



Time for action

The Way to a Binding International
Treaty on Violence Against Women

GLOBAL RIGHTS
for WOMEN Justice for
Victims of Violence

Time for action

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on Violence Against Women

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Author's Note

Time for Action: The Way to a Binding International Treaty on Violence Against Women is the second of two articles by Global Rights for Women on the need for a new international treaty on violence against women. The first article, *Time for a Change: The Need for a Binding International Treaty on Violence Against Women*, was published in November 2018. It focused on the inadequacy of existing legal frameworks to address violence against women. The substance of *Time for a Change* is summarized in Appendix 1 to this article.

In this paper we use the phrase “violence against women” to refer to all those who identify as women, including transgender women and girls. The terms “violence against women” and “gender-based violence” are often used interchangeably. Although violence against women is a narrower term, we use it in this paper because it is the term used in existing international human rights treaties and jurisprudence. We also recognize that violence perpetrated by men against women is the most common form of intimate partner violence worldwide. Any treaty on violence against women should be grounded in a gendered understanding of violence, should be carefully crafted to protect the human rights of all those who identify as women, and should aim to protect everyone targeted for violence because of their gender. Whether to use the term “violence against women” or the term “gender-based violence” in the treaty should be carefully considered by the drafters in consultation with victims and their advocates worldwide.

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Introduction

It is time for united action from all of us, so that women and girls around the world can live free from harassment, harmful practices, and all other forms of violence.

*UN Secretary-General António Guterres*¹

The time has come to transform how the world responds to violence against women. It is time to build a legal mechanism that will ensure safety for women, and accountability for offenders and for governments that allow such violence to continue with impunity.

Activists, policymakers, academics and women at every level and sector of society recognize that violence against women is the most widespread violation of human rights in our time and that bold steps are needed to address it. Although proven strategies exist, they are not being effectively implemented on a universal scale. As a result, many agree that a binding international treaty² on violence against women would best answer the Secretary-General's call for united action.

Despite strides made in law and policy over the last 50 years, violence against women continues to be the accepted norm in many parts of the world. Domestic violence and sexual violence, child marriage, sex trafficking, female genital mutilation, and a myriad of other forms of violence undermine women's autonomy and their right to live full, productive lives. According to the UN Office on Drugs and Crime's (UNODC) most recent global study, 50,000 women around the world were killed by partners and family members in 2017.³

Over the last few years, women's rights have taken center stage in the world's consciousness. The #MeToo movement, LGBTQ rights, femicide, and awareness of intersectional forms of oppression have made the pervasiveness of violence against women a universal topic of conversation that demands attention. At the same time, authoritarian regimes and fundamentalist factions are working to deny women the right to be free from violence. A rising tide of political conservatism threatens women's rights even in democratic countries around the world. In this historic time, law and policymakers need to take strong action to protect women and girls.

Although legal frameworks, policies, and practices exist on the international, regional and national levels that address violence against women, gaps and inconsistencies stubbornly persist. The result has been failed implementation, lack of sufficient funding, and inadequate collaboration at all levels among the many agencies

¹ Message by UN Secretary-General António Guterres on the International Day for the Elimination of Violence against Women, November 24, 2017, <https://www.unwomen.org/en/news/stories/2017/11/statement-sg-guterres-25-november>

² A "treaty" is a formal agreement between or among States. The term "convention" is used interchangeably with "treaty" throughout this paper.

³ United Nations Office on Drugs and Crime (UNODC), "Home, the Most Dangerous Place for Women, with Majority of Female Homicide Victims Worldwide Killed by Partners or Family, UNODC Study Says," November 25, 2018, <https://www.unodc.org/unodc/en/press/releases/2018/November/home--the-most-dangerous-place-for-women--with-majority-of-female-homicide-victims-worldwide-killed-by-partners-or-family--unodc-study-says.html>

and mechanisms responsible for addressing violence against women. At least 34 United Nations entities, the International Organization for Migration, and six inter-agency partnerships existed in 2016 to carry out activities to prevent and eliminate violence against women.⁴ While some legal frameworks on the regional level provide the most comprehensive mechanisms for addressing violence against women, these efforts are regionally inconsistent and lack strong and unifying global standards and leadership. Viewed in their totality, current efforts do not come close to adequately addressing the relentless and often fatal threat to women's human rights.

The gap between the human rights standards in existing international and regional legal frameworks and their implementation by national governments is undeniable. More than three hundred million women live in countries that lack legal protections against domestic violence. More than one billion women worldwide lack legal protection against sexual violence by an intimate partner or family member.⁵ Women in China and India, the two most populous countries in the world, are not protected by a regional treaty.⁶ More than one in three women throughout the world has been a victim of physical and/or sexual intimate partner violence or non-partner sexual violence in her lifetime.⁷

A new international treaty on violence against women would address the urgent need to establish consistency, specificity, and state accountability through a binding and refined global instrument. Non-governmental organizations would lead the development of a new treaty, with victims of violence and their advocates having a primary role. The treaty would create a monitoring body with the expertise and authority to unequivocally prioritize women's safety, offender accountability and hold governments responsible for their duty to address violence. The vast knowledge that has developed over decades about best practices, lessons learned at the national level, and the nuances of effective State intervention in violence against women would be incorporated in detail into that international instrument.

This paper addresses several topics relevant to the creation of a new treaty. First, it examines the work of the United Nations Special Rapporteur on Violence Against Women on this issue. Second, it recommends important guidelines for creating a binding international instrument that will contribute to protecting women. Third, it explores the processes used to create two recent treaties and how those lessons might be applied to a treaty on violence against women. Fourth, it compares the alternative of a free-standing treaty to a new optional protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as the preferable mechanism to effectively combat violence against women. Finally, it suggests action items to move the process forward to create an international treaty on violence against women.

4 Inventory of the United Nations Activities to End Violence Against Women, "Agencies," 2016, <https://evaw-un-inventory.unwomen.org/en/agencies>, accessed November 24, 2019.

5 Paula Tavares and Quentin Wodon, "Global and Regional Trends in Women's Legal Protection Against Domestic Violence and Sexual Harassment," (The World Bank, 2017), <http://pubdocs.worldbank.org/en/679221517425064052/EndingViolenceAgainstWomenandGirls-GBVLaws-Feb2018.pdf>

6 United Nations Department of Economic and Social Affairs, Population Division, "World Population Prospects 2019," 2019, <https://population.un.org/wpp/Download/Standard/Population/>

7 World Health Organization (WHO), "Violence Against Women: Key Facts," November 29, 2017, <http://www.who.int/mediacentre/factsheets/fs239/en/>, accessed January 28, 2020.

The Work of the Special Rapporteur Highlights the Need for an International Treaty

The UN Special Rapporteur on Violence Against Women, its causes and consequences (SRVAW or Special Rapporteur) is an expert, appointed by the UN Human Rights Council. Her role is to investigate, call attention to, and recommend measures to eliminate all forms of violence against women at the local, national, regional and international levels.⁸ The Special Rapporteur has a unique platform from which to influence the discussion on the need for an international treaty on violence against women. Both the current Special Rapporteur and her most recent predecessor have played leading roles in the conversation on the need for an international treaty on violence against women. However, they have taken significantly different positions on the issue.

The Previous Special Rapporteur is an Advocate for an International Treaty on Violence Against Women

Professor Rashida Manjoo, who served as SRVAW from August 2009 to July 2015,⁹ brought the need for a new international treaty on violence against



The Special Rapporteur has a unique platform from which to influence the discussion on the need for an international treaty on violence against women.

women to the attention of the international human rights community. She held numerous meetings and discussions on the subject of the normative gap¹⁰ in international law, including regional consultations in the Americas and the Asia-Pacific region.¹¹ Prof. Manjoo highlighted research demonstrating the

8 "Special Rapporteur on violence against women, its causes and consequences," OHCHR, <https://www.ohchr.org/en/issues/women/srwomen/pages/srwomenindex.aspx>, accessed January 28, 2020. See also, Global Rights for Women, "Time for a Change: The Need for a Binding International Treaty on Violence Against Women," November 2018, https://globalrightsforwomen.org/wp-content/uploads/2018/11/Time_for_a_Change.pdf, and Appendix 1 herein.

9 "Special Rapporteur on Violence against Women, Its Causes and Consequences," OHCHR, <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/RashidaManjoo.aspx>, accessed January 28, 2020.

10 "A normative gap exists where persistent acts and circumstances depriving a person or people of their dignity are not provided for in existing human rights law. Human rights are intended to formally define the thresholds that identify situations in which human dignity is threatened or violated. A normative gap exists when there is no such definition or where the definition is inadequate." HelpAge International, "International human rights law and older people: gaps, fragments and loopholes," 2, <https://social.un.org/ageing-working-group/documents/GapsinprotectionofolderpeoplesrightsAugust2012.pdf>

11 UN General Assembly, Twenty Ninth Session, "Addendum to the Human Right Council Thematic Report of the Special Rapporteur on Violence, Its Causes and Consequences," A/HRC/29/27/Add.5, June 12, 2015, 2, https://www.ohchr.org/HRC/Documents/A_HRC_29_27_Add_5_ENG

limited progress member States have made in enacting violence against women legislation in the 35 years since CEDAW was adopted.¹² She presented a detailed draft treaty in one of her final reports to the General Assembly.¹³ Prof. Manjoo has continued to advocate for the treaty after her mandate concluded, including publishing a book on normative gaps in international law.¹⁴

The Current Special Rapporteur Has Recognized the Gap in Implementation of Human Rights Norms on Violence Against Women, but Opposes a Stand-Alone Treaty

Professor Manjoo's successor, Dr. Dubravka Šimonović, has also recognized the need to address the enormous gap between international human rights norms and standards regarding violence against women and their implementation on the national level. She has pledged that "the main task is to close that gap and to accelerate the full incorporation and implementation of international, regional and national instruments, policy documents, and recommendations to combat and prevent violence against women."¹⁵ While recognizing the shortcomings of the current system, Dr. Šimonović has opposed a stand-alone treaty on violence against women, but has indicated

openness to a new optional protocol to CEDAW. In 2016, Dr. Šimonović requested stakeholders' input and views on the adequacy of the legal framework on violence against women.¹⁶ The responses to her request demonstrated the divide between respondents who represent existing international and regional organizations, including treaty bodies, on the one hand, and NGOs and individuals, on the other. Most of the former group opposed a new stand-alone treaty, while most of the latter group favored such a treaty. Some respondents in both groups expressed support for a new optional protocol to CEDAW. The case for a new optional protocol is explored in Section IV herein.

It is unknown how many total responses the SRVAW received to her request. However, she published seven responses from global and regional organizations and treaty bodies on her website. She stated that she received 291 responses from NGOs, of which she published 31.¹⁷

Most Respondents Representing International and Regional Organizations and Treaty Bodies Opposed a New Stand-Alone Treaty

Most of the respondents to the Special Rapporteur's request who represent global and regional organizations and treaty bodies saw no need for a

¹² *Ibid.*, 3-4.

¹³ *Ibid.*

¹⁴ Rashida Manjoo and Jackie Jones, *The Legal Protection of Women from Violence - Normative Gaps in International Law*, Routledge: 2018.

¹⁵ UN General Assembly, Thirty Second Session, "Report of the Special Rapporteur on violence against women, its causes and consequences," A/HRC/32/42, April 19, 2016, 4, <https://undocs.org/A/HRC/32/42>

¹⁶ The questions for which Dr. Šimonović requested input were the following:

Do you consider that there is a need for a separate legally binding treaty on violence against women with its separate monitoring body?

Do you consider that there is an incorporation gap of the international or regional human rights norms and standards?

Do you believe that there is a lack of implementation of the international and regional legislation into the domestic law?

Do you think that there is a fragmentation of policies and legislation to address gender-based violence?

Could you also provide your views on measures needed to address this normative and implementation gap and to accelerate prevention and elimination of violence against women?

See "Adequacy of the international legal framework on violence against women," OHCHR, <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AdequacyInternationalLegalFramework.aspx>, accessed January 28, 2020.

¹⁷ *Ibid.*

new international treaty. The body of independent experts that monitors the implementation of CEDAW (CEDAW Committee), the group of experts from the Council of Europe (GREVIO), and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) opposed a new stand-alone instrument.

The CEDAW Committee stated that a new international treaty is not needed because General Recommendation No. 19 adequately incorporates

violence into CEDAW,¹⁸ and a new treaty would create fragmentation and increase member States' burdens.¹⁹ GREVIO stated its concern that "the current international political climate and economic situation were not conducive to the drafting of an additional instrument on women's rights."²⁰ ACWC stated that responsibility for addressing violence against women should remain primarily with CEDAW.²¹

However, not all such entities and experts were opposed to a new treaty. The Special Rapporteur on the Rights of Women in Africa encouraged the creation of a new treaty. Similarly, Representatives of the Follow-Up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (MESECVI), the monitoring body for the Convention of Belém do Pará, and the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission expressed support for a new protocol to CEDAW to address violence against women.²²

Most NGOs²³ and Individual Respondents Favored a New Stand-Alone Treaty

Dr. Šimonović reported to the General Assembly that a majority of civil society organizations urged adoption of a new treaty that would be "specifically on violence against women, comprehensive and legally binding" and reflect "uniformity, specificity and state accountability."

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18 Since the CEDAW Committee submitted its response to the Special Rapporteur's request, it has issued a new general recommendation on gender-based violence against women, General Recommendation No. 35. CEDAW, "General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19," July 14, 2017, CEDAW/C/GC/35, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf

19 Yoko Hayashi, Committee on the Elimination of Discrimination against Women, May 31, 2016, <https://www.ohchr.org/Documents/Issues/Women/SR/Framework/CEDAW.pdf>

20 A/72/134, 6.

21 ACWC, "Inputs and Comments of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) to the Questions of the Special Rapporteur on Violence Against Women, Its Causes and Consequence," June 13, 2016, <https://www.ohchr.org/Documents/Issues/Women/SR/Framework/ACWC.pdf>

22 A/72/134, 7-8. See also Section IV herein for a comparison of a stand-alone treaty to a new optional protocol to CEDAW.

23 NGO refers to non-governmental organizations, a non-for-profit, voluntary citizens' group, which is organized on a local, national or international level to address issues in support of the public good. Definition of NGOs, <http://www.ngo.org/ngoinfo/define.html> In this paper the term NGO is used primarily to describe women's rights organizations. The term "civil society organization" (CSO) is sometimes used interchangeably with NGO.

state accountability.”²⁴ Many submissions from NGOs and individuals called for a separate legally binding treaty on violence against women that would meet the following requirements:

- A global treaty with its own monitoring body, that would work with CEDAW and other established international and regional mechanisms;
- Global recognition that violence against women is a gross, endemic and systematic violation of the rights of women and girls to bodily integrity and life; and
- Effective and enforceable legislation that supports incorporation of strong domestic policies and education programs addressing violence against women at a family and community level.²⁵

FIDA Cameroon is a federation of international female lawyers, with the vision of a society free of violence against women.²⁶ This NGO provided its views on the need to address the normative and implementation gap and accelerate prevention and elimination of violence against women:

It is common knowledge that even though we have the CEDAW which is an international treaty on women’s rights; it is void of any provision that speaks directly to violence against women. NGOs and other stakeholders have done a lot towards ending violence. But despite the critical work and increasing attention that has been paid to violence against women issues using national laws and existing international treaties, the required result of ending violence is yet to be achieved. From my personal experience as a human rights activist, it is glaring that it is easier

to combat an ill that is legally defined than to change mindsets. I believe we can achieve success if we come out with an all englobing international treaty on violence against women that takes into consideration all details in defining violence against women and compels all states to implement same and prescribes specific sanctions for failure to implement.²⁷



“From my personal experience as a human rights activist, it is glaring that it is easier to combat an ill that is legally defined than to change mindsets.”

24 A/72/134, 11.

25 See e.g., submissions from Women’s Global Network for Reproductive Rights (Philippines); Women for Afghan Women; The Association of Rape Crisis Centers in Israel, available at <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AdequacyInternationalLegalFramework.aspx>

26 FIDA Cameroon, <https://www.girlsnotbrides.org/members/fida-cameroon/>, accessed February 3, 2020.

27 Submission of FIDA, <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AdequacyInternationalLegalFramework.aspx>

SRVAW Submission Responses by Organization Type

The following chart summarizes all of the responses to the Special Rapporteur's request to which the authors have been able to obtain access. Although these responses represent only approximately one third of the total, they demonstrate a clear trend of support for a new treaty by all respondents except treaty bodies and other international and regional organizations.

Organization Type	Yes, a new treaty is needed	No, a new treaty is not needed	Unclear/ Divided	Optional Protocol	Published ²⁸
Treaty body, international & regional Organization (7)	2	4	1		7
NGO/NGO network (60)	55	4	1	3*	21
Academic (24)	24	0	0		6
Other (23)	20	2	1		4
Total (114)	101	10	3	3*	38

*not mutually exclusive

Although the Special Rapporteur has affirmed her opposition to a new stand-alone treaty, she indicated that a new optional protocol to CEDAW should be considered.²⁹ She also acknowledged, "a significant number of submissions pointed out that the lack of a specific global treaty on gender-based violence against women [has] important symbolic value and further indicated that a new treaty could have an important role in galvanizing implementation at the State level."³⁰

²⁸Of the submissions identified here that were not published on the Special Rapporteur's website, the authors located six that were published elsewhere online. The rest were supplied by Every Woman Treaty. Many responses from NGOs and others are still unavailable. Public access to all of the responses received by the Special Rapporteur would give a full picture of respondents' views on this important topic and would assist those who wish to better understand the views of stakeholders on this important matter.

²⁹ A/72/134, 20.

³⁰ *Ibid.*, 18.

The Current Special Rapporteur Has Continued Her Work Addressing the Normative Gap on Violence Against Women

Perhaps as a result of the strong support for a new treaty, Special Rapporteur Šimonović recommended that an open-ended working group be established to analyze the adequacy of the existing international framework. The working group, which would include the active participation of the Special Rapporteur, could “suggest solutions, including considering, as appropriate, the feasibility of further instruments and implementation measures.”³¹ The Special Rapporteur concluded:

The decision related to the necessity of any new instrument or a global action plan on violence against women should be assessed and discussed through proper inclusive consultations carried out by the States Members of the United Nations and the State parties to the Convention, with the participation of independent global and regional mechanisms, non-governmental organizations, national human rights institutions and all other stakeholders. The mandate of the Special Rapporteur stands ready to further contribute to such discussions.³²

The Platform does not include any representatives of NGOs, nor does it explicitly include the essential voices of victims of violence and their advocates.

While it is unclear whether it is the “open-ended working group” she previously recommended, the Special Rapporteur is currently leading an effort “to improve implementation of the existing international legal and policy framework on violence and discrimination against women.”³³ In March 2018 she convened a High Level Panel during the 62nd Session of the Commission on the Status of Women, formally launching the initiative, designated the Platform of independent international and regional mechanisms on violence against women and women’s rights (The Platform).³⁴ Notably, the Platform does not include any representatives of NGOs, contrary to her original description of a working group.³⁵ Nor does it explicitly include the a necessary voices of victims of violence and their advocates.

In her statement at the 41st session of the Human Rights Council in June 2019, the Special Rapporteur said that she is requesting a General Assembly resolution to formally institutionalize the Platform. In addition, she mentioned the strong cooperation that exists between the mandate of the Special Rapporteur and the CEDAW Committee and that this cooperation could “contribute to closing gaps in combating and

³¹ *Ibid.*, 20.

³² *Ibid.*, 23.

³³ UN Human Rights Special Procedures, “Platform for strengthening cooperation between international and regional independent mechanisms on violence and discrimination against women,” <https://www.ohchr.org/Documents/Issues/Women/SR/PlatformInternationalRegionalMechanisms.pdf>, accessed January 29, 2020.

³⁴ *Ibid.* The Platform consists of the Special Rapporteur herself, members of the United Nations Working Group on the issue of discrimination against women in law and in practice, members of the CEDAW Committee, The Inter-American Special Rapporteur on the Rights of Women, The Special Rapporteur on the Rights of Women in Africa, members of the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI), and members of the Group of Experts on Action against Violence against Women and Domestic Violence of the Council of Europe (GREVIO).

³⁵ *Ibid.* OHCHR, “Report: Meeting of the International and Regional Women’s Rights Mechanisms on Violence against Women and Women’s Rights,” May 23, 2019, <https://www.ohchr.org/Documents/Issues/Women/SR/ReportMeetingStrasbourg.pdf>

preventing violence against women worldwide, and could lead to the adoption of an Optional Protocol to CEDAW on violence against women, in the future.”³⁶ Her statement makes no mention of a role for NGOs in the Platform, a necessary element in the development of an effective treaty.

At the Beijing +25 regional review meeting for the UN Economic Commission for Europe the Special Rapporteur elaborated on her plans. She stated that she and the CEDAW Committee are planning to create a guide with a more detailed roadmap for implementation of General Recommendation 35 which will include examples of good practices on violence against women.³⁷ Again, she made no mention of a role for NGOs, victims and their advocates.

Opinions Gathered by the Special Rapporteurs Provide the Most Definitive View of Stakeholders on the Need for an International Treaty on Violence Against Women

Professor Manjoo and Dr. Šimonović’s initiatives to gather views on the need for and feasibility of a treaty on violence against women have resulted in the best available indication of interested parties’ opinions on the subject. Among the most valuable outcomes of their work is recognition of NGOs’ expression of the urgent need for a more effective mechanism to address violence against women. The call by NGOs for an international treaty on violence against women underscores the necessity that those with the most direct experience of the problem be directly involved in crafting the solution.

³⁶ UN Human Rights Council, forty-first session, “Statement by Ms. Dubravka Šimonović, Special Rapporteur on Violence against Women, its causes and consequences,” Geneva, June 27, 2019, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24779&LangID=E>

³⁷ Beijing +25 UNECE Regional Review Meeting, “Statement by Ms. Dubravka Šimonović, UN Special Rapporteur on Violence against Women, its causes and consequences,” Geneva, October 29 - 30, 2019, https://www.ohchr.org/Documents/Issues/Women/SR/SR_VAW_presentation_UNECE_EVAVW.docx

The Content of a New Treaty Must Be Strong, Specific, and Based on Best Practices

Given the great effort required to enact a treaty on violence against women, it is critical that the content of the treaty be strong, specific, and based on best practices. National efforts to end violence against women began nearly a half century ago and the language of a new treaty should reflect the extensive experience in drafting, amending, and enforcing national laws. Existing international and regional instruments have incorporated some of these lessons. These experiences offer invaluable knowledge about what does and does not work to achieve victim safety and offender accountability. These best practices and lessons learned should guide the creation of an international treaty.³⁸

These lessons are applicable on two levels. First, they should inform the drafting process of the treaty. Second, they should inform the obligations that the treaty creates for member States. Often the same advice is applicable at both levels. In this section, we provide a set of principles based on proven best practices to guide development of the treaty.

Past Experience Offers Guiding Principles for Drafting an Effective International Treaty on Violence Against Women

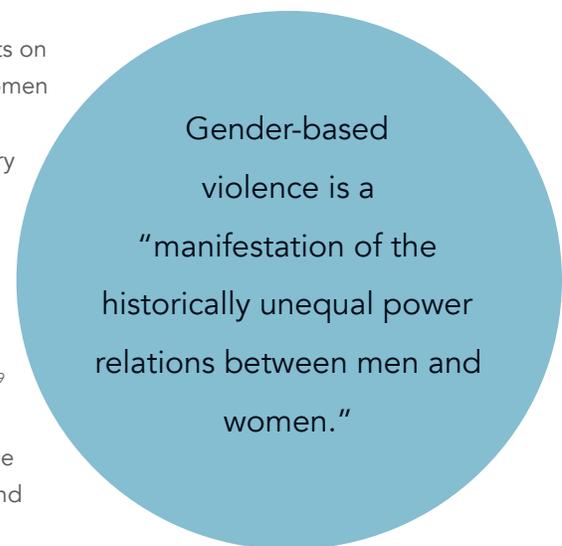
Decades of national, regional and international experience have led to the identification of principles that have been successful in preventing and combating violence against women. Many of these

principles can inform the drafting process of an international treaty on violence against women. Some of the most important principles are:

- A foundation in a gender-based theory of violence against women;
- Leadership by victims of violence and their advocates;
- Inclusion of and leadership by women who experience intersecting forms of oppression;
- Explicit language that directs legal professionals and others in their response to violence against women; and
- Adequate funding for implementation of strategies to intervene in violence against women.

The Treaty Should Be Grounded in a Gender-based Theory of Violence Against Women

Effective instruments on violence against women are founded on a gender-based theory of violence as a “manifestation of the historically unequal power relations between men and women.”³⁹ This language directly identifies the cause of violence and



³⁸ See Appendix 2 for a summary of publications that provide valuable guidance on best practices in addressing violence against women.

³⁹ UN General Assembly, Eighty Fifth Plenary Meeting, “Declaration on the Elimination of Violence against Women,” A/RES/48/104, New York, December 20, 1993, Preamble, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.21_declaration%20elimination%20vaw.pdf

refutes the common belief that women are to blame for abuse perpetrated against them or that they are responsible for ending the violence. It also focuses States on the connection between violence and the subjugation of women.

In addition, a gender-based theory of violence recognizes that women who do not conform to gendered cultural norms (including lesbian/bisexual women, transgender women, and gender nonconforming women) are frequently attacked, punished, and (in some States) criminalized. Finally, applying a gender-based theory of violence supports interventions, services, and prevention activities that not only address individual acts of violence, but also disrupt the root causes of violence against women. This understanding must guide the process of creating the treaty.

Victims of Violence and Their Advocates Should Lead Development of the Treaty

The process of drafting an international treaty on violence against women must ensure that the voices of victims are heard above all others. The UN Secretary General has strongly stated that, “[i]t is critical to involve women fully and to use their experiences of violence – including the complexities that arise from multiple discrimination – as the starting point for developing policies and programmes.”⁴⁰ Experience at the national level has shown that victims of violence know best what state interventions will promote their safety and equality.

In the United Kingdom and the United States, advocates on the front lines serving victims persuaded their policy makers to develop the first

legal frameworks on domestic violence (the most common form of violence faced by women) in the 1970s.⁴¹ This experience has been repeated countless times over the decades around the world at the national level as progress moves forward on violence against women.⁴²

Any treaty that relies solely or primarily on input from high level officials will not meet the needs of victims and may put them in greater danger. Referring to the development of international tools on violence against women, an advocate from Indonesia commented that the Declaration on the Elimination of Violence Against Women in the ASEAN Region has not been successful because it came from the executive level.⁴³

Engaging women, and particularly victims, in critical information gathering to develop the content of the treaty will be a challenging but necessary process. It requires sensitivity to trauma, and addressing safety concerns, culture and identity. Women’s NGOs can play a critical role in creating safe environments for women to share their experiences. Every Woman Treaty⁴⁴ has done much of the groundwork by creating a coalition of at least 840 women’s organizations in 128 countries, all supportive of an international treaty on violence against women. Women’s organizations should be engaged to gather input from victims through focus groups, interviews, and surveys. In addition to gathering victims’ input in the drafting process, the treaty should require member states to engage victims’ leadership in the implementation and monitoring of the treaty’s mandates.

40 UN General Assembly, Sixty-first session, “Report of the Secretary-General: In-depth Study of all Forms of Violence Against Women,” July 6, 2006, A/61/122/Add.1, 81, <https://undocs.org/A/61/122/Add.1>

41 Rebecca Emerson Dobash and Russell Dobash, *Women, Violence and Social Change*, (Psychology Press: London and New York, 1992), 111,146.

42 See UN Women, “Virtual Knowledge Centre to End Violence Against Women”, Legislation and Justice sections, www.endvawnow.org, accessed January 29, 2020. The “Virtual Knowledge Centre” contains numerous examples of best practices developed by victims and advocates at the national level.

43 Comments at “Has the Time Come? Grassroots Women and the Gaps in the Global Framework on Violence Against Women,” CSW58 (March 13, 2014). Yuniyanti Chuzaifah, Chairperson of Indonesia’s National Commission on Violence Against Women.

44 “Who We Are - Every Woman Treaty,” Every Woman Treaty, 2018, <https://everywoman.org/who-we-are/>, accessed January 29, 2020.

The drafting process for a new treaty must also include legal advocates who have accessed international or regional treaty bodies or courts on behalf of victims, such as the CEDAW Committee, the Inter-American Court of Human Rights, the African Court on Human and Peoples' Rights, and the European Court of Human Rights. These advocates' experiences offer uniquely important insight into how international legal frameworks and their implementation affect national law and policy in a way that makes a tangible difference in the lives of victims. Numerous advocates have this experience, as evidenced by the many cases, complaints and communications brought at the international and regional levels. The experience of combating violence against women from the frontlines must be a key contribution to creating a strong international legal framework.

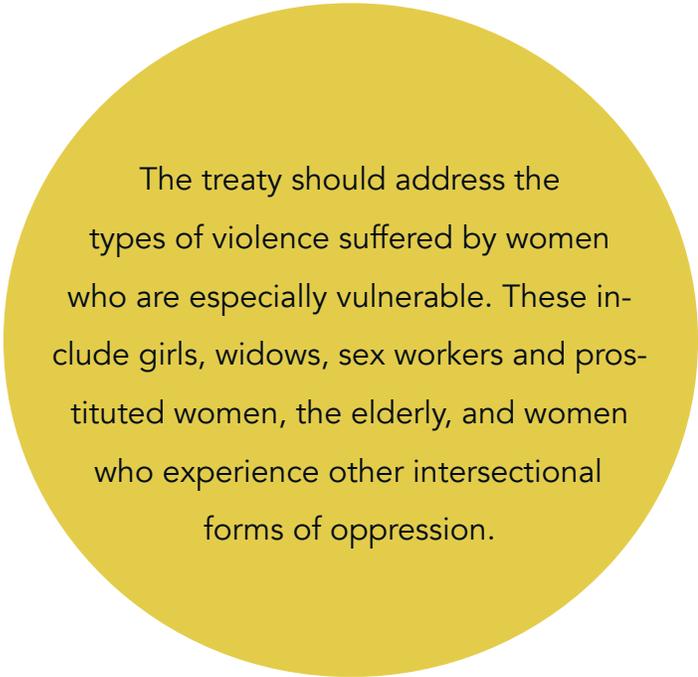
The Treaty Should Address the Full Scope of Violence Against Women

Drafters should ensure that the treaty protects women from the myriad forms of violence they experience around the world. The treaty should define violence against women with specificity and breadth, and should explicitly address violence arising in a wide range of socioeconomic, cultural, and political contexts, including armed conflict. Women around the world are subjected to so-called "honor crimes," forced marriage, workplace abuse, sex trafficking, female genital mutilation, and state-sanctioned violence, among other abuses. The most widespread forms of violence against women - domestic violence, sexual violence, and sexual harassment - should be addressed comprehensively and according to best practices. In addition, the treaty should address the types of violence suffered by women who are especially vulnerable. These include girls, widows, sex workers and prostituted women, the elderly, and women who experience other intersectional forms of oppression.

The Treaty Should Address the Impact of Intersecting Forms of Oppression

Although violence against women and girls is a global phenomenon, women do not all experience violence in the same way. Many women face multiple intersecting barriers to safety, dignity, and freedom. A strong treaty must reflect the lived experiences of women with disabilities, indigenous women, migrant and refugee women, women who are marginalized due to race, class, ethnicity and religion, colonization, and lesbian, bisexual, and transgender women. The Black feminist organization Imkaan posits that "by understanding the different ways in which violence is perpetrated and experienced, an intersectional praxis can design and develop appropriate context-specific responses when addressing VAWG."⁴⁵

The treaty should define intersectionality and should contain a broad and explicit anti-discrimination clause. Further, the treaty should embody the best practice of engaging NGOs led by and for women experiencing intersectional forms of oppression in the treaty's implementation.



The treaty should address the types of violence suffered by women who are especially vulnerable. These include girls, widows, sex workers and prostituted women, the elderly, and women who experience other intersectional forms of oppression.

45 Imkaan and UN Women, "The Value of Intersectionality in Understanding Violence Against Women and Girls (VAWG)," July 2019, 3, <https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2019/10/the%20value%20of%20intersectionality%20in%20understanding%20violence%20against%20women%20and%20girls.pdf?la=en&vs=3339>

Several international human rights instruments and publications have recognized the importance of an intersectional approach to violence against women. The Istanbul Convention accounts for multiple forms of oppression experienced by women by explicitly prohibiting discrimination in the application of its provisions:

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.⁴⁶

This inclusive language accounts for the multiple forms of oppression women face around the world. Further, Article 12 of the Istanbul Convention requires States to “take into account and address the specific needs of persons made vulnerable by particular circumstances.” The explanatory note to this provision elaborates that “vulnerability” includes various experiences of oppression.⁴⁷

A 2019 Policy Brief by Imkaan, in partnership with UN Women, urges the importance of engaging organizations that are “by and for” women experiencing intersectional forms of oppression in the strategy to address and eliminate violence against women.⁴⁸ Leadership by states and NGOs in the global south will be essential to ensuring that the treaty is responsive to the experiences of women who have been marginalized due to colonization and its continuing effects.



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The Treaty Should Employ Explicit and Specific Language

One of the primary lessons of national experience is that specific language in laws is essential to prioritizing women’s safety and offender accountability. Only strong and specific universal standards that codify best practices can avoid mistakes that result in serious harm to women. Drafters should use clear language in the treaty itself, and the treaty should direct member States to use clear and specific language in drafting laws, policies and procedures to achieve compliance with the treaty.

Specificity in a new international binding instrument could provide the many advantages that have been demonstrated at the national level, examples of which are described in Part B below. It could draw new and focused attention to aspects of violence against women as a human rights violation that nations must address. It could give more explicit guidance

⁴⁶ “The Council of Europe Convention on preventing and combating violence against women and domestic violence,” opened for signature May 11, 2011, Council of Europe Treaty Series no. 210, Article 4, <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

⁴⁷ *Ibid.*, Article 12. See also UN Women, “Handbook on National Action Plans on Violence Against Women,” New York, 2012, 15, <https://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf> This Handbook also urges States to take an intersectional approach to violence against women.

⁴⁸ Imkaan & UN Women, “The Value of Intersectionality in Understanding Violence Against Women and Girls.”

in implementation, and it could facilitate ongoing refinement of directives on exactly how countries can meet their obligation to effectively address violence against women.

Adequate Funding is Essential to an Effective Treaty on Violence Against Women

Historically and with few exceptions, the funding of initiatives to prevent and combat violence against women has been insufficient at all levels. Inadequate funding fatally undermines efforts to address violence against women and effectively enforce applicable human rights laws. While recent UN budget cuts that threaten human rights treaty bodies add to an atmosphere of scarcity,⁴⁹ it is imperative that drafters highlight the need for adequate funding of UN agencies and programs that address violence against women.

At the international level, the United Nations has allocated minimal funding for bodies dedicated to women's rights. When the four gender-related agencies were consolidated into UN Women, its target start-up budget for UN Women was \$500 million USD, only half of what observers have stressed should be at least \$1 billion USD.⁵⁰ UN Women's total revenue for 2018 was \$405 million USD.⁵¹

Other United Nations agencies also reported funding efforts to address violence against women in 2018, although often without specifying the amount

expended on these efforts. For example, UNICEF stated that it addressed "gender-based violence in emergencies," but did not specify the portion of its almost \$6 billion USD in expenditures that were devoted to that purpose.⁵² The United Nations Population Fund reported supporting programs to end violence against women in 2018, with \$162.6 million USD spent on gender equality and women's empowerment generally.⁵³ In the same period, the United Nations Development Program allocated an unidentified portion of its \$5.5 billion USD revenue to collaborating with partner countries to address violence against women.⁵⁴ Regardless of the specific amounts these agencies allocated to addressing violence against women, their contributions are inadequate to the massive need.

Another United Nations group, the Inter-Agency Network on Women and Gender Equality, a body created to monitor and help implement the Beijing Platform for Action and the General Assembly's gender-related recommendations,⁵⁵ has been severely underfunded. As one commentator stated, "this is a critical role, one that has been set up to fail because the network does not have the necessary resources to be effective."⁵⁶

Further, the United Nations' financial distribution structures do not come close to meeting the demand of gender-related bodies. The UN Trust Fund to End Violence against Women, which is completely dependent on voluntary contributions, received

49 OHCHR, "UN budget shortfalls seriously undermine the work of the Human Rights Treaty bodies," May 17, 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24621&LangID=E>, accessed January 17, 2020; see also Navi Pillay, "No more tinkering—real reform needed to UN human rights treaty monitoring," October 15, 2019, <https://www.openglobalrights.org/no-more-tinkering-real-reform-needed-to-UN-human-rights-treaty-monitoring/>

50 *Id.* at 42(citations omitted).

51 UN Women, "Statement of Financial Performance," UN Women Annual Report 2018-2019, 2018, <https://www2.unwomen.org/-/media/annual%20report/attachments/sections/library/2019/7-1-un-women-annual-report-2019-financial-statements-en.pdf?la=en&vs=4734>

52 UNICEF, "2018 Annual Report," June 2019, 1,8 <https://www.unicef.org/media/55486/file/UNICEF-annual-report-2018%20revised%201.pdf>

53 UNFPA, "Annual Report 2018," https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA_PUB_2018_EN_Annual_Report_3.pdf

54 UNDP, "Annual Report 2018," <https://annualreport.undp.org/#>

55 UN Women, Inter-Agency Network on Women and Gender Equality, <https://www.un.org/womenwatch/osagi/olANWGE.html>

56 *Id.* at 37 (citations omitted).

funding requests totaling \$434 million USD from 1,086 organizations in its 2018 cycle.⁵⁷ Of these requests, the Fund was able to fund only 24 organizations in 21 countries and territories in the amount of \$9.2 million.⁵⁸ The process of adopting a new treaty can create momentum for the United Nations to prioritize funding for its violence against women initiatives that would be comparable to that received by other UN mechanisms and adequate to meet the need.

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The importance of adequate funding to effectively address violence against women cannot be overstated. Drafters must advocate for an increase in international funds dedicated to ending violence against women. Additionally, because many States lack the significant resources that will be required to implement the treaty's provisions, the treaty should give member States the right to seek and receive assistance from other member States, following the model of the Landmines Treaty,⁶² discussed below. While ensuring sufficient funding is a complex issue and will require creative strategies, it must be a cornerstone of a treaty on violence against women.

A new source of funding for combatting violence against women became available in 2017 with the launch of the Spotlight Initiative. This funding mechanism is the European Union and United Nations' global, multi-year program focused on eliminating violence against women.⁵⁹ The initiative, with combined funding by the European Union of \$147 million USD in 2017 and 2018, has supported projects in 14 countries.⁶⁰ While the Spotlight funding is welcome and needed, it has been criticized for lack of accessibility to the funds by women's grassroots NGOs.⁶¹

Internationally Recognized Best Practices Should Inform Member States' Obligations Under the Treaty

Just as internationally recognized best practices should inform the drafting of the treaty, they should also form the basis for states' obligations under the treaty to protect women, hold offenders accountable, and end the tolerance for violence against women. While specific content should be informed by engagement with victims and advocates around the

57 United Nations Trust Fund to End Violence Against Women, "Grantees, 22nd cycle (2019)," <https://unfpa.org/en/grant-giving/unfpa-grantees/grantees-22nd-cycle-2019>, accessed January 17, 2020.

58 Lydia Alpizar Duran, *Strengthening Financing for Gender Equality and Women's Organizations*, 2012, 15. Fleur Roberts, "Understanding the Need for UN Women: Notes for New Zealand Civil Society," *Women's Studies Journal* 25:1 (2011): 31-46, at 42; see also Luisa Blanchfield, *United Nations System Efforts to Address Violence against Women*, Congressional Research Service, 2011, at 7.

59 United Nations, "The Spotlight Initiative to Eliminate Violence against Women and Girls," <https://www.un.org/en/spotlight-initiative/>, accessed January 29, 2020.

60 United Nations and European Union, "Spotlight Initiative to Eliminate Violence Against Women and Girls, Annual Report: 1 January 2018 - 31 December 2018," 2019, 75, 77, https://spotlightinitiative.org/sites/default/files/publication/Spotlight_Initiative_AR_2018_FINAL_1.pdf

61 See "Open Statement regarding Accessibility of Spotlight Initiative Funding," November 12, 2019, accessed January 14, 2020, <https://www.mamacash.org/en/open-statement-regarding-accessibility-of-spotlight-initiative-funding>. The statement was signed by 131 organizations and 91 individuals worldwide and includes recommendations for improving accessibility of the Fund.

62 "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction." Opened for signature December 3, 1997, United Nations Treaty Series, vol. 2056, Art. 6(1), https://treaties.un.org/doc/Treaties/1997/09/19970918%2007-53%20AM/Ch_XXVI_05p.pdf

world, we recommend several essential components of a comprehensive and effective treaty.

The Treaty Should Require an End to Discriminatory Laws and Harmful Practices that Undermine Effective Responses to Violence Against Women

In many States, existing discriminatory laws, policies, and practices undermine efforts to protect women from violence and hold perpetrators accountable. Many such laws relate to women's role in family life, such as limiting a woman's rights in marriage and divorce. Laws that explicitly mandate "wife obedience" provide impunity for domestic violence.⁶³

The treaty should require member States to make any necessary legal changes to create a sound basis for protecting women's human rights. Existing regional agreements provide examples for how the treaty can create an obligation to address both discriminatory laws and harmful traditional practices. For example, Article 4 of the Istanbul Convention requires member States to take all necessary measures to eliminate discriminatory laws, prohibit discrimination against women, and embody the principle of equality in their Constitutions and laws.⁶⁴ The Maputo Protocol requires member States to "combat all forms of discrimination against women through appropriate legislative, institutional and other measures," including by addressing harmful practices that affect the health and well-being of women.⁶⁵ Further, the Maputo Protocol directs States to "integrate a gender perspective" into all government programs and legislation as a means to combat discrimination.⁶⁶



The treaty should require member States to make any necessary legal changes to create a sound basis for protection of women's human rights.

Requiring an end to discriminatory laws must include laws that permit or overlook traditional harmful practices. The United Nations has recognized harmful traditional practices as a form of violence against women. In its *Supplement to the Handbook for Legislation on Violence Against Women*, the United Nations recommends specific measures, including:

- Specific prohibitions on harmful practices including female genital mutilation, forced marriage, child marriage, and so-called honor crimes such as "payback rape" and acid attacks. Prohibitions should be accompanied by appropriate criminal sanctions.⁶⁷
- Prohibitions on invoking custom, tradition or religious consideration to justify harmful practices against women.⁶⁸

⁶³ OHCHR, "Combating Discrimination against Women," https://www.ohchr.org/en/issues/discrimination/pages/discrimination_women.aspx, accessed January 29, 2020.

⁶⁴ Council Of Europe, "Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)" Council of Europe Treaty Office (Strasbourg, 2014), <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

⁶⁵ "Protocol to the Africa Charter on Human and Peoples' Rights on the Rights of Women in Africa," June 11, 2003, Art. 2. https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf

⁶⁶ *Ibid*, Art. 2(1)(c).

⁶⁷ UN Women, *Supplement to the Handbook for Legislation on Violence Against Women: Harmful Traditional Practices*, "Harmful practices" against women, (New York, 2011), 15-27, <http://www.un.org/womenwatch/daw/vaw/handbook/Supplement-to-Handbook-English.pdf>

⁶⁸ *Ibid*.12.

- Laws to protect women in migration by providing for extraterritorial jurisdiction, extradition of perpetrators, and measures allowing victims or potential victims to seek residence or asylum.⁶⁹

In addition, applying an intersectional lens to States' obligations under the treaty will require additional protections for women experiencing multiple forms of discrimination. The Istanbul Convention provides a good example of this, requiring States to ensure protection from deportation for migrant women who are victims of violence.⁷⁰

The Treaty Should Require States to Employ Specific Language to Ensure Effective Implementation of Best Practices

National experience has also shown that specific legal provisions are necessary to instruct legal system actors as to their roles and responsibilities. An international treaty outlawing violence against women with explicit, specific provisions drawn from such experiences will guide well-intentioned legal system actors in carrying out their responsibilities, and will constrain those with discriminatory attitudes from harming women.

As domestic violence laws were developed and implemented at the national level, it quickly became clear that laws must be carefully drafted to avoid further harming women when government actors intervene. This new area of government intervention, where women often maintain a relationship with the abuser, share a common household, and have children together, requires different approaches and remedies than cases of stranger violence. A better understanding of the dynamics of domestic violence has prompted legislation and policies which provide increasingly detailed instructions to police, prosecutors, judges and other community members

on their duties in responding to this type of violence.⁷¹ This section describes how domestic and sexual violence laws that employ specific language can effectively address violence against women and avoid unintended consequences.

Specific domestic and sexual violence laws are more effective than general criminal and civil laws in addressing violence against women

Specific laws outlawing violence against women at the national level have challenged entrenched social norms. They have raised awareness that violence against women is a crime and that States have the duty to prevent it, protect victims, and punish offenders. Most States have general criminal assault and rape laws that could and should be applied to cases of violence against women within the family or by other persons known to the victim, just as they are in cases of violence by

unknown assailants. However, because these general criminal laws have typically not been applied in cases of intimate partner sexual assault, it is necessary to adopt laws specifically directed at abuse by an intimate partner or acquaintance.⁷²



Because these general criminal laws have typically not been applied in cases of intimate partner sexual assault, it is necessary to adopt laws specifically directed at abuse by an intimate partner or acquaintance.

⁶⁹ *Ibid.*13.

⁷⁰ Istanbul Convention., Chapter VII.

⁷¹ For example, the original three-page Domestic Abuse Act that was passed in the State of Minnesota in the United States in 1979 has been amended almost every year and is now over 20 pages long. See Minn. Stat. 518B.01(2013), <https://www.revisor.leg.state.mn.us/statutes/?id=518B.01>

⁷² Dobash and Dobash, *Women, Violence and Social Change*, 46-212.

Similarly, in the civil realm, restraining orders have long existed as a general remedy in many jurisdictions. Yet they were not often applied in cases of domestic violence until the restraining orders were re-conceptualized and re-drafted to directly target domestic violence offenders. Even as laws have been amended to allow access to protection orders, lack of specificity in the laws has often thwarted victims' ability to utilize them. For example, in some States, courts have required victims to produce extensive evidence in support of requests for protection orders, delaying the process and undermining the safety of the victim.

The *UN Handbook for Legislation on Violence Against Women* recommends that laws specify that a protection order may be issued based solely on the victim's statement or affidavit.⁷³ When drafted with specificity and according to best practices, protection order laws now offer one of the most important remedies to victims of domestic violence.⁷⁴ Detailed and explicit language of these laws reflects women's experiences of violence.

Specific language can reflect a gendered understanding of violence and avoid unintended consequences

In some cases, well-intentioned reforms have led to unexpected results due to vague language. For example, growing recognition of the psychological

manipulation of victims by abusers has led some States to cover "mental" or "psychological" violence in domestic violence legislation. In Lithuania, it proved difficult to fairly enforce a prohibition on mental violence that was included in its 2011 domestic violence law.⁷⁵ The vague concept of mental violence is difficult for police, prosecutors and judges to identify. As such, it presents a great risk of being manipulated by perpetrators against victims and distracting the legal system from holding dangerous offenders accountable.

A better conceptualization of the mental, psychological, and emotional abuse that characterizes most domestic violence is set forth in the new crime of "coercive control," adopted by England, Wales, Scotland, and Northern Ireland.⁷⁶ A bill to establish coercive control as a crime has also been introduced in New York State in the US.⁷⁷ That concept reflects the understanding that domestic violence is most often characterized by "a pattern of domination that includes tactics to isolate, degrade, exploit and control [victims] as well as to frighten them or hurt them physically."⁷⁸

Specificity has also proven essential in legal reform to address harmful traditional practices. For instance, although many countries have passed legislation prohibiting female genital mutilation, some laws do not define FGM or specifically prohibit all forms of female genital cutting that do not have a medical

73 UN Women, "Handbook for Legislation on Violence Against Women," 46.

74 A study conducted in the state of Kentucky in the United States concluded that protection orders are effective in reducing violence. Even for those who experienced violations of the orders, both the severity of the violence which recurred, and the victim's fear of future harm were significantly reduced during the follow-up period. The majority of the victims believed that the protection order was effective, and only 4.3 percent had dropped the order by the end of the follow-up period. K Logan, Robert Walker, William Hoyt, and Teri Faragher, "The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, and Costs" (US Department of Justice: 2009), 103 and 116, <https://www.ncjrs.gov/pdffiles1/nij/grants/228350.pdf>

75 Mėta Adutavičiūtė, Jūratė Guzevičiūtė, "Struggling for Gender Equality: Sharing Lithuanian and Bulgarian Experience," Eastern Europe Studies Centre, 2013, http://www.eesc.lt/uploads/news/id683/Struggling%20for%20gender%20equality_EN.pdf

76 Serious Crime Act 2015 (United Kingdom), Part 5, Sec. 76, <http://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>, Domestic Abuse Act 2018 (Scotland), Part 1, Sec. 2, <http://www.legislation.gov.uk/asp/2018/5/contents/enacted>; Domestic Violence Act 2018 (Ireland), Sec. 39, <http://www.irishstatutebook.ie/eli/2018/act/6/section/39/enacted/en/html>.

77 Senate Bill S5306, New York State Senate, <https://www.nysenate.gov/legislation/bills/2019/s5306>, accessed February 7, 2020.

78 Evan Stark, "Re-presenting Battered Women: Coercive Control and the Defense of Liberty," in *Violence Against Women: Complex Realities and New Issues in a Changing World*, (Les Presses de l'Université du Québec: Québec, 2012), http://www.stopvaw.org/uploads/evan_stark_article_final_100812.pdf.

purpose. In some cases, these loopholes have allowed the practice to continue without consequence.⁷⁹

Another example of the power of specificity is the evolution of sexual assault laws to include “rape shield” provisions.⁸⁰ Historically, the sexual history of a rape victim was deemed relevant because a “chaste” woman was ostensibly more likely to resist a sexual advance than an “unchaste” woman.⁸¹ Victims who feared such prying into their sexual history would be less likely to report assaults or testify in criminal cases. Rape shield laws protect victims of rape from embarrassing, demeaning, and potentially discrediting questions about their prior sexual history which have nothing to do with the case at hand. Countries with rape shield laws include South Africa,⁸² the United Kingdom,⁸³ Australia,⁸⁴ New Zealand,⁸⁵ and every state in the United States.⁸⁶

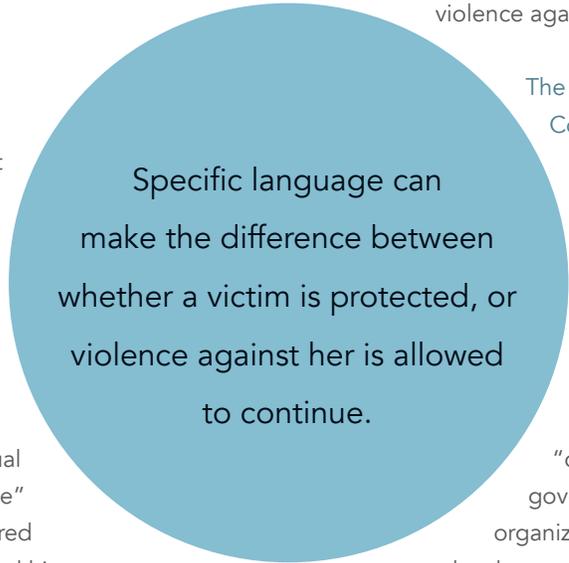
These are but a few examples of situations in which specific language can make the difference between whether a victim is protected, or violence against her is allowed to continue. The treaty should require

member States to comply with its terms by employing explicit, specific language in laws and policies on violence against women.

The Treaty Should Require Interagency Coordination

Interagency coordination is universally recognized as an essential component of States’ efforts to ensure that victims’ safety is the focus and top priority of any government intervention. As affirmed by the Maputo Protocol, “collaboration and coordination among governments, NGOs and civil society organizations continue to be vital in the development of effective practices to eliminate violence against women.”⁸⁷

A new international treaty must require collaboration, coordination and communication at every level. It should not only direct member nations to coordinate responses at the national and local levels; it should encourage international and regional bodies to coordinate and communicate. While collaboration and coordination systems are very different at the international, national and local levels, the underlying premise is simple and intuitive and has demonstrated success -- coordination, communication and collaboration will dramatically improve outcomes.



79 UN Women, “Supplement to the Handbook for Legislation on Violence Against Women: Harmful Traditional Practices,” 15-16.

80 Michelle J. Anderson, “Understanding Rape Shield Laws,” http://www.vawnet.org/Assoc_Files_VAWnet/RapeShield.pdf, excerpted from “Chastity Requirement to Sexuality License: Sexual Consent and a New Rape Shield Law,” *George Washington Law Review*, 70 (2002): 51.

81 *Ibid.*

82 Criminal Procedure Act (South Africa), Chapter 24, § 227(2), <http://www.justice.gov.za/legislation/acts/1977-051.pdf>.

83 Denise Roman, “Under the Rape Shield, A Historical and Comparative Perspective of Rape Shield Laws”, 21-22 (UCLA Center for the Study of Women, 2011), <http://escholarship.org/uc/item/0w62h4dp>

84 Uniform Evidence Law (Australia), Chapter 20.11, Rape shield laws, last modified August 17, 2010, <http://www.alrc.gov.au/publications/20.%20Matters%20Outside%20the%20Uniform%20Evidence%20Acts/rape-shield-laws>, accessed January 29, 2020.

85 Roman, “Under the Rape Shield, A Historical and Comparative Perspective of Rape Shield Laws.”

86 <https://ndaa.org/wp-content/uploads/NCPCA-Rape-Shield-2011.pdf>

87 A/61/122/Add.1, 82

Treaty drafters can be guided by the Coordination and Governance of Coordination module of the Essential Services Package for Women and Girls Subject to Violence, created by a partnership of UN agencies.⁸⁸ The Coordination and Governance of Coordination module provides guidelines for a cohesive multi-disciplinary cross-agency approach at both the national and local levels to ensure that all women and girls receive a comprehensive women and child centered response when they are victims of violence.⁸⁹

On the local level, a domestic violence Coordinated Community Response (CCR) brings together police, prosecutors, probation, courts, shelters, advocacy groups, and social service agencies. Representatives of these sectors work together to improve the overall government and community intervention in domestic violence cases on a systemic level and with respect to individual victims.

One of the first and most successful examples of a formal model for inter-agency collaboration and communication at the national level is the Duluth Model, developed in 1980 in Minnesota US by the Domestic Abuse Intervention Project. The Duluth Model works to promote cooperation in domestic violence cases among different actors and agencies.⁹⁰ The objectives of the Duluth Model are:

- to shift the burden of responsibility for the violence from the victim to the offender;
- to place victims' experiences foremost in the development of policies and procedures;
- to promote sharing of policies and procedures that hold offenders accountable and protect victim safety;
- to operate on a shared understanding of domestic violence;

- to provide court-ordered batterers' intervention programs; and
- to share safety-related information and foster dialogue among criminal justice and civil sectors, the community, and victims.⁹¹

One example of a coordinated community response to domestic violence is in a rural community in South Australia. Human service workers raised concerns that client needs were not being met, that services were uncoordinated, and service workers were confused about their roles. Some workers lacked understanding of the complexity of domestic violence. Organizers of the CCR interviewed victims and human service workers to identify barriers to collaboration, allowing workers to visualize a local response. From there, they developed strategies to coordinate and integrate workers and agencies to create sustainable practices.⁹²

Efforts to strengthen international legal frameworks and mechanisms should draw from these experiences. Consistent with national and local CCRs, international agencies can work together to hold States accountable for prevention, protection and punishment. The participants in such an international coordinating group might be all relevant UN bodies, including treaty bodies, that examine information on States parties' due diligence with respect to violence against women. Regular and consistent information sharing, such as a database among these UN bodies, could identify how and where States are failing to uphold their obligations, common barriers, and additional resources needed for effective implementation of treaties. Such coordination could also help identify country mechanisms and laws that are working to protect victim safety and share these practices more widely with other countries.

88 UN Women et al., "Essential services package for women and girls subject to violence."

89 *Ibid.*

90 Ellen Pence, "Coordinated Community Response to Domestic Assault Cases: A Guide for Policy Development," (Duluth, Minnesota: Domestic Abuse Intervention Project, 1996).

91 "What is the Duluth Model?" Domestic Abuse Intervention Program, <http://www.theduluthmodel.org/about/index.html>, accessed January 29, 2020..

92 Sarah Wendt, "Building and Sustaining Local Co-ordination: An Australian Rural Community Responds to Domestic and Family Violence," *British Journal of Social Work* 40, no. 1 (July 30, 2008): 44–62, https://www.jstor.org/stable/43687421?seq=1#page_scan_tab_contents

Indeed, coordination among international mechanisms that address violence against women should be incorporated into a new treaty on violence against women. Such coordination at the international level can help ensure that a new treaty complements existing efforts rather than duplicating them.

The Treaty Should Require Specialized Professionals and Forums

National level best practices and lessons learned indicate the importance of specialized legal professionals and forums to implement and adjudicate laws on violence against women. Government intervention in private acts of violence has proven complicated and is likely to have unintended consequences. Specialization developed at the national level for police, prosecutors, judges and courts has proven successful in promoting victim safety and offender accountability.⁹³ The specialized approach was driven by multiple factors including the need for expertise, efficiency, and coordination in handling violence against women cases. These same factors should lead treaty drafters to require that member States adopt and implement a specialized approach to violence against women.

Specialized police and prosecution units, including investigators, have had positive results in many countries. Specialized sexual assault, domestic violence and sex trafficking units have increased the frontline actors' capacity to gather solid evidence at the scene of a crime, investigate cases more thoroughly, and work with victims more effectively and safely to maximize offender accountability.⁹⁴

The advantages of dedicated domestic violence courts are numerous. If properly implemented, they provide opportunities for in-depth training and development of expertise on the handling of cases of violence against women. In domestic violence courts, it is likely



Specialization developed at the national level for police, prosecutors, judges and courts has proven successful in promoting victim safety and offender accountability.

that decision makers' greater exposure to these cases will result in better understanding of their complicated dynamics. As a result, their decisions can avoid unintended consequences and keep victims safe. Such courts facilitate consistency in decision making and accountability for perpetrators who re-offend and must face the same judge time after time. Judges on dedicated courts also provide leadership to other areas of the legal system in which violence against women is a factor.⁹⁵

An example of a successful specialized court is the Brooklyn, New York Felony Domestic Violence Court, which was created in 1996. Victim advocates within the court contact virtually all victims to offer referral services, counseling and safety planning. Some of the court's articulated goals may be adapted at the international level, including immediate response, promotion of victim safety, accountability, consistency, coordination and specialized technology in data tracking.⁹⁶

A study in the United Kingdom reviewed the efficacy of specialized courts. The study showed that specialized domestic violence courts provided enhanced victim satisfaction, sending a message

⁹³ A/61/122/Add.1, 88.

⁹⁴ *Ibid.*, UN Women, "Handbook for Legislation on Violence Against Women," 17.

⁹⁵ UN Women, "Handbook for Legislation on Violence Against Women," 17.

⁹⁶ "Domestic Violence Court," Center for Court Innovation, <https://www.courtinnovation.org/programs/domestic-violence-court>, accessed January 29, 2020.

to victims that they were heard, while also sending a message to offenders that domestic violence is taken seriously. The study also showed that specialized courts increase public confidence in the justice system, provide a catalyst for multi-agency collaboration, and promote coordination of support for victims.⁹⁷ Other countries that have adopted specialized domestic violence courts include Brazil, Spain, Uruguay, and Venezuela.⁹⁸

Member States Must be Required to Adequately Fund Implementation of the Treaty

An international treaty on violence against women must require member States to fund shelters, social services, data collection, public awareness initiatives, training of legal system actors, and more. Experience at the national level demonstrates that national legislation must explicitly allocate funds to implement the activities mandated by the legislation.

In the US, the Violence against Women Act (VAWA) increased prosecution and punishment for crimes of violence against women and expanded research on the issue.⁹⁹ It also allocated funding for 1) criminal justice, including law enforcement, prosecution,

arrest policies, and trainings; 2) services for victims, including hotlines, shelters, rape prevention and awareness; and 3) research and data collection.¹⁰⁰ Hundreds of millions of dollars are allocated to state programs every year to support VAWA programs.¹⁰¹

Requiring States to adopt and implement best practices in order to receive funding under VAWA has been the law's underlying genius. Since VAWA's initial passage in 1994, all US states have enacted legislation to criminalize stalking and improve laws on rape.¹⁰² This funding also transformed the enforcement of laws on violence against women to prioritize victim safety and offender accountability.

Spain's Organic Act on Integrated Measures against Gender-Based Violence (2004) is a model for including dedicated funding for initiatives on violence against women.¹⁰³ Yet, like many other countries, Spain has failed to fulfill its commitment to provide adequate funding. A spate of murders of women who had sought protection from the government highlighted the inadequacies of the Spanish justice system, with a particular focus on lack of funding and resources.¹⁰⁴

97 Dee Cook, Mandy Burton, and Amanda Robinson, 'Enhancing "Safety and Justice": The Role of Specialist Domestic Violence Courts in England and Wales,' *British Society of Criminology*, 2, accessed December 5, 2019. <http://www.britisoccrim.org/volume7/008.pdf>

98 UN Women, "Handbook for Legislation on Violence against Women," 17.

99 Violence Against Women Act, P.L. 103-322, Title IV, 1994.

100 Rachel Boba and David Lilley, "Violence Against Women Act (VAWA) Funding: A Nationwide Assessment of Effects on Rape and Assault," *Violence Against Women*, No. 15:2, 2009, 168-185, <https://psycnet.apa.org/record/2009-01081-004>

101 Office on Violence Against Women (OVW), "VAWA 2013 Summary: Changes to OVW-Administered Grant Programs," <https://www.justice.gov/sites/default/files/ovw/legacy/2014/06/16/VAWA-2013-grant-programs-summary.pdf> Although VAWA has expired and has been pending reauthorization by the U.S. Congress since January 1, 2019, the federal government has continued to appropriate funding as allocated pursuant to the previous versions of VAWA. However, new grant programs proposed under the bill to reauthorize VAWA will not be appropriated unless and until the Senate passes the reauthorization bill. See National Coalition Against Domestic Violence, <https://ncadv.org/blog/posts/yes-vawa-expired-what-this-means-how-we-got-here-and-;> National Taskforce to End Sexual and Domestic Violence, <http://www.4vawa.org/violence-against-women-act-vawa>

102 The National Task Force to End Sexual and Domestic Violence Against Women, Toolkit Subcommittee, *The Violence Against Women Act (VAWA): A Toolkit for Educating Policy Makers about Reauthorization*, November 28, 2011, 14, <https://www.futureswithoutviolence.org/userfiles/file/PublicPolicy/VAWA%20Reauth%20Toolkit%20Final%2011%2028%2011.pdf>

103 Organic Law 1/2004 of 28 December on Integrated Protection Measures against Gender Violence Spain, Art. 19 (6), <https://justiciadegenero.com/en/organic-law-12004-of-28-december-on-integrated-protection-measures-against-gender-violence-spain/>, accessed January 30, 2020.

104 Susana Urrea, "Spanish justice system admits it is failing victims of gender violence," *El Pais*, Sept. 28, 2018, https://elpais.com/elpais/2018/09/28/inenglish/1538128575_682750.html, accessed January 30, 2020.

One challenge to effective implementation of the Istanbul Convention has been the enforcement of its directive that States adequately fund initiatives on violence against women. A study of policies and legislation adopted in the wake of the Istanbul Convention in the Western Balkans and Turkey demonstrates that lack of funding is a major impediment to implementation of the treaty.¹⁰⁵

According to the study, "Funding from the state is very scarce and rarely provided: a systemic issue within the Western Balkans and Turkey."¹⁰⁶ In many cases, governments are failing to provide funding to NGOs charged with providing services. For example, in Bosnia and Herzegovina, shelters are slated to receive 100 percent of their funding from the government but receive only a portion of the funding. In Kosovo, shelters were forced to temporarily close because of delayed government funding.¹⁰⁷

It is imperative that an international treaty require States to pass legislation allocating specific funds to support each aspect of their laws on violence against women. The treaty should also include a specific reporting obligation on funding allocation.



¹⁰⁵ European Women's Lobby, "Integrated Policies – Integrated Approach, Mapping Of Policies And Legislation On Violence Against Women And The Istanbul Convention In The Western Balkans And Turkey Executive Summary," (Nov. 2018, https://www.womenlobby.org/IMG/pdf/ewl_executive_summary_web_spread.pdf)

¹⁰⁶ *Ibid.*, 15.

¹⁰⁷ *Ibid.*, 12.

Recent Treaties Can Be Models for Successfully Enacting a Treaty on Violence Against Women

Two recent international treaties offer guidance on how to achieve a violence against women treaty: the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Landmines Treaty) and the Convention on the Rights of Persons with Disabilities (Disabilities Treaty). Grassroots mobilization and NGO leadership were driving forces in achieving both treaties.

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction Provides a Blueprint for NGO and Government Collaboration

The Landmines Treaty, which was adopted in 1997 and entered into force in 1999, came about through the efforts of frontline NGOs, health professionals, and other civil society groups. These groups instigated an international process, ultimately led by Canada, to create the treaty to ban landmines.¹⁰⁸

In the 1970s, the International Committee of the Red Cross began to promote the need for the elimination of the use of landmines by displaying the destruction they caused to human life. On a visit to Central America in the 1980s, US Senator Patrick Leahy of Vermont encountered a landmine victim

and immediately took up the cause to ban the use of such weapons. His support for this cause inspired the NGOs Vietnam Veterans of America Foundation and Medico International to also act upon the issue. They partnered with Jody Williams, a private citizen, to work on their behalf and build a collaborative NGO network that would work on creating a treaty.¹⁰⁹ Williams founded the International Campaign to Ban Landmines, a coalition of more than 100 NGOs that worked towards the drafting of the treaty. Williams also established a partnership with Senator Leahy, who championed US Congressional approval of a law to ban the export of the weapons.¹¹⁰

Despite the efforts of the International Campaign and Senator Leahy, the US did not support and has never ratified the Landmines Treaty. Canada took the lead by calling for a conference in Ottawa in 1996 to discuss drafting a treaty, with financial support from multiple governments. At the conference, NGOs and government officials worked together but in friction. The conference ended with a call for another conference in 1997 where member States were to sign a final draft of the treaty. This was a bold move, to call for the drafting of a treaty and building government support for the treaty in one year, and many people believed it would not succeed.¹¹¹

The 1997 Ottawa Conference was preceded by a series of preparatory meetings to ensure that the

108 K Anderson, "The Ottawa Convention Banning Landmines, the Role of International Non-Governmental Organizations and the Idea of International Civil Society," *European Journal of International Law* 11, no. 1 (January 1, 2000): 91–120, <https://doi.org/10.1093/ejil/11.1.91>

109 *Ibid.*

110 John English, "The Ottawa Convention On Anti-Personnel Landmines," *The Oxford Handbook of Modern Diplomacy*, ed. Andrew F. Cooper, Jorge Heine, and Ramesh Thakur (Oxford Handbooks Online, 2013). <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199588862.001.0001/oxfordhb-9780199588862-e-45>

111 *Ibid.*

friction at the 1996 Conference did not undermine success. NGOs built political will by working with States that supported their cause. Notable figures, like then-Secretary General of the United Nations Kofi Annan and Princess Diana of the United Kingdom, promoted a cross-hemisphere support for the ban.¹¹² This publicity engaged the general public in supporting the treaty, especially those in Western countries who had not personally experienced the devastation of landmines. The collaboration between NGOs and government officials moved this cause from initial proposal for a treaty banning anti-personnel mines to a formal treaty in just over a year.¹¹³ More than 150 countries have joined the treaty.¹¹⁴

This collaborative exercise, which became known as the Ottawa Process, exemplifies the success that is possible by using a grassroots approach driven by passionate NGOs. While landmines may be considered easier to eradicate, and less contentious, than violence against women, this process provides one blueprint for NGO and government collaboration to create a new treaty.

The Convention on the Rights of Persons with Disabilities Can Serve as a Model for a Treaty on Violence Against Women

The Disabilities Treaty came into force in 2008¹¹⁵ and has been ratified by 175 States.¹¹⁶ According to Mary Daly, an advocate who worked on both efforts, the impetus for the Disabilities Treaty grew out of the Landmines Treaty movement. That movement created growing recognition of the enormous gaps

in protections for the rights of people with disabilities around the world. One of the other key advocates for both treaties, Jerry White, who had himself lost a leg to a landmine, brought both his personal experience and extensive background working with the United Nations to both campaigns. Advocates for the Disabilities Treaty were motivated by the disability rights movement's slogan, "Nothing about us without



The Ottawa Process
exemplifies the success that
is possible by using a grassroots
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us."¹¹⁷ This same precept is critically important in the context of violence against women.

The early steps that led to the creation of the Disabilities Treaty parallel the global movement to address violence against women. In both cases, a declaration was adopted, a special rapporteur was appointed, and the need for a new treaty has been widely debated. To date, the Declaration on the Elimination of Violence Against Women has not led to

¹¹² *Ibid.*

¹¹³ Lloyd Axworthy, "The Political Actors: President, Prime Minister, And Minister Of Foreign Affairs," *The Oxford Handbook of Modern Diplomacy*, ed. Andrew F. Cooper, Jorge Heine, and Ramesh Thakur (Oxford University Press, 2013), <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199588862.001.0001/oxfordhb-9780199588862-e-5>

¹¹⁴ "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction" UN Treaty Collection, 1997, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=XXVI-5&chapter=26&clang=_en

¹¹⁵ "Convention on the Rights of Persons With Disabilities," UN Treaty Collection, 2008. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-15&chapter=4&clang=_en

¹¹⁶ *Ibid.*

¹¹⁷ Interview with Mary Daly of the Landmine Survivor's Network, September 4, 2019.

a new treaty, whereas the Declaration on the Rights of Disabled Persons influenced the development of the Disabilities Treaty. The United Nations began to focus attention on persons with disabilities and their dignity as a human rights issue in the 1960s.¹¹⁸ The United Nations adopted the Declaration on the Rights of Mentally Retarded Persons in 1971,¹¹⁹ and the Declaration on the Rights of Disabled Persons in 1975.¹²⁰ Women's and civil rights movements are credited with drawing international attention to human rights issues not specifically covered under existing treaties.¹²¹

As debate continued around what eventually became the Disabilities Treaty, the UN General Assembly adopted "Standard Rules on the Equalization of Opportunities for Persons with Disabilities" in 1993, a set of non-binding rules that served as an example for individual countries on dealing with disability legislation.¹²² This process mirrors similar early efforts which led to DEVAW, and later the *UN Handbook for Legislation on Violence Against Women*,¹²³ which established non-binding standards for States in addressing violence against women. The United Nations created the mandate of a Special Rapporteur on Human Rights and Disabilities in 1984, predating by a decade the mandate of the Special Rapporteur on Violence Against Women in 1994.¹²⁴



Advocates for the Disabilities Treaty were motivated by the disability rights movement's slogan, "Nothing about us without us."

The UN General Assembly then created an ad-hoc committee to determine the feasibility and need for a new treaty in 2001. Although member States of the ad-hoc committee were divided on the need for a new treaty, a working group, which included dozens of people with disabilities, was created in 2003. They met at the UN several times a year, and were tasked with drafting the text of a treaty,¹²⁵ leading to a final draft in August 2006.¹²⁶ This process serves as another model for the creation of an international treaty on violence against women in which a working group of women and women's advocates from around the world work collaboratively with the United Nations.

118 Aart Hendriks, "UN Convention on the Rights of Persons with Disabilities," *European Journal of Health Law* 14, no. 3 (2007): 274, <https://doi.org/10.1163/092902707x240620>

119 UN General Assembly, "Declaration on the Rights of Mentally Retarded Persons," December 20, 1971, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfMentallyRetardedPersons.aspx>, accessed January 30, 2020.

The authors recognize that the term "mentally retarded" is derogatory and anachronistic. It has been replaced with the terms "mental disability" or "developmental disability." See e.g., Disability Justice, "The United Nations Convention on the Rights of People with Disabilities," <https://disabilityjustice.org/the-united-nations-convention-on-the-rights-of-people-with-disabilities/>, accessed January 30, 2020.

120 UN General Assembly, "Declaration on the Rights of Disabled Persons," December 9, 1975, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx>, accessed January 30, 2020.

121 Hendriks, "UN Convention on the Rights of Persons with Disabilities," 273-298.

122 "Standard Rules on the Equalization of Opportunities for Persons with Disabilities," United Nations Department of Economic and Social Affairs Disability, <https://www.un.org/development/desa/disabilities/standard-rules-on-the-equalization-of-opportunities-for-persons-with-disabilities.html>, accessed January 30, 2020.

123 Aart Hendriks, "UN Convention on the Rights of Persons with Disabilities," 273-298.

124 *Ibid.*, 275.

125 *Ibid.*, 275.

126 *Ibid.*, 276.

The Processes for Adoption of the Landmines Treaty and the Disabilities Treaty Contain Lessons for a Treaty on Violence Against Women

Both the Landmines Treaty and the Disabilities Treaty involved four key factors that can also be applied to the process for a new treaty on violence against women: 1) a UN declaration, 2) international engagement, 3) NGO actors, and 4) State actors.

The following is an analysis of the precedent set by treaty processes for the Disabilities Treaty and the Landmines Treaty, in comparison to the current status of factors that could lead to a new treaty on violence against women.

	Disabilities Treaty	Landmines Treaty	Possible Treaty on Violence Against Women
Declaration	YES	NO	YES
International Engagement	YES	YES	YES
Non-state Actor(s)	YES	YES	YES
Lead State Actor(s)	YES	YES	NO
Treaty	YES	YES	?

As demonstrated above, only one component is not yet present in the process for a treaty on violence against women - one or more lead State actors. First, DEVAW is the declaration that sets the precedent within the UN system and provides a starting place for treaty discussions. Second, international engagement on the issue exists at multiple levels, including, most prominently, the Beijing Conference and Commission on the Status of Women reports, Special Rapporteur initiatives, and CEDAW and other treaty body reporting. Third, an extensive effort by NGOs to create a treaty to combat violence against women is underway throughout the world led by Every Woman Treaty.¹²⁷ This movement is comparable to the Ottawa Process that led to the Landmines Treaty, with an international NGO leading the charge.

Though many challenges exist to achieving a new treaty at this time, the experience of the Landmines Treaty and the Disabilities Treaty demonstrate that the combination of NGO drive and the engagement of a State champion are forces that can overcome powerful resistance.¹²⁸ The need remains for a strong link between the growing NGO effort and the international political community to achieve a new treaty.

¹²⁷ Vidya Sri (Co-Founder Every Woman Treaty), interview by contributors Lauren Walker Bloem, Alexandra Sevet, and Maram Falk, April 15, 2017, transcript.

¹²⁸ These headwinds include political resistance and opposition by existing treaty bodies, as discussed herein.

A Stand-Alone Treaty and a New Optional Protocol to CEDAW Represent Alternative Mechanisms to Effectively Combat Violence Against Women

One focal point of the discussion among those who are committed to transforming the worldwide response to violence against women is whether to pursue that shared goal through a stand-alone treaty or a new optional protocol to CEDAW. Strong arguments exist for and against both alternatives. Some influential participants in the discussion, including the current SRVAW, have expressed a preference for a new optional protocol. In the end, a confluence of factors will determine which approach is most likely to succeed in creating the strong, binding, international instrument needed to protect women from violence.

An optional protocol is an international agreement that supplements a treaty by adding new elements or requirements. The term “optional” emphasizes that the States that ratified the original convention have no formal obligation to agree to the protocol, though they are encouraged to do so.¹²⁹ CEDAW currently has an optional protocol that allows the Committee to consider complaints and undertake investigations. Member States must separately ratify the optional protocol to be bound by it.¹³⁰

Those who favor a new optional protocol to CEDAW cite the availability of the existing infrastructure and the significant expertise on violence against women on the CEDAW Committee. They see violence as one form of discrimination against women, among many. They point to the scarcity of resources and under-funding that affect all UN treaty bodies, arguing that it would be impractical to try to obtain resources to create and implement a new treaty. They view reporting requirements of a new treaty as an additional burden on member States.

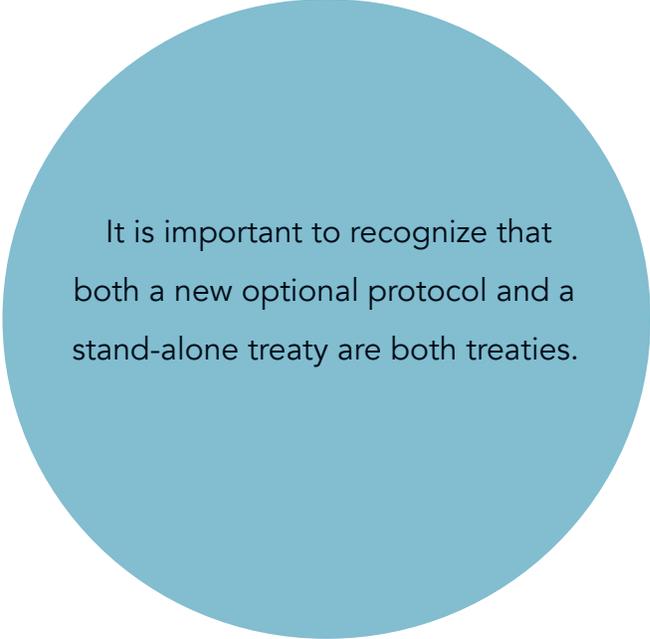
Those who favor a stand-alone treaty argue for a new approach. They see the discrimination framework of CEDAW as inadequate to encompass the magnitude of harm caused by violence against women and argue that the CEDAW Committee is overburdened by its broad mandate. They consider the creation of a dedicated monitoring body to be essential. They cite the importance of broad participation in the negotiations, led by NGOs and representatives of the global South. They believe that the process of creating a new treaty can create powerful momentum to address the issue of violence against women and mobilize a new infusion of funding.

129 “UN Terms,” United Nations, <https://unterm.un.org/unterm/display/record/unhq/na?OriginalId=54c0489b1b0776d085256e750067d9b5>, accessed January 30, 2020.

130 See Appendix 1 for a discussion of the existing optional protocol to CEDAW.

While some of these issues represent differing fundamental approaches to effectively addressing violence against women, others can be reconciled. First, it is important to recognize that both a new optional protocol and a stand-alone treaty are both treaties. Just like a stand-alone treaty, an optional protocol would require mobilizing support and obtaining ratification by member States. While a separate monitoring body is imperative to those who support a stand-alone treaty, an optional protocol could be structured to create such a body.

Whichever approach advocates and policy makers ultimately follow, it is essential that all who support creating a safer world for women work together to pursue a strong mechanism. The process must be based on global recognition that violence against women is a gross, endemic and systematic violation of the rights of women and girls to bodily integrity and life. It must ensure effective and enforceable legislation that supports strong domestic policies addressing violence against women in the family and in the community.



It is important to recognize that both a new optional protocol and a stand-alone treaty are both treaties.

Action Items

Support calls and current efforts for a new treaty on violence against women. The robust initiative of Every Woman Treaty is a significant factor in our conclusion that a new legally binding treaty on violence against women is an achievable goal. Every Woman Treaty is a large and diverse international coalition that is building a concrete movement in support of a new treaty. These advocates believe that the work for a treaty must proceed in a very specific way:

The call for a global norm on violence against women creates significant political benefit for United Nations member states. The creation, ratification, and implementation of a treaty on VAW is a powerful, yet politically complex endeavor. A fast-moving top down process could produce a weak, ineffective treaty. With major issues concerning colonialist approaches, the success of this treaty depends largely on growth from the developing world, as opposed to an export from Western nations - a condition which many developing nations would be far less likely to support for political and historical reasons. The strategic focus of the Everywoman Everywhere Campaign¹³¹ is not simply a new law, but the most effective, comprehensive treaty possible. Rigorous research and analysis coupled with on-the-ground input from those most affected by violence against women i.e. advocates and survivors, is crucial.¹³²

We endorse the Every Woman Treaty's grassroots approach and inclusion of diverse stakeholders including survivors, front-line practitioners, and

especially those in developing countries. We commend the strategic, inclusive, and purposeful approach of Every Woman Treaty.

Search for political champions within the United Nations and UN member States. In addition to a strong grassroots movement, a champion at the United Nations or leader in a member State is necessary.

Continue to support and expand implementation of existing mechanisms and capacity building efforts. A new treaty will build upon and exist side-by-side with existing mechanisms that address violence against women: CEDAW, regional treaties, and other treaties and soft law mechanisms. The work to enact a new treaty can strengthen current efforts while laying the groundwork for an international treaty devoted solely to violence against women.

A new international treaty will not exist in a vacuum. Shining a spotlight on the need for a more effective response to violence against women will serve as a global call to action that will benefit current mechanisms, while laying the groundwork for implementation of the new treaty. Local stakeholders including police, prosecutors, lawyers, judges, hospitals, social workers, and victim advocates will learn the purpose of the treaty and its goals. Such capacity-building will enhance the effectiveness of both current mechanisms and a future treaty.

Actions can include increasing communication among stakeholders, sharing knowledge, creating implementation guidelines, and training frontline practitioners about current and future laws. Further,

¹³¹ Everywoman Everywhere is the previous name of the Every Woman Treaty coalition.

¹³² UN General Assembly, Twenty Ninth Session, "Addendum to the Human Right Council Thematic Report of the Special Rapporteur on Violence, Its Causes and Consequences," A/HRC/29/27, June 16, 2015, <https://undocs.org/A/HRC/29/27/Add.4>

a new treaty can provide for collaboration in the reporting process with CEDAW and other mechanisms to avoid duplication and an increased burden on member States. If members of existing treaty bodies work hand-in-hand with those who are creating the new treaty, all can benefit and contribute to creating a world where women everywhere live free from violence.



A new treaty will build upon and exist side-by-side with existing mechanisms that address violence against women.

Conclusion

Even once the necessity of an international binding treaty on violence against women is accepted, questions remain about the feasibility of a treaty. Some opponents of a treaty have raised the question, is the current political climate conducive to the adoption of a strong treaty? Given the persistence of political headwinds that oppose women's human rights, the perfect moment may never come. Whenever gains are made in women's rights, the institutions of patriarchy fight to reverse them.

Yet political opposition cannot shut down powerful movements for women's rights. Strong movements like #MeToo, advocacy for LGBTQ rights, and awareness of femicide and intersectional forms of oppression persevere in direct opposition to efforts to undermine women's rights. Thus, the right time to start is when we are able to build a movement that is strong enough to take on the opponents to a treaty, whatever their objections. The Every Woman Treaty campaign of more than 1,700 members from over 128 countries is a powerful foundation for that movement. Rather than waiting for the perfect political climate or for everyone to agree on the need for a treaty, our focus should be on using law, starting with an international treaty, to lead the way in transforming social and cultural values.

Advocates acknowledge the real challenges to establishing a new international treaty while believing in the need and achievability. A strong new treaty requires global support, financial resources, specific language, concrete requirements that address impunity, a multi-sectoral approach, implementation steps for stakeholders, an expert monitoring body, and a strong enforcement mechanism.¹³³

A new treaty would not only energize the longstanding discussion on violence against women, it would elevate the priority of the issue within the human rights community. It would push the conversation forward to include best practices, standards, and global accord on next steps and government obligations.¹³⁴

The Every Woman Treaty campaign has taken on this challenge. It emphasizes the need to fill the gap between existing United Nations instruments, frontline practitioners, and survivor experiences. It also emphasizes the need to incorporate effective implementation mechanisms into the treaty, rather than waiting to address implementation years later.¹³⁵

In summary, the world needs a legally binding international treaty to clearly establish a normative framework for the protection of women and girls on a scale that does not currently exist. CEDAW does not articulate detailed standards for addressing violence against women or require reporting at the necessary level of specificity. Its existing

¹³³ Vidya Sri interview.

¹³⁴ Stephanie Willman Bordat (Founding Partner at Mobilising for Rights Associates (MRA), interview by contributors Lauren Walker Bloem, Alexandra Sevett, and Maram Falk, March 31, 2017, transcript.

¹³⁵ Vidya Sri interview.

Optional Protocol applies to all forms of discrimination and does not offer accessible redress for victims of violence. Regional treaties, while innovative, do not provide a globally accessible framework. Drafters of a new treaty should look to the achievements of these treaties and complement their efforts.

This legally binding instrument, with its own expert monitoring body, would provide targeted and in-depth analysis on the issue of violence against women. It would establish a protective, preventative, and educative framework that would articulate that violence against women is a human rights violation in and of itself.¹³⁶ Membership in the monitoring body would require proficiency in the decades of law, policy, and practice around the world to end violence against women.

An international treaty would send a clear message that the world will not tolerate violence against women.¹³⁷ The Special Rapporteur on the Rights of Women in Africa, Lucy Asuagbor, stated, “the attention that a global violence against women treaty would draw is the momentum that would trigger this mode of influence thereby forcing States to espouse higher ideals in matters of violence against women.”¹³⁸ This treaty can be the united effort that the Secretary-General has called for “so that women and girls around the world can live free from harassment, harmful practices, and all other forms of violence.”¹³⁹

136 UN General Assembly, Twenty-sixth session, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Rashida Manjoo,” May 28, 2014, 18, <https://undocs.org/A/HRC/26/38>; UN General Assembly, Seventeenth session, “Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo,” May 2, 2011, <https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-26.pdf>

137 Brunger and Dowds, “Call for submissions...,” 4.

138 See “Special Rapporteur on the rights of Women in Africa,” at “Adequacy of the international legal framework on violence against women,” OHCHR, last updated 2018. <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AdequacyInternationalLegalFramework.aspx>.

139 “Message by the UN Secretary-General on the International Day for the Elimination of Violence against Women,” November 24, 2017.



Appendix 1

Existing Legal Frameworks are Inadequate to Effectively Address Violence Against Women

Existing international and regional treaties, declarations and other instruments, individually and together, have laid the groundwork and will continue to play an important role in the effort to end violence against women. Even so, those mechanisms have proven inadequate to the magnitude of the task. A new binding treaty is necessary to match the gravity of the problem.

1. CEDAW's Broad Mandate Prevents it From Adequately Focusing on Violence Against Women

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is the preeminent international treaty on women's rights. With its focus on discrimination, its broad mandate addresses many aspects of women's lives. While the breadth of the treaty is one of its strengths, it is a weakness in addressing violence against women.

The fact that the word 'violence' does not appear in the text of CEDAW is one indication that discrimination is not the appropriate concept for addressing violence against women. While violence against women and discrimination are inextricably related, conflating the two in this international law results in an inadequate and incomplete response to violence against women as an independent human rights violation.¹

The CEDAW Committee has attempted to incorporate violence into the concept of discrimination through General Recommendation 19, adopted in 1992,² and its successor, General Recommendation 35, adopted in 2017.³ General Recommendations represent the evolution of the CEDAW Committee's interpretation of the treaty, but because member states are not required to ratify General Recommendations it is at least questionable whether they are legally binding. While the CEDAW Committee's efforts to incorporate violence against women into the treaty are well-intentioned, they mean little if member States do not agree that they are obligated to comply with the CEDAW General Recommendations.

¹ Anna Saber & Francisco Rivera Juaristi, "Written submission prepared by the International Human Rights Clinic at Santa Clara University School of Law in response to the call for submissions issued by the UN Special Rapporteur on Violence Against Women Regarding the Need for a Separate Legally Binding U.N. Treaty on Violence Against Women with its Separate Monitoring Body," October 1, 2016, 3, http://1x937u16qcra1vnejt2hj4jl.wpengine.netdna-cdn.com/wp-content/uploads/161001_VAW-Questionnaire_SantaClaraIHRCLRC.pdf.

² CEDAW, Eleventh Session, "General Recommendation No. 19: Violence Against Women," 1992, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf. Article 6 of CEDAW requires member nations to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women." However the treaty does not mention domestic violence and sexual assault, the most common forms of violence against women.

United Nations General Assembly, Thirty-Fourth Session, "Convention on the Elimination of All Forms of Discrimination Against Women," A/RES/34/180, (New York: December 18, 1979), <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>.

³ CEDAW, Sixty-Seventh Session, "General Recommendation No. 35: Violence Against Women," 2017, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf.

Aside from the question of whether General Recommendations are binding, General Recommendations 19 and 35 lack the specificity to effectively guide member States in addressing violence against women. For example, neither General Recommendation identifies the necessity of a civil protection order in domestic violence cases - which, globally, has proven to be one of the most effective remedies available to victims. Nor do the General Recommendations specify important requirements for victims to have meaningful access to justice, including justice system actors who are trained in the dynamics of privately perpetrated violence including domestic violence and sexual violence.

Member nations are required to submit compliance reports to the CEDAW Committee every four years. Adoption of General Recommendations 19 and 35 indicate that they are expected to report on the prevalence of violence against women and their reduce it. Even though many countries comply with this expectation, the Committee is unable to give the issue the attention it requires because violence against women is only one among many forms of discrimination addressed in the reports.

In addition to periodic reporting, individuals and groups, including NGOs, may submit complaints to the CEDAW Committee under the Optional Protocol. The Optional Protocol establishes mechanisms for the CEDAW Committee to address complaints and initiate its own inquiries.⁴ Yet, in twenty years since the Optional Protocol was adopted, the Committee has issued opinions in only 29 cases involving violence against women. Please see chart located on page 36. This number should be considered in the context of reports finding that 137 women every day - 50,000 per year - are killed by members of their own families.⁵ Among the 109 member states that have ratified the Optional Protocol, five have opted out of the inquiry procedure.⁶ Even for those who have access to the Optional Protocol, the Committee's lack of resources and lack of exclusive focus on violence dilutes its effectiveness in holding member States accountable for violence against women. A specific monitoring body with expertise and a sole focus on violence against women is more likely to effectively address this pandemic.

CEDAW's broad mandate and its failure to acknowledge or define violence against women in the body of the treaty makes it an inadequate legal instrument for effectively combatting violence against women.⁷

2. Soft Law Does Not Effectively Address Violence Against Women Because It Is Non-Binding and Contains No Enforcement Mechanisms

Soft law, such as non-binding declarations and resolutions, contributes to the development of norms and has assisted in bringing attention to the importance of violence against women. But because these

4 United Nations, "Status of Treaties: 8. b Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women," Treaty Series vol. 2131, (New York, 1999), https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en

5 United Nations Office on Drugs and Crime, "Global Study on Homicide," (2018), 10, https://www.unodc.org/documents/data-and-analysis/GSH2018/GSH18_Gender-related_killing_of_women_and_girls.pdf

6 United Nations Treaty Collection Database, "Status of Treaties: 8. b Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women," https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en, accessed November 14, 2019.

7 Stephanie Willman Bordat (Founding Partner at Mobilising for Rights Associates MRA), interview by contributors Lauren Walker Bloem, Alexandra Sevet, and Maram Falk, March 31, 2017, transcript.; Vidya Sri (Co-Founder Every Woman Treaty), interview by contributors Lauren Walker Bloem, Alexandra Sevet, and Maram Falk, April 15, 2017, transcript.

instruments are non-binding, states cannot be held responsible for noncompliance.⁸ It does not create accountability or offer effective redress for victims of violence.⁹

Many soft law mechanisms address violence against women explicitly. These include the Declaration on the Elimination of Violence Against Women (DEVAW),¹⁰ the mandate and reports of the Special Rapporteur on Violence Against Women,¹¹ the Beijing Declaration and Platform for Action,¹² and the report of the 57th session of the Commission on the Status of Women (CSW57).¹³ These instruments provide valuable recommended strategies for eliminating violence against women. However, they are insufficient by themselves or in combination with existing treaties to effectively address violence against women because they only provide recommendations and do not require State action.

3. The ILO Treaty on Violence and Harassment in the Workplace is Limited in Scope

The International Labor Organization (ILO) adopted the Violence and Harassment Convention in June 2019.¹⁴ As highlighted by the #MeToo movement, this treaty addresses the important issue of physical, psychological, sexual, and economic harm in the world of work. It highlights the existence of gender-based violence and acknowledges that “gender-based violence and harassment disproportionately affects women and girls.”¹⁵ It also explicitly calls on member States to take appropriate action to “recognize the effects of domestic violence and . . . mitigate its impact in the world of work.”¹⁶ The treaty will enter into force 12 months after two members of the International Labor Organization ratify it.¹⁷ As important as this action by the ILO is in creating standards for preventing and responding to violence and harassment in the workplace, it addresses only one aspect of violence against women. Like other existing legal frameworks, it should inform the creation of a comprehensive international treaty on violence against women, but is not a substitute for that treaty.

8 Yassin Brunger & Eithne Dowds, “Call for submissions on the adequacy of the international legal framework on violence against women,” Human Rights Centre, School of Law, Queen’s University Belfast, (Belfast, 2016), 3, https://pure.qub.ac.uk/portal/files/121636972/BrungerDowds_QUB_Law_School_Submission_Special_Rapporteur.pdf

9 UN General Assembly, Twenty-sixth session, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Rashida Manjoo,” May 28, 2014, 14. <https://undocs.org/A/HRC/26/38>

10 “Declaration on the Elimination of Violence against Women,” OHCHR, 2019, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ViolenceAgainstWomen.aspx>

11 Office of the High Commissioner for Human Rights (OHCHR), “1994/45. Question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women,” March 4, 1994, E/CN.4/1995/42, 3.

12 “United Nations Report of the Fourth World Conference on Women Beijing, 4-15 September 1995” (New York: United Nations, 1996), <https://undocs.org/pdf?symbol=en/A/CONF.177/20/REV.1>

13 Commission on the Status of Women, “Elimination and Prevention of All Forms of Violence against Women and Girls” (UN Women, 2013), <https://www.unwomen.org/-/media/headquarters/attachments/sections/csw/57/csw57-agreedconclusions-a4-en.pdf?la=en&vs=700>

14 International Labour Organization (ILO), “Violence and Harassment Convention,” C190, Geneva, 2019, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_LO_CODE:C190.

15 *Ibid.*, Preamble.

16 *Ibid.*, Art. 10 (f).

17 *Ibid.*, Art. 14.

4. Regional Efforts are Inadequate to Effectively Address Violence Against Women Because They are not Globally Accessible

Regional treaties - the Istanbul Convention in Europe, the Convention of Belém do Pará in the Americas, the Maputo Protocol in Africa, and others - fill some of the existing gaps. Like existing treaties and soft law, they contribute to a developing response to violence against women. The Convention of Belém do Pará and the Istanbul Convention have pioneered important content and monitoring mechanisms. The Maputo Protocol in Africa is an important achievement of feminist organizing, but it lacks detail and does not focus exclusively on violence against women. In Asia and the Middle East, billions of women lack the protection of any regional treaty on violence against women. Because the existing treaties are inconsistent and a majority of women in the world are not covered by any regional treaty, they are not a substitute for a binding international treaty on violence against women.

Although the Istanbul Convention, the most robust regional treaty, is open to accession by any country in the world, to date no country outside of Europe has become a party. Since the convention was adopted without input from women outside Europe, it does not reflect the lived experiences of women globally, and its promotion as a global treaty would likely be considered a colonialist approach.¹⁸

A comprehensive discussion of the inadequacy of the existing international legal framework on violence against women can be found at *Time for a Change: The Need for a Binding International Treaty on Violence Against Women*.¹⁹ A summary is also available on Medium.

18 UN General Assembly, Twenty Ninth Session, "Addendum to the Human Right Council Thematic Report of the Special Rapporteur on Violence, Its Causes and Consequences (A/HRC/29/27)," June 12, 2015, <https://undocs.org/A/HRC/29/27>

19 Global Rights for Women, *Time for a Change: The Need for a Binding International Treaty on Violence Against Women*, https://globalrightsforwomen.org/wp-content/uploads/2018/11/Time_for_a_Change.pdf

CEDAW Optional Protocol Decisions

Case Citation	Type of Violence	Decision Issued
R.S.A.A. v Denmark CEDAW/C/73/D/86/2015	Domestic violence	July 2019
O.M. v. Ukraine CEDAW/C/73/D/87/2015	Domestic violence	July 2019
S.L. v. Bulgaria CEDAW/C/73/D/99/2016	Domestic violence	July 2019
X. and Y. v. Russian Federation CEDAW/C/73/D/100/2016	Domestic violence	July 2019
S.T. v. Russian Federation CEDAW/C/72/D/65/2014	Domestic violence	February 2019
N.M. v. Turkey CEDAW/C/70/D/92/2015	Domestic violence	July 2018
J.I. v. Finland CEDAW/C/69/D/103/2016	Domestic violence	March 2018
L.R. v. Republic of Moldova CEDAW/C/66/D/58/2013	Domestic Violence	February 2017
O.G. v. Russian Federation CEDAW/C/68/D/91/2015	Stalking, Physical Assault	November 2017
F.F.M. v. Denmark CEDAW/C/67/D/70/2014	Physical Assault	July 2017

Case Citation	Type of Violence	Decision Issued
Reyna Trujillo Reyes and Pedro Arguello Morales CEDAW/C/67/D/75/2014	Femicide	July 2017
A.M. v. Denmark CEDAW/C/67/D/77/2014	Domestic Violence	July 2017
M.W.v. Denmark CEDAW/C/63/D/46/2012	Domestic Violence	February 2016
A.M. v. Denmark CEDAW/C/62/D/53/2013	Physical Assault	November 2015
D.G. v. Netherlands CEDAW/C/61/D/52/2013	Trafficking and sexual exploitation	July 2015
X and Y v. Georgia CEDAW/C/61/D/24/2009	Domestic Violence	July 2015
R.P.B. v. The Philippines CEDAW/C/57/D/34/2011	Rape	February 2014
Angela González Carreño CEDAW/C/58/D/47/2012	Domestic violence	July 2014
S.V.P. v. Bugaria CEDAW/C/53/D/31/2011	Sexual Assault/Sexual Abuse of Child	October 2012
Isatou Jallow v. Bulgaria CEDAW/C/52/D/32/2011	Domestic Violence	July 2012

Case Citation	Type of Violence	Decision Issued
T.P.F. v. Peru CEDAW/C/50/D/22/2009	Sexual abuse and inadequate emergency obstetric care	October 2011
Maria de Lourdes da Silva Pimentel CEDAW/C/49/D/17/2008	Inadequate emergency obstetric care	July 2011
Inga Abramova v. Belarus CEDAW/C/49/D/23/2009	Threats of violence, sexual harassment	July 2011
V.K. v. Bulgaria CEDAW/C/46/D/18/2008	Domestic violence	July 2011
Karen Tayag Vertido v. The Philippines CEDAW/C/46/D/18/2008	Rape	July 16, 2010
Sahide Goekce (deceased) v. Austria CEDAW/C/39/D/5/2005	Femicide	August 2007
Fatma Yildirim (deceased) v. Austria CEDAW/C/39/D/6/2005	Femicide	August 2007
A.s. v. Hungary CEDAW/C/36/D/4/2004	Coerced sterilization	August 2006
A.T. v. Hungary CEDAW/C/2/2003(2005)	Domestic Violence	January 2005

Source: OHCHR, "Treaty Body Database," https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&DocTypeID=17&DocTypeCategoryID=6, last accessed February 26, 2020

Appendix 2

Publications Providing Guidance on Best Practices in Legislation on Violence Against Women

Many publications have analyzed best practices and lessons learned on the national level. These sources can inform both the drafting and the content of a new international treaty on violence against women. Some of the most useful resources are described below.

1. United Nations Handbooks on Violence Against Women

The United Nations has published three handbooks that can provide guidance to drafters of a treaty on violence against women: the Handbook for Legislation on Violence Against Women,¹ the Supplement to the Handbook for Legislation on Violence Against Women,² and the Handbook for National Action Plans on Violence Against Women.³ Each of these documents was written by a committee of international experts. The first contains recommendations on the content of legislation, accompanied by explanatory commentaries and examples of good practices from around the world.⁴ The Supplement, on “harmful practices” against women, recommends specific measures to reduce and eliminate practices including female genital mutilation, forced marriage, child marriage, and crimes committed in the name of so-called “honor.” The Handbook for National Action Plans contains specific recommendations for national governments to carry out their obligations under international law to address violence against women.

1 UN Women, “Handbook for Legislation on Violence against Women,” (New York, 2010), <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

2 UN Women, “Supplement to the Handbook for Legislation on Violence against Women: “Harmful practices” against women,” (New York, 2011), <http://www.un.org/womenwatch/daw/vaw/handbook/Supplement-to-Handbook-English.pdf>

3 UN, “Handbook for National Action Plans on Violence against Women,” (New York, 2012), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2012/7/handbooknationalactionplansonvaw-en%20pdf.pdf?la=en&vs=1502>

4 UN Women, “Handbook for Legislation on Violence against Women”; See also Zarizana Abdul Aziz and Janine Moussa, “Due Diligence Framework: State Accountability Framework for Eliminating Violence against Women,” (International Human Rights Initiative, Inc., Second printing: Malaysia, November 2016), <http://www.duediligenceproject.org/ewExternalFiles/Due%20Diligence%20Framework%20Report%20final.pdf>

2. The Essential Services Package for Women and Girls Subject to Violence

The Essential Services Package for Women and Girls Subject to Violence, created through a partnership of UN Women, the UN Population Fund (UNFPA), World Health Organization (WHO), UN Development Program (UNDP) and the UN Office on Drugs and Crime (UNODC), identifies the necessary services to be provided by the health, social services, police and justice sectors. In addition, the Essential Services Package includes guidelines for the coordination of the services.⁵ The Essential Services Package is an invaluable resource for treaty drafters to ensure that necessary content is included in the treaty.

3. The Due Diligence Framework

The Due Diligence Framework⁶ establishes concrete guidelines for States to use in their efforts to comply with their obligation to prevent, protect, prosecute, punish and redress violence against women and girls, whether the acts are perpetrated by the state or by private persons.⁷ The five pillars of the framework⁸ and examples of their implementation can provide a touchstone for drafters in developing a comprehensive binding instrument.

4. UN Women's Virtual Knowledge Centre to End Violence against Women

The UN Women's Virtual Knowledge Centre to End Violence against Women also provides a wealth of national level best practices from around the world.⁹ In addition to domestic violence and sexual assault, the most common forms of violence against women, this website addresses practices such as female genital mutilation, forced and child marriage, so-called "honor" crimes, maltreatment of widows, dowry related violence, and sex trafficking. The Virtual Knowledge Centre includes sections on each of the specific forms of violence and recommendations for drafting and implementing specific legislation.

⁵ UN Women, UNFPA, WHO, UNDP and UNODC, "Essential services package for women and girls subject to violence," 2015, <https://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>

⁶ Aziz and Moussa, "Due Diligence Framework: State Accountability Framework for Eliminating Violence against Women"

⁷ *Ibid.*, 11.

⁸ *Ibid.*, Protection, prevention, prosecution, punishment, and redress for victims.

⁹ UN Women, "Virtual Knowledge Center to End Violence Against Women and Girls," www.endvawnow.org, accessed January 30, 2020.

5. Praxis International's Library on Advocacy Resources

Praxis International¹⁰ publishes a wide range of information and materials on best practices for intervention in violence against women. Among other resources, Praxis International published the Blueprint for Safety, a manual and accompanying materials to guide the creation of coordinated community responses to violence against women in the criminal justice system. The Duluth Minnesota Blueprint for Safety¹¹ offers an example of the application of this important tool.

6. Stop Violence Against Women website

The Advocates for Human Rights hosts STOPVAW,¹² a forum for information, advocacy and change in the promotion of women's human rights around the world. It includes research, reports, articles, facts and statistics on violence against women throughout the world; advocacy tools and training materials to help end violence against women on a global level; and materials to assist with legal reform efforts that will prevent the violence and promote justice for women.

¹⁰ Praxis International, "Library," Praxis International, accessed November 14, 2019, <https://praxisinternational.org/library/>

¹¹ Domestic Abuse Intervention Programs, "Duluth Blueprint for Safety," Domestic Abuse Intervention Programs, 2017, <https://www.theduluthmodel.org/duluth-blueprint-safety/>, accessed January 30, 2020.

¹² The Advocates for Human Rights, "Stop Violence Against Women," <http://www.stopvaw.org/>, accessed February 7, 2020



GLOBAL RIGHTS
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Victims of Violence

Global Rights for Women works with leaders around the world to advance women and girls' human right to live free from violence through legal reform and institutional and social change.

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