



HUMAN RIGHTS INSTITUTE

**New York City Council Hearing:
Committee on Civil Rights
Monday, October 19, 2015 at 1:00 PM
Committee Room, City Hall, New York, NY**

Introduction

Domestic violence is one of the most prevalent forms of gender-based violence. One in four women, and one in seven men, will experience domestic violence in their lifetime.¹ Domestic violence continues to have destabilizing effects on individuals and families around the country, including in New York City. In 2014, the New York City Police Department responded to more than 282,000 domestic incidents, and the Mayor's Office to Combat Domestic Violence documented 11,108 requests for shelter from women and families exposed to domestic violence.² Domestic violence is a human rights concern, and freedom from domestic violence is a fundamental human right. Moreover, access to safe and affordable housing is a critical component of meeting the fundamental human needs of individuals who experience domestic violence, and ensuring their human rights are respected and protected.

The Columbia Law School Human Rights Institute is pleased to provide this testimony to inform the New York City Council on the human rights principles relating to government obligations to ensure freedom from domestic violence as the Council considers Int. No. 832, aimed at "prohibiting discrimination in housing accommodations on the basis of an individual's status as a victim of domestic violence."

The Human Rights Institute, founded in 1998, draws on the law school's deep human rights tradition to support federal, state, and local government efforts to promote core human rights of dignity, equality, and opportunity.

The Right to Be Free from Violence and Abuse

In recent years federal, state, and local government representatives across the United States have recognized freedom from domestic violence as a fundamental human right. Over two dozen city and county governments have declared support for a human rights based-approach to domestic violence, and emphasized the corollary responsibility of local government to secure the right to be free from domestic violence.³ In 2014, President Barack Obama reaffirmed the "basic human right to be free from violence and abuse."⁴

Several cities, including San Francisco and Los Angeles, have also incorporated universal human rights principles into local law to address gender equity, including issues of violence against women.⁵

New York City's effort to prohibit discrimination against survivors of domestic violence in the housing context, and its existing protections against such discrimination in the employment context, represent important steps in fulfilling the right to be free from violence and abuse. This right is grounded in core international human rights principles,⁶ which provide a framework for laws, policies, and programs to address gender-based violence and a means to assess the effectiveness of existing efforts.

Fulfilling human rights requires government to take action to create conditions where all individuals, including individuals who experience violence and abuse, can meet their basic needs, such as adequate housing.

The human rights framework calls for proactive steps to prevent and address gender-based violence committed by both private and governmental actors. Further, it emphasizes laws and policies that empower victims and prioritize survivor dignity, including access to adequate services and support to enable individuals to leave violent circumstances without putting basic needs, like housing, at stake. In particular, "due diligence" represents the internationally-accepted standard to guide government efforts to address gender-based violence. This due diligence standard is drawn from a number of human rights agreements focused specifically on the rights of women,⁷ and international human rights treaties that the United States has ratified.⁸

The Due Diligence Standard

Due diligence calls for laws, policies, programs, and practices to alleviate discrimination that can occur on an individual or systemic level—whether intentional or unintentional. Due diligence underscores the importance of changing attitudes, policies, and structures that are reflective of gender bias and that perpetuate gender-based violence. It shifts the focus from addressing violence after it occurs to addressing the systemic causes of domestic violence and preventing it from occurring in the first place.

The United Nations Special Rapporteur on Violence Against Women—an independent expert on human rights—has articulated core components of due diligence, which require governments to (1) take all appropriate measures to prevent gender-based violence from occurring; (2) offer appropriate protections to potential targets; (3) investigate violence when it does occur; (4) hold offenders to account for their actions; and (5) provide remedies and compensation for victims.⁹ This multipronged, proactive approach, grounded in the right to be free from discrimination in all its forms, aims to address and alleviate the systemic causes of gender-based violence, and to ensure redress.

Access to Housing

Ensuring survivors' ability to access affordable housing is essential both to preventing domestic violence and to protecting potential targets. Women seeking to leave abusive situations face multiple barriers, and in many situations, do not even report abuse because of the negative repercussions reporting may have on their personal circumstances, including retaining housing, employment, and child custody.¹⁰ A comprehensive, rights-based approach should ensure that women have the economic and social security to both report abusive situations and leave those situations.

Without access to stable housing, many women facing violence are also in danger of homelessness. In fact, violence against women is a leading cause of homelessness for women and families. One 2008 survey of 25 U.S. cities found that 28% of families were homeless as a result of domestic violence.¹¹ U.N. experts have also underscored the nexus between access to housing and domestic violence, calling on the United States to provide “secure housing options for those fleeing domestic violence;” and emphasizing that “housing policies should not discriminate against victims of domestic violence, sexual assault, and stalking—by excluding them as applicants or evicting them based on their histories of abuse.”¹²

Prohibiting housing discrimination against survivors of domestic violence is one step toward meeting survivors’ basic needs, in line with human rights principles.

Conclusion

There is growing momentum to recognize and secure the right to be free from violence at the federal, state, and local levels. As a global city of economic, social, and cultural significance, New York is poised to be a national leader in recognizing the right to be free from domestic violence as a human right, and taking action to ensure this right. Specifically, by providing for protections against discrimination in housing for survivors of domestic violence, New York City can empower victims of domestic violence and prioritize survivor dignity by enabling individuals to leave violent circumstances without putting their basic housing needs at stake. We urge the City Council to ensure that the New York City Human Rights Law and its protections reflect universal human rights principles, including the due diligence standard, to address gender-based violence.

¹ Michele C. Black et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report 2* (2011), available at http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

² New York City Mayor’s Office to Combat Domestic Violence, *2014 Fact Sheet*, available at http://www.nyc.gov/html/ocdv/downloads/pdf/Statistics_Annual_Fact_Sheet_2014.pdf.

³ For a complete list of local resolutions, see Cornell University Law School Global Gender Justice Clinic, Columbia Law School Human Rights Institute & University of Miami School of Law Human Rights Clinic, *Freedom from Domestic Violence as a Fundamental Human Right Resolutions, Presidential Proclamations, and Other Statements of Principle* (2015), <http://www.lawschool.cornell.edu/womenandjustice/DV-Resolutions.cfm>.

⁴ Administration of Barack Obama, *Proclamation 9164 – Twentieth Anniversary of the Violence Against Women Act* (Sept. 9, 2014), available at <http://www.lawschool.cornell.edu/womenandjustice/upload/1-Presidential-Proclamation-VAWA.pdf>.

⁵ S.F., Cal., Admin. Code § 12K (2001); L.A., Cal., Ordinance 175735 (Dec. 24, 2003).

⁶ This testimony draws heavily from research and findings by the Human Rights Institute on human rights as they apply to gender-based violence, detailed in *Domestic Violence & Sexual Assault in the United States* (2014), written by the University of Miami School of Law Human Rights Clinic, Columbia Law School Human Rights Institute & ACLU Women’s Rights Project, available at http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/dv_sa_hr_guide_reduce.pdf.

⁷ Declaration on the Elimination of Violence Against Women, art. 4(c), U.N. Doc. A/RES/48/104 (Dec. 20, 1993); Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, U.N. Doc. A/34/46, entered into force Sept. 3, 1981. These instruments and subsequent “General Comments” published by the CEDAW Committee call on countries (“States” or “States Parties” under international law) to prevent, investigate, and punish acts of violence against women, whether by government or private actors. See

Comm. on the Elimination of All Forms of Discrimination Against Women, *General Recommendation No. 19, Violence Against Women*, ¶ 19, U.N. Doc. A/47/38 (Jan. 29, 1992).

⁸ The International Covenant on Civil and Political Rights (ICCPR) has been interpreted to include an obligation to “exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.” Human Rights Comm., *General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 19, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004). The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) also includes an obligation for States to prohibit discrimination by private parties and recognizes the right to protection by the State against violence, “whether inflicted by government officials or by any individual, group, or institution” as well as the right to protection from housing discrimination. International Convention on the Elimination of all Forms of Racial Discrimination, arts. 2, 5(b), 5(e)(iii), Dec. 21, 1965, 660 U.N.T.S. 195, U.N. Doc. A/6014, entered into force Jan. 4, 1969. The CERD Committee, which reviews compliance with the CERD, has expressed particular concern with violence against women in the United States. Comm. on the Elimination of Racial Discrimination, *Concluding Observations—United States of America*, ¶ 19, U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 25, 2014); Comm. on the Elimination of Racial Discrimination, *Concluding Observations—United States of America*, ¶ 26, U.N. Doc. CERD/C/USA/CO/6 (May 8, 2008).

⁹ See, e.g., Special Rapporteur on Violence against Women, *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, ¶ 17, U.N. Doc. E/CN.4/2006/61 (Jan. 20, 2006) (by Yakin Ertürk) [hereinafter Report on the Due Diligence Standard]; Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Mission to the United States*, U.N. Doc. A/HRC/17/26/Add.5 (June 6, 2011) [hereinafter Rapporteur Report on Visit to the U.S.].

¹⁰ See Caroline Bettinger-Lopez et al., *Domestic Violence in the United States: A Preliminary Report Prepared for Rashida Manjoo, U.N. Special Rapporteur on Violence Against Women* 32, 52, 54-55 (2011), available at <http://www.reproductiverights.org/sites/crr.civicactions.net/files/newsletter/DV%20in%20the%20US%20Br%20Paper%20to%20SR%20on%20VAW.pdf>.

¹¹ U.S. Conference of Mayors, *Hunger and Homelessness Survey: A Status Report on Hunger and Homelessness in America's Cities, A 25-City Survey* 19, available at http://usmayors.org/pressreleases/documents/hungerhomelessnessreport_121208.pdf. A prior 2005 study found that one in four homeless women became homeless after experiencing violence. National Law Center on Homelessness & Poverty, *Facts on Homelessness, Housing, & Violence Against Women*, available at http://www.nlchp.org/documents/DV_Fact_Sheet; Report on the Due Diligence Standard, *supra* note 9.

¹² Rapporteur Report on Visit to the U.S., *supra* note 9, at 28, ¶ h.