



LOCAL IMPLEMENTATION OF CEDAW

Advancing the Rights of Women and Girls in Los Angeles County



BRIEFING PAPER FOR THE MAY 2019 MEETING OF THE LOS ANGELES COUNTY COMMISSION ON HUMAN RELATIONS

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Where, after all, do universal human rights begin? In small places, close to home — so close and small that they cannot be seen on any map of the world. Yet they *are* the world of the individual person.... Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere.

—Eleanor Roosevelt¹

Although women represent a majority of the County’s population, tradition and prejudice, along with social, political and economic restrictions, have resulted in women being denied, by virtue of their status of being women, certain basic human rights. The denial of these fundamental rights has created inequalities in political, legal and social status, thereby preventing the development of women’s individual potential and the ability to contribute as fully as possible to the economic and cultural well-being of the County of Los Angeles. In view of the long-standing tradition of according women an inferior status in society, nothing less than a concerted effort at all levels of government will remove the barriers of discrimination and prejudice and result in true equality.

—Former LA County Supervisor Edmund D. Edelman²

EXECUTIVE SUMMARY

The Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW” or the “Convention”) is one of the nine core international human rights treaties and the principal legal instrument for ensuring gender rights across the globe. The Convention seeks to promote gender equity in every area of life — civil, political, economic, social, and cultural. All but six countries have ratified this treaty. The United States is one of these six and the only industrialized nation within that group.

Because the U.S. has failed to ratify this essential treaty, the task of aligning gender rights with international standards has fallen to local jurisdictions throughout the country. The aim of this briefing paper is to provide relevant information to key decision-makers in Los Angeles County (“County” or “LA County”) with the hope that they elect to implement the provisions of CEDAW.

Part I of this paper provides an overview of the concept of local treaty implementation. In order to effectuate wide-spread change, international human rights norms must be championed by local jurisdictions. These localities provide necessary resources and that may not be available or feasible at the national level. Local adoption of international norms also allows for the collective actions of citizens, in conjunction with government oversight, to effect lasting change that impacts and elevates all people’s lives.³ In this instance, LA County’s implementation of CEDAW principles would also effectuate a 2018 resolution adopted by the California Legislature, which supports implementation of a CEDAW framework and emphasizes the “need to strengthen effective national and local mechanisms, institutions, and procedures and to provide adequate resources, commitment, and

¹ Eleanor Roosevelt, *Address at a United Nations Ceremony in New York* (Mar. 27, 1958).

² Supervisor Edmund D. Edelman, *Address to the County of Los Angeles Board of Supervisors* (Mar. 18, 1975).

³ See Judith Resnik, *Law’s Migration: American Exceptionalism, Silent Dialogues, and Federalism’s Multiple Ports of Entry*, 115 YALE L.J. 1564, 1669 (2006).

authority to advise on the impact of all government policies on women and girls....”⁴ Additionally, the County’s incorporation of international human rights language in local policy would be a strong normative statement and provide an example to other local jurisdictions of taking international norms seriously, despite the federal government’s refusal to do so.

Part II describes relevant Convention provisions, providing context for what local implementation would look like in the County. CEDAW went into effect in 1981 and is the second-most-ratified treaty.⁵ The Convention guarantees civil, political, economic, social, and cultural rights to all women, rights that go beyond the guarantees of national law. The Convention’s intersectional lens is crucial to understanding these rights and the special needs of women occupying various and interlocking social statuses — for example, race, class, age, sexual orientation, and disability.

Part III recognizes the gender equality work that is already underway in LA County and identifies the ways in which CEDAW implementation would supplement and amplify this work. Current County initiatives have begun to evaluate and address the status of LA County women and girls. Invoking international norms would assist the County with its mission by conferring a range of policy and normative benefits.

Part IV frames this proposal within the current grassroots movement advocating for CEDAW implementation across the U.S. The Cities for CEDAW campaign is meant to cultivate awareness of gender equity principles and create a network of local jurisdictions dedicated to elevating the status of women. Localities in California are at the forefront of this crusade, and the time is ripe for the County to join the movement. San Francisco and the City of Los Angeles are among the jurisdictions that report measurable achievements in gender equity from CEDAW implementation, and the County can expect to gain similar advantages.

Part V explains the current status of the Convention in national law. Although it has failed to ratify CEDAW, the U.S. has signed the treaty and is therefore obligated to uphold its “object and purpose.” Local implementation is consistent with this obligation and — given the ongoing decline of U.S. engagement with international human rights and unlikelihood of CEDAW ratification — necessary to bring gender rights into compliance with international standards.

Part VI offers a menu of policy options for implementing the Convention. Implementation options include: a non-binding resolution promoting normative CEDAW values, enhanced data collection and gender analysis of County departments and services, an oversight body responsible for developing gender equity strategies, a private sector initiative urging businesses to strive for gender equity, and a binding ordinance incorporating the rights provided by CEDAW. These policy options are not exhaustive but serve as examples of implementation strategies that have been adopted throughout the nation. The County is encouraged to select the type of implementation that is most appropriate for meeting the needs of its residents. The Clinic recommends that LA County adopt a binding CEDAW ordinance with an oversight body and a private sector initiative.

There is still a long way to go to achieve gender equity for the residents of LA County. The County will hopefully utilize all available policy tools, including CEDAW implementation, to accomplish this

⁴ S.C.R. No. 78, 2018 Leg., Reg. Sess. (Cal. 2018).

⁵ See Office of the High Commissioner for Human Rights (“OHCHR”), *Status of Ratification Interactive Dashboard*, indicators.ohchr.org.

goal. This is an opportunity for the County to serve as an example for other local jurisdictions, across the nation and the world.

I. INTRODUCTION

Purpose. This briefing paper is presented to the Los Angeles County Commission on Human Relations (“Commission”) on behalf of the University of California, Irvine, School of Law International Justice Clinic (“Clinic”). The Clinic seeks a resolution from the Commission recommending that the Los Angeles County Board of Supervisors adopt a CEDAW ordinance and/or an alternative form of CEDAW implementation advancing the rights of women — rights guaranteed by international human rights law — throughout the County.⁶

CEDAW implementation is not only consistent with the County’s current vision of securing equality for women, but also would help to contextualize the existing initiatives within international human rights standards. Both the Los Angeles County Commission for Women (“LACCW”) and the Women and Girls Initiative (“WGI”) are doing excellent work to secure equal rights for women; however, looking to international law could guide, supplement, and expand upon the County’s progress in this important area of human rights. Jurisdictions across the nation have proven that CEDAW adoption results in tangible benefits. Such benefits are equally attainable in LA County.

The #MeToo Movement recently propelled the issue of women’s rights to the forefront of national discourse. As CEDAW is unlikely to be ratified by the U.S. Senate, it is incumbent upon local governments to fill the void left by the national government and ensure equitable gender rights. The County could help lead the way in securing rights for women and girls, signaling to other jurisdictions that the time is ripe to finally ensure comprehensive gender equality in the U.S.

Local Implementation of International Instruments. The United Nations Human Rights Council has recognized the importance of local implementation, explaining “it is difficult to imagine a situation of human rights being realized where there are no local authorities to provide the necessary services... [thus] it should be borne in mind that the real effect of human rights is experienced locally.”⁷ By implementing international standards locally, LA County would be acting consistently with a foundational principle of international law — the Principle of Subsidiarity⁸ — that human rights are meant to be realized at the local level with guidance from national and/or international bodies.

Many human rights scholars advocate for local implementation, emphasizing the importance both of laws enacted by local jurisdictions as well as the collective actions taken by citizens to effect change.⁹ By advocating locally for international human rights norms, “new understandings become entrenched... [and] [w]hen successfully incorporated at these various levels, Americans come to think

⁶ This briefing paper is not exhaustive; it is meant to spark a collaborative dialogue among relevant stakeholders to explore the ways in which the County can expand its gender equity policies.

⁷ United Nations Human Rights Council, A/HRC/30/49 para. 26 (Aug. 7, 2015), undocs.org/en/A/HRC/30/49.

⁸ Paolo Carozza, *Subsidiarity as a Structural Principle of International Human Rights Law*, 97 AM. J. INT’L L. 38 (2003) (“Subsidiarity is the principle that each social and political group should help smaller or more local ones accomplish their respective ends without...arrogating those tasks to itself”).

⁹ Resnik, *supra* note 3.

of these precepts as internal to the American project.”¹⁰ Americans tend to view human rights norms as “other,” as not applicable to life in the U.S.; however, changing this preconception by making clear that human rights apply to every person at the most basic, local level “may convert weakly-legitimated norms developed at the international level into norms that are more strongly legitimated at the local level.”¹¹

Incorporating CEDAW into local governance reflects an increasingly vital trend among U.S. advocates and policymakers to adopt human rights standards and strategies in their work. Indeed, “[m]any local governments are on the forefront of efforts to enhance decision-making through human rights, explicitly using these principles to...foster[] participatory governance.”¹² The rights provided by CEDAW would allow for more expansive guarantees of equality and empower women to be equal participants in the civil, political, economic, social, and cultural life of LA County.

II. CEDAW: THE GLOBAL STANDARD FOR WOMEN’S RIGHTS AND GENDER EQUITY

CEDAW was born out of decades of national and international calls to action for greater understanding and promotion of women’s rights around the world. The United Nations adopted CEDAW on December 18, 1979, and it entered into force on September 3, 1981, faster than any previous human rights treaty had done.¹³ To date, 187 UN Member States have ratified the Convention, two Member States, including the U.S., have signed but not ratified the Convention, and four Member States have taken no action with regards to the Convention.¹⁴ CEDAW is the second-most-ratified international treaty behind the Convention on the Rights of the Child.¹⁵

Because the U.S. is a signatory to CEDAW but has yet to ratify the Convention, despite numerous Congressional ratification hearings, the U.S. still has an obligation under customary international law not to violate the object and purpose of CEDAW.¹⁶ CEDAW’s object and purpose is to “eliminate all forms of discrimination against women with a view to achieving women’s de jure and de facto equality with men in the enjoyment of their human rights and fundamental freedoms.”¹⁷ As discussed below, CEDAW goes beyond what the U.S. defines as discrimination and “emphasiz[es] that women have suffered, and continue to suffer from various forms of discrimination because they are women.”¹⁸

¹⁰ *Id.* at 1581.

¹¹ Catherine Powell, *Dialogic Federalism: Constitutional Possibilities for Incorporation of Human Rights Law in the United States*, 150 U. PA. L. REV. 245, 265 (2001).

¹² Columbia Law School Human Rights Institute, *Gender Equity Through Human Rights: Local Efforts to Advance the Status of Women and Girls in the United States* (Jan. 2017), law.columbia.edu/human-rights-institute/initiatives/about/publications.

¹³ Committee on the Elimination of Discrimination Against Women (“Committee”), *Progress Achieved in the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women*, A/CONF.177/7 (June 21, 1995), un.org/documents/ga/conf177/acof177-7en.htm.

¹⁴ OHCHR, *supra* note 5.

¹⁵ *Id.*

¹⁶ Vienna Convention on the Law of Treaties (“VCLT”) art. 18 (May 23, 1969), 1155 U.N.T.S. 331.

¹⁷ Committee General Recommendation (“GR”) 25 para. 3 (2004), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3733_E.pdf.

¹⁸ GR 25 para. 5.

The Convention is divided into two parts. Articles 1-16 are the substantive rights guaranteed by international law, dealing with issues such as education, health, and employment. These substantive rights provide the backbone of the Convention and are most pertinent to this discussion. Articles 17-30 are procedural guidelines for ratifying countries, and as the U.S. has not ratified the Convention, are largely irrelevant to this discussion. Further, when CEDAW was created, the UN also designated a committee — the Committee on the Elimination of Discrimination Against Women (“Committee”) — to oversee implementation and provide guidance for ratifying Member States. As part of the Committee’s mandate, it issues General Recommendations that expand upon the Convention’s articles to help countries interpret the Convention’s meaning as they develop national policy (for a summary of the Convention’s articles, see **Annex 1**; for a summary of the Committee’s General Recommendations, see **Annex 2**). Notably, CEDAW includes a qualification regarding the interplay between the treaty and domestic law: to the extent that applicable domestic law provides greater human rights protections, domestic law will supersede international law.¹⁹

A. Broad Definition of Discrimination, Which Includes Violence Against Women

CEDAW provides a broad definition of discrimination that surpasses U.S. law. The definition of discrimination allows for disparate impact findings and also includes violence against women.²⁰ While not explicitly provided for in the language of the Convention, the Committee states that gender-based violence is violence that is directed against a woman because she is a woman or violence that disproportionately affects women; violence includes physical, mental or sexual harms, coercion, or other deprivations of liberty.²¹ The Committee also determined that violence against women interferes with other fundamental human rights such as, *inter alia*, the right to life; the right to be free from cruel, inhuman, or degrading treatment; the rights to equal protection, liberty, and security of person; and the right to the highest attainable standard of mental and physical health.²²

- **Article 1** defines “discrimination against women” to mean any distinction or discriminatory impact based on sex that impairs women’s human rights or fundamental freedoms guaranteed by international law. This definition is broader than provided for under U.S. law and allows for gendered analysis based upon a finding of disparate impact. In 1997, the Committee refined the definition to mean “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.”²³
- **Article 6** calls on governments to end the trafficking of women and girls, as this is a form of violence. It also mandates that nations end the exploitation of prostitution of women.

¹⁹ Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”) art. 23 (Dec. 18, 1979), 1245 U.N.T.S. 13.

²⁰ GR 19 para. 6 (1992), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf.

²¹ *Id.*

²² *Id.* at para. 7.

²³ GR 23 para. 3 (1997), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_4736_E.pdf.

States Parties to the Convention are responsible for preventing acts of violence against women under the Respect, Protect, and Fulfill framework of international human rights.²⁴ Governments are also responsible for the actions of private parties if they fail to prevent or investigate gender-based violence perpetrated in the private sector. While violence against women is outlawed by national and state law — and the prohibition of violence against women is considered customary international law²⁵ — this problem, in its many forms, persists.

Further, it is important to note that all CEDAW principles apply equally to both public and private actors, although governments bear the responsibility of implementing these norms. Governments must ensure “women are protected against discrimination – committed by public authorities, the judiciary, organizations, enterprises or private individuals – in the public as well as the private spheres.”²⁶ The Convention calls for the elimination of discrimination by “any person, organization or enterprise,” which includes any “acts of national corporations.”²⁷ However, the Committee makes clear that “[w]hatever form it takes, and whatever the legal system, religion, custom or tradition within the country, the treatment of women...both at law and in private must accord with the principles of equality and justice for all people.”²⁸ As will be discussed below, holding private parties accountable to CEDAW norms, particularly in the area of employment, is vital to achieving gender equality.

B. Expansive Civil and Political Rights

Many of the civil and political rights guaranteed by CEDAW overlap with rights also provided for under existing federal and state laws. However, such rights are more expansive under CEDAW. The County may wish to invoke these rights to augment and reinforce gender equity protections across all areas of civil and political life.

- **Article 7** mandates that countries must eliminate discrimination in political and public life, guaranteeing women the right to participate equally in the formation of government and non-governmental organizations concerned with political and public life. Governments must take all steps to ensure women are included in political and public life, regardless of cultural values, religious beliefs, or domestic responsibilities. This is an extremely important step for countries to take because research indicates that if women’s participation reaches a critical mass of at least thirty to thirty-five percent, “there is a real impact on political style and the content of decisions, and political life is revitalized.”²⁹

²⁴ See OHCHR, *International Human Rights Law*, ohchr.org/en/professionalinterest/Pages/InternationalLaw.aspx (“The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.”).

²⁵ GR 35 para. 2 (2017), tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en.

²⁶ GR 24 para. 7 (2004), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3733_E.pdf.

²⁷ GR 28 para. 36 (1992), documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement.

²⁸ GR 21 para. 13 (1994), [tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/A_49_38\(SUPP\)_4733_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/A_49_38(SUPP)_4733_E.pdf).

²⁹ GR 23 para. 16.

- **Article 8** encourages women’s equal participation at the international level.
- **Article 9** states women have equal rights with men to acquire, change, or retain their nationalities, as well as the nationalities of their children.
- **Article 15** guarantees women equal access before the law. Guaranteeing access to justice means justiciability, availability of resources, accessibility to resources, good quality justice systems, effective remedies for victims, and proper accountability.³⁰
- **Article 16** guarantees women equal rights in marriage, including the choice of a spouse, decisions regarding family planning, and marital property rights. This article implicates certain social rights, as it is meant to provide an “egalitarian regime under which the economic benefits and costs of family relations and the economic consequences of their dissolution are borne equally by men and women.”³¹

Though civil and political rights are guaranteed at the national, state, and local levels, it is incumbent upon the County to analyze the effects of its policies with regards to gender parity in all areas of society. While these rights may be protected by law, the County must also champion the equal participation of women across all civil and political sectors.

C. Providing for Economic, Social, and Cultural Rights

Equality in economic, social, and cultural rights³² has not been a priority in U.S. law. While existing law does provide for equal access to education and employment, CEDAW changes the framework to which most Americans have become accustomed; the Convention goes a step further than merely providing equal access to resources and focuses on true gender parity in all aspects of society.

- **Article 10** ensures women’s equal access to all forms of education, including curricula, vocational guidance, and extracurricular activities. Specifically, governments should aim to educate both men and women in a way that eliminates gender stereotypes and reduces female dropout rates, and to increase educational opportunities for women who leave school prematurely. The Committee stated that education is one of the most effective instruments for “sustainable and inclusive development,” and thus, governments should focus on ensuring girls and boys have access to and complete high-quality primary and secondary schooling.³³
- **Article 11** mandates the elimination of employment discrimination, mentioning equal access to the same jobs for both men and women — a right already guaranteed by law — but also

³⁰ GR 33 para. 1 (2015), tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en.

³¹ GR 29 para. 9 (2013), tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/29&Lang=en.

³² Examples of economic, social, and cultural rights include, *inter alia*, the rights to education, housing, adequate standard of living, health, and science and culture. *See* International Covenant on Economic, Social and Cultural Rights (Dec. 16, 1966), 993 U.N.T.S. 3.

³³ GR 36 paras. 2-3 (2017), tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/36&Lang=en.

supporting the idea of equal pay for work of equal value (pay equity or comparable worth).³⁴ The article also encourages governments to provide paid maternity leave and support services that allow parents to successfully combine family and work obligations. The Committee further expanded upon article 11 in numerous General Recommendations focusing on how women are paid. Most importantly, the Committee recommends job evaluation systems based on gender-neutral criteria that compare the value of jobs held predominantly by women to those jobs held predominantly by men, to ensure equal remuneration for work of equal value to employers.³⁵ Governments should also monitor the situation of women working without pay in traditionally domestic enterprises, such as child or elder care, or in enterprises owned by a family member. While these numbers can be hard to calculate, jurisdictions should take steps to guarantee payment, social security, and social benefits to these unpaid women.³⁶

- **Article 12** guarantees equal access to healthcare, including reproductive health, family planning and cost-free services where necessary during a woman's pregnancy and post-natal period. Violence against women also falls under the broad umbrella of healthcare, as medical institutions play a large role in tackling violence against women, specifically as it relates to sexual violence.³⁷ Strategies to promote women's health throughout their lifetimes should be aimed at both the prevention and treatment of conditions specifically affecting women.³⁸ For example, increased awareness around the risk of HIV and AIDS should focus on women in their unique reproductive roles, and nations should acknowledge the particular vulnerabilities women face as primary caretakers.³⁹
- **Article 13** provides the foundation for CEDAW's economic, social, and cultural rights, mandating that countries eliminate discrimination in all areas of life. An example of this type of discrimination is the impact that climate change has on women and girls. Women and girls tend to experience greater risks, burdens, and impacts from climate change. They are exposed to greater disaster-induced risks,⁴⁰ and special attention should be paid to how climate change disproportionately affects women and girls. Climate crisis scenarios disproportionately affect "women living in poverty, indigenous women, women belonging to ethnic, racial, religious and sexual minority groups, women with disabilities, refugee and asylum-seeking women, internally displaced, stateless and migrant women, rural women, unmarried women, adolescents and older women...compared with men or other women."⁴¹

³⁴ Comparable worth is the "concept that men, women, minorities, and whites should receive equal pay for work of equal value to their employer." It goes beyond the traditional notion of equal pay for equal work and places values on the types of work being done by employees, focusing on jobs traditionally held by women and minorities. See Barbara Norris, *Comparable Worth, Disparate Impact, and the Market Rate Salary Problem: A Legal Analysis and Statistical Application*, 71 CALIF. L. REV. 730 (1983).

³⁵ GR 13 paras. 2-3 (1989), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_5832_E.pdf.

³⁶ GR 16 (1991), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3730_E.pdf.

³⁷ GR 24 para. 15.

³⁸ GR 24 para. 4.

³⁹ GR 15 (1990), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_4726_E.pdf.

⁴⁰ GR 37 paras. 2, 9 (2018), tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/37&Lang=en.

⁴¹ *Id.*

- **Article 14** asks governments to take into account the specific issues faced by rural women and seek to ensure equality, bearing in mind that rural women often work in non-monetized sectors of the economy. There is a specific need for specialized awareness-raising activities in rural areas, as well as integrated services such as education, health services, and emergency shelters.⁴²

As noted above, private entities that might not be accountable for discrimination under current U.S. law can and should be held accountable under CEDAW principles, most notably in the area of employment discrimination. The Committee notes that “questions of qualification and merit, in particular in the area of employment in the public and private sectors, need to be reviewed carefully for gender bias as they are normatively and culturally determined.”⁴³ Jurisdictions should hold private parties responsible under the law; however, the Committee also notes that any measures taken to eliminate gender discrimination in employment “must engage the private sector, including business enterprises, the media, organizations, community groups and individuals, and enlist their involvement in adopting measures that will fulfill the goals of the Convention in the private economic sphere.”⁴⁴ As the County looks to ways of decreasing discrimination, it must look beyond governmental departments and seek ways of ensuring the private sector also embraces these international norms.

D. Intersectionality as a Core CEDAW Principle

When deciding implementation strategies for any jurisdiction, as well as governmental obligations under the treaty, it is imperative to remember that an essential component of CEDAW is its focus on intersectionality.⁴⁵ The Committee has stated that discrimination based on sex and gender “is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity... [and] may affect women belonging to such groups to a different degree or in different ways to men.”⁴⁶ The intense focus on intersectionality mandates an approach to implementation that takes into account how certain social statuses disproportionately affect women as well as specific tools that may be employed to target discrimination against the most vulnerable women in society.

- **Article 2** requires countries to take action, legislative or otherwise, to promote equality and end discrimination against women. Jurisdictions that adopt and implement the Convention

⁴² GR 34 paras. 23, 25 (2016), tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/34&Lang=en.

⁴³ GR 25 para. 23.

⁴⁴ GR 28 para. 28.

⁴⁵ The term *intersectionality* was coined in 1989 by Kimberlé Crenshaw. Intersectionality analyzes the interlocking frameworks of race, class, sexual orientation, age, religion, creed, disability, and gender and posits that these forms of social stratification should not be looked at separately, but explored as an interwoven system, disproportionately impacting the most marginalized in society. See Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, UNIVERSITY OF CHICAGO LEGAL FORUM: VOL. 1989: ISS. 1, ARTICLE 8 (1989).

⁴⁶ *Id.* at para. 18.

should advise, monitor, and formulate any policies necessary to eliminate all forms of discrimination affecting women.⁴⁷

- **Article 3** encourages governments to ensure the political, social, economic, and cultural equality of all women by disaggregating data according to gender so that users of data can easily obtain information pertaining directly to the status of women.⁴⁸ Further, countries should promote conferences, seminars, and campaigns at both the regional and national levels, partnering with non-governmental organizations, to garner support and publicity for implementation of the Convention.⁴⁹
- **Article 4** allows governments to adopt temporary special measures to ensure equality between men and women, making sure that such temporary special measures are crafted so the measures are not, themselves, discriminatory. Once true equality is achieved, these special measures are to be discontinued. Temporary special measures may include affirmative action programs, preferential treatment policies, quota systems, outreach programs, reallocation of resources, or targeted recruitment, hiring, and promotion practices.⁵⁰ Keeping in mind intersectionality as a crucial facet of implementation, governments must “identify intersecting forms of discrimination and their compounded negative impact on the women concerned” and adopt special measures to combat these types of discrimination where necessary and appropriate.⁵¹
- **Article 5** implores governments to work to alter gender stereotypes that perpetuate discrimination. For example, maternity must be seen as a social function, and men and women should share in the responsibilities of childrearing. Countries should adopt educational and public information programs to combat the forms of prejudice that persist based on certain sociocultural factors.⁵²
- *Disability.* Countries should monitor and report on the status of women with disabilities, ensuring equal access to education, health services, social security, and social and cultural participation.⁵³

⁴⁷ GR 6 para. 1 (1988),

tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_5828_E.pdf.

⁴⁸ GR 9 (1989),

tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/A_44_38_3724_E.pdf.

⁴⁹ GR 10 paras. 1-2 (1989),

tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3728_E.pdf.

⁵⁰ GR 25 para. 22.

⁵¹ GR 28 para. 18.

⁵² GR 3 (1987),

tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_5825_E.pdf.

⁵³ GR 18 (1991),

tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_4729_E.pdf.

- *Age.* Older women face unique forms of discrimination, and these women’s needs and vulnerabilities are often largely ignored by government and society. Abuse and exploitation of this population remain high, and countries must take note of the differences experienced between older men and women, specifically as a result of “unfair resource allocation, maltreatment, neglect and limited access to basic services.”⁵⁴
- *Children.* In a joint comment with the Committee on the Rights of the Child, the Committee expressed that many acts of violence against women are related to acts of violence against girls, such as female genital mutilation, forced marriage, honor killing, and trafficking.⁵⁵ Adult women are disproportionately affected “both directly and/or owing to the long-term impact of practices to which they were subjected as girls.”⁵⁶ Countries must take particular note of the treatment of girls in promoting and protecting the rights of women.

The rights guaranteed by the Convention and the recommendations proposed by the Committee offer a general framework for local implementation in the County. The needs and struggles of women in Los Angeles may be different from the needs and struggles of women globally; however, it is imperative that the County use CEDAW rights to determine the areas in which women in the County are most vulnerable. Using these rights as guides will help to achieve comprehensive guarantees for women, framing their struggles through an intersectional lens that places all women throughout the County, regardless of status, on equal footing with men.

III. CEDAW’S BENEFITS IN ENHANCING EXISTING COUNTY INITIATIVES, INCLUDING THE LOS ANGELES COUNTY COMMISSION FOR WOMEN AND THE WOMEN AND GIRLS INITIATIVE

To be sure, LA County is already focused on uplifting women in a myriad of ways. Through the creation of LACCW and adoption of WGI, it is evident the County views the status of women and girls as important in its policymaking. Further, the County has already exhibited support for other human rights initiatives, becoming a sanctuary county and creating robust programs to combat poverty and homelessness. Of course, there is always more to be accomplished in guaranteeing human rights for every citizen, but by implementing CEDAW, the County could stand out, more than it already does, as a leader on these important issues and a refuge for vulnerable populations.

Given the current federal political climate of widespread abandonment of human rights principles, LA County can signal to the state, federal government, and world that ensuring fundamental human rights to all citizens is the best way forward. With the viral spread of the #MeToo Movement since 2017, it is clear that every jurisdiction in this nation has room to improve its gender equity policies. This paper encourages the County to continue with its current efforts to elevate the status of women, and in addition, supplement and expand upon existing initiatives using human rights standards determined by global consensus.

⁵⁴ GR 27 paras. 11, 27 (2010), documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/53/PDF/G1047253.pdf?OpenElement.

⁵⁵ GR 31 para. 7 (2014), documents-dds-ny.un.org/doc/UNDOC/GEN/N14/627/78/PDF/N1462778.pdf?OpenElement.

⁵⁶ *Id.* at para. 1.

A. How CEDAW Can Supplement and Amplify Current Policy Initiatives

Los Angeles County Commission for Women. Established by the Board of Supervisors in 1975, LACCW was created to “advocate for the lives and well-being of women through building strong collaboration, sharing available resources, and educating and empowering through participation in the legislative process.”⁵⁷ LACCW’s mandate is to advise the Board on the needs of women and matters relating to discrimination against women in the County; recommend policies to ensure equal rights; research and investigate existing discriminatory conditions; and coordinate with County departments, community groups, and other organizations concerned with women’s rights.⁵⁸ Recently, LACCW partnered with the Center for the Advancement of Women at Mount Saint Mary’s University to commission the Report on the Status of Women in Los Angeles County.⁵⁹ It will be important for the County to use the statistics gathered in that report as a baseline for further guarantees of women’s rights. Notable data include the following:

- One in eight women in California is a woman living in LA County. Out of 10.1 million people in LA County, there are 5.2 million women living in the County, 1.8 million of whom are immigrants. Of the 5.2 million women, forty-eight percent are Latina, twenty-five percent are White, sixteen percent are Asian Pacific Islander, eight percent are Black, and three percent identify as Other.
- Women and children in LA County are more likely to live in poverty than men. Black and Latina women and girls live in poverty at a higher rate than Asian and White women. Further, while unemployment has decreased significantly in recent years, Black and Latina women in the County remain unemployed at higher rates than White and Asian women, mirroring the poverty statistics. Thirty-one percent of homeless people in the County are women, and six percent of that population is homeless due to fleeing domestic violence.
- In 2017, there were 42,702 domestic violence-related calls made to emergency services requesting assistance. Sixty-six percent of those instances of violence involved weapons, the most common being personal weapons such as hands and feet. Eighteen percent of those instances involved dangerous weapons such as guns or knives.
- Full-time working women in LA County still earn, on average, eighty-three percent of what men earn. While disappointing, this number is at least higher than both the California and national averages for the gender pay gap.
- Meanwhile, the education gap is closing. Young women in the County are about to become the most educated generation in history. Asian women are the most educated, with thirty-seven percent earning a bachelor’s degree and fifteen percent earning a post-graduate degree. Latina women are the least educated, with thirty-eight percent obtaining no high school diploma and only twenty-five percent obtaining a high school diploma. Currently more women

⁵⁷ Los Angeles County Commission for Women (“LACCW”), *The Vision*, laccw.lacounty.gov/About-Us.

⁵⁸ LACCW, *The Mission*, laccw.lacounty.gov/About-Us.

⁵⁹ LACCW, *Report on the Status of Women in Los Angeles County* (2018), file.lacounty.gov/SDSInter/bos/commissionpublications/internal/1051309_2018MSMUFullReport.pdf.

than men in the County have an associate, bachelor, or master's degree, but more men than women have a professional or doctoral degree.

- Ninety-two percent of women in the County have health insurance, up from eighty-nine percent in 2015.

Analyzing data with a gender lens is key to CEDAW implementation. The County has much to be proud of, despite some daunting statistics. Even though issues facing women persist, the report makes clear that many indicators of the status of women have seen significant improvement in recent years. By engaging with CEDAW, the County could enhance its progress with respect to substantive areas affecting women in the County, most notably violence against women, women's health, disabled and homeless women, stateless women and asylum seekers, equal remuneration, and education.

Women and Girls Initiative. Building on the accomplishments of LACCW, the Board adopted a motion in 2016 to establish WGI in order to “enhance equity and justice, increase leadership opportunities and capacity, and create innovative pathways and partnerships.”⁶⁰ WGI aims to “examine the systemic issues that lead to inequitable gender outcomes and recommend changes to improve the quality of life for women and girls in the County.”⁶¹ By expanding WGI's mission to include CEDAW language and recommendations, the County can further help empower women whose rights have been violated, as well as create a culture of inherent human rights applicable to all Americans.

WGI is a five-year initiative that analyzes the County in its capacity as an employer and a provider of services.⁶² It is tasked with studying how women and girls are affected by County policies, programs, and services; assessing the County's recruitment, hiring, and human resources practices, specifically looking at any deleterious effects on women; and analyzing each of the County's departments for positive and negative impacts on women and girls.⁶³ While WGI is a relatively new initiative, its priorities include: equitable workplaces, economic mobility, services designed with gender and age lenses, empowering women in leadership, and promoting partnerships to increase opportunities for women and girls.⁶⁴ In furtherance of these goals, WGI established numerous ad hoc committees with the intention of, *inter alia*, increasing recruitment and retention in County Sheriff and Fire Departments, addressing fees and fines detrimental to women's economic stability, and applying a gendered lens to private grant making.⁶⁵

Recently, WGI published its first comprehensive report⁶⁶ detailing the progress of the initiative. Though not an exhaustive list, notable achievements include the following:

⁶⁰ Women and Girls Initiative (“WGI”), *Mission Statement*, lacounty.gov/wgi-mission-statement/.

⁶¹ WGI, *About Us*, lacounty.gov/wgi-about-us/.

⁶² See WGI, *Annual Report December 2016 – December 2018* (Feb. 27, 2019), lacounty.gov/wp-content/uploads/WGI-Annual-Report-final-3-6-19.pdf.

⁶³ *Id.*

⁶⁴ WGI, *Progress Report on Implementation of the County's Women and Girls Initiative* (Dec. 6, 2018), lacounty.gov/wp-content/uploads/Progress-Report-to-BOS_120618.pdf.

⁶⁵ *Id.*

⁶⁶ WGI, *supra* note 67.

- WGI conducted a survey of fifteen County departments regarding services provided to women and girls as well as services in which women and girls are the primary beneficiaries. WGI asked departments to provide data about the number of participants in services, disaggregated by age and gender. Departments were also asked to share any challenges faced in tailoring services to women and girls.
- WGI received a grant to conduct implicit bias training with all County employees. Training commenced in December of 2018.
- WGI published a guidebook to educate human resources professionals on best practices to avoid gender bias in employment practices. While focused on governmental hiring, this guidebook also has relevance for private hiring processes. Additionally, WGI collected data on gender-concentrated classifications where, for example, one gender occupies more than eighty percent of department positions.
- WGI helped create a working group to collaborate on and share the work various County departments are doing to elevate women and girls.
- WGI has held community meetings involving various stakeholders, such as grassroots leaders, organizational directors, youth representatives, and community members who offered recommendations for how the County could better serve its populations of women and girls.

WGI is the beginning of a powerful movement to assist women and girls in the County, and its mandate provides the foundation to enact real change throughout LA County. CEDAW principles could assist in forming a more comprehensive policy framework specific to the County's needs. By implementing the treaty, the County can add value to WGI's work by incorporating human rights norms, language, and practices missing from the current initiative.

B. What LA County Stands to Gain from CEDAW Implementation

Adopting the Convention's principles would add significant value to the County's existing initiatives. Implementing CEDAW at the County level need not replace the current work of LACCW and WGI; rather, it could supplement and strengthen those programs by providing creative and distinct avenues for fulfilling women's rights and achieving gender equity. The County can use the robust guarantees of international human rights law in myriad ways to enhance its work. The following examples are by no means exhaustive.

Discrimination and Economic, Social and Cultural Rights. A substantial benefit of implementing CEDAW at the County level is that the definition of discrimination provided by CEDAW is broader than U.S. protections against discrimination.⁶⁷ As noted above, the Convention defines discrimination as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing...the recognition, enjoyment or exercise by women...on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."⁶⁸ First, the CEDAW definition provides for the effects of discriminatory outcomes

⁶⁷ See, e.g., 42 U.S.C. §2000e-2(a).

⁶⁸ GR 23 para. 3.

as an independent basis for showing discrimination, which is essentially a disparate impact standard.⁶⁹ Second, as noted above, this definition includes any and all violence against women. Third, whereas U.S. law typically guarantees only civil and political equality, CEDAW makes clear that social, economic, and cultural inequalities are prohibited. By using the more inclusive definition of discrimination provided by CEDAW in official policies, the County can better protect groups of women and girls from de facto discrimination that is not explicitly prohibited under current U.S. standards.⁷⁰

Temporary Special Measures. Once discrimination is apparent, whether intentional or not, it must be remedied. The Convention recognizes the need for measures that accelerate actual equality between men and women; thus, Article 4 provides for “positive action, preferential treatment or quota systems to advance women’s integration into education, the economy, politics and employment,”⁷¹ as well as “outreach or support program[s]; allocation and/or reallocation of resources; . . . targeted recruitment, hiring and promotion; [or] numerical goals connected with time frames.”⁷² The aim of CEDAW is to abandon “historically determined male paradigms of power and life patterns,”⁷³ however, those paradigms may be so entrenched in society as to require some form of special action to break them down. To achieve de facto equality between men and women may require the County to reprioritize or repurpose existing resources in support of dismantling existing structures of discrimination.

Human Rights Education and Empowerment. The Committee recommends that jurisdictions adopt educational and public information programs to avoid perpetuating discrimination based on stereotyped perceptions of women attributable to sociocultural factors.⁷⁴ Educating the public using international human rights language will help to “eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women.”⁷⁵ More than just changing cultural perceptions, there is intrinsic value in using human rights language to identify and name the human rights abuses women suffer. Framing issues in terms of human rights empowers individuals to “demand services owed to them, and to make requests from a position of power and entitlement,

⁶⁹ Establishing a finding of disparate impact involves analyzing gender data, looking for trends that women are repeatedly and systemically treated as inferior. For example, the gender pay gap is a statistic that could warrant a finding of disparate impact. While there are current laws mandating equal pay for equal work, the wage gap remains nearly unchanged. Casey Leins, U.S. News & World Report, *Gender Pay Gap Virtually Unchanged in U.S.* (Oct. 24, 2018), [usnews.com/news/national-news/articles/2018-10-24/gender-pay-gap-virtually-unchanged-in-us](https://www.usnews.com/news/national-news/articles/2018-10-24/gender-pay-gap-virtually-unchanged-in-us). Looking at issues such as the wage gap through a disparate impact lens would allow women to more easily prove discrimination, even when laws or policies are not intentionally discriminatory.

⁷⁰ The Trump Administration is looking to remove the possibility of disparate impact findings in the areas of education and housing, which could further erode the ability of marginalized groups to prove discrimination regardless of clearly discriminatory outcomes. See Laura Meckler and Devlin Barrett, *The Washington Post*, *Trump Administration Considers Rollback of Anti-discrimination rules* (Jan. 3, 2019), [washingtonpost.com/local/education/trump-administration-considers-rollback-of-anti-discrimination-rules/2019/01/02/f96347ea-046d-11e9-b5df-5d3874f1ac36_story.html?utm_term=.16439cc5a6ee](https://www.washingtonpost.com/local/education/trump-administration-considers-rollback-of-anti-discrimination-rules/2019/01/02/f96347ea-046d-11e9-b5df-5d3874f1ac36_story.html?utm_term=.16439cc5a6ee).

⁷¹ GR 5 (1988), tbineternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_5827_E.pdf.

⁷² GR 25 para. 22.

⁷³ *Id.* at para. 10.

⁷⁴ GR 3.

⁷⁵ *Id.*

rather than weakness and desperation.”⁷⁶ By framing gender equity issues in terms of human rights violations and educating the public on human rights guarantees, the women of LA County will be empowered to pursue the changes that should have been guaranteed decades ago.

Economic Development and Community Expansion. Another value added is the potential for CEDAW policies to create economic development opportunities throughout jurisdictions.⁷⁷ First, CEDAW initiatives benefit the economy because they advocate for more women in the workforce, which requires women to be provided with adequate educational opportunities, which has proven to lift women out of poverty and increase the number of available workers. Second, jurisdictions with CEDAW initiatives form an expansive network of cities, counties, states, and countries. Joining this network creates the potential for new economic opportunities as well as collaboration and support among jurisdictions. The County could benefit from the knowledge gained from other jurisdictions and act as a global leader within the expanding CEDAW network.

IV. JOINING LOCAL GOVERNMENTS ACROSS CALIFORNIA AND THE UNITED STATES IN A CAMPAIGN TO ENSURE WOMEN’S EQUALITY

Implementing CEDAW at the local level would connect the County to an existing network of cities and counties that have already taken steps to secure international gender standards for their residents. Several Californian jurisdictions are leaders of this movement and have demonstrated lasting successes. As the County decides on an implementation strategy, it might look to these jurisdictions as examples of effective CEDAW implementation.

A. The Cities for CEDAW Grassroots Movement

LA County’s CEDAW implementation would connect to the nationwide Cities for CEDAW program, a grassroots movement that seeks to implement the Convention in local jurisdictions throughout the country. Cities for CEDAW is a campaign led by the Women’s Intercultural Network that provides local municipalities and organizations with the tools and leadership resources to effectively implement the Convention.⁷⁸ This movement “hopes to increase awareness of strong support for CEDAW implementation and demonstrate its usefulness as a tool for achieving gender equity: in political participation and representation, in income and earnings, in access to healthcare throughout the life cycle and in public and personal safety.”⁷⁹ The County could draw upon the work of Cities for CEDAW when deciding which implementation strategy is best for the women of LA County, looking to existing support networks, resolutions, and ordinances as examples of options for the County.

⁷⁶ Kristi Kenyon, Open Global Rights, *Empowering Language of Rights Underlies Increasing Use in HIV Advocacy* (Jan. 9, 2018), openglobalrights.org/empowering-language-of-rights-underlies-increasing-use-in-hiv-advocacy/ (Kenyon’s study looks at the effects of framing the HIV crisis in Sub-Saharan Africa as a human rights violation. In her study, she demonstrates that by using human right language, people come to view human rights as inherent to dignity and “existence as a human being.” Respondents in Kenyon’s study “saw rights language as transforming people from passive recipients of care to active participants engaged in their own health, and as engaged citizens rightfully demanding services from the state.”).

⁷⁷ Interview with Tanya Pineda, Policy Analyst in the LA Mayor’s Office of Budget and Innovation (Mar. 22, 2019).

⁷⁸ Cities for CEDAW, *Background*, citiesforcedaw.org/background/.

⁷⁹ *Id.*

Cities for CEDAW has achieved massive success since its founding in 2013. The movement built on early forms of CEDAW legislation, such as the 1998 San Francisco ordinance and the 2003 Los Angeles ordinance. As of 2018, nine U.S. jurisdictions have passed a binding ordinance, thirty-three jurisdictions have passed a non-binding resolution, and thirty-one jurisdictions are currently exploring some form of implementation (see **Annex 3**).

Cities for CEDAW recommends three components in carrying out local implementation, which mirror components promoted by the CEDAW Committee. In its action plan for implementation, Cities for CEDAW urges local jurisdictions to: (1) conduct gender analysis of government departments and operations; (2) create an oversight body to monitor implementation; and (3) provide adequate funding for new policies.⁸⁰ The County is already implementing some of these recommendations; utilizing the resources of an existing campaign would, however, enhance the County's current initiatives.

Many influential groups throughout the U.S. support the Cities for CEDAW movement. Notably, in 2014 the U.S. Conference of Mayors resolved to support the Cities for CEDAW initiative and uphold the principles of the Convention across the country, specifically citing the power of local implementation efforts to achieve those goals.⁸¹ The Mayor's Conference asserted that "city and county governments have an appropriate and legitimate role in affirming the importance of international law in communities as universal norms and to serve as guides for public policy,"⁸² urging municipalities across the nation to follow the examples set by San Francisco and Los Angeles in enacting local ordinances. The American Bar Association is another organization that supports both national ratification and local implementation of the Convention, echoing the principles put forth by Cities for CEDAW.⁸³

Notably, in 2017, the International Association of Official Human Rights Agencies ("IAOHRA") passed a resolution recommending IAOHRA members "support municipal, county and state-wide efforts to implement policies that affirm the rights of women, eliminate all forms of discrimination against women, advance gender equity and promote and affirm the principles of CEDAW."⁸⁴ IAOHRA also commissioned the Columbia Law School Human Rights Institute, an existing partner of Cities for CEDAW, to publish a gender equity toolkit that jurisdictions can reference in local

⁸⁰ Cities for CEDAW, *A Toolkit to Help Promote Human Rights for Women and Girls in Your Community* (2017), citiesforcedaw.org/wp-content/uploads/2017/07/CEDAW-toolkit-July-2017.pdf.

⁸¹ The United States Conference of Mayors, *Resolution in Support of Cities for CEDAW Initiative and Encouraging Cities to Implement the Principles of the UN Convention on the Elimination of All Forms of Discrimination Against Women*, 82d Annual Meeting (2014), usmayors.org/the-conference/resolutions/?category=d20065&meeting=82nd%20Annual%20Meeting.

⁸² *Id.*

⁸³ American Bar Association, *CEDAW Resources* (2016), americanbar.org/advocacy/governmental_legislative_work/priorities_policy/promoting_international_rule_of_law/humanrightslobbyday/CEDAW/ ("Ratification of CEDAW will enable the United States to contribute more effectively to the global struggle for women's rights. Ratification would make the United States eligible to sit on the...CEDAW Committee...The United States then will be in a position to encourage other countries to strengthen respect for human rights generally by working to achieve the goals of equality set forth in the treaty.").

⁸⁴ IAOHRA 2017 Conference, *Resolution: Gender Equity — A Basic Human Right* (Sept. 24-28, 2017), docs.wixstatic.com/ugd/a7a927_cab2d248fb9a4b139a57cd74ed982cd8.pdf.

implementation strategies and policymaking.⁸⁵ In the toolkit, IAOHRA suggests that governments and municipalities: (1) increase human rights education and awareness; (2) assess and analyze the status of women in the state or jurisdiction; (3) incorporate CEDAW principles into existing law; and (4) partner with private sector actors to achieve CEDAW goals in all aspects of women's lives.⁸⁶

Cities for CEDAW was created to foster awareness of gender equity principles at the local level. As a platform meant to advance collaboration among cities, states, non-governmental organizations, private companies, and the international community, this movement has supported numerous jurisdictions throughout the U.S. — including some cities in LA County — in their efforts to advance women's rights. LA County has the opportunity to join a dynamic grassroots movement that could provide innovative ideas for implementation of gender equity policies as well as enhance and collaborate on policies and initiatives already present in the County. Implementing the language of CEDAW and joining this movement would connect the County to a larger network of resources and support, allowing the County to both learn from, and provide guidance to, other jurisdictions working toward the same goals.

B. CEDAW Implementation Underway Across California

While the campaign for CEDAW implementation spans the nation, California is at the forefront of this movement and home to more than one quarter of domestic CEDAW legislation. Many cities in LA County and across the state have shown their support for the Convention by passing non-binding resolutions, binding ordinances and other types of implementation. In fact, the first domestic CEDAW ordinance was passed by the City and County of San Francisco in 1998. At a time when these important rights are being challenged across the country, the state, counties, and cities of California are taking the necessary further steps to secure the rights of their citizens. A few of the more prominent examples of CEDAW legislation in California are described below:

State of California. Despite bi-partisan efforts over many years, the California Legislature has been unable to pass any binding CEDAW legislation and only recently enacted a non-binding resolution affirming the principles of the Convention. The history of CEDAW at the state level largely mimics the unsuccessful efforts by the federal government to ratify the Convention. In August of 2004, the California Legislature passed A.B. 358,⁸⁷ a binding ordinance that implemented the principles of CEDAW throughout the state. The Bill mandated “addressing discrimination against women and girls in areas including, but not limited to, economic development, education, employment practices, violence against women and girls, and health care.”⁸⁸ Further, it called for the Department of Corrections, the State Department of Education, and the State Department of Health Services to evaluate their activities to ensure no policies of discrimination against women, as well as to ensure the appropriate allocation of funding and resources for policy implementation. However, in September of 2004, former Governor Arnold Schwarzenegger vetoed A.B. 358 claiming it was duplicative of Executive Order S-6-04.⁸⁹ Governor Schwarzenegger stated that all state agencies had established

⁸⁵ Columbia Law School Human Rights Institute, *Gender Equity Toolkit: Strategies for State and Local Agencies to Promote the Principles of CEDAW* (2018), law.columbia.edu/sites/default/files/microsites/clinics/revised_new_iaohra_pdf.pdf.

⁸⁶ *Id.* at 2.

⁸⁷ A.B. 358, 2004 Leg., Reg. Sess. (Cal. 2004).

⁸⁸ *Id.*

⁸⁹ Exec. Order No. S-6-04 (May 26, 2004), spb.ca.gov/content/pinkies/p040526.pdf.

policies of anti-discrimination based on a range of factors, specifically citing the state's equal opportunity practices.⁹⁰ Unfortunately, and as discussed above, equal opportunity policies fall short of CEDAW's broad guarantees of gender equity.

Finally, in 2018, fourteen years after Governor Schwarzenegger's veto, the California Legislature enacted S.C.R. No. 78 (see **Annex 4**), a state-wide non-binding resolution that acknowledges:

[T]here is a continued need for the State of California to protect the human rights of women and girls and to analyze the operations of state departments, policies, and programs to identify discrimination and, if identified, to remedy that discrimination.... Adherence to the principles of CEDAW on the state level will especially promote equal access to and equity in health care, employment, economic development, and education opportunities for women and girls and will also address the continuing critical problems of violence against women and girls.⁹¹

While this resolution is only aspirational in nature, it provides needed guidance for cities and counties looking to redefine their gender equity standards and signals to jurisdictions within the state that California must ensure the complete equality of women and girls moving forward. Despite the lack of a binding state-wide ordinance, the California Legislature has memorialized the importance of gender equity, and it is incumbent on all jurisdictions across the state to comply with, if not expand upon, this directive. The resolution does not mandate local implementation of the Convention; however, it does provide an express basis for LA County adoption of CEDAW principles.

City and County of San Francisco. San Francisco passed the first domestic CEDAW ordinance in 1998, codified as Section 33A in the Administrative Code. The ordinance specifically focuses on the areas of economic development, violence against women, and healthcare, mandating that the city and county “shall work toward integrating gender equity and human rights principles into all of its operations, including policy and budgetary decision-making...[and] train selected departments in human rights with a gender perspective” (see **Annex 5**). A mere three years after implementation, the CEDAW Task Force, in conjunction with the newly-created Department on the Status of Women, had already conducted detailed gender analyses of six city departments — Adult Probation Department, Department of Public Works, Juvenile Probation Department, Arts Commission, Rent Board, and Department on the Environment.⁹²

Also worth noting is the adoption of the San Francisco Gender Equality Principles⁹³ (“GEPs”) across the Bay Area. The GEPs provide private companies with attainable standards to assess their progress on gender equality. While the GEPs are not binding and create no private cause of action, they are designed to be a collective approach to increasing gender equality in the private sector, an idea fundamental to the goals of CEDAW. The GEPs provide companies with best practices — in areas such as employment and compensation; work-life balance and career development; health, safety, and freedom from violence; management and governance; business, supply chain, and marketing practices;

⁹⁰ A.B. 358 Gov. Veto, Assem. Floor Analysis (Oct. 19, 2004), leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200320040AB358.

⁹¹ S.C.R. No. 78, 2018 Leg., Reg. Sess. (Cal. 2018); *see also* Assem. Floor Analysis (Jan. 15, 2018), leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SCR78#.

⁹² San Francisco Department on the Status of Women, *Progress Report #6* (2001), sfgov.org/dosw/progress-report-6-december-2001.

⁹³ San Francisco Gender Equality Principles Initiative, genderprinciples.org/principles.php.

civic and community engagement; and leadership, transparency, and accountability — to achieve complete gender equality throughout the private sector. Though the GEPs are not binding by law, some of the Bay Area’s largest companies have signed onto the Initiative,⁹⁴ and the GEPs provide a shining example of how jurisdictions can secure private sector support for the principles of the Convention.

City of Los Angeles. Los Angeles Ordinance No. 175735, enacted in 2003, uses the language of CEDAW to address discrimination in areas of economic development, violence against women and girls, healthcare, education, and affordable housing (see **Annex 6**). Further, CEDAW has gained traction in many other cities throughout the County and surrounding municipalities. The County can look to the recent Long Beach (see **Annex 7**), Santa Monica (see **Annex 8**), and West Hollywood (see **Annex 9**) resolutions as examples of other CEDAW implementation options and strategies. Burbank, Monrovia, and Orange County are local jurisdictions also exploring possible CEDAW implementation.

With the 2003 ordinance in place, Mayor Eric Garcetti has insisted that intersectional gender equity principles be a dominant force in his administration’s policymaking. 2015 Executive Directive No. 11 calls for Los Angeles to be a model for CEDAW implementation, creating a standard for gender parity policies that other jurisdictions may replicate in order to eliminate sex and gender discrimination (see **Annex 10**). “Significantly, as CEDAW recognizes that the intersections of multiple forms of discrimination have compounding negative effects on women, [Los Angeles] must seek to eradicate gender-based disparities for all women, regardless of their race, ethnicity, religion, health, marital status, age, class, sexual orientation, gender identity, gender expression, or sex assigned at birth.” Per the Directive, each city department must designate a Gender Equity Liaison to create a gender action plan as well as conduct salary analyses to ensure there is no wage gap between employees holding comparable positions. As part of the intersectional approach of the Directive, the newly-created Gender Equity Coalition oversees each department’s action plans and identifies areas that require extra focus, areas in which certain women — transgender women, women living with HIV or AIDS, undocumented women, lesbians, women of color, seniors, and young women and girls — are particularly vulnerable.

In conjunction with his CEDAW directive, Mayor Garcetti also issued Executive Directive No. 12 that specifically addresses domestic violence and violence against women (see **Annex 11**). Each Gender Equity Liaison now also serves as a Domestic Violence Prevention Liaison, and each Liaison is a member of the Mayor’s Working Group Against Domestic Violence, reporting to the city about ways departments can support victims of domestic violence. Department action plans must now include strategies to prevent domestic violence, raise public awareness, and support victims. To provide support for these new directives and department mandates, the Mayor’s office commissioned reports on the status of women in the city to serve as a baseline for gender equity analysis and further policymaking.⁹⁵

⁹⁴ Major participants include companies such as Deloitte, IBM, Google, McKesson, Oracle, and Symantec Corporation, genderprinciples.org/participating_organizations.php.

⁹⁵ Mount Saint Mary’s University for City of LA, Office of Mayor Eric Garcetti, *The Report on the Status of Women and Girls* (2015), available from lamayor.org/report-status-women-girls-los-angeles.

County of Santa Clara. Building on 1999 and 2005 non-binding resolutions affirming the principles of CEDAW,⁹⁶ in 2017, the Board of Supervisors of Santa Clara County enacted Ordinance No. NS-300.919, creating a CEDAW Task Force to analyze county programs and services from a gender perspective (see **Annex 12**). The goal of the Task Force is to report all findings to the Board, which will then determine the need for further gender equity policies. The Task Force focuses on the economic development and security of women, gender-based violence, education and leadership, health care, affordable housing, and criminal justice reform. Though the Task Force has yet to make a formal report to the Board on its CEDAW findings, it partnered with the Santa Clara Office of Women's Policy to produce a general report on the status of women and girls in the county.⁹⁷ This report will likely inform the Task Force's analysis of how county programs serve and support women and girls.

C. Gender Equity Achievements From CEDAW Implementation

Perhaps the most compelling reason to implement CEDAW at the local level is that it works. Jurisdictions that have enacted CEDAW ordinances and/or other types of implementation see tangible benefits from these policies and programs, and women's lives are demonstratively improved as a result. Many CEDAW jurisdictions in the country have created official reports on the benefits of CEDAW implementation,⁹⁸ highlighting various achievements, such as policy changes, departmental gender analyses, decreases in the instances of violence against women, increased educational opportunities for women, and the economic advancement of women. The successes of the CEDAW programs in San Francisco and LA City may be particularly germane to LA County's implementation efforts and are discussed here in greater detail.

San Francisco. As the first municipality to enact CEDAW legislation, San Francisco has been collecting data on its gender equity reforms for over two decades. Under the direction of former Mayor Gavin Newsom, the Department on the Status of Women published a 2010 report detailing the status of the San Francisco CEDAW ordinance and providing best practices to aid other jurisdictions in their implementation efforts (see **Annex 13**). The report details the process of conducting gender analyses of various government departments and provides a detailed case study of changes experienced by the Department of the Environment. Notably, when that Department conducted its first gender analysis in 2001, only thirty-three percent of the Department's employees were women, and the Department employed only one person of color in a professional position. Eight years later, because of the Department's concerted efforts to ensure gender equity throughout employment positions, sixty-nine percent of employees were women, and thirty-nine percent of employees were minorities. Other government reports clearly demonstrate the women of San Francisco have seen tangible benefits in their lives since CEDAW adoption in 1998.⁹⁹ Some of the most notable achievements¹⁰⁰ in San Francisco are as follows:

⁹⁶ See County of Santa Clara Board of Supervisors, *Meeting Minutes* (Dec. 5, 2017), sccgov.icm2.com/Citizens/Detail_Legifile.aspx?ID=89058.

⁹⁷ County of Santa Clara Office of Women's Policy, *Status of Women and Girls in Santa Clara County* (2018), sccgov.org/sites/owp/publications/Documents/Final_StatusofWomenandGirls_Combined.pdf.

⁹⁸ See *Cities for CEDAW Reports*, citiesforcedaw.org/resources.

⁹⁹ See City and County of San Francisco Department on the Status of Women, *Publications*, available from sfgov.org/dosw/publications.

¹⁰⁰ Department on the Status of Women, *Cities for CEDAW Advancing Human Rights Locally*, sfgov.org/dosw/sites/default/files/Cities%20for%20CEDAW%20Top%20Achievements_031815.pdf.

- The city has experienced forty-four months without any domestic violence homicides, from 2011 to 2014.
- The City Charter Amendment,¹⁰¹ requiring membership on Commissions and Boards to reflect the diversity of San Francisco's population, has resulted in gender parity on all city Commissions, although women's representation on Boards has slightly declined in recent years. Complete racial parity has not yet been achieved.
- The city has implemented the GEPs, standards and best practices for private companies to employ in their own analysis of gender equity policies.
- Emergency personnel have been trained in basic Chinese and Spanish for expanded language access across the city.
- The city has passed the Family Friendly Workplace Ordinance, which gives working parents and caregivers the right to request a flexible or predictable work schedule without fear of retaliation.
- Law enforcement has updated codes for domestic violence, stalking, and child and elder abuse.
- The city has created the Family Violence Council, the San Francisco Collaborative Against Human Trafficking, and the Mayor's Task Force on Human Trafficking to eliminate modern slavery and support trafficking survivors.
- The city has increased grants to thirty-one community-based organizations for anti-violence initiatives, totaling \$4.6 million.

Los Angeles. Similar to the San Francisco reports and the 2018 LACCW findings, Los Angeles has commissioned numerous reports on the status of women in the city, gathering data in key areas, such as demographics, leadership, veterans, education and workforce development, and public safety.¹⁰² Although LA's original CEDAW ordinance was passed sixteen years ago, there is a dearth of reporting and information available from the time of implementation in 2003 to the launch of Mayor Garcetti's executive directives in 2015. However, since 2015, the City has been able to accurately quantify and qualify its achievements in the area of gender equity. Recent notable achievements¹⁰³ include the following:

- All forty-one Boards and Commissions have achieved gender parity. There are no longer any all-male Commissions in the City, and fifty percent of the City's Deputy Mayors are women.

¹⁰¹ Department on the Status of Women, *2017 Gender Analysis of Commissions and Boards: Executive Summary*, citiesforcedaw.org/wp-content/uploads/2018/01/SFDOSW-Gender-Analysis-of-Commissions-and-Boards-2017-Executive-Summary-FINAL-1.pdf.

¹⁰² Mount Saint Mary's University, *supra* note 104.

¹⁰³ City of LA, Office of Mayor Eric Garcetti, *Gender Equity*, lamayor.org/GenderEquity.

- Numerous women have been promoted to the heads of non-traditional departments, spearheading the hiring of women in non-traditional fields such as information technology and emergency response. For example, the current Senior Technology Advisor is a woman, and through her promotion, the Information Technology Agency has seen a 300% increase in female hiring. Further, the heads of the Bureau of Street Lighting, the Department of Transportation, and the Mayor's Innovation Team are all women.
- The city has created My Voice LA, an online, open-source portal where all government staff can submit sexual harassment and discrimination complaints. Because the platform is available at all hours and on any device, complaint reporting has increased, because more people feel comfortable reporting violations.
- In conjunction with the creation of the Women Officials Recruitment Certification program, which trains and promotes women to become sports referees, the City has seen an increase in girls' participation in sports leagues and fitness programs, from twenty-five percent in 2015 to forty-two percent in 2018.
- Fifty-four percent of the participants in the Full STEAM Ahead program, an initiative promoting math and science, are girls.
- The Domestic Abuse Response Team now operates in all twenty-one of the Police Department's geographic areas. All rape kits must also be tested within ninety days.
- The city has seen a thirty-six percent increase since 2017 of women-owned business enterprises. Increase in government contracts to women-owned businesses, from \$3.6 million to \$43.3 million.

While San Francisco and Los Angeles are but two examples of jurisdictions with successful CEDAW initiatives, numerous other achievements and advancements in the area of gender equity are being celebrated in localities throughout the country, in significant part due to CEDAW.¹⁰⁴ The data presented in these reports makes clear that CEDAW improves women's lives in ways distinct from traditional gender equality guarantees. The County currently has both the opportunity and the duty to ensure these broad advancements in women's lives apply to its own residents. By implementing CEDAW, the County can send a clear message to those who believe current gender equality guarantees are sufficient: more can, and must, be done.

¹⁰⁴ See Cities for CEDAW Reports, *supra* note 107.

V. THE CALL FOR LOCAL JURISDICTIONS TO FULFILL HUMAN RIGHTS, AS THE FEDERAL GOVERNMENT RETRACTS FROM THE GLOBAL STAGE

While the U.S. has yet to ratify the Convention, proponents of CEDAW have sought federal approval and ratification for decades; however, despite concerted efforts, ratification remains unlikely. Unfortunately, as demonstrated by the #MeToo Movement and other women's rights efforts, it is clear the U.S. lacks comprehensive gender equity policies. There is no longer room for the argument that women are on completely equal footing with men in this country, and it is past time for widespread reform. Even in 2019, it is undeniable that women are not compensated to an equal degree as men, regardless of federal legislation guaranteeing equal pay.¹⁰⁵ Further, women and girls are constantly at risk of sexual violence, regardless of race, class, or profession.¹⁰⁶ In light of these persisting inequalities, it is more important than ever that women in this country be given the rights provided by CEDAW. Because the federal government is unlikely to ratify the Convention, it is incumbent upon local jurisdictions to secure these important rights and fill the gaps in federal legislation.

A. The Unlikelihood of U.S. Ratification of CEDAW

U.S. politicians have attempted numerous times — in 1994, 2002, and 2010 — to ratify the Convention. CEDAW ratification has failed, and waiting for federal ratification is likely futile because “concerns that multilateral agreements might infringe on U.S. sovereignty have resulted in an unwillingness to ratify a number of human rights treaties.”¹⁰⁷ Central to the debates surrounding ratification is the idea of American Exceptionalism, that “‘Americans,’ it is claimed, are ‘reluctant to embrace international human rights because they are not convinced these guarantees are superior to their own.’”¹⁰⁸ All ratification debates have failed in part because the federal government continues to assume, either erroneously or strategically, that domestic policies provide better human rights protections than international norms.

In 2002, the Senate Foreign Relations Committee held hearings on CEDAW ratification. Chaired by Senator Joe Biden, the Committee recommended that the Senate ratify CEDAW subject to certain reservations, understandings, and declarations.¹⁰⁹ However, the Convention failed to reach the full Senate for a vote on ratification. The 2002 hearing provides context for how the federal government, regardless of political party shifts, has viewed the Convention, a view that underscores the need for local implementation. First, the U.S. determined the purpose of CEDAW is to “achieve the elimination of discrimination against women,”¹¹⁰ a far cry from the comprehensive object and purpose outlined by the CEDAW Committee. Second, even proponents of ratification viewed the Convention not as a tool to elevate the status of American women, but merely to “enhance the ability of the United States to press for women's rights globally” and provide U.S. diplomats with a “means to press other

¹⁰⁵ Leins, *supra* note 74.

¹⁰⁶ See Reports from U.S. Dep't of Justice, Bureau of Justice Statistics, bjs.gov/index.cfm?ty=tp&tid=317.

¹⁰⁷ Deborah Weissman, *The Human Rights Dilemma: Rethinking the Humanitarian Project*, 35 COLUM. HUMAN RIGHTS L. REV. 259, 311 (2003).

¹⁰⁸ *Id.* at 311-312, quoting Michael Ignatieff, *No Exceptions?*, 2002 J. LEGAL AFF. 59, 60 (May/June 2002), legalaffairs.org/issues/May-June-2002/review_ignatieff_mayjun2002.html.

¹⁰⁹ S. Ex. Rept. 107-9, *Convention on the Elimination of All Forms of Discrimination Against Women*, Hearing Before the Comm. on Foreign Relations, 107 Cong. 2d (2002).

¹¹⁰ *Id.*

governments to fulfill their obligations under the Convention.”¹¹¹ Despite acknowledging that CEDAW “addresses a question of basic fairness which women have been asking for centuries,”¹¹² the Foreign Relations Committee was transparent in its belief that national CEDAW implementation must not affect women domestically.

Again, in 2010, the Senate Judiciary Subcommittee on Human Rights and the Law held a hearing on CEDAW ratification. On November 18, 2010, Senator Richard Durbin led the advocacy effort for CEDAW implementation but provided few arguments beyond what was stated in 2002.¹¹³ Although he acknowledged the struggles women and girls face in the areas of domestic violence and pay equity — noting women at the time only made seventy-seven cents for every dollar a man made — he was very clear that “[t]he United States does not need to ratify CEDAW to protect our own women and girls. Women have fought a long and difficult struggle for equal rights in America, with many victories along the way,” such as the 19th Amendment, Title IX, and the Violence Against Women Act.¹¹⁴ Senator Durbin posited that U.S. law exceeds the guarantees of CEDAW and that ratification would merely give “women all over the world the chance to enjoy the same freedoms and opportunities that American women have struggled long and hard to achieve.”¹¹⁵

On the same day that Senator Durbin advocated for ratification, Steven Groves of the Heritage Foundation delivered an impassioned speech against implementation.¹¹⁶ Mr. Groves warned the Subcommittee that any form of CEDAW implementation would subject the U.S. to an international Committee that “regularly instructs...members to engage in social engineering on a grand scale.”¹¹⁷ This purported social engineering would result in a modification of current American norms — that women are wives, mothers and caregivers, and men are husbands, fathers and breadwinners.¹¹⁸ Though Mr. Groves’ concept of American cultural norms is outdated, CEDAW still failed to reach the full Senate for a ratification vote. Nine years later, the federal government has no plans to reignite this debate, leaving room for implementation at state and local levels.

The U.S. has only ratified three of the nine core international human rights treaties, despite efforts by numerous administrations to ratify others.¹¹⁹ In response to a lack of federal support for human rights standards, local jurisdictions have the opportunity, and arguably the obligation, to secure human rights for their populations; “[i]nstead of encouraging Washington to adopt law applicable at the federal and state levels, a rather quixotic venture, advocates should look to the states not only as a partial solution

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ S. Hrg. 111-1143, *Women’s Rights are Human Rights: U.S. Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, Hearing Before the Subcomm. on Human Rights and the Law, 111 Cong. 2d (2010), statement of Sen. Richard Durbin.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*, statement of Steven Groves, on behalf of the Heritage Foundation.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ The U.S. ratified the International Covenant on Civil and Political Rights in 1992, the International Convention Against Torture in 1994, and the International Convention on the Elimination of All Forms of Racial Discrimination in 1994.

to non-implementation...but also as the principle institutions that can test state practice according to the standards of human rights law.”¹²⁰

Moreover, enough local support for CEDAW across the country may encourage the federal government to eventually ratify the Convention. If enough powerful jurisdictions, such as LA County and the State of California, show robust support for CEDAW implementation, it could communicate to the federal government that the citizens of this country take women’s rights seriously, forcing the government to finally align domestic policy with international standards. LA County, already a beacon of human rights guarantees, can lead the way as an example of what wide-spread CEDAW implementation may look like.

B. The Nation’s International Human Rights Engagement in Decline

The ratification debates provide a telling backdrop for current U.S. engagement with international human rights. In fact, the Trump Administration has essentially signaled its abandonment of human rights principles by, *inter alia*, withdrawing from the UN Human Rights Council in 2018¹²¹ and attempting to dilute international instruments protecting the rights of women and girls.¹²² The current Administration is retracting from the global stage, which means that advancement in the area of human rights must come from state and local governments. Incorporating international principles locally will also demonstrate to the world that Americans are still committed to engaging in human rights dialogue, ensuring rights for women at home while also advocating for women’s rights abroad.¹²³

Another concerning trend in the U.S. is the passage of state legislation prohibiting the application of international law by domestic courts. As of 2017, eleven states had enacted laws eliminating international law in state jurisprudence,¹²⁴ and many more states have since considered similar

¹²⁰ David Kaye, *State Execution of the International Covenant on Civil and Political Rights*, 3 U.C. IRVINE L. REV. 95 (2013).

¹²¹ Colin Dwyer, National Public Radio, *U.S. Announces Its Withdrawal from U.N. Human Rights Council* (June 19, 2018), [npr.org/2018/06/19/621435225/u-s-announces-its-withdrawal-from-u-n-s-human-rights-council](https://www.npr.org/2018/06/19/621435225/u-s-announces-its-withdrawal-from-u-n-s-human-rights-council) (the Administration cited differences of opinion with the “hypocritical and self-serving organization that makes a mockery of human rights”).

¹²² The Guardian, *US Accused of Trying to Dilute Global Agreements on Women’s Rights* (Mar. 18, 2019), [theguardian.com/global-development/2019/mar/18/us-accused-of-trying-to-dilute-international-agreements-un-commission-status-of-women](https://www.theguardian.com/global-development/2019/mar/18/us-accused-of-trying-to-dilute-international-agreements-un-commission-status-of-women).

¹²³ Even though the U.S. withdrew from the UN Human Rights Council, it is still subject to Universal Periodic Review by the Council and other UN Member States. Local implementation of international standards will elevate Member States’ perception of the U.S., regardless of the current Administration’s policies.

¹²⁴ While there may be a trend of outlawing international law in state jurisprudence, the U.S. Supreme Court has referenced international norms in various opinions. Notably, Justice Ginsburg hinted at the possibility of allowing temporary special measures, such as those provided under CEDAW article 4, to hastily end discrimination under the “international understanding of the office of affirmative action.” *Grutter v. Bollinger*, 539 U.S. 306, 244 (2003) (Ginsburg, J., concurring); see also Christopher McCrudden, *CEDAW in National Courts: A Case Study in Operationalizing Comparative International Law Analysis in a Human Rights Context*, U MICH. PUBLIC LAW RESEARCH PAPER NO. 539 (2017) (domestic courts in the U.S. “have sometimes taken the proposition that it is appropriate to take CEDAW into account, despite the fact that the United States has not ratified CEDAW, both in the interpretation of the Constitution, as well as in the interpretation of the ATCA”).

legislation.¹²⁵ For example, Alabama passed a statewide amendment in 2014 prohibiting state courts from applying foreign law, including a complete ban on Sharia Law throughout the state.¹²⁶ Similarly, Oklahoma passed a law deeming any use of foreign or international law to be a violation of the public policy of the state.¹²⁷ There is clearly a need for states and localities across the nation to reject such dogmatic and discriminatory policies; LA County's CEDAW implementation would display a commitment to international norms and suggest that international guarantees of rights and freedoms do matter in the everyday lives of its citizens.

C. U.S. Obligations Under International Law in Support of CEDAW Implementation

Object and Purpose. Under international law, signing versus ratifying a treaty has a vastly different outcome. Countries may sign a treaty when negotiations have ended, signaling an acceptance of the treaty's final form. However, for a country to accept an international treaty as law, it must take a further step and ratify the treaty. Signing a treaty carries certain obligations, most notably the promise by the signatory to refrain from violating the object and purpose of the treaty.¹²⁸ While the U.S. has not ratified the Vienna Convention on the Law of Treaties ("VCLT"), the international convention dealing with how treaties are interpreted and enforced, the U.S. State Department acknowledges parts of the VCLT are binding customary international law,¹²⁹ creating certain universal obligations every country must follow regardless of ratification status.

The U.S. signed CEDAW in 1980, mere months after treaty negotiations concluded. However, and as discussed above, the federal government has failed multiple times to ratify the Convention. But because the U.S. is a signatory, it is bound by the obligations stated in the VCLT, namely not to violate the object and purpose of CEDAW.¹³⁰ This interim obligation requires the U.S. to promote "the substantive equality of women"¹³¹ until it either un-signs the treaty or incorporates the Convention into domestic law. While a signatory's obligation may be a low bar with which a country must comply, it provides some support for states and municipalities who wish to ensure compliance with international law given the strong unlikelihood of federal CEDAW ratification.¹³²

¹²⁵ National Conference of State Legislatures, *2017 Legislation Regarding the Application of Foreign Law by State Courts*, Aug. 17, 2017, ncsl.org/research/civil-and-criminal-justice/-state-resources-on-the-prohibition-of-the-use-of-foreign-law-in-state-courts.aspx.

¹²⁶ Ala. Const. art. I, § 13.50.

¹²⁷ Okla. Stat. tit. 12, § 20, et seq.

¹²⁸ VCLT art. 18 ("A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) It has signed the treaty...until it shall have made its intention clear not to become a party to the treaty...").

¹²⁹ U.S. Dep't. of State, Office of the Legal Advisor, Treaty Affairs, *Vienna Convention on the Law of Treaties*, state.gov/s/l/treaty/faqs/70139.htm.

¹³⁰ See GR 25 para. 4 (the overall object and purpose of the Convention is to "eliminate all forms of discrimination against women with a view to achieving women's de jure and de facto equality with men in the enjoyment of their human rights and fundamental freedoms.").

¹³¹ Elizabeth Sepper, *Confronting the Sacred and Unchangeable: The Obligation to Modify Cultural Patterns under the Women's Discrimination*, 30 U. PA. J. INT'L L. 585, 593 (2008) (domestic ratification would mean a "a legal obligation to respect, protect, promote and fulfill this right to non-discrimination for women and to ensure the development and advancement of women in order to improve their position to one of de jure as well as de facto equality with men.").

¹³² While CEDAW has not been ratified nationally, all states and localities should keep in mind the object and purpose of the Convention when deciding policy. Many of the rights guaranteed by CEDAW — education,

Customary International Law. A further argument for local implementation is that certain provisions of CEDAW constitute customary international law, which is law that has garnered such universal support as to become compulsory for all countries regardless of treaty obligations. According to international scholars, treaties may “come to be accepted as customary international law...binding on all states as custom.”¹³³ Once a norm attains customary international law status, it “may be accepted as the law of the land without any...act of [domestic] incorporation.”¹³⁴ As one example, the CEDAW Committee expressly acknowledged that the “prohibition of gender-based violence against women has evolved into a principle of customary international law,”¹³⁵ indicating that every nation in the world must work to eradicate violence against women regardless of whether it is a party to any international treaty. Additionally, “some domestic courts...appear to recognize aspects of CEDAW as representing customary international law, and take it into account when they are required under domestic law to apply customary international law.”¹³⁶

CEDAW is one of the most widely-accepted international instruments, second only to the Convention on the Rights of the Child. Out of a total of 193 UN Member States, 187 have ratified CEDAW.¹³⁷ Six Member States — the U.S., Palau, Iran, Somalia, Sudan, and Tonga — have failed to ratify the Convention, and the U.S. remains the only industrialized nation among that group.¹³⁸ Refusing to ratify CEDAW unfortunately places the U.S. in the same category as countries with some of the worst records of discrimination against women. Although the federal government has rejected CEDAW ratification, the County currently has the opportunity to follow the lead of virtually every other nation in the world and adopt CEDAW, thereby advancing lasting and universally-accepted protections for women.

VI. THE BROAD RANGE OF OPTIONS FOR LA COUNTY IMPLEMENTATION OF CEDAW

There is no one way to implement CEDAW. The enacted laws in various CEDAW jurisdictions across the country exemplify the variety of ways in which localities can affirm the principles of the Convention. While the County could mimic existing ordinances or resolutions, it may also choose to draft novel legislation unique to the needs of its citizens. The County is encouraged to explore all possible avenues for implementation, but the CEDAW Committee does recommend certain oversight mechanisms in furtherance of its goals. While these recommendations target countries and national governments, they are suggestions that every jurisdiction, regardless of size, can employ as it embarks on the path of local implementation.

law enforcement, divorce and family matters, public health, and criminal justice — are controlled, not by the federal government, but by states and localities. Apart from matters of preemption, states and localities should be controlling how CEDAW is implemented in the U.S.

¹³³ Christine Chinkin, *Sources*, in INTERNATIONAL HUMAN RIGHTS LAW 103, 110 (D. Moeckli, S. Shah, and S. Sivakumaran, 2010).

¹³⁴ *Id.* at 113.

¹³⁵ GR 35 para. 2; *see also*, Sara De Vido, *The Prohibition of Violence Against Women as Customary International Law? Remarks on the CEDAW General Recommendation No. 35*, in DIRITTI UMANI E DIRITTO INTERNAZIONALE, RIVISTA QUADRIMESTRALE 379 (2018) (arguing that some, but not all, forms of prohibition on violence against women have become customary international law).

¹³⁶ McCrudden, *supra* note 133.

¹³⁷ *See* OHCHR, *Status of Ratification Interactive Dashboard*, indicators.ohchr.org.

¹³⁸ *Id.*

The Committee requests that governments “[e]stablish and/or strengthen effective national machinery, institutions and procedures...with adequate resources, commitment and authority to: (a) [a]dvise on the impact on women of all government policies; (b) [m]onitor the situation of women comprehensively; [and] (c) [h]elp formulate new policies and effectively carry out strategies and measures to eliminate discrimination.”¹³⁹ Most importantly, the Committee asks governments to collect statistics on their populations “in such a way that data can be disaggregated according to gender...so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.”¹⁴⁰ It is imperative that governments use gender data to influence policy decisions. The County, in connection with the reports created by LACCW and WGI, has already started to analyze the status of its women, creating the necessary foundation for proper CEDAW implementation.

The Columbia Law School Human Rights Institute published a guide of best practices for jurisdictions to reference as they work toward “bringing human rights home.”¹⁴¹ Although this guide is not specific to CEDAW, it provides resources and suggestions the County can use. The guide recommends: aspirational commitments that raise human rights awareness, reframing local issues as human rights concerns, fostering participatory governance by engaging relevant stakeholders to identify local issues, and conducting human rights assessments to determine specific vulnerabilities in the population as well as the impacts of existing policies.¹⁴² In line with Committee and human rights organizations’ recommendations¹⁴³ for implementation, this paper presents a menu of options for prospective County policies:

- **Non-binding Resolution.** Similar to the idea of an aspirational commitment to the principles of CEDAW, the County could enact a non-binding, yet official, resolution pledging to uphold the Convention’s guarantees for women. Many jurisdictions — for example, Long Beach (see **Annex 7**), Santa Monica (see **Annex 8**), and West Hollywood (see **Annex 9**) — opt for this type of implementation strategy as a way to avoid changing formal law while at the same time reprioritizing the government’s goals to support the Convention. Enacting a resolution would ideally be an interim strategy designed to endorse the goals of CEDAW, thus giving the County time to evaluate current policies and resources in preparation for some form of binding policy in the future.
- **Data Collection and Gender Analysis.** Similar to what LACCW and WGI have already accomplished, the County could order further data collection and gender analyses, ensuring that reporting is conducted through an intersectional lens (see, e.g., **Annex 13**). This data collection would provide the requisite information to analyze the County’s departments, services, and budgets in order to integrate gender considerations in all aspects of County

¹³⁹ GR 6 para. 1.

¹⁴⁰ GR 9.

¹⁴¹ Columbia Law School Human Rights Institute, The Human Rights at Home Campaign, *Bringing Human Rights Home: How State and Local Governments Can Use Human Rights to Advance Local Policy* (2012), web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/Bringing%20Human%20Rights%20Home.pdf.

¹⁴² *Id.*

¹⁴³ Cities for CEDAW notes three crucial steps for implementation: gender analysis, creation of an oversight body, and adequate funding and resources.

governance. Comprehensive data and gender analysis could also lead to a requirement that each County department appoint a Gender Liaison or create an action plan detailing the services it provides specifically to women, placing the onus for change on the governmental bodies working directly with the residents. The County could use Mayor Garcetti's executive directives as examples for wide-spread departmental analysis (see **Annexes 10 and 11**).

- **Oversight Body for Policymaking and Data Analysis.** The County could designate a group responsible for overseeing CEDAW implementation and developing strategies for further policymaking. The County could either create a distinct oversight group or task existing bodies — LACCW or WGI — with these responsibilities. Tapping existing resources to oversee CEDAW policy initiatives may help prioritize the County's goals and provide these groups with a focused mission of bringing the County's policies in line with international human rights standards. The County could mandate an oversight body to function independent of other CEDAW policies — similar to the actions taken by the County of Santa Clara, which only created a Task Force (see **Annex 12**) — or create an oversight body as part of a larger resolution or ordinance.
- **Private Sector Initiative.** Similar to what San Francisco achieved in its implementation of the GEPs, the County could consider establishing a partnership of private sector actors that would voluntarily agree to broad gender equity policies in business practices. This partnership of public and private institutions could focus on issues such as employment and compensation policies, career development, work-life balance, health and safety, transparency, accountability, and community engagement. While participation in such an initiative would not be mandatory for private companies, the County could promote this idea to help create wide-spread change in every area of women's lives.
- **Binding Ordinance.** A binding County law would likely be the most effective endorsement of the Convention. This option would mandate policies in line with the Convention's standards. An ordinance may incorporate other options in this list, such as an oversight body and gender data analysis. The tangible achievements attributable to CEDAW implementation have largely come from jurisdictions who have decided to enact ordinances. LA County could look to the ordinances passed by other jurisdictions — San Francisco (see **Annex 5**), Los Angeles (see **Annex 6**), and Miami-Dade County (see **Annex 14**) — for celebrated examples of binding CEDAW legislation.

The above options provide examples of possible implementation strategies. The County is encouraged to devise a policy scheme that best meets the needs of its residents. **However, in light of the foregoing, the Clinic recommends that LA County adopt a binding CEDAW ordinance with an oversight body (in connection with LACCW and/or WGI) and a private sector initiative.**

VII. CONCLUSION

Women in the U.S. have been fighting the battle for equality for centuries, and despite advances in recent decades, gender rights are still threatened across the country. CEDAW promotes policies that address the systemic discrimination women face merely because they are women. Although CEDAW is not a perfect remedy in a broken world, it does provide tangible benefits. CEDAW implementation is not meant to be an overhaul of an existing system; however, creating an umbrella framework for women's rights by promoting human rights language and guarantees would provide substantive and normative value to the lives of the County's 5.2 million women.

The Convention embodies the international standard for securing gender equality. Through its intersectional approach of guaranteeing civil, political, economic, social, and cultural rights to women, CEDAW expands upon existing U.S. law and provides a model of the rights that must be guaranteed for women and girls if de facto equality is to be achieved throughout the nation. Adoption of the Convention would supplement the important work the County is already accomplishing in the area of gender equity and allow the County to join an expansive network of jurisdictions seeking to elevate the status of women and girls. At a time when the federal government is withdrawing from the international human rights arena, local implementation of the Convention is a call to action that the County must answer.