District Alliance for Safe Housing, Inc. (DASH)

**Regarding:** Call for submissions to all stakeholders regarding the gap in incorporating and implementing the international and regional standards related to violence against women

***1.    Do you consider that there is a need for a separate legally binding treaty on violence against women with its separate monitoring body?***

Yes. Gender-based violence (GBV) has been recognized by scholars, advocates, and officials as being at epidemic levels across the world, yet there is no international standard for ensuring justice for women and girls who have been subjected to violence. While local and national governments have selected systems of justice for addressing this global phenomenon, they are inconsistent and, in places, provide insufficient redress for the crimes that are perpetrated. A legally binding treaty on violence against women would establish a world-wide standard for recognizing and punishing these acts that could be effectively enforced by a separate monitoring body.

***2.    Do you consider that there is an incorporation gap of the international or regional human rights norms and standards?***

Yes. There has been great work on expanding the definition of gender-based violence to include all forms of abuse in terms of physical, psychological and sexual harm. However, there are problems to be addressed before we will see a great reduction in the prevalence of GBV. The soft laws must become hard laws with specific enforcement standards in place. For example, the Belem do Para was adopted by the OAS in 1995 with most member states ratifying it by 2005. However, Canada, Cuba, and the United States have never ratified the treaty. Even so, this “soft law” lacks any definitive means to actually enforce member states’ compliance with it. Measuring the success of the treaty was such an issue that the OAS had to pass a separate resolution to assess compliance (MESECVI). The MESCEVI mandates that the Inter-American Commission on Human Rights issue a report on the progress each country has made toward full implementation of Belem do Para. Most recently the IACHR has completed reports on Chile and Bolivia. Both reports make note of continued and substantial barriers women face in accessing the judicial systems in addressing GBV. This is twenty years after the adoption of Belem and ten years after the MESCVI. CEDAW has the same issues, with many countries actually amending it to fit in with their style of government, or ignoring whole portions or recommendations, with 38 countries ignoring Article 29 which defines enforcement. The Istanbul Convention may be a guide for enforcement as it allows the EU to actually withhold money and aid from those countries that do not comply with the tenets of the convention. The Istanbul Convention demonstrates that we must have a global treaty, and the political will to enforce it through an independent monitoring agency within the UN.

***3.    Do you believe that there is a lack of implementation of the international and regional legislation into the domestic law?***

Yes, and unfortunately the United States is a prime example. While many American activists agree with CDEW and Belem, our Senate has yet to ratify either treaty. Though the United States has a robust set of laws dealing with GBV (as to our individual states), there is a concerted lack of interest in adopting any international standards or norms as this is seen as an affront to our sovereignty. I believe that this has been a serious impediment to adoption of any international legislation into domestic law. There are two problems here. One is a question of who shall be doing the enforcing. This goes to a power dynamic issue within the UN itself. The lack of compliance with particular treaties or to even recognize international law is pervasive among the states, with the smaller states almost powerless to bring any enforcement to bear on the larger states. There are examples of the UN’s ability to enforce sanctions against a “bad actor” though this tends to be in terms of nuclear proliferation or war crimes and at the behest of the larger states. However, the ability to ignore or to pick and choose any international law remains a significant issue within the UN itself. However, despite this lack of consistency and oversight, an independent monitoring agency with enforcement mandates is crucial to reducing the incidence of GBV globally.

Another issue impeding the adoption of international or regional legislation into domestic law is the possibility of ignoring social and cultural norms. That is why the regional legislation is so important. Allowing for regionally and culturally specific norms to be addressed within any binding resolution or legislation would allow the monitoring agency to approach each member state individually and monitor internal progress to the eradication of GBV accordingly.

***4.    Do you think that there is a fragmentation of policies and legislation to address gender-based violence?***

Yes. However, it may be difficult to develop a comprehensive legal definition of violence against women. I believe the difficulty lies with the word “comprehensive.” By attempting to create a comprehensive definition of GBV, there is a real possibility of being bogged down by details while ignoring the overall and pervasive trauma. A more general definition, like the ones included in CEDAW or the 1993 Declaration on the Elimination of Violence against Women, may be preferable to something comprehensive. By defining GBV as “any act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women,” allows any monitoring agency the needed leeway to create socially and culturally specific forms of redress and action. There have been numerous legal and policy recommendations for individual countries to adopt. The regional legislations also add to these recommendations and often provide specific guidelines as to implementation. We have the means to eradicate GBV. The questions lie in whether we have the political will to actually enforce resolutions and actually hold non-compliant countries accountable. Unless there is an independent monitoring agency with enough power to sanction non-complaint countries, I believe any resolution, treaty or legislation is largely academic and will always lack real world implication.

***5.    Could you also provide your views on measures needed to address this normative and implementation gap and to accelerate prevention and elimination of violence against women?***

If we are seriously about eradicating GBV, we must move towards effective and enforceable binding resolutions with the means and will to actually hold countries accountable. We desperately need a global treaty on violence against women and girls supported by an independent agency. This agency will be mandated not only to monitor individual countries’ progress towards full implementation of the treaty but also educate and support local programs that help lead to full compliance. We already have a great framework to develop this treaty. CEDAW, Belem, Maputo and Istanbul already provide a blueprint for a successful treaty. By incorporating the ideas and recommendations that originated regionally, we are less likely to see resistance to a global standard.