing gender and intersectional forms of bias. States must ensure that the criminal legal system genuinely addresses survivors’ needs and perspectives while holding accountable private individuals as well as state actors.
- Call on states to ensure the availability of alternative pathways to safety for survivors who choose not to engage with the criminal legal system. This includes support for “violence interrupters” and other support organizations that collaborate closely with advocates, survivors, and marginalized communities.
- Broadly interpret the “duty to protect” contained in the due diligence principle to include both criminal and non-criminal pathways to safety.
- Urge states to place greater emphasis on prevention and address root causes of violence.
- Recognize heightened state responsibility to address officer-perpetrated GBV and develop recommendations for systemic measures for prevention and accountability, with a particular focus on officer-perpetrated GBV against individuals from marginalized communities.
- Develop guidance on a trauma-informed approach to state interactions

with GBV survivors that is survivor-centered and respectful of fundamental dignity, addresses safety and immediate needs, seeks to reinstate a sense of control and agency, integrates peer support, and recognizes historical and community trauma. Call on state authorities, including law enforcement officers, to incorporate this trauma-informed approach in all interactions with survivors.

- Urge states to adopt clear policies and trainings for law enforcement agencies about how to conduct GBV investigations that are comprehensive, specific, and bias-free. Call upon states

to routinely assess systemic responses to identify structural bias and provide for community participation in and monitoring of these GBV policies, trainings, investigations, and assessments.

- Focus on addressing intersecting forms of discrimination against marginalized groups of women and LGBTQ+ individuals.
- Urge states to collect disaggregated data on GBV, including officer-perpetrated GBV and prosecutions, and to provide law enforcement guidance and trainings that account for intersectional forms of discrimination.

IV. GLOSSARY OF KEY TERMS

Collective Trauma:

Collective trauma refers to trauma that is experienced at the group or community level, often as a result of historical injustices experienced by communities. Intergenerational trauma is a collective trauma that spans across generations.²¹¹ Trauma caused by GBV directed at members of a particular community “extends beyond the individual,”²¹² and “the victims of extreme violence often have difficulties relating to others because violence harms the internalized culturally constituted webs of trust based on social norms, world-views, and moral conventions.”²¹³ While trauma on an individual level “damages the inner structure of a person, collective trauma damages the structure of a community.”²¹⁴

Discrimination against Women:

CEDAW defines “discrimination against women” as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”²¹⁵ This discrimination includes gender-based violence against women and girls,²¹⁶ policing of women’s sexual or reproductive behavior,²¹⁷ lack of access to adequate levels of sexual and reproductive healthcare,²¹⁸ and “incest, female genital mutilation, early and/or forced marriage, so-called ‘honour crimes,’ dowry-related violence, neglect of girls, extreme dietary restrictions, virginity tests, servitude, stoning, violent initiation rites, widowhood practices and female infanticide.”²¹⁹ Societies with a “culture of discrimination against women”²²⁰ are associated with the “disappearances and killings...[of] women and girls,” along with the promotion of a “climate in which sexual violence is cultivated and flourishes.”²²¹

Domestic Violence:

Domestic violence, a form of gender-based violence,²²² is a term that describes “acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence

with the victim.”²²³ Victims of domestic violence are most often women.²²⁴ However, domestic violence impacts adults, children, and heterosexual and same-sex couples of any gender,²²⁵ making domestic violence a far-reaching public health problem.²²⁶ Domestic violence is damaging to society as a whole and has resulted in “more deaths than civil wars and entail[ed] much higher economic costs than those linked to homicides or civil wars.”²²⁷ “Domestic violence” is often used interchangeably with “intimate partner violence.”

Femicide (or Femicide):

Femicide is broadly defined as “gender-related killings... that have as main motive or cause gender-based discrimination.”²²⁸ However, there is no single definition of the concept of femicide. The notion of femicide was developed in the 1970’s to bring attention to the discrimination and systemic violence that women experience.²²⁹ Femicide can be categorized as active or direct and passive or indirect.²³⁰ Active femicide includes dowry-deaths, “honor” killings, domestic violence related murders, and female infanticide.²³¹ Passive femicide includes maternal mortality, deaths from neglect, and deaths resulting from human-trafficking.²³²

Gender:

Gender is typically described as “a set of characteristics which differentiate socially constructed roles and behaviours as either masculine or feminine and which are attributed to individuals based on their sex at birth,” though this narrow definition excludes societies and individuals that do not divide gender along these binary lines (e.g. ‘two-spirited’ people who encompass both masculine and feminine qualities and characteristics).²³³ In many countries, a person’s marriage, parenthood, or identity documents may reflect a different sex than the gender identity they embrace.²³⁴ In fact, most countries have not developed legislation to establish how gender is legally defined.²³⁵

Gender-Based Violence:

Gender-based violence (GBV) (also called gender violence) refers to the harms inflicted on women, girls, and LGBT/gender-non-conforming people disproportionately or due to prevailing gender norms—that is, stereotypes and roles attributed to or expected of them according to their biological sex or gender identity. It includes intimate partner violence, sexual assault, and stalking—violent acts committed primarily by men against women.²³⁶ GBV encompasses “physical, sexual, psychological or economic harm or suffering ...,

threats of such acts, harassment, coercion and arbitrary deprivation of liberty.”²³⁷ Under international and regional human rights law, GBV has usually been defined as synonymous with “violence against women.” Over the past decade, various UN bodies have recognized violence against individuals based on their sexual orientation and/or gender identity as a form of GBV, since they are “driven by a desire to punish those seen as defying gender norms.”²³⁸ We endeavor to embrace a widened definition of GBV in this report, to account for the devastating experiences of not only women and girls, but also gender-nonconforming and LGBTQI+ individuals, with GBV globally.

Gender Bias:

We use the term “gender bias” in this report to refer to the belief that men are stronger and smarter than women, justifying traditional gender roles and male control over women.²³⁹ Although present in all areas of life, gender bias most commonly impacts social institutions like homelife, education, justice systems, the economy, and healthcare.²⁴⁰

Gender Identity:

Gender identity is an individual’s internal sense of gender, which may or may not be the same as one’s gender assigned at birth.²⁴¹ According to the Yogyakarta Principles (applying international human rights laws to gender identity and sexual orientation), gender identity is a “person’s deeply felt internal and individual experience of gender . . . including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.”²⁴²

Gender Norms:

Stereotypes and roles attributed to or expected of individuals according to their biological sex or gender identity.

Intergenerational Trauma:

Intergenerational trauma refers to a collective trauma that spans across generations. It is “the effect of a previous unresolved trauma passed on to subsequent generations of an individual’s family, community, and culture.”²⁴³ The “[p]sychic legacies” of slavery, genocide, and other forms of historical trauma can be passed down directly and indirectly, by friends, family, and even leaders of nations.²⁴⁴ This transmission of

trauma may even have a genetic component, as indicated by a study of Holocaust survivors.²⁴⁵

Intersectionality:

The intersectionality framework was originally developed by Kimberlé Crenshaw and Black feminists to call attention to multiple forms of discrimination experienced by marginalized women.²⁴⁶ Intersectionality recognizes identity as inseparable from a person’s life experiences and the accumulation of vulnerabilities from several levels of societal marginalization.²⁴⁷ The impact of multiple discriminations is thus “greater than the sum” of each individually.²⁴⁸ Approaching intersectionality requires “an analysis of structural causes of inequality.”²⁴⁹ Human rights advocates have embraced this concept and argued for “a shift in institutional frameworks that will facilitate intersectional human rights analysis and reflect the complex reality of women experiencing the intersection of human rights abuses based simultaneously on gender and other factors.”²⁵⁰ In the context of gender-based violence, intersecting discrimination can aggravate the causes, risks, and impacts of violence.²⁵¹

Intimate Partner Violence:

(See domestic violence)

Privilege:

Privilege refers to the way that individuals are often positioned differently from one another within various systems for conferring assets. Some individuals are more privileged, while others are relatively disadvantaged. Important to the consideration of privilege is the fact that these systems interact in ways that further affect these inequalities. Privileges and disadvantages accumulate across systems and can combine to create outcomes that are more devastating or more beneficial than the weight of each separate advantage or obstacle. According to Professor Martha Fineman, sometimes privileges conferred within certain systems can mediate or even cancel out disadvantages conferred in others. For instance, a good early education may triumph poverty, particularly when coupled with a supportive family and progressive social network.²⁵² Sociologists typically examine privilege in connection with characteristics such as gender, race/ethnicity, and sexual orientation.²⁵³

Sexual Assault:

The term sexual assault refers to sexual contact or sexual behavior that occurs without the consent of the

victim. Sexual assault includes fondling or unwanted sexual touching, forcing a victim to perform sexual acts using threats or psychological pressure, attempted rape, and unwanted sexual penetration (rape).²⁵⁴ Sexual assault is a form of gender-based violence,²⁵⁵ mostly affecting women, but also men²⁵⁶ and gender non-conforming persons.²⁵⁷ Sexual assaults can lead to injuries that may or may not be visible²⁵⁸ and “extreme emotions of continuing fear, guilt, shame, grief for what they have lost, and hopelessness.”²⁵⁹ Sexual assault is one of “the most common private (i.e., non-State) acts of violence against women and girls.”²⁶⁰ However, underreporting sexual assaults is common for numerous complex reasons including fear of not being believed and distrust of law enforcement.²⁶¹

Sexual Orientation:

Sexual orientation is independent from both a person’s sex assigned at birth and a person’s gender identity. The Yogyakarta principles clarify that sexual orientation is “each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.”²⁶² International human rights bodies have recognized that sexual orientation is a protected category under anti-discrimination provisions of some treaties.²⁶³

Sexual Violence:

Sexual violence encompasses a broad range of behaviors that are harmful and traumatic, including but not limited to sexual assault.²⁶⁴ These include “attempts to obtain a sexual act, sexual harassment, coercion, trafficking for sexual exploitation and female genital mutilation.”²⁶⁵ Acts of sexual violence are often motivated by the desire to gain power and control, mostly over women.²⁶⁶ Individuals who experience sexual violence may suffer both short-term and long-term negative physical and psychological effects.²⁶⁷

Structural Violence:

Structural violence, also known as indirect violence, occurs when a group’s “collective, civil and political, and economic, social and cultural rights” are violated.²⁶⁸ The term includes “harmful, sometimes deadly situations which, though due to human intervention, do not involve a direct relationship between the victims and the institutions, population groups or individuals

responsible for their plight.”²⁶⁹ In the context of gender equality, structural violence “aims at measuring the gender norms, attitudes and stereotypes, which underpin current patterns of gender-based violence against women, in addition to other forms of gender inequality.”²⁷⁰

Trauma:

Trauma results from physical and/or emotional harm and can impact an individual’s functioning and mental, physical, social, emotional, and spiritual well-being. Trauma is rooted in experiences of helplessness and terror that then “overwhelm the ordinary systems of care that give people a sense of control, connection, and meaning.”²⁷¹ While most analyses of trauma have focused on the individual, experts are increasingly focusing on concepts of group, community, and historical trauma.²⁷²

Trauma-Informed Approach:

According to the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”), a trauma-informed approach: (1) recognizes the symptoms and impact of trauma and pathways to recovery; (2) integrates this knowledge into policies and practices; and (3) seeks to avoid re-traumatization.²⁷³ A trauma-informed approach is based on a few key principles. First, it is survivor-centered, respecting fundamental dignity and addressing survivors’ safety and immediate needs. Second, it seeks to reinstate a sense of control and agency, allowing for choice and the survivor’s voice to shape next steps. Third, it integrates peer support. Finally, it provides attention to culture, history, and intersecting forms of discrimination.²⁷⁴

Violence:

Violence is defined by the World Report on Violence and Health (WRVH) “as the intentional use of physical or psychological force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, or deprivation.”²⁷⁵ In the context of gender equality, “violence is an expression of power linked to the domination of some forms of masculinity, mostly over women.”²⁷⁶

V. ENDNOTES

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¹ Comm. on the Elimination of Discrimination against Women, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, ¶ 14, U.N. Doc. CEDAW/C/GC/35 (July 26, 2017) [hereinafter CEDAW Gen. Rec. 35]; *see also Terminology, VIOLENCE AGAINST WOMEN AND GIRLS*, <https://www.vawgresourceguide.org/terminology> (last visited Dec. 15, 2020); *What is gender-based violence?*, EUROPEAN COMMISSION, https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en (last visited Dec. 15, 2020).

² Universal Declaration of Human Rights, art. 7, G.A. Res. 217 (III), U.N. Doc. A/810 at 73 (Dec. 10, 1948) [hereinafter UDHR] (“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”); International Covenant on Civil and Political Rights, art. 2(1), *adopted* Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR] (“Each State Party ... 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...”); *Id.* at art. 3 (“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights ...”); *Id.* at art. 26 (“All persons are equal before the law ...”); International Covenant on Economic, Social, and Cultural Rights, art. 2, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR] (“The States ... guarantee that the rights enunciated in the present Covenant will be exercised without discrimination...”); Convention on the Elimination of All Forms of Discrimination against Women, art. 1, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW] (defining discrimination as “any distinction, exclusion, or restriction” made on the basis of sex that undermines women’s ability to equally enjoy their “human rights and fundamental freedoms”); *Id.* at art. 2 (obligating states to condemn discrimination against women, refrain from enacting discriminatory policies, and pursue any measure that would end gender-based prejudice and unequal treatment); *Id.* at art. 5 (“[M]odify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices...”); Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, art. 8(d), *adopted* July 11, 2003 [hereinafter Maputo Protocol] (“Women and men are equal before the law and shall have the right to equal protection and benefit of the law. State Parties shall take all appropriate measures to ensure: that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights.”); Convention for the Protection of Human Rights and Fundamental Freedoms, art. 14, *opened for signature* Nov. 4, 1950, E.T.S. No. 005 [hereinafter ECHR] (“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex ... or other status.”); Convention on Preventing and Combating Violence Against Women and Domestic Violence, art. 4(2), *opened for signature* May 11, 2011, C.E.T.S. No. 210 [hereinafter Istanbul Convention] (“Parties condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it...”); American Convention on Human Rights, art. 1, *adopted* Nov. 22, 1969, O.A.S.T.S. No. 36 [hereinafter American Convention] (“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.”). The CEDAW Committee in General Recommendation No. 19 emphasized that GBV is “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.” Comm. on the Elimination of Discrimination against Women, General recommendation No. 19: Violence against women, ¶ 1, U.N. Doc. A/47/38 (1992) [hereinafter CEDAW Gen. Rec. 19].

³ UDHR, *supra* note 2, art. 3 (“Everyone has the right to life, liberty, and security of person.”); ICCPR, *supra* note 2, art. 6(1) (“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.”); African Charter on Human and Peoples’ Rights, art. 4, *adopted* June 27, 1981, 21 I.L.M. 58 [hereinafter Banjul Charter] (“Every human being shall be entitled to respect for his life and the integrity of his person.”); Maputo Protocol, *supra* note 2, art. 4(1) (“Every woman shall be entitled to respect for her life and the integrity and security of her person.”); ECHR, *supra* note 2, art. 2(1) (“Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”); American Declaration of the Rights and Duties of Man, art. 1, *adopted* May 2, 1948, OEA/Ser.L./V/II.23, doc. 21, rev. 6 [hereinafter American Declaration] (“Every human being has the right to life, liberty and the security of his person.”); American Convention, *supra* note 2, art. 4(1) (“Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.”).

⁴ ICESCR, *supra* note 2, art. 12(1) (“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”); CEDAW, *supra* note 2, art. 12(1) (“States Parties shall take all appropriate measures to ... ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”); Banjul Charter, *supra* note 3, art. 16(1) (“Every individual shall have the right to enjoy the best attainable state of physical and mental health.”); European Social Charter (Revised), art. 11, *opened for signature* May 3, 1996, E.T.S. No. 163 (“With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation ... to take appropriate measures designed *inter alia* ... to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health...”); American Declaration, *supra* note 3, art. XI (“Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”).

⁵ UDHR, *supra* note 2, art. 3 (“Everyone has the right to life, liberty, and security of person.”); ICCPR, *supra* note 2, art. 9(1) (“Everyone has the right to liberty and security of person.”); Banjul Charter, *supra* note 3, art. 4 (“Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person.”); Maputo Protocol, *supra* note 2, art. 4(1) (“[E]very woman shall be entitled to respect for her life and the integrity and security of her person.”); ECHR, *supra* note 2, art. 5(1) (“Everyone has the right to liberty and security of person.”); American Convention, *supra* note 2, art. 7(1) (“Every person has the right to personal liberty and security”).

⁶ UDHR, *supra* note 2, art. 12 (“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.”); ICCPR, *supra* note 2, art. 17(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.”); ECHR, *supra* note 2, art. 8 (“Everyone has the right to respect for his private and family life, his home and his correspondence.”); American Declaration, *supra* note 3, art. 5 (“Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.”).

⁷ ICCPR, *supra* note 2, art. 7 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 10, *adopted* Dec. 10, 1984, 1465 U.N.T.S. 85, 115-16 [hereinafter UNCAT] (“Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”); Banjul Charter, *supra* note 3, art. 5 (“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.”); Maputo Protocol, *supra* note 2, art. 4(1) (“All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.”); ECHR, *supra* note 2, art. 3 (“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”); American Convention, *supra* note 2, art. 5(2) (“No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.”).

⁸ *Gender-based violence*, UNITED NATIONS DEV. PROGRAMME, <http://www.undp.org/content/undp/en/home/gender-equality/gender-based-violence.html> (last visited Dec. 17, 2020); ADRIENNE CRUZ & SABINE KLINGER, INTERNATIONAL LABOUR OFFICE, GENDER-BASED VIOLENCE IN THE WORLD OF WORK: OVERVIEW AND SELECTED ANNOTATED BIBLIOGRAPHY 13 (2011), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_155763.pdf (explaining that GBV not only prevents those who experience it from participating in the economic sphere, but that GBV is detrimental to the economy itself); *The economic costs of violence against women*, UN WOMEN (Sept. 21, 2016), <http://www.unwomen.org/en/news/stories/2016/9/speech-by-lakshmi-puri-on-economic-costs-of-violence-against-women> (underscoring that “violence against women and girls brings huge economic costs to any society. The negative impact on women’s participation in education, employment and civic life undermines poverty reduction. It results in lost employment and productivity, and it drains resources from social services, the justice system, health-care agencies and employers.”); ORG. OF AM. STATES, INTER-AMERICAN MODEL LAW ON THE PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN IN POLITICAL LIFE 12 (2017), <https://www.oas.org/es/mesecvi/docs/LeyModeloViolenciaPolitica-EN.pdf> (providing examples of GBV that can prevent individuals from participating in the political sphere); *Gender based Violence against women in politics and during elections must be eradicated, warns UN Special Rapporteur on violence against women*, UNITED NATIONS OFF. OF THE HIGH COMM’R ON HUM. RTS., <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23706&LangID=E> (last visited Dec. 17, 2020) (“[t]he scourge of widespread and systematic gender based violence against women is deeply rooted in discrimination against women and continues to shape the lives of female politicians, activists, and voters around the world, with devastating impact not only on the victims, but also on democracy itself.”).

⁹ *Gender-Based Violence (Violence Against Women and Girls)*, WORLD BANK (Sept. 25, 2019), <http://www.worldbank.org/en/topic/socialdevelopment/brief/violence-against-women-and-girls>; see also ANDREW R. MORRISON & MARIA BEATRIZ ORLANDO, THE COSTS AND IMPACTS OF GENDER-BASED VIOLENCE IN DEVELOPING COUNTRIES: METHODOLOGICAL CONSIDERATIONS AND NEW EVIDENCE (Nov. 2004), <http://documents1.worldbank.org/curated/en/442281468339624395/pdf/361510Gender0b1lence0Costs01PUBLIC1.pdf>.

¹⁰ UN WOMEN, *supra* note 8.

¹¹ Cora Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults*, AM. J. PREVENTATIVE MED. (Aug. 22, 2018), [https://www.ajpmonline.org/article/S0749-3797\(18\)31904-4/fulltext](https://www.ajpmonline.org/article/S0749-3797(18)31904-4/fulltext).

¹² UNITED NATIONS STATISTICS DIV., THE WORLD’S WOMEN 2015: VIOLENCE AGAINST WOMEN 2 (2015), https://unstats.un.org/unsd/gender/downloads/Ch6_VaW_info.pdf.

¹³ *Id.*

¹⁴ *Id.*; Noemí Pereda et al., *The Prevalence of Child Sexual Abuse in Community and Student Samples: A Meta-analysis*, 29 CLINICAL PSYCH. REV. 328, 333 (2009).

¹⁵ U.N. High Comm’r for Human Rights, *Discrimination and violence against individuals based on their sexual orientation and gender identity*, ¶ 28, U.N. Doc. A/HRC/29/23 (May 4, 2015); see also Karel Blondeel et al., *Violence motivated by perception of sexual orientation and gender identity: a systematic review*, World Health Org. (Nov. 23, 2017), <https://www.who.int/bulletin/volumes/96/1/17-197251/en/> (citing the “high prevalence of physical and sexual violence motivated by perception of sexual orientation and gender identity experienced by sexual and gender minorities, particularly among transgender people”).

¹⁶ UNITED NATIONS STATISTICS DIV., *supra* note 12.

¹⁷ E.g., INT'L ASS'N OF CHIEFS OF POLICE, MODEL POLICY: DOMESTIC VIOLENCE (Mar. 2018), <https://www.theiacp.org/sites/default/files/2018-08/DomesticViolencePolicy2018.pdf> [hereinafter DV MODEL POLICY] at 1; INT'L ASS'N OF CHIEFS OF POLICE, ADDRESSING SEXUAL OFFENSES AND MISCONDUCT BY LAW ENFORCEMENT: EXECUTIVE GUIDE (June 2011), <https://www.theiacp.org/sites/default/files/all/a/AddressingSexualOffensesandMisconductbyLawEnforcementExecutiveGuide.pdf>; THOMAS TREMBLAY ET AL., END VIOLENCE AGAINST WOMEN INT'L (EVAWI), MODEL POLICY RESOURCE: LAW ENFORCEMENT SEXUAL MISCONDUCT PREVENTION AND ACCOUNTABILITY (Feb. 2020), https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf; INT'L ASS'N OF CHIEFS OF POLICE, INTIMATE PARTNER VIOLENCE RESPONSE POLICY AND TRAINING CONTENT GUIDELINES (Aug. 2018), <https://www.theiacp.org/sites/default/files/all/i-j/IACPIntimatePartnerViolenceResponsePolicyandTrainingGuidelines2017.pdf>.

¹⁸ *About LACP*, INT'L ASS'N OF CHIEFS OF POLICE, <https://www.theiacp.org/about-iacp> (last visited Dec. 18, 2020).

¹⁹ DV MODEL POLICY, *supra* note 17; INT'L ASS'N OF CHIEFS OF POLICE, CONCEPTS & ISSUES PAPER: DOMESTIC VIOLENCE (Apr. 2019), https://www.theiacp.org/sites/default/files/2019-04/Domestic%20Violence%20Paper%20-%202019_0.pdf [hereinafter DV PAPER].

²⁰ DV MODEL POLICY, *supra* note 17; INT'L ASS'N OF CHIEFS OF POLICE, MODEL POLICY: DOMESTIC VIOLENCE BY POLICE OFFICERS 1 (2003), <https://www.theiacp.org/sites/default/files/all/d-e/DomesticViolencebyPolicePolicy.pdf> [hereinafter DV BY POLICE MODEL POLICY].

²¹ *Trauma Informed Sexual Assault Investigation Training*, INT'L ASS'N OF CHIEFS OF POLICE, <https://www.theiacp.org/projects/trauma-informed-sexual-assault-investigation-training> (last visited Dec. 18, 2020). While these policies are a useful starting point, gender bias in policing continues to be widespread, requiring greater attention in law and policy, as well as implementation of good practices.

²² INT'L ASS'N OF CHIEFS OF POLICE, ENHANCING COMMUNITY TRUST: PROACTIVE APPROACHES TO DOMESTIC AND SEXUAL VIOLENCE (Nov. 2020), <https://www.theiacp.org/sites/default/files/2020-11/7585/Assessment%20Tools%20%26%20Resources.pdf>.

²³ *Id.* at 2.

²⁴ ANDREW R. KLEIN, U.S. DEP'T OF JUST., OFF. OF JUST. PROGRAMS, NAT'L INST. JUST., PRACTICAL IMPLICATIONS OF CURRENT DOMESTIC VIOLENCE RESEARCH: FOR LAW ENFORCEMENT, PROSECUTORS, AND JUDGES 1 (June 2009), <https://www.ncjrs.gov/pdffiles1/nij/225722.pdf>.

²⁵ *See infra* Section II.D., discussing *Lenahan v. U.S.* *See also* Sandra S. Park, *Equal Protection for Survivors of Gender-Based Violence: From Criminalization to Law Enforcement Accountability*, 5 U. MIA. RACE & SOC. JUST. L. REV. 401 (2015).

²⁶ THE NAT'L DOMESTIC VIOLENCE HOTLINE, WHO WILL HELP ME? DOMESTIC VIOLENCE SURVIVORS SPEAK OUT ABOUT LAW ENFORCEMENT RESPONSES 2 (2015), <http://www.thehotline.org/resources/law-enforcement-responses>.

²⁷ U.S. DEP'T OF JUST., IDENTIFYING AND PREVENTING GENDER BIAS IN LAW ENFORCEMENT RESPONSE TO SEXUAL ASSAULT AND DOMESTIC VIOLENCE 7 (Dec. 15, 2015), <https://www.justice.gov/opa/file/799366/download> [hereinafter DOJ GUIDANCE]. *See also* Sandra S. Park, *Equal Protection for Survivors of Gender-Based Violence: From Criminalization to Law Enforcement Accountability*, 5 U. MIA. RACE & SOC. JUST. L. REV. 401 (2015); Deborah Tuerkheimer, *Underenforcement as Unequal Protection*, 57 B.C. L. REV. 1287 (2016).

²⁸ *Justice Department Issues Guidance on Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*, U.S. DEP'T OF JUST. (Dec. 15, 2015), <https://www.justice.gov/opa/pr/justice-department-issues-guidance-identifying-and-preventing-gender-bias-law-enforcement>; DOJ GUIDANCE, *supra* note 27, at 4.

²⁹ Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STANFORD L. REV. 1241, 1242, 1252-53 (1991) (explaining intersectionality in the context of violence against women as “an experience...often shaped by other dimensions of their identities, such as race and class. Moreover, ignoring difference within groups contributes to tensions among groups, another problem that bears on efforts to politicize violence against women.”); Lisa Bowleg, *The Problem with the Phrase Women and Minorities: Intersectionality—An Important Theoretical Framework for Public Health*, 102 AM. J. PUB. HEALTH 1267, 1267 (2012) (defining intersectionality as “a theoretical framework for understanding how multiple social identities such as race, gender, sexual orientation, SES, and disability intersect at the micro level of individual experience to reflect interlocking systems of privilege and oppression (i.e., racism, sexism, heterosexism, classism) at the macro social- structural level.”)

³⁰ UDHR, *supra* note 2.

³¹ CEDAW, *supra* note 2.

³² ICCPR, *supra* note 2.

³³ UNCAT, *supra* note 7.

³⁴ Istanbul Convention, *supra* note 2.

³⁵ ECHR, *supra* note 2.

³⁶ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, art. 1, *adopted* June 9, 1994, 33 I.L.M. 1534 [hereinafter Convention of Belém do Pará].

³⁷ American Declaration, *supra* note 3.

³⁸ Maputo Protocol, *supra* note 2.

³⁹ Banjul Charter, *supra* note 3.

⁴⁰ ACLU Women’s Rts. Project et al., Domestic Violence & Sexual Assault in the U.S.: A Human Rights Based Approach & Practice Guide 1 (2014), https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/dv_sa_hr_guide_reduce.pdf.

⁴¹ DOJ GUIDANCE, *supra* note 27, at 7.

⁴² *See, e.g.*, Crenshaw, *supra* note 29.

⁴³ UNITED NATIONS STATISTICS DIV., *supra* note 12.

⁴⁴ While criminalization of individuals who inflict GBV has historically been viewed as a proxy for justice, advocates and scholars are proposing alternative frameworks, such as “violence interruption,” restorative justice, community justice, collective healing, economic justice, health and housing justice, and “police abolition.” Donna Coker, *Crime Logic, Campus Sexual Assault, and Restorative Justice*, 49 TEX. TECH L. REV. 147 (2017); Donna Coker & Ahjané Macquoid, *Alternative U.S. Responses to Intimate Partner Violence*, in COMPARATIVE PERSPECTIVES ON GENDER VIOLENCE: LESSONS FROM EFFORTS WORLDWIDE 169 (Rashmi Goel & Leigh Goodmark eds., 2015); Donna Coker et al., *Introduction: CONVERGE! Reimagining the Movement to End Gender Violence*, 5 U. MIA. RACE & SOC. JUST. L. REV. 249 (2015); Leigh Goodmark, *Stalled at 20: VAWA, the Criminal Justice System, and the Possibilities of Restorative Justice*, 18 CUNY L. REV. F. 48 (2014); THE HEALTH ALLIANCE FOR VIOLENCE INTERVENTION (HAVI), <https://www.thehavi.org> (last visited Feb. 18, 2021); NEWARK CMTY. STREET TEAM (NCST), <https://www.newarkcommunitystreetteam.org/> (last visited Feb. 18, 2021); *How Newark Became a Model for Community-Based Violence Reduction*, NEXT CITY (Mar. 25, 2020), <https://nextcity.org/webinars/view/how-newark-became-a-model-for-community-based-violence-reduction>; Deborah M. Weissman, *In Pursuit of Economic Justice: The Political Economy of Domestic Violence Laws and Policies*, 2020 UTAH L. REV. 1 (2020); LEIGH GOODMARK, *DECRIMINALIZING DOMESTIC VIOLENCE: A BALANCED POLICY APPROACH TO INTIMATE PARTNER VIOLENCE* (2018); BETH RICHIE, *ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA’S PRISON NATION* (2020); ANDREA J. RITCHIE, *INVISIBLE NO MORE: POLICE VIOLENCE AGAINST BLACK WOMEN AND WOMEN OF COLOR* (2017). We endorse these calls for increased research and investment in non-criminal approaches to preventing and responding to GBV, and we believe they are in line with a human rights-based, “due diligence” approach. Julie Goldscheid & Debra J. Liebowitz, *Due Diligence and Gender Violence: Parsing its Power and its Perils*, 48 CORNELL INT’L L.J. 301 (2015).

⁴⁵ Julie Goldscheid, *Gender Neutrality and the “Violence Against Women” Frame*, 5 U. MIA. RACE & SOC. JUST. L. REV. 307, 307 n.1 (2015).

⁴⁶ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 30(e); Istanbul Convention, *supra* note 2, art. 3(d); *see also* Maputo Protocol, *supra* note 2, art.1(j) (“[A]ll acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.”). Admittedly, most of these definitions of “gender-based violence” arise in the context of human rights treaties or instruments that specifically address violence against women, but the total conflation of “gender-based violence” and “violence against women” still is common.

⁴⁷ U.N. High Comm’r for Human Rights, *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, ¶ 20, U.N. Doc. A/HRC/19/41 (Nov. 17, 2011); *see also* Human Rights Council Res. 17/19, *Human rights, sexual orientation and gender identity*, U.N. Doc. A/HRC/RES/17/19 (July 14, 2011) (expressing “grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity”); Human Rights Council Res. 27/32, *Human rights, sexual orientation and gender identity*, U.N. Doc. A/HRC/RES/27/32 (Oct. 2, 2014); U.N. High Comm’r for Human Rights, *Discrimination and violence against individuals based on their sexual orientation and gender identity*, ¶ 21, U.N. Doc. A/HRC/29/23 (May 4, 2015) (“[Homophobic and transphobic] attacks constitute a form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge gender stereotypes.”); Human Rights Council Res. 32/2, *Protection against violence and discrimination based on sexual orientation and gender identity*, ¶ 3, U.N. Doc. A/HRC/RES/32/2 (July 15, 2016) (appointing an “Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.”).

⁴⁸ While bias and stereotypes are distinct concepts, bias is often created through the process of stereotyping, particularly when it comes to gender. U.S. DEP'T JUST., COMMUNITY RELATIONS SERVICE, UNDERSTANDING BIAS: A RESOURCE GUIDE 1-2 (n.d.), <https://www.justice.gov/crs/file/836431/download> (“Bias is a human trait resulting from our tendency and need to classify individuals into categories as we strive to quickly process information and make sense of the world ... When these schemas are used to categorize people by age, gender, race, or other criteria, they are called stereotypes.”); Anthony Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CALIF. L. REV. 945, 951 n.20 (2006) (“For example, gender biases that discriminate against women are plausibly stereotype-based, given that research has found that attitudes toward women are often more favorable than attitudes toward men.”); see also CEDAW Gen. Rec. 19, *supra* note 2, ¶ 11 (“Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms.”); Comm. on Economic, Social and Cultural Rights, General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights, ¶ 14, U.N. Doc. E/C.12/2005/4 (2005) [hereinafter ICESCR Gen. Comment 16] (“Gender-based assumptions and expectations generally place women at a disadvantage with respect to substantive enjoyment of rights, such as freedom to act and to be recognized as autonomous, fully capable adults, to participate fully in economic, social and political development, and to make decisions concerning their circumstances and conditions. Gender based assumptions about economic, social and cultural roles preclude the sharing of responsibility between men and women in all spheres that is necessary to equality.”). For more on gender bias and stereotyping from legal, women’s studies, and sociological sources, see CATHARINE A. MACKINNON, FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW 51 (1987) (“[M]en are not socially supreme and women subordinate by nature ... [t]he idea of gender helps keep the reality of male dominance in place.”); LAURIE A. RUDMAN & PETER GLICK, THE SOCIAL PSYCHOLOGY OF GENDER: HOW POWER AND INTIMACY SHAPE GENDER RELATIONS 94 (2008) (“[S]tudies of gender stereotypes indicate that people across the globe associate men with agency, power, and dominance and women with nurturance, succorance, and deference...”); Catharine A. MacKinnon, *Reflections on Sex Equality Under Law*, 100 YALE L.J. 1281, 1298-99 (1991) (“[T]he group women has a collective social history of disempowerment, exploitation, and subordination extending to the present.”); Catharine A. MacKinnon, *Sex Equality Under the Constitution of India: Problems, Prospects, and “Personal Laws,”* 4 INT’L J. CONST. L. 181, 184 (2006) (“Male dominance and female subordination are [] seamlessly maintained under legal equality regimes around the world.”); Sandra Harding, *Is Gender a Variable in Conceptions of Rationality? A Survey of Issues*, 36 DIALECTICA 225, 226 (1982) (“From antiquity to the present day, women have been claimed less capable of abstract and systematic thought than men, less capable of developing a mature sense of justice than men, more ruled by the emotions, the passions and the appetites than men, more inclined toward subjective assessments and less toward objective ones than men.”); Alison M. Jaggar, *On Sexual Equality*, 84 ETHICS 275, 283-84 (1974) (“In the past, such arguments [that women are smaller and weaker than men] have been used by male supremacists as justification for forcing on women a kind of ‘protection’ which guarantees to us an inferior social position...”); Naomi Ellemers, *Gender Stereotypes*, 69 ANN. REV. PSYCHOL. 275, 278 (2018) (“[Gender stereotypes] reinforce perceived boundaries between women and men and seemingly justify the symbolic and social implications of gender for role differentiation and social inequality.”).

⁴⁹ DOJ GUIDANCE, *supra* note 27, at 7.

⁵⁰ *Id.* at 3.

⁵¹ *Id.* at 4.

⁵² CEDAW, *supra* note 2, art. 5(a).

⁵³ Istanbul Convention, *supra* note 2, art. 12(1) (“Parties shall take the necessary measures to promote changes in social and cultural patterns of behaviours of women and men with a view to eradicating prejudices, customs, traditions, and all other practices which are based on the idea of inferiority of women or on stereotyped roles for women and men”); Convention of Belém do Pará, *supra* note 36, art. 6(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.”); see also Maputo Protocol, *supra* note 2, art. 2 (“States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men”).

⁵⁴ M.W. v. Denmark, Communication No. 46/2012, ¶ 5.4, U.N. Doc. CEDAW/C/63/D/46/2012 (Mar. 12, 2016) (reasoning that States may 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); X and Y v. Georgia, Communication 24/2009, ¶ 9.7, U.N. Doc. CEDAW/C/61/D/24/2009 (Aug. 25, 2015) (holding that the State party failed to fulfill obligations and adopt appropriate legislative measures to establish legal protection of women’s rights); İzci v. Turkey, App. No. 42606/05, (July 23, 2013), <http://hudoc.echr.coe.int/eng?i=001-122885> (holding a violation of Article 3 when a woman was attacked by police during her peaceful demonstration for Women’s Day); Opuz v. Turkey, App. No. 33401/02, ¶ 176 (June 9, 2009), <http://hudoc.echr.coe.int/eng?i=001-92945> (holding that “there has been a violation of Article 3 of the Convention as a result of the State authorities’ failure to take protective measures in the form of effective deterrence against serious breaches of applicant’s personal integrity by her husband” through domestic violence); Bevacqua and S. v. Bulgaria, App. No. 71127/01, ¶ 63 (June 12, 2008), <http://hudoc.echr.coe.int/eng?i=001-86875> (holding the authorities’ failure to impose sanctions or otherwise enforce husband’s obligation to refrain from unlawful acts related to private GBV against wife was incompatible with State’s positive obligations toward applicant and her rights); Jessica Lenahan (Gonzales) et al. v. United States, Case 12.626, Inter-Am. Comm’n H.R., Report No. 80/11, ¶ 199 (July 21, 2011) (concluding that the U.S. and the state of Colorado violated petitioner’s human rights by not enforcing a restraining order that resulted in the death of three children); Ana, Beatriz, and Celia González Pérez v. Mexico, Case 11.565, Inter-Am. Comm’n H.R., Report No. 129/99, ¶ 38 (1999) (holding multiple violations of the American Convention and the Inter-American Convention to Prevent and Punish Torture through State breach of duty to guarantee the exercise of the rights and liberties of women who were illegally detained, raped, and tortured by soldiers); Njemanze v. Nigeria, Suit No. ECW/CCJ/APP/17/14, Judgment, Community Court of Justice of the Economic Community of West African States [ECOWAS], 40-42 (Oct. 12, 2017), http://prod.courtecowas.org/wp-content/uploads/2019/01/ECW_CCJ_JUD_08_17-1.pdf (holding that human rights of four women were violated when abducted, assaulted, and unlawfully detained by law enforcement officers); Zimbabwe Human Rights NGO Forum v. Zimbabwe, Communication 245/2002, African Commission on Human and Peoples’ Rights [Afr. Comm’n H.P.R.], ¶ 160 (May 15, 2006), <https://www.globalhealthrights.org/wp-content/uploads/2013/10/Zimbabwe-HR-NGO-Forum-Zimbabwe-2006.pdf> (holding that during election violence “a State can be held complicit where it fails systematically to provide protection of violations from private actors who deprive any person of his/her human rights”).

⁵⁵ CEDAW Gen. Rec. 35, *supra* note 1.

⁵⁶ Memorandum from Lindsey Johnson to Professor Caroline Bettinger-López (Aug. 26, 2019) (on file with author).

⁵⁷ In the context human rights trainings for health care providers, please find key principles for these trainings to be meaningful identified at an expert consultation convened by the Open Society Foundations at <https://www.opensocietyfoundations.org/publications/expert-consultation-how-can-training-health-providers-be-effectively-used-promote-human>.

⁵⁸ The American Public Health Association highlights the absence of rigorous evaluation of trainings to tackle implicit bias- End Police Violence Collective, American Public Health Association (APHA), Addressing Law Enforcement Violence as a Public Health Issue: The 2018 Statement, Sec. 3d: “Training in implicit bias and crisis intervention,” <https://www.endingpoliceviolence.com/> (noting “only very limited evaluation of law enforcement training has occurred, and extant evaluations have focused on officers’ attitudes rather than on-the-job performance.” Moreover, “evidence rarely examines the impact on community experience with police or police use of force.”).

⁵⁹ Scholars and experts have repeatedly noted that the low numbers of women in law enforcement in the U.S. is both a reflection and contributing cause of gender bias. U.S. DEP’T OF JUST., OFF. OF CMTY. ORIENTED POLICING SERVS., POLICE EXEC. RSCH. F., IDENTIFYING AND PREVENTING GENDER BIAS IN LAW ENFORCEMENT RESPONSE TO SEXUAL ASSAULT AND DOMESTIC VIOLENCE: A ROUNDTABLE DISCUSSION 6 (2016), <https://cops.usdoj.gov/ric/Publications/cops-w0796-pub.pdf> (“Several law enforcement representatives noted the lack of women in law enforcement as a major challenge for agencies attempting to become more welcoming to victims of sexual assault and domestic violence.”); BRIAN A. REAVES, U.S. DEP’T OF JUST., BUREAU OF JUST. STATISTICS, LOCAL POLICE DEPARTMENTS, 2013: PERSONNEL, POLICIES, AND PRACTICES 4 (2015), <https://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf> (“In 2013, about 58,000 (12%) of the full-time sworn personnel in local police departments were female. From 2007 to 2013, female representation remained about the same.”); WOMEN IN FED. LAW ENF’T ET AL., TRANSFORMING LAW ENFORCEMENT BY CHANGING THE FACE OF POLICING—21ST CENTURY POLICING: GUIDE TO RECRUITING, HIRING, RETAINING AND PROMOTING WOMEN AND MINORITIES, WOMEN IN FEDERAL LAW ENFORCEMENT 13 (Sept. 2016), https://c83281be-d006-4394-963c-0b00f1720187.files.usr.com/ugd/39a8e7_9f395ae47c254bdea74ac89574d7307e.pdf (citing statistics, for example, that only 11.9% of full time law enforcement officers are female).

⁶⁰ Leigh Goodmark, *Hands up at Home: Militarized Masculinity and Police Officers Who Commit Intimate Partner Abuse*, 2015 BYU L. REV. 1183 (2015); *see also* Philip M. Stinson, Sr. & John Liederbach, *Fox in the Henhouse: A Study of Police Officers Arrested for Crimes Associated with Domestic and/or Family Violence*, 24 CRIM. JUST. POL'Y REV. 601 (2013).

⁶¹ Alex Roslin, *Statistics on Police Officer-Involved Domestic Violence From the "Police Wife" Blog*, POLICE WIFE: THE SECRET EPIDEMIC OF POLICE DOMESTIC VIOLENCE (Feb. 4, 2018), <http://policedomesticviolence.blogspot.com/2018/02/police-wife-book-officer-involved-domestic-violence-statistics-data.html> (surveying Australia, the Bahamas, Canada, France, Ireland, Jamaica, South Africa, Trinidad and Tobago, the United Kingdom, and the United States; only four of 52 police forces contacted outside North America responded to the survey).

⁶² ALEX ROSLIN, POLICE WIFE: THE SECRET EPIDEMIC OF POLICE DOMESTIC VIOLENCE (2nd rev. ed. 2017).

⁶³ *Id.* at 74.

⁶⁴ While this data does not provide a gender breakdown, several of the cases summarized in the report referenced male-officers raping and assaulting women-civilians. THUTHUKANI NDEBELE ET AL., *BROKEN BLUE LINE: THE INVOLVEMENT OF THE SOUTH AFRICAN POLICE FORCE IN SERIOUS AND VIOLENT CRIME IN SOUTH AFRICA* 8 (Feb. 2011), <https://irr.org.za/reports/occasional-reports/files/001%20-%20Broken%20Blue%20Line%20-11.02.2011.pdf>.

⁶⁵ Alicestine October, *'Life-and-death consequences': How police fail domestic abuse victims*, CITY PRESS (Sept. 11, 2018), <https://citypress.news24.com/News/life-and-death-consequences-how-police-fail-domestic-abuse-victims-20180911>.

⁶⁶ *Id.*

⁶⁷ *Id.* *See also* NDEBELE ET AL., *supra* note 64.

⁶⁸ U.S. DEP'T OF JUST., CIVIL RTS. DIV., *INVESTIGATION OF THE PUERTO RICO POLICE DEPARTMENT* 17 (Sept. 5, 2011), https://www.justice.gov/sites/default/files/crt/legacy/2011/09/08/prpd_letter.pdf.

⁶⁹ *See, e.g.* Albert R. Jonsen, *Do No Harm*, 88 ANNALS INTERNAL MED. 827 (1978).

⁷⁰ DV BY POLICE MODEL POLICY, *supra* note 20, at 1; INT'L ASS'N OF CHIEFS OF POLICE, *DOMESTIC VIOLENCE BY POLICE OFFICERS: CONCEPTS AND ISSUES PAPER 2* (July 2003), <https://www.theiacp.org/sites/default/files/all/d-e/DomesticViolencebyPolicePaper.pdf> [hereinafter DV BY POLICE PAPER].

⁷¹ U.S. DEP'T OF JUST., *supra* note 68, at 14; ROSLIN, *supra* note 62.

⁷² Istanbul Convention, *supra* note 2, art. 5.

⁷³ Convention of Belém do Pará, *supra* note 36, art. 7(a) (obligating States to “refrain from engaging in any act or practice of violence against women and ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation”).

⁷⁴ CEDAW, *supra* note 2, art. 2(d).

⁷⁵ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 1.

⁷⁶ Istanbul Convention, *supra* note 2, art. 50(1).

⁷⁷ Istanbul Convention, *supra* note 2, art. 15.

⁷⁸ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 30(e); *see also* CEDAW Gen. Rec. 35, *supra* note 1, ¶ 23 (“States parties are responsible for preventing such acts or omissions by their own organs and agents, including through training and the adoption, implementation and monitoring of legal provisions, administrative regulations and codes of conduct, and for investigating, prosecuting and applying appropriate legal or disciplinary sanctions, as well as providing reparation, in all cases of gender-based violence against women, including those constituting international crimes, and in cases of failure, negligence or omission on the part of public authorities.”); UNCAT, *supra* note 7, art. 10 (“Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”).

⁷⁹ Convention of Belém do Pará, *supra* note 36, art. 8.

⁸⁰ *Toradze v. Georgia*, Intervention Brief, App. No. 12699/18, Eur. Ct. H.R. (Oct. 22, 2018), <https://miami.app.box.com/v/toradze-intervention> [hereinafter Intervention Brief].

⁸¹ *Aydin v. Turkey*, App. No. 57/1996/676/866, Eur. Ct. H.R., ¶ 40 (1997) (holding an Article 3 violation when a woman was beaten repeatedly, sprayed with high pressure water jets, and military personnel raped her while in custody).

⁸² *B.S. v. Spain*, App. No. 47159/08, Eur. Ct. H.R. (2012) (holding a procedural violation of Article 3 when a Nigerian woman working as a prostitute was verbally and physically assaulted by police officers).

⁸³ *Maslova and Nalbandov v. Russia*, App. No. 839/02, Eur. Ct. H.R., ¶ 107 (2008).

⁸⁴ *Miguel Castro-Castro Prison v. Peru*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C), No. 160 (Nov. 25, 2006); *see also* *Plan de Sánchez Massacre v. Guatemala*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105 (Apr. 29, 2004).

⁸⁵ *Plan de Sánchez Massacre v. Guatemala*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105 (Apr. 29, 2004). In *Plan de Sánchez Massacre*, which involves the military rape and murder of women and girls, the Inter-American Commission of Human Rights (“IACHR”) submitted the case to the Inter-American Court of Human Rights (“IACHR”), alleging violations by Guatemala of the rights to humane treatment, judicial protection, fair trial, equal treatment, freedom of conscience and of religion, and private property, in combination with the obligation to respect rights. These allegations arose from a massacre carried out by the Guatemalan army against a primarily Mayan community. During the massacre, approximately 20 girls, ages 12 to 20, were mistreated, raped and murdered. Guatemala acknowledged its international responsibility for the massacre and withdrew any objections to the allegations; *see also* *Fernández Ortega et al. v. Mexico*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. Judgment (ser. C) No. 210 (Aug. 30, 2010) (The IACHR refers to the alleged international responsibility of the State for the “rape and torture” of Inés Fernández Ortega that took place on March 22, 2002; specifically, the “lack of due diligence in the investigation and punishment of the authors” of these facts and held that the State is responsible for the violations of the rights to personal integrity, dignity, and private life. The IACHR established that the State must effectively conduct in the common jurisdiction, with due diligence and within a reasonable period of time, the criminal investigation, and where needed, the criminal proceedings to determine those criminally responsible and to apply effectively the punishment and consequences that the law dictates); *Valentina Rosendo Cantú v. Mexico*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 216 (Aug. 31, 2010) (The IACHR referred an application to the Inter-American for responsibility of the rape and torture of Valentina Rosendo Cantú of the Me’phaa indigenous peoples. The application concerns the lack of due diligence in investigating and punishing those responsible, the effects of the facts of the case on the victim’s daughter, the failure to provide due redress to the victim and her next-of-kin, the use of the military justice system to investigate and prosecute human rights violations, and the difficulties encountered by indigenous people, women in particular, in securing access to justice and health services. The Court established that the State must continue to implement permanent training programs and courses on diligent investigation in cases of sexual violence against women, which include an ethnic and gender-based perspective.).

⁸⁶ Miguel Castro-Castro Prison v. Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 160 (Nov. 25, 2006). In *Miguel Castro-Castro Prison*, the Court discussed the Peruvian National Police and Peruvian military's deliberate and unprovoked attack on the Miguel Castro Castro Prison. In the course of this attack, several members of Sendero Luminoso and Tupac Amaru were detained, dozens of inmates were killed, and hundreds of inmates were injured. The IACHR found that the State violated the American Convention on Human Rights, the Belém do Pará and the American Convention to Prevent and Punish Torture. Moreover, the Court admitted the partial acknowledgment of international responsibility made by the State for these events. In this sense, the IACHR also decided that the State should, within a reasonable period of time, effectively investigate the facts denounced in the case, identify, and, in its case, punish those responsible, for which it must: (1) open the corresponding proceedings and effectively carry out the ongoing criminal proceedings as well as any new ones; and (2) adopt all the measures necessary to elucidate all the facts of the present case, in order to determine the intellectual and material responsibility of those who participated in said violation and publicly diffuse the results of these criminal proceedings.

⁸⁷ *Id.*

⁸⁸ Colby Lynne Valentine et al., *Correctional Officers and Domestic Violence: Experiences and Attitudes*, 27 J. FAM. MED. 531, 531-545 (2012) (Florida statewide data from 710 officers revealed that 33% of respondents knew about correctional officers who had committed unreported violence; 30% reported that they had directly experienced domestic violence as children; and over 11% reported that they had been physically violent with an intimate partner); *see also* Intervention Brief, *supra* note 80, Section II (“Officer-Perpetrated GBV is a Global Concern, Requiring an Explicit Focus in Law and Policy to Address.”).

⁸⁹ NAT’L CTR. FOR WOMEN & POLICING, POLICE FAMILY VIOLENCE FACT SHEET (2013), <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/132808> [hereinafter POLICE FAMILY VIOLENCE FACT SHEET].

⁹⁰ C.L. Issley, *Countries Where the Police Force Does Not Carry Firearms*, WORLDATLAS (June 12, 2018), <https://www.worldatlas.com/articles/countries-where-the-police-force-does-not-carry-firearms.html> (“Unlike in the majority of the world, in a small group of countries, including Ireland, Norway, Iceland, New Zealand, and the United Kingdom, it is official policy for local law enforcement officers to conduct their duties without carrying a firearm.”).

⁹¹ POLICE FAMILY VIOLENCE FACT SHEET, *supra* note 89.

⁹² Tamara Rice Lave, *Police Sexual Violence*, in THE CAMBRIDGE HANDBOOK OF POLICING IN THE UNITED STATES (2019).

⁹³ DV BY POLICE MODEL POLICY, *supra* note 17, at 1. *See also* INT’L ASS’N OF CHIEFS OF POLICE, ADDRESSING SEXUAL OFFENSES AND MISCONDUCT BY LAW ENFORCEMENT: EXECUTIVE GUIDE (June 2011), <https://www.theiacp.org/sites/default/files/all/a/AddressingSexualOffensesandMisconductbyLawEnforcementExecutiveGuide.pdf>; THOMAS TREMBLAY ET AL., END VIOLENCE AGAINST WOMEN INT’L (EVAWI), MODEL POLICY RESOURCE: LAW ENFORCEMENT SEXUAL MISCONDUCT PREVENTION AND ACCOUNTABILITY (Feb. 2020), https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESMP-Prevention-and-Accountability.pdf; INT’L ASS’N OF CHIEFS OF POLICE, INTIMATE PARTNER VIOLENCE RESPONSE POLICY AND TRAINING CONTENT GUIDELINES (Aug. 2018), <https://www.theiacp.org/sites/default/files/all/i-j/IACPIntimatePartnerViolenceResponsePolicyandTrainingGuidelines2017.pdf>.

⁹⁴ DV BY POLICE MODEL POLICY, *supra* note 20, at 5.

⁹⁵ DV BY POLICE MODEL POLICY, *supra* note 20, at 6.

⁹⁶ DV BY POLICE MODEL POLICY, *supra* note 20, at 1.

⁹⁷ “The secondary victimization refers to the ‘victim-blaming attitudes, behaviors, and practices...which result in additional trauma for sexual assault survivors.’” Lave, *supra* note 92, at 4 (citing Rebecca Campbell & Sheela Raja, *Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence*, 14 VIOLENCE AND VICTIMS 261 (1999)).

⁹⁸ Alison Howell, *The Demise of PTSD: From Governing through Trauma to Governing Resilience*, 37 ALTS.: GLOB., LOC., POL. 214 (2012).

- ⁹⁹ HOWARD PINDERHUGHES ET AL., PREVENTION INST., ADVERSE COMMUNITY EXPERIENCES AND RESILIENCE: A FRAMEWORK FOR ADDRESSING AND PREVENTING COMMUNITY TRAUMA 4, 11 (2015), <https://www.preventioninstitute.org/sites/default/files/publications/Adverse%20Community%20Experiences%20and%20Resilience.pdf>; see also U.S. DEP'T OF HEALTH & HUM. SERVS., SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN. (SAMHSA), SAMHSA'S CONCEPT OF TRAUMA AND GUIDANCE FOR A TRAUMA-INFORMED APPROACH 17 (July 2014), https://ncsacw.samhsa.gov/userfiles/files/SAMHSA_Trauma.pdf.
- ¹⁰⁰ JUDITH HERMAN, TRAUMA AND RECOVERY: THE AFTERMATH OF VIOLENCE--FROM DOMESTIC ABUSE TO POLITICAL TERROR (1992).
- ¹⁰¹ *Id.*
- ¹⁰² HEALTH AND HUM. RTS. INFO, MENTAL HEALTH AND GENDER-BASED VIOLENCE: HELPING SURVIVORS OF SEXUAL VIOLENCE IN CONFLICT: A TRAINING MANUAL 14 (2014), https://www.law.berkeley.edu/wp-content/uploads/2015/10/HHRI_Training-Manual_Mental-Health-for-Providers_SV-in-Conflict.pdf.
- ¹⁰³ *Id.*
- ¹⁰⁴ BC SOCIETY OF TRANSITION HOUSES, REPORT ON VIOLENCE AGAINST WOMEN, MENTAL HEALTH AND SUBSTANCE USE 5 (Feb. 2011), https://canadianwomen.org/wp-content/uploads/2017/09/PDF-VP-Resources-BCSTH-CWF-Report_Final_2011_-Mental-Health_Substance-use.pdf.
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- ¹⁰⁶ Nathaniel Vincent Mohatt et al., *Historical Trauma as Public Narrative: A Conceptual Review of How History Impacts Present-day Health*, 106 SOC. SCIENCE & MED. 128, 128 (2014); Tori DeAngelis, *The Legacy of Trauma*, 50 AM. PSYCH. ASS'N. 36 (2019); Molly S. Castlloe, *How Trauma Is Carried Across Generations*, PSYCHOLOGY TODAY (May 28, 2012), <https://www.psychologytoday.com/us/blog/the-me-in-we/201205/how-trauma-is-carried-across-generations>; Renée Hoffart & Nicholas A. Jones, *Intimate Partner Violence and Intergenerational Trauma Among Indigenous Women*, 28 INT'L CRIM. JUST. 25, 27 (2018).
- ¹⁰⁷ Helen Leslie, *Healing the Psychological Wounds of Gender-Related Violence in Latin America: A Model for Gender-Sensitive Work in Post-Conflict Contexts* 9 GENDER & DEV. 50, 53 (2001).
- ¹⁰⁸ Alexander L. Veerman & R. Ruard Ganzevoort, *Communities Coping with Collective Trauma*, ALEXANDER VEERMAN (Nov. 12, 2013), <https://alexanderveerman.wordpress.com/2013/11/12/communities-coping-with-collective-trauma/>.
- ¹⁰⁹ *Id.*
- ¹¹⁰ Craig Lambert, *Trails of Tears, and Hope*, HARV. MAG., Mar.-Apr. 2008.
- ¹¹¹ DeAngelis, *supra* note 106; Castlloe, *supra* note 106; Hoffart & Jones, *supra* note 106.
- ¹¹² Bushra Sabri & Douglas A. Granger, *Gender-Based Violence and Trauma in Marginalized Populations of Women: Role of Biological Embedding and Toxic Stress*, 39 HEALTH CARE FOR WOMEN INT'L 1038, 1038 (2018).
- ¹¹³ UNITED NATIONS CHILD.'S FUND (UNICEF) ET AL., BREAKING THE SILENCE ON VIOLENCE AGAINST INDIGENOUS GIRLS, ADOLESCENTS AND YOUNG WOMEN 19 (May 2013), https://www.unfpa.org/sites/default/files/resource-pdf/VAIWG_FINAL.pdf.
- ¹¹⁴ U.S. DEP'T OF HEALTH & HUM. SERVS., *supra* note 99, at 9.
- ¹¹⁵ *Id.* at 10–11; CEDAW Gen. Rec. 35, *supra* note 1, ¶ 28; INT'L ASS'N OF CHIEFS OF POLICE, SEXUAL ASSAULT INCIDENT REPORTS: INVESTIGATIVE STRATEGIES 4 (2018), <https://www.theiacp.org/sites/default/files/all/s/SexualAssaultGuidelines.pdf>; see also *Sexual Assault Supplemental Report Form*, INT'L ASS'N OF CHIEFS OF POLICE (Jan. 19, 2016), <https://www.theiacp.org/resources/document/sexual-assault-supplemental-report-form>.

¹¹⁶ Altovise Love-Craighead, *Building Trust Through Trauma-Informed Policing*, VERA INST. OF JUST. (Mar. 20, 2015), <https://www.vera.org/blog/police-perspectives/building-trust-through-trauma-informed-policing>.

¹¹⁷ “The secondary victimization refers to the ‘victim-blaming attitudes, behaviors, and practices...which result in additional trauma for sexual assault survivors.” Lave, *supra* note 92, at 4 (citing Rebecca Campbell & Sheela Raja, *Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence*, 14 VIOLENCE AND VICTIMS 261 (1999)).

¹¹⁸ Love-Craighead, *supra* note 116.

¹¹⁹ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 38.

¹²⁰ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 38(b).

¹²¹ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 30(e)(ii).

¹²² Istanbul Convention, *supra* note 2, art. 15. The CEDAW Committee likewise calls for “mandatory, recurrent and effective capacity-building, education and training of ... law enforcement officers ... to adequately prevent and address gender-based violence against women.” CEDAW Gen. Rec. 35, *supra* note 1, ¶ 30(e); *see also* UNCAT, *supra* note 7, art. 10 (“Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”). Article 8 of the Convention of Belém do Pará calls upon States “to promote the education and training of all those involved in the administration of justice, police and other law enforcement” to advance “prevention, punishment and eradication of violence against women.” Convention of Belém do Pará, *supra* note 36, art. 8. End Violence Against Women International (EVAWI) produced a report for trauma-informed training purposes including post-investigation phases like cross-examination. HERB TANNER, END VIOLENCE AGAINST WOMEN INT’L, START BY BELIEVING TO IMPROVE RESPONSES TO SEXUAL ASSAULT AND PREVENT GENDER BIAS (Aug. 2017), <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=919>.

¹²³ Human Rights Council, Rashida Manjoo (Special Rapporteur), *Report of the Special Rapporteur on violence against women, its causes and consequences*, ¶ 33, U.N. Doc. A/HRC/29/27 (June 10, 2015).

¹²⁴ DOJ GUIDANCE, *supra* note 27, at 12.

¹²⁵ JOANNE ARCHAMBAULT & KIMBERLY A. LONSWAY, END VIOLENCE AGAINST WOMEN INT’L, INTERVIEWING THE VICTIM: TECHNIQUES BASED ON THE REALISTIC DYNAMICS OF SEXUAL ASSAULT 10 (Feb. 2006), <http://evaw.threegate.com/Library/DocumentLibraryHandler.ashx?id=657>.

¹²⁶ DOJ GUIDANCE, *supra* note 27, at 13.

¹²⁷ DOJ GUIDANCE, *supra* note 27, at 14.

¹²⁸ DOJ GUIDANCE, *supra* note 27, at 15.

¹²⁹ DOJ GUIDANCE, *supra* note 27, at 14.

¹³⁰ DOJ GUIDANCE, *supra* note 27, at 13.

¹³¹ DOJ GUIDANCE, *supra* note 27, at 12, 14.

¹³² DOJ GUIDANCE, *supra* note 27, at 14.

¹³³ ARCHAMBAULT & LONSWAY, *supra* note 125, at 64.

¹³⁴ Russell Strand, *Shifting the Paradigm for Investigating Trauma Victimization*, Battered Women’s Just. Project (Mar. 2014), <https://www.bwjp.org/resource-center/resource-results/shifting-the-paradigm-for-investigating-trauma-victimization.html>.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 28.

¹³⁸ Love-Craighead, *supra* note 116.

¹³⁹ *Id.*

¹⁴⁰ INT'L ASS'N OF CHIEFS OF POLICE, *supra* note 21.

¹⁴¹ *Id.*

¹⁴² *Introducing the Trauma-Informed Practice (TIP) Scales for DV Programs*, BATTERED WOMEN'S JUST. PROJECT (Dec. 2017), <https://www.bwjp.org/resource-center/resource-results/introducing-the-trauma-informed-practice-scales-for-dv-programs.html>. Although it does not target law enforcement, this kind of holistic, evaluative tool could be developed to assess the effectiveness of police department procedures.

¹⁴³ DOJ GUIDANCE, *supra* note 27, at 12.

¹⁴⁴ *Id.*

¹⁴⁵ CHRIS J SCALLON & TALIA PECKERMAN, COUNCIL OF STATE GOV'TS JUST. CTR., *TRAUMA-INFORMED POLICING: ADDRESSING THE PREVALENCE OF TRAUMA IN LAW ENFORCEMENT ENCOUNTERS* 11 (Aug. 16, 2017), <http://www.citinternational.org/resources/Documents/Trauma%20Informed%20Policing.pdf>.

¹⁴⁶ Love-Craighead, *supra* note 116.

¹⁴⁷ DOJ GUIDANCE, *supra* note 27, at 16.

¹⁴⁸ INT'L ASS'N OF CHIEFS OF POLICE, *INVESTIGATING SEXUAL ASSAULTS: CONCEPTS AND ISSUES PAPER 2* (Nov. 1999), <http://evaw.threegate.com/Library/DocumentLibraryHandler.ashx?id=328>.

¹⁴⁹ *Id.* at 13.

¹⁵⁰ *Id.*

¹⁵¹ POLICE EXEC. RSCH. F., *IMPROVING THE POLICE RESPONSE TO SEXUAL ASSAULT 1* (Mar. 2012), https://www.policeforum.org/assets/docs/Critical_Issues_Series/improving%20the%20police%20response%20to%20sexual%20assault%202012.pdf.

¹⁵² INT'L ASS'N OF CHIEFS OF POLICE, *supra* note 148, at 13; see also POLICE EXEC. RSCH. F., *supra* note 151, at iv (noting that “improper unfounding of sexual assault cases remains a serious issue in many cities”).

¹⁵³ Human Rights Council, Dubravka Šimonovic (Special Rapporteur), *Report of the Special Rapporteur on violence against women, its causes and consequences*, U.N. Doc. A/HRC/35/30 (June 13, 2017).

¹⁵⁴ Comm. on the Elimination of Discrimination against Women, *Report on Mexico produced by the Comm. on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, ¶ 275, U.N. Doc. CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005).

¹⁵⁵ *Id.*

¹⁵⁶ Human Rights Council Res. 23/25, U.N. Doc. A/HRC/23/L.28 (June 11, 2013).

¹⁵⁷ ICCPR, *supra* note 2, art. 2(3).

¹⁵⁸ ECHR, *supra* note 2, art. 13 (“Everyone whose rights and freedoms as set forth in th[e] Convention are violated shall have an effective remedy before a national authority.”).

¹⁵⁹ Convention of Belém do Pará, *supra* note 36, art. 7(g); *see also* Maputo Protocol, *supra* note 2, art. 25 (“States Parties shall undertake to: (a) provide for appropriate remedies to any woman whose rights or freedoms, as herein recognised, have been violated...”).

¹⁶⁰ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 24.2 (“Article 2 (e) of the Convention explicitly provides that States parties are to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. That obligation, frequently referred to as an obligation of due diligence, underpins the Convention as a whole and accordingly States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women, including actions taken by corporations operating extraterritorially.”); *see also* Comm. on Econ., Soc. and Cultural Rights, General comment No. 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights), ¶ 27, U.N. Doc. E/C.12/2005/4 (Aug. 11, 2005) (“States parties must take appropriate measures to eliminate violence against men and women and act with due diligence to prevent, investigate, mediate, punish and redress acts of violence against them by private actors.”).

¹⁶¹ Angela González Carreño v. Spain, Communication No. 47/2012, U.N. Doc. CEDAW/C/58/D/47/2012 (Aug. 15, 2014); *see also* M.W. v. Denmark, Communication No. 46/2012, ¶ 5.8, U.N. Doc. CEDAW/C/63/D/46/2012 (Mar. 21, 2016) (holding that “the State party ha[d] failed to exercise due diligence in preventing, investigating and punishing the acts of violence and in protecting the author and [her son] before and after the kidnapping); A.T. v. Hungary, Communication No. 2/2003, ¶ 9(2), U.N. Doc. CEDAW/C/32/D/2/2003 (Jan. 26, 2005) (citing CEDAW General Recommendation 19 for the proposition that States may 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”); Fernández Ortega et al. v. Mexico, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. Judgment (ser. C) No. 210 (Aug. 30, 2010) (“The State must effectively conduct in the common jurisdiction, with due diligence and within a reasonable period of time, the criminal investigation, and where needed, the criminal proceedings to determine those criminally responsible and to effectively apply the punishment and consequences that the law dictates...”); Valentina Rosendo Cantú v. Mexico, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 216 (Aug. 31, 2010) (establishing in the judgement “that the investigation of the rape of Mrs. Rosendo Cantú [had] not yet been conducted with due diligence or in the appropriate jurisdiction, and therefore [that] Mexico ha[d] violated the rights to a fair trial and to judicial protection established in Articles 8 and 25 of the American Convention”).

¹⁶² Istanbul Convention, *supra* note 2, art. 5(d) (“Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.”); Convention of Belém do Pará, *supra* note 36, art. 7(b) (obligating States to undertake to “apply due diligence to prevent, investigate and impose penalties for violence against women”).

¹⁶³ Njemanze v. Nigeria, Suit No. ECW/CCJ/APP/17/14, Judgment, Community Court of Justice of the Economic Community of West African States [ECOWAS], 39 (Oct. 12, 2017).

¹⁶⁴ Jessica Lenahan (Gonzales) et al. v. United States, Case 12.626, Merits, Inter-Am. Comm’n. H.R., Report No. 80/11 OEA/Ser.L/V/II, doc. 69, ¶ 178, 215 (July 21, 2011) (“The Commission also considers that when there are State failures, negligence and/or omissions to protect women from imminent acts of violence, the State also has the obligation to investigate systemic failures to prevent their repetition in the future. This involves an impartial, serious and exhaustive investigation of the State structures that were involved in the enforcement of a protection order, including a thorough inquiry into the individual actions of the public officials involved. States must hold public officials accountable – administratively, disciplinarily or criminally - when they do not act in accordance with the rule of law.”).

¹⁶⁵ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 26(b).

¹⁶⁶ As explained by Professor Dinah Shelton, “[l]ike remedies in private law cases, human rights remedies must aim to deter wrongful behaviour. Prevention of violations is a major focus of all human rights institutions. To achieve this, it may be necessary to augment the level of the remedy when there is corporate or institutional rather than individual responsibility.” DINAH SHELTON, REMEDIES IN INTERNATIONAL HUMAN RIGHTS LAW 22 (3d ed. 2015).

¹⁶⁷ Jessica Lenahan (Gonzales) et al. v. United States, Case 12.626, Merits, Inter-Am. Comm’n. H.R., Report No. 80/11 OEA/Ser.L/V/II, doc. 69, ¶ 201.6, 215 (July 21, 2011).

¹⁶⁸ González et al. (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 205 (Nov. 16, 2009); *see also* Ruth Rubio-Marín & Clara Sandoval, *Engendering the Reparations Jurisprudence of the Inter-American Court of Human Rights: The Promise of the Cotton Field Judgement*, 33 HUM. RTS. Q. 1062 (2011) (discussing specifically the concept of “transformative remedies” as developed by the Inter-American Court of Human Rights in the *Cotton Field* case).

¹⁶⁹ González et al. (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 205, ¶ 450 (Nov. 16, 2009).

¹⁷⁰ *Id.* at ¶ 451.

¹⁷¹ Istanbul Convention, *supra* note 2, art. 49(2); *see also* CEDAW Gen. Rec. 35, *supra* note 1, ¶ 32(a) (recommending that States implement measures to “[e]nsure effective access for victims to courts and tribunals and that the authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and, as appropriate, ex officio prosecution to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner”); Belém do Pará Convention, *supra* note 36, art. 7(b) (obligating States to undertake to “apply due diligence to prevent, investigate and impose penalties for violence against women”).

¹⁷² Maria da Penha v. Brazil, Case 12.051, Inter-Am. Comm’n H.R., Report No. 54/01, OEA/Ser.L/V/II.111 doc. 20 rev., ¶ 61 (2000).

¹⁷³ Elizaveta Perova & Sarah Anne Reynolds, *Women’s police stations and intimate partner violence: Evidence from Brazil*, 174 SOC. SCI. & MED. 188, 188–190 (2017).

¹⁷⁴ X and Y v. Georgia, Communication 24/2009, ¶ 9.7, U.N. Doc. CEDAW/C/61/D/24/2009 (Aug. 25, 2015).

¹⁷⁵ Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STANFORD L. REV. 1241 (1991); Leigh Goodmark, *Reframing Domestic Violence Law and Policy: An Anti-Essentialist Proposal*, 31 WASH. U. J. L. & POL’Y 39 (2009).

¹⁷⁶ DONNA COKER, SANDRA PARK, JULIE GOLDSCHIED, TARA NEAL, & VALERIE HALSTEAD, RESPONSES FROM THE FIELD: SEXUAL ASSAULT, DOMESTIC VIOLENCE, AND POLICING 1 (2015), https://www.aclu.org/sites/default/files/field_document/2015.10.20_report_-_responses_from_the_field.pdf; Crenshaw, *supra* note 175.

¹⁷⁷ DOJ GUIDANCE, *supra* note 27, at 7.

¹⁷⁸ U.S. DEP’T OF JUST., OFFICE ON VIOLENCE AGAINST WOMEN, THE IMPACT OF INCARCERATION AND MANDATORY MINIMUMS ON SURVIVORS: EXPLORING THE IMPACT OF CRIMINALIZING POLICIES ON AFRICAN AMERICAN WOMEN AND GIRLS (January 2017), <https://www.justice.gov/ovw/page/file/926631/download>.

¹⁷⁹ Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989).

¹⁸⁰ Johanna E. Bond, *Intersecting Identities and Human Rights: The Example of Romani Women’s Reproductive Rights*, 5 GEO. J. GENDER & L. 897, 898 (2004); *see also* Johanna E. Bond, *International Intersectionality: A Theoretical and Pragmatic Exploration of Women’s International Human Rights Violations*, 52 EMORY L.J. 71, 76-77 (2003) (recommending, among other things, a pragmatic restructuring of international bodies that would facilitate “recognition of ... human rights abuses occurring among multiple axes of identity such as race, ethnicity, class, gender, religion, and sexual orientation”); Megan Louise Pearce, *Gendering the Compliance Agenda: Feminism, Human Rights and Violence Against Women*, 21 CARDOZO J.L. & GENDER 393, 400 (2015) (“The second major part of the feminist critique highlights how international human rights law is unable to respond adequately to complex structural and intersectional causes of violence against women.”).

¹⁸¹ Berta Esperanza Hernandez-Truyol, *Women’s Rights as Human Rights—Rules, Realities and the Role of Culture: A Formula for Reform*, 21 BROOK. J. INT’L L. 605, 606 (1996).

¹⁸² Comm. on the Elimination of Discrimination against Women, General Recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, U.N. Doc. HRI/GEN/1/Rev.7, 284 (May 12, 2004); *see also* Kell v. Canada, Communication No. 19/2008, ¶ 10.2, U.N. Doc. CEDAW/C/51/D/19/2008 (Apr. 27, 2012) (“The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, and sexual orientation and gender identity.”); Gauthier de Beco, *Protecting the Invisible: An Intersectional Approach to International Human Rights Law*, 17 Hum. Rts. L. Rev. 633 (2017) (analyzing intersectionality in international human rights law).

¹⁸³ Comm. on the Elimination of Discrimination against Women, General recommendation No. 33 on women’s access to justice, ¶ 8, U.N. Doc. CEDAW/C/GC/33 (Aug. 3, 2015). General Recommendation 33 further identifies other factors that make it more difficult for women to gain access to justice as including “illiteracy, trafficking, armed conflict, status as an asylum seeker, internal displacement, statelessness, migration, being a female head of household, widowhood, living with HIV, deprivation of liberty, criminalization of prostitution, geographical remoteness and stigmatization of women fighting for their rights.” *Id.* at ¶ 9; *see also* R. P. B. v. The Philippines, Communication No. 34/2011, ¶ 8.3, U.N. Doc. CEDAW/C/57/D/34/2011 (Mar. 12, 2014) (recalling “general recommendation No. 18, where [the Committee] observed that ‘disabled women are considered as a vulnerable group’, ‘who suffer from a double discrimination linked to their special living conditions’” and emphasizing “that it is crucial to ensure that women with disabilities enjoy effective protection against sex and gender-based discrimination by States parties and have access to effective remedies.”).

¹⁸⁴ Comm. on the Elimination of Racial Discrimination, General recommendation No. 25 on gender-related dimensions of racial discrimination (Mar. 20, 2000), https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/1_Global/INT_CERD_GEC_7497_E.doc.

¹⁸⁵ Human Rights Council, Victor Madrigal-Borloz (Independent Expert), *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, ¶ 23, U.N. Doc. A/HRC/38/43 (May 11, 2018).

¹⁸⁶ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 12.

¹⁸⁷ Comm. on the Elimination of Discrimination against Women, *Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, ¶ 200, U.N. Doc. CEDAW/C/OP8/CAN/1 (Mar. 30, 2015).

¹⁸⁸ Kell v. Canada, Communication No. 19/2008, ¶ 10.2, U.N. Doc. CEDAW/C/51/D/19/2008 (Apr. 27, 2012).

¹⁸⁹ *Id.*

¹⁹⁰ R. P. B. v. The Philippines, Communication No. 34/2011, U.N. Doc. CEDAW/C/57/D/34/2011 (Mar. 12, 2014).

¹⁹¹ *Id.*

¹⁹² Convention of Belém do Pará, *supra* note 36, art. 9; *see also* Istanbul Convention, *supra* note 2, art. 12(3) (“Any measures taken pursuant to this chapter shall take into account and address the specific needs of persons made vulnerable by particular circumstances and shall place the human rights of all victims at their centre.”).

¹⁹³ Convention of Belém do Pará, *supra* note 36, art. 9; *see also* Istanbul Convention, *supra* note 2, art. 4(3) (“The implementation of the provisions of this Convention . . . shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.”).

¹⁹⁴ Jessica Lenahan (Gonzales) et al. v. United States, Case 12.626, Merits, Inter-Am. Comm’n. H.R., Report No. 80/11, OEA/Ser.L/V/II, doc. 69 ¶ 127 (July 21, 2011).

¹⁹⁵ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 1 (“discrimination against women ... includes gender-based violence, that is, ‘violence which is directed against a woman because she is a woman or that affects women disproportionately;’ and, as such is a violation of their human rights.”); *see also* Istanbul Convention, *supra* note 2, art. 3(a) (“‘violence against women’ is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”); Convention of Belém do Pará, *supra* note 36, art. 1; Maputo Protocol, *supra* note 2, art. 1 (“‘Violence against women’ means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts.”).

¹⁹⁶ *Glossary & Thesaurus: economic violence*, EUR. INST. FOR GENDER EQUAL., <https://eige.europa.eu/thesaurus/terms/1096> (last visited Dec. 20, 2020).

¹⁹⁷ *Domestic Violence*, DOMESTIC ABUSE SHELTER, <https://domesticabuseshelter.org/domestic-violence> (last visited Dec. 20, 2020).

¹⁹⁸ CEDAW Gen. Rec. 19, *supra* note 2, ¶ 23.

¹⁹⁹ UN WOMEN, ECONOMIC EMPOWERMENT OF WOMEN 2 (2013), http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/12/un%20women_ee-thematic-brief_us-web%20pdf.pdf?la=en.

²⁰⁰ *Facts and Figures: Economic Empowerment*, UN WOMEN, <http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures> (last updated July 2018).

²⁰¹ CEDAW, *supra* note 2, art. 13; *see also* CEDAW, *supra* note 2, art. 11 (recognizing “[t]he right to work as an inalienable right of all human beings”).

²⁰² Istanbul Convention, *supra* note 2, art. 18(3).

²⁰³ Human Rights Council, Rashida Manjoo (Special Rapporteur), Report of the Special Rapporteur on violence against women, its causes and consequences, ¶ 42, U.N. Doc. A/HRC/17/26 (May 2, 2011).

²⁰⁴ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 34(a)-(c). CEDAW General Recommendation 35 further references “intersecting forms of discrimination” with regards to GBV 11 times.

²⁰⁵ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 34(a)-(c).

²⁰⁶ CEDAW Gen. Rec. 35, *supra* note 1, ¶¶ 23, 30(e)(ii).

²⁰⁷ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 30(e)(ii); *see also* CEDAW Gen. Rec. 35, *supra* note 1, ¶ 23 (highlighting the need for training, legal provisions, and administrative regulations and codes of conduct that take into consideration “the diversity of women and the risks of intersecting forms of discrimination.”).

²⁰⁸ *Jallow v. Bulgaria*, Communication No. 32/2011, ¶ 8.8, U.N. Doc. CEDAW/C/52/D/32/2011 (Aug. 28, 2012).

²⁰⁹ *Id.* at ¶ 8.6.

²¹⁰ The country-specific reports that will follow this overall Human Rights Framework report will offer national and sub-national level recommendations.

²¹¹ Mohatt et al., *supra* note 106, at 128; DeAngelis, *supra* note 106; Castellote, *supra* note 106; Hoffart & Jones, *supra* note 106, at 27.

²¹² Leslie, *supra* note 107, at 53.

²¹³ Veerman, *supra* note 108.

²¹⁴ *Id.*

²¹⁵ CEDAW, *supra* note 2, art. 1.

²¹⁶ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 14.

²¹⁷ Human Rights Council, *Report of the Working Group on the issue of discrimination against women in law and in practice*, ¶¶ 30-33, U.N. Doc. A/HRC/41/33 (May 15, 2019).

²¹⁸ See Comm. on the Elimination of Discrimination against Women, *General recommendation No. 24: Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women – women and health*, ¶ 31(b), U.N. Doc. A/54/38/Rev. 1 (1999) (recommending “the removal of all barriers to women’s access to health services, education, and information, including in the area of sexual and reproductive health”).

²¹⁹ Human Rights Council, *Report of the Working Group on the issue of discrimination against women in law and in practice*, ¶ 18, U.N. Doc. A/HRC/29/40 (Apr. 2, 2015).

²²⁰ JAMES L. CAVALLARO ET AL., DOCTRINE, PRACTICE, AND ADVOCACY IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM 575 (2019) (citing Ruth Rubio-Marín & Clara Sandoval, *Engendering the Reparations Jurisprudence of the Inter-American Court of Human Rights: The Promise of the Cotton Field Judgement*, 33 33 HUM. RTS. Q. 1062, 1083 (2011)); see also González et al. (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 205, ¶ 392 (Nov. 16, 2009).

²²¹ INTER-AMERICAN COMM’N ON HUM. RTS., ACCESS TO JUSTICE FOR WOMEN VICTIMS OF SEXUAL VIOLENCE IN MESOAMERICA xiii (Dec. 9, 2011), <https://www.oas.org/en/iachr/women/docs/pdf/WOMEN%20MESOAMERICA%20ENG.pdf>.

²²² CEDAW Gen. Rec. 35, *supra* note 1, ¶ 16; see also Fourth World Conference on Women, Beijing Declaration and Platform for Action, ¶ 224, U.N. Doc. A/CONF.177/Rev.1 (1996); *Gender-based violence (GBV) by definition*, EUR. COMM’N, https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en (last visited Apr. 25, 2021).

²²³ Istanbul Convention, *supra* note 2, art. 3(b); see also *Domestic Violence and the Prohibition of Torture and Ill-Treatment*, UNITED NATIONS OFF. COMM’R, https://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/DomesticViolenceProhibitionTorture.aspx#_ftn1 (last visited Apr. 27, 2021); *Glossary*, CTR. FOR WOMEN, PEACE, & SEC., <https://blogs.lse.ac.uk/vaw/glossary/> (last visited Apr. 27, 2021); G.A. Res. 58/147, Elimination of Domestic Violence Against Women (Dec. 22, 2003); UNITED NATIONS EDUC., SCI., & CULTURAL ORG., REPORTING ON VIOLENCE AGAINST WOMEN AND GIRLS: A HANDBOOK FOR JOURNALISTS 94 (2019), <https://unesdoc.unesco.org/ark:/48223/pf0000371524/PDF/371524eng.pdf.multi>; Comm. on the Elimination of Discrimination against Women, *Concluding observations on the combined fifth and sixth periodic reports of Estonia*, ¶ 19(b), U.N. Doc. CEDAW/C/EST/CO/5-6 (Nov. 18, 2016) (noting that domestic violence should include “economic and psychological violence.”).

²²⁴ Victims of domestic violence are “primarily female.” ICESCR Gen. Comment 16, *supra* note 48, ¶ 27.

²²⁵ Nils Melzer (Special Rapporteur), *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, ¶ 1, U.N. Doc. A/74/148 (July 12, 2019) (“Domestic violence is perpetrated every day against millions of children, women and men worldwide. It is experienced by all generations, nationalities, cultures and religions and on all socioeconomic and educational levels of society.”); Istanbul Convention, *supra* note 2, at p.mbl. (“Recognising ... that men may also be victims of domestic violence; Recognising that children are victims of domestic violence, including as witnesses of violence in the family...”); *What Is Domestic Abuse?*, UNITED NATIONS, <https://www.un.org/en/coronavirus/what-is-domestic-abuse> (last visited Apr. 23, 2021) (“Anyone can be a victim of domestic violence, regardless of age, race, gender, sexual orientation, faith or class.”); *Children’s Rights: Domestic Violence*, COUNCIL OF EUR., <https://www.coe.int/en/web/children/domestic-violence> (last visited Apr. 24, 2021) (“Domestic violence is a violation of children’s rights whether they are victims themselves or witnesses of domestic violence in the family.”); Human Rights Council Res. 17/19, *Human rights, sexual orientation and gender identity*, U.N. Doc. A/HRC/RES/17/19 (July 14, 2011) (expressing “grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity”); U.N. High Comm’r for Human Rights, *Discrimination and violence against individuals based on their sexual orientation and gender identity*, ¶ 21, U.N. Doc. A/HRC/29/23 (May 4, 2015) (“[Homophobic and transphobic] attacks constitute a form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge gender stereotypes.”).

²²⁶ See Claudia Garcia-Moreno et al., *Prevalence of intimate partner violence: findings from the WHO multi-country study on women's health and domestic violence*, 368 LANCET 1260, 1260 (2006) (“Violence against women is a serious human rights abuse and public health issue.”); Heidi D. Nelson, *Screening for domestic violence—bridging the evidence gaps*, 364 LANCET 22, 22 (2004) (“Domestic violence is more than a terrible crime that lies outside the doctor’s domain; it is a serious health problem that presents in many ways.”); *Intimate Partner Violence*, CTRS. DISEASE CONTROL PREVENTION, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html> (last updated Oct. 9, 2020) (“Intimate partner violence (IPV) is a serious, preventable public health problem that affects millions of Americans.”).

²²⁷ Human Rights Council, *supra* note 219, at ¶ 35.

²²⁸ UNITED NATIONS OFF. OF THE HIGH COMM’R ON HUM. RTS., GENDER-RELATED KILLINGS OF WOMEN AND GIRLS 1 (Aug. 2013), https://www.ohchr.org/Documents/Issues/Women/WRGS/OnePagers/Gender_motivated_killings.pdf.

²²⁹ UNITED NATIONS OFF. OF THE HIGH COMM’R ON HUM. RTS. ET AL., LATIN AMERICAN MODEL PROTOCOL FOR THE INVESTIGATION OF GENDER-RELATED KILLINGS OF WOMEN (FEMICIDE/FEMINICIDE) 13–14 (2014), <https://www.ohchr.org/Documents/Issues/Women/WRGS/LatinAmericanProtocolForInvestigationOfFemicide.pdf>.

²³⁰ *Id.* at 14.

²³¹ *Id.*

²³² *Id.*

²³³ *Gender Perspectives*, COUNCIL OF EUR., <https://www.coe.int/en/web/european-youth-foundation/gender-mainstreaming> (last visited May 6, 2021); *Gender and Genetics*, WORLD HEALTH ORG., <https://www.who.int/genomics/gender/en/> (last visited May 10, 2021).

²³⁴ WORLD HEALTH ORG., *supra* note 233.

²³⁵ WORLD HEALTH ORG., *supra* note 233.

²³⁶ Goldscheid, *supra* note 45, at 307.

²³⁷ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 14; *see also* Istanbul Convention, *supra* note 2, art. 3(a); Convention of Belém do Pará, *supra* note 36, art. 1; Maputo Protocol, *supra* note 2, art. 1.

²³⁸ *Discriminatory laws and practices...*, *supra* note 47, ¶ 20; *see also* Human Rights Council Res. 17/19, *supra* note 47; Human Rights Council Res. 27/32, *supra* note 47; *Discrimination and violence against individuals...*, *supra* note 47; Human Rights Council Res. 32/2, *supra* note 47.

²³⁹ *See* Human Rights Council, *Report of the Working Group on the issue of discrimination against women in law and in practice*, U.N. Doc. A/HRC/41/33, ¶¶ 22, 80 (May 15, 2019); *see also* Naomi Ellemers, *Gender Stereotypes*, 69 ANN. REV. PSYCHOL. 275, 278 (2018) (“Gender stereotypes exaggerate the perceived implications of categorizing people by their gender and offer an oversimplified view of reality. They reinforce perceived boundaries between women and men and seemingly justify the symbolic and social implications of gender for role differentiation and social inequality.”).

²⁴⁰ Human Rights Council, *supra* note 239, ¶¶ 25, 31, 56; *see also* Ellemers, *supra* note 239.

²⁴¹ VIOLENCE AGAINST WOMEN & GIRLS (VAWG), BRIEF ON VIOLENCE AGAINST SEXUAL VIOLENCE AND GENDER MINORITY WOMEN 20 (Sept. 2015), <http://documents1.worldbank.org/curated/en/573191611149890222/pdf/Violence-Against-Women-and-Girls-Resource-Guide-Brief-on-Violence-Against-Sexual-And-Gender-Minority-Women.pdf>.

²⁴² YOGYAKARTAPRINCIPLES.ORG, THE YOGYAKARTA PRINCIPLES: PRINCIPLES ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION AND GENDER IDENTITY 6 (Mar. 2007), http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf.

²⁴³ Hoffart & Jones, *supra* note 106, at 27.

²⁴⁴ *See* Castelloe, *supra* note 106.

- ²⁴⁵ DeAngelis, *supra* note 106; Castelleo, *supra* note 106; Hoffart & Jones, *supra* note 106, at 27.
- ²⁴⁶ Crenshaw, *supra* note 179.
- ²⁴⁷ *Id.*
- ²⁴⁸ *Id.* at 140.
- ²⁴⁹ ASIA PAC. F. ON WOMEN, L. AND DEV. (APWLD), DIFFERENT BUT NOT DIVIDED: WOMEN'S PERSPECTIVES ON INTERSECTIONALITY 11 (Jan. 2011), <https://www.ohchr.org/Documents/Issues/Women/WRGS/GirlsAndDisability/OtherEntities/SRVAV2010.pdf> (noting that the notion of intersectionality fulfills the tenets of the UDHR and combats exclusive identity lists set up through human rights services).
- ²⁵⁰ Bond, *Intersecting Identities...*, *supra* note 180, at 898; *see also* Bond, *International Intersectionality...*, *supra* note 180, at 76-77 (recommending, among other things, a pragmatic restructuring of international bodies that would facilitate “recognition of ... human rights abuses occurring among multiple axes of identity such as race, ethnicity, class, gender, religion, and sexual orientation”); Pearce, *supra* note 180, at 400 (“The second major part of the feminist critique highlights how international human rights law is unable to respond adequately to complex structural and intersectional causes of violence against women.”).
- ²⁵¹ CEDAW Gen. Rec. 35, *supra* note 1, ¶ 12; Comm. on the Elimination of Discrimination against Women, *supra* note 187, ¶ 200.
- ²⁵² Martha Albertson Fineman, *The Vulnerable Subject and the Responsive State*, 60 EMORY L.J. 251, 271.
- ²⁵³ THE CONCISE ENCYCLOPEDIA OF SOCIOLOGY 473 (George Ritzer & J. Michael Ryan eds., 2011).
- ²⁵⁴ *See* WORLD HEALTH ORG., GUIDELINES FOR MEDICO-LEGAL CARE FOR VICTIMS OF SEXUAL VIOLENCE 6 (2003), <https://apps.who.int/iris/bitstream/handle/10665/42788/924154628X.pdf?sequence=1> [hereinafter WHO GUIDELINES].
- ²⁵⁵ *See* ACLU ET AL., *supra* note 40, at 2; *see also* CEDAW Gen. Rec. 19, *supra* note 2, ¶ 24(b).
- ²⁵⁶ WORLD HEALTH ORG., HEALTH CARE FOR WOMEN SUBJECTED TO INTIMATE PARTNER VIOLENCE OR SEXUAL VIOLENCE: A CLINICAL HANDBOOK 7 (2014), https://apps.who.int/iris/bitstream/handle/10665/136101/WHO_RHR_14.26_eng.pdf;jsessionid=0F2D4BDCF825ED1B573B6E6B93829B8E?sequence=1.
- ²⁵⁷ VAWG, *supra* note 241, at 9.
- ²⁵⁸ WHO GUIDELINES, *supra* note 254, at 55.
- ²⁵⁹ WORLD HEALTH ORG., *supra* note 256, at 74.
- ²⁶⁰ CAVALLARO ET AL., *supra* note 220, at 572.
- ²⁶¹ WHO GUIDELINES, *supra* note 254, at 32.
- ²⁶² YOGYAKARTAPRINCIPLES.ORG, *supra* note 242, at 6.
- ²⁶³ *See* INTER-AMERICAN COMM'N ON HUM. RTS., RECOGNITION OF THE RIGHTS OF LGBTI PERSONS 92 (2018), <http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf>.
- ²⁶⁴ WHO GUIDELINES, *supra* note 254, at 6.
- ²⁶⁵ *Id.*
- ²⁶⁶ *Id.* at 9.
- ²⁶⁷ *Id.* at 12.
- ²⁶⁸ Human Rights Council, Victoria Tauli Corpuz (Special Rapporteur), *Report of the Special Rapporteur on the rights of indigenous peoples*, ¶ 46, U.N. Doc. A/HRC/30/41 (Aug. 6, 2015).

²⁶⁹ *Meeting of Government Experts to Design a Draft Program of Education for Peace in the Hemisphere*, ORG. OF AM. STATES, <http://www.oas.org/csh/english/edumeetexpertscontrib6.asp> (last visited May 9, 2021).

²⁷⁰ EUR. INST. FOR GENDER EQUAL., *GENDER EQUALITY INDEX: REPORT 107* (2013), <https://eige.europa.eu/sites/default/files/documents/Gender-Equality-Index-Report.pdf>.

²⁷¹ Howell, *supra* note 98.

²⁷² PINDERHUGHES ET AL., *supra* note 99, at 4, 11; *see also* SAMHSA, *supra* note 99, at 17.

²⁷³ *Programs*, U.S. DEPT OF HEALTH & HUM., SERVS. SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN., <https://www.samhsa.gov/nctic/trauma-interventions> (last visited May 9, 2021).

²⁷⁴ SAMHSA, *supra* note 99, at 11; CEDAW Gen. Rec. 35, *supra* note 1, ¶ 28; INT'L ASS'N OF CHIEFS OF POLICE, *supra* note 115, at 4; *see also* INT'L ASS'N OF CHIEFS OF POLICE, *supra* note 21.

²⁷⁵ *Definition and typology of violence*, WORLD HEALTH ORG., <http://www.who.int/violenceprevention/approach/definition/en/> (last visited May 10, 2021).

²⁷⁶ EUR. INST. FOR GENDER EQUAL., *supra* note 270, at 31.