

**UNDERSTANDING DOMESTIC VIOLENCE AS
COMMUNITY VIOLENCE THROUGH HUMAN RIGHTS:
AUSTIN & TRAVIS COUNTY LAW ENFORCEMENT RESPONSES TO DOMESTIC VIOLENCE**

A limited human rights report based on civil society interviews assessing Austin & Travis County law enforcement's compliance with human rights standards in light of two local resolutions declaring freedom from domestic violence as a human right.



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I. Executive Summary

The ability to live free from physical, sexual, psychological, or economic violence is a fundamental human right that communities, and the State, have a duty to protect. This qualitative report sets out the existing human rights standards used to address issues of domestic violence. It also provides a limited human rights assessment of Austin & Travis County law enforcement's compliance with these standards based on the opinions and insights provided by 13 key civil society members and advocates working in the area of domestic violence prevention and elimination Travis County. Although responses to domestic violence are generally prompt, the access to accountability and remedies through an effective justice system have been diminished by a lack of adequate resources and training for law enforcement such as difficulty having translators available at all times or misunderstandings of the availability of civil remedies.

II. Recommendations

A. To Biennial Report Authors (Austin/Travis County Family Violence Task Force)

New Technologies

- Assess existing policies surrounding the use of new technologies by law enforcement officers.
- Consider whether law enforcement adequately capture data in a disaggregated format.

Understanding Officer Training

- Obtain data on existing methods of officer training.
- Determine where opportunities for growth in understanding of intersectionality, where gender intersects with other forms of identity, could occur.

B. To Law Enforcement

New Technologies

- Adopt policies around the use of body cameras that, in addition to monitoring any potential police misconduct, limit the use of footage in ways that could disadvantage domestic violence victims in non-criminal proceedings.
- Adopt policies that limit the use of body camera footage to prosecution of abusers.
- Provide additional resources for law enforcement to be able to easily detect tracking software or hardware that an abuser may attach to the property of a victim.

Special Groups

- Allocate more resources to ensure that officers always have access to translators.
- Provide additional training on domestic violence within minority groups or communities.

Officer Training

- Incorporate training that specifically combats the notion that domestic violence is a 'private' matter.
- Implement training on the human rights approach to domestic violence.
- Encourage officers to engage in to collaborate and build coalition with civil society members that engage in domestic violence advocacy and prevention.
- Implement training for officers in how to respond to victims in civil matters in non-dismissive ways.
- Implement training to improve the ability of officers to identify the primary aggressor in domestic violence situations.

Policymaking

- Make policies clearer, and encourage officers, to strictly enforce custody and visitation orders that prevent an abuser from engaging in unsupervised visits or keeping children during visitations for longer than permitted.
- Consider allocating more resources for creating more family law courts in Travis County.
- Provide additional remedies, or resources, for civil matters that involve non-criminal behavior that is nevertheless violent or coercive.

III. Introduction

The use of local ordinances and resolutions to tackle the issue of domestic violence in the United States first began in 2011.¹ Since then, over twenty resolutions have been passed declaring freedom from domestic violence as a human right.² These resolutions rely on the language of human rights law that urges local governments to proactively prevent and provide remedies for instances of domestic violence.³ For example, in addition to citing supportive domestic laws and policies, resolutions often cite human rights cases decided by international courts and commissions, such as *Jessica Lenahan (Gonzales) v. United States*,⁴ that highlight the need to improve U.S. law enforcement responses to domestic violence and protect individuals' right to adequate due diligence.⁵

In 2014, two resolutions declaring freedom from domestic violence as a human right were passed by the Austin City Council and the Travis County Commissioners Court.⁶ Unlike many other existing resolutions in the U.S., these two resolutions call for the production of three Biennial Reports that will report on law enforcement and probation, mental and physical healthcare, and criminal prosecution, respectively.⁷

The purpose of this Report is to aid the production of the first Biennial Report by the Austin/Travis County Family Violence Task Force on law enforcement responses to domestic violence. This Report will focus narrowly on the opinions of civil society members, or non-law enforcement parties. It is intended to supplement the data and information gathered from law enforcement, in order to provide a more holistic understanding of law enforcement's successes and challenges in preventing and policing domestic violence. This limited human rights assessment will reveal the discrepancies between the human rights standards for addressing domestic violence and the reality of law enforcement responses to domestic violence in Austin, Texas.

In the remaining sections, the methodology and definition section will outline the process for the construction of this Report. The following sections will also identify the main human rights standards utilized to address domestic violence and determine, narrowly based on the 13 civil society interviews conducted by the Human Rights Clinic, where law enforcement succeeds or fails to uphold these standards. The Report concludes with a summary of the overarching themes obtained from the civil society interviews.

IV. Methodology

This Report on civil society perceptions of law enforcement responses to domestic violence is intended to supplement the formation of the biennial report mentioned in two local resolutions declaring freedom from domestic violence as a human right. Both of these resolutions, passed in 2014, include a 'call to action' section that goes beyond the public affirmance of human rights principles by promoting a sense of communal responsibility for the prevention of domestic violence and by declaring the City's intent to improve policies for provision of prompt and sufficient access to justice for survivors.⁸ To achieve this, the 'call to action' in each resolution requires the creation of biennial reports over the next six years, with the first Biennial Report focusing on law enforcement responses to domestic violence.

This Report focuses on providing the opinions, perspectives, and recommendations of members of non-law enforcement parties. This narrow focus on civil society perspectives will:

1) Support the Austin/Travis County Family Violence Task Force in producing the Biennial Reports described in the 2014 resolutions declaring freedom from domestic violence as a human right; and

2) Enable the implementation and maintenance of the human rights law standards and principles affirmed in the 2014 resolutions by creating a more holistic and communal understanding of what it means to protect the human rights of domestic violence survivors in Austin, Texas, and identifying where Travis County law enforcement responses to domestic violence fall short.

In preparing this Report, qualitative data was obtained through interviews with civil society members in Travis County, Texas. The interviews were conducted between October 2015 and December 2015 and involved at conversations with 13 individuals. Interviews were conducted both over the phone and in person at the offices of service providers and at other locations. The civil society members interviewed included a range of civil legal practitioners, academics, policy advocates, and staff from local domestic violence shelters.

The questions presented during interviews sought to bring forth the honest opinions and perceptions of law enforcement's strengths and weaknesses in regard to the use of a human rights-based approach to addressing domestic violence. Interviews began with discussions of the historical trajectory of domestic violence policing in Travis County. Additionally, the interviews sought to obtain the hopes of civil society members for improvements in service delivery, opinions on recent innovations in the understanding of law enforcement best practices, and feedback regarding the implementation of new technologies.

The Human Rights Clinic would like to express gratitude to the 13 individuals who participated in interviews for their generous assistance and advice. In the text of this Report, we cited the names of only those interviewees that affirmatively provided their permission to be identified.

V. Definitions

Biennial Report: The 'Biennial Report' refers to the reports described in the call to action sections of the Austin City Council and Travis County Commissioners Court resolutions on freedom from domestic violence as a human right.

Civil Society: The phrase 'civil society' refers to the non-law enforcement parties interviewed for this report. It includes advocates, lawyers, academics, and policy makers.

Domestic Violence: The phrase 'domestic violence' refers to any "pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner," as defined by the U.S. Department of Justice.⁹ This includes "all acts of physical, sexual, psychological or economic violence" that takes place "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," as defined in Article 3 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).¹⁰ Additionally, due to the fact that domestic violence in the U.S. disproportionately affects women,¹¹ this

phrase also incorporates an understanding of “violence against women” which involves gender-based conduct causing “death or physical, sexual or psychological harm or suffering to women, whether in the public or private sphere, as defined in Article 1 of the Inter American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem do Para).¹²

Law Enforcement: ‘Law enforcement’ refers any agent or agencies of the State who work to maintain to the system of upholding, and ensuring compliance with, the law. This includes the Sherriff’s Office, the Austin Police Department, Constables, Rangers, and Probation Officers.

Law Enforcement Response: ‘Law enforcement response’ generally means any coordinated reaction to prevent, investigate, or adjudicate instances of domestic violence. This may include law enforcement, first responders, victim support counselors, and the courts.

Report: ‘This Report’ or ‘the Report’ refers the paper at hand documenting the results of civil society interviews regarding law enforcement responses to domestic violence.

VI. Human Rights Standards Addressing Domestic Violence

A. Due Diligence

The due diligence standard is one of the core features driving the human rights approach to domestic violence.¹³ This framework holds governments accountable for inaction and failure to protect the human rights of domestic violence survivors at both the individual and State level.¹⁴ The due diligence standard requires that States establish systems to prevent domestic violence, protect victims, adequately and promptly investigate complaints,¹⁵ provide accountability through effective justice systems, and offer effective remedies.¹⁶ Additionally, due diligence suggests the need for transparency and access to information and disaggregated data on domestic violence and gender-based violence.¹⁷

B. Freedom from Physical, Psychological, or Social Suffering

Domestic violence contradicts the right to life, liberty and personal and social security.¹⁸ In articulating the principle that failure to exercise due diligence in addressing torture constitutes State indifference or permission to commit torture,¹⁹ the Committee Against Torture notes that this principle has been utilized to assess a State's failure "to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking."²⁰ The Human Rights Committee also notes²¹ that domestic violence may violate Article 7 of the *International Covenant on Civil and Political Rights* (ICCPR), which provides the right to be free from "torture" and "cruel, inhuman or degrading treatment or punishment."²² The Convention of Belem do Para also notes in Article 2 that violence against women may include "physical, sexual and psychological violence" that may take place in the domestic sphere, or is caused individuals in communities or by the State.²³

C. Anti-discrimination and Intersectionality

Principles of non-discrimination are included throughout human rights treaties and principles that the U.S. has ratified or committed to uphold.²⁴ Moreover, several other international human rights instruments, and bodies, acknowledge that violence against women constitutes gender-based discrimination that infringes upon the human rights of domestic violence victims.²⁵ In Article 1 of the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), adopted by the UN General Assembly in 1979, gender-based discrimination against women is defined as any "distinction, exclusion or restriction made on the basis of sex" that results in limits or prevents women from exercising their basic human rights or enjoying "fundamental freedoms."²⁶ General Recommendation 19 to CEDAW elaborates on some of these freedoms which include: "the right to life," "the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment," and "the right to equal protection under the law," among others.²⁷ The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belem do Para") also draws the connection

between the right of women to be free from violence and the right of women to “be free from all forms of discrimination,” which includes freedom from “stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.”²⁸ Thus, discrimination goes beyond physical violence by including any beliefs or traditional ideologies in societies that perpetuate unfair stereotypes.

Additionally, the framework of intersectionality in international human rights law considers the way in which gender-based discrimination intersects with other forms of discrimination.²⁹ In a report by the Special Rapporteur on Violence Against Women, Its Causes and Consequences from 2007, Yakin Erturk specifically considers the ways in which culture and may intersect with violence against women.³⁰ Erturk defines culture “as the set of shared spiritual, material, intellectual and emotional features of human experience that is created and constructed within social praxis,” may limit women’s human rights.³¹ The report notes that “cultural negotiation” is required to identify oppressive cultural norms in order to uphold “the principle that no custom, tradition, or religious consideration can be invoked to justify violence against women.”³² In 2008, the U.N. Human Rights Council approved of both the use of the due diligence standard and the analysis of “intersections between culture and violence against women.”³³ This approach is better equipped to offer “culturally-appropriate solutions” that take into consideration how domestic violence impacts communities based on multiple factors that intersect with gender.³⁴ These factors may include race, ethnic identity, class, residence, ability, sexual orientation, and gender identity, among others.³⁵

VII. Reality of Travis County Law Enforcement Responses to Domestic Violence Based on Civil Society Perceptions

Through a series of 13 interviews with civil society members and domestic violence advocates in Austin, Texas, this Report presents the extent of law enforcement compliance with human rights standards for addressing domestic violence. The majority of interviewees were enthusiastic about the use of the human rights approach and believed it could be a useful tool for capturing the way in which domestic violence violates basic human rights. One interviewee, however, noted that the concept of ‘freedom from

domestic violence' may be too easy to support as a blanket statement affirming human rights and emphasized the need to understand the unique nature of domestic violence as an ongoing and daily battle for victims.³⁶ Another suggested developing closer connections to politicians that prioritize domestic violence prevention and elimination in order to further the awareness and impact of the Austin City Council and Travis County Commissioners Court resolutions.³⁷ The remainder of this section will reveal, based on the civil society interviews, the reality of the successes and challenges facing law enforcement in implementing the human rights approach to preventing and eliminating domestic violence in Travis County.

A. Due Diligence

According to many of the civil society interviewees, there is a very good working relationship among various law enforcement departments in Travis County, for example among the Travis County Sherriff's Office, Austin Police Department, and Travis County Attorney's Office. Having this dynamic is important in order for the State to fulfill its due diligence obligations to provide accountability and effective remedies.³⁸ Shelli Egger, an attorney with the civil legal service provider Texas Rio Grande Legal Aid, indicated that, in addition to having prosecutors that are very good at understanding the complexities of domestic violence relationships, the Austin/Travis County Family Violence Task Force is unique in its collaborative approach to addressing domestic violence with input from law enforcement and advocates alike.³⁹ One interviewee also commented on the uniqueness of the Task Force, noting that a similar initiative would likely not be found in many other counties in Texas.⁴⁰

Interviewees generally affirmed that law enforcement responses and investigations into domestic violence were prompt and effective.⁴¹ For example, at least two individuals also applauded the effectiveness of APD's Coordinated Response to Abuse for Safe Homes (CRASH) Unit and the work of Senior Sergeant Eric De Los Santos.⁴² This Unit was developed to deter stalkers and individuals violating protective orders through the use of sensor-activated cameras at the residence of victims.⁴³

Nevertheless, certain forms methods of law enforcement involving data collection and new technologies may be very detrimental to providing survivors with access to justice. In particular, the use of body cameras in domestic violence cases should be more limited and tailored to focus specifically on prosecuting perpetrators.⁴⁴ This particular concern was echoed by many of the interviewees for this Report.⁴⁵ Shelli Egger noted that there are instances where actors such as Child Protective Services could use footage from law enforcement arrests, and responses to scenes of domestic violence, against the victims of domestic violence in non-criminal proceedings.⁴⁶ The use of such footage in civil proceedings that target domestic violence victims may re-victimize individuals and prevent Travis County law enforcement from upholding its due diligence responsibility. According to advocates like Gretta Gardner, Chair of the Austin/Travis County Family Violence Task Force, the legislative intent behind the provision of body cameras to law enforcement was not to record and criminalize the victims of domestic violence, and the Task Force is assessing best practices to improve protocols for the use of footage of law enforcement responses to domestic violence.⁴⁷

Moreover, several interviewees voiced concerns that sometimes the wrong person is arrested during a domestic violence altercation because officers are unable to identify the primary aggressor.⁴⁸ The cause for these wrong arrests, in the opinion of the civil society interviewees, was the lack of understanding by law enforcement of the unique relationship dynamics in the domestic violence context.⁴⁹ For example, officers may arrest the individual that appears the most agitated or may be more convinced by physical evidence of assault than the past history of a relationship.⁵⁰ Interviewees indicated that this may be the wrong impulse or reaction by law enforcement because sometimes abusers may appear articulated and calm while victims may involuntarily reveal more acute emotional responses to abuse that could, perhaps mistakenly, appear violent or inappropriate.⁵¹

Lastly, when asked whether any changes in domestic violence prevention or policing by law enforcement have occurred since passage of the 2014 resolutions, there were no affirmative responses. The lack of action by law enforcement departments to implement policies or take proactive steps to comply with the human rights approach to addressing domestic violence, or reassess existing policies, is problematic. The due

diligence standard means that inaction by the State in protecting the human rights of domestic violence victims is just as troubling and impermissible as intentional misconduct by the State. More investigation is needed to determine the extent of the effect that the two 2014 resolutions had on local law enforcement responses to domestic violence. Additional outreach and training will be necessary to ensure officer awareness of human rights approach to addressing domestic violence.

B. Freedom from Physical, Psychological, or Social Suffering

More than one interviewee noted that assistance and remedies were sometimes less effectively delivered for non-criminal matters. Thus, issues like harassment or economic pressure that may cause intense psychological and social suffering, become more difficult to remedy. Additionally, some⁵² interviewees indicated that it was much more challenging to provide remedies for undocumented immigrants do to a frequent shortage of translators or a misunderstanding of cultural dynamics in refugee communities,⁵³ but others⁵⁴ noted that there were more options for domestic violence victims that hold U Visas. The combination of some of these shortcomings directly impact the ability of victims to live free from physical, psychological, or social suffering.

Interestingly, one interviewee noted that Austin, and Travis County more generally, are seen as more socially progressive overall than other areas of Texas, making it important to serve as leaders in Texas.⁵⁵ Thus, if Austin and Travis County are to be viewed as models for progressive thinking, rule making, and policing, especially with regard to domestic violence, it is import to utilize intentional, and carefully considered, approaches and responses that incorporate human rights standards. By doing so, other jurisdictions that rely on these existing progressive models will continue to improve responses to domestic violence throughout the state. This individual also suggested that the human rights approach to addressing domestic violence should be more widely integrated into law enforcement departments outside of Travis County, throughout Texas.⁵⁶

However, other interviewees mentioned how there have been instances in the past, within Travis County, where law enforcement officers may have behaved in ways that perpetuated antiquated notions of gender dynamics and “common law marriage” in ways

that prevented law enforcement from pursuing arrests or prosecution of perpetrators more aggressively.⁵⁷ This is highly problematic because a well-meaning officer, due to his or her pre-conceived notion of appropriate relationship dynamics and marriage ‘duties,’ may wrongly encourage a battered individual to remaining in an abusive relationship.⁵⁸

Moreover, other interviewees indicated that many of the individuals they encounter sometimes complain that members of law enforcement are not sensitive enough.⁵⁹ These attitudes, and any lack of sensitivity, may prevent law enforcement from pursuing arrests or prosecution of batterers aggressively due to beliefs that that it is the victim’s responsibility to remain in an abusive relationship. This suggests that further law enforcement training is needed throughout departments, or beyond the solely domestic violence response unites, on the unique attributes of domestic violence and intimate partner violence. Such training will hopefully enable law enforcement members to overcome any potential personal biases, or discriminatory beliefs, about ‘proper’ marriage dynamics that wrongly prolong or enhance physical, psychological, and social suffering.

C. Anti-discrimination and Intersectionality

In terms of assessing the ways in which culture and other factors intersect with gender-based discrimination and violence, several interviewees agreed that law enforcement in Austin and Travis County could use additional training and resources.⁶⁰ Some also noted that law enforcement has its own unique culture which should be taken into consideration when implementing the human rights approach to addressing domestic violence and when assessing the effectiveness of law enforcement responses in diverse communities.⁶¹ For example, one interviewee noted that in addition to identity factors such as race and gender, that may intersect with gender identity in ways that may shape or limit law enforcement responses, the fact that law enforcement has it’s own unique culture and characteristics based on departmental training and common experiences should not be forgotten.⁶² This interviewee highlighted that there will always be two cultures, at a minimum, intersecting during law enforcement responses to domestic violence: law enforcement and non-law enforcement.⁶³ This particular intersection between two distinct populations, or cultures, has the potential to create an added layer of tension, distrust, or

miscommunication during law enforcement responses to domestic violence. Additionally, another interviewee mentioned that law enforcement acceptance of the human rights approach to addressing criminal and civil matters in the U.S. may be difficult at first, but could gain momentum over time with the continued usage of the language of human rights.⁶⁴ Thus, ongoing training regarding the human rights approach to addressing domestic violence will improve responses to domestic violence by strengthening law enforcement's understanding, and appreciation, of the ways in which intersectionality shapes their own efforts to address domestic violence and makes each victim's experience unique.

In terms of language issues, there are concerns that there is a dearth of translators for Spanish speakers⁶⁵ and for hearing-impaired individuals,⁶⁶ with difficulty finding translators for less popular languages as well. Additionally, one interviewee indicated that in addition to challenges with finding translators, or needing to use children or neighbors as impromptu translators, there may be significant cultural barriers facing immigrant domestic violence survivors.⁶⁷ These individuals may fear speaking out to various culturally-based leadership dynamics⁶⁸ or a lack of understanding about how domestic violence may be addressed by law enforcement based on international human rights standards or domestic legal standards. Hence, additional translation services are necessary for law enforcement to prevent domestic violence and prosecute perpetrators in a wider cultural context.

VIII. Conclusion: Improving the Reality of Law Enforcement Responses to Domestic Violence Through Human Rights

In 2014, the Austin City Council and Travis County Commissioners Court each passed a resolution declaring freedom from domestic violence as a human right. The resolutions include a call to action section that indicates Biennial Reports will be produced to assess community compliance with the resolutions, and the first report to be produced in 2016 will focus on law enforcement responses to domestic violence.

Interviews by the Human Rights Clinic with members of local civil society members in Austin, Texas, indicate that more support could be provided to domestic violence

survivors seeking civil remedies. Law enforcement could use additional training on the nature of civil remedies available to victims in order to be less dismissive of non-criminal matters. Moreover, the lack of policy changes by law enforcement in response to the passage of the 2014 resolutions indicates that the human rights approach has either been ignored or inadequately utilized to shape and improve the prevention and elimination of domestic violence in Travis County. Awareness campaigns are necessary to better shape law enforcement responses to domestic violence through the human rights-based approach. Finally, lingering discriminatory attitudes about the nature of intimate partner violence may severely limit the ability of victims to obtain protection and justice.

IX. Endnotes

¹ ACLU Women’s Rights Project, Human Rights Institute at Columbia Law School & Human Rights Clinic at University of Miami School of Law, *Domestic Violence & Sexual Assault in the United States: A Human Rights Based Approach and Practice Guide*, at 8 (August 2014) http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/dv_sa_hr_guide_reduce.pdf.

² Cornell University Law School Global Gender Justice Clinic, Columbia Law School Human Rights Institute & University of Miami School of Law Human Rights Clinic, *Freedom from Domestic Violence as a Fundamental Human Right Resolutions, Presidential Proclamations, and Other Statements of Principle*, <http://www.lawschool.cornell.edu/womenandjustice/DV-Resolutions.cfm>, (last updated Oct. 2015).

³ Joann Kamuf & Erin Foley Smith, *Freedom from Violence: a Fundamental Human Right*, Cities for Cedaw (Oct. 3, 2014), <http://citiesforcedaw.org/freedom-from-violence-a-fundamental-human-right/>. Also, a number of cities have passed ordinances using the framework provided in The Convention on the Elimination of All Forms of Discrimination Against Women to advocate for inclusive and equitable policymaking for women. *Id.*

⁴ *Lenahan v. United States*, Case 12.626, Inter-Am. Comm’n H.R. Report No. 80/11, ¶ 5 (2011). In this case, heard by the Inter-American Commission on Human Rights, U.S. citizen Jessica Lenahan could not obtain adequate State protection from domestic violence in the U.S. *Id.* The failure of U.S. police officers to enforce a protective order against her husband eventually led to the kidnapping of her children. *Id.* at ¶ 24. However, her domestic lawsuit against local police officers after the deaths of her daughters failed in U.S. Federal courts, leading her to file a complaint with the Inter-American Commission. *Id.* at ¶ 39-40.

⁵ Cornell University Law School Global Gender Justice Clinic, Columbia Law School Human Rights Institute & University of Miami School of Law Human Rights Clinic, *Discussion of Resolutions by County, Town, and Municipal Governments*, <http://www.lawschool.cornell.edu/womenandjustice/Resolutions-by-County-Town-and->

[Municipal-Governments.cfm](#) (last visited Dec. 4, 2015); *see also* Austin, Tex., City Council Res. 20140417-055, (Apr. 17, 2014); Travis Cnty. Comm’rs Ct., Res. on Freedom from Domestic Violence as a Human Right (Apr. 8, 2014).

⁶ Austin, Tex., City Council Res. 20140417-055, (Apr. 17, 2014); Travis Cnty. Comm’rs Ct., Res. on Freedom from Domestic Violence as a Human Right (Apr. 8, 2014).

⁷ *Id.*

⁸ *Id.*

⁹ The United States Department of Justice, *Office on Violence Against Women: Areas of Focus—Domestic Violence*, <http://www.justice.gov/ovw/domestic-violence> (last updated Oct. 6, 2015).

¹⁰ Convention on Preventing and Combating Violence Against Women and Domestic Violence, art. 3, April 11, 2011, C.E.T.S. 210, *available at* <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c>.

¹¹ ACLU, *supra* note 1, at 1.

¹² Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women “Convention of Belem Do Para,” art. 1-2, June 9, 1994, *available at* <http://www.oas.org/juridico/english/treaties/a-61.html> [hereinafter *Convention of Belem do Para*].

¹³ ACLU, *supra* note 1, at 2-3.

¹⁴ Special Rapporteur on violence against women, its causes and consequences, *Report of the Special Rapporteur on violence against women, its causes and consequences*, Human Rights Council, U.N. Doc. A/HRC/23/49 (May 14, 2013) (by Rashida Manjoo), http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_49_English.pdf [hereinafter Manjoo, *Report*]. In the 2013 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo indicates that States have an obligation to provide both “individual due diligence” and “systemic due diligence,” the former requiring individualized treatment and remedies and the later requiring strategic policymaking to provide holistic protection and remedies to women. *Id.* ¶ 70.

¹⁵ Special Rapporteur on Violence Against Women, Its Causes and Consequences, *15 Years of The United Nations Special Rapporteur on Violence Against Women, Its Causes and Consequences (1994-2009)—A Critical Review*, at 26, (Jan. 1 2009) (by Madhu Mehra) <http://www.ohchr.org/Documents/Issues/Women/15YearReviewofVAWMandate.pdf> [hereinafter *Critical Review*].

¹⁶ Manjoo, *Report*, *supra* note 14, at ¶¶ 71-75; *see also* ACLU, *supra* note 1, at 3 – 5.

¹⁷ Comm. on the Elimination of Discrimination Against Women, 11th Sess., *General Recommendation 19*, ¶ 24(u), (1992), *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom1> [hereinafter CEDAW, *General Recommendation 19*]; *see also* ACLU, *supra* note 1, at 6 – 7, nn. 50 – 52; Special Rapporteur on Violence Against Women, Its Causes and Consequences, *Indicators on Violence Against Women and State Response*, U.N. Doc. A/HRC/7/6 (Jan. 29, 2008) (by Yakin Erturk), <http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/A-HRC-7-6.doc>.

¹⁸ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) at art. 3, 20, 22, 25, (Dec. 10, 1948), http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf [hereinafter *UDHR*]; International Covenant on Civil and Political Rights, art. 1, 6, 7, 12, 19, 22, 27, Dec. 16, 1966, 999 U.N.T.S. 171, <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf> [hereinafter *ICCPR*]; American Declaration of the Rights and Duties of Man, art. I, IV, V, VI, VIII, XI, XIII XVI, XXI OEA/Ser.L./V./II.23, doc. 21, rev. 6 (1948), <https://www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm> [hereinafter *ADRDM*].

¹⁹ Columbia Law School Human Rights Clinic & Sexuality & Gender Law Clinic, *Human Rights and Domestic Violence: An Advocacy Manual*, at 17, 20 (Feb. 2010), <http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/dv%20advocacy%20manual.pdf>.

²⁰ Comm. Against Torture, General Comment 2, Implementation of Art. 2 by States Parties, ¶ 18, U.N. Doc. CAT/C/GC/2/CRP.1/Rev.4 (Jan. 24, 2008), http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.GC.2.CRP.1.Rev.4_en.pdf.

²¹ Human Rights Committee, CCPR General Comment 28: Art. 3 (Equality of Rights Between Men and Women), ¶ 11, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000), http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_21_Rev-1_Add-10_6619_E.pdf.

²² *ICCPR*, *supra* note 18, art. 7.

²³ *Convention of Belem do Para*, *supra* note 12, at art. 2.

²⁴ ACLU, *supra* note 1, at 6, nn. 39-40; *UDHR*, *supra* note 18, at art. 7; *ICCPR*, *supra* note 18, at art. 2, 20, 24, 26.

²⁵ *Convention of Belem do Para*, *supra* note 12, at art. 6; Convention on the Elimination of All Forms of Discrimination Against Women, art. 1, 1249 U.N.T.S. 13, 16 (entered into force Sept. 3, 1981), <https://treaties.un.org/doc/Publication/UNTS/Volume%201249/v1249.pdf> [hereinafter *CEDAW*].

²⁶ *CEDAW*, *supra* note 25, at art. 1.

²⁷ *CEDAW*, *General Recommendation 19*, at Comment 7.

²⁸ *See Convention of Belem do Para*, *supra* note 12, at art. 6.

²⁹ ACLU, *supra* note 1, at 6; *Critical Review*, *supra* note 15, at 42-44.

³⁰ Special Rapporteur on Violence Against Women, Its Causes and Consequences, *Intersections Between Culture and Violence Against Women*, ¶ 19, U.N. Doc. A/HRC/4/34 (Jan. 17, 2007) (by Yakin Erturk).

³¹ *Id.* at ¶ 17.

³² *Id.* at ¶ 52. The report also warns against essentializing non-Western traditional practices that may encourage ideas that Western cultures do not also contain violent and harmful cultural practices. *Id.* at ¶ 33.

³³ Human Rights Council Res. 7/24, ¶ 3 (Mar. 28, 2008), http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_24.pdf. *See also Critical Review*, *supra* note 15, 42 n. 178.

³⁴ ACLU, *supra* note 1, at 6.

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- ³⁵ *Id.* This is not an exhaustive list of factors that may intersect with gender.
- ³⁶ Interview with Shelli Egger, Staff Attorney, Texas Rio Grande Legal Aid, in Austin, Tex. (Oct. 29, 2015).
- ³⁷ Human Rights Clinic interview dated November 3, 2015.
- ³⁸ Manjoo, *Report, supra* note 14, at ¶¶ 71-75
- ³⁹ Interview with Shelli Egger, Staff Attorney, Texas Rio Grande Legal Aid, in Austin, Tex. (Oct. 29, 2015).
- ⁴⁰ *Id.*
- ⁴¹ Telephone Interview with Civil Society Member (Dec. 1, 2015).
- ⁴² Telephone Interview with Civil Society Member (Oct. 27, 2015); Telephone Interview with Civil Society member (Nov. 11, 2015); Telephone Interview with Civil Society Member (Dec. 1, 2015).
- ⁴³ <http://www.tdcaa.com/journal/lights-camera%E2%80%94captured>
- ⁴⁴ *Id.*
- ⁴⁵ Telephone Interview with Civil Society Member (Oct. 28, 2015); Interview with Civil Society Member in Austin, Tex. (Nov. 3, 2015); Telephone Interview with Civil Society Member (Dec. 1, 2015).
- ⁴⁶ Interview with Shelli Egger, Staff Attorney, Texas Rio Grande Legal Aid, in Austin, Tex. (Oct. 29, 2015).
- ⁴⁷ Telephone Interview with Gretta Gardner, dated October 27, 2015.
- ⁴⁸ Telephone Interview with Gretta Gardner (Oct. 27, 2015); Telephone Interview with Civil Society Member (Oct. 28, 2015); Telephone Interview with Civil Society Member (Oct. 29, 2015).
- ⁴⁹ *Id.*
- ⁵⁰ Telephone Interview with Civil Society Member (Oct. 29, 2015).
- ⁵¹ Telephone Interview, *supra* note 50.
- ⁵² Telephone Interview with Civil Society Member (Oct. 22, 2015); Interview with Civil Society Member (Nov. 11, 2015).
- ⁵³ Telephone Interview with Civil Society Member (Nov. 3, 2015).
- ⁵⁴ Telephone Interview with Civil Society Member (Oct. 28, 2015).
- ⁵⁵ Interview with Civil Society Member in Austin, Tex. (Nov. 3, 2015).
- ⁵⁶ *Id.*
- ⁵⁷ Interview with Shelli Egger, Staff Attorney, Texas Rio Grande Legal Aid, in Austin, Tex. (Oct. 29, 2015).
- ⁵⁸ *Id.*
- ⁵⁹ Telephone Interview with Civil Society Member (Oct. 28, 2015); Telephone Interview with Civil Society Member (Nov. 11, 2015).
- ⁶⁰ Telephone Interview with Civil Society Member (Oct. 28, 2015), Telephone Interview with Civil Society Member (Oct. 29, 2015), Interview with Civil Society Member in Austin, Tex. (Nov. 3, 2015); Telephone Interview with Civil Society Member (Dec. 1, 2015).
- ⁶¹ Telephone Interview with Civil Society Member (Oct. 29, 2015); Telephone Interview with Civil Society Member (Nov. 9, 2015), and Telephone Interview with Civil Society Member (Nov. 11, 2015).
- ⁶² Telephone Interview with Civil Society Member (Oct. 29, 2015).
- ⁶³ *Id.* Oct. 29 interview.

⁶⁴ Telephone Interview with Kirsha Haverlah, Government Relations, Travis County Constable's Office, Pct. 5 (Nov. 9, 2015).

⁶⁵ Telephone Interview with Civil Society Member (Oct. 28, 2015); Telephone Interview with Civil Society Member (Oct. 29, 2015); Telephone Interview with Civil Society Member (Nov. 3, 2015); Telephone Interview with Civil Society Member (Nov. 11, 2015).

⁶⁶ Telephone Interview with Civil Society Member (Dec. 1, 2015).

⁶⁷ Telephone Interview with Civil Society Member (Nov. 3, 2015).

⁶⁸ *Id.*