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The Honorable John Kerry
Chairman
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

The Honorable Richard Lugar
Ranking Member
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Chairman Kerry and Senator Lugar:

On behalf of the American Bar Association, I write to commend you for your leadership in addressing the critical issue of violence against women and girls around the world and for convening the hearing “Violence Against Women: Global Costs and Consequences” on October 1, 2009. We respectfully request that this letter be included in the hearing record.

The ABA strongly supports programs and initiatives to strengthen protection and assistance for victims of gender-based violence within the United States and abroad. The ABA’s Commission on Domestic Violence works to increase access to justice for victims of domestic violence, sexual assault and stalking by mobilizing the legal profession throughout the United States. In addition, the ABA’s Rule of Law Initiative, which provides technical legal assistance in nearly 40 countries around the world, works to assist both government and nongovernmental entities in addressing women’s rights issues such as domestic violence and widespread gender-based violence, including systematic rape in post-conflict situations.

The Scope of the Problem and Its Effects

In 2005, the World Health Organization released a “*Multi-country Study on Women’s Health and Domestic Violence against Women.*”¹ The study surveyed the incidence and prevalence of domestic violence against women in ten different countries, and produced quantitative and qualitative data about the experiences of women in these very different societies. The results were overwhelming: as many as 71 percent of women in Bangladesh, Ethiopia, Peru and the United Republic of Tanzania reported experiencing some physical or sexual violence at the hands of an intimate partner during their lifetimes. The study also showed that survivors of domestic violence--one incarnation of gender-based violence--suffer immediate and long term consequences. For example, in Peru Province 55 percent of women who have ever been abused by a partner report resulting injuries. In addition to injuries sustained directly from acts of violence, survivors frequently have long term health problems that correlate to a lifetime

¹ CLAUDIA GARCÍA-MORENO, ET AL., WORLD HEALTH ORGANIZATION, WHO MULTI-COUNTRY STUDY ON WOMEN’S HEALTH AND DOMESTIC VIOLENCE AGAINST WOMEN: INITIAL RESULTS ON PREVALENCE, HEALTH OUTCOMES AND WOMEN’S RESPONSES 2005 [hereinafter WHO STUDY].

experience of violence. They are also more vulnerable to emotional distress and suicidal behavior.²

But the consequences of gender-based violence are not limited to the individual. Violence against women has a destabilizing effect on societies as a whole. By instilling fear and insecurity in women, perpetrators of gender-based violence stunt progress toward equality, development, and peace.³ “The fear of violence, including harassment, is a permanent constraint on the mobility of women and limits their access to resources and basic activities.”⁴ This deprivation has high social, health, and economic costs to a society,⁵ and serves to perpetuate further violence. Lack of access to resources, including legal services, inadequate protection, ignorant (and/or disinterested) law enforcement, cultural patterns and social pressures all exacerbate gender-based violence and its effects.⁶ Responders must take a holistic and multidisciplinary approach to the problem of gender-based violence; by addressing each of these underlying issues societies can make great strides toward achieving gender equality and strengthening respect for human dignity.⁷

Promoting Change through Justice System Reforms

Despite international efforts to address gender-based violence, victims still face many obstacles to achieving justice. Such obstacles usually involve the absence of legal protections, the degree to which victims know of their rights and have access to legal services, and the prevalence of untrained or biased legal institutions.

Laws that discriminate based on gender and laws that inadequately provide for the protection of victims of gender-based violence frustrate the ability of victims to seek justice and hinder efforts to combat violence against women.⁸ Such laws disserve victims, while exculpating perpetrators of violence. Discriminatory laws not only make it difficult for victims to seek justice, but coupled with a paucity of protective laws, may actually place victims in more danger if they choose to seek justice.⁹

Legislative change is an important step in increasing victims’ access to justice, but it is only a first step.¹⁰ Victims must know what their rights are and have legal assistance if they are to assert them. Therefore, legal literacy is a fundamental pre-requisite to access to justice for victims of gender-based violence. Women should know what their rights are, how to report their abuse, and how they can access legal services.¹¹

² Id. at xv.

³ Fourth World Conference on Women, Sep. 4-15 1995, *Platform for Action* ¶ 117, U.N. Doc. A/CONF.177/20 (Oct. 17, 1995) [hereinafter *Platform for Action*].

⁴ Id.

⁵ Id.

⁶ Id. at ¶ 118.

⁷ Id. at ¶ 119.

⁸ Human Rights Watch, *What Will It Take? Stopping Violence Against Women: A Challenge to Governments*, HRW Backgrounder (June 2000) available at <http://www.hrw.org/backgrounder/wrd/fiveplus.htm>.

⁹ Id.

¹⁰ World Bank *supra* note 30 at 3.

¹¹ Id.

In addition, increasing access to legal services is critical in remedying gender-based violence. Some countries currently do not provide for any legal aid to victims of gender-based violence in civil cases.¹² And where legal services are available, women are not always able to access them. In particular, women in rural settings across the world are forced to choose between traveling great distances to legal clinics or foregoing legal services (assuming that these women have and are aware of their legal rights.)¹³ In the context of domestic violence in particular, the presence of legal services has been shown to significantly reduce rates of abuse.¹⁴ Effective legal services are crucial to protecting the human rights of women around the world.

However, even where women have the protection of the law and know their rights, victims of gender-based violence often face institutions that function to deny them relief. Bias and lack of information within the justice system itself can perpetuate the ills of gender-based violence.¹⁵ For example, in 2007, the Inter-American Commission on Human Rights, in a study of access to justice for female victims of violence in the Americas, noted that police investigations were often compromised by (1) unwarranted delays, (2) use of improper procedures (precluding future potential for prosecution), (3) disbelief of female victims and their families, (4) belief that gender-based violence was not a serious problem, (5) disregard for evidence, (6) failure to refer victims for proper evaluation and collection of evidence, (7) cursory dismissal of complaints, and (8) reluctance to follow through on protective orders.¹⁶ Even when law enforcement is well-intentioned, however, the study found that police are often ill-equipped to respond to victims' claims. Frequently they lack clear regulations and procedures for dealing with violence against women, are unfamiliar with applicable laws and what is necessary to prosecute cases, and are generally overburdened.¹⁷

These practices can have the effect of disadvantaging victims in judicial proceedings, by discouraging victims from filing reports or seeking police help in the first place. In addition, prosecutors--often under-trained or biased themselves--are then left with inadequate evidence to pursue a successful prosecution. Too often, judges also bring societal biases to the bench, dooming claims of victims and pardoning perpetrators.

Holding abusers accountable is a necessary part of vindicating the human rights of victims and ending gender-based violence. One solution is to encourage trainings for responders throughout the legal system that can standardize responses to gender-based violence and ensure that violence against women is met with true justice. Elucidating and establishing more effective procedures for investigation, prosecution and courtroom proceedings would help break down many of the obstacles victims face when pursuing claims of gender-based violence. Equally as importantly, however, training programs should emphasize the breakdown of stereotypes and the cessation of

¹² See, e.g., Ito Eze-Anaba, *Domestic Violence and Legal Reforms in Nigeria: Prospects and Challenges*, 14 CARDOZO J.L. & GENDER 21, 53 (2007); see also Org. of American States Inter-American Comm'n on Human Rights [IACHR], *Access to Justice for Women Victims of Violence in the Americas*, ¶ 10, OEA/Ser.L/V/II., Doc. 68 (Jan. 20, 2007)[hereinafter Access to Justice].

¹³ Eze-Anaba *supra* note 37 at 53.

¹⁴ Amy Farmer and Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 CONTEMP. EC. POL'Y 158, 13 (2003) (explaining the impact of increased legal services for domestic violence victims within the United States).

¹⁵ World Bank *supra* note 30 at 3.

¹⁶ *Id.* at ¶ 7.

¹⁷ *Id.* at ¶ 16.

prejudicial practices. All members of the justice system should be educated about the seriousness of gender-based violence, regardless of cultural norms.¹⁸

U.S. Response: The International Violence Against Women Act

As you, and many others, have previously noted, protections against and remedies for violence against women are essential to the stability and security of countries around the world, and therefore also essential to our nation's interests. We understand that you plan to re-introduce the International Violence Against Women Act, which would provide U.S. leadership and resources to the global effort to develop a legal response to gender-based violence.

The ABA believes that there are several key elements that should be incorporated into this legislation, and we urge you to include provisions to:

- 1) Provide funding for legal assistance for global victims of gender-based violence in criminal and civil cases;
- 2) Provide funding to provide training and education globally about gender-based violence and the needs of victims for judges, attorneys, law students and other legal service providers, as well as for law enforcement, government officials, legislators, health care providers, media, community members and other entities or persons who might help further victims' access to justice and create awareness about the law;
- 3) Enhance efforts to foster a multidisciplinary and community approach to serving victims and ending gender-based violence; and
- 4) Establish mechanisms to ensure that perpetrators of gender-based violence are held accountable.

The American Bar Association has been consistent in its commitment to promoting international human rights and access to justice. Gender-based violence is a pervasive violation of human rights throughout the world, and increasing victims' access to justice is a critical part of expanding the rule of law. We appreciate your efforts toward addressing the pervasive problem of violence against women and girls around the world, and urge that the Senate pass legislation such as the International Violence Against Women Act, as soon as possible.

Sincerely,



Thomas M. Susman

¹⁸ Human Rights Watch *supra* Note 28.