



Tom Lantos Human Rights Commission Hearing on “The Global Gender-Based Violence Threat”

Testimony Submitted to the Tom Lantos Human Rights Commission Hearing on The Global Gender Based Violence Threat

“International Violence Against Women – Stories and Solutions”

Submitted by Amnesty International USA

November 20, 2013

Thank you Chairman McGovern and Chairman Wolf, and to the Commission staff, for your hard work to hold this hearing and for the leadership of the Commission in helping to end gender based violence globally.

Amnesty International USA is pleased to testify at this important and timely hearing. Amnesty International’s testimony will focus on the international human rights framework that exists to address gender-based violence, and offer recommendations on concrete actions that the United States Government can take to help prevent and end the violence.

Our organization’s campaigns to end gender-based violence around the world have produced hundreds of reports documenting these human rights abuses; offered detailed recommendations for action by governments, non-state actors, and international organizations; and clearly illustrated the connection between this violence and other violations of human rights around the world.

Violence against women takes many forms, including rape, domestic violence, female genital mutilation, child and forced marriage, and acid attacks to name a few. It’s a global human rights crisis that exacerbates instability and insecurity around the world.

But is also an issue that affects individual women intimately. United Nations statistics show that one in three women will be raped, beaten, coerced into sex or otherwise abused during their lifetime. A shocking number and potentially a vast underestimation of the true number of women affected.

Over the last 25 years, violence against women has increasingly been understood and accepted as a human rights issue. Whereas violence was previously dismissed as an unpreventable consequence of war, cultural norm, or simply a private matter, the international community has

acknowledged that women and girls often are targets of abuse because of their gender – whether in conflict, where rape is often used as a weapon of war, in communities and schools, or in the home where violence occurs within the family. These crimes are now recognized as human rights abuses that governments must prevent, prohibit and punish.

Amnesty International has recommended four U.S. policy initiatives which will make a significant impact in the work to end gender-based violence globally. These are:

- Passage of the International Violence Against Women Act,
- Passage of the Women, Peace and Security Act,
- U.S. promotion of reform of laws and policies that discriminate against women and girls, and;
- U.S. ratification of the Women’s Treaty, officially known as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

We see progress on two of our past recommendations to the Commission– the promulgation of both a *U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally* and a U.S. National Action Plan on Women, Peace and Security. But much work remains to be done.

Every day, women and girls around the world are threatened, beaten, raped, mutilated, and killed with impunity. Worldwide, nearly one billion women – will be beaten, coerced into sex, or otherwise abused in her lifetime, whether at the hands of family members, government security forces, or armed groups.

Today, what unites women internationally-transcending class, race, culture, religion, nationality and ethnic origin-is the violation of their fundamental human rights, and their persistent efforts to claim those rights.

The rights of all women as human beings, around the world, were first and most fundamentally recognized by the Universal Declaration of Human Rights (UDHR). Adopted in 1948 by the UN General Assembly, the UDHR states in clear and simple terms rights that belong equally to all people in all nations, "without distinction of any kind such as race, color, sex, language...or any other status."

The Convention on the Elimination of All Forms of Discrimination Against Women is the first and only international treaty to comprehensively address women's rights within political, cultural, economic, social and family spheres. Adopted by the UN in 1979, CEDAW provides an international standard for protecting and promoting women's human rights and is often referred to as a "Bill of Rights" for women.

The 1993 UN Declaration on the Elimination of Violence Against Women (DEVAW) sets forth ways in which governments should act to prevent violence, and to protect and defend women's rights. DEVAW calls on states to "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons."

The Geneva Conventions designate many acts of sexual violence when specific conditions of torture are fulfilled – including rape, enforced prostitution, sexual slavery, and sexual mutilation – as war crimes, and grave breaches of the Conventions.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines human trafficking as the illegal recruitment, sale, transport, receiving of, and/or harboring of human beings through force, deceit, coercion or abduction for the purpose of all forms of forced labor and servitude (Article 3(a)). Many cases of sexual violence during armed conflicts occur under conditions of slavery.

The Rome Statute of the International Criminal Court is the first international treaty to expressly recognize a broad spectrum of sexual and gender-based violence as some of the gravest crimes under international law, and is the first time that sexual slavery and trafficking have been expressly recognized as crimes against humanity in an international treaty. The majority of cases that have been brought before the ICC to date involve gender-based violence.

UN Security Council Resolution 1325 and subsequent related resolutions¹ emphasize the responsibility of all states to put an end to impunity and to prosecute those responsible for war crimes relating to sexual and other violence against women. It calls for an increase in the participation of women at decision-making levels in conflict resolution and peace processes and calls for the protection and respect of human rights of women and girls during the reconstruction process, particularly as they relate to the constitution, the electoral system, the police, and the judiciary. Six subsequent resolutions have been passed since 1325 that have further protected women and girls from conflict related sexual violence and promoted their role in the peace-making process.

The ways in which women experience human rights abuses are unique. While human rights are often understood as the rights that everyone has by virtue of their humanity, the assumption that all humans have the same experiences and needs is particularly problematic for women.

Historically, states have assumed responsibility for human rights violations only when state agents or officials were the perpetrators, and certain forms of violence against women by state agents have been acknowledged as torture. However, women more often face abuses from non-state actors, such as their employers, partners, husbands, families, friends and community members. It is critical to note that whether abuses against women are committed by state or non-state actors, in the public or private spheres, the state is obliged to condemn, prevent and punish all acts of violence against women and to take measures to empower women.

When international law is applied without an understanding of the state's responsibility for abuses committed by private actors, women are denied an essential part of the protection that the human rights system is supposed to provide. When the state dismisses the majority of violence against women as private or domestic matters, thereby allowing this violence to continue, it sends a clear message that violence against women is condoned.

¹ Including UN Security Council Resolutions 1820, 1888, 1889, 1960, 2106 and 2122.

Human rights abuses against women are often complicated by further discrimination on the grounds of race, religion, sexual orientation, gender identity, disability, caste, culture, or age. The type and prevalence of violence and discrimination that women experience are often determined by how their gender interacts with these and other factors.

In the case of women's human rights, the principle of universality continues to be challenged. Some justify violations of women's human rights by placing precedence on cultural values and traditions, but this view ignores the fact that some practices and beliefs termed "culture" or "tradition" often shape women's lives in a way that subordinates and discriminates against them.

In fact, violence against women is rooted in a global culture that discriminates against women and denies them equal rights. Women today earn less than men, own less property than men, and have less access to education, employment, housing and health care. This global culture of discrimination denies women their fundamental human rights and legitimizes the violent appropriation of women's bodies for individual gratification or political ends. By limiting the universality of the human rights of women, cultural values rooted in unequal power relations between women and men become justification for the systematic denial of civil, cultural, economic, political and social rights.

Each of the human rights treaties, and the human rights framework as a whole, are essential for the realization of women's full spectrum of rights. Whether abuses against women are committed by state or non-state actors, in the public or private spheres, the state is obliged to act. State obligations under international human rights law can be summarized under three categories:

Respect: The state has an obligation to *respect* women's human rights through its direct action, agents and structures of law. A state's constitution must recognize equality between women and men in all spheres; state or official actors must be held accountable when they perpetrate violence against women; private actors who perpetrate violence against women must be prosecuted.

Protect: The state has an obligation to *protect* women's human rights. The state must take all necessary measures to prevent individuals or groups from violating the rights of each individual. As such, the state must take affirmative steps to prevent direct and indirect discrimination against women. Women must be fairly represented in government and have legal access to all forms of employment.

Fulfill: The state is also required to *fulfill* the human rights of women by ensuring opportunities for individuals to obtain what they need and to provide that which cannot be secured by personal efforts. This obligation ranges from providing a healthy environment, clean water, food, housing and education, to creating the conditions necessary for women's organizations to form and function.

International law has developed the standard of *due diligence* as a way to measure whether a state has acted with sufficient effort to live up to its responsibilities to respect, protect and fulfill human rights. This standard has been explicitly incorporated into United Nations standards, such as the DEVAW which says that states should 'exercise due diligence to prevent, investigate and,

in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons'. Increasingly, UN mechanisms monitoring the implementation of human rights treaties, the UN independent experts, and the Court systems at the national and regional level are using this concept of due diligence as their measure of review, particularly for assessing the compliance of states with their obligations to protect bodily integrity. Any act of violence against women perpetrated in the public or private sphere whether by state or non-state actors invokes the due diligence obligations of States to prevent, investigate, punish and provide compensation for all acts of violence.²

Violence against women will continue until those responsible are held accountable under domestic laws in accordance with international human rights and humanitarian law. Factors contributing to impunity for crimes of violence against women are many, and include:

- An overall climate of indifference towards many forms of violence;
- Wrongful but tacit acceptance of rape and other sexual violence as unavoidable;
- Threats and reprisals against those who reveal abuses;
- Laws granting amnesty to perpetrators as part of peace-making 'deals'.

Governments have a responsibility to ensure that violence against women is punished in accordance with international standards for fair trials, and to that end, that the judicial system in their country functions independently of the government, and that law enforcement, judicial officials, and security forces receive adequate training to prevent and assist survivors of violence. Despite such obligations, many countries have discriminatory laws that make it difficult for women to access justice, or their laws are interpreted in such a way as to facilitate impunity.

For example, when violence against women is committed in the context of armed conflict, national courts may lack jurisdiction over soldiers who are foreign nationals or it may be impossible to seek their extradition. The code of military law may not expressly address violence against women.

What Should the United States Government Do?

Amnesty International USA urges the United States to take four policy steps to help end violence against women globally. The United States should:

Pass the International Violence Against Women Act, which will:

- Address violence against women and girls comprehensively by supporting health, legal, economic, and humanitarian assistance sectors and incorporating violence prevention and response into such programs.
- Alleviate poverty and increase the cost effectiveness of foreign assistance by investing in women.
- Support survivors, hold perpetrators accountable, and prevent violence.

² Gender Related Killings of Women and Girls, Office of the High Commissioner for Human Rights, August 2013, <https://docs.google.com/file/d/0B6XUJ0SW4C68cDdXQks0Mj14Nnc/edit?pli=1>

- Codify and implement the *U.S Strategy to Prevent and Respond to Gender-Based Violence Globally* in five select countries which have a high incidence of violence against women.
- Permanently authorize the Office of Global Women’s Issues in the State Department, as well as the position of the Ambassador-at-Large for Global Women’s Issues, who is responsible for coordinating activities, policies, programs, and funding relating to gender integration and women’s empowerment internationally, including those intended to prevent and respond to violence against women.
- Enable the U.S. government to develop a faster and more efficient response to violence against women in humanitarian emergencies and conflict-related situations.
- Build the effectiveness of overseas non-governmental organizations – particularly women’s non-governmental organizations – in addressing violence against women.

The I-VAWA provides a comprehensive approach to address these priorities within a human rights framework by enhancing the efficacy and efficiency of existing U.S. government programs that tackle violence against women

Pass the Women, Peace and Security Act which will;

- Increase women’s meaningful inclusion in peace-building and conflict prevention processes;
- Protect women and girls from gender-based violence in conflict and post-conflict settings;
- Ensure women and girls have equitable access to humanitarian assistance;
- Require the State Department and USAID report to Congress on progress under the US National Action Plan to promote women’s participation in peace-building and conflict prevention processes;
- Ensure that each relevant US government agency integrates women as equal partners into all efforts to prevent and mediate conflict, respond to humanitarian crises, promote and build peace and democracy, and rebuild post-conflict;
- Incorporate comprehensive training programs on women’s participation in peace and security matters for diplomatic, defense, and development personnel;
- Require robust monitoring and evaluation of the impact of US foreign assistance on women’s meaningful inclusion and participation and revise approaches to employ best practices.

The Women, Peace and Security Act recognizes the untapped potential and significant value that women bring to the peacemaking table. Half of all peace agreements around the world fail within the first five years. One missing component to creating a lasting and sustainable peace is the inclusion of those who are disproportionately and uniquely affected by conflict: women. The Act requires the U.S. to promote the meaningful inclusion and participation of women in all peace processes that seek to prevent, alleviate or resolve armed conflict which will increase the likelihood of successful conflict resolution.

Promote Reform of Discriminatory Law and Policies

The United States has a responsibility to press for legislative reform and to facilitate implementation of laws and policies that ensure women the same rights as men. This is especially the case in areas of property rights, access to employment, access to health services, and education for women and girls, as well as on laws relating to citizenship, the rights to enter into marriage willingly, and to have the same legal rights as men as parents of their children.

The United States should provide assistance for legal reforms that promote and protect fulfillment of human rights for women and children, and facilitate contact and collaboration with international organizations, including the United Nations mechanisms, which can assist and advise legislatures on legal reforms and policy implementation to support women and children. The US should also increase its training of foreign security forces on addressing violence against women in armed conflict and on military codes of conduct regarding sexual exploitation and abuse.

Ratify the Convention on the Elimination of All Forms of Discrimination Against Women

CEDAW is a landmark international agreement that affirms fundamental human rights and equality for women around the world. It offers countries a practical blueprint to achieve progress for women and girls by calling on each ratifying country to overcome barriers to discrimination.

Around the world, CEDAW has been used to reduce sex trafficking and domestic abuse; provide access to education and vocational training; guarantee the right to vote; ensure the ability to work and own a business without discrimination; improve maternal health care; end forced marriage and child marriage; and ensure inheritance rights.

Ratification of CEDAW would serve to strengthen the United States as a global leader in standing up for women and girls and provide a path for the full realization of women's human rights globally.

Amnesty's recent report on Egyptian women provides us with a poignant example of why these recommendations are necessary.

Dalia Abdel Wahab, went to Tahrir Square in Egypt on January 25th last year to exercise her right to protest. Dalia's life was threatened as she was beaten and sexually assaulted by a mob of men. Like the many other women who have faced gender-based violence while peacefully protesting in Tahrir Square, her attackers have not been brought to justice.

A life free from violence is a fundamental human right. Yet nearly a billion women around the world will not have that freedom.

To affect real change in the lives of women globally, action is needed now, and the United States must continue to be a leader on this issue by passing legislation such as the International Violence Against Women Act.

Chairmen McGovern, Wolf, and members of the Commission, on behalf of Dalia and the nearly one billion women around the world who have experienced gender-based violence; I thank you for holding this important hearing and urge you to take swift action.

Thank you.