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THE UNITED STATES' HUMAN RIGHTS OBLIGATIONS ON GUNS AND DOMESTIC VIOLENCE

INTRODUCTION	1
PREVALENCE AND TYPES OF GUN-RELATED DOMESTIC VIOLENCE INCIDENTS.....	1
U.S. LAWS ON GUNS AND DOMESTIC VIOLENCE.....	3
INTERNATIONAL HUMAN RIGHTS OBLIGATIONS ON GUNS AND DOMESTIC VIOLENCE.....	5
SUGGESTED QUESTIONS FOR THE U.S. LOIPR	13

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INTRODUCTION

This submission to the U.N. Human Rights Committee analyzes the issue of guns and domestic abuse in the United States using a human rights-based approach. The submission first lays out the prevalence and types of gun-related incidents in domestic violence situations/instances in the United States, highlighting that the use of guns in intimate partner fatal and non-fatal violence disproportionately affects women and that domestic gun violence is intersectional. It then analyzes relevant U.S. laws on guns and domestic abuse, highlighting five key loopholes that particularly implicate the U.S. government's obligations under international human rights law: (1) loopholes in federal and state laws banning purchase or possession of guns by domestic abusers; (2) the absence of, or inadequate, firearms licensing requirements, including regarding domestic abusers; (3) inadequate sanctions and enforcement of firearms restrictions for prohibited domestic abusers; (4) failure to require background checks for all gun sales and incomplete background checks; and (5) failure to maintain records on all background checks and to disclose data. The submission concludes by analyzing the international human rights framework governing the issue of guns and domestic violence, highlighting the due diligence obligations of the United States that derive from treaties ratified by the U.S. government, principally the International Covenant on Civil and Political Rights. Finally, the submission concludes with a suggested list of questions for inclusion in the List of Issues Prior to Reporting to the United States.

PREVALENCE AND TYPES OF GUN-RELATED DOMESTIC VIOLENCE INCIDENTS

- **Guns are the most frequently used weapon in instances of fatal intimate partner violence against women in the United States.** “In an average month, 50 American women are shot to death by intimate partners, and many more are injured.”¹ From 2001 through 2012, “[o]f all the women killed by intimate partners during this period, 55 percent were killed with guns.”² In 2016, of:

homicides in which the weapon could be identified, 56 percent of female victims . . . were killed with a gun. Of the females killed with a firearm, 62 percent were murdered by male intimates. The number of females shot and killed by their husband or intimate acquaintance . . . was nearly five times higher than the total number murdered by male strangers using all weapons combined . . . in single victim/single offender incidents . . .³

- **The use of guns in intimate partner violence disproportionately affects women.** Between 2006 and 2014, “[a]n average of 760 Americans were killed with guns annually by their spouses, ex-spouses or dating partners,” of which “[c]urrent wives and girlfriends comprised nearly 75 percent of all victims in fatal domestic shootings. Overall, women were the victims in more than four out of every five of these types of incidents.”⁴

¹ *Guns and Domestic Violence*, EVERYTOWN FOR GUN SAFETY, <https://everytownresearch.org/guns-domestic-violence> (emphasis removed and internal citations omitted).

² See ARKADI GERNEY & CHELSEA PARSONS, CENTER FOR AMERICAN PROGRESS, WOMEN UNDER THE GUN HOW GUN VIOLENCE AFFECTS WOMEN AND 4 POLICY SOLUTIONS TO BETTER PROTECT THEM 1 (2014), <https://cdn.americanprogress.org/wp-content/uploads/2014/06/GunsDomesticViolencereport.pdf> (citing FED. BUREAU OF INVESTIGATION, *Supplemental Homicide Data* (U.S. Dept. of Justice, 2001–2012)).

³ VIOLENCE POLICY CENTER, WHEN MEN MURDER WOMEN: AN ANALYSIS OF 2016 HOMICIDE DATA 5 (2018), <http://vpc.org/studies/wmmw2018.pdf>.

⁴ *Domestic Shooting Homicides*, ASSOC. PRESS (2016), <http://data.ap.org/projects/2016/domestic-gun-homicides/>.

- **The presence of firearms increases the risks that incidents of domestic violence for women will become deadly.** The presence of a gun in domestic violence situations (e.g., in the home) increases the risk of intimate partner homicide for women by 500%.⁵
- **Guns are also often used in non-fatal intimate partner violence against women, with significant adverse effects.** For example, “[a]bout 4.5 million have had an intimate partner threaten them with a gun and nearly one million have been shot or shot at by an intimate partner.”⁶ Such “hostile gun displays against family members may be more common than gun use in self-defense, and . . . hostile gun displays are often acts of domestic violence directed against women.”⁷ Further, “the trauma associated with gun violence takes a lasting physical and emotional toll on victims and their families,”⁸ including children.⁹ The financial cost of firearm-related injuries is significant: between 2006 and 2014, “the costs of initial hospitalization for firearm-related injuries totaled almost \$7 billion and averaged \$730 million per year,” with the government bearing responsibility for 41% of these costs.¹⁰
- **The fatal use of guns against women is a problem everywhere, but is particularly stark in the United States.** Women in the United States are 16 times more likely to be killed with guns than women in other high-income countries.¹¹
- **Guns are prevalent in workplace homicides among U.S. women perpetrated by intimate partners.** In workplace homicides among U.S. women between 2003 and 2008, nearly 80 percent of the “personal relations” homicides (which constitute 33% of the workplace homicides among U.S. women) were perpetrated by an intimate partner and while firearms were used in 67% of workplace homicides overall, a “significantly larger percentage” of “personal relations” homicides (i.e. 80%) were caused by firearms.¹²
- **Domestic gun violence is intersectional.** Comprehensive data analyzing rates of domestic gun homicides and other gun-incidents among racial minorities, sexual minorities, and immigrant communities is lacking. With respect to race and ethnicity, in one recent study of more than 10,000 homicides between 2003 and 2014, “[a]cross all racial/ethnic groups of women, over half of female homicides for which circumstances were known were IPV-related, with >90% of these women being killed by their current or former intimate partner;” further, it was determined that “[n]on-

⁵ Jacquelyn C. Campbell, Daniel Webster, & Jane Koziol-McLain et al., *Risk factors for femicide within physically abusive intimate relationships: results from a multi-site case control study*, 93 AMER. J. OF PUBLIC HEALTH 1089-1097 (2003).

⁶ Susan B. Sorenson & Rebecca Schut, *Non-fatal Gun Violence in Intimate Partner Violence: A Systematic Review of the Literature*, TRAUMA, VIOLENCE, & ABUSE (2016).

⁷ Deborah Azrael & David Hemenway, “*In the Safety of Your Own Home*”: Results from a National Survey on Gun Use at Home, SOC. SCI. & MED. 50 285-291 (2000).

⁸ NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, GUN VIOLENCE: A THREAT TO WOMEN AND FAMILIES 1 (2018), <http://www.nationalpartnership.org/our-work/resources/health-care/gun-violence-a-threat-to-women-and-families.pdf>.

⁹ April Zeoli, *Children, Domestic Violence, and Guns*, SAFER FAMILIES, SAFER COMMUNITIES 6 (2018) (describing that children may experience impacts that include post-traumatic stress disorder, emotional disorders, as well as behavioral problems).

¹⁰ Sarabeth A. Spitzer, Kristan L. Staudenmayer, & Lakshika Tennakoon et al., *Costs and Financial Burden of Initial Hospitalizations for Firearm Injuries in the United States, 2006–2014*, 107 AMER. J. OF PUBLIC HEALTH 773 (2017).

¹¹ EVERYTOWN FOR GUN SAFETY, GUNS AND DOMESTIC VIOLENCE, <https://everytownresearch.org/wp-content/uploads/2017/01/Guns-and-Domestic-Violence-04.04.18.pdf> (2017) (using data from Erin Grinshteyn & David Hemenway, *Violent death rates: the US compared with other high-income OECD countries, 2010*, 129(3) AM. J. MED., 266-273 (2016)).

¹² Hope M. Tiesman, Kelly K. Gurka, & Srinivas Konda et al., *Workplace Homicides Among U.S. Women: The Role of Intimate Partner Violence*, 22(4) ANN. EPIDEMIOLOG. 277-84 (2012).

Hispanic black and American Indian/Alaska Native women experienced the highest rates of homicide” and “[f]irearms were used in 53.9% of female homicides, most commonly among non-Hispanic black victims (57.7%; $p < 0.01$).”¹³ In 2016, “black females were murdered by males at a rate more than twice as high as white females: 2.62 per 100,000 versus 1.03 per 100,000.”¹⁴ Regarding sexual minorities, while “[d]omestic violence also occurs within the LGBTI community,” limited data prevents a clear understanding of the ways in which various laws on guns and domestic violence impact persons in LGBTI relationships.¹⁵

- **Domestic violence and mass shootings.** According to Everytown for Gun Safety, between 2009 and 2017, there were 173 identified mass shootings; in at least 54% of these cases, “the perpetrator also shot a current or former intimate partner or family member.”¹⁶ These mass shootings resulted in at least 1793 people shot (1001 killed and 792 injured), and one out of five victims were children.¹⁷
- **Domestic violence and law enforcement fatalities.** A 2016 report which analyzed police line-of-duty deaths over a five-year period revealed that “calls related to domestic disputes and domestic-related incidents represented the highest number of fatal types of calls for service and were also the underlying cause of law enforcement fatalities for several other calls for service.”¹⁸

U.S. LAWS ON GUNS AND DOMESTIC VIOLENCE

Within relevant U.S. laws on guns and domestic abuse, there are five key loopholes that particularly implicate the U.S. government’s obligations under international human rights law: (1) loopholes in federal and state laws banning purchase or possession of guns by domestic abusers; (2) the absence of, or inadequate, firearms licensing requirements, including regarding domestic abusers; (3) inadequate sanctions and enforcement of firearms restrictions for prohibited domestic abusers; (4) failure to require background checks for all gun sales and incomplete background checks; and (5) failure to maintain records on all background checks and to disclose data.

¹³ Emiko Petrosky, et al., *Racial and Ethnic Differences in Homicides of Adult Women and the Role of Intimate Partner Violence — United States, 2003–2014* 66(28) MORBIDITY AND MORTALITY WEEKLY REP. 741-746 (2017).

¹⁴ VIOLENCE POLICY CENTER, *supra* note 3, at 6.

¹⁵ AMNESTY INTERNATIONAL, *IN THE LINE OF FIRE* 90 (2018), https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full_16.pdf.

¹⁶ *Mass Shootings in the United States: 2009-2017*, EVERYTOWN FOR GUN SAFETY, <https://everytownresearch.org/reports/mass-shootings-analysis/> (Everytown for Gun Safety uses a definition of mass shooting that involves “an incident in which four or more people, not including the shooter, are killed with a firearm.”). *See also* ROBERT J. MORTON, U.S. DEP’T OF JUST., FED. BUREAU OF INVESTIGATION, SERIAL MURDER MULTI-DISCIPLINARY PERSPECTIVES FOR INVESTIGATORS 8 (2005).

¹⁷ *Mass Shootings in the United States: 2009-2017*, EVERYTOWN FOR GUN SAFETY, *supra* note 16.

¹⁸ NICK BREUL & MIKE KEITH, NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND & U.S. DEP’T OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) OFFICE, *DEADLY CALLS AND FATAL ENCOUNTERS* 4 (2016), <https://www.nationalpublicsafetypartnership.org/clearinghouse/Resource/379>.

- **Loopholes in federal and state laws banning purchase or possession of guns by domestic abusers.** U.S. federal law prohibits nine categories of people from gun possession, sale, and transfer.¹⁹ In the domestic violence context, the most relevant categories include intimate partners under domestic violence restraining orders²⁰ and persons “convicted in any court of a misdemeanor crime of domestic violence.”²¹ However, these prohibitions do not apply to: (1) persons convicted of violent or gun-related misdemeanors; (2) individuals in current or former dating relationships with people unless they cohabitate or have a child together (the so-called boyfriend loophole is particularly significant given that in the United States, between 1980 and 2008, 48.6% of individuals killed by intimate partners were killed by dating partners²²); (3) situations in which *ex parte* restraining orders have been issued;²³ and (4) persons convicted of misdemeanor crimes of stalking.²⁴
- **Absence of, or inadequate, firearms licensing requirements, including for domestic abusers.** There is no federal law that requires civilian gun owners to hold a license²⁵ and while some states have licensing requirements, they are in the minority.²⁶
- **Inadequate sanctions and enforcement of firearms restrictions for prohibited domestic abusers.** There is no federal requirement that requires, for example, that domestic abusers relinquish weapons;²⁷ a notification procedure for domestic violence victims when their abusers attempt to buy firearms; or that police seize guns at the scene of a domestic violence incident.
- **Failure to require background checks for all gun sales and incomplete background checks.** The Brady Handgun Violence Prevention Act that governs background check requirements for licensed dealers²⁸ is designed to ensure that the seller of a firearm does not violate federal, state, or local law by transacting with a particular buyer²⁹ by checking the buyer’s identity against the National Instant Criminal Background Check System (NICS).³⁰ The background check is significant in addressing gun violence by intimate partners because “[i]n states that require a background check for every handgun sale, 47% fewer women are shot to death by intimate partners.”³¹ However, in practice, this does not support domestic violence victims. For example, the federal background checks requirement does not govern private sales; if the Federal Bureau of Investigation (FBI) does not respond to a licensed seller’s request for a check after three business

¹⁹ 18 U.S.C. § 922(g) (2012); 18 U.S.C. § 18(d).

²⁰ 18 U.S.C. §§ 922(g)(8).

²¹ Lautenberg Amendment (also known as the Domestic Violence Offender Gun Ban), an amendment to the Omnibus Consolidated Appropriations Act of 1997 (Pub. L. No. 104–208, 110 Stat. 3001 (1996)) codified under 18 U.S.C. § 922(d)(9) and (g)(9). *See* 18 U.S.C. § 921(33) (defining a misdemeanor crime of domestic violence).

²² ALEXIA COOPER & ERICA L. SMITH, U.S. DEP’T OF JUST., HOMICIDE TRENDS IN THE UNITED STATES, 1980-2008 19 (2011).

²³ 18 U.S.C. 922(d)(8), (g)(8). *See also* WINNIE STACHELBERG ET AL., CENTER FOR AMERICAN PROGRESS, PREVENTING DOMESTIC ABUSERS AND STALKERS FROM ACCESSING GUNS 6 (2013), <https://cdn.americanprogress.org/wp-content/uploads/2013/05/GunsStalkersBrief-3.pdf>.

²⁴ *See generally* STACHELBERG ET AL., *supra* note 23, at 6.

²⁵ *See generally* 18 U.S.C. Chapter 44.

²⁶ AMNESTY INTERNATIONAL, *supra* note 15, at 132-133.

²⁷ *Domestic Violence and Firearms*, THE GIFFORDS LAW CENTER, <http://lawcenter.giffords.org/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/#state>.

²⁸ Pub. L. No. 103–159, 107 Stat. 1536 (1993).

²⁹ 18 U.S.C. § 922(s).

³⁰ 18 U.S.C. § 922(t). *About NICS*, FBI, <https://www.fbi.gov/services/cjis/nics/about-nics>.

³¹ *The Background Check Loophole*, EVERYTOWN FOR GUN SAFETY, https://everytownresearch.org/wp-content/uploads/2017/01/Background-Check-FactSheet_011317_5.pdf.

days, the seller may sell the gun to the buyer;³² and NICS is an incomplete database, including because states are not required to report information.³³

- **Failure to maintain records on all background checks and to disclose data.** The “Tiahrt Amendments” to appropriation bills require the FBI to destroy records associated with background checks within 24 hours of completing a check when it is determined that a transfer would not violate the law.³⁴ These amendments also impose restrictions on subpoenaing trace data for use in civil lawsuits³⁵ and restrict admissibility of such data as evidence in any civil action.³⁶ Finally, because there is no federal law that requires owners to register their guns, there is also no database of gun registrations.³⁷

INTERNATIONAL HUMAN RIGHTS OBLIGATIONS ON GUNS AND DOMESTIC VIOLENCE

States’ obligations under international human rights law on the use of guns by domestic abusers implicate a number of human rights guarantees, including particularly the right to non-discrimination and equality on the basis of sex and gender,³⁸ as well as other intersecting prohibited grounds of discrimination, such as race;³⁹ the rights to life and security;⁴⁰ the rights of the child;⁴¹ and a series of economic, social, and

³² 18 U.S.C. § 922(t)(1). *See* U.S. GOVT’S ACCOUNTABILITY OFF., GAO-16-483, GUN CONTROL: ANALYZING AVAILABLE DATA COULD HELP IMPROVE BACKGROUND CHECKS INVOLVING DOMESTIC VIOLENCE RECORDS 29 (2016) (“According to FBI data, more than 500 firearms were transferred to individuals with prohibiting MCDV [misdemeanor crimes of domestic violence] records or prohibiting protection orders each year from fiscal years 2006 through 2015—about 6,700 total transfers—because the FBI denial determination was made after 3 business days, which resulted in the FBI referring these cases to ATF [Bureau of Alcohol, Tobacco, Firearms and Explosives] for firearm retrieval.”).

³³ 28 CFR § 25.4 (“Information in the NCIC . . . that will be searched during a background check has been or will be contributed voluntarily by Federal, state, local, and international criminal justice agencies.”) *See* National Crime Information Center (NCIC), <https://www.fbi.gov/services/cjis/ncic>.

³⁴ 18 U.S.C. § 922(t)(2); Consolidated and Further Continuing Appropriations Act, Pub. L. No. 112-55, 125 Stat. 552 (2012), § 511(2).

³⁵ Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 2859 (2004).

³⁶ Science, State, Justice, Commerce, and Related-Agencies Appropriations Act of 2006, Pub. L. No. 109-108, 119 Stat. 2290, 2296 (2005).

³⁷ *See, e.g.*, AMNESTY INTERNATIONAL, *supra* note 15, at 134.

³⁸ *See, e.g.*, ICCPR, arts. 2(1), 3, 26; International Covenant on Economic, Social and Cultural Rights (ICESCR), arts. 2(2), 3; Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), arts. 1-4; International Convention on the Elimination of All Forms of Racial Discrimination (CERD), art. 1(1) (*see also* CERD Comm., *General Rec. No. 25: Gender-related Dimensions of Racial Discrimination* (2000)); Convention on the Rights of the Child (CRC), art. 2.

³⁹ *See, e.g.*, Human Rights Comm., General Comment No. 28, *Article 3 (The Equality of Rights Between Men and Women)*, CCPR/C/21/Rev.1/Add.10, ¶ 30 (2000); CERD Comm., *General Rec. No. 32, The meaning and scope of special measures in the International Convention on the Elimination of All Forms [of] Racial Discrimination*, CERD/C/GC/32, ¶ 7 (2009); Comm. on the Elimination of Discrimination against Women (CEDAW), *General Rec. No. 25: Temporary Special Measures*, ¶ 12 (2004).

⁴⁰ Human Rights Comm., *Concluding Observations: United States of America*, CCPR/C/79/Add.50 ¶ 17 (1995).

⁴¹ *See* Human Rights Comm., *General Comment No. 17: Article 24 (Rights of the child)* ¶ 4 (1999) (“[t]he right to special measures of protection belongs to every child because of his status as a minor”), ¶ 3 (“every possible economic and social measure should be taken to reduce infant mortality and to eradicate malnutrition among children and to prevent them from being subjected to acts of violence and cruel and inhuman treatment . . .”). *See also* Comm. on the Rights of the Child, General Comment No. 13, *The right of the child to freedom from all forms of violence*, CRC/C/GC/13 (2011) (*CRC General Comment No. 13*); Comm. on the Rights of the Child, General Comment 14, *The right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, CRC/C/GC/14 (2013).

cultural rights, including the rights to physical and mental health (for individuals shot or threatened, as well as those affected by secondary victimization),⁴² and work.⁴³

Because of the predominant role of private actors⁴⁴ in the use of guns in domestic violence contexts, the U.S. government's obligations in this area primarily engage the requirement to exercise due diligence, which derives from the obligation to protect individuals against human rights abuse by private actors, such as individuals and corporations.⁴⁵ This requires the U.S. government to exercise due diligence to prevent gun violence in domestic situations, to investigate and prosecute perpetrators, to assist and protect victims, and to ensure remedies.⁴⁶ The specific content of due diligence obligations has been articulated in a number of areas directly applicable to gun violence in domestic violence contexts, including the right to life,⁴⁷

⁴² See generally Comm. on the Rights of the Child, General Comment No. 15, *The right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, CRC/C/GC/15 (2013); Comm. on Economic, Social and Cultural Rights, General Comment No. 14, *The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)* E/C.12/2000/4 (2000). For a more detailed overview of the health and human rights of gun violence survivors, see Cate Buchanan, *The Health and Human Rights of Gun Violence Survivors: Charting a Research and Policy Agenda*, 13(2) HEALTH AND HUMAN RIGHTS 50 (2011).

⁴³ *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, Addendum Mission to the United States of America*, U.N. Doc. A/HRC/17/26/Add.5 and Corr.1 ¶¶ 19-20 (June 6, 2011). See generally Comm. on Economic, Social and Cultural Rights, *General Comment No. 23 on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)* E/C.12/GC/23 (2016).

⁴⁴ See *supra* notes 1-4.

⁴⁵ See *Velásquez-Rodríguez v. Honduras*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 4, ¶ 172 (July 29, 1988). For international human rights jurisprudence, see Human Rights Comm., General Comment No. 31, *Nature of the General Legal Obligation on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13 ¶ 8 (2004) (*HRC General Comment No. 31*); CEDAW, *General Rec. No. 19, Violence against women*, A/47/38 at 1, ¶ 9 (1993), reprinted in *Compilation of General Comments and General Rec. Adopted by Human Rights Treaty Bodies*, HRI/GEN/1/Rev.6 at 243 (2003) (*CEDAW General Rec. No. 19*); CEDAW, *General Rec. No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/GC/28 ¶ 13 (2010) (*CEDAW General Rec. No. 28*); CEDAW, *General Rec. No. 30 on women in conflict prevention, conflict and post-conflict situations* CEDAW/C/GC/30 ¶ 15 (2013) (*CEDAW General Rec. No. 30*); Comm. on Economic, Social and Cultural Rights, General Comment No. 12, *Right to adequate food*, E/C.12/1999/5, ¶ 15 (1999); *CRC General Comment No. 13, supra* note 41, at ¶ 5; Comm. Against Torture, General Comment No. 2, *Implementation of Article 2 by States Parties*, CAT/C/GC/2 ¶ 18 (2008) (*CAT General Comment No. 2*); Comm. Against Torture, General Comment No. 3, *Implementation of article 14 by States parties*, CAT/C/GC/3 ¶ 7 (2012) (*CAT General Comment. No. 3*).

⁴⁶ See, e.g., Special Rapporteur on violence against women, its causes and consequences, *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women: The Due Diligence Standard as a Tool for the Elimination of Violence against Women*, ¶ 27, U.N. Doc. E/CN.4/2006/61 (Jan. 20, 2006).

⁴⁷ Human Rights Comm., General Comment No. 36, *General Comment No. 36, on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 20 CCPR/C/GC/36 (2018) (*HRC General Comment No. 36*). See also *Velásquez-Rodríguez v. Honduras, supra* note 45.

violence against women,⁴⁸ and sex-based discrimination,⁴⁹ alongside a set of specific due diligence obligations that pertain to the civilian acquisition, possession, and use of firearms.⁵⁰

This section considers how these due diligence obligations taken as a whole from treaties that the U.S. government has ratified—and principally through the ICCPR⁵¹—require the U.S. government to address gun violence against women in domestic violence contexts. It first sets out these requirements under international human rights law—particularly as developed in the context of discrimination and violence against women—before outlining how obligations on domestic violence have also been specified within due diligence obligations on the civilian acquisition, possession, and use of firearms.

Due diligence under international human rights law, including on discrimination and violence against women

- A State’s due diligence obligation **applies without discrimination to all individuals within a State’s jurisdiction, including citizens and non-citizens.**⁵² Non-discrimination obligations require States “to use the same level of commitment in relation to prevention, investigation, punishment and provision of remedies for violence against women as they do with regards to the other forms of violence.”⁵³ It also requires States to **address the intersectional nature of gun violence in domestic violence.** The U.N. Human Rights Committee has recently emphasized that “[l]egal protections for the right to life must apply equally to all individuals and provide them with effective guarantees against all forms of discrimination, including multiple and intersectional forms of discrimination.”⁵⁴ In relation to the United States, the U.N. Special Rapporteur on violence against women, its causes, and consequences, has specifically called on the

⁴⁸ See, e.g., *CEDAW General Rec. No. 19*, *supra* note 45, at ¶ 9. See also Hearing Submission: *Jessica Lenahan (Gonzales) v. United States*, presented by the U.N. Special Rapporteur on violence against women, its causes and consequences to the Inter-American Commission on Human Rights (Oct. 27, 2014); *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, U.N. Doc. A/HRC/23/49 (May 14, 2013); E/CN.4/2006/61, *supra* note 46; *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, on trafficking in women, women’s migration and violence against women, submitted in accordance with Commission on Human Rights resolution 1997/44*, U.N. Doc. E/CN.4/2000/68 (Feb. 29, 2000); Special Rapporteur on violence against women, its causes and consequences, *Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, including the Question of the Programme and Methods of Work of the Commission: Alternative Approaches and Ways and Means within the United Nations Systems for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms*, Comm’n on Human Rights, ¶¶ 32–33, U.N. Doc. E/CN.4/1996/53 (Feb. 5, 1996). See further *Declaration on the Elimination of Violence against Women*, A/RES/48/104 art. 4(c) (1993); *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995*, annexed to A/CONF.177/20/Rev.1 ¶ 124(b) (1995).

⁴⁹ See, e.g., *CEDAW General Rec. No. 28*, *supra* note 45, at ¶ 13.

⁵⁰ See generally U.N. Human Rights Council, *Human rights and the regulation of civilian acquisition, possession and use of firearms*, U.N. Doc. A/HRC/32/21 (Apr. 15, 2016).

⁵¹ This analysis focuses on human rights treaties ratified by the United States, principally the ICCPR. Where other treaty monitoring bodies have articulated due diligence obligations in relation to rights that are covered in these binding treaties, this is also included. Of the nine core international human rights treaties, the United States has ratified the ICCPR, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and CERD. The United States has signed but not ratified CEDAW, the Convention on the Rights of Persons with Disabilities, the CRC, and the ICESCR. The United States has neither signed nor ratified the International Convention on the Protection of all Persons from Enforced Disappearances or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. See <http://indicators.ohchr.org> (United States).

⁵² See *HRC General Comment No. 31*, *supra* note 45, at ¶ 10; *CEDAW General Rec. No. 28*, *supra* note 45, at ¶ 12; *CEDAW General Rec. No. 30*, *supra* note 45, at ¶ 2.

⁵³ E/CN.4/2006/61, *supra* note 46, at ¶ 35.

⁵⁴ *HRC General Comment No. 36*, *supra* note 47, at ¶ 61.

government to “[r]eview and more effectively address the disproportionate impact that violence has on poor, minority, and immigrant women.”⁵⁵

- In addition to States’ obligations with regard to individual non-State actor perpetrators, States’ due diligence obligations to prevent, investigate, and punish gun violence also **require measures toward corporations** (e.g., gun manufacturers and retailers), alongside any measure these corporations themselves may adopt as part of their “human rights due diligence process.”⁵⁶ The territorial and extraterritorial application of a State’s international human rights obligations⁵⁷ also means that **States’ due diligence obligations apply extraterritorially**,⁵⁸ such as to corporations within their jurisdiction that manufacture and sell arms abroad.
- A core component of due diligence is that all measures to prevent and respond to violence against women be based on “**accurate empirical data**.”⁵⁹ Consistent with international human rights obligations—including the obligation of substantive equality—such measures **should be targeted to those most at risk** of gun violence in domestic violence contexts.⁶⁰ In this regard, the U.N. Human Rights Committee has recently emphasized that the “duty to protect the right to life requires States parties to take special measures of protection towards persons in situation of vulnerability whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence,” and that this includes “victims of domestic and gender-based violence.”⁶¹
- Due diligence requires a **focus on prevention**, meaning that States have a “systemic”⁶² responsibility to **address “root causes”**⁶³ that contribute to gun violence in domestic violence contexts, including “ongoing gender discrimination.”⁶⁴ State failures to respect and fulfill the rights of non-discrimination and equality contribute to creating “environments that are conducive to acts of violence against women.”⁶⁵
- As noted below, States have a series of due diligence obligations relating to the **criminalization, investigation, prosecution, and punishment** of those perpetrating gun violence against women in domestic violence situations.⁶⁶ These obligations also engage the State’s obligation to “investigate all acts of violence against women, including systemic failures to prevent violence

⁵⁵ A/HRC/17/26/Add.5, *supra* note 43, at ¶ 115(A)(b).

⁵⁶ *See, e.g., U.N. Guiding Principles on Business and Human Rights* (2011), Principles 15(b), 17, 18-21; Patricia Illingworth, *Businesses, Guns, and Human Rights*, The Hastings Center, Mar. 22, 2018, <https://www.thehastingscenter.org/businesses-guns-human-rights/>.

⁵⁷ *See, e.g., HRC General Comment No. 31, supra* note 45, at ¶ 10; *CAT General Comment No. 2, supra* note 45, at ¶¶ 7, 16; *CEDAW General Rec. No. 28, supra* note 45, at ¶ 12; *CEDAW General Rec. No. 30, supra* note 45, at ¶¶ 8-10, 15; *Case Concerning Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Uganda), I.C.J. Reports 2005, p. 168, at ¶¶ 216-217.

⁵⁸ E/CN.4/2006/61, *supra* note 46, at ¶ 34.

⁵⁹ *Id.*, at ¶ 37.

⁶⁰ *See, e.g., Jessica Lenahan (Gonzales) v. United States*, Case 12.626, Inter-Am. Comm’n H.R., Report No. 80/11 ¶ 127 (2011); *Accelerating efforts to eliminate all forms of violence against women: ensuring due diligence in prevention*, U.N. Doc. A/HRC/14/L.9/Rev.1 (June 16, 2010), ¶ 11.

⁶¹ *HRC General Comment No. 36, supra* note 47, at ¶ 23 (citations omitted).

⁶² A/HRC/23/49, *supra* note 48, at ¶ 70.

⁶³ *Id.* at ¶ 20.

⁶⁴ *Id.* *See also* Special Rapporteur on trafficking in persons, especially women and children, *Due diligence and trafficking in persons*, U.N. Doc. A/70/260 ¶ 19 (2016).

⁶⁵ A/HRC/23/49, *supra* note 48, at ¶ 20.

⁶⁶ Hearing Submission: *Jessica Lenahan (Gonzales) v. United States, supra* note 48, at 6, 7. *See also* A/HRC/23/49, *supra* note 48, at ¶ 73; E/CN.4/2000/68, *supra* note 48, at ¶ 53.

against women,”⁶⁷ through a “gender perspective,”⁶⁸ and in ways that “must be impartial, serious and exhaustive.”⁶⁹ Those laws must be enforced properly,⁷⁰ which necessarily includes the proper investigation and pursuit of criminal cases involving the use of firearms,⁷¹ including “to commit domestic violence.”⁷² Yet, in relation to the United States, the U.N. Special Rapporteur on violence against women, its causes and consequences has observed that “alleged abusers are rarely prosecuted with a serious offence in domestic violence cases.”⁷³

- When governments fail to meet their obligations of due diligence, they are **required to provide an effective remedy for female victims of gun violence**.⁷⁴ Relevantly, in the context of domestic violence, “immediate family or dependents of the victim as well as persons who have suffered harm in intervening to assist victims or to prevent victimization” are considered victims as well.⁷⁵ This right to remedy should include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.⁷⁶ States are also required to adopt a gender-sensitive approach in the right to remedy, including on reparations,⁷⁷ that will “subvert instead of reinforce pre-existing patterns” that contribute to violence.⁷⁸

The exercise of due diligence requires that remedies for victims be “just,” “available,” and “effective,”⁷⁹ and that any discriminatory barriers to accessing remedies be removed.⁸⁰ In the context of the United States, the U.N. Special Rapporteur on violence against women, its causes and consequences has noted that these barriers are intersectional in their nature and effects, meaning that the “reluctance to reach out to the police is even more entrenched among minority and immigrant communities, as they may view the police and the courts as oppressive, rather than protective institutions.”⁸¹ In providing “specialized assistance” to individual victims of gun violence,⁸² “individual due diligence” requires that States must act “flexibly” to ensure that measures are tailored to individual circumstances, including to ensure access to justice by women within marginalized communities.⁸³ This requirement is of particular relevance in assessing a human rights-based approach to guns and domestic violence in marginalized communities in the

⁶⁷ A/HRC/23/49, *supra* note 48, at ¶ 73.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Prevention of human rights violations committed with small arms and light weapons - Final report submitted by Barbara Frey, Special Rapporteur in accordance with Sub-Commission resolution 2002/25*, U.N. Doc. A/HRC/Sub.1/58/27 ¶ 15 (July 27, 2006).

⁷¹ *Id.* at ¶ 13.

⁷² *Principles on the Prevention of Human Rights Violations Committed with Small Arms in Prevention of Human Rights Violations Committed with Small Arms and Light Weapons*, ¶ 10, endorsed Sub-Com. res. 2006/22, U.N. Doc A/HRC/Sub.1/58/L.11/Add.1 (2006).

⁷³ A/HRC/17/26/Add.5, *supra* note 43, at ¶ 16.

⁷⁴ See, e.g., *HRC General Comment No. 31*, *supra* note 45, at ¶ 8; *CAT General Comment No. 2*, *supra* note 45, at ¶ 18; *CAT General Comment No. 3*, *supra* note 45, at ¶ 7.

⁷⁵ *CAT General Comment No. 3*, *supra* note 45, at ¶ 3. U.N. General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, ¶ 8, A/RES/60/147 (Mar. 21, 2006).

⁷⁶ A/RES/60/147, *supra* note 75, at ¶ 18.

⁷⁷ See *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on a Gender-Sensitive Approach to Arbitrary Killings*, ¶ 118(b), U.N. Doc. A/HRC/35/23 (June 6, 2017).

⁷⁸ A/HRC/23/49, *supra* note 48, at ¶ 75.

⁷⁹ *Id.* at ¶¶ 72-75; E/CN.4/1996/53, *supra* note 48, at ¶ 37. See also Hearing Submission: *Jessica Lenahan (Gonzales) v. United States*, *supra* note 48, at 6.

⁸⁰ *CAT General Comment No. 3*, *supra* note 45, at ¶ 33.

⁸¹ A/HRC/17/26/Add.5, *supra* note 43, at ¶ 14.

⁸² E/CN.4/2006/61, *supra* note 46, at ¶ 27.

⁸³ A/HRC/23/49, *supra* note 48, at ¶ 70.

United States, where measures that call for an increased role of law enforcement in addressing gun violence cannot ignore the adverse impacts of policing in these communities, including practices which have actually discouraged the reporting of domestic violence to police.⁸⁴

Regulating the civilian acquisition, possession, and use of firearms in domestic violence

Regulating the civilian acquisition, possession, and use of firearms: general

The human rights impacts of gun violence in domestic violence have been shown to implicate due diligence obligations of States on regulating the civilian acquisition, possession, and use of firearms,⁸⁵ requiring that States address the phenomenon of gun violence through a human rights-based approach.⁸⁶ This due diligence framework in relation to firearms “requires positive State action against reasonably foreseeable abuses by private actors,”⁸⁷ including:

- **Criminalization, investigation, prosecution, and punishment of firearm violence:** the due diligence obligation to prevent killings by non-State actors to guarantee the right to life has been interpreted to include “putting in place effective criminal law provisions to deter commission of offences.”⁸⁸ The U.N. Human Rights Committee has recently affirmed this focus on criminalization as follows: “States parties must enact a protective legal framework which includes effective criminal prohibitions on all manifestations of violence or incitement to violence that are likely to result in a deprivation of life, such as intentional and negligent homicide, unnecessary or disproportionate use of firearms . . .”⁸⁹ In relation to the United States, the U.N. Human Rights Committee has noted “the easy availability of firearms to the public and the fact that federal and State legislation is not stringent enough in that connection to secure the protection and enjoyment of the right to life and security of the individual guaranteed under the Covenant.”⁹⁰
- “Adoption of **adequate laws, regulations and administrative procedures to exercise effective control over the legal possession of firearms by all persons and companies** under a State’s jurisdiction through licensing, registration, monitoring, auditing and mandatory training”⁹¹: The U.N. Human Rights Committee has stated, for example, that pursuant to Article 9 of the ICCPR, States should “protect their populations . . . against the risks posed by excessive availability of firearms.”⁹² In relation to the United States, the U.N. Human Rights Committee has called on the U.S. government to ensure “continued pursuit of legislation **requiring background checks** for all private firearm transfers, in order to prevent possession of arms by persons recognized as prohibited individuals under federal law . . .”⁹³ The U.N. Committee on the Elimination of Racial Discrimination has similarly emphasized in relation to the United States, the

⁸⁴ See, e.g., James Queally, *Fearing deportation, many domestic violence victims are steering clear of police and courts*, L.A. TIMES, Oct. 9, 2017.

⁸⁵ *Principles on the Prevention of Human Rights Violations Committed with Small Arms* ¶¶ 10-15, in A/HRC/Sub.1/58/L.11/Add.1, *supra* note 72.

⁸⁶ A/HRC/32/21, *supra* note 50, at ¶ 52 (internal citations omitted).

⁸⁷ A/HRC/Sub.1/58/27, *supra* note 70, at ¶ 10.

⁸⁸ A/HRC/32/21, *supra* note 50, at ¶ 15 (internal citations omitted).

⁸⁹ *HRC General Comment No. 36*, *supra* note 47, at ¶ 20.

⁹⁰ CCPR/C/79/Add.50, *supra* note 40, at ¶ 17.

⁹¹ A/HRC/32/21, *supra* note 50, at ¶ 54(a).

⁹² Human Rights Comm., General Comment No. 35, *Article 9 (Liberty and security of person)*, CCPR/C/GC/35 ¶ 9 (2014).

⁹³ Human Rights Comm., *Concluding observations on the fourth periodic report of the United States of America*, CCPR/C/USA/CO/4 ¶ 10 (2014).

need to “fulfil its obligation to protect the right to life and to reduce gun violence, including by adopting legislation expanding background checks for all private firearm transfers . . .”⁹⁴

- *Licensing*: In general terms, States’ obligations on licensing have been described as requiring that “states must also enforce a minimum licensing requirement designed to keep small arms out of the hands of persons who are most likely to misuse them.”⁹⁵ This can include ensuring that States “strengthen . . . administrative measures to control the indiscriminate issuance of firearms licences,”⁹⁶ as well as enacting **licensing procedures that take into account an applicant’s “past criminal record including any history of interfamilial violence”**⁹⁷ and strengthening programs designed to disarm individuals of weapons.⁹⁸

Regulating the civilian acquisition, possession, and use of firearms in gender-based violence, including domestic violence

Complementing, and in some cases overlapping with due diligence obligations on non-discrimination and violence against women, are a series of States’ obligations with regard to regulating the civilian acquisition, possession, and use of firearms and domestic violence have also been specifically articulated. The U.N. Special Rapporteur for the prevention of human rights violations committed with small arms and light weapons has noted that there is “growing pressure to hold States responsible for patterns of abuses such as the State’s “failure to protect individuals from a pattern of domestic violence.”⁹⁹ It has further been noted that **licensing requirements should “take into consideration, at a minimum, the following factors: . . . prior criminal record or record of misuse, and prior acts of domestic violence.”**¹⁰⁰

A 2016 report of the U.N. High Commissioner for Human Rights notes “**direct links between civilian access to firearms and violence against women and domestic violence more generally**”¹⁰¹ and states that “[h]uman rights law requires States to protect people from harmful private activities and to adopt appropriate regulatory and institutional frameworks . . . In particular, States must protect women and children who are particularly affected by the harmful impact of both lawful and illicit firearms possession.”¹⁰²

The U.N. Special Rapporteur on violence against women, its causes and consequences, has addressed the ways in which the **proliferation of small arms contributes to gender-based**

⁹⁴ Comm. on the Elimination of Racial Discrimination, *Concluding observations on the combined seventh to ninth periodic reports of the United States of America*, CERD CERD/C/USA/CO/7-9 ¶ 16 (2014).

⁹⁵ A/HRC/Sub.1/58/27, *supra* note 70, at ¶ 6.

⁹⁶ Comm. against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention*, CAT/C/GUY/CO/1 ¶ 7 (2006).

⁹⁷ A/HRC/Sub.1/58/27, *supra* note 70, at ¶ 16.

⁹⁸ Comm. on Economic, Social, and Cultural Rights, *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant*, E/C.12/CHE/CO/2-3 ¶ 19 (2010).

⁹⁹ Barbara Frey, *The question of the trade, carrying and use of small arms and light Weapons in the context of human rights and humanitarian norms*. Working Paper submitted in accordance with Sub-Commission decisions 2001/120 (May 30, 2002). *See also* Special Rapporteur on the prevention of human rights violations committed with small arms and light weapons, *Preliminary Report on the prevention of human rights violations committed with small arms and light weapons*, U.N. Doc. E/CN.4/Sub.2/2003/29 (June 25, 2009).

¹⁰⁰ *Principles on the Prevention of Human Rights Violations Committed with Small Arms* ¶ 10, in A/HRC/Sub.1/58/L.11/Add.1, *supra* note 72.

¹⁰¹ A/HRC/32/21, *supra* note 50, at ¶ 51.

¹⁰² *Id.* at ¶ 53.

violence, including killings (e.g., in the United States, Honduras, Guatemala, and El Salvador).¹⁰³ The Special Rapporteur has further addressed the adverse gender and human rights impacts that derive from the ways in which masculinities are constructed through gun culture.¹⁰⁴ According to this Special Rapporteur, model legislation on domestic violence would provide for protection orders pursuant to which the court order may “[u]pon finding that the defendant’s use or possession of a weapon may pose a serious threat of harm to the plaintiff, prohibit the defendant from purchasing, using or possessing a firearm or any such weapon specified by the court.”¹⁰⁵ Further, requirements that “ensure the arrest of violent abusers and the automatic revocation of firearms licences”¹⁰⁶ have also been praised.

The U.N. Committee on the Elimination of Discrimination against Women has also referenced the enactment of “legislation strictly regulating the trade, sale and possession of small arms, and [that] sanction violations thereof severely”¹⁰⁷ as part of States’ due diligence obligations on non-discrimination.

In relation to guns and domestic violence in the United States in particular:

- The U.N. Working Group on the issue of discrimination against women in law and in practice expressed its concern at the “**persistent fatal consequences for women of the lack of gun control**, in particular in cases of domestic violence.”¹⁰⁸
- In 2014, in its concluding observations on the United States, the U.N. Human Rights Committee expressed its “concern[ed] about the continuing high numbers of gun-related deaths and injuries and the **disparate impact of gun violence on minorities, women and children**” and made a series of recommendations for the U.S. government to “effectively protect the right to life,” including by ensuring “**strict enforcement of the Domestic Violence Offender Gun Ban of 1996 (the Lautenberg Amendment)** . . . ”¹⁰⁹
- In 2011, the U.N. Special Rapporteur on violence against women, its causes and consequences, called on the United States to: “[e]nhance gun control measures, by ensuring an adequate background check system to capture all relevant elements that determine an individual’s suitability for gun ownership” and recommended that: “**States should have clear gun removal policies**”

¹⁰³ A/HRC/17/26/Add.5, *supra* note 43, at ¶ 10; *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, U.N. Doc. A/HRC/20/16 ¶ 68 (May 23, 2012); *Report of Yakin Ertürk, Special Rapporteur on violence against women, its causes and consequences - Mission to el Salvador*, U.N. Doc. E/CN.4/2005/72/Add.2 ¶ 80 (Dec. 20, 2004); *Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Mission to Guatemala*, U.N. Doc. E/CN.4/2005/72/Add.3 ¶ 10 (Feb. 10, 2005); *Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Honduras, (1–8 July 2014)*, U.N. Doc. A/HRC/29/27/Add.1 ¶ 30 (Mar. 31., 2015).

¹⁰⁴ *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 2001/49: Cultural practices in the family that are violent towards women*, U.N. Doc. E/CN.4/2002/83 ¶ 108 (Jan. 31, 2002).

¹⁰⁵ *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*, U.N. Doc. E/CN.4/1996/53/Add.2 ¶ 38(g) (Feb. 2, 1996).

¹⁰⁶ *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*, U.N. Doc. E/CN.4/1999/68 ¶ 57 (Mar. 10, 1999).

¹⁰⁷ Comm. on the Elimination of Discrimination against Women, *Concluding observations on the fourth periodic report of Pakistan*, CEDAW/C/PAK/CO/4 ¶ 14(d) (2013).

¹⁰⁸ U.N. Human Rights Council, *Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to the United States of America*, U.N. Doc. A/HRC/32/44/Add.2 ¶ 77 (Aug. 4, 2016).

¹⁰⁹ CCPR/C/USA/CO/4, *supra* note 93, at ¶ 10.

when intervening in domestic violence cases, including the possibility of removal of guns after the first notification of domestic disputes.”¹¹⁰

SUGGESTED QUESTIONS FOR THE U.S. LOIPR

Non-discrimination and equal rights of men and women (arts. 2, para.1; 3; and 26)

- In the light of the Committee’s previous concluding observations noting the “disparate impact of gun violence on minorities, women and children” (see CCPR/C/USA/CO/4, ¶ 10), please provide information on the number of victims of fatal and non-fatal gun violence—including in the context of domestic violence—with particular attention to providing sex, race, and other disaggregated data that reflects the multiple discrimination faced by women belonging to minority groups, including immigrant women and women in LGBTI relationships.

Violence against women (arts. 3, 7, and 26)

- In the light of the Committee’s previous concluding observations noting the “disparate impact of gun violence on minorities, women and children” (see CCPR/C/USA/CO/4, ¶ 10), please provide information on the practical steps taken to combat gender-based violence, particularly that which involves the use of guns in domestic violence contexts.

Right to life (art. 6)

- In the light of the Committee’s previous concluding observations regarding the “strict enforcement of the Domestic Violence Offender Gun Ban of 1996 (the Lautenberg Amendment)” (see CCPR/C/USA/CO/4, ¶ 10), please provide information on the steps taken to enforce the Lautenberg Amendment, as well as to address situations that are not covered by the Lautenberg Amendment that enable domestic abusers (e.g., stalkers) to access guns.
- In the light of the Committee’s previous concluding observations regarding the “continued pursuit of legislation requiring background checks for all private firearm transfers, in order to prevent possession of arms by persons recognized as prohibited individuals under federal law . . .” (see CCPR/C/USA/CO/4, ¶ 10), please provide information on how loopholes in the background checks system have affected domestic violence victims and the steps taken to address these effects.
- In the light of the Committee’s previous concluding observations noting the “disparate impact of gun violence on minorities, women and children” (see CCPR/C/USA/CO/4, ¶ 10), please provide information on steps taken at the federal and state levels to better protect actual and potential victims of domestic violence against the risks associated with firearm possession, including on gun removal policies in domestic violence cases.

Right to liberty and security of person, treatment of persons deprived of their liberty and fair trial (arts. 7, 9, 10, and 14)

- In the light of the Committee’s previous concluding observations noting the “disparate impact of gun violence on minorities, women and children” (see CCPR/C/USA/CO/4, ¶ 10), please provide information on steps taken to ensure that victims of domestic violence involving guns have full access to the right to remedy, including steps to address obstacles to access to justice such as those experienced by women within marginalized communities.

¹¹⁰ A/HRC/17/26/Add.5, *supra* note 43, at ¶ 115A(g).