

**Memorandum**

TO: WIP Steering Committee  
FROM: The Vance Center for International Justice  
DATE: July 31, 2020  
RE: Protecting Women in Latin America from Economic Violence

**Table of Contents**

Table of Contents .....	2
A. Introduction .....	4
EXECUTIVE SUMMARY .....	5
B. Survey Assessment: Economic Violence in Latin America .....	6
1. Legal Framework.....	6
a. Existing or Proposed Legislation Regarding Economic Violence .....	6
b. Sanctions for Acts of Economic Violence and Related Crimes Across Different Legal Bodies (See Exhibit B) .....	12
c. Judicial Decisions on Economic Violence in National and Regional Tribunals .....	16
2. Initiatives from the Public and Private Sector and Other Institutions to Eradicate Economic Violence .....	21
a. Public Awareness and Policy .....	21
b. Private Practices and other Comments.....	29
C. International Standards and Global Initiatives to Eradicate Economic Violence .....	31
1. International Legal Standards Aimed at Protecting Victims of Economic Violence .....	31
a. Treaties .....	33
b. Other International Legal Standards .....	42
2. Non-Governmental Organizations, International Organizations, Foundations, Civil Groups, Regional and Local Initiatives .....	42
a. NGO efforts to eradicate Economic Violence .....	42
b. Efforts of International Organizations to eradicate Economic Violence.....	45
c. Regional and Local Initiatives .....	48
3. Best Practices in other Regions .....	50
a. Legal Framework .....	50
b. Judicial decisions .....	52

c.	Initiatives from the private sector .....	54
D.	Latin American Compliance with International Standards and Concluding Remarks .....	56
1.	Legislation and Regulation .....	57
a.	Implement International Instruments .....	58
b.	Broaden the Definition of Economic Violence against Women .....	58
c.	Strong Regulatory Framework .....	60
d.	Meaningful Sanctions Contemplating Crimes of Economic Violence against Women .....	61
2.	Meaningful Access to Education and Judicial Systems .....	61
a.	Education .....	61
b.	Judicial Access .....	62
3.	Third Party Initiatives .....	63
a.	Awareness Campaigns .....	63
b.	Women’s Empowerment Initiatives .....	64
c.	Legislative Advocacy .....	65
EXHIBIT A.	.....	66

## Introduction

The Cyrus R. Vance Center for International Justice (“Vance Center”), as part of its Women in the Profession (WIP) Program, seeks to understand how select countries in Latin America address the issue of economic violence against women. Economic violence against women is defined, for the purposes of this report, as the unreasonable deprivation of any economic or financial resources to which the victim, her family member or dependent is entitled under law, requires out of necessity or has a reasonable expectation of use. This violence is directed against a woman because she is a woman and affects women disproportionately. It can include the unreasonable disposition of moveable or immovable property in which the victim, her family member or dependent has an interest or a reasonable expectation of use; or the destruction or damage of property in which the victim, her family member or dependent has an interest or a reasonable expectation of use.

Following an initiative of the WIP Argentina Chapter, the Vance Center convened its local WIP chapters in Argentina, Bolivia, Brazil (Porto Alegre and Sao Paulo), Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela with the support of J.P. Morgan’s legal department in Latin America and North America to answer a questionnaire on economic violence against women. The Vance Center commissioned an international law firm to act as Coordinating Counsel to review the results of the questionnaire, summarize its findings in light of additional research, identify best practices, and present recommendations.

The results of this survey are set out in greater detail in **Section B** below. It includes an assessment of how the public and private sectors in the selected Latin American countries recognize, prevent, and address economic violence. The next section (**Section C**) reflects research and review of international standards and global initiatives, including those of NGO and International Organizations (“IOs”), as well as approaches adopted in other regions. The report concludes (**Section D**) with an assessment of Latin America’s legal framework against these benchmarks. The Section also highlights best practices and areas in need of improvement.

## EXECUTIVE SUMMARY

The definition of economic violence tends to be limited to specific contexts in Latin America domestic laws. While some countries describe economic violence as a form of domestic violence exercised by a patriarch, other jurisdictions focus on pay discrimination against women in the workplace.

The survey identified that implementation of criminal provisions, in particular, is often flawed, as many Latin American criminal codes contain inter-spousal exceptions to economic crimes such as fraud and theft, which lead to ambiguity and inconsistency.

On the other hand, in light of the criminal and family law implications of domestic violence (including domestic economic violence), several Latin American jurisdictions such as Brazil and El Salvador have established specialized gender violence courts with mixed criminal and family law jurisdiction. Additionally, landmark judicial decisions in several jurisdictions have articulated the national legal approach to combatting economic violence.

Survey results also revealed that most related public policies in Latin America, similarly to the majority of legislative measures, do not address economic violence against women specifically. Instead, they address it in the framework of a broader policy against violence against women. Some of the most focused initiatives in Latin America have stemmed from specialized government ministries and agencies established to promote gender equality or combat violence against women.

With limited exceptions, non-governmental organizations ("NGOs") in Latin America have generally led efforts to improve public awareness and education about economic violence. This is important because the issue of economic violence against women in Latin America has historically been neglected due to its limited social awareness.<sup>1</sup>

In the last resort, research suggests that, although awareness of the issue is growing in Latin America, initiatives to combat economic violence against women continue to fall behind. This report highlights best practices in combatting economic violence against women and provides recommendations to Latin American governments and civil society organizations to better understand and address this issue.

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<sup>1</sup> That said, the survey supports that younger generations are more aware and tend not to follow this trend.

## **B. Survey Assessment: Economic Violence in Latin America**

Each WIP chapter was asked to research local laws, jurisprudence and legal practice, including public policies and initiatives from the private sector, and answer a thirteen-question survey. In broad terms, the questions touched upon the legal framework of each jurisdiction, social awareness and initiatives from the private sector to eradicate economic violence against women. Coordinating Counsel produced this section by analyzing and cross-referencing answers, identifying general characteristics, and specifying particular differentiators. Where applicable, tables or graphics have been included to illustrate this comparative analysis.

This section details the legal framework that encompasses economic violence against women within these jurisdictions by providing general and specific definitional descriptions and identifying their jurisdictional placement. The legal framework analysis addresses legislative efforts, sanctions within different legal bodies (e.g., criminal, civil, family law, etc.), and judicial decisions in national and regional tribunals. Following the legal framework description, Part 2 of this section outlines initiatives from the private sector as well as comments on areas in which economic violence is addressed through laws, jurisprudence or private sector engagement.

### **1. Legal Framework**

This section is divided into three subsections. First, WIP chapters were surveyed on existing or proposed legislation regarding economic violence against women. This includes:

- (i) the way national laws define economic violence,
- (ii) the hierarchy of such laws,
- (iii) the existence of international treaties to which the countries are parties,
- (iv) if economic violence against women is punishable in said jurisdictions,
- (v) if there are any aggravating circumstances to this type of violence,
- (vi) how courts have addressed this issue in practice and
- (vii) a general reference to the different types of violence addressed in the relevant laws.

#### **a. Existing or Proposed Legislation Regarding Economic Violence**

##### **i. How is “economic violence” defined in your jurisdiction and in which source of law is it included? (See Exhibit A)<sup>2</sup>**

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<sup>2</sup> See generally, Q.1 in all questionnaires.

## **1. Surveyed Definitions within Latin America**

At the most general level, economic violence is a conduct that impairs a victim's access to material possessions. The breadth of specific definitions varies by jurisdiction. The core variables that restrict or broaden the application of this law include: 1) who may be the victim 2) who is the envisioned perpetrator, and 3) the relationship between the victim and perpetrator that is contemplated by the law.

## **2. Breadth of Definitions**

Most countries surveyed offer gender-based definitions of economic violence. Nicaragua gives an explanation for this distinction, providing that existing regulations had been ineffective at combating violence against women and, therefore, it was necessary to adopt a law of "special nature" to address the problem and allow for the effective protection of life, freedom, and personal integrity of women.

Most definitions specifically apply to women as being recipients of the law's protection. Costa Rica, the Dominican Republic, Honduras, Mexico, Paraguay, and Peru each broaden the definition to some degree, allowing application to any relative, any victim of gender-based discrimination, or at its broadest, any person. Many definitions of economic violence equate it with "patrimonial violence," and imply that the patriarch is the perpetrator. Conversely, Mexico equates the term with "labor violence" and broadly applies its opprobrium to perpetrators in any economic relationship, regardless of the hierarchy or familial relationship, as long as the aggressor affects the economic circumstances of the victim. Likewise, Peru's definition has a broad scope and it contemplates both familial relationships and workplace relationships. Peruvian law includes paying a lower salary for the same task within the same workspace in its definition of patrimonial violence.

In contrast, several countries restrict the term to the confines of a conjugal or familial relationship. Victims and perpetrators must be family members in these instances for economic violence to be categorized as an offense. Costa Rica, for example, contemplates relatives by consanguinity, affinity, or adoption up to the third degree when defining the applicability of the definition.

The definitional scope of affected material resources is almost unanimously broad. While some definitions begin with a restricted definition limited to only those resources necessary for survival, each one inevitably broadens to include other assets as well. Argentina, Peru, and Ecuador mention means necessary to live "a decent life." The only definition that is arguably restricted to life-threatening instances of economic violence is that of El Salvador, which encompasses, "[a]ny action or omission of the aggressor, which affects the economic survival of the woman, which manifests itself through acts aimed to limit, control or prevent the entry of their earnings."

**ii. What is the hierarchy of the source of law that contemplates economic violence? Is it addressed in any International Treaty that the country is a party to? Are these international obligations directly applicable in the country?<sup>3</sup>**

The sources of law that contemplate economic violence in Latin America are mainly of two types: national laws and international treaties. The hierarchy of the sources of law varies from jurisdiction to jurisdiction.

Generally, national laws are ordinary laws of general applicability within the third level and are preceded by international treaties at the second level and by the Constitution at the first level. In some countries, international treaties may attain constitutional level, particularly if they refer to human rights. In other countries, the ratification of international treaties entails the subsequent issuance of national laws to implement such obligations or expand them.

**1. International treaties**

The relevant international treaties to which most surveyed Latin American countries are parties are the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women ("Belém do Pará Convention")<sup>4</sup> and the Convention on the Elimination of all Forms of Discrimination Against Women ("CEDAW").<sup>5</sup> Some of the countries surveyed are also parties to less widely adopted but nevertheless relevant international instruments. For example, the Beijing Declaration and Platform for Action was signed by Venezuela and fully ratified by Chile and Ecuador. These international instruments are also addressed in section C.1.a. below.

The Belém do Pará Convention has a broad definition of what constitutes violence against women, stating that it shall be understood as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere."<sup>6</sup> Through this Convention, state parties "condemn[ed] all forms of violence against women and agree

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<sup>3</sup> See generally, Q.2 in all questionnaires.

<sup>4</sup> Organization of American States (OAS), *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (hereinafter "Belém do Pará Convention") (June 9, 1994), available at <https://www.oas.org/en/CIM/docs/Belem-do-Para%5BEN%5D.pdf> (last visited July 9, 2020).

<sup>5</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women* (hereinafter "CEDAW") (Dec. 18, 1979), available at <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf> (last visited July 9, 2020).

<sup>6</sup> Belém do Pará Convention, Art. 1.



to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence..."<sup>7</sup>

This treaty has been ratified by<sup>8</sup> and approved in the surveyed countries as follows: Argentina<sup>9</sup>, Bolivia,<sup>10</sup> Brazil,<sup>11</sup> Chile,<sup>12</sup> Colombia<sup>13</sup>, Costa Rica,<sup>14</sup> Ecuador,<sup>15</sup> El Salvador,<sup>16</sup> Dominican Republic, Guatemala,<sup>17</sup> Honduras,<sup>18</sup> Mexico,<sup>19</sup> Nicaragua,<sup>20</sup> Panama,<sup>21</sup> Paraguay,<sup>22</sup> Peru,<sup>23</sup> Uruguay,<sup>24</sup> and Venezuela.<sup>25</sup>

The CEDAW defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."<sup>26</sup> By ratifying this treaty, the sovereign states agreed to take all "appropriate measures, including legislation, to ensure the . . . advancement of women"--with particular attention paid to certain fields like economics.<sup>27</sup> Article 13 of the CEDAW

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<sup>7</sup> Belém do Pará Convention, Art. 7.

<sup>8</sup> See *generally* the signatories and ratifications at <https://www.oas.org/juridico/spanish/firmas/a-61.html> (last visited on July 10, 2020).

<sup>9</sup> Law No. 23,179 of 1985 of Argentina.

<sup>10</sup> Law No. 1599 of 1994 of Bolivia.

<sup>11</sup> Law No. 1.1973/96 of Brazil.

<sup>12</sup> Decree No. 1.640 of 1998 of Chile.

<sup>13</sup> Law 248 of 1995 of the Republic of Colombia.

<sup>14</sup> Law No. 7499 of Costa Rica.

<sup>15</sup> Ratified on September 15, 1995.

<sup>16</sup> Ratified on January 26, 1996.

<sup>17</sup> Decree No.69-94 of 1994 of the Republic of Guatemala.

<sup>18</sup> Decree No. 72-95 of 1995 of Honduras.

<sup>19</sup> Ratified on November 12, 1998.

<sup>20</sup> Decree No. 52-95 of 1995 of Nicaragua.

<sup>21</sup> Law No. 12 of 1995 of Panama.

<sup>22</sup> Law No. 605 of 1995 of Paraguay.

<sup>23</sup> Legislative Decision No. 26583 of 1996 of Peru.

<sup>24</sup> Law No. 16.735 of Uruguay.

<sup>25</sup> Ratified on February 3, 1995.

<sup>26</sup> CEDAW, Art. 1.

<sup>27</sup> CEDAW, Art. 3.

specifically addresses discrimination in the economic life of women aiming to guarantee equal rights for women in their family benefits, the right to bank loans, mortgages and other forms of financial credit.<sup>28</sup>

This treaty has been ratified by the surveyed countries<sup>29</sup> as follows: Argentina,<sup>30</sup> Bolivia,<sup>31</sup> Brazil,<sup>32</sup> Chile,<sup>33</sup> Colombia,<sup>34</sup> Costa Rica,<sup>35</sup> Dominican Republic,<sup>36</sup> Ecuador,<sup>37</sup> El Salvador,<sup>38</sup> Guatemala,<sup>39</sup> Honduras,<sup>40</sup> Mexico,<sup>41</sup> Nicaragua,<sup>42</sup> Panama,<sup>43</sup> Paraguay,<sup>44</sup> Peru,<sup>45</sup> Uruguay,<sup>46</sup> and Venezuela.<sup>47</sup>

Surveyed countries are also parties to other international instruments that, although related to broader topics, nevertheless touch upon violence against women and reinforce the commitment of the states to its eradication in their territories. For example, Chile and Ecuador are parties to the Beijing Declaration and Platform for Action, and although Venezuela signed the Declaration in 1995, it never ratified it. El Salvador is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Mexico and Nicaragua are parties to the

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<sup>28</sup> CEDAW, Art. 13.

<sup>29</sup> See *generally* the signatories and ratifications at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en).

<sup>30</sup> Law No. 23,179 of 1985.

<sup>31</sup> Ratified on June 8, 1990.

<sup>32</sup> Ratified on February 1, 1984.

<sup>33</sup> Ratified on December 7, 1989.

<sup>34</sup> Ratified on January 19, 1982.

<sup>35</sup> Ratified on April 4, 1986, Ley No. 2968 of 1984.

<sup>36</sup> Ratified on September 2, 1982.

<sup>37</sup> Ratified on November 9, 1981.

<sup>38</sup> Ratified on August 19, 1981.

<sup>39</sup> Ratified on August 12, 1982.

<sup>40</sup> Ratified on March 3, 1983.

<sup>41</sup> Ratified on March 23, 1981; Decree published May 12, 1981.

<sup>42</sup> Ratified on October 27, 1981.

<sup>43</sup> Ratified on October 29, 1981.

<sup>44</sup> Ratified on April 6, 1987.

<sup>45</sup> Ratified on September 13, 1982.

<sup>46</sup> Ratified on October 9, 1981.

<sup>47</sup> Ratified on May 2, 1983.

Convention on the Rights of the Child. Nicaragua is also party to the International Convention on the Rights of Persons with Disabilities. And Venezuela is a signatory to the United Nations Security Council Resolution No. 1,325 on Women, Peace and Security.

## 2. National laws

Most of the surveyed countries have national laws that regulate their efforts to eradicate economic violence against women, national laws criminalizing certain conduct and in most cases implementing international obligations. The surveyed countries' national laws consist of and were enacted as follows:

Bolivia (Law No. 348 of 2013), Brazil (Maria da Penha Law No. 11.340 of 2006), Chile (Domestic Violence Act No. 20.066 of 2005), Colombia (Law 1257 of 2008), Costa Rica (Law Against Domestic Violence No. 7586 of 1996), Ecuador (Law to Prevent and Eradicate Violence against Women, Law No. 175), El Salvador (Integral Special Law for a life free of Violence to Women, Decree No. 520 of 2011), Guatemala (Law Against Femicide and Other Forms of Violence Against Women, Decree 22-2008), Honduras (Law Against Domestic Violence, Decree 132-97), Mexico (Law of Access for Women to a Life Free of Violence published on February 1, 2007), Nicaragua (Law No. 779 Integral Law Against Violence to Women and Reforms to Criminal Code), Panama (Law No. 82 of 2013), Paraguay (Law No. 5777 of Violence Against Women of 2016), Peru (Law No. 30364 of 2015), Uruguay (Law No. 19.580 of 2017) and Venezuela (Organic Law on the Right of Women to a Life Free of Violence of 2007 and Organic Law on Equal Opportunities for Women of 1999).

## 3. Hierarchy

Generally, if the source of law contemplating economic violence against women is an international one (e.g. treaty), the international instrument might be hierarchically at the same level as the Constitution, or at least immediately below (in the second level) and above ordinary laws. Some regulatory examples are provided below:

**Constitutional hierarchy:** In Argentina, treaties have constitutional hierarchy. In Chile, treaties are directly applicable as a provision by law according to Article 5 of the Chilean Constitution. In the Dominican Republic, international treaties have the same hierarchy as the Constitution. In Guatemala, international treaties referring to human rights are at the Constitutional level and prevail over ordinary laws. In Mexico, treaties related to human rights are also at the same level as the Constitution.

**Below Constitutional hierarchy:** In Bolivia, economic violence is regulated under Law 348, whose normative hierarchy is at the third level below the Constitution and international treaties. In Brazil, the Maria da Penha Law is an ordinary law, although it complies with all the terms of the CEDAW and the Belém do Pará Convention. In Chile, the topic is mainly addressed by the Domestic Violence Act. In Colombia, Law 1257 falls below the Constitution. In Costa Rica, international treaties

fall below the Constitution but above ordinary laws. In El Salvador, the Integral Special Law for a Life Free of Violence to Women is an ordinary law below the Constitution. In Guatemala, the Law Against Femicide and other forms of violence against women is an ordinary law as well, although international treaties are of Constitutional level with respect to human rights. In Mexico, the Law of Access for Women to a Life Free of Violence is an ordinary law. In Paraguay, Law No. 5777 (2016) of Violence Against Women is at the third level, below the Constitution and international treaties. In Peru, international treaties are part of national law. In Ecuador, the Law to Prevent and Eradicate Violence Against Women is an organic law, meaning that it develops constitutional rights.

**b. Sanctions for Acts of Economic Violence and Related Crimes Across Different Legal Bodies (See Exhibit B)**

About half of surveyed countries explicitly recognize economic violence as a crime, but most of those that do not include implied remedies within other bodies of law. Argentina, Brazil, and Chile provide the least adequate responses to acts of economic violence, offering either: an acquittal for spouses who commit such crimes between themselves, failing to recognize the offense, or declining to enforce meaningful consequences.<sup>48</sup> Among countries that criminally penalize economic violence, sentencing ranges from three months to eight years, but aggravating factors (e.g., severe physical injury) may increase the maximum to fourteen years. Its mention appears most often in criminal law, labor law, and family law, but some countries contain some form of recognition in constitutional law, civil law, and other areas as well.

**i. Does economic violence constitute a crime? If yes, are there any criminal sanctions for this kind of violence?<sup>49</sup>**

**1. Explicit Recognition**

Bolivia, Costa Rica, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Uruguay, Venezuela, and Ecuador explicitly recognize economic violence as a criminal act. In these countries, the bare commission of the crime (without aggravating circumstances) is enough to warrant a prison sentence. In addition, many countries tack on extra years to a sentence when economic violence is coupled with physical or psychological violence or some type of resulting injury. Criminal sanctions in these countries range from a minimum of three months prison sentence in Costa Rica to a maximum of eight years in Panama.

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<sup>48</sup> See Argentina Q.3 (“[O]ur Criminal Code states an absolatory excuse for economic crimes committed between spouses.”); Chile Q.5 (“There are no specific penalties or aggravating circumstances that apply to economic violence, not even in the Violence-Free Life Bill.”); Chile Q.3 (Provision that implicitly recognize economic violence have “very low” penalties and are “rarely enforced in practice.”).

<sup>49</sup> See *generally*, Q.3 in all questionnaires.

Costa Rica provides some of the most comprehensive criminal sanctions, with Articles 34-39 of the Law for the Criminalization of Violence against Women No. 8589 dedicated to spelling out the many forms it can manifest. These articles provide sanctions for specific crimes including the following: a man that removes, damages, or limits assets that belong to the woman or their marriage/union;<sup>50</sup> a man that fraudulently enters into a contract or other legal writing on behalf of the woman;<sup>51</sup> a man that makes his partner support him financially<sup>52</sup> or exclusively uses the profits of their relationship.<sup>53</sup> Bolivia, Nicaragua, Panama, Peru, and Ecuador provide similarly expansive protections through criminal sanctions.

## **2. Implicit Recognition**

Colombia, the Dominican Republic, Honduras, and Peru do not provide a penalty for economic violence without additional aggravating circumstances or do not recognize it specifically. For example, in Honduras, a first offense is remedied with an order to reimburse or compensate the victim for the affected property, and a second offense may result in imprisonment, specifically for failure to obey the original order. Colombia also only prosecutes the offense when there are aggravating circumstances, such as physical or psychological damage. It and other countries also add to the prison sentence when the victim is a woman or other protected class (e.g., elderly, minor child, etc...). Finally, although Chilean law has provided some implicit recognition of economic violence when it takes the form of psychological abuse, the penalty for the offense is very low and is rarely enforced.

## **3. Without Recognition**

Argentina, Brazil, and Chile do not offer meaningful recognition of economic violence in criminal law. Argentina and Brazil acquit economic crimes committed against spouses, and while in Argentina the excuse has at time been declared to be in violation of international law, it remains in effect. In Brazil, the spousal excuse is only waived in limited circumstances.

### **ii. In which areas of law is this kind of violence regulated?<sup>54</sup>**

Due to the nature of the issue, as well as the circumstances surrounding it and the type of relationships in which economic violence might arise, it is most commonly

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<sup>50</sup> Costa Rica Q.3 (Arts. 34-36).

<sup>51</sup> Costa Rica Q.3 (Art. 37).

<sup>52</sup> Costa Rica Q.3 (Art. 39).

<sup>53</sup> Costa Rica Q.3 (Art. 38).

<sup>54</sup> See *generally*, Q.4 in all questionnaires.

regulated in criminal law,<sup>55</sup> labor law, and family law. Some countries touch upon this issue in other areas of law (e.g., civil law, corporate law or public service law, etc.).

Labor law explicitly regulates economic violence in Costa Rica, Colombia, El Salvador, Guatemala, Mexico, Peru, and Ecuador, and it implicitly regulates it in Argentina, Brazil, Chile, and the Dominican Republic. Regulations in this area generally protect equal pay for women as well as rights to enter into and enforce labor contracts.

Family law explicitly regulates economic violence in Bolivia, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, and Uruguay, and it implicitly regulates it in Argentina, Chile, and Paraguay. Regulations in this area may protect rights to alimony, but specific sanctions are more typically not mentioned in this legal jurisdiction.

No countries regulate economic violence through constitutional law, although constitutional law may protect general economic rights. Argentina and Brazil have some implicit recognition in this field.

Only Mexico regulates economic violence through civil law, and Chile, the Dominican Republic, and Paraguay have some implicit recognition.

Mexico regulates economic violence in community and corporate law, and Costa Rica does so in its public law (Costa Rican Electoral Code Law No. 8765). Colombia has a provision in public service law that mandates women fill the roles of 30% of officers with decision power, and its social inclusion law protects women that head a household, providing, among other things, subsidies for education and housing. Brazil's Maria da Penha Law is an interdisciplinary law that applies generally to different areas.

**iii. Are there any specific penalties or aggravating circumstances that apply to this kind of violence? If yes, under which area of law?**<sup>56</sup>

Most countries explicitly recognize economic violence as a criminal act punished with prison. The following characteristics may amplify the sentence:

- **Victim Characteristics:** Aggravating circumstances that may increase the penalty for economic violence include instances in which the victim is disabled, pregnant, a minor, elderly, recovering from childbirth, or otherwise a member of a particularly vulnerable group.
- **Aggressor Characteristics:** When the aggressor is a public officer; is aided by others or animals; uses weapons; acts with cruelty or treachery; receives a reward, price, remuneration, promise, or advantage; or uses a high degree of scientific, professional,

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<sup>55</sup> See generally, Q.3.

<sup>56</sup> See generally, Q.5 in all questionnaires.

or technological knowledge,<sup>57</sup> the sentence may be increased. If the aggressor owes a legal obligation to provide food and fails to fulfill this obligation, this can also constitute an aggravating factor.<sup>58</sup>

- **Surrounding Circumstances:** Other surrounding circumstances that may amplify a criminal sentence include when the crime occurs in the presence of minor children or results in physical or psychological injury.

Aggravating circumstances may be considered in areas other than criminal law as well. For example, in Peru, labor law includes a “very serious infraction” for a workplace that fails to provide a policy of equal pay for equal work. Argentina also mentions some applicable administrative sanctions.

#### **iv. Does the law include provisions regarding fraud between spouses?<sup>59</sup>**

Some of the surveyed countries include provisions regarding fraud between spouses, particularly under criminal law. The majority of those that include this type of provision also incorporate criminal liability for the spouse who is carrying out the deceitful action. In contrast, other countries like Chile include an exception to criminal liability under similar circumstances. There is a third category in which courts have played a key role in maintaining the balance among the different areas of law (by sustaining criminal liability even if there is another regulation which contemplates exceptions to liability). Finally, there are some countries that do not regulate fraud between spouses. The survey answers to this question are as follows:

##### **1. Yes and contains no exception, thus criminal liability is deemed to exist**

In Ecuador, the Organic Integral Criminal Code contemplates a specific crime of violence against women or members of the family nucleus, including physical, psychological or sexual abuse, executed by a family member against women or other members of the family nucleus. An official marriage relationship is not necessary for this crime to be considered, as an intimate or affectionate relationship is enough.

In Costa Rica, the Law for the Criminalization of Violence Against Women provides that fraud on assets that can be considered marital property is punished with prison or a fine depending on the amount of the fraud (Article 37).

In Paraguay, this issue is regulated in Law N° 5777 (2016) of Violence Against Women. Article 6(f) of that law defines economic and property-related violence as damaging the women’s specific family means through unilateral use, fraud,

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<sup>57</sup> See Costa Rica Q.5; Venezuela Q.5.

<sup>58</sup> See Peru Q.5.

<sup>59</sup> See *generally*, Q.6 in all questionnaires.



destruction, among others, as well as denying or preventing in any way women to work outside the household or depriving them of essential survival means.

## **2. Yes but includes an exception to criminal liability**

The Chilean Criminal Code provides an exception to criminal liability in cases of theft and fraud between spouses. Chilean laws do not criminalize economic violence against women *per se*, but do include general related crimes, like domestic abuse or coercion.

A similar provision is included in the Venezuelan Criminal Code (Article 481.1).

## **3. Yes, but incompatibility is to be determined by courts**

In Argentina, the Criminal Code acquits economic crimes committed between spouses. However, Law 26,485 (2009) provides in its Article 6(a) that domestic violence against women damaging her economic rights includes inter-spousal acts. Even with the contradiction between the two rules, aggressors have been convicted for economic violence against women even when they are spouses.

In Brazil, Article 181 of the Brazilian Criminal Code exempts crimes of economic nature between spouses, including fraud. Case law is silent with regard to the compatibility between the Criminal Code and the Maria da Penha Law, which recognizes patrimonial violence as a form of violence against women.

## **4. No regulation of fraud between spouses**

El Salvador, Guatemala, Honduras, Mexico, Panama, and Peru do not include any type of provisions referring to fraud between spouses.

In Colombia, economic violence is not considered a criminal offense *per se*. Fraud between spouses is not regulated *per se* either, but the Colombian Civil Code provides that actions with fraudulent intent between spouses will have negative consequences. In particular, the spouse who, with fraudulent intent, hides an asset that is part of the community property shall lose his/her rights over that asset and shall pay his/her spouse an amount equivalent to twice the value of such property (Article 1824).

A similar provision is included in the Civil Code of the Dominican Republic in terms of losing his/her proportional rights over the assets held in community property.

Nicaraguan law does not regulate fraud between spouses either. However, the Criminal Code (Law No. 641) criminalizes fraud and includes crimes against property. Aggravating circumstances of this crime involve the abuse of personal relationships between the victim and the fraudster or if the value of the defrauded property placed the victim or his/her family in a precarious standard of living.

### **c. Judicial Decisions on Economic Violence in National and Regional Tribunals**



- i. **In practice, how is economic violence addressed by Judges/Courts? Are there any judicial precedents in this regard? If yes, how have the judicial precedents evolved through time?**<sup>60</sup> (See Exhibit C)

### **1. Courts Having Jurisdiction**

Most courts in the surveyed countries deal with economic violence as part of criminal proceedings or as part of family law proceedings in civil courts as indicated in the prior section.

In addition, some countries have established specialized courts. In Brazil, there are lower courts that specialize in domestic violence against women which are competent to rule on lawsuits involving patrimonial violence. In El Salvador, the “Special Law for a Life Free of Violence Against Women” provides for the creation of specialized courts to address all proceedings related to this law. These courts have mixed jurisdiction (criminal and family laws) and are empowered to issue precautionary measures. In Nicaragua for example, there are twenty two Specialized Courts for Gender Violence.

### **2. Landmark Decisions**

National courts of the surveyed countries have issued landmark decisions that have shaped the approach to fight economic violence against women in Latin America. Some of those decisions are discussed below.

First, some local courts have defined what they consider to be “economic violence” in more specific terms than the ones in existing regulation. For instance, in Chile, the Court of Appeals of Punta Arenas has recognized that domestic violence includes economic aggressions.<sup>61</sup> This Court has defined “economic violence” as “constituted by any and all acts and omissions carried out by the offender, affecting the survival of women and their children or by the dispossession of her goods, as the loss of her house, refusal to pay alimony, basic survival expenses, among others.”<sup>62</sup>

In Guatemala, the Supreme Court has interpreted the crime of violence against women as protecting the integrity and dignity of women, their property rights and the

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<sup>60</sup> See generally, Q.7 in all questionnaires.

<sup>61</sup> See Chile Q.7, referring to the Court of Appeals of Punta Arenas Resolution No. 2,270 (May 4, 2012). See also Supreme Court Resolution No. 4,013 (Sept. 7, 2009) recognizing that “domestic violence refers to abuse of power or physical or psychological mistreatment from a family member towards another one, which may be manifested as physical, psychological, sexual and economic mistreatment.”

<sup>62</sup> See Chile Q.7, referring to the Court of Appeals of Punta Arenas Resolution No. 2,270 (May 4, 2012).

free disposition of their goods.<sup>63</sup> The actions that are punished are those that impact women's use, disposition, or access to properties that belong to them by right, or to appropriate or destroy their properties, including all conduct that affects them and their economic subsistence.<sup>64</sup>

Second, in several countries, courts handling family or civil matters have dealt with economic violence against women. In Argentina, Family Courts have ruled that non-compliance with alimony obligations, in addition to being a case of violation of the rights of children, constitutes a clear case of economic violence against women.<sup>65</sup> The Civil National Chamber of Appeals also ordered financial compensation to a wife who had dedicated her life to raising children instead of working as an economist and was disadvantaged economically in comparison to her ex-husband at the time of a divorce.<sup>66</sup>

In Colombia, the Constitutional Court ruled that the constant denial of economic resources to women by the spouse was a form of violence and, therefore, a ground for divorce.<sup>67</sup>

In Mexico, the First Chamber of the Supreme Court held that the objective of awarding a compensatory pension was "to compensate the spouse who during the marriage was unable to gain economic independence, providing him/her with sufficient income until as long as this person is able to provide himself/herself with the necessary means for his/her subsistence." The Supreme Court has shown a progressive and guaranteeing character in terms of rights, but it still does not permeate the entire Judiciary. The Supreme Court has also developed arguments about the 'double day' of women who perform paid and unpaid work.<sup>68</sup> The First Circuit Civil Tribunal has also decided that economic violence was a component of domestic violence and referred in particular to the breach of an obligation to pay alimony.<sup>69</sup>

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<sup>63</sup> See Guatemala Q.7, referring to the Supreme Court Sentence 779-2013 (Jan. 23, 2014).

<sup>64</sup> See Guatemala Q.7, referring to the Supreme Court Sentence 779-2013 (Jan. 23, 2014); 417-2013 (May 30, 2013); 1373-2012 (Nov. 9, 2012); 958-2012 (May 14, 2012).

<sup>65</sup> See Argentina Q.7, referring to the Family Court No. 5 of Cipoletti, Province of Rio Negro Case "Ch.B.E. C. P.G.E. re/ incident to increase the amount of alimony" (Aug. 28, 2018).

<sup>66</sup> See Argentina Q.7, referring to the Division I of the Civil National Chamber of Appeals Case "M.L., N.E. C. D.B., E.A. re/ compensation setting." (~2013).

<sup>67</sup> See Colombia Q.7, referring to the Colombian Constitutional Court, Judgment No. T-012/16 Case No. T- 4.970.917, Reporting Justice: Luis Ernesto Vargas Silva (2016).

<sup>68</sup> See Mexico Q.7.

<sup>69</sup> See Mexico Q.7, referring to the Third First Circuit Civil Court, Case 352/2010 (Mar. 17, 2011).

Third, courts have dealt with economic violence against women as part of criminal cases. In Brazil, the Superior Court of Justice recognized that, to protect the victim, it is necessary to order that the perpetrator of an aggression be obligated to ensure the victim's subsistence.<sup>70</sup> The Superior Court of Justice also recognized extortion related to domestic violence.<sup>71</sup> In Costa Rica, courts recognized that a woman committing a crime in order to protect herself or her children against economic violence could be exempt from imprisonment if some other conditions are met.<sup>72</sup> In Venezuela, the Court of Appeals of Violence against Women established that a primary condition for the existence of the crime of economic violence is the legal separation of the spouses.<sup>73</sup>

**ii. What different types of violence do comprehensive laws contemplate? (Domestic, institutional, labor, media, symbolic violence, etc.)<sup>74</sup> (See Exhibit D)**

A vast majority of the Latin American countries prohibit both physical and psychological violence, and they often specifically prohibit sexual violence and labor violence as well (usually including discrimination and harassment). As discussed above, most countries also offer protection against economic violence.

Some countries offer a detailed list of categories of prohibited violence, such as Uruguay (prohibiting physical, psychological, patrimonial, sexual, regarding sexual orientation, economic, symbolic, obstetric, labor, in educational environment, street harassment, political, media, domestic, femicide, institutional, communitarian and

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<sup>70</sup> See Brazil 1 Q.7, referring to the Superior Court of Justice Case RHC 100446/MG (Nov. 27, 2018).

<sup>71</sup> See Brazil 1 Q.7, referring to the Superior Court of Justice Case AgRg no AREsp 620058/DF (Mar. 14, 2017).

<sup>72</sup> See Costa Rica Q.7, referring to the Third Chamber of the Supreme Court Vote number 00598 - 2012 (Mar. 30, 2012). The conditions to be met are as follows: "1. There must be a danger or threat of a serious damage or harm. The judge must verify the objective existence of that danger or threat, and then proceed to assess its severity according to the degree of affectation that these may generate with respect to legal assets, for example, the property right, of who suffers such danger. 2. The danger or threat of a serious harm or damage must be current, imminent, or permanent. 3. The wrongful act executed must be necessary to avoid the danger or threat of a serious harm or damage. The judge must assess then, if the author of the illicit, subjected to patrimonial violence, had other possibilities to avoid the danger of a serious harm.

4. The danger that threatens whoever executes the wrongful act must be unlawful."

<sup>73</sup> See Venezuela Q.7, referring to the Court of Appeals of Violence against Women Decision 118-10 (June 7, 2010); Second Court of Control in Zulia Decision 883-2014 (June 11, 2014).

<sup>74</sup> See generally, Q.8 in all questionnaires.

racial violence) or Venezuela (prohibiting psychological, harassment, threat, physical, domestic, sexual violence, rape, forced prostitution, sexual slavery, sexual harassment, labor violence, obstetric violence, forced sterilization, media violence, institutional violence, symbolic violence, trafficking of women and girls, slave traffic of women and girls). Countries such as Ecuador, Mexico and Venezuela contain a precise definition of each prohibited category of violence.

Some countries (Argentina, Ecuador, Panama, Paraguay, Uruguay, Venezuela) also expressly prohibit “symbolic violence,” i.e., as defined under Venezuelan law “messages, values, icons, or signs that transmit and reproduce relations of dominion, inequality and discrimination in social relationships that normalize the subordination of women in society.”<sup>75</sup>

Violence in the media is also expressly prohibited in some countries (Panama, Paraguay, Uruguay, and Venezuela) and is defined under Venezuelan law as “the exposure, through any means, of women or girls, that directly or indirectly discriminates, dishonours, humiliates or threatens their dignity for economic, social or dominion-related purposes.”<sup>76</sup>

Institutional violence, defined as “abusive action or omission of any public servant, who discriminates or has the purpose of delaying, impeding or avoiding the enjoyment and enforcement of fundamental rights and freedoms of women” under Salvadoran law<sup>77</sup> is also prohibited in several countries. The Dominican Republic is examining a draft law in this respect, while Bolivia, El Salvador, Panama, Paraguay, Uruguay, Venezuela already prohibit this category of violence. In this respect, Bolivia prohibits violence in health services, in the education system, and in the political exercise and leadership of women.

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<sup>75</sup> See Venezuela Q.8.

<sup>76</sup> See Venezuela Q.8.

<sup>77</sup> See El Salvador Q.8.

## **2. Initiatives from the Public and Private Sector and Other Institutions to Eradicate Economic Violence**

### **a. Public Awareness and Policy**

#### **i. Are there any public policies or guidelines aimed at protecting women from economic violence?<sup>78</sup>**

The first category of initiatives surveyed consists of public policies and other public sector guidelines. Such initiatives are either organized or supported directly by governmental authorities. The survey indicated that most of the public policy initiatives involved in combatting economic violence against women in Latin America are not initiatives specific to economic violence. More frequently, where addressed at all, combatting economic violence has been embraced under existing public policies combatting domestic violence and other physical violence against women.

Combatting economic violence from the ambit of domestic violence law gives rise to certain limitations on the manner and effectiveness of public policy initiatives. Nevertheless, governments throughout Latin America have formulated and implemented distinct public policies towards this goal. This section reviews some of the more prominent and unique public policy economic violence initiatives identified in Latin America and concludes with observations of regional trends.

One jurisdiction highlighted here is Chile, where the government established in 2016 a separate Ministry of Women and Gender (“MWG”) in order to tackle various issues related to economic violence. The Ministry, in turn, is implementing legislative and executive projects aimed at reducing economic violence against women. Legislative reform efforts are concentrated on drafting bills eradicating institutional hallmarks of economic violence, such as the reform to remove the prohibition on a married woman’s management of marital property. Other reform initiatives underway include regulations to reduce the pay gap and expand the provision of childcare to all working women (whereas it is currently only mandated for companies that have hired 20 or more women). The Ministry has also launched executive programs to improve women’s participation and independence in the formal economy, such as programs aimed at spurring women’s interest in technological and scientific careers, as well as participation in postgraduate and corporate governance programs. Additionally, Chile’s Women and Gender National Service (“SERNAMEG”), under the responsibility of the MWG, has launched four specific programs focused on combating economic violence against women, as explained below. Finally, in addition to implementing its own policies, the government also commits funds to other organizations furthering its policy goals, such as the foundation PRODEMU, which promotes entrepreneurship to achieve empowerment and economic autonomy through social and educational interventions with women of different ages and socioeconomic and cultural levels, including workshops and training sessions.

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<sup>78</sup> See generally, Q.9 in all questionnaires.

The approach taken in Colombia, however, can be characterized as a more holistic, addressing economic violence issues from a wider range of government-citizen interactions. The Presidential Council for Women's Equity, a specialized government agency aimed at combatting all forms of violence against women, has issued three guidelines concerning gender equality issues in a variety of contexts: (i) the guide for dialogue between governments and women's organizations; (ii) the guide for the development of public policies for empowerment and equal opportunities, and (iii) recommendations to foster mechanisms for gender equality.

Colombia's approach can be contrasted with that of the Dominican Republic, which places more emphasis on the effect that improving women's access to financial resources can have on economic violence and discrimination against women. In this context, the Dominican Republic's legislature passed Law No. 1-12, which provides the National Strategy for 2030, including as one of its main objectives the eradication of violence by 2030 and the encouragement of certain measures, such as financing for women and specifically young women and on equal rights and opportunities. This is not a new policy in the country; the National Plan for Equality and Gender Equity for 2007-2017<sup>79</sup> provided certain related objectives, such as enhancing access to finance for women.

Ecuador's approach in public policies combatting economic violence against women, too, can be described as addressing holistically multiple contexts of interaction between government and society. The Ecuadorian State, through all its branches, has structured a public policy plan aimed at preventing and eradicating violence against women. Moreover, the plan also provides for the protection and restoration of victims' rights. To do this, Ecuador has brought together several governing bodies involved in education, health, citizen security, and work, in order to analyze and execute policies and practices to further the eradication of violence in these contexts. The design, implementation and development of these public policies are established in the Law to Prevent and Eradicate Violence Against Women (Law No. 175)<sup>80</sup>, which seeks to prevent and eradicate violence of all kinds against women through agreements between regulatory bodies.

One major public policy in Guatemala that combats economic violence against women is the National Policy for the Promotion and Development of Women and the Plan for Equity of Opportunities (2008-2023), which includes the economic growth of women as a major theme. It also complements the Policy for Prevention of Violence and Crimes, and the National Plan for the Prevention and Eradication of Intrafamily Violence and Violence Against Women ("PLANOVI"), which covered the period from 2004 to 2014. Currently, the Secretariat for Women in the Presidency ("SEPREM") is undertaking several efforts in the formulation of a new PLANOVI, covering the period 2015-2025. Preliminarily, the PLANOVI is expected to have 6 strategic axes:

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<sup>79</sup> As of the date of the survey, the National Plan 2018-2030 is pending approval.

<sup>80</sup> Law No. 175 of Ecuador to Prevent and Eradicate Violence Against Women (2018).

prevention, attention, sanction, damages, institutional reinforcement, and production of information.

For Nicaragua, in what may be described as a judicial approach to combatting economic violence against women, several of the key public policies identified in the survey have been promoted by the country's courts. For example, the survey indicates that the State of Nicaragua, through the Supreme Court of Justice, has established a Judicial Observatory on Gender Violence with the purpose of collecting, analyzing and disseminating periodic and systematic information related to gender violence. Further, a State Policy of Comprehensive Early Childhood Care that promotes new parenting guidelines as part of the violence prevention strategy has been implemented. Generally, Nicaragua has prioritized the incorporation of the gender perspective in legal regulations, policies, programs and plans that guarantee the restitution of rights and full and active participation of women in situations where decisions are made. Thus, in Nicaragua, the full implementation of the legal framework that protects women is guaranteed by strengthening in particular those institutions within the justice system which have specialized units in gender violence, action protocols and personnel trained with a gender perspective.

The survey identified two relevant public policies implemented in Paraguay: the 2nd National Plan for Sanction and Prevention of Violence Against Women (2015-2020), launched by the Ministry of Women and Itaipú Binacional; and the 4th National Equality Plan launched by the Ministry of Women and UN Women.

Finally, the survey documented several prominent public policies in effect in Venezuela. *Misión Madres del Barrio* [Mission Mothers of the Barrio], whose name was subsequently changed to *Hogares de la Patria* [Households of the Homeland] is a mission established by the Venezuelan Government to ensure that housewives who have dependents (seniors or children) and who have less than the established minimum income may participate in social programs and receive economic support. This is in line with Article 88 of Venezuela's Constitution, which specifically recognizes the work of women at home (the "private sphere"), and acknowledges household work as an economic activity generating wealth and social welfare. The Mission aims to ensure that these women can overcome poverty and contemplates the participation of an organized community through the Committees of Mothers of the Barrio to contribute to that objective. The Mission views the eradication of poverty of women with dependents as essential to achieving substantial equality between men and women. It also views poverty as one of the key elements that hinder equality in society. The Mission focuses on housewives because of the great imbalance between men and women in the private sphere.

Outside of the household, the Venezuelan Government also has furthered policies that improve women's access to financial capital. The Women's Development Bank (*BanMujer*) was formally created in 2001, by Decree 1,243 of the Presidency of the Republic. *Carnet de la Patria* [Homeland Card] records are used to select, based on their socioeconomic circumstances, those women who would most benefit from loans from BanMujer. The *Carnet de la Patria* then becomes the instrument to access



the program. The *Programa Soy Mujer* [I am a Woman Program] is a social program created by an order of the national executive on May 24, 2016, and implemented in the main national public banks in Venezuela. It is aimed at financing the initiatives of women (in vulnerable conditions or not) who undertake or wish to undertake socioeconomic projects, individually or in groups, through any organizational alternative, including those corresponding to the Popular Power communal economic system. This allows them to achieve sustenance for their homes, overcome poverty and contribute to the development of their communities, promoting the entrepreneurial spirit of solidarity and the culture of collective work.

The survey confirms that, in virtually all jurisdictions of Latin America, public policies are in place to prevent and remedy the harms of forms of violence against women, including economic violence. It is rarely targeted by a specific policy, but the diversity of governance styles in Latin America has contributed to a breadth of approaches. Colombia and Ecuador, for example, focus on holistically reviewing and improving the role of government in combatting the offense in a variety of contexts. Other jurisdictions, including the Dominican Republic and Venezuela, emphasize the role that access to financial capital can have on protecting women. Finally, Nicaragua presents an interesting example of the justice system's role in public policies.

**ii. Is there social awareness regarding economic violence against women? Are there any associations/ NGO's seeking to protect women from it?<sup>81</sup>**

Another dimension of initiatives studied in the regional survey involves programs aimed at promoting social awareness of economic violence as well as how to identify it. As the survey confirms, this dimension plays a particularly important role in Latin American societies, where traditional culture has largely accepted men as the economic providers for the family. General awareness of economic violence against women thus is far greater among younger generations in Latin America than among the society as a whole. Social awareness initiatives exist and are being implemented in a variety of ways, but two themes are common to all. First, the bulk of the work is perceived to be done by NGOs. Second, as with the public policies discussed in the section above, most programs do not target economic violence specifically, but rather see its recognition as being just one of several goals for the organization's programs. These programs are more largely geared towards integrating women in the formal economy and improving family life as a whole.

The survey indicates that, in Argentina, social awareness about economic violence against women is limited, but is increasing. In 2016, the City of Buenos Aires launched a program called *Eso que no vemos también es violencia de género* [That which we don't see is also violence against women] as a way to raise awareness that women may suffer many types of violence beyond just what causes physical harm. The campaign was advertised in the streets and public transports, and a free hotline

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<sup>81</sup> See generally, Q.10 in all questionnaires.



was opened to assist victims. Organizations throughout Argentina also operate support centers dealing generally with all forms of violence against women, including economic violence.

Bolivia is another jurisdiction where both the private and public sector are conducting campaigns to raise awareness regarding economic violence against women. The Bolivian Government and local NGOs such as *Casa de la Mujer*, *Alianza Libre sin Violencia*, and *Coordinadora de la Mujer* educate women and the public via public media and other types of awareness campaigns.

A number of organizations are active in Brazil in raising social awareness and implementing related initiatives. The *Artemis Association* encourages the empowerment and autonomy of women in order to eradicate violence. The *Fala Mulher* association, in turn, fights rights violations and empowers women by offering psychosocial care, guidelines, juridical support, as well as handcraft workshops to engage women to gain economic independence. Similarly, the NGO *Nova Mulher* pursues gender equality and seeks to prevent economic violence by offering women workshops and courses on income generation and entrepreneurship. Moreover, the *Elas Foundation*, dedicated to promote leadership and rights for women, mobilizes resources for women's initiatives related to the prevention of violence, the promotion of economic autonomy, entrepreneurship and end of poverty, access to health and sexual and reproductive rights, access to culture, communications, arts and sports, promotion of racial and ethnic equality and of a fair and sustainable development.

In Chile, there is general awareness of violence against women, with economic violence as one example. Related to this broader awareness is also a greater number of social initiatives combatting economic violence against women. The *Sol Foundation*, an NGO that does not receive financial support from the government, seeks to raise the visibility of problems related to women and work through research and action projects, advisory services, classes in academic institutions and union schools, conferences, and forums. The *Sol Foundation* states that government policies are insufficient as they ignore the reality that women rarely make the decision to join or leave paid work on their own, since these decisions are based on the reality of each home. To think that women can freely decide between work and leisure is to ignore the historical structure that has assigned women as domestic caretakers.

The international organization UN Women, which has a substantial presence in Chile, also has economic empowerment programs in collaboration with civil society and community-based organizations. Among the groups these organizations work with are women from rural areas, domestic workers, migrants and women with poorly developed vocational skills. UN Women also works with government partners to formulate and implement macroeconomic policies that provide solutions for women, thus achieving higher incomes, better access and control of resources, and greater security, including protection from economic violence. They offer analysis and data to inform gender-oriented policies, and help public officials and advocates acquire the skills to design and implement them.

Other NGOs working on this issue are *Comunidad Mujer*, the *ChileMujeres* Foundation, and the *Templanza* Foundation. Additionally, from a labor perspective, *Prohumana* Foundation has a pro gender alliance (*Alianza por el Género*) aimed at recruiting companies and public institutions to eliminate discrimination against women in the workplace.

In Nicaragua, improving social awareness of economic violence has been spearheaded principally by NGOs operating in the country. The survey identifies the *Grupo de Mujeres Sacuanjoche* Foundation, the *Women's Network against Violence Nicaragua*, the *Afro-Latin American, Afro-Caribbean and Diaspora Network*, the *Masaya Women's Collective*, and the *Women's Centers Alliance* as organizations working on this issue.

By contrast, in Panama, where little NGO work currently exists to improve social awareness, the survey recognizes continued ignorance in society about economic violence against women.

Curiously, in Venezuela, the related issues that have garnered significant social awareness are those relating to wage equality issues, and in particular equal salary for equal work. On the other hand, other aspects of economic violence against women, such as the gender context of economic discrimination and its compound effects on society, lack the same level of recognition in Venezuelan society. The survey was not able to identify any associations or NGOs that pursue specific long-range work to fight or protect women from economic violence.

The survey results demonstrate that the degree of social awareness of economic violence as a form of violence against women varies significantly by country. This variation is significant because the results also tend to show that countries with greater recognition of the issue tend to be the ones with more NGO and public efforts at education and prevention of economic violence against women. Furthermore, the discrepancy suggests that in many Latin American countries, awareness-raising efforts will have to be an important first step in campaigns to eradicate economic violence.

### **iii. Are there training programs or tools available in your community to fight or identify this kind of violence?<sup>82</sup>**

In addition to the awareness initiatives discussed above, the survey also reviewed the types of community training programs being offered to women and others in order to help them recognize situations involving economic violence and take steps to overcome them. The diversity of such programs throughout Latin America is detailed below.

In Argentina, the *Centro de Desarrollo Económico de la Mujer* [Women's Economic Development Center] or CEDEM within the Ministry of Economy organizes lectures for women to raise awareness; to consolidate their economic empowerment;

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<sup>82</sup> See generally, Q.11 in all questionnaires.

and to create a space for promotion, research, analysis, design, coordination and support of programs and projects for the inclusion and integration of women as agents of growth and sustainable economic development of the country. As mentioned above, the survey also recognizes a recent public campaign launched in the Buenos Aires subway to prevent gender violence through posters across the stations encouraging women (and all people) to report instances of violence.

In Brazil, the *Maria da Penha* Law established protective measures and public guidelines, which serve as a tool to combat this kind of violence. Specialized police stations also help to identify the violence and discourage it. Further, some offices of the Public Defender (*Defensoria Pública*), a public body constituted to provide legal aid to economically and socially vulnerable persons, publish and distribute booklets and guidebooks on women's rights and gender violence (including economic violence).

As mentioned earlier, Chile's MWG is responsible for developing policies, plans and programs to respond to, prevent, eradicate and punish violence against women. As part of that work, the MWG has in place several training programs and tools to help to identify when this kind of violence is occurring, provide free counseling and orientation for the victims, and report incidents thereof. The MWG also has a prevention-oriented education program that teaches girls and young women about these issues and women's rights. Further, SERNAMEG (discussed above), under the responsibility of the MWG,<sup>83</sup> has launched four specific programs combating economic violence against women, with the main objective of empowering women to achieve economic autonomy and allow them to enter the labor market. These programs are: (i) the *Programa 4 a 7* that provides childcare services between 4pm and 7pm to women responsible for children from ages 6 to 13; (ii) the *Programa Mujeres Jefas de Hogar*, which seeks to promote the economic autonomy of women-heads of household through the provision of tools to enable them to generate and manage their own income and resources from paid work; (iii) *Programa Mujer Emprende*, which seeks to advance women entrepreneurs from the most vulnerable sectors towards economic autonomy; and (iv) *Programa Buenas Prácticas Laborales con Equidad de Género*, which seeks to promote cultural change within public and private organizations, to favor the entry, continuity, and development of women in the labor market, promoting measures to eliminate inequities, gaps, and gender barriers in employment. Additionally, SERNAMEG operates women's centers and shelter centers in Chile, and has also focused its efforts on the training of monitors at a local level.

In Colombia, the District Secretariat for Women has developed various initiatives to identify the context in which violence against women occurs and to assess the measures adopted by the competent authorities for the prevention, care, and protection in such circumstances. The Department for Social Prosperity seeks to

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<sup>83</sup> Both MWG and SERNAMEG actively cooperate with the PRODEMU Foundation (discussed above), which is part of the foundations network of the Presidency of the Republic.

improve the conditions of women for generating income through the strengthening of business capacities with a gender perspective.

The National Institute of Women (“INAMU”) in Costa Rica has prepared a *Guide of Institutional Services Directed for Women*, which contains basic information to facilitate women's access to a variety of services and benefits that exist in the country and, at the same time, serves as a consultation tool to public institutions and civil society organizations. The purpose of publishing this material is to help promote women's right to information and to guarantee access, enforceability, and full exercise of their civic rights.

In the Dominican Republic, there is a Special Office for the Prosecution of Violence against Women that seeks to protect victims of gender violence, as well as execute awareness programs. Additionally, the D.R. Ministry of Women has implemented programs against domestic violence including: (i) a dedicated line to report acts of violence; (ii) legal and psychological support; and (iii) economic courses focused on women in order to promote their economic independence.

International, national and state foundations in Ecuador have developed programs for training on identifying and combating all types of violence through their public policies. One of the more popular tools is the Education Programs for the Eradication of Violence, which is an initiative of the Ministry of Education.

The El Salvador NGO *Servicio Social Pasionista* has programs and projects that promote the recognition and awareness of human rights, which in turn help prevent gender-based violence and promote equality. The *Servicio Social Pasionista* has a procedure for detecting and combatting violence against women. First, they conduct a diagnostic interview of the person to determine what kind of violence she faces. Second, they activate the relevant services of the NGO, such as its psychological care or legal support and can also assist the victim with labor integration if necessary. Third, they monitor each case until its conclusion, providing advice to the victim to defend and raise awareness about her rights.

The survey indicates that, in Guatemala, economic violence does not receive the same level of focus as other types of violence against women. With respect to violence against women in general, the Public Prosecutor's Office and the judicial branch have developed professional training programs to prepare prosecutors, police agents, and judges regarding violence against women in general. Additionally, the Public Prosecutor's Office has developed the Women's Observatory with the aim of promoting the reporting and filing of complaints regarding crimes against women. Finally, the Presidential Commission that coordinates the Executive Branch's Policy on Human Rights has developed an academic program named *Human Rights and Gender Equality*.

Honduras' government, in turn, has implemented the *National Plan against Violence to Women* (2014-2022) through the National Women's Institute to encourage all institutions – whether public or private, domestic or foreign – to contribute to the gradual decrease of violence against women. Initiatives for recognition of violence

against women (including economic violence) are particularly concentrated on schools, colleges, media, and predominantly male institutions. The programs educate individuals that violence against women affects society as a whole, generates social inequalities, and must be actively fought, sanctioned and eradicated.

Nicaragua has implemented innovative socio-economic programs that have led to advances and sustained practices in equality, equity, complementarity, and integral development of women, contributing to their economic empowerment and improvement in power relations implemented from the government institutions. These programs have prioritized the incorporation of gender perspectives in regulations, policies, programs, and plans so as to better guarantee the rights and full and active participation of women when decisions are made.

The survey identified a training program in Panama provided by the Community Legal Assistance Program and supported by Morgan & Morgan. The program's purpose is to create awareness about violence against women, and explain the four domestic types of violence: physical, sexual, psychological and economic. This way, women are able to learn and detect early signs of violence including economic violence.

The survey identified several training programs in Paraguay for identifying and fighting economic violence and a campaign launched by the Paraguayan Ministry of Women, as well as NGOs. Such programs help materialize the specific procedures set out in Law N° 1600 (2000) for claims concerning abuse and violence against women, which include, *inter alia*, an abbreviated procedure and immediate imprisonment.

## **b. Private Practices and other Comments**

### **i. Are there any other practices/processes in the private sector that fight and/or prevent this kind of violence? If yes, please describe the policies applicable and their effectiveness.<sup>84</sup>**

Surveyed countries reported a variety of initiatives from the private sector. The initiatives include programs to bolster women's financial independence and efforts to raise awareness about economic violence and better understand the scale and nature of the problem.

Particularly interesting were private sector initiatives crafted to facilitate some measure of financial independence. In Paraguay, it is common practice to "open bank accounts for each employee" in the "name of each female and employee" and to which "partners or third parties"<sup>85</sup> do not have access.

The survey reports that in the Dominican Republic, two banks have developed special credit programs for women. Banco Adopem, for example, has developed a

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<sup>84</sup> See generally, Q.12 in all questionnaires.

<sup>85</sup> See Paraguay Q.12.

microcredit program for “women who seek to develop their business to preserve or attain economic independence.”<sup>86</sup> Banco BHD León similarly has a special credit program that grants special rates in retail financing—an area that has been particularly identified as being mostly used by women in the development of smaller businesses. Similarly, in El Salvador, the National Commission of Micro and Small Businesses (“CONAMYPE”) provides seed capital for micro and small businesses, which have the effect of “strengthen[ing] the economic autonomy of women.”<sup>87</sup> Similar microfinancing is reported in Honduras as an initiative undertaken both by the government and by different chambers of commerce.

A few communities reported efforts to study and quantify economic disparity as a way to consider remedial action. In Peru, some private companies are conducting “voluntary pay gap audits,”<sup>88</sup> although it was reported that this was not a widespread practice and the results are not yet available. In Chile, PwC conducted a more wide-ranging study of the wage gap. Venezuela, as part of the UN 2030 Agenda, conducted an initial survey of women’s participation in Venezuelan companies, as well as the policies and practices of those companies related to gender equality.

The most frequent practice, however, appears to be a combination of awareness campaigns led by government, private companies, NGO organizations, or some combination thereof to promote awareness of issues regarding gender equality and/or domestic violence coupled with providing voluntary tools, guidelines, or model policies for private companies to adopt, should they so choose. The questionnaires from Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Nicaragua, and Venezuela, for example, all noted such efforts.

The survey notes that in Panama, a local law firm is providing free legal representation to the victims of domestic violence and is also providing training to help prevent domestic violence.

**ii. Comments on any other aspects in which economic violence is addressed through laws, jurisprudence or private sector engagement in your country.**<sup>89</sup>

Respondents (including Argentina, Brazil, Ecuador, El Salvador, Guatemala, and Panama) emphasized the continued need for programs that raise awareness of these issues, educate the public, and combat stereotypes. The Argentine and Panamanian questionnaires both noted the importance of capacity building and of working with or monitoring public servants to ensure existing laws were correctly applied.

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<sup>86</sup> See Dominican Republic Q.12.

<sup>87</sup> See El Salvador Q.12.

<sup>88</sup> See Peru Q.12.

<sup>89</sup> See *generally*, Q.13 in all questionnaires.



### **C. International Standards and Global Initiatives to Eradicate Economic Violence**

Besides analyzing the survey results in section B., this memo includes research on publicly available reports and publications from local and international NGOs, including the United Nations (“UN”), and other international and regional organizations concerning economic violence against women. This section first addresses the international legal standards aimed at protecting victims of economic violence. These standards might derive from international treaties or other international legal instruments that have been issued or agreed upon by public international law actors such as states or international organizations. Second, this section will address the efforts of NGOs, international and regional organizations, as well as civil groups and local initiatives to eradicate economic violence. These efforts represent another component of the fight against economic violence. While national governments have made several efforts towards the same goal, secondary bodies have also taken action at different levels. Lastly, this section discusses some best practices in other regions. Having reviewed the situation in Latin America, it is important to next view such efforts in light of best practices around the world.

#### **1. International Legal Standards Aimed at Protecting Victims of Economic Violence**

At the outset, it is helpful to explore the breadth of definitions of economic violence at the international level. Explicitly or implicitly, many international legal standards address the offense of economic violence in either binding documents or goal-based initiatives. The legal standards that explicitly recognize economic violence do so by naming it or its synonyms (e.g., “economic abuse”) and by advocating appropriate steps aimed at equality and fair distribution of resources.

Most generally, the UN General Assembly defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>90</sup>

With respect to economic violence, the Pan American Health Organization defined it as “actions or omissions on the part of the abuser that affect the economic life— and sometimes the survival—of family members.”<sup>91</sup> Examples include withholding of housing to the detriment of family members and failure to pay food

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<sup>90</sup> United Nations, Declaration on the elimination of violence against women, New York: UN, 1993.

<sup>91</sup> Pan American Health Organization, Key Components of Laws and Policies on Domestic Violence, *available at* <https://www.paho.org/hq/dmdocuments/2009/englishfactsheet2.pdf> (last visited July 9, 2020).

allowances. Laws in some countries describe patrimonial/economic violence as actions or omissions that involve harm, loss, transformation, subtraction, destruction, retention, or diversion of objects, personal documents, goods, values, rights, or economic resources. This form of violence encompasses damages caused to common property or personal property of the victim as well.”<sup>92</sup>

Further narrowing the used definitions to the scope of this report, the UN Department of Economic and Social Affairs, in its Guidelines for Producing Statistics on Violence Against Women, defined economic violence against women as “when an individual denies his intimate partner access to financial resources, typically as a form of abuse or control or in order to isolate her or to impose other adverse consequences to her well-being,” and which can take any number of forms, including: denial of access to financial resources; denial of access to property and durable goods; a deliberate failure to comply with economic responsibilities such as alimony and financial support for the family, resulting in the family’s exposure to poverty; denial of access to labor markets and education; and denial of participation in decisions-making related to economic status.<sup>93</sup> However, while the Guidelines’ core topic was violence committed by intimate partners, the Guidelines also recognized that the full scope of economic violence is broader and can occur in other contexts.

Perhaps the leading definitions practiced in any jurisdiction arise under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. This 2003 instrument supplemented the African Charter to expressly recognize economic violence within the broader scope of violence against women. It states that violence against women means “all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life.”<sup>94</sup> Following the Protocol, many African states have adopted and elaborated their own definitions as well. For example, both Zambia and Sierra Leone have adopted fairly broad definitions, encompassing a wide range of conduct and contexts.

Zambia’s Anti-Gender Based Violence Act of 2011, provides that economic abuse means “the unreasonable deprivation of any economic or financial resources to

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<sup>92</sup> Pan American Health Organization, Violence against women, *available at* <https://www.paho.org/hq/dmdocuments/2011/GDR-VAW-advocacy-package-EN.pdf> (last visited July 9, 2020).

<sup>93</sup> UN, Dep’t of Economic and Social Affairs, Guidelines for Producing Statistics on Violence against Women – Statistical Surveys (2014), 17, *available at* [https://unstats.un.org/unsd/gender/docs/Guidelines\\_Statistics\\_VAW.pdf](https://unstats.un.org/unsd/gender/docs/Guidelines_Statistics_VAW.pdf) (last visited July 9, 2020).

<sup>94</sup> African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, art. 1, 11 July 2003, *available at* [https://www.un.org/en/africa/osaa/pdf/au/protocol\\_rights\\_women\\_africa\\_2003.pdf](https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf) (last visited July 9, 2020).



which a victim, or a family member or dependent of the victim is entitled under any law, requires out of necessity or has a reasonable expectation of use.”<sup>95</sup> It includes denying a person the ability to seek employment or engage in income-generating activities, unreasonably denying a victim of property, and intentionally destroying or damaging property. Sierra Leone’s Domestic Violence Act of 2007 is similar to Zambia’s and defines economic abuse to include “unreasonable deprivation of any economic or financial resources to which the complainant, or a family member or dependent of the complainant is entitled under law, requires out of necessity or has a reasonable expectation of use.”<sup>96</sup> Neither country’s definition is constrained by a familial or intimate relationship, and could encompass unreasonable deprivations in the workplace and other contexts.

Other definitions used in international contexts have been more limited in scope and purpose, and do not represent best practices for combatting economic violence against women generally. For example, because in the past economic violence against women has been linked to the context of domestic violence – where it prevents women from enjoying their economic rights, pursuing greater economic independence, and can cause women to stay in abusive relationship where they suffer other types of violence – some have defined the concept of economic violence “as acts of control and monitoring of the behavior of an individual in terms of the use and distribution of money, and the constant threat of denying economic resources.”<sup>97</sup>

#### **a. Treaties**

##### **i. Explicit Recognition**

#### **Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)<sup>98</sup>**

The Istanbul Convention is said to “go beyond the Belém do Pará [Convention] by including economic violence and the threat of violence as well as its actual commission and by recognising VAWG as a form of gender discrimination.”<sup>99</sup> Article

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<sup>95</sup> Anti-Gender Based Violence Act, No. 1 of 2011, s. 1(3), *available at* <https://zambialii.org/zm/legislation/act/2011/1/anti-gender-basedviolenceact1.pdf> (last visited July 9, 2020).

<sup>96</sup> Domestic Violence Act of 2007, No. 20, s. 1, *available at* <http://www.sierra-leone.org/Laws/2007-20p.pdf> (last visited July 9, 2020).

<sup>97</sup> European Institute for Gender Equality, Economic Violence, *available at* <https://eige.europa.eu/thesaurus/terms/1096> (last visited July 9, 2020).

<sup>98</sup> Council of Europe, Council Of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (May 11, 2011), *available at* <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e> (last visited July 9, 2020) (hereinafter “Istanbul Convention”).

<sup>99</sup> Mike Clulow, *International Agreements on Women’s Rights: A Framework for Action*, *available at* <https://www.womankind.org.uk/blog/detail/our->

1(a) describes one purpose of the Convention to: “protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence.” Articles 2 and 3 clarify that domestic violence includes economic violence, as follows:

For the purpose of this Convention:

a. “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;

b. “domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.

**Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence<sup>100</sup>**

The Explanatory Report on the Istanbul Convention states that its focus “is on all forms of violence against women which includes domestic violence committed against women.” The drafters of the Convention expanded upon definitions included in other international conventions “to include the notion of ‘economic harm’ which can be related to psychological violence.”

**Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>101</sup>**

Part 1 of the Convention, specifically Articles 1, 3, and 5, points to economic harm as a form of discrimination that countries should eliminate. Article 1 defines “discrimination against women” as “any distinction, exclusion or restriction made on

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blog/2017/11/13/international-agreements-on-women-s-rights-a-framework-for-action (last visited July 9, 2020).

<sup>100</sup> Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul (May 11, 2011), available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383a> (last visited July 9, 2020).

<sup>101</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women* (already defined as “CEDAW”) (Dec. 18, 1979), available at <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf> (last visited July 9, 2020).

the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” The inclusion of economic freedom is a key distinction in this convention.

Articles 3 and 5 call on state parties to take all appropriate measures in all areas, including in the economic field, “to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men” and to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

Part II, Article 14, calls on state parties to, “take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas. [...]”

PART III, Article 16, calls on state parties to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women[.]” Subsection (g) of Article 16 includes within this call the equal right to choose “a profession and an occupation,” and subsection (h) includes the equal right to the “ownership, acquisition, management, administration, enjoyment and disposition of property [. . .]”

### **CEDAW Committee General Recommendations<sup>102</sup>**

CEDAW Committee General Recommendations for Articles 5 and 16 recognize that family violence is a most insidious form of violence against women and outlines the different forms it may take within family relationships. As a contributing factor, it states that “[l]ack of economic independence forces many women to stay in violent relationships.”

### **Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention)<sup>103</sup>**

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<sup>102</sup> UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence against women (1992), *available at* [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_3731\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf) (last visited July 9, 2020).

<sup>103</sup> Organization of American States (OAS), *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (already defined as “Belém do Pará Convention”) (June 9, 1994), *available at*

Articles 1, 2, 5, and 6 of the Belém do Pará Convention touch, to some extent, on the topic of economic violence as a form of violence against women to be prevented. This Convention was also addressed in section B.1.a. above. Articles 1 and 2 describe the scope of violence against women as including “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.” More specifically, it may occur “within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse[.]” Article 5 allows that every woman is guaranteed “the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights.” Article 6(b) extends to women the right “to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.”

## ii. Implicit Recognition

### **Universal Declaration on Human Rights<sup>104</sup>**

While the Universal Declaration on Human Rights (“UDHR”) does not spell out a definition of economic violence, UN bodies have at other times recognized freedom from economic violence as a fundamental right.<sup>105</sup> Articles 1, 2, 3, 5, and 7 implicitly touch on this topic. Articles 1, 2, and 7 emphasize the equality of all human beings without limitations due to sex as well as the treatment of others with dignity and respect. Articles 3 and 5 guarantee liberty and freedom from cruelty and degrading treatment.

### **International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>106</sup> and International Covenant on Civil and Political Rights<sup>107</sup>**

Like the UDHR, neither the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) nor the International Covenant on Civil and Political Rights

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<https://www.oas.org/en/CIM/docs/Belem-do-Para%5BEN%5D.pdf> (last visited July 9, 2020).

<sup>104</sup> See Belém do Pará Convention.

<sup>105</sup> See, e.g., *infra* fns. 113-122.

<sup>106</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights (Dec. 16, 1966), *available at* <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf> (last visited July 9, 2020).

<sup>107</sup> UN General Assembly, International Covenant on Civil and Political Rights (Dec. 16, 1966), United Nations, *available at* <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> (last visited July 9, 2020).

("ICCPR") explicitly address economic violence. However, as foundational covenants with widespread international support, any recognition of the offense that can be gleaned from or read into their coverage may be important to addressing its prevention.

Article 2 of the ICESCR calls for state parties to use all means, especially economic, to ensure the equality of rights without discrimination on the basis of sex. Article 12 recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." Similarly, the ICCPR urges the equality between men and women in Article 3, and Article 23 provide household-specific mandates. Article 23 (1.) provides that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State. [...]" Article 23 (4.) calls on state parties to "take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children."

**Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa (Maputo Protocol)<sup>108</sup>**

Article 2 of the Maputo Protocol calls on states to eliminate discrimination against women by adopting appropriate legislative and other measures. Specifically, they are to "include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application[.]" It also calls for the modification of social and cultural patterns of conduct "with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men."

Article 4 provides for the rights to life, integrity, and security of the person, allowing that women specifically are entitled to these rights as well as freedom from "forms of exploitation, cruel, inhuman or degrading punishment and treatment[.]" States are called to take appropriate "economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women[.]"

**American Convention on Human Rights<sup>109</sup>**

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<sup>108</sup> African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 11 July 2003, *available at* [https://www.un.org/en/africa/osaa/pdf/au/protocol\\_rights\\_women\\_africa\\_2003.pdf](https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf) (last visited July 9, 2020). *See also supra* § C(1).

<sup>109</sup> Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969, *available at* <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm> (last visited July 9, 2020).

Article 17 of the American Convention on Human Rights describes the Rights of the Family. Part 4 of this article calls on states to “take appropriate steps to ensure the equality of rights and the adequate balancing of responsibilities of the spouses as to marriage, during marriage, and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests.[...]”

## **b. Other International Legal Standards**

### **i. Explicit Recognition**

#### **Human Rights Council Resolution 29/14 Accelerating efforts to eliminate all forms of violence against women: eliminating domestic violence <sup>110</sup>**

This Human Rights Council (“HRC”) Resolution is specifically directed at domestic violence as “the most prevalent form of violence affecting women of all social strata across the world[.]” It classifies such violence as a human rights abuse and later goes on to define what conduct falls within its scope. In Section (1.), it stresses “that ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women of any age and girls, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and also notes the economic and social harm caused by such violence[.]” Section (2.) includes as one form of domestic violence “economic deprivation and isolation [that] occurs within the family or domestic unit, and generally between individuals who are related through blood or intimacy[.]”

After providing its definitional scope, the HRC resolution calls for state action. Sections 8(a), (h), and (k) call on states to take action against domestic violence by: publicly condemning and punishing perpetrators for “psychological violence and economic deprivation occurring in the family;” empowering women by “strengthening their economic autonomy and ensuring their full and equal participation in society and in decision-making processes;” and by training judges to “be aware of the issues relating to child custody, economic support and security for the victims in cases of domestic violence by establishing guidelines for protection orders and sentencing guidelines which do not trivialize domestic violence[.]”

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<sup>110</sup> Human Rights Council, Accelerating efforts to eliminate all forms of violence against women: eliminating domestic violence, 22 July 2015, Resolution A/HRC/RES/29/14, *available at* <https://www.right-docs.org/doc/a-hrc-res-29-14/> (last visited July 9, 2020)

**U.N. Gen. Ass. Resolution 58/147: Elimination of domestic violence against women<sup>111</sup>**

This General Assembly Resolution addresses domestic violence and labels it “a human rights issue” that implicates the “economic development of communities and States[.]” Furthermore, it underlines “the importance of the empowerment of women and their economic independence as critical tools to prevent and eliminate domestic violence against women[.]”

Section (1.) recognizes that “domestic violence is violence that occurs within the private sphere, generally between individuals who are related through blood or intimacy” and that it “can include economic deprivation and isolation and that such conduct may cause imminent harm to the safety, health or well-being of women[.]”

Section (7.)(m) calls upon states to “take all measures to empower women and strengthen their economic independence, including through equal remuneration for equal work, and increased job opportunities for women, as well as equal access to and control over economic resources, including land, credit, microcredit and traditional saving schemes such as women’s banks and cooperatives, and by ensuring property rights and the right to inheritance, with a view to reducing women’s vulnerability to all forms of violence, including domestic violence[.]”

**U.N. Gen. Ass. Resolution 71/170: Intensification of efforts to prevent and eliminate all forms of violence against women and girls: domestic violence<sup>112</sup>**

This U.N. General Assembly Resolution reiterates the message of the previously discussed resolution (58/147). Section 14 specifically calls on states to take action against domestic violence, and specifically economic violence, and to establish “adequate legal protection against such violence, including victim and witness protection from reprisals for bringing complaints or giving evidence[.]” Section 15 again calls for the empowerment of women as a means of addressing the underlying causes and risks inherent in domestic violence and to ensure “their full and equal participation in society and in decision-making processes[.]”

**U.N. Framework for Model Legislation on Domestic Violence<sup>113</sup>**


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<sup>111</sup> U.N. General Assembly, Resolution Elimination of domestic violence against women, 19 February 2004, A/RES/58/147, available at <http://www.worldlii.org/int/other/UNGARsn/2003/185.pdf> (last visited July 9, 2020).

<sup>112</sup> UN General Assembly, Intensification of efforts to prevent and eliminate all forms of violence against women and girls: domestic violence, 7 February 2017, A/RES/71/170, available at <http://www.refworld.org/docid/58a309124.html> (last visited July 9, 2020).

<sup>113</sup> A Framework for Model Legislation on Domestic Violence (Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85), adopted by Human Rights Commission, 2 February 1996,



The U.N. Framework for Model Legislation on Domestic Violence “outlines important elements which are integral to comprehensive legislation on domestic violence.”<sup>114</sup> Its objective “is to serve as a drafting guide to legislatures and organizations committed to lobbying their legislatures for comprehensive legislation on domestic violence.”<sup>115</sup>

Its definition includes gender-based abuse that encompasses “destruction of property,” “dowry or bride-price related violence,” “violence related to exploitation through prostitution,” and “violence against household workers[.]”<sup>116</sup>

This framework includes provisions that address concerns underlying and related to economic violence, such as the inability of women to leave an abusive situation due to economic constraints.

It asks countries to comply with international standards sanctioning domestic violence and provide support services to victims, such as emergency services, support programs, “[e]ducation, counselling and therapeutic programmes for the abuser and the victim,”<sup>117</sup> and “[p]rogrammes to assist in the prevention and elimination of domestic violence which includes raising public awareness and public education on the subject.”<sup>118</sup>

It also seeks to train judges to be aware of issues relating to “economic support and security for the victims in cases of domestic violence by establishing guidelines for protection orders and sentencing guidelines which do not trivialize”<sup>119</sup> the offense. Judges are to enjoin offenders against further acts of violence and prevent “the abuser/defendant from disturbing the victim/plaintiff’s use of essential property, including the common home.”<sup>120</sup> Complaint mechanisms are to inform victims of their rights and legal remedies, including the duty of courts to “protect the victim’s property or property held in common from destruction.”<sup>121</sup>

## ii. Implicit Recognition

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E/CN.4/1996/53/Add.2, *available at*  
<http://hrlibrary.umn.edu/commission/thematic52/53-add2.htm> (last visited July 9, 2020).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*



### **EU Directive 2012/29 establishing standards on the rights, support and protection of victims of crime<sup>122</sup>**

Chapter 4 of this European Union Directive aims to protect and recognize victims with specific needs. Article 18 dictates that state parties must provide families with protection measures, including protection “against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying.” Article 22 mandates that victims receive a timely and individual assessment and that particular attention be given to “victims whose relationship to and dependence on the offender make them particularly vulnerable.”

### **Vienna Declaration and Programme of Action (World Conference on Human Rights)<sup>123</sup>**

Articles 36 and 38 of the Vienna Declaration call for the equality of women and “stress[] the importance of working towards the elimination of violence against women in public and private life[.]” These articles together call for action to be taken regardless of “certain traditional or customary practices, cultural prejudices and religious extremism.”

### **Beijing Declaration and Platform for Action of the Fourth World Conference on Women<sup>124</sup>**

The Beijing Declaration Chapter IV. Part (D.) recognizes the prevalence of “violence against women and girls” and defines the term as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” In more specific examples of this definition, it includes “dowry-related violence” and “other traditional practices harmful to women, non-spousal violence and violence related to exploitation[.]”

Governments are called to “[c]ondemn violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination as set out in the Declaration on the Elimination of

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<sup>122</sup> European Union: Council of the European Union, Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, 14 November 2012, L 315/57, *available at* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en> (last visited July 9, 2020).

<sup>123</sup> UN General Assembly, Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23, *available at* <http://www.refworld.org/docid/3ae6b39ec.html> (last visited July 9, 2020).

<sup>124</sup> United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995, *available at* <http://www.refworld.org/docid/3dde04324.html> (last visited July 9, 2020).

Violence against Women[.]” In addition, they are to “[e]nact and enforce legislation against the perpetrators of practices and acts of violence against women, such as [ . . . ] dowry-related violence and give vigorous support to the efforts of non-governmental and community organizations to eliminate such practices[.]”

## **2. Non-Governmental Organizations, International Organizations, Foundations, Civil Groups, Regional and Local Initiatives**

### **a. NGO efforts to eradicate Economic Violence**

Throughout the world, NGOs have launched significant initiatives to eradicate economic violence against women. Besides the examples mentioned in Section B. of this report, the Coordinating Counsel conducted additional research in the region and worldwide, noting that efforts to eradicate economic violence against women have become increasingly widespread. One noteworthy initiative that many NGOs have adopted has been the creation of programs to empower women’s economic abilities and business potential.<sup>125</sup> These programs have involved financial literacy training and advocacy work. In doing so, these NGO efforts have sought to address the underlying societal frameworks that continue to marginalize women’s ability to participate in the labor market and to contribute as economic actors.<sup>126</sup>

In 2009, a Nicaraguan NGO, *Fundación Mujer y Desarrollo Económico Comunitario* (“FUMDEC”), partnered with the World Bank to launch a pilot program called “Innovations for Women’s Economic Empowerment.”<sup>127</sup> This program’s goal was to economically empower women in 24 rural communities of the municipality of Santa Maria de Pantasma in the department of Jinotega in northern Nicaragua.<sup>128</sup> The

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<sup>125</sup> *Latin America and the Caribbean: SIGI Regional Report*, OECD Development Centre (2017), pp. 45-46, available at [http://www.oecd.org/dev/development-gender/Brochure\\_SIGI\\_LAC\\_web.pdf](http://www.oecd.org/dev/development-gender/Brochure_SIGI_LAC_web.pdf) (last visited July 9, 2020).

<sup>126</sup> *Women’s economic independence, a way out of violence: a toolkit for anti-violence centres operators*, WE GO! (2017), p. 12, available at <http://www.wegoproject.eu/sites/default/files/media/Final-Training-Toolkit.pdf> (last visited July 9, 2020) (“The concept of women’s economic independence recognises that women are economic actors who contribute to economic activity and should be able to benefit from it on an equal basis with men, and that financial independence can have an important role in strengthening the position of women in society and within the household.”).

<sup>127</sup> *Latin America and the Caribbean: SIGI Regional Report*, OECD Development Centre (2017), p. 46, available at [http://www.oecd.org/dev/development-gender/Brochure\\_SIGI\\_LAC\\_web.pdf](http://www.oecd.org/dev/development-gender/Brochure_SIGI_LAC_web.pdf) (last visited July 9, 2020); *Women’s Economic Empowerment in Latin America and the Caribbean: Policy Lessons from the World Bank Gender Action Plan*, World Bank (2012), p. 65, available at <https://openknowledge.worldbank.org/bitstream/handle/10986/16509/761170WP0Women00Box374362B00PUBLIC0.pdf?sequence=1&isAllowed=y> (last visited July 9, 2020).

<sup>128</sup> *Women’s Economic Empowerment in Latin America and the Caribbean: Policy Lessons from the World Bank Gender Action Plan*, World Bank (2012), p. 65, available

program involved three components of economic empowerment: 1) “productive transfers and low cost credit to promote female engagement in new (or expansion of old) economic activities;” (2) “training to improve female aspirations and household participation in economic decisions, and” (iii) the “creation of communal banks to promote economic and entrepreneurial development.”<sup>129</sup> The first component provided start-up capital in cash and kind for small-scale agricultural and livestock production and non-agricultural businesses.<sup>130</sup> In particular, conditional cash transfer programs (“CCTs”) have enabled women to possess control over resources, which in turn, have strengthened their decision-making power within the household.<sup>131</sup> Women who received cash credit for their start-up capital were required to repay within eight months.<sup>132</sup> On the other hand, those who received non-cash credit had up to one year to repay.<sup>133</sup> The other two components entailed education of women in areas of social capital formation, organizational leadership and intra-household decision making.<sup>134</sup> In the end, this program successfully enabled 400 rural women to start and expand their enterprises in their communities.<sup>135</sup>

A Brazilian NGO, *Promundo*, has also introduced its “gender-transformative” Conditional Cash Transfer program as a companion to Brazil’s national CCT program, *Bolsa Família Program*.<sup>136</sup> The *Bolsa Família Program* was launched to eradicate extreme poverty in the nation.<sup>137</sup> *Promundo’s Bolsa Família Companion Program* was created to “amplify” the national program’s “impact on women’s and girls’ empowerment.”<sup>138</sup> The UN Women’s Fund for Gender Equality financed this companion

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at  
<https://openknowledge.worldbank.org/bitstream/handle/10986/16509/761170WP0Women00Box374362B00PUBLIC0.pdf?sequence=1&isAllowed=y> (last visited July 9, 2020).

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.* at 20.

<sup>132</sup> *Id.* at 65.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.* at 66.

<sup>136</sup> *Bolsa Família Companion Program*, Promundo, available at <https://promundoglobal.org/programs/bolsa-familia-companion-program/#> (last visited July 9, 2020).

<sup>137</sup> *Id.*

<sup>138</sup> *Latin America and the Caribbean: SIGI Regional Report*, OECD Development Centre (2017), p. 25, available at [http://www.oecd.org/dev/development-gender/Brochure\\_SIGI\\_LAC\\_web.pdf](http://www.oecd.org/dev/development-gender/Brochure_SIGI_LAC_web.pdf) (last visited July 9, 2020).

program.<sup>139</sup> Through micro-level research in communities in Rio de Janeiro and Permanbuco, *Promundo* has worked on macro-level policy recommendations that the Brazilian federal government and the international community use to reap the benefits of “gender-transformative” CCT programs.<sup>140</sup>

In addition to this, *Promundo* created a related program called “Journeys of Transformation” that aimed to enhance the “gender-transformative” effect of economic empowerment of women by engaging men as partners in Rwanda.<sup>141</sup> After qualitative and quantitative research on female economic empowerment and male partners, *Promundo* and its partners developed a comprehensive training manual for male partners to participate in women’s economic empowerment programming.<sup>142</sup> The manual offered 17 group education activities involving couples’ decision-making processes, gender-based violence laws, and negotiation skills.<sup>143</sup> *Promundo* envisioned that by engaging men as participants in transformative discussions on gender norms, they could become allies with their female partners.<sup>144</sup>

In addition, in the United Kingdom, *Surviving Economic Abuse* (“SEA”) works to promote awareness of economic abuse and economic equality for women and girls in society.<sup>145</sup> One of its significant works is lobbying for the inclusion of economic abuse within the new statutory definition of domestic abuse in the draft Domestic Abuse Bill.<sup>146</sup> In December 2017, SEA produced a report on economic abuse in successful prosecutions as part of its efforts to recommend the inclusion of economic abuse within the statutory definition.<sup>147</sup> SEA identified 35 successful prosecution cases involving

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<sup>139</sup> *Bolsa Família Companion Program*, Promundo, available at <https://promundoglobal.org/programs/bolsa-familia-companion-program/#> (last visited July 9, 2020).

<sup>140</sup> *Id.*

<sup>141</sup> *Journeys of Transformation*, Promundo, available at <https://promundoglobal.org/programs/journeys-of-transformation/> (last visited July 9, 2020).

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Vision and Mission*, Surviving Economic Abuse, available at <https://survivingeconomicabuse.org/home/vision-and-mission/> (last visited July 9, 2020).

<sup>146</sup> *Domestic Abuse Bill*, Surviving Economic Abuse, available at <https://survivingeconomicabuse.org/home/influencing-policy/> (last visited July 9, 2020).

<sup>147</sup> Domestic Abuse Bill, Surviving Economic Abuse, available at <https://survivingeconomicabuse.org/home/influencing-policy/> (last visited July 9, 2020). See Into Plain Sight: How Economic Abuse is Reflected in Successful Prosecutions of Controlling or Coercive Behaviour, Surviving Economic Abuse (Dec. 2017), available at <https://survivingeconomicabuse.org/wp->

economically abusive behaviors, in which the most common form of economic abuse was preventing partners from controlling their economic resources through methods such as smashing phones or emptying joint bank accounts.<sup>148</sup> In March 2018, in its consultation document, the UK government proposed the inclusion of economic abuse in the new statutory definition of domestic abuse. Importantly, the consultation document proposed to “cover the concept of ‘economic abuse’ rather than simply financial abuse” in light of the fact that “financial” abuse may be “restrictive in circumstances where victims may be denied access to basic resources such as food, clothing and transportation.”<sup>149</sup> SEA’s contribution was important to this inclusion.<sup>150</sup> On January 21, 2019, the UK government published the draft Domestic Abuse Bill, which included economic abuse as a form of domestic abuse.<sup>151</sup> The Bill defined economic abuse as “behaviors that control a person’s ability to acquire, use and maintain economic resources.”<sup>152</sup>

## **b. Efforts of International Organizations to eradicate Economic Violence**

A host of IOs are working to combat gender-based violence, including economic violence against women. These IOs include, as a matter of illustration, the UN and

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content/uploads/2018/10/P743-SEA-In-Plain-Sight-report\_V3.pdf (last visited July 9, 2020).

<sup>148</sup> See Into Plain Sight: How Economic Abuse Is Reflected in Successful Prosecutions of Controlling or Coercive Behaviour, *Surviving Economic Abuse* (Dec. 2017), p. 13, available at [https://survivingeconomicabuse.org/wp-content/uploads/2018/10/P743-SEA-In-Plain-Sight-report\\_V3.pdf](https://survivingeconomicabuse.org/wp-content/uploads/2018/10/P743-SEA-In-Plain-Sight-report_V3.pdf) (last visited July 9, 2020).

<sup>149</sup> HM Government, *Transforming the Response to Domestic Abuse: Government Consultation (full version)* (2018), p. 13, available at [https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting\\_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf](https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf) (last visited July 9, 2020).

<sup>150</sup> Louis Tickle, *Economic Abuse Destroys Lives – It Must Be Taken Seriously*, *GUARDIAN* (Mar. 24, 2018), available at <https://www.theguardian.com/commentisfree/2018/mar/14/economic-abuse-crime-poverty-suffered-domestic-violence> (last visited July 9, 2020). (“Thanks to lobbying by the charity Surviving Economic Abuse, [economic abuse] has just been named for the first time in the government’s domestic violence bill. And not a moment too soon.”). See also HM Government, *Transforming the Response to Domestic Abuse: Government Consultation (full version)* (2018), p. 43 n.75, available at [https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting\\_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf](https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf) (last visited July 9, 2020) (citing SEA website for discussion of forms of economic abuse).

<sup>151</sup> Emily Dixon, *Economic Control Recognized As Domestic Abuse in New UK Draft Law; Offenders May Face Lie-Detector Tests*, *CNN* (Jan. 21, 2019), available at <https://www.cnn.com/2019/01/21/health/uk-domestic-abuse-bill-gbr-scli-intl/index.html> (last visited July 9, 2020).

<sup>152</sup> *Id.* For a discussion of the further development of this initiative, see *infra* § C(3)(a).

related entities as well as the World Bank. Due to harmful global effects of economic violence against women, IOs regularly partner with governments and other entities at both the international and state level. Their efforts relating to economic violence against women often focus on data collection and analysis, providing educational materials and resources, and supporting the passage and implementation of laws to eradicate it.

UN Women, a UN entity dedicated to gender equality and women's empowerment, notably includes "income security, decent work and economic autonomy" for women as one of its four strategic priorities.<sup>153</sup> Also working to ensure that "all women and girls live a life free from all forms of violence",<sup>154</sup> UN Women engages with governments, agencies, and other institutions to increase awareness and provide policy guidance.<sup>155</sup> For example, UN Women helped prepare a toolkit on ending violence against women, discussing in part "often ignored economic violence."<sup>156</sup> In addition to drawing attention to the subject, the toolkit provides an international overview and recommendations on access to justice, justice systems, and women's empowerment within the law.<sup>157</sup>

The UN Fund for Population Activities ("UNFPA"), another UN entity, focuses on sexual and reproductive health agency.<sup>158</sup> One of "three transformative results" UNFPA seeks to achieve is "ending gender-based violence and harmful practices."<sup>159</sup> Like UN Women, UNFPA's efforts involve "work with policymakers, justice systems,

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<sup>153</sup> *About UN Women*, UN Women, available at <https://www.unwomen.org/en/about-us/about-un-women> (last visited July 9, 2020).

<sup>154</sup> *Id.*

<sup>155</sup> *Ending Violence Against Women*, UN Women, available at <https://www.unwomen.org/en/what-we-do/ending-violence-against-women> (last visited July 9, 2020).

<sup>156</sup> *A Practitioner's Toolkit on Women's Access to Justice Programming, Module 3: Ending Violence Against Women*, The United Nations Entity for Gender Equality and the Empowerment of Women, The United Nations Development Programme, The United Nations Office on Drugs and Crime and The Office of the United Nations High Commissioner for Human Rights (2018), p. 9, available at [https://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J\\_Module3.pdf](https://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J_Module3.pdf) (last visited July 9, 2020).

<sup>157</sup> *A Practitioner's Toolkit on Women's Access to Justice Programming, Module 3: Ending Violence Against Women*, The United Nations Entity for Gender Equality and the Empowerment of Women, The United Nations Development Programme, The United Nations Office on Drugs and Crime and The Office of the United Nations High Commissioner for Human Rights (2018), available at [https://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J\\_Module3.pdf](https://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J_Module3.pdf) (last visited July 9, 2020).

<sup>158</sup> *About Us*, United Nations Population Fund, available at <https://www.unfpa.org/about-us> (last visited July 9, 2020).

<sup>159</sup> *Id.*



health systems and humanitarian partners.”<sup>160</sup> This includes releasing country-specific reports examining statics of economic violence against women, among other forms of harm.<sup>161</sup> The UNFPA also provides resource materials. For example, the UNFPA Regional Office for Eastern Europe and Central Asia helped prepare a resource package to strengthen health system responses to gender-based violence.<sup>162</sup> This 2014 report reminds health care professionals that “economic violence should not be overlooked” as it “may also have significant negative consequences on women’s health.”<sup>163</sup> Further, the report provides guidance and training materials for health care professionals, including recommendations on clinical policies and protocols and hypothetical case studies to assist with responding to victims.<sup>164</sup>

Likewise, the World Bank approaches this issue from an international perspective. In 2018, it released a report, “Ending Violence Against Women and Girls: Global and Regional Trends in Women’s Legal Protection against Domestic Violence and Sexual Harassment,” acknowledging that violence against women takes multiple forms, including economic.<sup>165</sup> The report analyzes laws, policies, and specific programs

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<sup>160</sup> *Id.*

<sup>161</sup> See, e.g., *The Egypt Economic Cost of Gender-Based Violence Survey (ECGBVS) 2015*, UNFPA (June 2016), available at <https://egypt.unfpa.org/sites/default/files/pub-pdf/Costs%20of%20the%20impact%20of%20Gender%20Based%20Violence%20%28GBV%29%20WEB.pdf> (last visited July 9, 2020); *Key Findings of 2016 VAW (Violence Against Women) Survey in Indonesia*, UNFPA, 2017, available at [https://indonesia.unfpa.org/sites/default/files/pub-pdf/2016\\_SPHPN\\_%28VAW\\_Survey%29\\_Key\\_Findings1\\_0.pdf](https://indonesia.unfpa.org/sites/default/files/pub-pdf/2016_SPHPN_%28VAW_Survey%29_Key_Findings1_0.pdf) (last visited July 9, 2020); *Breaking the silence for equality: 2017 National Study on Gender-based Violence in Mongolia*, UNFPA (June 2018), available at <https://mongolia.unfpa.org/sites/default/files/pub-pdf/2017%20National%20Study%20on%20Gender-based%20Violence%20in%20Mongolia.pdf> (last visited July 9, 2020).

<sup>162</sup> *Strengthening Health System Responses to Gender-based Violence in Eastern Europe and Central Asia: A Resource Package*, UNFPA and WAVE, available at <https://eeca.unfpa.org/sites/default/files/pub-pdf/WAVE-UNFPA-Report-EN.pdf> (last visited July 9, 2020).

<sup>163</sup> *Id.* at 20.

<sup>164</sup> *Strengthening Health System Responses to Gender-based Violence in Eastern Europe and Central Asia: A Resource Package*, UNFPA and WAVE, available at <https://eeca.unfpa.org/sites/default/files/pub-pdf/WAVE-UNFPA-Report-EN.pdf> (last visited July 9, 2020).

<sup>165</sup> Paula Tavares and Quentin Wodon, *Ending Violence Against Women and Girls: Global and Regional Trends in Women’s Legal Protection Against Domestic Violence and Sexual Harassment*, World Bank (March 2018), p. 1, available at <http://pubdocs.worldbank.org/en/679221517425064052/EndingViolenceAgainstWomenandGirls-GBVLaws-Feb2018.pdf> (last visited July 9, 2020).

“through both multi-country analysis and country case studies.”<sup>166</sup> Although this particular report’s scope was limited to an assessment of existing laws, not enforcement thereof, it was developed as part of a larger goal to end all forms of violence against women and girls by 2030.<sup>167</sup>

### c. Regional and Local Initiatives

Governments and organizations on both regional and local levels also provide workable recommendations on how to fight economic violence against women. Across the globe - from unified bodies like the European Union (“EU”) to countries such as Morocco and in states and cities like New York - a much-needed spotlight is being placed on the issue. Efforts like the ones described above often serve as the catalysts to criminalize economic violence, create effective systems to implement such laws, and assist victims.

The European Commission’s definition of gender-based harm includes “economic harm.”<sup>168</sup> As part of its educational work and stakeholder engagement, the European Commission began a “Say No! Stop Violence Against Women” campaign.<sup>169</sup> It acknowledges that violence against women “takes a multitude of forms” and has numerous consequences.<sup>170</sup> In addition to raising awareness, it also provides a helpline directory<sup>171</sup> and resources for victims as well as professionals providing support.<sup>172</sup>

In 2018, Morocco criminalized domestic violence against women, explicitly including economic violence in the offense’s definition.<sup>173</sup> The law, which was introduced in 2016, in part passed due to lobbying efforts by external organizations

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<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *What is Gender-Based Violence?*, European Commission, available at [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en) (last visited Jan. 29, 2020).

<sup>169</sup> *Say No! Stop Violence Against Women*, European Commission, available at <https://ec.europa.eu/justice/saynostopvaw/index.html> (last visited July 9, 2020).

<sup>170</sup> *Say No! Stop Violence Against Women - What is VAW*, European Commission, available at <https://ec.europa.eu/justice/saynostopvaw/about.html> (last visited July 9, 2020).

<sup>171</sup> *Say No! Stop Violence Against Women - Helpline Directory*, European Commission, available at <https://ec.europa.eu/justice/saynostopvaw/helpline.html> (last visited July 9, 2020).

<sup>172</sup> *Say No! Stop Violence Against Women - Materials*, European Commission, available at <https://ec.europa.eu/justice/saynostopvaw/materials.html> (last visited July 9, 2020).

<sup>173</sup> Morocco. Law no. 103-13 on Combating Violence against Women (2018).



and women's rights groups within the country.<sup>174</sup> Nevertheless, many believed that the country's legislation required further reform.<sup>175</sup> For instance, the law requires victims to file for criminal prosecution, but they often cannot do so.<sup>176</sup> Therefore, Morocco initiated an "awareness campaign" after the law's passage, acknowledging that "repressive measures alone cannot solve the problem."<sup>177</sup>

Laws largely criminalize domestic violence in the United States;<sup>178</sup> however, they do not always cover economic abuse. In 2018, CAMBA Legal Services, Inc., Fordham Law School Feerick Center for Social Justice, and The Legal Aid Society published a report connecting economic violence in New York State and New York City with homelessness.<sup>179</sup> This report found that "economic abuse frequently results in damaged credit, posing a significant barrier to survivor stability and independence."<sup>180</sup> It offers policy recommendations to state and city agencies, courts, lawyers, and professionals treating victims. These suggestions include, as a matter of illustration,

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<sup>174</sup> *Letter from Human Rights Watch to the Government of Morocco on Domestic Violence Law Reforms*, Human Rights Watch (Feb. 15, 2016), available at <https://www.hrw.org/news/2016/02/15/letter-human-rights-watch-government-morocco-domestic-violence-law-reforms> (last visited July 9, 2020); *Morocco: New Violence Against Women Law*, Human Rights Watch (Feb. 26, 2018), available at <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law> (last visited July 9, 2020).

<sup>175</sup> *Morocco: New Violence Against Women Law*, Human Rights Watch (Feb. 26, 2018), available at <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law> (last visited July 9, 2020).

<sup>176</sup> *Morocco: New Violence Against Women Law*, Human Rights Watch (Feb. 26, 2018), available at <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law> (last visited July 9, 2020); *Many Women in Morocco Face Abuse at Home, Some Are Now Speaking Out*, Reuters (June 10, 2019), available at <https://www.reuters.com/article/us-morocco-women-violence/many-women-in-morocco-face-abuse-at-home-some-are-now-speaking-out-idUSKCN1TB1Y3> (last visited July 9, 2020).

<sup>177</sup> Susanna Spurgeon, *Morocco Launches Violence against Women Awareness Campaign*, Morocco World News (Nov. 29, 2019), available at <https://www.moroccoworldnews.com/2019/11/287856/morocco-launches-violence-against-women-awareness-campaign/> (last visited July 9, 2020).

<sup>178</sup> See, e.g., *Summary of New York State Domestic Violence and Related Laws by Subject (beginning from 1995)*, New York State Office for the Prevention of Domestic Violence, available at [https://opdv.ny.gov/law/summ\\_subject/subjectcat.html](https://opdv.ny.gov/law/summ_subject/subjectcat.html) (last visited July 9, 2020).

<sup>179</sup> CAMBA Legal Services, Inc., Fordham Law School Feerick Center for Social Justice, and The Legal Aid Society released a report, *Denied! How Economic Abuse Perpetuates Homelessness for Domestic Violence Survivors* (Sept. 2018), available at [https://static1.squarespace.com/static/59578aade110eba6434f4b72/t/5bbcb455b208fcd6b5279309/1539093591815/denied\\_economic\\_abuse\\_perpetuates\\_homelessness\\_domestic\\_violence\\_survivors.pdf](https://static1.squarespace.com/static/59578aade110eba6434f4b72/t/5bbcb455b208fcd6b5279309/1539093591815/denied_economic_abuse_perpetuates_homelessness_domestic_violence_survivors.pdf) (last visited July 9, 2020).

<sup>180</sup> *Id.* at 2.

expanding legal services for survivors of economic abuse, creating new mechanisms for identity theft victims, and passing legislation.<sup>181</sup> Subsequently, in 2019, New York State passed a law expanding the criminal definition of domestic violence “to include identity theft, grand larceny and coercion.”<sup>182</sup> Currently, New York City also is considering expanding its Human Rights Law to include “economic oppression.”<sup>183</sup>

A more detailed analysis and examples of other laws criminalizing economic violence against women is found below.

### 3. Best Practices in other Regions

#### a. Legal Framework

Addressing economic violence at the legislative level requires a two-pronged approach. First, it is of primary importance to identify and eliminate policies that currently restrict women’s economic freedom and to vet thoroughly new policies that may impact gender equality. To that end, the *European Institute of Gender Equality* (“EIGE”) and the *Organisation for Economic Cooperation and Development* (“OECD”) have proposed different “Gender Impact Assessment” toolkits for mainstreaming and implementing gender equality in the drafting of legislation, policies, programs, and projects.<sup>184</sup>

Second, it is also important to adopt legislation that specifically addresses and prohibits “economic violence.” A typical approach is to expand the categories covered under existing domestic violence laws to specifically include “economic abuse” writ large.<sup>185</sup> Other approaches include targeting specific categories of economic abuse or

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<sup>181</sup> *Id.* at 23-24.

<sup>182</sup> 2020 NY Senate/Assembly Bill S.2625/A.5608, *available at* <https://legislation.nysenate.gov/pdf/bills/2019/s2625> (last visited July 9, 2020).

<sup>183</sup> Proposed amendment Int 1795-2019, advanced by Council members Brannan, Louis, and Ayala, to The New York City Human Rights Law (Administrative Code of NY tit. 8) would include economic oppression as a form of domestic abuse. (Text of proposed amendment and current status are *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4230045&GUID=86E31956-6F86-4DE9-81E6-B882DF2F586A&Options=ID|Text|&Search=violence> (last visited July 9, 2020).

<sup>184</sup> See EIGE, *Gender Impact Assessment*, *available at* <https://eige.europa.eu/gender-mainstreaming/toolkits/gender-impact-assessment/what-gender-impact-assessment> (last visited July 9, 2020); OECD, *Toolkit for Mainstreaming and Implementing Gender Equality*, *available at* <https://www.oecd.org/gender/governance/toolkit/> (last visited July 9, 2020).

<sup>185</sup> Ohio Sup. R. 90 (defining “domestic abuse” as “a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.”).

violence, such as “unauthorized or coerced use of credit or property, withholding access to money or credit cards, forbidding attendance at school or employment, stealing from or defrauding of money or assets, exploiting the individual's resources for personal gain of the defendant or withholding physical resources such as food, clothing, necessary medications or shelter.”<sup>186</sup>

In some countries, economic abuse laws cover specific cultural practices. For example, in both the Indian and Bangladeshi laws, economic abuse covers the demand for dowry.<sup>187</sup> In Vietnam, violence is defined as a tool of power and control that a spouse or family member may exert in the form of customary practices such as forced child marriage, forcing other family members to overwork or to contribute more earning than they can afford, and controlling other family members to make them financially dependent.<sup>188</sup>

However, legislative reforms defining and punishing domestic violence on their own may not be enough. In 2019, the United Kingdom considered a draft bill with a multi-part approach to addressing economic abuse head-on in the domestic violence context that included:

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<sup>186</sup> Me. Rev. Stat. tit. 19-A, § 4002. Under Maine law, claimants may bring charges for economic abuse and courts may enter a findings of “economic abuse” and grant various forms of relief, including but not limited to orders directing a fair distribution of property or compensation and protective orders requiring a defendant to “refrain from taking, converting or damaging property in which the plaintiff has a legal interest.” Me. Rev. Stat. tit. 19-A, § 4007(E), (F), (F-1). See also N.Y. Soc. Serv. Law § 459-a (defining “victim of domestic violence” to include victims of “identity theft, grand larceny or coercion” within the context of a relationship); Neb. Rev. St. § 43-2922 (defining “economic abuse” as “causing or attempting to cause an individual to be financially dependent by maintaining total control over the individual's financial resources, including, but not limited to, withholding access to money or credit cards, forbidding attendance at school or employment, stealing from or defrauding of money or assets, exploiting the victim's resources for personal gain of the abuser, or withholding physical resources such as food, clothing, necessary medications, or shelter”).

<sup>187</sup> Domestic Violence (Prevention and Protection) Act, 2010 (Bangl.), *available in English* at [https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/203db6dc\\_7c82\\_4aa0\\_98a6\\_8672334b235c/Domestic%20Violence%20Act%20English.pdf](https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/203db6dc_7c82_4aa0_98a6_8672334b235c/Domestic%20Violence%20Act%20English.pdf) (last visited July 9, 2020); The Protection of Women From Domestic Violence Act, No. 43 of 2005, INDIA CODE (2005), § 3, *available in English* at [http://chdlsa.gov.in/right\\_menu/act/pdf/domviolence.pdf](http://chdlsa.gov.in/right_menu/act/pdf/domviolence.pdf) (last visited July 9, 2020) (“Definition of domestic violence . . . (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security”).

<sup>188</sup> Law on Domestic Violence Prevention and Control, Law No.2/2007/QH12 of Nov. 21, 2007, Ch.1, art. 2 (Viet.), *unofficial English translation available at* [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_177877.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_177877.pdf) (last visited July 9, 2020).

- Defining “domestic abuse” to expressly include economic abuse in the statutory definition and accompanying statutory guidance;
- Updating statutory guidance for the offense of controlling or coercive behavior to include references to economic abuse and include it in the statutory guidance for future Stalking Protection Orders and Domestic Abuse Protection Orders;
- Updating relevant legal guidance for prosecutors to ensure cases of economic abuse can be successfully prosecuted where appropriate.
- Working with UK Finance to encourage banks and financial authorities to do more to support victims of domestic abuse and help them move forward to escape debt, joint accounts and mortgages. UK Finance has recently launched its Code of Practice, designed to encourage banks to do more to support victims of domestic abuse. They have also created a consumer information pack, to help victims know what support they can expect.
- Providing £47,000 of funding to update proven police training so that it covers economic abuse.
- Providing £200,000 of funding to the National Skills Academy for Financial Services to develop and deliver financial capability training for frontline workers to support individuals who are experiencing economic and finance-related domestic abuse.
- Providing approximately £250,000 to create a national advice service for banks and building societies, increase the capacity of existing telephone casework services for victims of domestic abuse and develop resources to help people identify if they are experiencing economic abuse.
- Updating training on domestic abuse, including financial abuse, to all Child Maintenance caseworkers in the second half of 2018.
- Providing £500,000 of funding to be focused on those with additional barriers to participating in the labor market – with a specific focus on those who have been victims of domestic abuse.<sup>189</sup>

While this bill has been revamped in the Domestic Abuse Bill 2020 and the final outcome of that bill remains pending, the aforementioned action items may provide an instructive model for breadth of measures required in developing effective legal enforcement mechanisms to address economic violence and creating funding, training, and public-private partnerships to address domestic violence.

## **b. Judicial decisions**

With the legal recognition of economic violence still emerging, judicial precedent on the subject is considerably sparse.<sup>190</sup> Some illustrative judicial decisions

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<sup>189</sup> HM Government, *Transforming the Response to Domestic Abuse Consultation Response and Draft Bill* (Jan. 2019), available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/772202/CCS1218158068-Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772202/CCS1218158068-Web_Accessible.pdf) (last visited July 9, 2020).

<sup>190</sup> At least what is accessible and translated into English.

in Latin America were included in Section B of this report. Judicial bodies from other regions have ruled on this topic. India appears to be one of the few countries that have engaged meaningfully with the subject, but one notable decision from New Jersey is also illustrative. These decisions show where the offense is not only recognized within the letter of the law but enforced by the courts as well.

In *Venkatramana Versus State of A.P.*, LNIND 2009 AP 177, the Indian Andhra Pradesh High Court overturned the order of a magistrate court for its failure to apply the Domestic Violence Act. The lower court determined that because the parties were living separately and divorced, the law had no application. The High Court disagreed—specifically on the grounds of economic violence. It noted that “[e]conomic violence has been defined under Section 3 (e) of the Domestic Violence Act.<sup>191</sup> Because the husband failed to provide education funds for his children via support to his ex-wife, he had committed the offense of economic violence.

At other times, Indian courts have commented on the parameters of domestic violence law and specifically mentioned the inclusion of economic violence. In *Bulu Das v. Ratan Das*, the court held that “(d)omestic violence not only includes mental harassment through verbal or emotional abuse but also emotional and economic abuse,”<sup>192</sup> and in *Rina Devi Bora v. Dwijen Ch. Bora*, it likewise held that “[c]ontinued deprivation of economic and emotional financial resources and continued prohibition of access to shared household to aggrieved person is domestic violence.”<sup>193</sup> Also in 2009 and 2016, courts held that “not providing money for maintaining of food, cloths [sic], medicine etc., is amounting to the economic violence for which the Court is empowered to pass a protection order.”<sup>194</sup>

Outside of India, a New Jersey court has also ruled on a case involving economic abuse. Following the August 2015 amendments to New Jersey’s Prevention of Domestic Violence Act, a New Jersey trial court recognized economic abuse as a form of domestic violence and issued a final restraining order.<sup>195</sup> Economic abuse has not always been recognized as a form of domestic violence, and that is why this decision is relevant. In *C.G. v. E.G.*<sup>196</sup>, plaintiff decided to return to work after spending a period

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<sup>191</sup> *Venkatramana Versus State of A.P.*, LNIND 2009 AP 177.

<sup>192</sup> 2010 (II) DMC 769 Gauhati HC, cited in *Meera and Others Versus Pooja Vishal Bathija and Others*, [2014] 1 MLJ (CRL) 27.

<sup>193</sup> 2010 (II) DMC 110 Gauhati HC, cited in *Meera and Others Versus Pooja Vishal Bathija and Others*, [2014] 1 MLJ (CRL) 27.

<sup>194</sup> *Govinddas Versus Mamta*, LNIND 2016 MP 1212 (quoting *Sunil @ Sonu vs. Sarita* reported in 2009 (5) MPHT 319).

<sup>195</sup> Katherine A. Nunziata, Economic Abuse is Recognized as a Form of Domestic Violence, Riker Danzig Family Law Blog (Sept. 19, 2016), available at <http://riker.com/blog/family-law/economic-abuse-is-recognized-as-a-form-of-domestic-violence> (last visited July 9, 2020).

<sup>196</sup> *C.G. v. E.G.*, 2016 N.J. Super. Unpub. LEXIS 1638, at \*1 (Ch.Div. June 30, 2016).

of time unemployed while collecting disability benefits. Plaintiff's estranged spouse attempted to interfere with plaintiff's return to work as a waitress in a restaurant. Defendant called plaintiff's workplace to bother plaintiff's employer and his wife, sent derogatory messages about returning to work, and generally, attempted to sabotage plaintiff's decision of going back to work. The court recognized that threatening one's job and economic stability "can be as fear-inducing to a victim as physical abuse."<sup>197</sup> The court also found that "as a matter of logic, common sense, fairness, and social decency, a person's job and workplace is implicitly entitled to a line of sanctity which former partners are expected to properly and reasonably honor and respect rather than improperly cross."<sup>198</sup> The court found that defendant's economic abuse over plaintiff constituted domestic violence in the form of harassment and coercion, which was a criminal offense and is recognized as a form of domestic violence.<sup>199</sup>

### c. Initiatives from the private sector

Certain companies have developed initiatives to combat violence against women, including economic violence.<sup>200</sup> Sometimes originating as external marketing campaigns,<sup>201</sup> some companies have included social issues like economic violence against women in their corporate social responsibility and charitable giving programs.<sup>202</sup> Further, there is a developing trend of dealing with the issue internally, for example, by offering trainings on identifying domestic violence.<sup>203</sup> Selected

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<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> See generally, Estelle Huchet, Françoise Kemajou, and Anne-Claire Marquet, *Involvement of Companies in the Fight Against Gender-Based Violence: National Study for Belgium*, Companies Against Gender Violence (Nov. 2015), available at [https://www.pourlasolidarite.eu/sites/default/files/carve\\_belgian-study\\_en.pdf](https://www.pourlasolidarite.eu/sites/default/files/carve_belgian-study_en.pdf) (last visited July 9, 2020).

<sup>201</sup> See, e.g., *Women Empowerment*, The Body Shop Australia, available at <https://www.thebodyshop.com/en-au/about-us/women-empowerment?clear=true> (last visited July 9, 2020); *Avon Foundation Launches Social Media Campaign to Fight Domestic Violence*, Philanthropy News Digest (Nov. 26, 2013), available at <https://philanthropynewsdigest.org/news/avon-foundation-launches-social-media-campaign-to-fight-domestic-violence> (last visited July 9, 2020).

<sup>202</sup> See, e.g., *Domestic Violence Prevention*, Verizon, available at <https://www.verizon.com/about/responsibility/domestic-violence-prevention> (last visited July 9, 2020); *What We Do End Domestic Violence*, Allstate Foundation, available at <https://allstatefoundation.org/what-we-do/end-domestic-violence/resources/> (last visited July 9, 2020).

<sup>203</sup> Estelle Huchet, Françoise Kemajou, and Anne-Claire Marquet, *Involvement of Companies in the Fight Against Gender-Based Violence: National Study for Belgium*, Companies Against Gender Violence (Nov. 2015), available at [https://www.pourlasolidarite.eu/sites/default/files/carve\\_belgian-study\\_en.pdf](https://www.pourlasolidarite.eu/sites/default/files/carve_belgian-study_en.pdf) (last visited July 9, 2020).



examples of how companies across the globe are fighting economic violence against women are detailed below.

Avon, an American beauty and cosmetics company describing itself as “a pioneer of women’s empowerment,” established the Avon Foundation for Women.<sup>204</sup> In addition to other gendered issues, the Avon Foundation provides educational materials and money to support eradicating economic abuse.<sup>205</sup> The work mostly is done through partnerships with non-profits. For example, two of the Avon Foundation’s beneficiaries, Interval House<sup>206</sup> and the New Orleans Family Justice Center,<sup>207</sup> provide support to domestic violence survivors such as “job training, financial education, and the confidence to reenter the workforce.”<sup>208</sup>

In Europe of 2018, the CEOs of Kering, L’Oréal, Korian, Carrefour, Lagardère, BNP Paribas and SCNF signed “a commitment charter, called OneInThreeWomen, against gender-based violence.”<sup>209</sup> OneInThreeWomen, part of the European initiative CEASE, co-funded by the DG Justice of the European Commission and co-led by the Act Against Exclusion Foundation (FACE), Pour La Solidarité, DIESIS, and CSR Hellas,<sup>210</sup> highlights “the ratio of women who are victims of physical and/or sexual

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<sup>204</sup> *About Us, Avon, available at* <https://www.avonworldwide.com/about-us> (last visited July 9, 2020).

<sup>205</sup> *Economic Empowerment: Avon Foundation And Its Beneficiaries Aim to End Financial Abuse, Avon-Insider, available at* [https://www.avon.com/blog/avon-insider/economic-empowerment-avon-foundation\\_](https://www.avon.com/blog/avon-insider/economic-empowerment-avon-foundation_) (last visited July 9, 2020).

<sup>206</sup> *About Us, Interval House: Crisis Shelters & Centers for Victims of Domestic Violence, available at* <http://www.intervalhouse.org/domesticviolenceprograms/about.html> (last visited July 9, 2020).

<sup>207</sup> *Who We Are, New Orleans Family Justice Center, available at* <https://nofjc.org/who-we-are> (last visited July 9, 2020).

<sup>208</sup> *Economic Empowerment: Avon Foundation And Its Beneficiaries Aim to End Financial Abuse, Avon- Insider, available at* <https://www.avon.com/blog/avon-insider/economic-empowerment-avon-foundation> (last visited July 9, 2020).

<sup>209</sup> Jennifer Weil, Kering, L’Oréal CEOs Sign Charter Against Gender-Based Violence Seven Groups are Initially Part of the Commitment Charter, Called One In Three Women, WWD (Nov. 9, 2018), *available at* <https://wwd.com/fashion-news/fashion-scoops/kering-loreal-ceos-sign-charter-against-gender-based-violence-1202903795/> (last visited July 9, 2020).

<sup>210</sup> “One In Three Women,” the first European network of companies engaged against gender-based violence under the management FACE, BNP Paribas (Sep. 11, 2018), *available at* <https://group.bnpparibas/en/press-release/oneinthreewomen-european-network-companies-engaged-gender-based-violence-management-face> (last visited July 9, 2020).



violence during their lifetime.”<sup>211</sup> Although not solely focused on economic violence, the charter recognizes that “gender-based violence has serious consequences on the physical and mental health of victims. It disrupts their private life but it also has an impact on their professional lives [ . . . ] victims of domestic violence are likely to receive lower wages, to change position more frequently, to have more precarious jobs and more restrained possibilities to go to work.”<sup>212</sup> In response, this network of European companies committed to 1) creating egalitarian corporate cultures, 2) producing and/or implementing “policies, tools, trainings and processes for their HR services, management teams and all employees to respond to disclosure,” and 3) fostering open dialogue for colleagues who are domestic violence survivors.<sup>213</sup>

As has been recognized, businesses can take the lead in combatting violence against women. Domestic violence interferes in many instances with women’s enforcement of their economic rights, in particular their ability fully and equally to participate in the workforce. Domestic violence and sexual harassment may impair “employees’ physical and mental health and well-being, leading to stress, anxiety, loss of self-esteem, motivation, and even job loss. It contributes to the gender pay gap, and affects women’s opportunities for advancement and career progression.”<sup>214</sup> Therefore, it is in the businesses’ interest to continue to explore additional ways to eradicate economic violence against women.

#### **D. Latin American Compliance with International Standards and Concluding Remarks**

While the world generally recognizes and criminalizes domestic violence as well as physical, sexual, and emotional abuse, economic violence against women often

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<sup>211</sup> Jennifer Weil, Kering, L’Oréal CEOs Sign Charter Against Gender-Based Violence Seven Groups are Initially Part of the Commitment Charter, Called One In Three Women, WWD (Nov. 9, 2018), *available at* <https://wwd.com/fashion-news/fashion-scoops/kering-loreal-ceos-sign-charter-against-gender-based-violence-1202903795/> (last visited July 9, 2020).

<sup>212</sup> “One In Three Women,” the First European Network of Companies Engaged Against Gender-Based Violence Under the Management FACE, BNP Paribas (Sep. 11, 2018), *available at* <https://group.bnpparibas/en/press-release/oneinthreewomen-european-network-companies-engaged-gender-based-violence-management-face> (last visited July 9, 2020).

<sup>213</sup> CSR Hellas, Diesis, FACE and Pour La Solidarité Launched the First European Network of Companies Engaged Against Gender-Based Violence, CEASE (Nov. 9, 2018), *available at* <https://cease-project.eu/csr-hellas-diesis-face-and-pour-la-solidarite-launched-the-first-european-network-of-companies-engaged-against-gender-based-violence/> (last visited July 9, 2020).

<sup>214</sup> Alice Allan, *How Businesses Can Take the Lead in Combatting Gender-Based Violence*, Stanford Social Innovation Review (Sep. 16, 2019), *available at* [https://ssir.org/articles/entry/how\\_businesses\\_can\\_take\\_the\\_lead\\_in\\_combatting\\_gender\\_based\\_violence#](https://ssir.org/articles/entry/how_businesses_can_take_the_lead_in_combatting_gender_based_violence#) (last visited July 9, 2020).

appears to take “a back seat in our collective consciousness.”<sup>215</sup> Although the number of domestic violence cases containing economic abuse is staggering, as we have discussed above, economic violence remains a distinct problem.<sup>216</sup> Globally, awareness of its existence and harms continues to increase<sup>217</sup> and Latin American countries are active participants in this global trend.<sup>218</sup>

Recognition, although critical,<sup>219</sup> remains but a first step. In reflection, the final portion of this report seeks to synthesize the above research by comparing Latin American countries with global best practices on addressing economic violence against women through 1) legislation and regulation, 2) public policies providing access to education and judicial systems, and 3) third party initiatives. In doing so, the report further seeks to highlight commendable laws, policies, programs, and progress while also providing practical recommendations on how Latin American countries can further implement international best practices.

## 1. Legislation and Regulation

In Latin American countries, lawmakers must carefully consider nuanced cultural dynamics and specific needs of its female population.<sup>220</sup> Legislative and regulatory efforts must be tailor-made to the Latin American region. Each jurisdiction, although distinct, can benefit from learning from successful regional practices and adapting model legislation to the particular needs of the people of a given country. The survey results demonstrate that the ways certain Latin American countries regulate - or fail to regulate - economic violence derives from gender inequality and stereotypes that have permeated history in the region.<sup>221</sup> Although most Latin

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<sup>215</sup> Arianne Renan Barzilay, *Power in the Age of In/Equality: Economic Abuse, Masculinities, and the Long Road to Marriage Equality*, 51 *Akron L. Rev.* 323, 324.

<sup>216</sup> According to the Allstate Foundation (formerly called Purple Purse), an organization dedicated to financial empowerment as a means to break the cycle of domestic violence, “99% of all domestic violence cases include financial abuse.” Allstate Foundation, *available at* <https://allstatefoundation.org/what-we-do/end-domestic-violence/> (last visited July 9, 2020).

<sup>217</sup> *See generally supra* § C.

<sup>218</sup> *See generally supra* § B. As noted above, most Latin American countries surveyed explicitly recognized economic violence against women as a criminal act, whereas a few others implicitly recognize it. Although Bolivia, Costa Rica, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Uruguay, Venezuela, and Ecuador each explicitly recognize economic violence as a criminal act, unsurprisingly, recognition and criminalization is not universal.

<sup>219</sup> As noted above in § B(2)(b)(ii), the survey demonstrated needs for continued education on the issue of economic violence.

<sup>220</sup> *See supra* fns. 124-125. Latin American jurisdictions should evaluate external guidance such as the Beijing and Vienna Declarations which prohibit the use of historical factors as excuses for perpetuating harmful practices against women.

<sup>221</sup> *See generally supra* § B.

American countries passed national laws criminalizing economic violence against women,<sup>222</sup> countries should compare existing legislation and regulation of the issue with international best practices. Below are recommendations on how Latin American countries can (i) implement international instruments, (ii) broaden their legal definitions of economic violence against women, (iii) strengthen regulatory frameworks, and (iv) provide sufficient sanctions in view of international best practices.

**a. Implement International Instruments**

Internalization (or domestication) of international treaties protecting women from economic violence is a crucial first step for Latin American countries with a dualist<sup>223</sup> system to eradicate economic violence against women. By internalizing these treaties, courts in the relevant jurisdictions would more readily apply their provisions directly and may look to other international materials to understand the content of these international standards. Implementation of the Belém do Pará Convention and the CEDAW would reinforce broader definitions for violence against women and the country's commitment to combatting discrimination against women in the important economic context as well. It is worth noting that this approach is relevant for dualist systems in which international treaties are not self-executory. However, if the system is monist, for example in Guatemala, international treaties become legally binding once ratified, and thus, there is no need to internalize the treaties.

**b. Broaden the Definition of Economic Violence against Women**

As emphasized throughout the report, policy and discussion about economic violence against women, although a broad issue, is often confined to, and conflated with, the domestic violence context.<sup>224</sup> As a first step, countries must consider the appropriate definition of economic violence.<sup>225</sup> Internationally, as well as within Latin

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<sup>222</sup> See *supra* § B(1)(a)(i)(3). Argentina, Brazil, and Chile, however, do not offer meaningful recognition of economic violence in criminal law.

<sup>223</sup> Dualist systems perceive domestic and international law as two different systems, and thus, for an international treaty to be enforceable in the territory of a country that has a dualist system, the treaty has to be incorporated or transformed into domestic law. In contrast, monist systems perceive domestic and international law as two components of a single body of law, being the treaty legally binding from the time of its ratification.

<sup>224</sup> Arianne Renan Barzilay, *Power in the Age of In/Equality: Economic Abuse, Masculinities, and the Long Road to Marriage Equality*, 51 Akron L. Rev. 323, 324.

<sup>225</sup> Although most countries acknowledge economic violence against women, Argentina, Brazil, and Chile do not offer meaningful recognition. § B(1)(a)(i)(3). Thus, these jurisdictions must start with the basic task of recognizing the issue in order to begin formulating an appropriate definition for future use in legislative and regulatory efforts. Elsewhere, where laws already exist, countries need to focus on the breadth of the definition.

America, definitions of economic violence vary considerably.<sup>226</sup> As a preliminary recommendation, countries should generally define economic violence against women as broadly as possible in legislation and regulation.<sup>227</sup> Ideally, the definition would not be exclusively encompassed within domestic violence, rather enumerated as a separate bad act. Presently, only the statutes of Peru and Mexico provide this broader definitional scope of economic violence against women.

Concurrently, countries should adopt laws or regulations confirming that various types of economic violence are actionable. As a matter of illustration, the following actions should be prohibited under law: unauthorized or coerced use of credit or property, withholding access to money or credit cards, forbidding attendance at school or employment, theft or defrauding of money or assets, exploiting the individual's resources for personal gain of the offender or withholding physical resources such as food, clothing, necessary medications or shelter.<sup>228</sup> Various third party initiatives can provide valuable guidance and resources on conceptualizing the breadth of economic violence that should be considered when drafting or amending laws to combat it as comprehensively as possible.<sup>229</sup> For example, IOs in New York City recently advocated for amendments to consumer protection laws to address the specific harms suffered by economic violence victims.<sup>230</sup> The same fundamental concepts can be applied in Latin American countries.

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<sup>226</sup> See, e.g., European Institute for Gender Equality, *Economic Violence*, available at <https://eige.europa.eu/thesaurus/terms/1096> (last visited July 9, 2020); see also § B(1)(a)(i)(2).

<sup>227</sup> See, e.g., Costa Rica Q.3 (Arts. 34-36). Costa Rican laws criminalize a variety of economic violence and provides sanctions for when a man that removes, damages, or limits assets that belong to the woman or their marriage/union; a man that fraudulently enters into a contract or other legal writing on behalf of the woman, and/or a man that makes his partner support him financially or exclusively uses the profits of their relationship.

<sup>228</sup> See, e.g., An Act to Provide Relief to Survivors of Economic Abuse, P.L. 2019, ch. 407. In passing this law, Maine seeks to protect victims by setting forth procedures for debt collectors and credit reporting agencies.

<sup>229</sup> See, e.g., Pan American Health Organization, *Violence against women*, available at <https://www.paho.org/hq/dmdocuments/2011/GDR-VAW-advocacy-package-EN.pdf> (last visited July 9, 2020); Allstate Foundation, available at <https://allstatefoundation.org/what-we-do/end-domestic-violence/> (last visited July 9, 2020).

<sup>230</sup> See *supra* § C(2)(c). CAMBA Legal Services, Inc., Fordham Law School Feerick Center for Social Justice, and The Legal Aid Society released a report, *Denied! How Economic Abuse Perpetuates Homelessness for Domestic Violence Survivors* (Sept. 2018), available at [https://static1.squarespace.com/static/59578aade110eba6434f4b72/t/5bbcb455b208fcd6b5279309/1539093591815/denied\\_economic\\_abuse\\_perpetuates\\_homelessness\\_domestic\\_violence\\_survivors.pdf](https://static1.squarespace.com/static/59578aade110eba6434f4b72/t/5bbcb455b208fcd6b5279309/1539093591815/denied_economic_abuse_perpetuates_homelessness_domestic_violence_survivors.pdf) (last visited July 9, 2020).

Furthermore, laws and regulatory efforts should be broadened to include wider protections for victims. While, as noted above, most of the surveyed countries enacted national laws on economic violence against women, the survey simultaneously revealed some Latin American countries with effectively no laws addressing economic violence, laws that only extended protection against “patriarchs” or family members, or laws that only addressed economic violence when it affects “economic survival.”<sup>231</sup> However, as discussed in Section C above, economic violence against women is not limited to the domestic context. To address the full scope of harms of economic violence, laws should confer standing regardless of the familial relationship between the victim and the perpetrator, without regard to the gender of the perpetrator of the economic violence, and to allow victims to recover without showing that economic violence affects “survival”- allowing a lower threshold of action that is triggered when basic economic rights are implicated. Although gender-neutral definitions for victims of economic violence would broaden protection, this breadth may not be optimal given surrounding cultural factors. Nicaragua, for example, gave an explanation for this gendered distinction, providing that existing regulations had been ineffective at combating violence against women. Therefore, it was necessary to adopt a law of “special nature” in order to address the problem and allow for the effective protection of life, freedom, and personal integrity.<sup>232</sup>

### **c. Strong Regulatory Framework**

Clear frameworks are necessary for victims to know what rights they have and what remedies are available under the law. Thus, existing legal frameworks should be reevaluated. For example, the survey indicated that Chilean criminal law punishes domestic abuse and coercion, but likewise also contains an exception to enforcement of criminal law of theft and fraud as between spouses.<sup>233</sup> Most efforts toward eradicating economic violence against women appear to be channeled through criminal and labor laws.<sup>234</sup> Countries could identify and eliminate policies currently restricting women’s economic freedom and instead promote women’s exercise of their economic rights. The Human Rights Council Resolution 29/14 calls for the empowerment of women by “strengthening their economic autonomy and ensuring their full and equal participation in society and in decision-making processes,”<sup>235</sup> and the UN General Assembly Resolution 58/147 asks for states to “take all measures to empower women and strengthen their economic independence.”<sup>236</sup> Both provide valuable guidance on establishing overarching systems addressing economic violence.

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<sup>231</sup> See *supra* § 2(a)(i)(2).

<sup>232</sup> See *supra* § 2(a)(i)(1).

<sup>233</sup> See *supra* § B(1)(b)(iv).

<sup>234</sup> § B(1)(b)(iii)(2).

<sup>235</sup> See *supra* fn. 111.

<sup>236</sup> See *supra* fn. 112.

#### **d. Meaningful Sanctions Contemplating Crimes of Economic Violence against Women**

Without meaningful sanctions, there remains a danger that economic crimes will not be taken seriously, and laws and regulations will not have deterrent or retributive effect. Criminal findings of economic violence should compel criminal sanctions, including incarceration.<sup>237</sup> Correspondingly, criminal adjudication of economic violence should result in simpler means of proving civil liability.<sup>238</sup> For example, steps could be taken to allow criminal sanctions to be more readily convertible into civil liability under *res judicata* principles, as is commonly utilized in Anglo-Saxon legal systems. Additionally, remedies such as the issuance of restraining orders should be contemplated. For example, a New Jersey court, applying an amendment to the state's domestic violence law to include coercion, effectively recognized intentional economic abuse as a form of domestic violence and issued a final restraining order against the victim's husband.<sup>239</sup>

### **2. Meaningful Access to Education and Judicial Systems**

Legal recognition of economic violence requires effective enforcement. In addition to passing and amending laws on economic violence, countries must first educate the public on the issue to bring about meaningful change. Second, victims must be provided safe access to judicial and related support systems. Without education and access to justice, any enacted laws are destined to fail in their ultimate goal of deterring and eradicating economic violence against women.

#### **a. Education**

Fundamentally, if the population remains unaware that economic violence is wrong and illegal, laws and regulations penalizing it remain futile. Educational materials and outreach allow domestic violence victims to understand that their hardships are recognized and their abusers condemned.<sup>240</sup> In Latin America specifically, education assists women against being blinded by cultural stereotypes that prevent them from fully exercising their rights. The same can be said for men who play a critical role in tackling this issue as well. Educational efforts also should be directed towards potential perpetrators, and not only potential victims. In other words, men should be aware of the types of economic violence against women and its consequences. Men could also be educated in the subjects of women's independence, women's rights, and women empowerment. All these efforts will enhance social

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<sup>237</sup> See, e.g., Costa Rica Q.3 (Arts. 34-36).

<sup>238</sup> As noted in § 2(a)(iii)(2), in Latin America, only Mexico regulates economic violence through civil law.

<sup>239</sup> *C.G. v. E.G.*, 2016 N.J. Super. Unpub. LEXIS 1638, at \*1 (Ch.Div. June 30, 2016).

<sup>240</sup> See, e.g., The European Commission's "Say No! Stop Violence Against Women" campaign which provides another example for Latin American countries to emulate.



equality, which in turn leaves women less economically dependent on men, and men less likely to commit economic violence against women.

Educational efforts may come from the state<sup>241</sup> or in conjunction with private and international organizational initiatives.<sup>242</sup> On the country level, Chile's educational programming, provided by both the state and an NGO, can be emulated in other countries.<sup>243</sup> Likewise, Bolivia's government collaborates with NGOs to bring attention to and education on the issue of economic violence against women.<sup>244</sup>

More generally, the UN Framework for Model Legislation on Domestic Violence provides a comprehensive template for educational outreach, among other efforts.<sup>245</sup> It offers resources on how countries can promote public education and societal awareness on the issue of economic abuse. Addressing the problem at the governmental level, the UN Model also advocates for training programs for judges to recognize pertinent economic violence issues. Under this rubric, courts have a duty to inform victims of their rights and legal remedies and to enforce certain protective measures aimed at the security of victims and their property.

#### **b. Judicial Access**

Once a victim identifies a harmful situation, she must have access to safe, efficient, and affordable judicial resources. While the passage of the law criminalizing violence (and economic violence) against women in Morocco was itself monumental, Human Rights Watch identified serious gaps in the legislation.<sup>246</sup> Most significantly, the Moroccan law failed to "set out duties of police, prosecutors, and investigative judges in domestic violence cases."<sup>247</sup> Although the law mandates preventative

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<sup>241</sup> See *supra* § 2(b)(i). For example, Bolivia, Brazil, and Chile's governments provide education on the issue.

<sup>242</sup> See *supra* § 2(b)(i). In Nicaragua, for example, most educational efforts come from NGOs.

<sup>243</sup> See *supra* § 2(b).

<sup>244</sup> See *supra* § 2(b).

<sup>245</sup> See *supra* fn. 114.

<sup>246</sup> Morocco Law no. 103-13 on Combating Violence against Women (2018); Morocco: New Violence Against Women Law, Human Rights Watch (Feb. 26, 2018), *available at* <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law> (last visited July 9, 2020).

<sup>247</sup> Morocco: New Violence Against Women Law, Human Rights Watch (Feb. 26, 2018), *available at* <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law> (last visited July 9, 2020).



measures by authorities, there are no monitoring methods to ensure this necessary work is done to support the law's implementation and effect.<sup>248</sup>

In terms of enforcement mechanisms, the survey results found that certain Latin American countries established specialized courts to adjudicate allegations of domestic violence against women.<sup>249</sup> The courts handling such matters should receive specialized training in: 1) combatting implicit biases, 2) working with victims and families, and 3) managing victim's during the judicial proceedings. Judges must feel comfortable adjudicating cases involving economic violence. Thus, countries - with the help of third parties - must provide resources not only to the public and victims, but also to officers of the court.<sup>250</sup>

### 3. Third Party Initiatives

Third party efforts are critical to the eradication of economic violence. The process of "[e]liminating all forms of violence against women and girls requires a comprehensive and coordinated set of actions in prevention and response, as well as in tackling underlying and root causes."<sup>251</sup> Countries cannot effect change independently. Rather, public and private sectors' initiatives provide essential resources - finances, manpower, and passion -- to enact and implement legislation.

While the survey results provide laudable examples of important steps that third parties such as NGOs, IOs, and private parties have already taken towards eradicating economic violence against women in Latin America, opportunities for growth nevertheless remain. As noted above, most identified initiatives include economic violence as part of larger programs generally combating violence against women. Third parties, by closely connecting with communities, can combat underlying harmful masculine norms in certain Latin American countries to ultimately eradicate economic violence against women. Already, certain organizations have attempted to reach the root of the problem.<sup>252</sup> Using existing initiatives as examples, other third parties should collaborate with governments on efforts to mitigate the crisis of economic violence against women while recognizing historical social norms.

#### a. Awareness Campaigns

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<sup>248</sup> Morocco: New Violence Against Women Law, Human Rights Watch (Feb. 26, 2018), available at <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law> (last visited July 9, 2020).

<sup>249</sup> See *supra* § 2(b)(vii).

<sup>250</sup> See *supra* § 2(b)(i)(c)(1).

<sup>251</sup> Ending Violence Against Women (15).

<sup>252</sup> See, e.g., Bolsa Família Companion Program, Promundo, available at <https://promundoglobal.org/programs/bolsa-familia-companion-program/#> (last visited July 9, 2020).

As the survey and research demonstrate, third parties, identifying the marginalization of economic abuse, have attempted to increase the issue's visibility.<sup>253</sup> Due to cultural differences throughout the region and nuances within the studied countries, these efforts are unsurprisingly inconsistent. For example, while in Bolivia NGOs, the private sector, and government share in the task of raising awareness, in Panama, the subject is rarely discussed at all.<sup>254</sup> Panama and other countries lacking robust awareness of economic violence against woman, in addition to looking at global best practices, should consider adopting a version of Bolivia's multitude of campaigns.

Educational initiatives are an important area where third parties can use their networks and resources as catalysts for change. By focusing on countries where economic violence against women is an afterthought at best, third parties can work with state, regional, and local governments, as a starting point, to begin a dialogue.<sup>255</sup> Similarly, either through marketing or philanthropic efforts, public companies can join in and amplify the conversation.<sup>256</sup> Even if laws that criminalize economic violence against women are approved, the courts are unlikely to provide actual benefits if the public does not recognize it as an actual problem.

#### **b. Women's Empowerment Initiatives**

Beyond awareness campaigns, some organizations also implemented educational initiatives to combat economic violence by raising women's ability to control their own income and resources. For example, organizations like *Fala Mulher* and *Nova Mulher* offer skills-based workshops and financial training courses to nurture women as potential entrepreneurs in Brazil. FUMDEC, a Nicaraguan NGO, partnered with the World Bank to implement a CCT program for women, which led to a significant number of rural women starting and expanding their businesses in that nation. A variety of U.S. non-profits, often supported by private corporations, provide resources on financial empowerment aimed at addressing economic violence in different segments of the population such as survivors, advocates, and the general public.<sup>257</sup> Third parties working in Latin American countries should look to emulate these programs while recognizing each culture's nuances and modifying them accordingly.

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<sup>253</sup> See, e.g., Domestic Abuse Bill, *Surviving Economic Abuse*, available at <https://survivingeconomicabuse.org/home/influencing-policy/> (last visited July 9, 2020).

<sup>254</sup> See *supra* § 2(b).

<sup>255</sup> See, e.g., Vision and Mission, *Surviving Economic Abuse*, available at <https://survivingeconomicabuse.org/home/vision-and-mission/> (last visited July 9, 2020).

<sup>256</sup> See *supra* § 2(c)(3)(c). For example, the Body Shop engages in cause marketing and educational efforts.

<sup>257</sup> See, e.g., Allstate Foundation, *Resources*, available at <https://allstatefoundation.org/what-we-do/end-domestic-violence/resources/> (last visited July 9, 2020).

### c. Legislative Advocacy

Third parties also can assist with lobbying efforts to pass laws and advance subsequent implementation efforts. As the survey and research indicate, almost every Latin American country has made progress towards addressing gender violence through legislative reforms and national actions.<sup>258</sup> Nevertheless, “stricter, more comprehensive and effective legislation is required, as well as adequate funds to implement and enforce it.”<sup>259</sup> Accordingly, Latin American countries should look to international best practices as guides to pass, enforce, and implement relevant laws. For example, Surviving Economic Abuse in the UK illustrates how a charity organization singularly devoted to the eradication of economic violence can cause significant legislative progress.<sup>260</sup> Such efforts can and should be emulated in Latin American countries.

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<sup>258</sup> SIGI Regional Report (7); Engaging Men (20).

<sup>259</sup> Engaging Men (14).

<sup>260</sup> See *supra* § 2(c)(2)(a).

<b>EXHIBIT A</b>				
<b>Country</b>	<b>Does the definition apply only to women? (What, if any, additional recipients?)</b>	<b>Does the definition link to Patrimonia l Violence or Resources ?</b>	<b>Does the definition require a conjugal or familial relationship between the abuser and victim?</b>	<b>Source of law</b>
<b>Argentina</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>(Section 5, sub-section 4 of Law 26,485 (2009))</b>
<b>Bolivia</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>Law 348 [2013] Art. 7</b>
<b>Brazil (undefined)</b>	<b>No</b>	<b>Yes</b>	<b>Spousal immunity</b>	<b>Maria da Penha</b>
<b>Chile</b>	<b>N/A (implicit)</b>	<b>No</b>	<b>Yes (up to third degree)</b>	<b>Article 5 of Law 20,066 "Domestic Violence Act"</b>
<b>Colombia</b>	<b>Yes</b>	<b>No</b>	<b>No (sentimental , family, labor, or economic relationship )</b>	<b>Article 2 of Law 1257 [2008]</b>
<b>Costa Rica</b>	<b>No (relative)</b>	<b>No</b>	<b>Yes (up to third degree)</b>	<b>Article 2 subsection e) of the Law Against Domestic Violence</b>

<b>EXHIBIT A</b>				
<b>Country</b>	<b>Does the definition apply only to women? (What, if any, additional recipients?)</b>	<b>Does the definition link to Patrimonia l Violence or Resources ?</b>	<b>Does the definition require a conjugal or familial relationship between the abuser and victim?</b>	<b>Source of law</b>
				<b>number 7586</b>
<b>Dominican Republic</b>	<b>No (a person)</b>	<b>No (aggressor)</b>	<b>Yes</b>	<b>Decree No. 1518-04</b>
<b>El Salvador</b>	<b>Yes</b>	<b>No (aggressor )</b>	<b>No</b>	<b>"Integral Special Law for a life free of Violence to Women" (Article 9 "Types or violence" Letter a)) (2012).</b>
<b>Guatemala</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>Decree 22-2008, Law Against Femicide and other forms of violence against women, Article 3, letter k)</b>
<b>Honduras</b>	<b>No (woman or family group)</b>	<b>Yes</b>	<b>No</b>	<b>Law against Domestic Violence</b>

<b>EXHIBIT A</b>				
<b>Country</b>	<b>Does the definition apply only to women? (What, if any, additional recipients?)</b>	<b>Does the definition link to Patrimonial Violence or Resources ?</b>	<b>Does the definition require a conjugal or familial relationship between the abuser and victim?</b>	<b>Source of law</b>
<b>Mexico</b>	<b>No (all discrimination based on gender)</b>	<b>No (work, teaching, labor violence)</b>	<b>No</b>	<b>?</b>
<b>Nicaragua</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Law No. 779 "Integral Law Against Violence to Women and Reforms to Criminal Code" (Law No. 641)</b>
<b>Panama</b>	<b>Yes</b>	<b>No (Between men and women)</b>	<b>No</b>	<b>Article 4, Law 82 of October 23, 2013</b>
<b>Paraguay</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>Law N° 5777 (2016) of Violence Against Women</b>
<b>Peru</b>	<b>No (women or family group)</b>	<b>Yes</b>	<b>Yes &amp; workplace (lower salary for equal work)</b>	<b>Article 8, Law No. 30364</b>

<b>EXHIBIT A</b>				
<b>Country</b>	<b>Does the definition apply only to women? (What, if any, additional recipients?)</b>	<b>Does the definition link to Patrimonia l Violence or Resources ?</b>	<b>Does the definition require a conjugal or familial relationship between the abuser and victim?</b>	<b>Source of law</b>
<b>Uruguay</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>Law No. 19.580 of 22th of December , 2017</b>
<b>Venezuela</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>Article 15(12) of the Organic Law on the Right of Women to a Life Free from Violence [April 17, 2007]</b>
<b>Ecuador</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Article 10 of The Law to Prevent and Eradicate Violence against Women</b>



EXHIBIT B							
Country	Labo r	Famil y	Constitution al Law	Civi l	Criminal	Other	Specific Legal Provisions for Fraud between spouses?
Argentina	x	x	x		Spousal Immunity		Indeterminat e
Bolivia		X			X 2Y-4Y		Yes
Brazil 1	x		x		x	Maria de Penha Law	Indeterminat e
Brazil 2							
Chile	x	x		x			Yes; but excepts criminal liability
Colombia					x 4Y-8Y* 14Y**	Public Service; Social Inclusion	Yes
Costa Rica	X				X 3M-1Y 6M-10Y* +1/3*	Public Law	Yes
Dominica n Republic	x			x	1Y-5Y*		Yes
El Salvador	X				X 2Y-6Y		No

Guatemala	X	X			X 5Y-8 Y +1/3*		No
Honduras		X			X Reimburse & Compensate the Victim; Restraining Order for the Aggressor* 1Y-3Y**		No
Mexico	X	X		X	X N/A	Community ; Corporate	No
Nicaragua		X			X 2Y-5Y		No
Panama					X 5Y-8Y		No
Paraguay		x		x	X 1Y-6Y Up to 10Y*		Yes
Peru	X				x 1Y-3Y*		No
Uruguay		X			X 6M-3Y		Yes

Venezuela					X 6M-1Y 1Y-3Y* +1/2**		Yes; but excepts criminal liability
Ecuador	X	X			X 6M-1Y 1Y-3Y* +1/3**		Yes

**Legend:**

X: explicit recognition

x: implied application

Sentencing/ Remedy

\*Only applies under certain aggravating circumstances (e.g., mental or physical injury, food deprivation, etc...)

\*\*Applies when additional aggravating circumstances are implicated (e.g., +1/2\*\* means that the maximum sentence under aggravating circumstances will be increased by one-half when certain additional aggravating circumstances--like weapons or gang activity--are involved)

<b>EXHIBIT C</b>			
<b>Country</b>	<b>Are there any judicial precedents with respect to economic violence?</b>	<b>Are there specialized judges/courts?</b>	<b>In practice, how is economic violence addressed by judges/courts?</b>
Argentina	Yes	No	Addressed by courts ruling on family matters (alimony, financial compensation to ex-wife).
Bolivia	No	No	
Brazil	Yes	Yes	Addressed by the Superior Court of Justice in criminal matters.
Chile	Yes	No	Addressed by the Court of Appeals of Punta Arenas as part of domestic violence.  No precedent in labor law matters.
Colombia	Yes	No	Identified as a ground for divorce by the Constitutional Court.
Costa Rica	Yes	No	Addressed in criminal matters
Dominican Republic	No	No	
El Salvador	No	Yes	
Ecuador	No	No	
Guatemala	Yes	No	Addressed and defined by the Supreme Court.
Honduras	No	No	
Mexico	Yes	No	Addressed by the Supreme Court and Civil Courts in family matters.

<b>EXHIBIT C</b>			
<b>Country</b>	<b>Are there any judicial precedents with respect to economic violence?</b>	<b>Are there specialized judges/courts?</b>	<b>In practice, how is economic violence addressed by judges/courts?</b>
Nicaragua	Yes	Yes	14,000 gender rulings issued by the Nicaraguan courts (which include psychological, physical and economic or patrimonial violence) in 2014 and part of 2015, including 500 related to economic violence.  Statistics show a reduction of the judicial claims brought in relation to gender violence.
Panama	No	No	
Paraguay	No	No	Addressed in women's requests to reverse decisions or to release their imprisoned partners or husbands under the claim that they financially rely on them.
Peru	No	No	
Uruguay	Yes	No	Courts sanction economic violence against women – usually not enough proof.
Venezuela	Yes	Yes	Addressed by the Court of Appeals of Violence against Women as a crime.

EXHIBIT D		
Country	Categories of violence contemplated by law	Law contemplating the categories of violence
Argentina	<ul style="list-style-type: none"> <li>• Physical;</li> <li>• Psychological;</li> <li>• Sexual;</li> <li>• Economic;</li> <li>• Symbolical;</li> <li>• Domestic violence;</li> <li>• Gender violence;</li> <li>• Labor violence (prohibition of discrimination)</li> </ul>	Law 26,485 (2009), section 5
Bolivia	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Psychological,</li> <li>• Women murder,</li> <li>• Media,</li> <li>• Covert,</li> <li>• Against dignity,</li> <li>• Honor and name,</li> <li>• Sexual,</li> <li>• Against reproductive rights,</li> <li>• In health services,</li> <li>• Property rights and economic,</li> <li>• Labor,</li> <li>• In the education system,</li> <li>• In the political exercise and leadership of women,</li> <li>• Institutional,</li> <li>• Family,</li> <li>• Against sexual rights and freedom and any other form that violates the dignity, freedom and rights of women.</li> </ul>	Article 7 of Law 348
Brazil	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Psychological,</li> <li>• Sexual,</li> <li>• Moral,</li> <li>• Patrimonial.</li> </ul>	Article 72 of Law n2 11.340/2006 (Maria da Penha Law)

EXHIBIT D		
Country	Categories of violence contemplated by law	Law contemplating the categories of violence
Chile	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Psychological,</li> <li>• Sexual Integrity,</li> <li>• Femicide,</li> <li>• Sexual harassment,</li> <li>• Workplace harassment,</li> <li>• Human trafficking.</li> </ul>	<p>Domestic Violence Act</p> <p>Law 20,005 [March 18, 2005]</p> <p>Law 20,607 [August 8, 2012]</p> <p>Law 20,507 [April 8, 2011]</p>
Colombia	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Sexual,</li> <li>• Psychological,</li> <li>• Economic.</li> </ul>	Article 2 of Law 1257 [2008]
Costa Rica	<ul style="list-style-type: none"> <li>• Domestic,</li> <li>• Psychological,</li> <li>• Physical,</li> <li>• Sexual,</li> <li>• Economic.</li> </ul>	Article 2 of the Law Against Domestic Violence, number 7586
Dominican Republic	<ul style="list-style-type: none"> <li>• Domestic Violence including against children,</li> <li>• Labor violence against the employee, his/her family or dependents.</li> </ul>	Labor Code
Ecuador	<ul style="list-style-type: none"> <li>• Physical violence,</li> <li>• Psychological violence,</li> <li>• Sexual violence,</li> <li>• Economic and patrimonial violence,</li> <li>• Symbolic violence,</li> <li>• Gyneco-obstetric violence.</li> </ul>	Article 10 of the Law to Prevent and Eradicate Violence against Women
El Salvador	<ul style="list-style-type: none"> <li>• Community Violence,</li> <li>• Institutional Violence,</li> <li>• Labor Violence.</li> </ul>	Integral Special Law for a life free of Violence to Women



EXHIBIT D		
Country	Categories of violence contemplated by law	Law contemplating the categories of violence
Guatemala	<ul style="list-style-type: none"> <li>• Psychological,</li> <li>• Physical,</li> <li>• Sexual,</li> <li>• Economic including labor violence,</li> <li>• Institutional, symbolic and media not expressly provided for but should be prohibited.</li> </ul>	Law against Femicide and Other Types of Violence Against Women
Honduras	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Psychological,</li> <li>• Media violence.</li> </ul>	New Criminal Code
Mexico	<ul style="list-style-type: none"> <li>• Psychological,</li> <li>• Physical,</li> <li>• Patrimonial,</li> <li>• Economic,</li> <li>• Sexual.</li> </ul>	
Nicaragua	<ul style="list-style-type: none"> <li>• Sexual crimes including sexual harassment,</li> <li>• Domestic including economic or patrimonial violence,</li> <li>• Femicide,</li> <li>• Psychological,</li> <li>• Physical,</li> <li>• Patrimonial and economic violence.</li> </ul>	<p>Criminal Code, Law 641 (published in the Official Gazette No. 124 of June 30, 1999)</p> <p>Family Code Law 870, (published in the Official Gazette No. 190 of October 8, 2014)</p> <p>Law 779, Comprehensive Law Against Violence Towards Women and Reforms to Law No. 641, "Criminal Code", (published in the Official Gazette No. 35 of February 22, 2012)</p>
Panama	<ul style="list-style-type: none"> <li>• Violence against reproductive freedom,</li> <li>• Teaching and educational violence,</li> <li>• Violence in public and private health services,</li> <li>• Violence in the community,</li> <li>• Physical violence,</li> </ul>	Law 82 of October 23, 2013

EXHIBIT D		
Country	Categories of violence contemplated by law	Law contemplating the categories of violence
	<ul style="list-style-type: none"> <li>• Institutional violence,</li> <li>• Labor and salary violence,</li> <li>• Media violence,</li> <li>• Symbolic violence,</li> <li>• Obstetric violence,</li> <li>• Patrimonial and economic violence,</li> <li>• Political violence,</li> <li>• Psychological violence,</li> <li>• Sexual violence.</li> </ul>	
Paraguay	<ul style="list-style-type: none"> <li>• Femicide,</li> <li>• Physical,</li> <li>• Psychological,</li> <li>• Sexual,</li> <li>• Against reproductive rights,</li> <li>• Economic,</li> <li>• Labor,</li> <li>• Political,</li> <li>• Family,</li> <li>• Obstetric,</li> <li>• Mediatic,</li> <li>• Telematic,</li> <li>• Symbolic,</li> <li>• Institutional,</li> <li>• Against dignity.</li> </ul>	Law N° 5777/2016
Peru	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Psychological,</li> <li>• Sexual,</li> <li>• Economic,</li> <li>• Labor,</li> <li>• In private or public sphere.</li> </ul>	Article 8 of Law No. 30364
Uruguay	<ul style="list-style-type: none"> <li>• Physical,</li> <li>• Psychological,</li> <li>• Patrimonial,</li> <li>• Sexual,</li> <li>• Regarding sexual orientation,</li> <li>• Economic,</li> <li>• Symbolic,</li> <li>• Obstetric,</li> <li>• Labor,</li> </ul>	Law No. 19.580

EXHIBIT D		
Country	Categories of violence contemplated by law	Law contemplating the categories of violence
	<ul style="list-style-type: none"> <li>• In educational environment,</li> <li>• Street harassment,</li> <li>• Political,</li> <li>• Media,</li> <li>• Domestic,</li> <li>• Femicide,</li> <li>• Institutional,</li> <li>• Communitarian,</li> <li>• Racial.</li> </ul>	
Venezuela	<ul style="list-style-type: none"> <li>• Psychological,</li> <li>• Harassment,</li> <li>• Threat,</li> <li>• Physical,</li> <li>• Domestic,</li> <li>• Sexual violence,</li> <li>• Rape,</li> <li>• Forced prostitution,</li> <li>• Sexual slavery,</li> <li>• Sexual harassment,</li> <li>• Labor violence,</li> <li>• Obstetric violence,</li> <li>• Forced sterilization,</li> <li>• Media violence,</li> <li>• Institutional violence,</li> <li>• Symbolic violence,</li> <li>• Trafficking of women and girls,</li> <li>• Slave traffic of women and girls.</li> </ul>	Article 15 of the Organic Law on the Right of Women to a Life Free from Violence [April 17, 2007]