

Women's Interest Network

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This article reviews significant legal and political developments impacting women internationally in 2020. Highlighted areas of interest include legal empowerment, gender-based and sexual violence, sexual harassment and assault, human trafficking, peace and security measures for women, international criminal courts and tribunals, and women's rights cases.

I. Legal Empowerment

The rise of the COVID-19 global pandemic and the resulting health and socio-economic consequences have disproportionately affected women and girls.¹ A higher proportion of women work informally and in vulnerable sectors, and as a result, their job loss rate is 1.8 times greater than that of men.² In response, on November 25th, the European Union (E.U.) launched its new Action Plan on Gender Equality and Women's

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1. Press Release, European Commission, Gender Action Plan – Putting Women and Girls' Rights at the Heart of the Global Recovery for a Gender-Equal World (Nov. 25, 2020), https://ec.europa.eu/commission/presscorner/detail/en/IP_20_2184.

2. *Id.*

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Empowerment in External Action 2021-2025 (GAP III).³ The Action Plan sets up a policy framework that makes “the promotion of gender equality a priority of all external policies and actions.”⁴

A. WOMEN’S REPRESENTATION IN POLITICAL LEADERSHIP

Regarding women in the public sphere in 2020, women’s representation in parliaments around the world has increased, reaching twenty-five percent of parliamentary seats, due in part to the adoption of gender quotas and milestones achieved in countries in Latin America and the Caribbean.⁵ Women held thirty-six percent of elected seats in local deliberative bodies worldwide.⁶ The percentage of women heads of government increased from 5.7 to 6.2.⁷ Overall, the proportion of women ministers is at an all-time high at twenty-one percent.⁸ Women occupied over fifty percent of ministerial positions in thirteen countries, an increase from nine countries in 2019.⁹ Spain continued to lead the world in gender parity, electing a parliament that is 66.7 percent women.¹⁰ Notably, Finland’s proportion of women ministers almost doubled from thirty-seven percent to over sixty-one percent and the proportion of women ministers in Peru increased from twenty-seven percent to fifty-five percent.¹¹ In the United States, 141 women were elected to serve in the 117th Congress in 2020, beating the prior record set in 2019.¹² Yet, women only accounted for 26.4 percent of Congressional seats.¹³ Notably, in a landmark election, Senator Kamala Harris became the first woman, and woman of color, in U.S. history to be elected as the Vice President of the United States.¹⁴ But, despite these gains, the U.S. ranked a disappointing 128th out of 193 United Nations (U.N.) countries in gender parity in political participation.¹⁵

3. *Id.*

4. *Id.*

5. See U.N. Department of Economic and Social Affairs, *The World’s Women 2020 Trends and Statistics* (Oct. 20, 2020), <https://worlds-women-2020-data-undesa.hub.arcgis.com/pages/power-and-decision>.

6. See *id.*

7. Press Release, Inter-Parliamentary Union [IPU], In 2020, World ‘Cannot Afford’ so Few Women in Power (Mar. 3, 2020), <https://www.ipu.org/news/press-releases/2020-03/in-2020-world-cannot-afford-so-few-women-in-power>.

8. *Id.*

9. *Id.*

10. *Id.*

11. See *id.*

12. Center for American Women in Politics [CAWP], *Rutgers Election 2020 Results Tracker* (last visited Dec. 1, 2020), <https://cawp.rutgers.edu/election2020-results-tracker>.

13. *Id.*

14. See Lisa Lerer and Sydney Ember, *Kamala Harris Makes History as First Woman and Woman of Color as Vice President*, N.Y. TIMES (Nov. 7, 2020), <https://www.nytimes.com/2020/11/07/us/politics/kamala-harris.html>.

15. Council on Foreign Relations, *Women’s Power Index* (last visited Dec. 1, 2020), https://www.cfr.org/article/womens-power-index?utm_source=pressnote.

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Women heads of government around the world have been recognized for their rapid response to and “transparent and compassionate communication of fact-based public health information”¹⁶ regarding COVID-19.¹⁷ Taiwan’s President, Tsai Ing-wen, was the first world leader to start taking action, instituting 124 measures to contain the spread of COVID-19.¹⁸ German Chancellor, Angela Merkel, instituted early lockdown measures, social distancing, and movement restrictions.¹⁹ Her transparent communication has earned her over eighty-nine percent approval of the German people.²⁰ Denmark’s Prime Minister, Mette Frederiksen, was the second European leader to institute a shutdown.²¹ She announced an economic package that covered seventy-five percent of employee salaries in businesses and ninety percent for those paid by the hour.²² New Zealand Prime Minister Jacinda Ardern’s swift action in response to COVID-19 led to her reelection, the biggest election victory for the Labour Party since World War II.²³

B. LEGAL EQUALITY IN CONSTITUTIONS AND LAWS

2020 marked the twenty-fifth anniversary of the Beijing Declaration and Platform for Action (Beijing Declaration).²⁴ The Beijing Declaration’s global framework sought to promote women’s equality and participation in both public and private areas of life.²⁵ The Beijing Declaration was adopted by 189 governments, committed to actions in twelve critical areas, but nearly twenty-five years later, the goals of the Beijing Declaration are largely unfulfilled.²⁶ Not a single country is close to achieving gender equality or

16. See United Nations Entity for Gender Equality and the Empowerment of Women [UN Women], *Policy Brief 18: COVID-19 and Women’s Leadership: From an Effective Response to Building Back Better* (June 2020), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-covid-19-and-womens-leadership-en.pdf?la=en&vs=409>.

17. See Nirandhi Gowthaman, *Coronavirus: How Have Women-Led Countries Flattened the Curve?*, HERSTORY (Apr. 17, 2020), <https://yourstory.com/herstory/2020/04/coronavirus-women-led-countries-flattened-curve>.

18. *Id.*

19. *Id.*

20. *Id.*

21. *See id.*

22. *See id.*

23. *New Zealand’s Ardern sworn in for second term after landslide win*, AL JAZEERA (Nov. 6, 2020), <https://www.aljazeera.com/news/2020/11/6/new-zealands-ardern-sworn-in-for-second-term-after-landslide-win>.

24. UN News, *25 Years after Beijing’s Women Conference, Significance ‘Undimmed’*, (Sept. 4, 2020), <https://news.un.org/en/story/2020/09/1071722>.

25. *See id.*

26. Press Release, UN Women, *On the 25th anniversary of landmark Beijing Declaration on women’s rights, UN Women calls for accelerating its unfinished business* (Sept. 4, 2020), <https://www.unwomen.org/en/news/stories/2020/9/press-release-25th-anniversary-of-the-beijing-declaration-on-womens-rights>.

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delivering on the commitments of the Beijing Declaration, and in the wake of COVID-19, progress and hard-won advances are being reversed.²⁷

On March 9, 2020, Member States of the U.N. adopted the Political Declaration on the Occasion of the Twenty-Fifth Anniversary of the Fourth World Conference on Women (Political Declaration),²⁸ which recognizes that no country has fully achieved gender equality and empowerment for all women and girls and that the progress that has been made has been uneven, with major gaps remaining in education, participation and leadership, and economic empowerment.²⁹ Under the Political Declaration, Member States have pledged to take further action to ensure the accelerated and complete implementation of the Beijing Declaration, including “eliminating discriminatory laws and ensuring laws, policies and programmes benefit all women and girls,” “promoting social norms and practices that empower all women and girls and recognize their contributions,” and “strengthening accountability for the implementation of commitments to gender equality and the empowerment of women and girls.”³⁰

1. *Right to Economic and Social Equality*

The gender gap in economic participation and opportunity remains stagnant, standing at thirty-one percent.³¹ Globally, women are paid on average sixteen percent less than men.³² Women, on average, do three times as much unpaid care and domestic work as men, resulting in long-term consequences for their economic security.³³

COVID-19 has widened gender and economic inequalities, and 2020 saw an increase in labor and financial disparities.³⁴ During the first month of the

27. See Press Release, UN Women, Ahead of International Women’s Day, New UN Women Report Warns That Progress Towards Gender Equality is Lagging and Hard-Fought Gains are Under Threat (Mar. 5, 2020), <https://www.unwomen.org/en/news/stories/2020/3/press-release-ahead-of-international-womens-day-report-warns-that-progress-is-lagging>.

28. Press Release, UN Women, Member States Agree to Fully Implement the Beijing Declaration on Gender Equality, Addressing Gaps That Hold Women Back (Mar. 9, 2020), <https://www.unwomen.org/en/news/stories/2020/3/press-release-csw64-adopts-political-declaration#:~:text=9%20March%202020%2C%20New%20York,still%20considered%20the%20most%20visionary.>

29. UN Commission on the Status of Women, *Political Declaration on the Occasion of the Twenty-Fifth Anniversary of the Fourth Conference on Women*, at 3-4 (Mar. 9, 2020), <https://www.unwomen.org/-/media/headquarters/attachments/sections/news%20and%20events/stories/2020/csw64-politicaldeclaration.pdf?la=en&vs=1220>.

30. *Id.* at 5.

31. UN Women, *Gender Equality, Women’s Rights in Review 25 Years After Beijing*, at 5-6, [hereinafter *Gender Equality*] (Oct. 2, 2020), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/gender-equality-womens-rights-in-review-en.pdf?la=en&vs=934>; see also World Econ. F. [WEF], *The Global Gender Gap Report 2020*, at 5, 8 (Dec. 16, 2019), http://www3.weforum.org/docs/WEF_GGGR_2020.pdf.

32. *Id.* at 5.

33. *Id.* at 4.

34. UN Women and United Nations Development Programme [UNDP], *From Insight to Action, Gender Equality in the Wake of Covid-19*, at 1 (Sep. 2, 2020), [unwomen.org/-/media/](https://www.unwomen.org/-/media/)

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COVID-19 pandemic, women working in the informal sector lost an average of sixty percent of their income.³⁵ In September 2020 alone, 863,000 women dropped out of the workforce, which was nearly four times the number of men who left the workforce during that time.³⁶ Women make up thirty-nine percent of global employment, but accounted for fifty-four percent of overall job losses as of May 2020,³⁷ and it is projected that up to forty-seven million women will be pushed into poverty by 2021.³⁸ It is expected that there will be 118 women in poverty for every 100 men worldwide by 2021, and that number will increase, with 121 women in poverty for every 100 men by 2030.³⁹

2. *Marriage Rights*

Costa Rica became the first country in Central America to legalize same-sex marriage,⁴⁰ nearly two years after Costa Rica's constitutional court ruled that prohibiting same-sex marriage "is unconstitutional and discriminatory."⁴¹ In July, Montenegro became the first European country outside the E.U. and western Europe to grant same-sex couples a form of civil partnership.⁴² Northern Ireland became the last region of the UK to introduce equal marriage rights in February.⁴³

Child marriage has been exacerbated by the COVID-19 global pandemic.⁴⁴ Twelve million girls are married before their eighteenth birthday every year.⁴⁵ As a result of the economic impact of COVID-19, an estimated 500,000 more girls are at risk of being forced into child marriage

headquarters/attachments/sections/library/publications/2020/ gender-equality-in-the-wake-of-covid-19-en.pdf?la=en&vs=5142 [hereinafter *From Insight to Action*].

35. See *id.* at 4.

36. Diana Boesch, *When Women Lose All the Jobs: Essential Actions for a Gender-Equitable Recovery*, CENTER FOR AMERICAN PROGRESS (Feb. 1, 2020), <https://www.americanprogress.org/issues/women/reports/2021/02/01/495209/women-lose-jobs-essential-actions-gender-equitable-recovery/>.

37. Deepa Mahajan, et al., *Don't Let the Pandemic Set Back Gender Equality*, HARV. BUS. REV. (Sept. 16, 2020), <https://hbr.org/2020/09/dont-let-the-pandemic-set-back-gender-equality>.

38. *Gender Equality*, *supra* note 31.

39. *From Insight to Action*, *supra* note 34.

40. See Cristian González Cabrera, *Costa Rica First in Central America to Legalize Same-Sex Marriage*, HUM. RTS. WATCH (May 26, 2020), <https://www.hrw.org/news/2020/05/26/costa-rica-first-central-america-legalize-same-sex-marriage#>.

41. See Sophie Lewis, *Costa Rica becomes the First Country in Central America to Legalize Same-Sex Marriage*, CBS NEWS (May 27, 2020), <https://www.cbsnews.com/news/costa-rica-first-country-central-america-legalize-same-sex-marriage/>.

42. See Darnell Christie, et al., *Same-sex Marriage Rights Around the World*, REUTERS (July 2, 2020), <https://news.trust.org/item/20200527101701-wcx43>.

43. See *id.*

44. Nelsy Affoum, *Child Marriage: The Unspoken Consequence of COVID-19*, WORLD BANK GROUP (Oct. 9, 2020), <https://blogs.worldbank.org/developmenttalk/child-marriage-unspoken-consequence-covid-19>.

45. United Nations International Children's Emergency Fund [UNICEF], *Child Marriage Around the World* (Mar. 11, 2020), <https://www.unicef.org/stories/child-marriage-around-world>.

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by the end of 2020.⁴⁶ In response, Ethiopia set up a network of committees aimed at identifying children forced into marriage during COVID-19.⁴⁷ The National Human Rights Commission in Bangladesh issued an advisory letter to the Ministry of Women & Children Affairs “to strengthen monitoring mechanisms to prevent child marriages.”⁴⁸

In the United States, Pennsylvania⁴⁹ and Minnesota⁵⁰ became the third and fourth states respectively to pass laws prohibiting child marriage with zero exceptions, joining New Jersey, Delaware, the U.S. Virgin Islands, and American Samoa as the only American territories to do so.⁵¹

3. *Right to Health*

On October 22, 2020, Poland’s Constitutional Tribunal ruled that abortions in cases of fetal abnormalities are unconstitutional.⁵² This ruling “effectively impos[es] a near-total ban” on abortion.⁵³ The ruling prompted the “largest protests Poland has experienced since the 1989 collapse of communism,” and after two weeks of protests, the Polish government indefinitely delayed publishing the Court’s opinion and prevented the decision from going into legal effect.⁵⁴

On the same day as the ruling, the governments of Brazil, Egypt, Hungary, Indonesia, Uganda, the United States, and twenty-eight other countries signed the Geneva Consensus Declaration, an international declaration stating that “in no case should abortion be promoted as a method of family planning.”⁵⁵ The Geneva Consensus Declaration formalizes an alliance “in opposition to the U.N.’s Universal Declaration of

46. Susanné Bergsten, *Child Marriage, Pregnancies Soar During Pandemic*, HUM. RTS. WATCH (Oct. 12, 2020), <https://www.hrw.org/news/2020/10/12/child-marriage-pregnancies-soar-during-pandemic>.

47. Emeline Wuilbercq, *Ethiopia Begins Reopening Schools to Fight Rising Rates of Child Marriage and Labor*, GLOBAL CITIZEN (Oct. 20, 2020), <https://www.globalcitizen.org/en/content/ethiopia-schools-covid-19-child-marriage-labor/>.

48. Affoum, *supra* note 44.

49. Pa. Cons. Stat. § 1304(b)(1).

50. Minn. Stat. § 517.02; 23.

51. See Marci A. Hamilton, *2020 Report on Child Marriage in the United States*, CHILD USA (May 8, 2020), <https://childusa.org/wp-content/uploads/2020/04/2020-Report-on-Child-Marriage-in-the-US.pdf>.

52. Monika Pronczuk, *Poland Court Ruling Effectively Bans Legal Abortions*, N.Y. TIMES (Nov. 4, 2020), <https://www.nytimes.com/2020/10/22/world/europe/poland-tribunal-abortions.html>.

53. *Id.*

54. Monika Pronczuk, *Poland Delays a Near-Total Ban on Abortion*, N.Y. TIMES (Nov. 4, 2020), <https://www.nytimes.com/2020/11/04/world/europe/poland-abortion-law-delay.html>.

55. *Geneva Consensus Declaration on Promoting Women’s Health and Strengthening the Family*, art. 4 (Oct. 22, 2020), <https://www.hhs.gov/sites/default/files/geneva-consensus-declaration-english-11-10-2020.pdf>.

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Human Rights, which forms the basis for the characterization of abortion” rights as human rights under international law.⁵⁶

On December 30, 2020, Argentina’s senate voted in favor of a landmark bill passed by the legislature’s lower house that legalizes abortion, becoming the largest nation in Latin America to do so.⁵⁷ The bill will permit women to obtain abortions during the first fourteen weeks of pregnancy.⁵⁸

The U.S. Supreme Court struck down a Louisiana state law that required every physician performing an abortion to have “admitting privileges at a hospital within thirty miles” of the abortion site.⁵⁹ Additionally, in July 2020, the U.S. Supreme Court held that religious objectors were lawfully exempt from federal regulations requiring health plans to include contraceptive coverage under the Affordable Care Act.⁶⁰

Elsewhere on contraceptive rights, Iran’s Director General of the Ministry of Health’s Office of Population and Family Health announced that state hospitals could no longer offer contraceptives or perform vasectomies, to support the government’s effort to revive a dwindling population.⁶¹ Private hospitals and pharmacies may still provide medications and procedures, and state hospitals may provide family planning procedures and products only to women whose lives are at risk.⁶²

For the first time in the country’s history, Sudan passed a law that criminalizes female genital mutilation (FGM) and makes FGM punishable for up to three years in prison and finable.⁶³ In April 2020, Guinean President Alpha Conde enacted a new constitution that notably bans FGM.⁶⁴

56. See Miriam Berger, *U.S. Signs International Declaration Challenging Right to Abortion and Upholding ‘Role of the Family’*, WASH. POST (Oct. 22, 2020), <https://www.washingtonpost.com/world/2020/10/22/trump-geneva-consensus-abortion-family/>.

57. Taylor Boas, Mariela Daby, Mason Moseley and Amy Erica Smith, *Argentina legalized abortion. Here’s how it happened and what it means for Latin America*, WASH. POST (Dec. 30, 2020), <https://www.washingtonpost.com/politics/2021/01/18/argentina-legalized-abortion-heres-how-it-happened-what-it-means-latin-america/>.

58. *Id.*

59. *June Medical Services L.L.C. v. Russo*, 140 S.Ct. 2103 (2020).

60. *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, 140 S.Ct. 2367 (2020).

61. See Michael Safi, *Iran Ends Provision by State of Contraceptives and Vasectomies*, THE GUARDIAN (June 15, 2020), <https://www.theguardian.com/world/2020/jun/15/iran-bans-vasectomies-and-contraceptives-to-improve-birth-rate>.

62. *Id.*

63. Declan Walsh, *In a Victory for Women in Sudan, Female Genital Mutilation Is Outlawed*, N.Y. TIMES (Apr. 30, 2020), <https://www.nytimes.com/2020/04/30/world/africa/sudan-outlaws-female-genital-mutilation-.html>.

64. Trisha Klan, *Guinea President Enacts New Constitution Despite Protests*, JURIST (Apr. 9, 2020), <https://www.jurist.org/news/2020/04/guinea-president-enacts-new-constitution-despite-protests/>.

II. Gender-Based and Sexual Violence, Sexual Harassment, and Assault

“Gender inequality, abuse of power, and harmful norms” give rise to gender-based violence.⁶⁵ In the twelve months preceding an April report issued by U.N. Women, approximately 243 million women and girls between ages fifteen to forty-nine have been subjected to sexual and/or physical domestic violence.⁶⁶ Following COVID-19, tensions between couples caused by concerns for security, health, and money have increased reports of domestic violence and demands for emergency shelters in Canada, Germany, Spain, the United Kingdom, and the United States. In Singapore and Cyprus, helpline calls have increased by more than thirty percent; reports of domestic violence have increased by thirty percent in France.⁶⁷

A. SEXUAL HARASSMENT

1. Domestic Sexual Harassment Laws

Although new state laws have “expand[ed] workplace protections for sexual harassment victims,”⁶⁸ challenges remain as fear of retaliation influences low reporting rates.⁶⁹ Every U.S. state recommends sexual harassment training, but only six states have passed legislation that requires both state and private employees to receive sexual harassment training.⁷⁰ On January 1st, the Illinois Workplace Transparency Act (IWTA) went into effect to revise, among other things, the definition of harassment in the Illinois Human Rights Act to include any unwelcome conduct on the basis of a protected characteristic that attempts to interfere with an individual’s work performance or creates a hostile work environment.⁷¹ The IWTA also establishes reporting requirements such that employers must disclose information about “adverse judgments” or “administrative rulings” finding

65. United Nations High Commissioner for Refugees [UNHCR], *Gender-based Violence*, <https://www.unhcr.org/gender-based-violence.html> (last visited Nov. 30, 2020).

66. Statement by Phumzile Mlambo-Ngcuka, Executive Director, UN Women, *Violence Against Women and Girls: The Shadow Pandemic* (Apr. 6, 2020), <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>.

67. *Id.*

68. See Erik A. Christiansen, *How Are the Laws Sparked by #MeToo Affecting Workplace Harassment?*, AMERICAN BAR ASSOCIATION (May 8, 2020), <https://www.americanbar.org/groups/litigation/publications/litigation-news/featured-articles/2020/new-state-laws-expand-workplace-protections-sexual-harassment-victims/>.

69. Lily Zheng, *Do Your Employees Feel Safe Reporting Abuse and Discrimination?*, HARV. BUS. REV. (Oct. 8, 2020), <https://hbr.org/2020/10/do-your-employees-feel-safe-reporting-abuse-and-discrimination>.

70. See *2020 State-Specific Sexual Harassment Training Requirements (United States)*, OPENSesame (Oct. 13, 2020), <https://www.opensesame.com/site/blog/2020-state-specific-sexual-harassment-training-requirements-united-states/>.

71. Illinois Workplace Transparency Act, 820 ILCS 96.

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sexual harassment or unlawful discrimination to the Illinois Department of Human Rights.⁷²

2. *Regional and International Sexual Harassment Laws*

One year after the standard was adopted by the International Labour Conference (ILC), Uruguay and Fiji ratified Convention No. 190, the first international labor standard to address violence and workplace harassment and to define international violence and harassment, in the workplace, like gender-based violence.⁷³ Convention 190 will become effective on June 25, 2021.⁷⁴ The International Labour Organization (ILO) welcomed formal commitments made by Argentina, Finland, and Spain to ratify Convention No. 190,⁷⁵ and the Chamber of Deputies in Italy unanimously approved a bill to ratify Convention No. 190.⁷⁶

Two years after the rise of China's #MeToo movement, the National People's Congress of the People's Republic of China enacted legislation that for the first time declares sexual harassment as a legal offense and defines actions that may be considered to be sexual harassment, including harassment through words, images, text, and physical conduct.⁷⁷

In August 2020, Puerto Rico enacted the "Act to Prohibit and Prevent Workplace Harassment in Puerto Rico," which prohibits workplace harassment and requires employers to implement policies, establish investigation procedures, and "impose sanctions."⁷⁸

B. ELIMINATION OF VIOLENCE AGAINST WOMEN

In April, the U.N., African Union Commission, and the E.U. signed the Spotlight Initiative Regional Programme, a three-year, \$40-million initiative

72. See *id.*

73. *ILO Violence and Harassment Convention Will Enter into Force in June 2021*, ILO (June 25, 2020), https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_749148/lang-en/index.htm.

74. See *id.*

75. *ILO Welcomes Commitments to Ratify Convention on Violence and Harassment*, ILO (Mar. 3, 2020), https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_737414/lang-en/index.htm.

76. *Zero Tolerance to Violence and Harassment in the World of Work: Unanimous Vote of The Chamber of Deputies for The Ratification of The ILO Convention*, ILO (Sept. 24, 2020), https://www.ilo.org/rome/risorse-informative/comunicati-stampa/WCMS_756268/lang-it/index.htm.

77. Huizhong Wu, *In Nod to #MeToo, China Codifies Sexual Harassment by Law*, REUTERS (June 1, 2020), <https://www.reuters.com/article/us-china-parliament-lawmaking-metoo-idUSKBN2390EY>.

78. See Anabel Rodríguez-Alonso and Alberto Tabales-Maldonado, *Puerto Rico Enacts Law on Workplace Harassment*, LITTLER (Aug. 7, 2020), <https://www.littler.com/publication-press/publication/puerto-rico-enacts-law-workplace-harassment>.

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to eliminate “violence against women and girls in Africa.”⁷⁹ The initiative aims to strengthen regional efforts to end harmful practices such as female genital mutilation and child marriage and will address underlying factors that contribute to violence against women and girls.⁸⁰

In October, after protests erupted in response to footage of the brutal assault and gang-rape of a woman went viral on social media, the government of Bangladesh amended the women and children repression prevention bill, introducing the death penalty for rape cases.⁸¹

1. *Domestic Violence as a Criminal Offense*

In September, Kuwait’s National Assembly passed the Law on Protection from Domestic Violence.⁸² The law calls for the formation of a National Family Protection Committee to create new policies to protect women from domestic violence and to recommend the repeal or amendment of existing laws that may contradict the new domestic violence law.⁸³ Article 13 prohibits any attempt to coerce a victim of domestic violence to withdraw her complaint and article 20 makes it a crime to violate an order of protection, punishable by up to three months in prison;⁸⁴ however, the law does not propose penalties for an act of domestic violence, nor does it include individuals who are not spouses.⁸⁵

France adopted a new law in July that aims to detect and better protect victims of domestic violence.⁸⁶ The new law allows doctors to break patient confidentiality if they believe a patient’s life is in immediate danger due to domestic abuse and makes the theft of a communication device by a spouse or a partner a prosecutable offense.⁸⁷ Notably, harassment of a spouse or partner is now punishable by up to ten years in jail and 150,000 euros if the harassment caused the victim to commit or attempt to commit suicide.⁸⁸

79. See African Union, *A Multilateral Response to Eliminate All Forms of Violence Against Women & Girls* (May 7, 2020), <https://au.int/en/pressreleases/20200507/multilateral-response-eliminate-all-forms-violence-against-women-girls>.

80. See *id.*

81. See Hannah-Ellis Peterson, *Bangladesh Approves Death Penalty for Rape After Protests*, THE GUARDIAN (Oct. 12, 2020), <https://www.theguardian.com/world/2020/oct/12/bangladesh-approves-death-penalty-for-after-protests>.

82. Rothna Begum, *Domestic Violence Law Signals Hope for Kuwait’s Women*, HUM. RTS. WATCH (Sept. 29, 2020), <https://www.hrw.org/news/2020/09/29/domestic-violence-law-signals-hope-kuwaits-women#>.

83. *Imprisonment and Fine for the Perpetrator . . . and Alternative Penalties*, AL QABAS, (Aug. 20, 2020), <https://alqabas.com/article/5794841>.

84. *Id.*

85. Begum, *supra* note 82.

86. See Library of Congress, *France: Parliament Adopts Law against Domestic Violence* (Aug. 7, 2020), <https://www.loc.gov/law/foreign-news/article/france-parliament-adopts-law-against-domestic-violence/>.

87. *Id.*

88. See *id.*

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2. *Online Abuse and Violence*

Online harassment, stalking, threats, and extortion have increased in the wake of COVID-19. According to a landmark survey interviewing 14,000 women across twenty-two countries, fifty-eight percent of girls have experienced online harassment or abuse, and every “one in four girls abused online feels physically unsafe as a result.”⁸⁹

In November, it was discovered that thousands of images of Irish women were shared online without consent.⁹⁰ In response, on December 18th, the Oireachtas (the legislature of Ireland) passed the *Harassment, Harmful Communications and Related Offences Bill*, which provides for two new offenses that deal with the distribution of intimate images without one’s consent: (i) the first makes it a crime to distribute, take, publish, or threaten to distribute images without consent and with the intent to cause harm, and is punishable by an unlimited fine and/or up to seven years’ imprisonment, and (ii) the second offense involves the same acts as the first, but without the intent to cause harm, and carries a maximum penalty of a 5,000 euro fine and/or twelve months’ imprisonment.

On August 6th, more than 100 women lawmakers and legislators from around the world sent a letter to Facebook CEO Mark Zuckerberg and COO Sheryl Sandberg urging them to take concrete action to protect women from rampant and increasing online attacks.⁹¹ Concrete actions included eliminating malicious hate speech that targets women, removing accounts that violate the terms of service by harassing or threatening to attack women leaders and candidates, and swiftly removing posts that threaten candidates with sexual or physical violence and referring such offenders to law enforcement.⁹²

3. *Regional Instruments and Guidelines*

In Latin America, the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention) is the principal treaty for tackling harassment and other forms of violence against women.⁹³ The Belém do Pará Convention has been ratified by all the Member States to the Organization of American

89. Plan International, “Free to be online? Girls’ and Young Women’s Experiences of Online Harassment” (Oct. 5, 2020), https://www.plan.de/fileadmin/website/05._Ueber_uns/Maedchenberichte/Maedchenbericht_2020/Free_to_be_online_report_englisch_FINAL.pdf.

90. *Laws Proposed After Intimate Images of Irish Women Shared Without Consent*, BBC NEWS (Nov. 20, 2020), <https://www.bbc.com/news/world-europe-55013964>.

91. See Jackie Speier, Press Release, Democratic Women’s Caucus, Speaker Pelosi Send Letter to Facebook Demanding It Stop the Spread of Gendered Disinformation and Misogynistic Attacks Against Women Leaders (Aug. 6, 2020), https://speier.house.gov/_cache/files/6/c/6c8eec9e-eadf-4aac-a416-3859703eefc4/802A6A022C05E16123E4EAF4B0BE5BBF.gender-disinformation-letter-to-facebook-final-formatted-2.pdf.

92. *Id.* at 2.

93. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, June 9, 1994, 33 I.L.M. 1534 [*Belém do Pará Convention*]; see also Org. of Am.

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States (O.A.S.), with the exception of Canada, Cuba, and the United States.⁹⁴ Under the Belém do Pará Convention, the Follow-up Mechanism to the Belém do Pará Convention (MESECVI) monitors the implementation of the treaty by its parties.⁹⁵ The follow-up phase of MESECVI's Third Multilateral Evaluation Round was scheduled to be completed in 2020.⁹⁶ Following completion of the follow-up phase, MESECVI's Committee of Experts (CEVI) will prepare a Follow-up Report to be submitted to the Conference of States Party for approval.⁹⁷ During 2020, MESECVI turned its attention to the disproportionate impact of the COVID-19 crisis on women and girls.⁹⁸ On March 18, 2020, CEVI issued a statement in which they urged Member States to incorporate a gender-based perspective in the measures they take to mitigate COVID-19 and asked the Member States to expand their efforts to prevent gender-based violence and to promote and protect the rights of women in all spheres of life during the COVID-19 pandemic.⁹⁹ In July 2020, MESECVI and the Interamerican Commission of Women published a more detailed study of the relationship between measures taken by the Member States to contain the spread of COVID-19 and the increase in violence against women in Latin America and the Caribbean.¹⁰⁰

In Europe, the 2011 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) is the principal instrument for addressing violence against women.¹⁰¹ As of November, forty-five out of the forty-seven Council of Europe Member States have signed the Istanbul Convention, thirty-four

States [OAS] and Council of Europe [COE], *Regional Tools to Fight Violence Against Women: The Belém do Pará and Istanbul Conventions*, [hereinafter *Regional Tools*] (Feb. 2014).

94. OAS, *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women: Status of Signatures and Ratifications*, <http://www.oas.org/en/mesecvi/docs/Signatories-Table-EN.pdf> (last visited Nov. 13, 2020).

95. OAS, *What is MESECVI?*, <http://www.oas.org/en/mesecvi/about.asp> (last visited Nov. 13, 2020).

96. See OAS, *Third Hemispheric Report on the Belém do Pará Convention: Prevention of Violence Against Women in The Americas: Paths to Follow*, MESECVI/CEVI/doc. 242/17 (2017); see also OAS, *National Reports on the Implementation of the Belém do Pará Convention*, <http://www.oas.org/en/mesecvi/NationalReportsThirdRound.asp> (last visited Nov. 13, 2020).

97. See OAS, *Indicators of the Exercise of Women's Right to Live Free of Violence*, <https://www.oas.org/en/mesecvi/indicators.asp> (last visited Nov. 13, 2020).

98. *Communique Committee of Experts*, OAS, <https://www.oas.org/es/mesecvi/docs/CEVI-ComunicadoCOVIDViolencia-2020-EN.pdf> (last visited May 17, 2021).

99. *Id.*

100. See OAS, *Violence Against Women and the Measures to Contain the Spread of COVID-19*, <http://www.oas.org/en/cim/docs/COVID-19-RespuestasViolencia-EN.pdf>.

101. See COE, *Convention on Preventing and Combating Violence against Women and Domestic Violence* April 12, 2011 C.E.T.S. No. 210 [Istanbul Convention]; see also *Regional Tools*, *supra* note 93.

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have ratified it, and one has neither signed nor ratified it.¹⁰² Under the Istanbul Convention, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) monitors the implementation of the treaty by its parties.¹⁰³ During 2020, GREVIO received State reports from six countries, Government comments to its first evaluation report from one country and issued recommendations for another five.¹⁰⁴ On April 20, the Committee of the Parties to the Istanbul Convention issued a declaration on the implementation of the Convention during the COVID-19 pandemic.¹⁰⁵ During 2020, several countries voiced their opposition to the Istanbul Convention. In May 2020, the Hungarian legislature refused to ratify the Convention, objecting to its definition of gender as “socially constructed,” while Poland and Turkey are both reportedly studying the possibility of withdrawing from the Convention.¹⁰⁶

In Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) is the principal treaty for addressing women's rights.¹⁰⁷ Forty-nine out of the fifty-five African Union Member States have signed the Maputo Protocol, forty-two have ratified it, and six have neither signed nor ratified it.¹⁰⁸ In June 2020, the African Union Commission's Women, Gender and Development Directorate introduced the Maputo Protocol Scorecard and Index (MPSI).¹⁰⁹ The MPSI was developed to support effective gender equitable COVID-19 response and recovery monitoring and implementation of the Maputo Protocol.¹¹⁰ In November, the 27th Extra Ordinary Session of the African

102. See COE, *Chart of Signatories and Ratifications of Treaty 210*, https://www.coe.int/en/web/conventions/full-list/-conventions/treaty/210/signatures?p_auth=C4RjbE9C (last visited Nov.13, 2020).

103. COE, *About GREVIO – Group of Experts on Action against Violence against Women and Domestic Violence*, <https://www.coe.int/en/web/istanbul-convention/grevio> (last visited Nov. 13, 2020).

104. COE, *Country-monitoring work*, <https://www.coe.int/en/web/istanbul-convention/country-monitoring-work> (last visited Nov. 13, 2020).

105. *Declaration of the Committee of the Parties to the Istanbul Convention* (Apr. 20, 2020), <https://rm.coe.int/declaration-committee-of-the-parties-to-ic-covid-/16809e33c6>.

106. See International Justice Resource Center, *Turkey, Poland Consider Leaving Istanbul Convention on Violence Against Women* (Aug. 6, 2020), <https://ijrcenter.org/2020/08/06/turkey-poland-consider-leaving-istanbul-convention-on-violence-against-women>.

107. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa Jul. 11, 2003, https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf.

108. *List of Countries Which Have Signed, Ratified/Acceded to the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, AFRICAN UNION [A.U.] (Oct. 16, 2019), <https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL%20TO%20THE%20AFRICAN%20CHARTER%20ON%20HUMAN%20AND%20PEOPLE%27S%20RIGHTS%20ON%20THE%20RIGHTS%20OF%20WOMEN%20IN%20AFRICA.pdf>.

109. See A.U., *Maputo Protocol Scorecard and Index Introduced to Monitor Implementation of Women's Rights* (June 23, 2020), <https://au.int/en/pressreleases/20200623/maputo-protocol-scorecard-and-index-introduced-monitor-implementation-womens>.

110. *Id.*

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Commission on Human and Peoples' Rights, held from February 19 to March 4, 2020, adopted General Comment No. 6 on Article 7(d) of the Maputo Protocol.¹¹¹ General Comment No. 6 SEEKS TO IMPROVE THE PROTECTION OF RIGHTS OF WOMEN IN CASES OF SEPARATION, DIVORCE, OR ANNULMENT OF MARRIAGE, AND IN PARTICULAR, THE WOMAN'S RIGHT TO AN EQUITABLE SHARING OF THE JOINT PROPERTY DERIVING FROM THE MARRIAGE IN SUCH CIRCUMSTANCES.¹¹²

In Southeast Asia, the debate continues as to how far the Association of Southeast Asian Nations (ASEAN) Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) can go in promoting human rights and fundamental freedoms of women and the full implementation of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) across all ASEAN Member States.¹¹³ In June, the ACWC held a special online meeting on Protective and Preventive Measures for Women and Children at Risk of Domestic Violence during the COVID-19 Pandemic.¹¹⁴ In November, in connection with the ACWC-UNHCR Cooperative Project, ASEAN published a regional report on "promoting sustainable integration of ASEAN Community through ensuring the legal status of ASEAN women and children."¹¹⁵ The report provided an overview of legal frameworks and "enforcement in ASEAN countries in promoting women and children's rights,"¹¹⁶ and emphasized the significance of birth registration and the right

111. See African Commission on Human and Peoples' Rights, General Comment No 6 on Article 7(d) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Feb. 2020), <https://static1.squarespace.com/static/5a6e0958f6576ebde0e78c18/t/5faa5cbb3d168f22723180d5/1605000381318/AUC+General+Comment+7+English+2020.pdf>. (General comments clarify the content of a given right and the nature of state obligations in relation to this right, including measures that all countries should take to ensure that specific rights or issues covered by the treaty are realized.)

112. The Global Initiative for Economic, Social and Cultural Rights, *Women's rights in Africa: Launch event of General Comment No. 6 on Art. 7 (d) of the Maputo Protocol* (Nov. 10, 2020), <https://www.gi-esqr.org/latest-news/14-nov-general-comment-on-art-7-of-the-maputo-protocol-launch-event>.

113. See The Assoc. of Southeast Asian Nations [ASEAN], *The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children ACWC Work Plan 2016-2020* (2018), <https://asean.org/storage/2019/01/37.-December-2018-The-ASEAN-Commission-on-the-Promotion-and-Protection-of-the-Rights-of-Women-and-Children-ACWC-Work-Plan-2016-2020.pdf>; see also ASEAN, *ASEAN Regional Plan of Action on the Elimination of Violence Against Women* (Feb. 2016), <https://asean.org/wp-content/uploads/2018/01/48.-December-2017-ASEAN-RPA-on-EVAW-2nd-Reprint.pdf>.

114. *ASEAN Calls for Protective and Preventive Measures Against Domestic Violence Towards Women and Children During COVID-19 Pandemic*, (Jun. 5, 2020), <https://asean.org/asean-calls-protective-preventive-measures-domestic-violence-towards-women-children-covid-19-pandemic/>.

115. *ASEAN works to promote rights of women, children*, VIETNAM INVESTMENT REVIEW (Nov. 18, 2020), <https://www.vir.com.vn/asean-works-to-promote-rights-of-women-children-80845.html>.

116. *Id.*

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to nationality in “facilitating the inclusion and well-being of all women and children within ASEAN member states.”¹¹⁷

4. *United Nations*

The United Nations Central Emergency Response Fund has allocated \$25 million to address the “shadow pandemic” of gender-based violence against women displaced by COVID-19.¹¹⁸ The money will be used to fund women-led organizations that prevent violence against women and girls and help victims and survivors with access to medical care, family planning, legal advice, safe spaces, mental health services, and counseling.¹¹⁹

In continued efforts to promote the end of gender-based violence, the U.N. created an “EVAW COVID-19 briefs” series¹²⁰ that provides resources for women experiencing intimate partner violence, thus ensuring both safe public and private places¹²¹ and raising awareness for women around the world.¹²² The U.N. has encouraged governments and organizations to make the prevention and redress of violence against women a key part of their national response plans.¹²³ In response, the French government put in place counseling centers in pharmacies and grocery stores across the country to allow women to seek help, while also donating an additional one million euros to anti-domestic abuse organizations.¹²⁴ In Ukraine, the national domestic violence hotline, supported by the United Nations Population

117. ASEAN, *Legal Identity of All Women and Children in ASEAN, A Regional Synthesis*, 1, 8 (Nov. 25, 2020), <https://asean.org/storage/Final-Legal-Identity-Report-compressed.pdf>.

118. Liz Ford, ‘Shadow Pandemic’ of Violence Against Women to be Tackled with \$25m UN Fund, *THE GUARDIAN* (Nov. 25, 2020), <https://www.theguardian.com/global-development/2020/nov/25/shadow-pandemic-of-violence-against-women-to-be-tackled-with-25m-un-fund>.

119. UN Women, *Opening Remarks by Under-Secretary-General of the United Nations and Executive Director of UN Women, Phumzile Mlambo-Ngcuka at the Commemoration of the International Day for the Elimination of Violence against Women* (Nov. 25, 2020), <https://www.unwomen.org/en/news/stories/2020/11/speech-ed-phumzile-international-day-for-the-elimination-of-violence-against-women>.

120. UN Women, *EVAW Covid-19 Briefs*, <https://www.unwomen.org/en/digital-library/publications/2020/04/series-evaw-covid-19-briefs> (last visited Nov. 30, 2020).

121. Press Release, UN Women, COVID-19 and Ensuring Safe Cities and Safe Public Spaces for Women and Girls, (2020), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/brief-covid-19-and-ensuring-safe-cities-and-safe-public-spaces-for-women-and-girls-en.pdf?la=en&vs=632>.

122. Press Release, UN Women, Prevention: Violence Against Women and Girls & COVID-19, (2020), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/brief-prevention-violence-against-women-and-girls-and-covid-19-en.pdf?la=en&vs=3049>.

123. See U.N. Department of Global Communications, *UN Supporting ‘Trapped’ Domestic Violence Victims During COVID-19 Pandemic* (Jun. 12, 2020), <https://www.un.org/en/coronavirus/un-supporting-%E2%80%98trapped%E2%80%99-domestic-violence-victims-during-covid-19-pandemic>.

124. Melissa Godin, *French Government to House Domestic Abuse Victims in Hotels as Cases Rise During Coronavirus Lockdown*, *TIME* (Mar. 31, 2020), <https://time.com/5812990/france-domestic-violence-hotel-coronavirus/>.

Fund, is providing online consultation services as well as counseling services through Skype, email, Facebook, and its website.¹²⁵

III. Human Trafficking

Despite stricter border controls, travel restrictions, and lockdowns implemented worldwide due to COVID-19, traffickers have quickly adapted their “business models” to the new and changing conditions by driving their operations underground and capitalizing on the plight of trafficked individuals.¹²⁶ Moreover, the COVID-19 pandemic has triggered widespread social and economic crises, increasing the exposure of vulnerable populations to trafficking and exploitation.¹²⁷ Socio-economic problems¹²⁸ such as unemployment, homelessness, and reduced access to healthcare and education¹²⁹ play a strong role in rising rates of human trafficking.¹³⁰ Women and girls are the most likely to suffer from COVID-19-related impairments;¹³¹ they are also disproportionately represented as victims of human trafficking,¹³² especially forced sex work.¹³³ Yet, the pandemic is also hindering the efforts of law enforcement, justice systems, and service

125. See United Nations Population Fund [UNFPA], *Silent Solutions Available to Quarantined Survivors of Domestic Violence* (May 21, 2020), <https://www.unfpa.org/news/silent-solutions-available-quarantined-survivors-domestic-violence>.

126. U.N. Office on Drugs and Crime [UNODC], *Impact of the COVID-19 Pandemic on Trafficking in Persons*, at 1, 3 [hereinafter *Impact of the COVID-19 Pandemic on Trafficking in Persons*] https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf.

127. See ILO, *COVID-19 Impact on Child Labour and Forced Labour: The Response of the IPEC+ Flagship Programme*, at 2 [hereinafter *COVID-19 Impact on Child Labour and Forced Labour*] (May 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_745287.pdf; see also World Bank Group, *Global Economic Prospects*, Ch. 1, Global Outlook, Pandemic, Recession: The Global Economy in Crisis, at 3 (Jun. 2020), <https://openknowledge.worldbank.org/bitstream/handle/10986/33748/211553-Ch01.pdf>.

128. See ILO, Organisation for Econ. Cooperation and Development [OECD], Int’l Organization for Migration [IOM] and UNICEF, *Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains*, at 17 (2020), https://publications.iom.int/system/files/pdf/ending_child_labour_en.pdf.

129. *COVID-19 Impact on Child Labour and Forced Labour*, *supra* note 128.

130. U.S. Dep’t of State, *Trafficking in Persons Report June 2020*, at 275, [hereinafter *Trafficking in Persons Report 2020*] <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

131. See *COVID-19 Impact on Child Labour and Forced Labour*, *supra* note 128.

132. UNODC, *Report: Majority of trafficking victims are women and girls; one third children* (Dec. 12, 2016), <https://www.un.org/sustainabledevelopment/blog/2016/12/report-majority-of-trafficking-victims-are-women-and-girls-one-third-children/>; see also U.N. Secretary -General, *World Day Against Trafficking in Persons Statements* (July 30, 2020), <https://www.unodc.org/endht/en/statements.html>.

133. ILO, *Forced Labour, Modern Slavery and Human Trafficking*, <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm> (last visited Nov. 12, 2020).

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organizations in their efforts to provide assistance and resources to victims of trafficking.¹³⁴

On July 30th, the U.N. Office on Drugs and Crime (UNODC), together with the Permanent Mission of Belarus, held the high-level event, “Recognizing Response – Committed to the Cause,” to mark 2020 World Day against Human Trafficking in Persons. UNODC took to the global stage to honor and support first responders who assist victims of human trafficking during the pandemic.¹³⁵ In his message for World Day, U.N. Secretary-General António Guterres remarked that “[w]omen and girls already account for more than seventy percent of detected human trafficking victims, and today are among the hardest hit by the pandemic. With previous downturns showing that women face a harder time getting paid jobs back in the aftermath of crises, vigilance is especially important at this time.”¹³⁶

Currently, the global goal is to end human trafficking by 2030.¹³⁷ In the meantime, it is necessary to ensure effective access to justice for victims of trafficking,¹³⁸ especially in view of the pandemic-related consequences.¹³⁹

A. INTERNATIONAL EFFORTS TO COMBAT TRAFFICKING OF
WOMEN AND CHILDREN

1. *Report of the U.N. Secretary-General (2020)*

The U.N. Secretary-General report, “Trafficking in women and girls,”¹⁴⁰ provides information for Member States and U.N. stakeholders in an effort to eradicate the trafficking of women and girls. The gender-focused report addresses the “economic drivers and consequences” of human trafficking and how COVID-19 has impacted these issues.¹⁴¹

134. See *Impact of the COVID-19 Pandemic on Trafficking in Persons*, *supra* note 126, at 3; by way of example, see also *Trafficking in Persons Report 2020*, *supra* note 130, at 75, 88, and 347.

135. See UNODC, *Paying Tribute to First Responders in the Fight Against Human Trafficking* (Aug. 7, 2020), <https://www.unodc.org/unodc/frontpage/2020/August/paying-tribute-to-first-responders-in-the-fight-against-human-trafficking.html>.

136. Press Release, U.N. Secretary-General, COVID-19 Recovery Must Address New Exploitation Risks, Secretary-General Warns in Message for World Day against Trafficking in Persons SG/SM/20180 (July 20, 2020), <https://www.un.org/press/en/2020/sghsm20180.doc.htm>.

137. See ILO, *International Programme on the Elimination of Child Labour and Forced Labour [IPEC+]* (2020), <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/flagships/ipec-plus/lang-en/index.htm>; see also ILO, *Ending forced labour by 2030: A review of policies and programmes* (2018), https://www.ilo.org/wcmsp5/groups/public/-ed_norm/-ipec/documents/publication/wcms_653986.pdf.

138. For statistics regarding global law enforcement data see *Trafficking in Persons Report 2020*, *supra* note 130, at 43.

139. *Impact of the COVID-19 Pandemic on Trafficking in Persons*, *supra* note 126.

140. U.N. Secretary-General, *Trafficking in women and girls*, U.N. Doc., A/75/289 (Aug. 7, 2020), <https://undocs.org/en/A/75/289>.

141. *Id.* at 1.

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According to the report, “[P]rogress in the elimination of trafficking in women and girls remains unacceptably slow.”¹⁴² Moreover, “the drivers of trafficking, in particular women’s unequal economic status, poverty and economic inequality, are expected to intensify and deepen as a result of the COVID-19 crisis.”¹⁴³ The report puts forth several recommendations for Member States, such as continuing to detect, investigate, enforce, and adjudicate cases of human trafficking of women and girls during COVID-19; partnering with the private sector to monitor, detect, and report financial and other suspicious activities associated with trafficking; increasing investment in women’s economic empowerment programs; and compensating survivors through state funding.¹⁴⁴

B. REGIONAL EFFORTS TO COMBAT TRAFFICKING OF WOMEN AND CHILDREN

In 2020, the critically important Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), celebrated its twentieth anniversary.¹⁴⁵ As of November, three additional states—Brunei Darussalam, Comoros, and Nepal—have signed the Palermo Protocol.¹⁴⁶ Nevertheless, in the words of U.N. Special Rapporteur Maria Grazia Giammarinaro, it is time for states to “go beyond the Palermo Protocol.”¹⁴⁷ The Special Rapporteur delivered a highly-endorsed twelve-point recommendation, proposing that governments and other stakeholders shift away from a criminal-justice framework under the Palermo Protocol and move toward human-rights-based principles, instruments, case law, and legislation.¹⁴⁸

1. The United States

October 28th marked the twentieth anniversary of the bipartisan passage of the Trafficking Victims Protection Act (TVPA).¹⁴⁹ This landmark legislation was the first U.S. federal law enacted to criminalize sex and labor

142. *Id.*

143. *Id.* at 16.

144. *Id.* at 17–18.

145. Maria Grazia Giammarinaro (Special Rapporteur on Trafficking in Persons), *Concluding remarks by UN Special Rapporteur on Trafficking in Persons* [hereinafter *Concluding remarks*] (Jun. 29, 2020), <http://lastradainternational.org/dynamic/files/Concluding%20remarks%20-%20Manifest%20Webinar%20-%202022%20July%202020.pdf>.

146. See *Treaty Collection Depository, Status of treaties*, U.N. Treaty Collection (2020), https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en; see also *Impact of the COVID-19 Pandemic on Trafficking in Persons*, *supra* note 126, at 43.

147. See *Concluding remarks*, *supra* note 145.

148. *Id.*

149. See Trafficking Victims Protection Act of 2000 [TVPA], Pub. L. No. 106-386, div. A, 114 Stat. 1466 (2000), (codified as amended at 22 U.S.C. §§ 7101–7114 (2000)).

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trafficking in response to the Palermo Protocol.¹⁵⁰ In commemoration of this anniversary, the Trump Administration held a human trafficking “Summit,”¹⁵¹ promulgated a National Action Plan,¹⁵² and issued an Executive Order on combating human trafficking.¹⁵³ In addition, the U.S. Department of Justice (DOJ) allocated \$100.9 million to combat human trafficking.¹⁵⁴ However, despite these outwardly aggressive moves from the Trump administration, U.S. prosecutions against sex and labor traffickers decreased,¹⁵⁵ and human trafficking reporting increased, especially during the COVID-19 pandemic.¹⁵⁶ A “new and highly restrictive interpretation” of the TVPA under the Trump administration led to a dramatic increase in denial of “T-visas”¹⁵⁷ (the humanitarian visa status for trafficking victims created under the TVPA¹⁵⁸), especially for women and girls trafficked at the southwestern border.¹⁵⁹ According to a Refugees International field report, the Trump administration not only failed to protect women and children, but proactively put them in harm’s way.¹⁶⁰ The report reveals that “the administration’s decision-making . . . [was] particularly dismissive of claims by women and children who have been trafficked over the southwestern

150. Rebecca Jun, *On This Day in History: The Trafficking Victims Protection Act Passed in Congress*, THE HUMAN TRAFFICKING INSTITUTE, <https://www.traffickingmatters.com/on-this-day-in-history-the-trafficking-victims-protection-act-passed-in-congress/> (last visited Nov. 29, 2020).

151. Katie Rogers, *White House Holds Trafficking ‘Summit,’ but Critics Dismiss Lack of Dialogue*, N.Y. TIMES (Jan. 31, 2020), <https://www.nytimes.com/2020/01/31/us/politics/trump-trafficking.html>.

152. The National Action Plan to Combat Human Trafficking, Whitehouse.gov (Oct. 22, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/10/NAP-to-Combat-Human-Trafficking.pdf>.

153. Exec. Order No. 13903, 85 Fed. Reg. 6721 (Jan. 31, 2020), <https://www.whitehouse.gov/presidential-actions/executive-order-combating-human-trafficking-online-child-exploitation-united-states/>.

154. U.S. Dep’t. of Just., *Fact Sheet: Justice Department Awards Nearly \$101 Million to Combat Human Trafficking* (Sep. 21, 2020), <https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/ovchumantraffickingfactsheet.pdf>.

155. See *Trafficking in Persons Report 2020*, *supra* note 130, at 515-17.

156. Polaris Project, *Crisis in Human Trafficking During the Pandemic*, <https://polarisproject.org/wp-content/uploads/2020/06/Crisis-in-Human-Trafficking-During-the-Pandemic.pdf> (last visited Nov. 29, 2020).

157. U.S. Citizenship and Immigration Services [USCIS], Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status, Fiscal Years 2008-2020 (last visited Dec. 1, 2020), https://www.uscis.gov/sites/default/files/document/reports/I914t_visastatistics_fy2020_qtr3.pdf.

158. USCIS, *Victims of Human Trafficking: T Nonimmigrant Status* (last visited Dec. 1, 2020), <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-human-trafficking-t-nonimmigrant-status>.

159. Yael Schacher, *Abused, Blamed, and Refused: Protection Denied to Women and Children Trafficked Over the U.S. Southern Border*, REFUGEES INT’L. (May 2019), <https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/5cfbf5c55c747a0001e19274/1560016326718/Trafficking+Report+-+May+2019+-final.pdf>.

160. See *id.*

border, and has effectively blamed them for their own victimization.”¹⁶¹ Moreover, the administration’s “policies also scare[d] survivors from coming forward to report abuse and even push[ed] them into the hands of traffickers.”¹⁶²

Many anti-human-trafficking groups boycotted the White House Summit for these reasons, including Polaris, which coordinates the national human trafficking hotline, and Freedom Network, USA, the largest U.S. anti-trafficking coalition.¹⁶³

2. *Europe*

The Group of Experts on Action against Trafficking in Human Beings (GRETA) (in connection with the Council of Europe) published the “Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.”¹⁶⁴ The guidance note aims to assist authorities and organizations in providing protective entitlements such as refugee status, grants of asylum, and non-punishment of compelled criminal acts to trafficking victims or people.¹⁶⁵

In June, the European Court of Human Rights (ECHR) ruled that human trafficking for the purpose of forced prostitution falls within the scope of Article 4 of the European Convention on Human Rights and clarified that human trafficking covered both transnational and national trafficking, regardless of whether or not it was connected with organized crime.¹⁶⁶

IV. Women, Peace, and Security

This year marked the twentieth anniversary of the U.N. Security Council’s adoption of the landmark Resolution 1325,¹⁶⁷ which stressed women’s equal involvement in peace and security and reaffirmed the important role women play in peace-building, peacekeeping, peace

161. *Id.*

162. *Id.*; see also Rogers, *supra* note 151; Abigail Abrams, ‘I Thought I Was Going to Die.’ How Donald Trump’s Immigration Agenda Set Back the Clock on Fighting Human Trafficking, TIME (Oct. 30, 2020), <https://time.com/5905437/human-trafficking-trump-administration/>.

163. See Jessica Contrera, *Trump Signs Executive Order to Combat Human Trafficking as Some Advocacy Groups Boycott Summit*, WASH. POST (Jan. 31, 2020), https://www.washingtonpost.com/local/trump-signs-executive-order-to-combat-human-trafficking-as-some-advocacy-groups-boycott-summit/2020/01/31/420284ce-4456-11ea-aa6a-083d01b3ed18_story.html.

164. Group of Experts on Action against Trafficking in Human Beings [GRETA], Council of Europe, *Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection*, (June 19, 2020), <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>.

165. See *id.* at 9 et seq.

166. *S.M. v. Croatia*, App. No. 60561/14 (Jun. 25, 2020) at 297, 303, <http://hudoc.echr.coe.int/eng?i=001-203503>.

167. UN Peacekeeping, *20 Years of Women, Peace and Security*, <https://peacekeeping.un.org/en/20-years-of-women-peace-and-security> (last visited Nov. 30, 2020).

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negotiations, and conflict resolution.¹⁶⁸ In recognition of this anniversary and the twenty-fifth anniversary of the Beijing Declaration, the U.N. Security Council unanimously adopted Resolution 2538 in August,¹⁶⁹ which recognizes the indispensable role women play in peacekeeping operations, stresses the importance of increasing women's participation in peacekeeping operations, and calls upon Member States to strengthen their efforts to increase the meaningful participation of women in all levels of peacekeeping operations.¹⁷⁰

Pursuant to the United States Strategy on Women, Peace, and Security (WPS Strategy), which was published in relation to the Women, Peace, and Security Act of 2017,¹⁷¹ the U.S. Department of State,¹⁷² the U.S. Department of Defense,¹⁷³ the U.S. Department of Homeland Security,¹⁷⁴ and the U.S. Agency for International Aid Development¹⁷⁵ each created and published implementation plans to implement “women’s meaningful participation in preventing and resolving conflict, countering violent extremism (CVE) and terrorism, and building post-conflict peace and stability.”¹⁷⁶

V. International Criminal Courts and Tribunals and Women’s Rights Cases

A. INTERNATIONAL CRIMINAL COURT: PERSECUTION BASED ON GENDER

The International Criminal Court (ICC), through its founding treaty—the Rome Statute—allows for the prosecution of genocide, crimes against

168. See Office of the Special Adviser on Gender Issues and Advancement of Women [OSAGI], *Landmark Resolution on Women, Peace and Security*, <http://www.un.org/womenwatch/osagi/wps/> (last visited Nov. 30, 2020).

169. Press Release, Security Council, *Security Council Calls on United Nations, Regional Organizations to Bolster Role of Women in Peacekeeping, Unanimously Adopting Resolution 2538* (Aug. 28, 2020), <http://www.un.org/press/en/2020/sc14288.doc.htm>.

170. *Id.*

171. *United States Strategy on Women, Peace, and Security*, Whitehouse.gov (Jun. 2019), <https://www.whitehouse.gov/wp-content/uploads/2019/06/WPS-Strategy-FINAL-PDF-6.11.19.pdf>.

172. U.S. Dept. of State, *The Department of State’s Plan to Implement the U.S. Strategy on Women, Peace, and Security 2020-2023*, https://www.state.gov/wp-content/uploads/2020/06/20-01943-SGWI_v11_forWeb_Bookmarks508.pdf.

173. U.S. Dept. of Defense, *Women, Peace, and Security Strategic Framework and Implementation Plan* (Jun. 2020), https://media.defense.gov/2020/Jun/11/2002314428/-1/-1/1/WOMEN_PEACE_SECURITY_STRATEGIC_FRAMEWORK_IMPLEMENTATION_PLAN.PDF.

174. U.S. Dept. of Homeland Security, *Department and Agency Implementation Plans for The U.S. Strategy on Women, Peace, and Security*, <https://www.dhs.gov/sites/default/files/publications/wps-dhs-implementation-plan.pdf> (last visited Nov. 30, 2020).

175. U.S. Agency for International Dev., *USAID’s Women, Peace, and Security Implementation Plan* (2020), <https://www.usaid.gov/women-peace-and-security>.

176. *Id.*

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humanity, war crimes, and crimes of aggression.¹⁷⁷ In July, the trial against former Islamic militant Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud opened at the ICC, where he has been accused of war crimes, crimes against humanity, and persecution on the grounds of gender.¹⁷⁸ The trial is groundbreaking as the criminal charges against Mr. Al Hassan are not only based on gender for the first time but also because non-sexual violence has been included.¹⁷⁹ In April, the Pre-Trial Chamber I of the ICC partially granted the prosecution's request to modify the charges against Mr. Al Hassan to include recognizing forced marriage as a crime distinct from sexual violence, constituting an inhumane act that infringes on women's fundamental right to choose a spouse.¹⁸⁰

B. THE SUPREME COURT OF KYRGYZSTAN

In March, a trial court in Kyrgyzstan sentenced Gulzhan Pasanova to nine years in prison for killing her husband in self-defense.¹⁸¹ In November 2019, Ms. Pasanova's husband accused Ms. Pasanova of infidelity and threatened to kill her with a knife.¹⁸² In an attempt at self-defense, Ms. Pasanova picked up a steel bar and hit Mr. Isakov on the head, ultimately killing him.¹⁸³ The trial court denied Ms. Pasanova's requests to call corroborating witnesses regarding her husband's history of domestic abuse, denied her requests for a comprehensive psychiatric examination to determine Ms. Pasanova's state of mind at the time of the altercation, and most notably, restrained Ms. Pasanova in a cage throughout her criminal trial.¹⁸⁴ In June, the Court of Appeals reduced Ms. Pasanova's sentence as part of a "general prisoner amnesty," but nevertheless affirmed her conviction.¹⁸⁵ The Supreme Court of Kyrgyzstan took up the appeal of Ms. Pasanova's case on October 22nd.¹⁸⁶

177. See Rome Statute art. 5, July 17, 1998, 2187 U.N.T.S. 90, <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>.

178. Jason Burke, *Islamist Fighter's Case Begins in First ICC Trial for Gender Persecution*, THE GUARDIAN (Jul. 14, 2020, 11:19 EDT), <https://www.theguardian.com/law/2020/jul/14/ex-islamist-militant-in-court-accused-of-forcing-women-into-sexual-slavery>.

179. *Id.*

180. *Le Procureur v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, ICC-01/12-01/18, Correction to the Decision amending the charges confirmed on September 30, 2019 (Apr. 23, 2020), https://www.icc-cpi.int/CourtRecords/CR2020_01844.PDF.

181. Aichurek Kurmanbekova, *A Domestic Violence Case Goes to Kyrgyzstan's Supreme Court*, HUM. RTS. WATCH (Oct. 20, 2020), <https://www.hrw.org/news/2020/10/20/domestic-violence-case-goes-kyrgyzstans-supreme-court>.

182. Brief of the Clooney Foundation for Justice as Amicus Curiae, *Kyrgyzstan v. Gulzhan Pasanova* (May 12, 2020), <https://cfj.org/wp-content/uploads/2020/05/CFJ-Amicus-Brief-in-Support-of-Pasanova-G.-12-May-2020-English.pdf>.

183. *Id.*

184. See *id.*

185. See Kurmanbekova, *supra* note 181.

186. See *id.*

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C. THE SUPREME COURT OF SPAIN

In May,¹⁸⁷ the Supreme Court of Spain affirmed a lower court's decision to sentence an underage individual to four years in prison for sexual abuse with penetration, stating that an explicit verbal or a physical negation is not needed to prove that the victim did not consent to the sexual act, but rather a gestural negation is considered enough, as well as a silence caused by the fear of a physical aggression.¹⁸⁸

D. THE SAUDI SPECIALIZED CRIMINAL COURT

In defiance of widespread public outrage from the international community, the Saudi Specialized Criminal Court (SCC) convicted long-detained women's rights activist, Loujain al-Hathloul, on charges related to advocating for women's rights, including the right to drive and putting an end to the male guardianship system in Saudi Arabia.¹⁸⁹ The SCC sentenced al-Hathloul to five years and eight months in prison, with a partial suspension and a reduction for time served; she is also barred from travel outside the kingdom for five years and faces three years' court-supervised probation.¹⁹⁰

187. STS 147/2020, Cassation Appeal n° 2985/2018, Supreme Court of Spain (May 14, 2020), <https://supremo.vlex.es/vid/844844948>.

188. *Id.*

189. See Bill Chappell, *Saudi Activist Who Urged Women's Driving Rights Gets Nearly 6-Year Prison Term*, NPR (Dec. 28, 2020), <https://www.npr.org/2020/12/28/950765197/saudi-activist-who-urged-womens-driving-rights-gets-nearly-6-year-prison-term>.

190. *Id.*