

# THE “HOLY TRINITY” OF THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW: HOW TO MAKE AN EFFECTIVE RECOMMENDATION REGARDING WOMEN’S RIGHTS

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## INTRODUCTION

The world of international human rights faces many challenges. One consistent challenge is the question of whether the measures, mechanisms, reports, and recommendations articulated by the various intergovernmental organizations are actually making a difference. The Universal Periodic Review, a United Nations process of peer-reviewing each member state’s human rights record every four years, is no exception. Given that the UPR is nearing the completion of its second cycle and preparing to enter its third in the spring of 2017, this question of the process’s effectiveness is even more pressing. Though some studies have examined the effectiveness of the UPR’s first cycle, or compared the effect of the UPR on one or two countries,<sup>1</sup> there is a lack of any scholarship on the process from cycle to cycle or on a greater sample size of countries. A comprehensive study of all 193 member states on all human rights issues would likely yield too

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\* J.D., University of Pennsylvania Law School, 2017; B.A., Duke University, 2014. I would like to thank JLASC, my journal alma mater, for this opportunity, as well as Professor Jean Galbraith for her advice and feedback in the creation of this article. I would also like to thank the team of hardworking and caring Human Rights Officers at the United Nations Office of the High Commissioner for Human Rights, where I had the incredible chance to intern while in law school. Thank you for introducing me to the Universal Periodic Review, as well as your unceasing efforts to promote and protect human rights worldwide.

<sup>1</sup> See, e.g., Emma Hickey, *The UN’s Universal Periodic Review: Is It Adding Value and Improving the Human Rights Situation on the Ground?* 7 *Vienna J. on Int’l Const. L.* 4 (2013), <https://perma.cc/724C-YA7F>.

many factors and results to analyze. However, this article attempts to address this question on a more manageable scale by focusing on a sample of eight countries through the lens of one human rights issue – domestic violence.

This article analyzes the recommendations that each country in this case study received during each of its two UPRs regarding domestic violence, the government's response to the recommendations, the changes seen in each country's domestic sphere, and the linkages between the recommendations and the changes that occurred. Because the UPR is a process by which governments of different countries speak directly to one another, this article will only consider actions taken by the state under review (as opposed to non-governmental actors) during the interim periods between reviews. The changes visible enough in this research mainly concern legislative and institutional reforms, such as pending or passed bills, government-run awareness campaigns, new government agencies, and other similar initiatives. These changes are then evaluated for their "substantiveness," in order to determine whether they are merely facial changes made for the sake of appearances or true changes that can have a real impact on the ground.

This research exposed a general trend that numerous and specific recommendations on domestic violence that the government affirmatively accepts lead to more substantive actions by the government in the interim periods. In other words, the more recommendations that name this issue, the more specific the recommendation's course of action, and the more accepting the government's response, the more substantive the changes following the UPR. There is also considerable evidence that the UPR played a role in triggering these changes, suggesting that the UPR is effective at improving human rights. This research did not indicate if one element of this "holy trinity" – numerosity, specificity, or government response – is more critical than the others, but rather suggested that all three enhance the likelihood of substantive results. This observation can in turn better inform the UPR process going forward, as well as other human rights spaces.

Part II provides background information on the UPR process, its creation and objectives, and perspectives on its general effectiveness. Part III lays out the methodology used in this research. Part IV presents and analyzes the results of the countries under study, proposes explanations for the trend observed, and addresses weaknesses in the methodology. Part V offers recommendations for improving the UPR process and other human rights mechanisms, as well as ideas for future areas of study.

## I. BACKGROUND

Before the Universal Periodic Review, the standard method that international bodies employed to monitor and enhance compliance with human rights instruments involved "naming and shaming."<sup>2</sup> This confrontational approach, along with other similar methods like retortion, countermeasures, conditionalities, and sanctions, was widely used to pressure states into improving their human rights record.<sup>3</sup> When former UN Secretary-General Kofi Annan launched his program of reform in 2005, he proposed a universal, non-confrontational "peer review" mechanism for overseeing the global human rights situation.<sup>4</sup> In 2006, the UN General Assembly adopted

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<sup>2</sup> Elvira Domínguez-Redondo, *The Universal Period Review -- Is There Life Beyond Naming and Shaming in Human Rights Implementation?* 2012 N.Z. L. Rev. 673 (2012).

<sup>3</sup> *Id.* at 674, 691.

<sup>4</sup> *Id.* at 674-675.

Resolution 60/251, which established the Human Rights Council.<sup>5</sup> Resolution 60/251 empowered this new organ to “[u]ndertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States[.]”<sup>6</sup> Built on these ideals, the Universal Periodic Review still serves today as an intergovernmental dialogue informed by civil society stakeholders and “conducted in a cooperative spirit.”<sup>7</sup>

The UPR is the only human rights mechanism that examines the record of all 193 member states.<sup>8</sup> It conducts its scrutiny using a combination of universal human rights standards (such as the Universal Declaration of Human Rights), specific human rights treaties, and voluntary commitments from the state under review.<sup>9</sup> The UPR proceeds through four stages: (i) the collection and collation of information on the reporting state’s human rights situation, (ii) an interactive dialogue between states, (iii) the final adoption of the outcome report containing recommendations, and (iv) the review’s follow-up measures.<sup>10</sup> The reporting state must also communicate to the Human Rights Council its acceptance or rejection of the recommendations.<sup>11</sup> When a state accepts recommendations, “it is agreeing to be assessed on the implementation of those recommendations within a period of four and a half years[.]”<sup>12</sup>

The objective of the UPR is simple – to improve the human rights situation on the ground in the states under review. It aims to accomplish this goal by assessing the state’s achievements and challenges, recommending technical and capacity-building measures, sharing best practices of other states, and promoting cooperation with other human rights bodies and mechanisms.<sup>13</sup> The UPR has gained considerable recognition in its short life towards these ends. Former UN Secretary-General Ban Ki-Moon described the UPR’s procedures as “strong and meaningful,” with a “clear message that all countries will have their human rights record and performance examined at regular intervals.”<sup>14</sup> Louise Arbour, former UN High Commissioner for Human Rights, expressed the belief that the UPR can “provide a vehicle for scrutiny of the implementation of rights and norms beyond anything ever attempted by the Commission on Human Rights.”<sup>15</sup> Additionally, major human rights NGOs have claimed it is “one of the most significant innovations” in the new Human Rights Council.<sup>16</sup>

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<sup>5</sup> G.A. Res. 60/251, ¶ 1 (Apr. 3, 2006).

<sup>6</sup> *Id.* at ¶ 5.

<sup>7</sup> Dominguez-Redondo, *supra* note 2, at 676.

<sup>8</sup> *The Butterfly Effect: Spreading good practices of UPR implementation*, UPR INFO iii, 1 (2016), <https://perma.cc/7RYL-6T9K>.

<sup>9</sup> *Id.*

<sup>10</sup> Allehone Mulugeta Abebe, *Of Shaming and Bargaining: African States and the Universal Periodic Review of the United Nations Human Rights Council*, 9 Hum. Rts. L. Rev. 1, 1-35 (2009).

<sup>11</sup> Domínguez-Redondo, *supra* note 2, at 677.

<sup>12</sup> *Id.* at 678.

<sup>13</sup> Abebe, *supra* note 10, at 5.

<sup>14</sup> Press Release, Secretary-General Urges Human Rights Council to Take Responsibilities Seriously, Stresses Importance of Considering All Violations Equally, U.N. Press Release SG/SM/11053-HRC/8 (June 20, 2007), <http://www.un.org/press/en/2007/sgsm11053.doc.htm> [<https://perma.cc/FQ5N-ACZZ>].

<sup>15</sup> Abebe, *supra* note 10, at 5 (internal citations omitted).

<sup>16</sup> *The Universal Periodic Review Mechanism*, HUMAN RIGHTS WATCH (June 27, 2006), <http://hrw.org/en/>

The UPR is not without its critics, however. One of its most cited flaws concerns its dependency on the goodwill of the reporting state, and hence its marginal impact on unwilling participants.<sup>17</sup> Some critics also believe it is disadvantageous for states, rather than independent experts, to assess another state's human rights performance.<sup>18</sup> Other scholars highlight the ability of states to selectively accept recommendations as a major deficiency.<sup>19</sup> However, many of these same experts acknowledge that states appear to regard the UPR more seriously than the reporting procedures before the treaty bodies.<sup>20</sup> Some also believe that the UPR has a symbolic importance, as every country gets reviewed<sup>21</sup> and each country has "a stake in the process."<sup>22</sup> Furthermore, states "are never going to accept all recommendations or judgments from any international body," and "partial compliance is better than nothing."<sup>23</sup>

The available statistical data supports this generally positive assessment of the UPR. According to a non-profit's study of the overall implementation rate of recommendations from the UPR's first cycle, 48% of recommendations triggered action by mid-term, "meaning that the recommendations were either fully or partially implemented only 2.5 years after the initial review."<sup>24</sup> These "implementations" appeared in many forms, ranging from national and international legal measures, to national action plans, to even the establishment of new human rights institutions.<sup>25</sup> However, though the study noted an increase in engagement with the UPR process during the first cycle, it still found the engagement lacking in many ways, especially in the follow-up to the recommendations.<sup>26</sup>

## II. METHODOLOGY

Despite the prominence of this mechanism in the human rights world, there is a significant lack of scholarship on the UPR and its effectiveness. This article attempts to address this gap and extend the analyses of previous efforts to study the UPR by conducting an in-depth examination of the legislative and institutional actions taken by the state under review regarding a narrow human rights issue in a sample of eight countries over the course of two UPR cycles. Unlike the previous studies, this research aims to more critically evaluate how substantively the state's actions are implemented, the role the UPR recommendations played in triggering those actions, and the

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news/2006/06/27/universalperiodic-review-mechanism [https://perma.cc/VS5Y-TZWE].

<sup>17</sup> Domínguez-Redondo, *supra* note 2, at 680.

<sup>18</sup> *Id.*

<sup>19</sup> *Annual Conference: Reviewing the U.N. Human Rights Council: Looking Back and Moving Forward*, 17 *New Eng. J. Int'l & Comp. L.* 251, 259 (2011).

<sup>20</sup> Domínguez-Redondo, *supra* note 2, at 680. *See also Annual Conference, supra* note 19, at 251 (noting that "fifty states that were not living up to their obligations under the Covenant on Civil and Political Rights appear before the Universal Periodic Review process").

<sup>21</sup> *Annual Conference, supra* note 19, at 254.

<sup>22</sup> *Id.* at 263.

<sup>23</sup> *Id.* at 251.

<sup>24</sup> *Beyond Promises: The impact of the UPR on the ground*, UPR INFO 5 (2014), [https://www.upr-info.org/sites/default/files/general-document/pdf/2014\\_beyond\\_promises.pdf](https://www.upr-info.org/sites/default/files/general-document/pdf/2014_beyond_promises.pdf) [https://perma.cc/LK33-CZJF].

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

common characteristics of the more “successful” recommendations.

Domestic violence provides an interesting prism through which to evaluate the UPR mechanism. Out of the many human rights categories, the category of women’s rights was one of the most discussed during the first UPR cycle.<sup>27</sup> Recommendations concerning women’s rights also triggered the most action by mid-term.<sup>28</sup> Not only do women’s rights provide an abundant source of recommendations, but the narrower topic of domestic violence also serves as a good reference point because of its ubiquity. Domestic violence is a universal phenomenon “that cuts across lines of income, class and culture.”<sup>29</sup> Because domestic violence is a common denominator among all states, framing this research around this issue allows for more meaningful comparisons.

While this article is primarily concerned with domestic violence, defined as physical violence against women by family members or intimate partners, consideration was also given to recommendations and governmental actions that dealt with violence against women (VAW) more generally. In order to keep the scope of this analysis manageable, this article will not focus on sexual violence, sexual harassment, honor killings, female genital mutilation, or any other forms of discrimination against women, as these topics are expansive in their own right. Furthermore, limiting the scope of the human rights issue permits a deeper investigation into the legislative and institutional actions of the states under review, to determine if the claimed implementations are truly substantive.

This analysis also narrows the scope of the case studies to only states from the first session of the first UPR cycle, as these states were the first to undergo a UPR in 2008, the earliest reviewed again in 2012, and the earliest to be reviewed a third time in the spring of 2017. These countries are particularly illustrative because they have had the most time between cycles to accept recommendations and implement changes, if at all. Out of the sixteen countries reviewed in the first session, eight countries representing the five regions delineated by the UN Office of the High Commissioner for Human Rights were chosen<sup>30</sup>: Argentina (Americas), Bahrain and Algeria (Middle East and Northern Africa), South Africa (Africa), India and the Philippines (Asia-Pacific), and Poland and the United Kingdom (Europe, North America, and Central Asia). While there were no options from the first session from North America or Central Asia, this sample provides a diverse range of states’ sizes, populations, religions, forms of government, and levels of development.

The methodology of this analysis consists of counting the number of recommendations each state received in each cycle that used the words “domestic violence,” “violence against women,” or both, assessing their level of specificity, and evaluating the level of acceptance from the government. The analysis then examines the major legislative and institutional actions taken by the government in the interim periods, the relative “substantiveness” of the actions, and the links between the actions and the UPR recommendations. Because states under pressure to improve their human rights record often take superficial actions for the sake of saying they are complying with their obligations, analyzing the “substantiveness” of the actions is critical. It should be noted that this analysis will not examine whether the actual rates of domestic violence changed, as this data is

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<sup>27</sup> *Id.* at 27.

<sup>28</sup> *Id.* at 27, 39.

<sup>29</sup> United Nations Statistics Division, *The World’s Women 2010: Trends and Statistics*, 127, U.N. Doc. ST/ESA/STAT/SER.K/19 (2010).

<sup>30</sup> *Our Work in the Field*, UNITED NATIONS HUMAN RIGHTS, <http://www.ohchr.org/EN/Countries/Pages/WorkInField.aspx> [<https://perma.cc/PL5C-G8WG>].

not widely available and the statistics that do exist can be misleading.<sup>31</sup> Instead, this analysis will focus on the potential for the state's actions to impact real change.

### III. ANALYSIS

#### A. Case Study Results

This section discusses the major legislative and institutional changes observed in the sample states during the 2008-2012 and 2012-2016 interim periods. This discussion first presents an objective reporting of the facts before analyzing the substantiveness of each change and comparing the government's efforts from period to period. Substantiveness is, first and foremost, a relative term; to avoid unfair or improper comparisons, this analysis evaluates each state independently of the others and considers the state's legislative and institutional framework prior to 2008 when determining whether any true changes occurred. While assessing substantiveness is a complex task, consideration was largely based on how the human rights world perceived the changes, how responsive the changes were to research and advocacy, and the overall signs of commitment from the government to follow through with its plans. To ensure unbiased and accurate sources, this analysis bases its assessments on the same sources used by the UPR Working Group in preparing for each session: "'objective and reliable' information gathered from a national report, recommendations of human rights treaty bodies, and contributions by civil society organisations."<sup>32</sup> Although it is difficult to absolutely determine whether a change is "substantive" to the point of effective implementation, this analysis attempts to distinguish the changes made by governments to facially comply with their obligations from the actions that have the potential to actually improve the human rights situation on the ground.

#### 1. Argentina

Prior to 2008, Argentine law prohibited domestic violence, though it only prescribed penalties when the actions involved "crimes against sexual integrity."<sup>33</sup> Argentina received one recommendation on domestic violence during its first UPR in May 2008,<sup>34</sup> which the government accepted without any further comments.<sup>35</sup> In September 2008, the Supreme Court instituted the Office of Domestic Violence (ODV), a pilot project in Buenos Aires to improve victims' access to justice.<sup>36</sup> Family and civil courts in Buenos Aires also created hotlines and criminal courts worked with police to receive domestic violence complaints.<sup>37</sup> In 2009, the government passed a law

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<sup>31</sup> For example, domestic violence often goes unreported and thus the statistics do not always reflect reality. Additionally, an increase in domestic violence rates could mean the government is actually improving its response, and women feel more encouraged to report the violations.

<sup>32</sup> Abebe, *supra* note 10, at 7-8.

<sup>33</sup> *Id.*

<sup>34</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 17, U.N. Doc. A/HRC/8/34 (May 13, 2008). For a complete list of the relevant UPR recommendations from each cycle, see the Appendix.

<sup>35</sup> *Id.* at ¶ 64.

<sup>36</sup> *Id.* at ¶ 17.

<sup>37</sup> *Id.*

targeting violence against women,<sup>38</sup> which expanded its legal definition.<sup>39</sup> The National Council of Women (NCW) was designated as the implementing body for the standards under the new legislation.<sup>40</sup>

While these legislative and institutional changes in the 2008-2012 period are commendable, many critics argued that they were insufficient. While the ODV reportedly processed restraining orders in three days as opposed to three months, this program is limited to only Buenos Aires.<sup>41</sup> Additionally, the 2009 law failed to prescribe punishments for perpetrators, though it purported to create a framework for complementary laws.<sup>42</sup> The Committee under the Convention on the Elimination of Discrimination Against Women (CEDAW) voiced concerns in 2010 that no implementing legislation had been created and insufficient funds were allocated to enforce the law.<sup>43</sup> Other organizations criticized the low budget given to the NCW to implement the law's standards.<sup>44</sup>

Argentina received sixteen recommendations on domestic violence and violence against women during its 2012 UPR.<sup>45</sup> The government accepted eleven, cited one as already implemented, and four as no longer relevant.<sup>46</sup> In 2012, Congress amended the criminal code to include femicide.<sup>47</sup> In 2015, the Supreme Court created an online system allowing individual jurisdictions to publish data on femicides.<sup>48</sup> The Attorney General also created a Special Prosecution Unit for violence against women, and the NCW worked to compile a registry of VAW cases.<sup>49</sup> The president-elect also appointed the director of La Casa del Encuentro, a women's rights NGO, to head the NCW.<sup>50</sup> In 2016, the government announced a new National Plan on Violence Against Women pursuant to the standards of the law enacted in 2009.<sup>51</sup> The UN Special Rapporteur on Violence Against Women also conducted her first official visit to Argentina in November 2016.<sup>52</sup>

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<sup>38</sup> 2010 Human Rights Reports: Argentina, U.S. DEPARTMENT OF STATE (Apr. 8, 2011), <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154491.htm> [https://perma.cc/D4SB-CSW3].

<sup>39</sup> 2009 Human Rights Reports: Argentina, U.S. DEPARTMENT OF STATE (Mar. 11, 2010), <http://www.state.gov/j/drl/rls/hrrpt/2009/wha/136098.htm> [https://perma.cc/BM6X-SX2T].

<sup>40</sup> U.S. DEPARTMENT OF STATE, *supra* note 38.

<sup>41</sup> *Id.* at 21.

<sup>42</sup> U.S. DEPARTMENT OF STATE, *supra* note 39.

<sup>43</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women*, ¶ 23, U.N. Doc. C/ARG/CO/6 (Aug. 16, 2010).

<sup>44</sup> U.S. DEPARTMENT OF STATE, *supra* note 38.

<sup>45</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 99, U.N. Doc. A/HRC/22/4 (Dec. 12, 2012).

<sup>46</sup> *Id.* at ¶¶ 13-15, 26, 35.

<sup>47</sup> *Id.* at ¶ 16; *Country Reports on Human Rights Practices for 2012: Argentina*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm#wrapper> [https://perma.cc/3U9E-UCYY].

<sup>48</sup> Laura Rodriguez Claros, *Femicide in Argentina*, WOMEN ACROSS FRONTIERS MAGAZINE (Nov. 22, 2015), <http://wafmag.org/2015/11/femicide-in-argentina/> [https://perma.cc/F9GS-VWVT].

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Committee on the Elimination of Discrimination against Women considers the report of Argentina*, UNITED NATIONS HUMAN RIGHTS (Nov. 1, 2016), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20812&LangID=E> [https://perma.cc/ACS8-QAQQ].

<sup>52</sup> *Violence against women: UN human rights expert in first official visit to Argentina*, UNITED NATIONS

The 2012 femicide law was slow to take effect; in 2015, protestors gathered in Buenos Aires calling for the law's full implementation.<sup>53</sup> However, efforts by the Supreme Court and the NCW to collect and provide official data on the issue suggest that progress is occurring – in fact, the Supreme Court presented the National Registry of Femicide and the NCW released its VAW registry's initial findings in 2015.<sup>54</sup> Additionally, NGOs commented that “little by little all the protection measures that are enshrined in [the 2009 law] are being implemented.”<sup>55</sup> The government also took a substantive step by appointing the former director of a major NGO to lead the NCW, as she has long called for the implementation of the previous national plan and now “will have the chance to put it into effect.”<sup>56</sup> Though the 2017-2019 National Plan was announced fairly recently, it appears thorough and well-organized; it sets out 69 measures and 137 actions to be implemented based on empirical findings, provides for an increased budget, and includes multiple opportunities for mid-implementation reviews.<sup>57</sup> In this sense, the changes made during the 2012-2016 period appear to have a greater power to provide protection to victims and improve their access to justice than the changes made between 2008-2012.

## 2. United Kingdom

Prior to 2008, the law in the UK prohibited domestic violence, including spousal abuse.<sup>58</sup> The Family Law Act of 1996 created many of the protection provisions,<sup>59</sup> and the Domestic Violence Crime and Victims Act of 2004 strengthened these measures.<sup>60</sup> In July 2008, the government announced changes in the homicide law to ameliorate gender inequalities for certain types of family violence.<sup>61</sup> The UK received one recommendation on violence against women during its first UPR, which it accepted while commenting that the recommendation was already in the process of implementation.<sup>62</sup> In 2010, the UK enacted the Crime and Security Act, providing

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HUMAN RIGHTS (Nov. 9, 2016), <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=20844&LangID=E> [<https://perma.cc/XW4R-YGSD>].

<sup>53</sup> *Country Reports on Human Rights Practices for 2015: Argentina*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> [<https://perma.cc/7MHD-4SER>].

<sup>54</sup> Claros, *supra* note 48.

<sup>55</sup> Immigration and Refugee Board of Canada, *Argentina: Women victims of domestic violence; state protection and resources available to victims (2013-2015)*, REF WORLD (Jan. 22, 2016), <http://www.refworld.org/docid/56af19434.html> [<https://perma.cc/KML4-9NDC>].

<sup>56</sup> Claros, *supra* note 48.

<sup>57</sup> *Plan to cut violence against women launched*, BUENOS AIRES HERALD (July 27, 2016), <http://www.buenosairesherald.com/article/218790/plan-to-cut-violence-against-women-launched-> [<https://perma.cc/6A9Q-4AXU>].

<sup>58</sup> *2008 Human Rights Report: United Kingdom*, U.S. DEPARTMENT OF STATE (Feb. 25, 2009), <http://www.state.gov/j/drl/rls/hrrpt/2008/eur/119111.htm> [<https://perma.cc/8GKK-RE5T>].

<sup>59</sup> Rashida Manjoo (Special Rapporteur on violence against women, its causes and consequences), *Mission to the United Kingdom of Great Britain and Northern Ireland*, ¶ 84, U.N. Doc. A/HRC/29/27/Add.2 (May 19, 2015).

<sup>60</sup> *Id.*

<sup>61</sup> U.S. DEPARTMENT OF STATE, *supra* note 58.

<sup>62</sup> Human Rights Council, *Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, ¶¶ 24-27, U.N. Doc. A/HRC/8/25/Add.1 (Aug. 25, 2008).



for a new domestic violence protection order.<sup>63</sup> The government also launched a five-year “Call to end violence against women and girls” strategy in 2010, which included developing action plans in consultation with relevant stakeholders.<sup>64</sup> The government launched an action plan in March 2011 that included 88 “cross-government actions” committing the government to work on changing societal attitudes and behaviors.<sup>65</sup> The Welsh government also adopted its own VAW strategy in 2010.<sup>66</sup> The government also signed the Council of Europe Convention on preventing and combating violence against women and domestic violence in June 2012.<sup>67</sup>

The changes made in 2008-2012 demonstrate a serious commitment to combating domestic violence, and appear to be quite substantive. While the Special Rapporteur noted that there was “no general, stand-alone law on violence against women” applicable to the entire UK, the Crime and Security Act, among others, helped to address the issue.<sup>68</sup> However, a 2013 report still found flaws in the full implementation of the Act’s protection orders.<sup>69</sup> The “Call to end violence” campaign was a substantive step because it addressed concerns raised by CEDAW about the absence of a comprehensive national strategy in 2009.<sup>70</sup> There is also evidence that the government is continually updating the action plans developed in 2011,<sup>71</sup> and that Wales’s regional strategy is achieving its milestones.<sup>72</sup> The UK’s signing of the Council of Europe Convention also “sends a clear signal internationally that violence against women is a priority,” as parties to the Convention must implement a comprehensive package of measures to address violence against women and provide support services.<sup>73</sup>

The UK received six recommendations on domestic violence and violence against women during its UPR in July 2012, which it accepted without further comments.<sup>74</sup> In 2013, the government

<sup>63</sup> Manjoo, *supra* note 59, at ¶ 86.

<sup>64</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland*, ¶ 34, U.N. Doc. CEDAW/C/GBR/CO/7 (July 30, 2013); Manjoo, *supra* note 59, at ¶ 77.

<sup>65</sup> *Country Reports on Human Rights Practices for 2011: United Kingdom*, U.S. DEPARTMENT OF STATE, <https://www.state.gov/documents/organization/186628.pdf> [<https://perma.cc/L7QR-Z8VA>].

<sup>66</sup> *Written Statement - “The Right to be Safe Strategy” - 4th Annual Report*, WELSH GOVERNMENT (June 4, 2014), <http://gov.wales/about/cabinet/cabinetstatements/previous-administration/2014/righttobesafe4threport/?lang=en> [<https://perma.cc/KRV9-AXTC>].

<sup>67</sup> *Full list*, COUNCIL OF EUROPE, <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures> [<https://perma.cc/JVA2-VWUA>].

<sup>68</sup> Manjoo, *supra* note 59, at ¶ 74.

<sup>69</sup> *Id.* at ¶ 85.

<sup>70</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women*, ¶ 280, U.N. Doc. CEDAW/C/UK/CO/6 (July 10, 2008).

<sup>71</sup> *2010 to 2015 government policy: violence against women and girls*, GOV.UK (May 8, 2015), <https://www.gov.uk/government/publications/2010-to-2015-government-policy-violence-against-women-and-girls/2010-to-2015-government-policy-violence-against-women-and-girls> [<https://perma.cc/7RJC-A8RK>].

<sup>72</sup> WELSH GOVERNMENT, *supra* note 66.

<sup>73</sup> *UK signs European treaty on violence against women*, END VIOLENCE AGAINST WOMEN (June 11, 2012), <http://www.endviolenceagainstwomen.org.uk/news/38/uk-signs-european-treaty-on-violence-against-women> [<https://perma.cc/43D4-BM2Q>].

<sup>74</sup> Human Rights Council, *Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, ¶¶ 9, 16, 19, U.N. Doc. A/HRC/21/9/Add.1 (Sep. 17, 2012).

launched the “This is Abuse” national prevention campaign,<sup>75</sup> and implemented a new Code of Practice for Victims of Crime with enhanced services for domestic violence victims.<sup>76</sup> In 2014, the UK updated its “Call to end violence” action plan to include new stalking offenses and an expanded definition of domestic violence and abuse.<sup>77</sup> The government also implemented the Domestic Violence Disclosure Scheme in England and Wales,<sup>78</sup> and Scotland and Northern Ireland launched their own VAW strategies.<sup>79</sup> Wales enacted a new domestic violence law in 2015,<sup>80</sup> and the national Parliament’s House of Commons performed its second reading of the bill to ratify the Council of Europe Convention in December 2016.<sup>81</sup>

While the changes in the 2008-2012 period are progressive, the actions taken by the government in 2012-2016 strengthen those initial developments. The Special Rapporteur described the “This is Abuse” campaign as “noteworthy” and “welcomed by the relevant stakeholders,”<sup>82</sup> and other NGOs stated that it brought a refreshing take on traditional prevention efforts.<sup>83</sup> The government is also monitoring its new Disclosure Scheme through workshops with stakeholders and home office assessments,<sup>84</sup> and its updates to the “Call to end violence” strategy also demonstrate a continuing commitment to these plans. Scotland’s campaign was the first of its kind, and Northern Ireland’s public consultations and implementation plans indicate a strong dedication to this effort.<sup>85</sup> The new Welsh domestic violence legislation was also hailed as a “landmark” law

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<sup>75</sup> *This is Abuse: new advert launched*, GOV.UK (Feb. 14, 2013), <https://www.gov.uk/government/news/this-is-abuse-new-advert-launched> [https://perma.cc/ECD9-56ET].

<sup>76</sup> “United Nations Universal Periodic Review Mid Term Report of the United Kingdom of Great Britain and Northern Ireland, and the British Overseas Territories, and Crown Dependencies,” UPR-INFO 63 (2014), [https://www.upr-info.org/sites/default/files/document/united\\_kingdom/session\\_13\\_-\\_may\\_2012/uk\\_mid-term\\_report\\_08\\_14.pdf](https://www.upr-info.org/sites/default/files/document/united_kingdom/session_13_-_may_2012/uk_mid-term_report_08_14.pdf) [https://perma.cc/96NV-42S8].

<sup>77</sup> *A call to end violence against women and girls: action plan 2014*, GOV.UK (Mar. 8, 2014), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/287758/VAWG\\_Action\\_Plan.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287758/VAWG_Action_Plan.pdf) [https://perma.cc/26JP-ZPZP].

<sup>78</sup> Manjoo, *supra* note 59, at ¶ 87; *Domestic Violence Disclosure Scheme*, UK.GOV (Mar. 8, 2016), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/505434/2016-03-08\\_DVDS\\_report\\_final\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/505434/2016-03-08_DVDS_report_final_.pdf) [https://perma.cc/AK47-S8JM].

<sup>79</sup> *Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls*, SCOTTISH GOVERNMENT (Nov. 10, 2015), <http://www.gov.scot/Topics/People/Equality/violence-women/equallysafe> [https://perma.cc/V4SM-F7U4]; *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland Strategy*, DEPARTMENT OF HEALTH (July 11, 2016), <https://www.health-ni.gov.uk/publications/stopping-domestic-and-sexual-violence-and-abuse-northern-ireland-strategy> [https://perma.cc/T7QL-D93L].

<sup>80</sup> *Violence against women and domestic abuse*, WELSH GOVERNMENT (Nov. 4, 2016), <http://gov.wales/topics/people-and-communities/communities/safety/domesticabuse/?lang=en> [https://perma.cc/EP57-QCPE].

<sup>81</sup> *Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Bill 2016-17*, UK PARLIAMENT, <http://services.parliament.uk/bills/2016-17/preventingandcombatingviolenceagainstwomenanddomesticviolenceratificationofconvention.html> [https://perma.cc/LAK9-8SLW].

<sup>82</sup> Manjoo, *supra* note 59, at ¶ 79.

<sup>83</sup> Holly Dustin, *Preventing abuse in the UK: a matter of education*, OPEN DEMOCRACY (Dec. 6, 2013), <https://www.opendemocracy.net/5050/holly-dustin/preventing-abuse-in-uk-matter-of-education> [https://perma.cc/BMC4-VY9Q].

<sup>84</sup> UK.GOV, *supra* note 78, at 3.

<sup>85</sup> *Stopping Domestic and Sexual Violence and Abuse Strategy*, DEPARTMENT OF HEALTH (May 2016),

that is “breaking new ground.”<sup>86</sup> While the UK has still not ratified the Council of Europe Convention, a House of Lords committee called for its ratification,<sup>87</sup> signifying support for its eventual passage through Parliament.

### 3. Algeria

Algeria lacked a specific law on domestic violence for many years.<sup>88</sup> In 2005, the legislature amended the Family Code to lessen some of its more discriminatory provisions,<sup>89</sup> and the government set up a National Strategy for Violence Against Women for 2007-2011.<sup>90</sup> Algeria received one recommendation on domestic violence during its first UPR, which it accepted without comments.<sup>91</sup> In 2010, the government established a national database on violence against women and implemented a pilot project in the Oran province as part of its 2007-2011 strategy.<sup>92</sup> There were also efforts to establish collaborative partnerships between civilians and police to improve protection and support services,<sup>93</sup> and the government created a hotline for domestic violence victims in 2011.<sup>94</sup>

There is a good deal of evidence to suggest that these governmental efforts to implement its national strategy are more than just facial. Women’s rights activists reported a growing sensitivity among law enforcement to domestic violence issues as part of the national strategy implementation in 2010.<sup>95</sup> The Special Rapporteur also noted an increased trust in the police among victims that has improved “assistance and protection services.”<sup>96</sup> However, these improvements only occurred on a local scale. CEDAW still highlighted gaps in legislation at the national level, particularly concerning specific domestic violence laws, as a major cause for concern during this

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<https://www.health-ni.gov.uk/sites/default/files/publications/health/DSVA-strategy-year-one%20implementation-plan-updated-17%20May%202016.pdf> [https://perma.cc/WC57-89F7].

<sup>86</sup> *Violence against Women Domestic Abuse and Sexual Violence (Wales) Act 2015*, LIVE FEAR FREE, <http://livefearfree.gov.wales/policies-and-guidance/vawdasv-wales-act-2015?lang=en> [https://perma.cc/7WCQ-TLJA].

<sup>87</sup> *Sexual Violence in Conflict: A War Crime*, UK PARLIAMENT (Apr. 12, 2016), <http://www.parliament.uk/business/committees/committees-a-z/lords-select/sexual-violence-in-conflict/news-parliament-2015/svc-cmttee-report-publishe/> [https://perma.cc/8SXJ-82NQ].

<sup>88</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women*, ¶ 29, U.N. Doc. C/DZA/CO/3-4 (Mar. 2, 2012).

<sup>89</sup> Rashida Manjoo (Special Rapporteur on violence against women, its causes and consequences), *Mission to Algeria*, ¶ 30, U.N. Doc. A/HRC/17/26/Add.3 (May 19, 2011).

<sup>90</sup> *Africa Women’s Rights Observatory*, UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA (2012), [http://www1.uneca.org/awro/country\\_algeria.aspx](http://www1.uneca.org/awro/country_algeria.aspx) [https://perma.cc/RWQ3-AWYF].

<sup>91</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 69.15, U.N. Doc. A/HRC/8/29 (May 23, 2008).

<sup>92</sup> Manjoo, *supra* note 89, at ¶ 40.

<sup>93</sup> *Id.* at ¶ 44.

<sup>94</sup> *Country Reports on Human Rights Practices for 2012: Algeria*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/drl/rls/hrrpt/2012/humanrightsreport/index.htm#wrapper> [https://perma.cc/5NUS-ML87].

<sup>95</sup> *2010 Human Rights Report: Algeria*, U.S. DEPARTMENT OF STATE (Apr. 8, 2011), <http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154458.htm> [https://perma.cc/UKK5-66DB].

<sup>96</sup> Manjoo, *supra* note 89, at ¶ 44.

period.<sup>97</sup>

Algeria received nine recommendations on domestic violence and violence against women during its second UPR.<sup>98</sup> It accepted eight and claimed one was already implemented.<sup>99</sup> In March 2015, the legislature passed a law that criminalized domestic violence, intensified the punishment for perpetrators of violence against women, and strengthened women's financial rights.<sup>100</sup> The law came into force in February 2016.<sup>101</sup> It is still too early to conclude if this law will have any substantive bite, but the media and human rights groups are cautiously optimistic. According to reports, this law is "the fruit of a long struggle by feminist organizations" and "has the potential to be extremely robust in handing down heavy penalties for acts of domestic violence."<sup>102</sup> While the law's "forgiveness" clause allowing the victim to pardon the abuser has received criticism,<sup>103</sup> the law's very existence is a major improvement for Algeria. Though it may appear that bigger changes happened between 2008-2012, the reforms of 2012-2016 directly addressed the repeated concerns of human rights bodies and are a greater step forward for a country with no similar laws in place previously.

#### 4. Poland

The Act on Domestic Violence of 2005 governs this issue in Poland.<sup>104</sup> The National Program for Fighting Against Domestic Violence was adopted in 2006 to implement and enforce the law, as well as the National Action Plan of Counteracting Domestic Violence.<sup>105</sup> Poland received one recommendation on violence against women during its first UPR.<sup>106</sup> The government responded by stating that its law on domestic violence is already being implemented within the framework of its National Program.<sup>107</sup> The domestic violence law was amended in 2010 to facilitate the issuance

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<sup>97</sup> Committee on the Elimination of Discrimination against Women, *supra* note 88.

<sup>98</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 129.39-129.47, U.N. Doc. A/HRC/21/13 (July 5, 2012).

<sup>99</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶¶ 3, 14, U.N. Doc. A/HRC/21/13/Add.1 (Sep. 20, 2012).

<sup>100</sup> *Algeria: New Law Prohibits Domestic Violence Against Women*, INTERNATIONAL GULF ORGANIZATION (Mar. 12, 2015), <http://www.igogcc.org/algeria-new-law-prohibits-domestic-violence-against-women/> [<https://perma.cc/5AHR-8QLL>].

<sup>101</sup> *New Law in Algeria Punishes Violence Against Women*, ASSOCIATED PRESS (Feb. 2, 2016), <https://www.cbsnews.com/news/new-law-in-algeria-punishes-violence-against-women/> [<https://perma.cc/728F-QHSK>].

<sup>102</sup> Aomar Ouali, *A new Algerian law has come into effect this week punishing violence against women and sexual harassment, in a victory for feminist groups that had fought for years for the legislation*, U.S. NEWS (Feb. 2, 2016), <http://www.usnews.com/news/world/articles/2016-02-02/new-algerian-law-punishes-violence-against-women> [<https://perma.cc/9CG4-U3DS>].

<sup>103</sup> *Country Reports on Human Rights Practices for 2015: Algeria*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> [<https://perma.cc/5Z7G-828U>].

<sup>104</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 9, U.N. Doc. A/HRC/8/30 (May 23, 2008).

<sup>105</sup> *Id.* at ¶¶ 9, 34

<sup>106</sup> *Id.* at ¶ 54.

<sup>107</sup> Human Rights Council, *Responses of Poland to Recommendations*, ¶ 14, U.N. Doc. A/HRC/8/30/Add.1 (Aug. 25, 2008).

of restraining orders and create interdisciplinary units to work on the issue.<sup>108</sup> The government also allocated funds in 2011 to research domestic violence and organize a conference, a national awareness campaign, and trainings for first responders.<sup>109</sup>

The government claimed that the 2010 amendments would develop prevention measures, increase the protections' effectiveness, create mechanisms to isolate offenders from victims, and change the attitude of abusers.<sup>110</sup> However, various stakeholders expressed concern that the amendments do not provide better protection or contain more effective regulations.<sup>111</sup> Additionally, many remained troubled that the police still could not issue restraining orders at the scene.<sup>112</sup> NGOs have also claimed that the interdisciplinary units actually exacerbate the problem because the teams focused on "resolving family problems" rather than prosecuting offenders.<sup>113</sup> The government does appear to be committed to its efforts to research and spread awareness about domestic violence, however, as it allocated significant funds to these projects every year.<sup>114</sup>

Poland received five recommendations on domestic violence during its second UPR.<sup>115</sup> It accepted all five, while noting that one was in the course of implementation.<sup>116</sup> The government continued to organize conferences, campaigns, research, and trainings in 2012 and 2013.<sup>117</sup> In 2014, the government allocated funds to assess the scale of domestic violence and evaluate the effectiveness of preventative activities.<sup>118</sup> It also organized a national awareness campaign entitled

<sup>108</sup> *Poland Updated*, EUROPEAN WOMEN'S LOBBY (Feb. 9, 2012), <http://www.womenlobby.org/Poland-Updated> [<https://perma.cc/HQ75-JBLN>].

<sup>109</sup> U.S. DEPARTMENT OF STATE, *Country Reports on Human Rights Practices for 2011: Poland*, <https://www.state.gov/documents/organization/186602.pdf> [<https://perma.cc/HUX4-PP93>].

<sup>110</sup> *Mid-Term Progress Report by Poland*, MINISTRY OF FOREIGN AFFAIRS, ¶ 2 (2011), [https://www.upr-info.org/sites/default/files/document/poland/session\\_01\\_-\\_april\\_2008/poland\\_mid-term\\_report\\_march\\_2011.pdf](https://www.upr-info.org/sites/default/files/document/poland/session_01_-_april_2008/poland_mid-term_report_march_2011.pdf) [<https://perma.cc/9JDM-R4TV>].

<sup>111</sup> Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, ¶ 19, U.N. Doc. A/HRC/WG.6/13/POL/3 (Mar. 12, 2012).

<sup>112</sup> U.S. DEPARTMENT OF STATE, *2010 Human Rights Report: Poland*, (Apr. 8, 2011), <http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154444.htm> [<https://perma.cc/QCQ2-37AH>].

<sup>113</sup> U.S. DEPARTMENT OF STATE, *Country Reports on Human Rights Practices for 2012: Poland*, <http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm#wrapper> [<https://perma.cc/TS9W-MPBV>].

<sup>114</sup> U.S. DEPARTMENT OF STATE, *2008 Human Rights Report: Poland*, (Feb. 25, 2009), [http://www.state.gov/j/drl/rls/hrrpt/2008/Department eur/119098.htm](http://www.state.gov/j/drl/rls/hrrpt/2008/Department%20eur/119098.htm) [<https://perma.cc/WW7L-EPUJ>]; U.S. DEPARTMENT OF STATE, *2009 Human Rights Report: Poland*, (Mar. 11, 2010), <http://www.state.gov/j/drl/rls/hrrpt/2009/eur/136051.htm> [<https://perma.cc/F6UU-5UQM>]; U.S. DEPARTMENT OF STATE, *supra* note 112; U.S. DEPARTMENT OF STATE, *Country Reports on Human Rights Practices for 2011: Poland*, <http://www.state.gov/j/drl/rls/hrrpt/2011humanrightsreport/index.htm#wrapper> [<https://perma.cc/L59X-7KJH>]; U.S. DEPARTMENT OF STATE, *supra* note 113.

<sup>115</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 90, U.N. Doc. A/HRC/21/14 (July 9, 2012).

<sup>116</sup> Human Rights Council, *Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, at 3-4, U.N. Doc. A/HRC/21/14/Add.1 (Sep. 7, 2012).

<sup>117</sup> U.S. DEPARTMENT OF STATE, *supra* note 113; U.S. DEPARTMENT OF STATE, *Country Reports on Human Rights Practices for 2013: Poland*, <http://www.state.gov/j/drl/rls/hrrpt/2013humanrightsreport/index.htm#wrapper> [<https://perma.cc/3B57-ZEF5>].

<sup>118</sup> U.S. DEPARTMENT OF STATE, *Country Reports on Human Rights Practices for 2015: Poland*, <https://2009-2017.state.gov/documents/organization/253099.pdf> [<https://perma.cc/X3Q3-ZSMX>].

“React to Violence,” and held a national conference on the present and future of the national plan.<sup>119</sup> Most notably, Poland signed the Council of Europe Convention in December 2012 and ratified it in April 2015.<sup>120</sup>

The government’s efforts to expand its previous projects, evaluate its progress, and plan for the future indicate some substance behind these changes. Poland’s signing of the Council of Europe Convention is also a substantive measure, and its ratification of the Convention shows commitment on the government’s part to this change. However, some reports still express concern. In 2014, CEDAW indicated that there were still gaps remaining in the legal framework,<sup>121</sup> and Amnesty International reported in 2015 that Poland had “not yet adopted a comprehensive plan to implement the Convention.”<sup>122</sup> Overall, the reforms appear to be more substantive post-2012 than post-2008, though there are still areas of concern about the true depth of these measures.

## 5. Philippines

Prior to 2008, the Philippines had several laws in place that criminalized domestic violence and violence against women. The Anti-Violence Against Women and Their Children Act of 2004 criminalized all forms of harm or abuse by intimate partners, and mandated the creation of the Inter-Agency Council on Violence Against Women and Their Children.<sup>123</sup> The Philippines also participated as a pilot country in the UN Joint Programme on Violence Against Women.<sup>124</sup> The Philippine Commission on Women (PCW), the primary policy-making and coordinating body for women’s empowerment,<sup>125</sup> has undertaken a variety of awareness campaigns, such as the annual 18-Day Campaign started in 2002 and the MOVE campaign in 2006.<sup>126</sup>

The Philippines received one recommendation on violence against women during its first UPR,<sup>127</sup> which the government accepted without further comments.<sup>128</sup> In 2009, after languishing in various congresses for ten years, the Magna Carta of Women Act (MCW) was signed into law.<sup>129</sup>

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

<sup>120</sup> COUNCIL OF EUROPE, *Treaty list for a specific State*, <http://www.coe.int/en/web/conventions/search-on-states/-/conventions/treaty/country/POL> [<https://perma.cc/7VE7-NRQ7>].

<sup>121</sup> Committee on the Elimination of Discrimination Against Women, *Concluding observations on the combined seventh and eighth periodic reports of Poland*, ¶ 24, U.N. Doc. C/POL/CO/7-8 (Nov. 14, 2014).

<sup>122</sup> *Poland 2015/2016*, AMNESTY INTERNATIONAL, <https://www.amnesty.org/en/latest/research/2016/02/annual-report-201516> [<https://perma.cc/P8TS-7NEN>].

<sup>123</sup> *Philippine Initiatives to Eliminate VAW*, PHILIPPINE COMMISSION ON WOMEN, <http://www.pcw.gov.ph/focus-areas/violence-against-women/initiatives> [<https://perma.cc/K3RY-PH7N>].

<sup>124</sup> Human Rights Council, *Rep. of the Working Group on the Universal Period Review: The Philippines*, ¶ 39, U.N. Doc. A/HRC/8/28 (2008) [hereinafter *Philippines 2008 Report*].

<sup>125</sup> *Herstory*, PHILIPPINE COMMISSION ON WOMEN, <http://www.pcw.gov.ph/pcw> [<https://perma.cc/FZZ3-EM9M>].

<sup>126</sup> *Philippine Initiatives to Eliminate VAW*, *supra* note 123.

<sup>127</sup> *Philippines 2008 Report*, *supra* note 124, at ¶ 58.

<sup>128</sup> Human Rights Council, *Response by the Government of the Philippines to the Recommendations made by Various Country Delegations during the Interactive Dialogue of the Working Group held on 11 April 2008*, ¶ 1-2, U.N. Doc. A/HRC/8/28/Add.1 (2008) [hereinafter *Philippines Response to 2008 Report*].

<sup>129</sup> *Philippines Must Act on Magna Carta of Women*, CTR. FOR REPRODUCTIVE RTS. (Mar. 25, 2010), <https://www.reproductiverights.org/feature/philippines-must-act-on-magna-carta-of-women> [<https://perma.cc/A4H5-A2W>].

Serving as the national adoption of CEDAW,<sup>130</sup> the Act mandates, *inter alia*, the creation of village VAW desks to address the issue at the local level.<sup>131</sup> Civil society welcomed the MCW, describing it as a “milestone” for Philippine women.<sup>132</sup> There are also some signs of implementation – as of May 2015, 79.5% of villages have established VAW desks.<sup>133</sup> Human rights groups, however, have expressed concern that the MCW did not provide for the prosecution of perpetrators, and that some judges refrained from applying the laws, suggesting an implementation gap still existed.<sup>134</sup>

The Philippines received two recommendations on domestic violence and violence against women during its second UPR, which it accepted without further comments.<sup>135</sup> The Philippines joined in the ASEAN Declaration on the Elimination of Violence Against Women in 2013,<sup>136</sup> and took part in the ASEAN Regional Plan to End Violence Against Women in 2015.<sup>137</sup> In addition to continuing its other campaign efforts, the PCW took advantage of the “Battle of the Century” between Pacquiao and Mayweather, Jr. to launch a #KnockOutDomesticViolence campaign, earning it the 2016 Asia-Pacific Tambuli Award.<sup>138</sup> A bill expanding the 2004 Act to include electronic violence against women and greater protection measures is also currently pending before the Senate.<sup>139</sup>

The Philippines’s post-2012 efforts are similarly substantive. As part of the ASEAN regional plan, the Philippines worked to identify its shortcomings and challenges,<sup>140</sup> evidencing a commitment to make this issue a priority. The #KnockOutDomesticViolence campaign in 2015 represents a substantive public awareness effort, as the Tambuli Awards “recognize brand

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6] [hereinafter *Phillipines Must Act*].

<sup>130</sup> *ASEAN Regional Plan of Action on the Elimination of Violence Against Women*, ASEAN 40 (2015), [http://www.asean.org/storage/images/2015/November/27th-summit/ASCC\\_documents/ASEAN%20Regional%20Plan%20of%20Action%20on%20Elimination%20of%20Violence%20Against%20WomenAdopted.pdf](http://www.asean.org/storage/images/2015/November/27th-summit/ASCC_documents/ASEAN%20Regional%20Plan%20of%20Action%20on%20Elimination%20of%20Violence%20Against%20WomenAdopted.pdf) [<https://perma.cc/5TLA-NYXJ>] [hereinafter *ASEAN Regional Plan*].

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

<sup>132</sup> *Phillipines Must Act*, *supra* note 129.

<sup>133</sup> *ASEAN Regional Plan*, *supra* note 130.

<sup>134</sup> Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights in accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Philippines*, ¶ 3, U.N. Doc. A/HRC/WG.6/13/PHL/3 (2012) [hereinafter *Summary to HCR 16/21*].

<sup>135</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Philippines*, ¶ 129, U.N. Doc. A/HRC/21/12 (2012) [hereinafter *Phillipines 2012 Report*].

<sup>136</sup> *See The Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN*, UNITED NATIONS HUM. RTS. (Oct. 9, 2013), [http://www.ohchr.org/Documents/Issues/Women/WG/ASEANdeclarationVaW\\_violenceagainstchildren.pdf](http://www.ohchr.org/Documents/Issues/Women/WG/ASEANdeclarationVaW_violenceagainstchildren.pdf) [<https://perma.cc/YU8D-BY9Q>].

<sup>137</sup> *ASEAN Regional Plan*, *supra* note 130, at 3.

<sup>138</sup> *Violence against Women Campaign Mimics Pacquiao-Mayweather Promo*, CNN PHILIPPINES (Apr. 30, 2015), <http://cnnphilippines.com/lifestyle/2015/04/30/Philippine-Commission-on-Women-campaign-mimics-Pacquiao-Mayweather-promo.html> [<https://perma.cc/W4DY-N48Q>]; *PCW, DDB’s Campaign on Domestic Violence Wins Tambuli Bronze Award*, PHILIPPINE COMMISSION ON WOMEN (June 2, 2016), <http://www.pcw.gov.ph/article/pcw-ddb’s-campaign-domestic-violence-wins-tambuli-bronze-award> [<https://perma.cc/ZDR5-WG23>] [hereinafter *Campaign Wins Tambuli Bronze Award*].

<sup>139</sup> *The Expanded Anti-Violence against Women and Their Children (E-VAWC) Act*, SENATE OF THE PHILIPPINES, [https://www.senate.gov.ph/lis/bill\\_res.aspx?congress=16&q=SBN-2887](https://www.senate.gov.ph/lis/bill_res.aspx?congress=16&q=SBN-2887) [<https://perma.cc/X66J-VXR9>].

<sup>140</sup> *ASEAN Regional Plan*, *supra* note 130, at 40-41.

campaigns that . . . deliver results.”<sup>141</sup> The pending E-VAW Bill before the Senate also suggests a desire on the government’s part to fortify the 2004 Act by broadening the scope of violence against women to include electronic violence.<sup>142</sup> Like the post-2008 changes, however, these reforms still raise some questions about their true depth. President Duterte’s misogynistic comments during his campaign blatantly violated the MCW,<sup>143</sup> and CEDAW’s 2016 report still raised concerns about the 2004 Act’s limited scope.<sup>144</sup>

## 6. India

Prior to 2008, India had several laws in place that criminalized domestic violence, most notably the Protection of Women from Domestic Violence Act of 2005.<sup>145</sup> India received no recommendations during its first UPR relating to domestic violence or violence against women. There were also no major legislative or institutional changes reported in the interim period between the first and second reviews. India received three recommendations on domestic violence and violence against women during its second UPR in 2012.<sup>146</sup> It accepted one of the recommendations and did not respond to the others.<sup>147</sup>

In 2013, the government established the Verma Committee to review the gaps between its domestic violence legislation and implementation.<sup>148</sup> The Committee issued a report that led to the adoption of the Criminal Law (Amendment) Act, which “improved the legislative framework by introducing new criminal offenses and stronger sanctions.”<sup>149</sup> In 2013, the West Bengal government established 65 new women police stations and 88 permanent “fast-track” courts to provide swifter justice in violence against women cases.<sup>150</sup> The Madhya Pradesh government also established a

<sup>141</sup> *Campaign Wins Tambuli Bronze Award*, *supra* note 138.

<sup>142</sup> An Act to Amending Rep. Act No. 9262, House Bill No. 2591, Explanatory Note, ¶ 1 (Aug. 28, 2013) (Phil.), [http://www.congress.gov.ph/legisdocs/basic\\_16/hb02591.pdf](http://www.congress.gov.ph/legisdocs/basic_16/hb02591.pdf) [<https://perma.cc/J63V-9EQQ>].

<sup>143</sup> See Elizabeth Marcelo, *CHR Says Duterte Violated Magna Carta of Women with Rape Joke*, GMA NEWS ONLINE (May 25, 2016), <http://www.gmanetwork.com/news/story/567516/news/nation/chr-says-duterte-violated-magna-carta-of-women-with-rape-joke> [<https://perma.cc/NZY9-RG62>].

<sup>144</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Seventh and Eighth Periodic Reports of the Philippines*, ¶ 25, U.N. Doc. CEDAW/C/PHL/CO/7-8 (2016), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=5](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=5) [<https://perma.cc/2JAX-TEU9>].

<sup>145</sup> Human Rights Council, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, given by Rashida Manjoo, *Mission to India*, ¶ 31, U.N. Doc. A/HRC/26/38/Add.1 (2014).

<sup>146</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 138, U.N. Doc. A/HRC/21/10 (2012), [https://www.upr-info.org/sites/default/files/document/india/session\\_13\\_-\\_may\\_2012/ahrc2110indiae.pdf](https://www.upr-info.org/sites/default/files/document/india/session_13_-_may_2012/ahrc2110indiae.pdf) [<https://perma.cc/CG5M-JA33>].

<sup>147</sup> Human Rights Council, *Views on Conclusions and/or Recommendations, Voluntary Commitments and Replies Presented by the State under Review*, 4, U.N. Doc. A/HRC/21/10/Add.1 (2012), [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A.HRC.21.10.Add.1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A.HRC.21.10.Add.1_en.pdf) [<https://perma.cc/4BQV-PNL2>].

<sup>148</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic reports of India*, ¶ 10, U.N. Doc. CEDAW/C/IND/CO/4-5 (July 24, 2014), [https://digitallibrary.un.org/record/778815/files/CEDAW\\_C\\_IND\\_CO\\_4-5-EN.pdf](https://digitallibrary.un.org/record/778815/files/CEDAW_C_IND_CO_4-5-EN.pdf) [<https://perma.cc/A6FP-2SEF>].

<sup>149</sup> Human Rights Council, Report of the Special Rapporteur, *supra* note 145 at ¶ 49.

<sup>150</sup> *Country Reports on Human Rights Practices for 2013: India*, U.S. DEP’T OF STATE,



crisis center for women in 2014.<sup>151</sup>

Groups acknowledging the amendments as a positive step claim that the changes fell short of the Verma Committee's recommendations<sup>152</sup> by failing to appropriately criminalize certain behavior or address the root causes of the issue.<sup>153</sup> Some members of parliament greeted the amendments with a taunting attitude,<sup>154</sup> suggesting a lack of governmental support for these changes. Although no information is available on the number of fast-track courts available, all ten women police stations were reported to be operational in 2013,<sup>155</sup> and the Madhya Pradesh government has continued to open more crisis centers.<sup>156</sup> While these post-2012 developments are important, the substantive ones were at the local level, whereas the top-level changes appeared more facial.

## 7. Bahrain

For many years, Bahrain lacked any laws or policies that explicitly addressed domestic violence or violence against women,<sup>157</sup> as well as a general family code.<sup>158</sup> The Penal Code even exempts perpetrators of violence against women from punishment in certain circumstances.<sup>159</sup> Bahrain did not receive any recommendations during its first UPR that specifically named domestic violence or violence against women. It did receive and accept one recommendation to consider adopting a family law, which is peripherally related to domestic violence.<sup>160</sup> In May 2009, Bahrain approved its first Islamic family code.<sup>161</sup> While this law is a considerable advancement, it only

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<http://www.state.gov/j/drl/rls/hrrpt/2013humanrightsreport/index.htm#wrapper> [<https://perma.cc/4UCU-BCMM>].

<sup>151</sup> *Country Reports on Human Rights Practices for 2014: India*, U.S. DEP'T OF STATE, <http://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm#wrapper> [<https://perma.cc/TZ4M-PRGP>].

<sup>152</sup> Human Rights Council, *India Must Take Prompt Steps to Address Concerns of UN Special Rapporteur on Violence against Women*, Written Statement submitted by Amnesty Int'l, 2, U.N. Doc. A/HRC/23/NGO/102 (2013).

<sup>153</sup> Human Rights Council, Report of the Special Rapporteur, *supra* note 145 at ¶ 50.

<sup>154</sup> *Id.* at ¶ 51.

<sup>155</sup> *Country Reports on Human Rights Practices for 2013: India*, *supra* note 150.

<sup>156</sup> Shruti Tomar, *Madhya Pradesh to be the First to Have 3 One Stop Centres for Women*, HINDUSTAN TIMES, May 7, 2015, <http://www.hindustantimes.com/bhopal/madhya-pradesh-to-be-the-first-to-have-3-one-stop-centres-for-women/story-UhrB7FVw0y6qB0gcLrdheO.html> [<https://perma.cc/48M4-4MEC>].

<sup>157</sup> *2008 Human Rights Report: Bahrain*, U.S. DEP'T OF STATE (Feb. 25, 2009), <http://www.state.gov/j/drl/rls/hrrpt/2008/nea/119113.htm> [<https://perma.cc/8B5D-3E9Z>].

<sup>158</sup> *Family Law in Bahrain*, BAHRAIN CTR FOR HUMAN RTS. 5 (Feb. 10, 2014), <http://www.bahrainrights.org/sites/default/files/BCHR%20Report%20on%20Family%20Law%20in%20Bahrain.pdf> [<https://perma.cc/2X77-YY7G>].

<sup>159</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Third Periodic Report of Bahrain*, ¶ 21, U.N. Doc. CEDAW/C/BHR/CO/3 (2014), <http://www.bahrainrights.org/en/node/6783> [<https://perma.cc/2ADT-SLF5>].

<sup>160</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 60, U.N. Doc. A/HRC/8/19 (2008), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/136/07/PDF/G0813607.pdf?OpenElement> [<https://perma.cc/DVX9-RWTR>].

<sup>161</sup> *Family Law in Bahrain*, *supra* note 158; *Discrimination Against Women*, BAHRAIN CTR. FOR HUMAN RTS. 4 (Feb. 10, 2014), [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BHR/INT\\_CEDAW\\_NGO\\_BHR\\_16372\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BHR/INT_CEDAW_NGO_BHR_16372_E.pdf) [<https://perma.cc/6U2Z-W5XZ>].

applies to Sunni citizens, and Shia women comprise the majority of women in Bahrain.<sup>162</sup>

Bahrain again did not receive any recommendations relating to these issues in 2012. It did receive several recommendations relating to women's rights generally, but these "recommendations were very broad in scope."<sup>163</sup> In 2015, members of parliament called to repeal certain problematic sections of the Penal Code, and the King ratified the first domestic violence law.<sup>164</sup> In November 2015, the Supreme Council for Women, the governmental agency responsible for women's affairs, announced the launch of a National Strategy for the Protection of Women from Domestic Violence.<sup>165</sup> While these efforts signify a step forward, they have been met with opposition from the government. The Penal Code has yet to be amended,<sup>166</sup> and in 2016 the parliament voted down an article in the new domestic violence law that would have criminalized marital rape.<sup>167</sup> While the steps taken in both interim periods are important, they appear to lack a substantive foundation.

## 8. South Africa

South Africa's Domestic Violence Act of 1998 serves as the main source of protection for domestic violence victims and contains one of the broadest definitions of violence against women.<sup>168</sup> It provides for protection orders, requires the police to move victims to safe locations, and permits the police to seize firearms and arrest abusers at the scene.<sup>169</sup> The government has engaged in various awareness campaign activities, such as the 365-Day National Action Plan to End Gender Violence in 2006 and 2007.<sup>170</sup> South Africa received three recommendations on violence against women in its 2008 UPR,<sup>171</sup> but even by 2011, it still "failed to clarify its position" on any of these recommendations.<sup>172</sup> The government made no discernible legislative or institutional changes in the interim period leading up to the second review.

South Africa received one recommendation on domestic violence and thirteen on other

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<sup>162</sup> *Bahrain: Events of 2015*, HUMAN RTS. WATCH (2016), <https://www.hrw.org/world-report/2016/country-chapters/bahrain#99b360> [<https://perma.cc/4EXG-NDBC>].

<sup>163</sup> Human Rights Council, *Examining Bahrain's Implementation of its UPR Commitments at the Mid-Term of its Second-Cycle Review*, 2, U.N. Doc. A/HRC/27/NGO/82 (Aug. 28, 2014).

<sup>164</sup> HUMAN RIGHTS WATCH, *supra* note 162.

<sup>165</sup> *Id.*

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

<sup>167</sup> *Bahrain 2016/2017*, AMNESTY INT'L., <https://www.amnesty.org/en/countries/middle-east-and-north-africa/bahrain/report-bahrain/> [<https://perma.cc/325Q-XM32>].

<sup>168</sup> Elizabeth le Roux, *South Africa's Rising Rates of Violence Against Women Demand a Unified Approach*, THE CONVERSATION (Aug. 26, 2015), <http://theconversation.com/south-africas-rising-rates-of-violence-against-women-demand-a-unified-approach-45837> [<https://perma.cc/J7QG-TQZQ>].

<sup>169</sup> *2008 Human Rights Report: South Africa*, U.S. DEP'T. OF STATE (Feb. 25, 2009), <http://www.state.gov/j/drl/rls/hrrpt/2008/af/119025.htm> [<https://perma.cc/5J3L-V4XR>].

<sup>170</sup> *365 Day National Action Plan to End Gender Violence*, DEP'T.: JUSTICE AND CONST. DEV.3 (Mar. 8, 2007), [http://www.justice.gov.za/VC/docs/campaings/2007\\_365actionplan.pdf](http://www.justice.gov.za/VC/docs/campaings/2007_365actionplan.pdf) [<https://perma.cc/E5BG-5R2W>].

<sup>171</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 67, U.N. Doc. A/HRC/8/32 (May 23, 2008).

<sup>172</sup> *Universal Periodic Review of South Africa*, HUMAN RIGHTS WATCH (Jan. 20, 2012), <https://www.hrw.org/news/2012/01/20/universal-periodic-review-south-africa> [<https://perma.cc/FUL7-6NH6>].

forms of related, “gender-based violence” in 2012.<sup>173</sup> Though the government accepted each recommendation, it followed up each acceptance by commenting that already adequate measures were in place to address the issue.<sup>174</sup> In 2012, the government approved the creation of the National Council Against Gender-Based Violence (NCGBV),<sup>175</sup> and an Inter-Ministerial Committee (IMC) was established to address the root causes of violence against women.<sup>176</sup> The Department of Women was also established in 2014, though it was reportedly still “in transition” as of 2015.<sup>177</sup>

Though the government appears to be making headway on this issue, the NGO reports suggest that these changes are relatively shallow. The Special Rapporteur noted reports that the IMC was “not working efficiently and has only met a few times since its inception,” and the Department of Women faces financial constraints and “a lack of clarity on coordination and division of labour” between government agencies on violence against women.<sup>178</sup> The NCGBV has also “become an unfunded mandate,” and civil society’s advocacy for its “resurrection” has “repeatedly been shot down by the Department of Women, whose mandate no longer includes GBV or violence against women.”<sup>179</sup> This “apathy by government stakeholders and the lack of political will to address GBV”<sup>180</sup> supports the conclusion that these post-2012 changes lack the potential to actually improve the human rights situation on the ground.

I have created the following table—based on my own observations—to provide a visual presentation of these results.<sup>181</sup>

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<sup>173</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, ¶ 124, U.N. Doc. A/HRC/21/16 (July 9, 2012).

<sup>174</sup> See generally Human Rights Council, *Annex A: Recommendations Acceptable to South Africa*, 29-32, U.N. Doc. A/HRC/21/16/Add.1 (2012).

<sup>175</sup> *Council Against Gender-based Violence to Begin Soon*, TIMES LIVE (Aug. 13, 2012), <http://www.timeslive.co.za/politics/2012/08/13/council-against-gender-based-violence-to-begin-soon> [<https://perma.cc/LEB4-Y693>].

<sup>176</sup> Dubravka Šimonović (Special Rapporteur on Violence Against Women), *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences on her Mission to South Africa (4 to 11 December 2015)*, ¶ 50, U.N. Doc. A/HRC/32/42/Add.2 (June 14, 2016).

<sup>177</sup> *Id.* at ¶ 49.

<sup>178</sup> *Id.* at ¶¶ 49-50.

<sup>179</sup> *South Africa: No Word From the National Council on Gender-Based Violence*, ALLAFRICA (Nov. 25, 2015), <http://allafrica.com/stories/201511251782.html> [<https://perma.cc/9LQX-XWXU>].

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

<sup>181</sup> A recommendation with a high level of specificity is one that suggests that the state, *inter alia*, sign or ratify a specific convention, criminalize domestic violence, or collect data on the issue. A recommendation with a medium level invites the government to, *inter alia*, “conduct awareness-raising campaigns,” “train law enforcement,” or “better facilitate judicial proceedings.” A recommendation with a low level encourages the state to, *inter alia*, “strengthen its efforts” to address violence against women or “provide redress to victims.” A “positive” government response means the government accepted, agreed to, or supported the recommendation with no further comments. A “generally positive” response means the government accepted most of the recommendations and/or claimed they were in the process of implementation. A “generally negative” response means the government did not accept the majority of the recommendations, and a “negative” response means the government claimed there were already sufficient measures in place for addressing the problem.

Country	Number (2008)	Specificity (2008)	Response (2008)	Substantiveness of Changes	Number (2012)	Specificity (2012)	Response (2012)	Substantiveness of Changes
Algeria	1	High	Positive	Low	9	4 High, 4 Medium, 1 Low	Positive	Medium
Argentina	1	Medium	Positive	Medium	16	4 High, 8 Medium, 4 Low	Generally positive	High
Bahrain	0	N/A	N/A	Low	0	N/A	N/A	Low
India	0	N/A	N/A	No discernible changes	3	1 Medium, 2 Low	Generally negative	Low
Philippines	1	Medium	Positive	Medium	2	Medium	Positive	Medium
Poland	1	Medium	Generally negative	Medium	5	2 High, 2 Medium, 1 Low	Positive	Medium
South Africa	3	1 High, 1 Medium, 1 Low	Pending	No discernible changes	14	2 High, 7 Medium, 5 Low	Negative	Low
United Kingdom	1	Medium	Generally positive	Medium	6	2 High, 3 Medium, 1 Low	Positive	High

### B. General Trends and Observations

When examining the results of these case studies, a general trend emerges: UPR cycles providing numerous and specific recommendations on domestic violence and/or violence against women that are positively received by the state under review are followed by more substantive results. There is some evidence that the UPR recommendations played a part in triggering these reforms, supporting the contention that the UPR is effective at producing change. In order to assess the UPR's contribution, this analysis investigates the timing of the changes in conjunction with the UPR cycles, the nexus between the content of the recommendations and the legislative or institutional actions, and any other indicators (such as explicit comments by the state under review). It should be noted that this observation is confined to the specific issue of domestic violence and violence against women and does not intend to make any generalizations about the process regarding all other human rights issues.

Argentina exemplifies a country that made greater strides in the interim following the review that provided more numerous and specific recommendations. Though the government responded positively both times, there was a sharp increase in the number and specificity of the recommendations it received in 2012 compared to 2008.<sup>182</sup> Whereas the one 2008 recommendation advised the government to ensure redress for victims as outlined by CEDAW, the 2012 recommendations dove deeper into the specific legislative and policy initiatives the government should consider adopting. The major changes implemented by the government following the 2012 UPR are also more substantive than the changes following the 2008 cycle, and there is a strong nexus between the 2012 recommendations and the in-country changes. For example, three of the 2012 recommendations suggested that the government collect, analyze, and publish data on violence

<sup>182</sup> See Chart, *supra* note 181.

against women to better inform its policies,<sup>183</sup> and the government showed strong signs of pursuing these initiatives by 2015. There was also a recommendation to formulate and implement a National Action Plan,<sup>184</sup> which the government announced in 2016.

The UK also supports this general trend of more numerous, specific, and positively-met recommendations leading to more substantive legislative and institutional changes. The changes seen in the 2012-2016 period followed a greater number of more specific recommendations than the changes in 2008-2012 and have a greater potential to impact the human rights situation on the ground. The timing of the actions also suggests that the UPR played a role in the changes. Though the UK technically signed the Council of Europe Convention one month before its second review, this signing may have occurred in anticipation of states raising this topic during the 2012 UPR. The UK is also pushing the ratification of the Convention through its parliament on a timeline coinciding with its third review in 2017.<sup>185</sup> While these events could be coincidental, it is also possible that the UPR is pre-emptively prompting these actions.

In my opinion, Algeria also exemplifies this general trend of more specific recommendations' producing more substantive results. In 2008, Algeria received one recommendation to criminalize domestic violence,<sup>186</sup> which did not happen in the 2008-2012 interim period. However, Algeria received a significantly greater number of recommendations in 2012, many of which were highly specific, and the changes seen after 2012 appear to have both more substance and a closer nexus to the 2012 recommendations. Four of the nine recommendations in 2012 concerned adopting legislation to criminalize domestic violence,<sup>187</sup> and given that this legislation was created in the following years, there is some indication that the UPR contributed to this change.

Poland introduces a new dynamic to this general trend. Poland received a greater number of specific recommendations in 2012 than in 2008, and its changes post-2012 were also more substantive than the actions taken between 2008-2012. There was also a close nexus between the recommendations and government actions after both cycles. For example, in 2008 Canada suggested that Poland follow up on the recommendations of CEDAW,<sup>188</sup> which were to research the issue, conduct awareness campaigns, and use the research to enhance the awareness-raising efforts.<sup>189</sup> Poland pursued a number of these initiatives in the interim period, though there is evidence that they were pursuing these initiatives already. Additionally, three of the five recommendations in 2012 revolved around Poland signing and ratifying the Council of Europe Convention,<sup>190</sup> which occurred in 2015. One of the recommendations also mentioned public awareness campaigns,<sup>191</sup> and Poland evinced efforts to increase these initiatives post-2012. However, the 2012 recommendations were still only moderately numerous and specific, and there

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<sup>183</sup> Human Rights Council, *supra* note 45.

<sup>184</sup> *Id.*

<sup>185</sup> UK Parliament, *supra* note 81.

<sup>186</sup> Human Rights Council, *supra* note 91.

<sup>187</sup> Human Rights Council, *supra* note 98.

<sup>188</sup> Human Rights Council, *supra* note 104, at ¶ 54.

<sup>189</sup> Committee on the Elimination of Discrimination against Women, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Poland*, ¶ 19, U.N. Doc. CEDAW/C/POL/CO/6 (Feb. 2, 2007).

<sup>190</sup> Human Rights Council, *supra* note 115.

<sup>191</sup> *Id.*

is some doubt about the substantiveness of the post-2012 changes. This case study shows how the general trend has more subtle gradations. The relationship between the number, specificity, and response and the substantiveness of the changes is a sliding scale. While many specific recommendations tend to lead to more substantive changes, moderately numerous and specific recommendations tend to produce more moderate results.

The Philippines case also illustrates the gradations of this trend. While it did not receive numerous recommendations either cycle, the recommendations it did receive were decently specific, and the results were also moderately substantive. Despite its flaws, the Magna Carta of Women shows some promise. The PCW's comments on the adoption of the Act suggest that the UPR strongly influenced its passage: "The MCW establishes the Philippine government's pledge of commitment to the . . . UN Human Rights Council on its first Universal Periodic Review."<sup>192</sup> There is also a close nexus between the 2012 recommendations and the post-2012 developments. Singapore recommended that the Philippines implement policies and strengthen protections for violence against women,<sup>193</sup> and the legislature is considering broadening and strengthening its VAW Act. Liechtenstein also recommended that the Philippines intensify its efforts through public awareness campaigns,<sup>194</sup> and the PCW launched the #KnockOutDomesticViolence initiative in 2015.

India and Bahrain illustrate another point on this sliding scale, albeit at the opposite end of the spectrum. India received no recommendations on domestic violence or violence against women in 2008 and few in 2012. The three recommendations it did receive were vague, and the government failed to provide a response to two of them. Consequently, the changes seen in the period following 2012 were less substantive. The case study on Bahrain brings up a similar point. Bahrain did not receive any recommendations on this subject in either cycle, and few substantive changes were seen in the interim periods. Though Bahrain created its first domestic violence law, the signs of government push back do not bode well for its implementation. However, it did receive a specific recommendation to adopt a family code in 2008, and it partially fulfilled that recommendation the following year, which actually lends more support for the trend that specific recommendations are stronger recommendations.

At first glance, South Africa appears to directly defy this overall trend. It received numerous and specific recommendations in its second UPR, and yet no substantive changes were visible post-2012. South Africa adds a critical perspective by elucidating the important role that the government's response plays in this analysis. While the governments in the previous case studies for the most part accepted the recommendations with few to no comments, the South African government was much more argumentative in its responses. For instance, the government responded to four of the recommendations calling for increased efforts to combat violence against women by maintaining that "[a]dequate resources have been placed at the disposal of organs of state security and law enforcement agencies[.]"<sup>195</sup> This example goes to show that numerous and specific recommendations cannot overcome strong government opposition, and that in order to enhance the potential for success, a recommendation must also be well-received by the state under review.

Although different in scope and focus, the previous studies on this subject made similar

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<sup>192</sup> *Republic Act 9710*, PHILIPPINE COMMISSION ON WOMEN, <http://pcw.gov.ph/law/republic-act-9710> [<https://perma.cc/DB7V-95XB>].

<sup>193</sup> Human Rights Council, *supra* note 135.

<sup>194</sup> *Id.*

<sup>195</sup> Human Rights Council, *supra* note 174.

observations. A study conducted by UPR Info on the first cycle noted the correlation between numerosity and governmental action: “[W]e see that the recommendations that were raised the most are also implemented the most.”<sup>196</sup> Another study by UPR Info highlighted specificity as an important criterion for drafting precise and action-oriented recommendations.<sup>197</sup> UPR Info’s research also found that government acceptance of the recommendation is critical for implementation: “The initial response of the state under review . . . influenced the implementation of the recommendations in favour of accepted recommendations[.]”<sup>198</sup>

The explanations for the success of the “holy trinity” are largely based on common sense. Numerous recommendations are likely more effective because they shine a spotlight on the issue and force the government to confront it. Specific recommendations are likely more effective because they give the government clear objectives and a detailed plan of action, and make it more difficult for the government to shirk its responsibilities. While a state could easily say it has “taken steps to address domestic violence,” it is more difficult to evade a recommendation that clearly instructs the state to “criminalize domestic violence.” The reason behind the effectiveness of a positive government response is more obvious – if a government is more amenable to a recommendation, it is more likely to implement it.

### C. Weaknesses and Counterarguments

This methodology is not without its challenges. Assessing the substantiveness of the observed legislative and institutional changes is particularly complex. There is not always an equal amount of information available on each country, and it is also difficult to say conclusively whether or not a top-level change is being implemented. Unlike numerosity or specificity, the “substantiveness” of an action is more subjective. Moreover, civil society will always find aspects of new initiatives to criticize, which further complicates the attempts to extract the truly facial changes from the more powerful ones. This analysis tries to minimize these weaknesses by examining a variety of expert and media reports from multiple points of view and supporting its determinations on substantiveness with factually-grounded reasoning.

Critics of this approach may claim that the changes happened simply because the government was amenable to them or was planning to implement them anyway, regardless of the UPR. In this view, if a change did not occur, it was because the government did not wish it, rather than because the recommendations were too few or too general. Considering the government’s response in this evaluation helps to address this concern, as well as looking at the nexus between the recommendations and the changes made. Critics could also point out the wealth and development disparities in this sample of countries, skewing the results in favor of states with more resources. However, this analysis tried to account for this problem in its comparisons of each state to its past self, rather than country-to-country.

It could also be the case that some countries experience a higher prevalence of domestic violence due to cultural factors, and for that reason receive more comments on the issue and tend to devote more attention to it. For example, media sources in Argentina report that domestic violence “has its roots in the Argentinean culture, more specifically in patriarchy[.]”<sup>199</sup> However,

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<sup>196</sup> UPR INFO, *supra* note 24, at 27.

<sup>197</sup> UPR INFO, *supra* note 8, at 8.

<sup>198</sup> UPR INFO, *supra* note 24.

<sup>199</sup> REFWORLD, *supra* note 55, at 2.

domestic violence exists everywhere, regardless of culture.<sup>200</sup> Furthermore, reports indicate that India faces similar challenges with patriarchal attitudes<sup>201</sup> and yet received significantly fewer comments on it during its UPRs. Political considerations may also be behind why some countries received a certain number or kind of recommendation from certain countries, and others did not. While political factors could easily be at work here, this issue is beyond the scope of this analysis.

There is also the possibility that other factors could be driving these changes, severing the causal link between the UPR recommendations and the government actions. Critics could point to similar recommendations from other treaty bodies, such as CEDAW or the Special Rapporteur, as the source of influence over the state. Extraneous domestic events could also be the driving force behind these changes. For example, there were some reports to suggest that the government actions seen in Argentina and India were prompted by public demonstrations and calls for reform,<sup>202</sup> rather than the recommendations of the human rights system. There was also an overall increase in recommendations given on domestic violence and violence against women in 2012 than in 2008, suggesting that the world generally became more involved with this issue. This growing awareness could have produced the changes seen in the interim periods, rather than the UPR. While all of these factors could be at work, they do not extinguish the UPR's role in effectuating change. UPR recommendations often refer to recommendations made by various other bodies,<sup>203</sup> domestic events could be amplifying the voices of the recommendations, and it could have been the previous UPR that prompted the growing sensitivity to this issue. In short, the UPR may only be one part of a larger narrative, but it does appear to have some effect on triggering substantive change.

#### IV. RECOMMENDATIONS

While this trend is not perfect, nor does it explain every phenomenon observed in the case studies, these observations provide some guidance for enhancing the effectiveness of recommendations on domestic violence and violence against women as the UPR enters its third cycle. The UPR Working Group and participating states should consider increasing the number of recommendations they offer on this issue, to drive the point home for the state under review. Their recommendations should also outline a specific course of action that is easy to follow and difficult to evade. While recommendations to sign a particular convention or legislate on certain topics appear particularly effective, they are not the only kinds of specific recommendations that can succeed. For example, given that the Special Rapporteur has never visited the Philippines or Bahrain,<sup>204</sup> a state could make a specific recommendation that the governments extend an invitation, to allow the UN special procedures to better assess the state's progress.

The observation about the role of the government's response in promoting change is also

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<sup>200</sup> United Nations Statistics Division, *supra* note 29, at 258-59.

<sup>201</sup> Nita Bhalla, *Becoming an abuse statistic in patriarchal India*, BBC NEWS (Mar. 19, 2012), <http://www.bbc.com/news/world-asia-india-17398004> [<https://perma.cc/5H4X-K4GM>].

<sup>202</sup> See, e.g., Claros, *supra* note 48 (describing a demonstration in Buenos Aires that preceded many of the government's changes); Manjoo, *supra* note 145, at ¶ 49 (describing a gang-related sexual assault in 2012 that sparked public outcry).

<sup>203</sup> See, e.g., Human Rights Council, *supra* note 104, at ¶ 54.18 (recommending that Poland follow up on the recommendations of the Human Rights Committee and CEDAW).

<sup>204</sup> *Country Visits*, UNITED NATIONS HUMAN RIGHTS, <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CountryVisits.aspx> [<https://perma.cc/3HHL-4EP6>].



important, as it provides a lesson to states for how to draft their recommendations to anticipate a negative response. While recommending states have less control over the government's response, they can frame their recommendations in a way that prevents the recipient from being able to claim that it has already implemented sufficient measures to address the problem. Regarding South Africa, the recommending states could acknowledge the points raised in the state's response in 2012 and phrase their recommendations to call for actions beyond these extant measures. For example, a state could preface its recommendation with a comment that "while South Africa has indicated that adequate resources are in place regarding the training of law enforcement to deal with gender based violence, an implementation gap still exists." By anticipating and addressing the state's response, recommenders can pre-emptively rebut a negative response and enhance their chances of acceptance.

These observations for crafting more effective recommendations extend beyond the UPR process to any other human rights space where recommendations are issued to a state. Treaty bodies like CEDAW can benefit from this knowledge, as well as the Special Rapporteur on violence against women and other special procedure mandate holders. It is also possible that this advice may extend beyond domestic violence to other human rights issues. Future studies could look for this trend among a larger sample of countries or issues, to see if these results have a wider applicability and therefore the potential to impact change on a larger scale.

## APPENDIX

### Algeria

#### 2008 Recommendations

15. That Algeria take measures for the prevention of torture and other cruel, inhuman and degrading treatment; recommends the review of domestic legislation to criminalize domestic violence (Sweden)

#### 2012 Recommendations

129.39. Intensify its efforts in promoting equal opportunity and treatment for women in other aspects, such as employment, education and family life, as well as to adopt necessary legislation to prohibit and criminalize all forms of violence against women and domestic violence (Thailand)

129.40. Continue to strengthen its consistent efforts to combat violence against women (Lebanon) and its efforts support to women victims of domestic violence and to bring offenders to justice (Brazil)

129.41. Consider the adoption of new legislation on violence against women, suggested also by CEDAW (Italy) covering inter alia domestic violence and sexual crimes against women (Uganda)

129.42. Conduct an awareness-raising campaign to ban violence against women (Jordan)

129.43. Criminalise domestic and marital violence (Togo)

129.44. Produce the necessary funding in order to concretizing the strategy with the aim of eliminating violence against women and to criminalize such offence (Sweden) and continue the national strategy that was set up by the government of Algeria to combat violence against women by setting up adequate legislative and judicial guarantees (United Arab Emirates)

129.45. Take robust measures to ensure incidents of violence against women are prosecuted and that protection for victims from retaliation is assured (United States of America)

129.46. Pursue efforts to fight violence against women (Bahrain)

129.47. Further strengthen law enforcement and judicial system in the effort to address impunity and prevent the incidence of violence as well as sexual abuse of women and girls (Malaysia)

### **Argentina**

#### 2008 Recommendations

17. To pursue its effort to combat any kind of discrimination against women; to ensure redress for victims of domestic violence, as well as the prosecution of perpetrators as recommended by Committee on the Elimination of Discrimination against Women (Canada)

#### 2012 Recommendations

99.46. Design and implement policies for access to justice for victims of domestic violence, including free and extensive services providing legal and psychological support, as well as shelters (Costa Rica)

99.47. Implement effectively the legislation on violence against women to combat misogynous stereotypes, discrimination and violence whose victims are women (France)

99.48. Pursue and enhance its efforts to better address and respond to the problem of domestic violence (Greece, Morocco)

99.49. Analyse the causes of the perceived impunity of perpetrators of violence against women and allocate funds and personnel to overcome these causes (Netherlands)

99.50. Develop further the united register for cases regarding domestic violence against women to create a full body of statistics regarding gender based violence throughout the entire country (Norway)

99.51. Take measures to ensure effective implementation of legislation to prevent and punish violence against women (Palestine)

99.52. Collect and disaggregate data on violence against women so as to ensure a better assessment

about the implementation of applicable legislation (Palestine)

99.53. Establish or give a mandate to a Government body to collect and publish credible official data measuring all incidences of violence against women (United Kingdom of Great Britain and Northern Ireland)

99.54. Give priority to the formulation and implementation of the envisaged National Action Plan for the Prevention of Violence against women and the Punishment of Aggressors (Portugal)

99.55. Strengthen the actions and the commitment of all State bodies in combatting gender violence with the goal of reducing the number of deaths caused by such violence (Spain)

99.56. Accord gender-based violence high priority ensuring the development of policies to facilitate victims' access to justice and a broad range of free services (Trinidad and Tobago)

99.57. Consolidate the fight against violence against women and against all forms of discrimination (Algeria)

99.58. Enforce effectively the legislation adopted to prevent and prosecute violence against women as well as the trafficking in women (Slovakia)

99.59. Continue to take steps to address domestic violence and human trafficking through education and awareness campaigns and services to victims, as well as ensuring the effective application of the law against perpetrators (Canada)

99.60. Continue to make progress on combatting violence against women and on the efforts to sanction and prevent human trafficking (Venezuela (Bolivarian Republic of))

99.61. Devise and implement policies to facilitate access to justice and support for victims of violence against women, including human trafficking (Australia)

## **Bahrain**

### 2008 Recommendations

3. With regard to the recommendation of Switzerland reflected in paragraph 35 above, Bahrain can conduct wide consultations between different partners, in particular the legislative authority, with the view of adopting a family law (Switzerland)\*

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\* While not specifically naming domestic violence or violence against women, this recommendation about a family law touches on these issues.

## India

### 2012 Recommendations

138.41. Enact comprehensive reforms to address sexual violence and all acts of violence against women, including “honour” crimes, child marriage, female feticide and female infanticide, and to remedy limitations in the definition of rape and the medico forensic procedures adopted for rape cases (Canada)

138.54. Establishment and implementation of . . . concrete measures to eliminate violence against women (Spain)

138.79. Continue its legal efforts in the protection of women and children’s rights as well as improve measures to prevent violence against women and girls, and members of religious minorities (Iran)

## The Philippines

### 2008 Recommendations

1. To continue to develop a gender-responsive approach to issues of violence against women and continue to build supportive environment for women and children within the judicial system . . . (New Zealand)

### 2012 Recommendations

129.24. Ensure compliance with the rights of children and women . . . in implementing a plan of action against domestic violence (France)

129.8. Continue its efforts to implement domestic policies to further promote gender equality and strengthen the protection of women against discrimination and violence (Singapore); Intensify efforts to fight violence against women by the public awareness-raising campaigns, by adequately resourcing the relevant initiatives and by training law enforcement personnel (Liechtenstein)

## Poland

### 2008 Recommendations

18. While commending the Government for the measures already taken in combating violence against women, recommended that steps continue to be taken to follow up on the recommendations of the Human Rights Committee and CEDAW (Canada)

### 2012 Recommendations

90.27. Consider signing and ratifying the Council of Europe Convention on preventing and

combating violence against women and domestic violence (Norway)

90.28. Sign the Council of Europe Convention on preventing and combating violence against women and domestic violence (Austria)

90.79. Improve access to justice of the victims of domestic violence (Hungary)

90.80. Continue to support the reform of the legislation on domestic violence by conducting public awareness-raising and providing professional training on the provisions of the 2010 Act on the Prevention of Domestic Violence to ensure its effective implementation (Liechtenstein)

90.81. Ensure that victims of domestic violence have access to adequate assistance, including legal and psychological counselling, medical help and shelter (Liechtenstein)

### **South Africa**

#### 2008 Recommendations

4. Recommended to take increased measures to protect and provide redress to women at risk of or subjected to gender-based violence (The Netherlands)

5. Recommended South Africa to follow up on the recommendation made by the Committee against Torture to adopt all necessary measures to prevent, combat and punish violence against women and children (Switzerland)

6. Recommended that concrete measures be taken to improve the handling by police of rape cases and to curb rates of violence, particularly against women and girls (Canada)

#### 2012 Recommendations

124.27. That the newly established Department of Women, Children and People with Disabilities be empowered to coordinate actions amongst various Government agencies to address the issue of gender-based violence (Timor-Leste)

124.59. Allocate more financial and other resources to ensure effective implementation of initiatives related to the advancement of women and gender equality, in particular the 365-day National Plan of Action to end gender violence (Malaysia)

124.60. Step up efforts to eliminate violence and discrimination against women (Republic of Korea)

124.61. Adopt all necessary measures to prevent, fight and punish any violence against women and children (Switzerland)

124.62. Put in place stronger mechanisms to protect women and girls against gender-based violence

and provide redress to victims (Austria)

124.63. Take increased measures to protect and provide redress to women subjected to gender-based violence (Czech Republic)

124.64. Take concrete measures to improve the protection of women against gender-based violence and to ensure that perpetrators are held accountable (Norway)

124.65. Increase efforts for the protection of women victims of gender violence, ensuring that perpetrators face the required trials and training the authorities involved on the subject of the protection and prevention of violence against women (Nicaragua)

124.66. Considers the adoption of a specific law for domestic violence, containing both criminal and civil provisions (Brazil)

124.67. Undertake continued and enhanced efforts to protect and provide redress to women suffering from violence and to continue raising awareness, through training and other means, in the judicial system, including police, of the necessity to act against this violence (Sweden)

124.68. Strengthen the training of the police, prosecutors and the judiciary in the area of gender based violence (Norway)

124.69. Take measures to guarantee thorough investigation and prosecution of crimes of sexual violence, including relevant training of law enforcement officials, and implement national human rights awareness-raising focused on women's rights (Japan)

124.70. Promote awareness-raising campaigns and human rights education programmes particularly directed to law enforcement officials and educators that address the problematic of sexual violence against women (Portugal)

124.71. Adopt and implement appropriate, efficient measures ensuring that all allegations of sexual violence against women are properly registered, prosecuted and their perpetrators duly convicted, including a provision of victims' access to redress and social support services (Slovakia)

### **United Kingdom**

#### 2008 Recommendations

1. To set up a strategic oversight body, such as a commission on violence against women, to ensure greater coherence and more effective protection for women (India)

#### 2012 Recommendations

110.29. Sign and ratify the Council of Europe Convention on Preventing and Combatting Violence against Woman and Domestic Violence (France)

110.51. Continue efforts to combat discrimination on any ground and violence against women and girls (Cuba)

110.69. Adopt a national strategy to combat all forms of violence against women and girls (Brazil)

110.70. Continue making progress in implementing the Action Plan on violence against women and girls (Colombia)

110.71. Take more effective measures to combat all forms of violence against women and girls and to ensure that the perpetrators of violence are taken to justice and punished (Malaysia)

110.74. Sign the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Australia)