

Quejas al Ilustre Colegio de Abogados de Madrid
Wilcox vs. Gonzalez de Alcalá y Gonzalez de Alcalá vs. Wilcox
Juzgado de Mostoles, Madrid | septiembre 2007 – abril 2013

I, Quenby Wilcox, of American and French nationality, am presenting a complaint to the *Ilustre Colegio de Abogados de Madrid* against the following lawyers:

- Gonzalo Martínez de Haro of Vinader, Carlos y Asociados (*procuradora*¹ Juan Bosco Hornedo Muguero);
- Maria Fernanda Guerrero Guerrero
- Belén García Martín (*procuradora* María Pilar Lantero);
- Jose Manuel Hernández Jiménez (*abogado de oficio*);
- Jorge Capell de Cuatrecasas, Gonçalves Pereira (*procuradora* Pilar Poveda Guerra);
- Alberto Fontes García Calamarte (*procuradora* Rafael Gamarra Megias);
- Miguel Martínez López de Asiain y Ignacio González Martínez (*procuradora* Rafael Gamarra Megias);

in *Wilcox vs. González de Alcalá* 607/2007, *González de Alcalá vs. Wilcox* 1140/2007 and 1143/2007 and all actions and related litigations.

My complaints are presented to the *Ilustre Colegio de Abogados de Madrid*, and thereby the Spanish government, for consideration of the facts and in order to reclaim my rights and reparations for personal damages (Quenby Wilcox and my children) as well as damages to my company (Global Expats, www.global-xpats.com, previously www.global-expats.com.) due to the negligent acts, and omission of acts, of lawyers cited in the complaint.

**Gender Violence as a Human Rights Violation and
the Obligation of a State to Protect under the Principle of Due Diligence**

As indicates in the *amicus brief* for *Gonzales vs. USA, 2011*²ⁱ in which the United States was found guilty of human rights violations under the principle of due diligence and the obligation to protect:

“While efforts to protect victims through legislative reforms has been done in many States and must continue to be made in order for States to fulfill their obligations, legislative reform alone is not sufficient in order to fulfill the obligation of the State towards its victims. The enacted laws must be executed in a way that protects victims of gender violence in practice. As the Commission said recently “it is clear that the next step in protecting the rights of women, victims of gender violence and discrimination in order to assure justice, is to pass from de jure recognition of

¹ Bajo el ley Española y parámetros indicado por el *Consejo General de Procuradores de España* parece que mis *procuradores* eran bajo un obligación de notificar el tribunal y el juez de instrucción, y/o autoridades apropiadas sobre cualquier irregularidades, transgresiones, o negligencia profesional o criminal (o el intención de cometerlo) por actores judiciales, y entonces poseen un responsabilidad legal y obligación por daños financieros sufrido por mi y/o mis hijos en relación de mi caso. Mismo si no eran autores de dichos infracciones, ellos se vuelven encubridor de un delito por su omisión de actuar bajo la ley Española.

² A full listing of all Amicus Briefs in *Gonzales vs. USA* are posted on <http://web.law.columbia.edu/human-rights-institute/inter-american-human-rights-system/jessica-gonzales-v-us/gonzales-case-page>

rights to the de facto exercise of rights. ³" Access to justice for women, victims of violence in the Americas, Inter-Am. C.H.R., OEA/Ser.L/V/II, Doc. 68, 18 (Jan. 20, 2007).

Under-Secretary-General and Executive Director of UN Women Michelle Bachelet stated in her closing remarks to the *Stakeholders' Forum on Preventing and Eliminating Violence Against Women* "there is no shortage of good and innovative practices and programmes being initiated by women in cities and communities around the world to respond to this crisis. The shortcomings are not in the vision, voices and the voluminous efforts undertaken by determined women around the world. No, the shortcomings lie elsewhere—in the lack of political prioritization... Now is the time for governments to translate international promises into concrete national action...."

Recalling the obligation of the Spanish government and all representatives to assure the following:

Spanish Constitution

Article 1 of the Spanish Constitution declares that:

1. *Spain is hereby established as a social and democratic State, subject to the rule of law, which advocates freedom, justice, equality and political pluralism as highest values of its legal system.*

Article 9 of the Spanish Constitution declares that:

1. *Citizens and public authorities are bound by the Constitution and all other legal provisions.*

2. *It is the responsibility of the public authorities to promote conditions ensuring that freedom and equality of individuals and of the groups to which they belong are real and effective, to remove the obstacles preventing or hindering their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life.*

3. *The Constitution guarantees the principle of legality, the hierarchy of legal provisions, the publicity of legal statutes, the non-retroactivity of punitive provisions that are not favourable to or restrictive of individual rights, the certainty that the rule of law shall prevail, the accountability of public authorities, and the prohibition of arbitrary action of public authorities.*

Article 10 of the Spanish Constitution declares that:

1. *The dignity of the person, the inviolable rights which are inherent, the free development of the personality, the respect for the law and for the rights of others are the foundation of political order and social peace.*

2. *Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain.*

Article 13 of the Spanish Constitution declares that:

1. *Aliens in Spain shall enjoy the public freedoms guaranteed by the present Part, under the terms to be laid down by treaties and the law.*

³ Discriminación de jure y de facto y la violación de derechos dentro de la sistema judicial esta explorado y discutido profundamente en UN Division for the Advancement of Women - Good Practices in Combating and Eliminating Violence Against Women (www.unwomen.org), Office of the High Commission for Human Rights: Women's Rights and Gender Unit (Banda, Fared) - Project on a Mechanism to Address Laws that Discriminate Against Women, 2008 (www.ohchr.org.)

2. *Only Spaniards shall have the rights recognized in Article 23, except in cases which may be established by treaty or by law concerning the right to vote and the right to be elected in municipal elections, and subject to the principle of reciprocity. (This text includes the first constitutional reform adopted on 27/08/1992; it just added the words "and the right to be elected" to the paragraph).*

3. *Extradition shall be granted only in compliance with a treaty or with the law, on reciprocal basis. No extradition can be granted for political crimes; but acts of terrorism shall not be regarded as such.*

4. *The law shall lay down the terms under which citizens from other countries and stateless persons may enjoy the right to asylum in Spain.*

Article 14 of the Spanish Constitution declares that:

Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.

Article 15 of the Spanish Constitution declares that:

Everyone has the right to life and to physical and moral integrity, and under no circumstances may be subjected to torture or to inhuman or degrading punishment or treatment. Death penalty is hereby abolished, except as provided for by military criminal law in times of war.

Article 17 of the Spanish Constitution declares that:

1. *Every person has the right to freedom and security. No one may be deprived of his or her freedom except in accordance with the provisions of this Article and in the cases and in the manner provided for by the law.*

2. *Preventive arrest may last no longer than the time strictly necessary in order to carry out the investigations aimed at establishing the events; in any case the person arrested must be set free or handed over to the judicial authorities within a maximum period of seventy-two hours .*

3. *Every person arrested must be informed immediately, and in a way understandable to him or her, of his or her rights and of the grounds for his or her arrest, and may not be compelled to make a statement.*

The arrested person shall be guaranteed the assistance of a lawyer during police and judicial proceedings, under the terms to be laid down by the law.

4. *An habeas corpus procedure shall be provided for by law in order to ensure the immediate handing over to the judicial authorities of any person illegally arrested. Likewise, the maximum period of provisional imprisonment shall be determined by law.*

Article 18 of the Spanish Constitution declares that:

1. *The right to honour, to personal and family privacy and to the own image is guaranteed.*

2. *The home is inviolable. No entry or search may be made without the consent of the householder or a legal warrant, except in cases of flagrante delicto.*

3. *Secrecy of communications is guaranteed, particularly regarding postal, telegraphic and telephonic communications, except in the event of a court order.*

4. *The law shall restrict the use of data processing in order to guarantee the honour and personal and family privacy of citizens and the full exercise of their rights.*

Article 19 of the Spanish Constitution declares that:

Spaniards have the right to freely choose their place of residence, and to freely move about within the national territory.

Likewise, they have the right to freely enter and leave Spain subject to the conditions to be laid down by the law. This right may not be restricted for political or ideological reasons

Article 20 of the Spanish Constitution declares that:

1. The following rights are recognized and protected:

a) The right to freely express and spread thoughts, ideas and opinions through words, in writing or by any other means of reproduction.

b) The right to literary, artistic, scientific and technical production and creation.

c) The right to academic freedom.

d) The right to freely communicate or receive truthful information by any means of dissemination whatsoever. The law shall regulate the right to the clause of conscience and professional secrecy in the exercise of these freedoms .

2. The exercise of these rights may not be restricted by any form of prior censorship.

3. The law shall regulate the organization and parliamentary control of the mass communication means under the control of the State or any public agency and shall guarantee access to such means by the significant social and political groups, respecting the pluralism of society and of the various languages of Spain.

4. These freedoms are limited by respect for the rights recognized in this Part, by the legal provisions implementing it, and especially by the right to honour, to privacy, to the own image and to the protection of youth and childhood.

5. The seizure of publications, recordings and other means of information may only be carried out by means of a court order.

Article 24 of the Spanish Constitution declares that:

1. All persons have the right to obtain effective protection from the judges and the courts in the exercise of their rights and legitimate interests, and in no case may there be a lack of defense.

2. Likewise, all have the right to the ordinary judge predetermined by law; to defense and assistance by a lawyer; to be informed of the charges brought against them; to a public trial without undue delays and with full guarantees; to the use of evidence appropriate to their defense; not to make self-incriminating statements; not to plead themselves guilty; and to be presumed innocent. The law shall specify the cases in which, for reasons of family relationship or professional secrecy, it shall not be compulsory to make statements regarding allegedly criminal offences.

Article 29 of the Spanish Constitution declares that:

1. All Spaniards shall have the right to individual and collective petition, in writing, in the manner and subject to the consequences to be laid down by law.

2. Members of the Armed Forces or Institutes or bodies subject to military discipline may only exercise this right individually and in accordance with statutory provisions relating to them.

Article 32 of the Spanish Constitution declares that:

1. Man and woman have the right to marry with full legal equality.

2. The law shall make provision for the forms of marriage, the age and capacity for concluding it, the rights and duties of the spouses, the grounds for separation and dissolution, and their effects.

Article 38 of the Spanish Constitution declares that:

Free enterprise is recognized within the framework of a market economy. The public authorities guarantee and protect its exercise and the safeguarding of productivity in accordance with the

demands of the general economy and, as the case may be, of economic planning .law shall make provision for the forms of marriage, the age and capacity for concluding it, the rights and duties of the spouses, the grounds for separation and dissolution, and their effects.

Article 33 of the Spanish Constitution declares that:

- 1. The right to private property and inheritance is recognized.*
- 2. The social function of these rights shall determine the limits of their content in accordance with the law.*
- 3. No one may be deprived of his or her property and rights, except on justified grounds of public utility or social interest and with a proper compensation in accordance with the law.*

Article 35 of the Spanish Constitution declares that:

- 1. All Spaniards have the duty to work and the right to work, to the free choice of profession or trade, to advancement through work, and to a sufficient remuneration for the satisfaction of their needs and those of their families. Under no circumstances may they be discriminated on account of their sex.*
- 2. The law shall regulate a Workers' Statute.*

Article 39 of the Spanish Constitution declares that:

- 1. The public authorities ensure social, economic and legal protection of the family.*
- 2. The public authorities likewise ensure full protection of children, who are equal before the law, regardless of their parentage, and of mothers, whatever their marital status. The law shall provide for the possibility of the investigation of paternity.*
- 3. Parents must provide their children, whether born within or outside wedlock, with assistance of every kind while they are still under age and in other circumstances in which the law so establishes.*
- 4. Children shall enjoy the protection provided for in the international agreements safeguarding their rights.*

Article 41 of the Spanish Constitution declares that:

The public authorities shall maintain a public Social Security system for all citizens guaranteeing adequate social assistance and benefits in situations of hardship, especially in case of unemployment. Supplementary assistance and benefits shall be optional.

Article 43 of the Spanish Constitution declares that:

- 1. The right to health protection is recognized..*
- 2. It is incumbent upon the public authorities to organize and watch over public health by means of preventive measures and the necessary benefits and services. The law shall establish the rights and duties of all in this respect.*
- 3. The public authorities shall foster health education, physical education and sports. Likewise, they shall encourage the proper use of leisure time.*

Article 47 of the Spanish Constitution declares that:

All Spaniards have the right to enjoy decent and adequate housing. The public authorities shall promote the necessary conditions and establish appropriate standards in order to make this right effective, regulating land use in accordance with the general interest in order to prevent speculation. The community shall have a share in the benefits accruing from the town-planning policies of public bodies.

Article 48 of the Spanish Constitution declares that:

The public authorities shall promote conditions for the free and effective participation of young people in political, social, economic and cultural development.

Article 53 of the Spanish Constitution declares that:

1. The rights and freedoms recognized in Chapter 2 of the present Part are binding on all public authorities. Only by an act which in any case must respect their essential content, could the exercise of such rights and freedoms be regulated, which shall be protected in accordance with the provisions of

Article 161(1) a) of the Spanish Constitution declares that:

2. Any citizen may assert a claim to protect the freedoms and rights recognized in Article 14 and in division 1 of Chapter 2, by means of a preferential and summary procedure before the ordinary courts and, when appropriate, by lodging an individual appeal for protection (recurso de amparo) to the Constitutional Court. This latter procedure shall be applicable to conscientious objection as recognized in

Article 30 of the Spanish Constitution declares that:

3. Recognition, respect and protection of the principles recognized in Chapter 3 shall guide legislation, judicial practice and actions by the public authorities. They may only be invoked before the ordinary courts in accordance with the legal provisions implementing them.

Constitutional Act 3/2007 of 22 March for effective equality between women and men

Article 1. Purpose of the Act.

1. Women and men are equal in human dignity, equal in rights and duties. The purpose of this Act is to ensure equal treatment and opportunities for women and men, in particular via the elimination of discrimination against women of whatsoever circumstances or background and in all areas of life, specifically in the political, civil, occupational, economic, social and cultural domains, so as to build a more democratic, fair and solidary society, pursuant to Articles 9.2 and 14 of the Constitution.

2. To this end, the Act establishes the principles governing the action of public authorities, regulates natural and corporate persons' public and private rights and duties and lays down measures designed to eliminate and correct all forms of discrimination on the grounds of sex in the public and private sectors.

Article 2. Scope

1. All persons possess the rights deriving from the principle of equal treatment and the prohibition of discrimination on the grounds of sex.

2. The obligations laid down in this Act will be applied to all natural and corporate persons present or acting on Spanish soil, regardless of their nationality, registered address or residence.

Article 3. The principle of equal treatment for women and men

The principle of equal treatment for women and men means the absence of all direct or indirect discrimination on the grounds of sex, in particular as regards maternity, the assumption of family obligations or marital status.

Article 4. Integration of the principle of equality in the interpretation and enforcement of laws

Equal treatment and opportunities for women and men is a principle that informs the body of law and, as such, will be integrated and observed in the interpretation and enforcement of legislation.

Article 5. Equal treatment and opportunities in the access to employment, vocational training and promotion, and working conditions

The principle of equal treatment and opportunities for women and men, applicable in the domain of private and public employment, will be guaranteed as provided in the applicable legislation in: access to employment, including self-employment, vocational training, and promotion; working conditions including remuneration and dismissal; and affiliation with and participation in trade union and employers' organizations or any association whose members practise a specific profession, including the benefits granted thereby.

Difference of treatment based on a sex-related characteristic will not constitute discrimination in access to employment, including the necessary training, where, in light of the nature of the particular tasks concerned or the context in which they are performed, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

Article 6. Direct and indirect discrimination

1. Direct discrimination is regarded to be a situation where one person is treated less favourably on the grounds of sex than another is, has been or would be treated in a comparable situation.
2. Indirect discrimination is regarded to be a situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.
3. In whatsoever event, instructions to directly or indirectly discriminate on the grounds of sex will be regarded to be discriminatory.

Article 8. Discrimination on the grounds of pregnancy or maternity

Any less favourable treatment of women relating to pregnancy or maternity constitutes direct discrimination on the grounds of sex.

Article 9. Indemnity to reprisal

Discrimination on the grounds of sex is also regarded to exist in the event of any adverse treatment of or negative effect suffered by persons owing to the lodging of a complaint, claim, accusation, suit or appeal of any nature intended to prevent their discrimination or demand effective compliance with the principle of equal treatment for women and men.

Article 10. Legal consequences of discriminatory conduct

Any act or clause in legal transactions constituting or causing discrimination on the grounds of sex will be considered to be null and void and will give rise to liability both through a system of redress or indemnity that will be real, effective and proportional to the injury suffered and, as appropriate, through an effective system of deterrents consisting in penalties to prevent discriminatory conduct.

Article 11. Positive action

1. In order to ensure the effectiveness of the constitutional right to equality, public authorities will adopt specific measures favouring women to correct situations of obvious de facto

inequality with respect to men. Such measures, which will be applicable while the situation subsists, must be reasonable and proportional to the objective pursued in each case.

2. Private natural and corporate persons may also adopt such measures under the terms provided in the present Act.

Article 12. Effective judicial protection

1. Any person may call upon the court to protect the right to equality between women and men, pursuant to the terms of Article 53.2 of the Constitution, even after termination of the relationship in which discrimination allegedly took place.

2. The capacity and legitimacy to participate in civil, social and contentious-administrative proceedings relating to the defence of such right is incumbent upon natural and corporate persons having a legitimate interest therein as determined under the laws governing such proceedings.

3. Only the person subject to sexual harassment or harassment on the grounds of sex will be legally capacitated to institute the respective legal action.

Article 13. Burden of proof

1. Pursuant to procedural law, in proceedings in which the plaintiff alleges discriminatory conduct on the grounds of sex, it will be incumbent upon the defendant to prove the absence of discrimination in the measures adopted and their proportionality.

For the intents and purposes of the provisions of the preceding paragraph, where deemed useful or relevant, judicial bodies may request a report or opinion from the competent public bodies, *ex parte*.

2. The provisions of the preceding item will not be applicable to penal proceedings.

Carta de Derechos de los Ciudadanos

A comprehensible justice

5.- The citizen has the right that notifications, citations, stays and requerimientos possess simple and comprehensible terms, avoiding the use of unnecessary intimidating elements.

6.- The citizen has the right that “*las vistas y comparencias*” use language that, respecting the necessity of technical terms, is comprehensible for citizens that are not specialized in law.

- The judges and magistrates that manage the judicial process will assure that those rights are respected.

7.- The citizen has the right that court decisions y other resolutions are written in a way that is comprehensible for the intended person, using syntax and simple structure, without damaging technical precision.

8.- The citizen has the right to freely dispose of necessary documents in order to exercise their rights before the courts when the intervention of a lawyer and procurador is not necessary.

A justice for the citizen

9.- The citizen has the right to be treated respectfully and adapted to their psychological, social and cultural circumstance.

10.- The citizen has the right to demand that judicial proceeding in which their presence is required are celebrated with a minimum delay.

13.- The citizen has the right to know the identity and category of the attending authority or civil servant, except when it is justified for reasons of security en criminal cases.

17.- The citizen has the right to file complaints, reclamations and suggestions in relation to incorrect functioning of the administration of justice, and thereby receive answers with a minimum delay, and all cases within one month...

18.- The citizen has the right to demand accountability for judicial errors or for the abnormal functioning of the administration of justice.

- Damages caused to any assets or rights will give rise to an indemnity that can be reclaimed as provided for under the law.
- The reclaimed indemnities will be handed over with preference and celebrity.

Protection of victims of crimes

22.- The citizen that is a victim has the right to be informed with clarity about her part in the criminal process, the possibilities to obtain reparations of damages, as well as the process.

- To be assured that the victim has an effective understanding of resolutions that affect her security, above all in cases of violence in the family.
- Victims will be directed to the *Oficinas de Atención a la Víctima* and assure an integrated service for the affected citizen, assuring that services are available in the entire country.

23.- The citizen that is a victim of a crime will have the right that proceedings will be conducted before the courts in a manner that will preserve their dignity and intimacy.

- Will adopt measures necessary so that the victim does not coincide with the aggressor while waiting for court procedures.
- Authorities and civil servants will be especially attentive of these rights in the case of domestic or gender-based violence, assuring that the victim is assisted as necessary.

24.- The citizen that is a victim of a crime has the right to be protected in an immediate manner and effectively by the courts, especially when the violence is physical or psychological within the home.

- Will facilitate the use of medical techniques that are necessary for the protection of the victim, such as instruments in the tracking of people, and telesystems.

31.- The foreigner has the right to receive all services in the administration of justice in accordance with this Declaration without suffering discrimination because of race, language, religion, or belief, particularly when it involves minor children and in accordance with international treaties for Spain.

- The use of an interpreter is guaranteed when the foreigner does not understand castellano, or the official language of the Autonomous Community, in case of interrogation or declaration, or when they are to be informed of some sort of resolution.

32.- Foreign immigrants in Spain have the right to receive an effective protection from the Administration of Justice assuring that they understand the judicial process and their intervention.

- Judges and courts as well as the public prosecutor will assure these rights are always respected.

A correct deontological conduct

33.- The citizen has the right to a professional legal service of quality from their lawyer in the defense of their client, as well as by the procurador representing their interests before the courts.

34.- The citizen has the right to file a complaint with the Colegios de Abogados or Procuradores in relation to conduct that is contrary to professional deontology and to know the results of those complaints.

36.- The citizen has the right that the professionals that represent them, examine or defend them maintain rigorous secrecy when secrets are revealed or in execution of their duties.

An informed client

37.- The citizen has the right to know the approximate cost of all professional intervention by the lawyer of their choice and the form of payment.

- The lawyers and procuradores are obliged to provide a Price estimate that contains provisions for all possibilities.
- The client can request from the procurador a detailed accounting of all issues under their titilage.

38.- The citizen has the right to obtain precise and detailed information from lawyers and procuradores about the state of their case and the resolutions by the courts.

- The profesional must deliver a copy of all written notifications of all relevant judicial resolutions of which they are notified.
- The citizen can consult with their lawyer the consequences of all actions before the judicial organs.
- The Servicios de Orientación Jurídica will enhance, under the titilage of the Colegios de Abogados, expanding their functions in order to inform the citizen about their rights in relation to the confidence of their lawyer.

39.- The citizen has the right to be informed for their lawyer and procurador, in advance to any action in the courts, about the consequences of the costs of the process and estimates.

Quality free of charge justice

40.- The citizen has the right to be advised and defendes free of charge by a lawyer sufficiently qualified and be represented by a procurador that has a legitimate interest in free legal assistance.

- The respective Colegios will ensure a correct delivery of their services.

41.- The citizen has the right to demand quality services for the court-appointed lawyer.

- The Colegios of Abogados will adopt adequate measures in assuring that rights are respected.

EFFECTIVENES OF THE DECLARATION OF RIGHTS

1.- The citizen has the right to demand that the rights recognized in this declaration are respected. That they are linked to the judges and magistrates, prosecutors, judicial secrtaries, forensic medical personnel, public servants, lawyers, procuradores, and other personnel and institutions that cooperate with the administration of justice.

2.- El Ministerio de Justicia and the Comunidades Autónomas with competence in the issues, the Consejo General of the Poder Judicial, the Fiscalía General of the Estado and the profesional Colegios will adopt the necessary actions and provide the necessary measures to guarantee the effective and full respect for the reconized rights in this Declaration.

3.- The Congreso de los Diputados, via the Comisión de la Justicia e Interior

(<http://ec.europa.eu/justice/discrimination>

<http://www.igualdadynodiscriminacion.org/redOficinas/portada/madrid/home.htm>), will follow and permanently evaluate the development of this Declaration, and its effect will be regularly informed by the governemt and public órganos and institutions of any solicitations. The “annual memory” of the CGPJ of the Cortes Generales will include specific reference and sufficient details of complaints, reclamations, and suggestions formulated by citizens about the functioning of the Administration of Justice.

Also, recalling the obligation of the Spanish government and all representatives to assure that the following international treaties and agreements of which Spain is signatory, and of whose articles become constitutional rights under article 10.2 of the Spanish Constitution:

Convention on Human Rights

Art. 2 of the *Convention on Human Rights* declares that:

Right to life – 1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

Art. 3 of the *Convention on Human Rights* declares that:

Prohibition of Torture - No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Art. 4 of the *Convention on Human Rights* declares that:

Prohibition of slavery and forced labour - 1.No one shall be held in slavery or **servitude**.

Art. 5 of the *Convention on Human Rights* declares that:

Right to liberty and security - 1. **Everyone has the right to liberty and security of person.**

Art. 6 of the *Convention on Human Rights* declares that:

Article 6 – Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

- a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- b. to have adequate time and facilities for the preparation of his defence;
- c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Art. 8 of the *Convention on Human Rights* declares that:

Right to respect for private and family life - 1. Everyone has the right to respect for his private and family life, his home and his correspondence.

Art. 13 of the *Convention on Human Rights* declares that:

Right to an effective remedy - **Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.**

Art. 14 of the *Convention on Human Rights* declares that:

Prohibition de discrimination - The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Declaration on the Elimination of Violence Against Women

Art.1 of the *Declaration on the Elimination of Violence Against Women* declares that:

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Art. 2 of the *Declaration on the Elimination of Violence Against Women* declares that:

Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Art. 3 of the *Declaration on the Elimination of Violence Against Women* declares that:

Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia:

- (a) The right to life;
- (b) The right to equality;
- (c) The right to liberty and security of person;
- (d) The right to equal protection under the law;
- (e) The right to be free from all forms of discrimination;
- (f) The right to the highest standard attainable of physical and mental health;
- (g) The right to just and favourable conditions of work;
- (h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

Art. 4 of the *Declaration on the Elimination of Violence Against Women* declares that:

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

- (b) Refrain from engaging in violence against women;

- (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
- (d) Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;
- (e) Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly those concerned with the issue of violence against women;
- (f) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;
- (g) Work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation;
- (h) Include in government budgets adequate resources for their activities related to the elimination of violence against women;
- (i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;
- (j) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;
- (k) Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women; those statistics and findings of the research will be made public;
- (l) Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence;
- (m) Include, in submitting reports as required under relevant human rights instruments of the United Nations, information pertaining to violence against women and measures taken to implement the present Declaration;
- (n) Encourage the development of appropriate guidelines to assist in the implementation of the principles set forth in the present Declaration;

- (o) Recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women;
- (p) Facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels;
- (q) Encourage intergovernmental regional organizations of which they are members to include the elimination of violence against women in their programmes, as appropriate.

Art. 5 of the *Declaration on the Elimination of Violence Against Women* declares that:
The organs and specialized agencies of the United Nations system should, within their respective fields of competence, contribute to the recognition and realization of the rights and the principles set forth in the present Declaration

Declaration on the Elimination of all Forms of Discrimination Against Women

Art. 1 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

For the purposes of the present Convention, the term "discrimination against women" shall 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.

Art. 2 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Art. 3 de la *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and

advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Art. 4 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Art. 5 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Art. 6 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Art. 8 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Art. 9 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Art. 10 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

Art. 11 of the *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to work as an inalienable right of all human beings;
 - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Art. 13 de la *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;

Art. 15 de la *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Art. 16 de la *Declaration on the Elimination of all Forms of Discrimination Against Women* declares that:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

A. Victims of Crime

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.
2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.
3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.
5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.
6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

- (a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;
 - (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;
 - (c) Providing proper assistance to victims throughout the legal process;
 - (d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
 - (e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.
7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.
11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

International Covenant on Economic, Social and Cultural Rights

Art. 3 of the International Covenant on Economic, Social and Cultural Rights declares that: The States Parties to the present Covenant undertake to ensure the **equal right of men and women to the enjoyment of all economic, social and cultural rights** set forth in the present Covenant.

Art. 6 of the International Covenant on Economic, Social and Cultural Rights declares that:

1. The States Parties to the present Covenant **recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.**

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Art.7 of the International Covenant on Economic, Social and Cultural Rights declares that:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Art. 9 of the International Covenant on Economic, Social and Cultural Rights declares that:

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Art. 10 of the International Covenant on Economic, Social and Cultural Rights declares that:

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Art. 11 of the International Covenant on Economic, Social and Cultural Rights declares that:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Art. 12 of the International Covenant on Economic, Social and Cultural Rights declares that:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Art. 15 of the International Covenant on Economic, Social and Cultural Rights declares that:

1. The States Parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) **To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.**
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and **creative activity**.
4. The States Parties to the present Covenant **recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.**

Convention of Civil and Political Rights

Art. 2 of the Convention of Civil and Political Rights declares that:

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, **each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.**
3. Each State Party to the present Covenant undertakes:
 1. **To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;** to ensure that any person claiming such a remedy shall have his rights thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 2. To ensure that the competent authorities shall enforce such remedies when granted.

Art. 3 of the Convention of Civil and Political Rights declares that:

The States Parties to the present Covenant undertake to **ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.**

Art. 6 of the Convention of Civil and Political Rights declares that:

1. **Every human being has the inherent right to life.** This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Art. 7 of the Convention of Civil and Political Rights declares that:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Art. 8 of the Convention of Civil and Political Rights declares that:

2. **No one shall be held in servitude.**

Art. 9 of the Convention of Civil and Political Rights declares that:

1. **Everyone has the right to liberty and security of person.** No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Art. 12 of the Convention of Civil and Political Rights declares that:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

Art. 14 of the Convention of Civil and Political Rights declares that:

1. **All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.**
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 1. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 2. **To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;**
 3. To be tried without undue delay;
 4. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 5. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 6. To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 7. Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

Art. 17 of the Convention of Civil and Political Rights declares that:

1. **No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.**
2. **Everyone has the right to the protection of the law against such interference or attacks.**

Art. 23 of the Convention of Civil and Political Rights declares that:

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

In the case of dissolution, provision shall be made for the necessary protection of any children.

Art. 24 of the Convention of Civil and Political Rights declares that:

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

Art. 26 of the Convention of Civil and Political Rights declares that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Convention on the Rights of the Child

Art.1 of the *Convention on the Rights of the Child* declares that:

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Art. 2 of the *Convention on the Rights of the Child* declares that:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Art. 3 of the *Convention on the Rights of the Child* declares that:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. **States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.**
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Art. 4 of the *Convention on the Rights of the Child* declares that:

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Art. 5 of the *Convention on the Rights of the Child* declares that:

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Art. 6 of the *Convention on the Rights of the Child* declares that:

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Art. 7 of the *Convention on the Rights of the Child* declares that:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

Art. 8 of the *Convention on the Rights of the Child* declares that:

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

Art. 9 of the *Convention on the Rights of the Child* declares that:

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Art. 10 of the *Convention on the Rights of the Child* declares that:

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are

necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Art.18 of the *Convention on the Rights of the Child* declares that:

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

Art.19 of the *Convention on the Rights of the Child* declares that:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Art. 20 of the *Convention on the Rights of the Child* declares that:

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Legal Concepts and Principles Under International Law & International Jurisdiction

Domestic abuse as a human rights violation and the obligation of the State to protect the victim under the principle of due diligence was established by *The Inter-American Commission on Human Rights - Velásquez vs. Honduras* (1988), *Gonzales vs. USA* (2011,) and *European Courts on Human Rights - A vs. UK* (1998.)

The obligation of the State to protect women is also established by the *Committee on Human Rights*⁴: “*The Human Rights Committee has clarified that the obligation to ensure the rights recognized in the Covenant to all individuals requires that States parties take all necessary steps to enable persons to enjoy those rights without discrimination.1 The obligation to protect women’s*

⁴ Amnistía Internacional 2008: España - Información para el Comité de Derechos Humanos

human rights includes **the obligations to ensure effective protection against acts of gender violence committed by governmental agents and private individuals, and access to and effective redress where such violence occurs.**”

The lawyers named in this complaint have always defended their actions, and omissions of actions, and/or the actions of their colleagues under the rationalization that “*we have always done it like this in Spain,*” “*this is what the law in Spain says,*” and “*we have completed the paper-work and judicial actions, therefore there is no professional negligence.*” **They have contended that the violation of my human, constitutional, and civil rights in the last 7 years are due to lack of appropriate laws and the Spanish judicial system, and due to their negligence. Under this contention personal and professional damages incurred fall on the Spanish government for not having fulfilled their obligation under the Spanish Constitution as well as international treaties, by passing laws that produce an administrative judicial system that permit judicial actors to fulfill their professional obligations.**

In evaluating the actions (and omission of actions art. 10 and 11 of the Spanish penal code,) of the lawyers cited, the *Ilustre Colegio de Abogados de Madrid*, as an agent of the government and an authority of the State (under art. 24.2 of the penal code,) **is deciding and establishing:**

- **The standard and level of due diligence required by the Spanish government** by lawyers in Spain in the defense of victims of domestic abuse and homemakers during divorce.
- If lawyers in Spain **have the obligation to defend and promote the interests and rights of their clients** under the Constitution, civil code, Spanish laws (Equality Act 32007, inter alia) and Spanish deontological code for Lawyers, or if they are only obligated to fill out judicial documents and forms.
- If the violation of my rights have been a result of professional negligence of lawyers, **or if they were caused by the Spanish government’s failure to produce a judicial system, with laws and administrative procedures, that protect and defend the rights of women and children in the courts, communities and the home.**

And, finally the *Ilustre Colegio de Abogados de Madrid*, in determining if the implicated lawyers fulfilled their obligation and responsibilities correctly, **are considering and determining in the name of the Spanish government:**

- If marriage in Spain is **a contract between two people with all of the same obligations and privileges as any other contract, under the civil code, and Spanish and international law**
- If common property law applies to couples during divorce proceedings, and **if article 33.3 of the Spanish Constitution applies to married women and their common property assets.**
- If the **work of homemakers** (the 24/7 hours of work, care of children and husbands, and the contribution to their husband’s career) **is recognized by the Spanish government under art. 35 of the Spanish Constitution,** civil code (chapter IV), Spanish and European contract law, Equality Act 3/2007, inter alia.
- If **women in Spain have the right to the same Constitutional, civil, and human rights as men in Spanish courts**
- If women in Spain have the same **Constitutional, civil, and human rights within marriage and the family unit,** or if those rights are reserved exclusively in public and workplace.

In presenting my complaint to the *Ilustre Colegio de Abogados de Madrid*, I am introducing the attached documents and complaints:

- Complaint to the United Nations – *Commission on the Status of Women* against the Spanish government for human rights violations and discrimination against women by judicial state and non-state actors, and for the lack of due diligence of the State to adequately investigate, judge and sanction violence against women – posted on <http://worldpulse.com/node/55730>
- Complaint to the *Defensor of the Pueblo Española* and *Consejo General de Poder Judicial Española*: Wilcox vs. Gonzalez de Alcalá and Gonzalez de Alcalá vs. Wilcox - posted on <http://worldpulse.com/node/52011>
- *Denuncia al Instituto de Mujer: Wilcox vs. Gonzalez de Alcalá y Gonzalez de Alcalá vs. Wilcox* – posted on <http://worldpulse.com/node/50602>
- Letter to Patrick F. Kennedy, Under Secretary of Management, Ambassador Solomont, American Embassy in Madrid, and the Consul General in Madrid <http://worldpulse.com/node/73335>
- Petition to the members of the American Congress requesting that they initiate an Oversight Hearing on the failure of the US State Department to exercise due diligence in assuring the protection of the rights of the victims of domestic violence and due process within foreign courts, under federal and international law – posted on <http://worldpulse.com/node/64298>

The *Spanish Constitution*, *Spanish civil and penal code* and the *Organic Law Against Gender Violence*, the *Equality Act 3/2007*, inter alía, offers exemplary legal principles and instruments in order to eradicate discrimination and violence against women, as well as recognition of the contributions of homemakers within the home and society in general. **But, without the goodwill and dedication of Spanish lawyers and/or an administrative judicial system in Spain that permits actors to utilize these instruments, the rights of women will never be advance in an effective and real manner.**

And finally, for consideration by the *Ilustre Colegio de Abogados de Madrid*, in the case presented, are the damages caused by the lack of due diligence by state and non-state judicial actors to **entrepreneurial and commercial development in Spain (particularly initiative of women.)**

As may be noted in the documents presented, the intensification of violence in my home by my ex husband, Javier González de Alcalá (alias Xavier Gonzalez,) was caused by my refusal to renounce my entrepreneurial efforts. **In July 2007, he told me that if I did not stop working on Global Expats / www.global-expats.com (now www.global-xpats.com), he was going to take away all of my money, assets, my children, and throw me on the street with nothing. At the time, I told him he was crazy, and that he could not do that. What is surprising, and worrisome is the ease with which he did exactly as he threatened, showing to what extent there are some very serious problems in the Spanish judicial system** (see <http://worldpulse.com/node/66096>.) (It should be noted that the problems within the Spanish judicial system are the same as those found in all countries, with an strong correlation between the level of corruption in general in the country, and the frequency and gravity with which one finds the violation of rights in family courts.)

The concept of Global Expats is based on a extensive and diligent market study (done 2005-2006), on Web. 2.0 and 3.0, trends in Internet advertising, challenges of the global mobility industry and expatriated families, expatriate websites on the Internet. As I predicted (and as all of the reports at the time predicted) social networks, professional networks, local search, and Internet advertising has experienced explosive growth in the past 6 years. Website such as (www.yelp.com,

www.citysearch.com, www.facebook.com, www.linkedin.com) today are earning hundreds of millions of dollars each year.

Global Expats' website combines these commercial models a market of almost 300 million people with aggregated income of \$8 trillion. From the beginning, this project has received enormous interest and encouragement from the global mobility industry, relocation companies, and multinationals around the world, for the simple reason that it offer a comprehensive solution to their biggest challenge; the adaptation of their expat employees and their families. More information and a Business Plan is posted on <http://worldpulse.com/node/44543>

It should be noted that in 2004-05 the founders of www.facebook.com, and www.yelp.com “kids” and college drop-outs. They had no training, knowledge, or experience in marketing, nor the management of a company, nor the true challenges of societies and their target markets. But, because of the high necessity for their products and the explosive expansion of their since 2006 they have become the “golden boys” of the Internet in only 5 years. What has happened, is that the development of social and professional networks, search for products and services, and Internet advertising was imminent in the Internet en 2005-06. They just happened to be at the right place, at the right time.

Of course these kids were very talented in computer technology and worked very hard to develop their projects. And, they continue to work on their websites, always looking for new products and services in order to be competitive in their markets. But, it cannot be forgotten that all of the studies about the Internet since the beginning of the century showed that the success of these websites were guaranteed from the beginning.

Therefore, to believe that a woman of 44 years old;

- With a BBA in international marketing experience in preparing market studies
- Experience working in the financial markets, and a high level of understanding of the problems in the banking sector and its impact over the global economic crisis
- A high level of understanding of politics and the political challenges in countries around the world
- More than 10 years of experience managing teams and organizations
- More than 30 years of experience travelling around the world, fluent in 3 languages
- A high level of experience and knowledge about people, life and the challenges of communities around the world
- An extremely high knowledge and experience of the challenges of expat families and their relocations.

And, that had the same idea of developing a successful and profitable business mo of the on the Internet as these “kids,” **but would not have been capable of developing a business as successful as theirs is completely discriminatory against women and homemakers.**

The ONLY two reasons that my business is not earning the same as my competitor today, is that my ex husband (helped by the negligence of my lawyers) influenced or paid my web designers (Arnima Web Design) to sabotage my website. Also, (with the help of the negligence of my lawyers) he blocked all access to my assets and funds in Spain during the last 6 years, so that I would not have any money to contract another web designer to construct a new website.

Even if judicial actors were not principles in the manipulations of my ex husband, and his efforts to prevent me from creating my company, they were accessories to his crimes.

The lack of due diligence of my lawyers and the judges of the juzgado de Móstoles, in providing me with access to my assets, prevented me from creating a company that today would have been creating hundreds of jobs in the last 5 years, with revenues of more than €200-300 million (growing by €6 million/month at present.) ¿How many other entrepreneurs in Spain are prevented from creating companies each year by the manipulations of con artists? And, that have no legal recourse due to an elevated level of negligence of Spanish courts.

Governments around the world are promoting and always seeking new initiatives in order to encourage business development in their countries, and spending lots of money in doing so. But, none in western Europe, North America, or Australia are recognizing, or fighting, against the corruption in their judicial systems that is destroying economic development and free enterprise within their borders. This would be not only much more cost-efficient and effective, but would promote democratic development within a country.

It should be noted that in 2008 my ex husband confessed that he had spent €250.000 in his efforts to destroy my website and business, and defraud me. While this sum surely includes the “hacker,” wire-tapping of my home and telephone, detectives, etc. (2006-2008,) the possibility that he also bribed judicial actors should not be discounted 2007-2012.) Exactly, how much money my ex husband spent in his efforts is not clear. As I have been unable (due to the negligence of my lawyers) to access information about bank accounts, it is impossible to determine how much money he spent, nor how this money was spent.

The question that is raised is whether my lawyers failed to initiate legal procedures in order to prevent me from accessing these financial documents and information (in violation of my Constitutional rights):

- For discriminatory traditions against women and homemakers in Spain.
- For social traditions that serve to silence victims of domestic abuse and gender violence.
- So that I could not access evidence about money transfers or withdrawals that could have been used by my ex husband in bribes and illegal manipulations (raising the question “Why would my lawyers wish to hide this information?”)

My case not only demonstrates how the courts are participating in the discrimination against women and failing to protect victims of gender violence, but shows how discrimination against women (and foreigners) as well as **corruption in judicial systems is having a negative effect on commercial development and entrepreneurial efforts in a country and thereby their economy.**

The global economic crisis has called more attention to the effects corruption is having on the economic development of a country. As Victoria Jennett, in a meeting in Geneva on Corruption and Human Rights in 2007.

“Corruption in the judicial system undermines democracy and human rights as well as diminishing economic growth and human development. The judicial system is the cornerstone of democracy: the enforcer and interpreter of the law passed by the legislature and implemented by the executive. It is also the final arbiter of disputes between parties. If a justice system is corrupt

public officials and special interest groups can act in the knowledge that, if exposed, their corrupt and illegal act will go unpunished. Public confidence in governance and the institutions of state is eroded as judicial corruption facilitates corruption across all sectors of government and society. Human rights are debased as citizens are not afforded their rights of equal access to the courts, nor are they treated equally by the courts. The international business community is reluctant to invest in countries – often developing countries that most need investment – where there is no certainty in the rule of law and no guarantee that contracts will be respected because the judicial system is in the service of those in power or with the deepest pockets rather than in service to the rule of law.” THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY, Review Meeting, Corruption and Human Rights, Geneva, 28-29 July 2007 [www.ichrp.org/files/papers/136/131 - Victoria Jennett - 2007.pdf](http://www.ichrp.org/files/papers/136/131_-_Victoria_Jennett_-_2007.pdf).

The case, *Gonzalez de Alcala vs. Wilcox*, offers the opportunity to observe, step by step, how acts (and omissions of acts), fail to protect women and children during judicial procedures as well as prevent entrepreneurial development and free commerce in a country.

It should be noted that in an act of good faith, I have offered implicated lawyers the opportunity to atone for their negligence upon several occasion, and/or arrive at a financial agreement for damages caused by their negligence, but they refused to examine the facts or the terms of my offer.

I hope that the Ilustre Colegio de Abogado de Madrid will examine the facts presented with the highest level of diligence, granting it the importance that it merits. The judicial system is the cornerstone of any democracy. Without a high level of integrity, transparency, and accountability in the judiciary, the democracy, as well as the development of a solid and productive economy, will never survive.

While the recognition of domestic abuse and gender violence as a human rights violation and the obligation of state and non-state actors to protect victims under the principle of due diligence is recent in international law and legal precedents, *A vs. UK*, *Velázquez vs. Honduras*, and *Gonzales vs. USA*, they are an important step in promoting the rights of victims.

However, in order to defend the rights of victims in judicial systems in a systematic way, the failure of the State to defend victims has to be examined from a intersectional perspective, investigating the relationship between corruption, discrimination, negligence and the failure of legislative reform, and accountability of the judiciary.

Additionally, for governments to be effective and competent in protecting victims they are obligated to assure effectiveness and transparency en the following areas:

- Public services and environments that contribute to the prevention of domestic abuse and violence, as well as the protection of victims with competent legal counsel and the dissemination of factual information, during all level of the judicial process.
- Pubic services, including judicial systems, that through positive action, protect and defend the rights, liberties, and interests of victims of abuse and gender violence in an effective manner, including, but not limited to due process under the law.

- Public services, including judicial systems, that through positive action revoke law, practices, and traditions that are contributing to discrimination in all its forms.
- Effective mechanisms and procedures that permit reparations for victims of abuse and violence at the hands of the abuser as well as state and non-state actors that have failed to exercise due diligence in the prevention of said abuse, or worse contribute to the abuse through discriminatory practices and actions.

But, perhaps the most important in promoting and assuring the rights of victims is, understanding that **behind every story, every life, there are many actors and many actions that have contributed to the pain and suffering of these women, children and sometimes men.**

Abuses of power, in the home, family or community, are not static and isolated, but are part of a cultural dynamics that is designed to maintain a status quo and violence. **Until the cycle of abuse in our societies and communities is dismantled through the efforts and actions of each member, denouncing and sanctioning all forms of abuses of power, in our personal as well as professional lives, the “War on Terror” will never be won.** While the last years have been very difficult, the separation from my children the most difficult of all, my battles have shown to what point the apathy of people, above all civil servants and judicial actors, are encouraging, promoting and supporting the violation of human and civil rights within our own borders.

Complaints Against Individual Lawyers are Posted on www.warondomesticterrorism.com

CONCLUSION

Mr. Martínez de Haro of Vinader, Ms. García Martín, Mr. Hernández Jiménez, Mr. Capell, Mr. Fontes García Calamarte, Mr. Martínez López de Asiain y Mr. González Martínez, have always contended that the violation of my constitutional, civil, and human rights in all court proceedings and judicial actions have never been due to their negligence or lack of professional conduct, but rather the fault of the Spanish government to create a judicial system that trained them and permitted them to defend the rights of women and children, as well as combat discrimination against women in Spanish tribunals.

My investigations and examinations of the Constitution, international conventions to which the Spanish government is signatory, civil and penal code, organic laws, and an appeals process and government regulatory agencies in Spain are exemplary in promoting the rights of women, combat discrimination against women, and gender violence. My investigations belies the contentions of lawyers that there is a lack of judicial or legal structures in Spain that permits lawyers to defend their clients, and therefore it can only be because of their negligence and lack of diligence.

Therefore, the question put before the *Ilustre Colegio de Abogados de Madrid* at present is whether the violation of my rights were produced directly, or indirectly by the negligent acts, or omission of acts, of the lawyers against whom this complaint is directed, or if it was due to the failure of the Spanish judicial system as these lawyers contend. Recalling the following violation of my rights and those of my children:

- 1) **Art. 33.3 of the Spanish Constitution** – No one can be deprived of their rights and assets – All acts (and omissions of acts) of my lawyers as well as the judicial decisions that have deprived and defrauded me of my common property assets and funds in Spain violating my rights under art. 33.3 of the Spanish Constitution, 3 and 4 of the *Declaration on the Elimination of Violence Against Women*, art. 13, 15 and 16 of the *Declaration on the Elimination of Discrimination Against Women*, art. 1 of the *Convention of Economic, Social, and Cultural Rights*, and art. 1 of the *Convention of the civil and Political Rights*, inter alía.
- 2) **Art. 35 of the Spanish Constitution** – All Spaniards [and foreigners – art. 13.1] have the obligation to work and the right to work, to freely choose their profession or job, promotions in relation to their work and sufficient remuneration in order to satisfy their needs and those of their family. – All of the manipulations of my ex husband have been with the express objective to prevent me from creating Global Expats / www.global-expats.com (now www.global-xpats.com.) All acts, and omissions of acts, or decisions by judicial actors (state or non-state) that have contributed or assisted my ex husband in his efforts to prevent me from building my business violated my rights under art. 35 of the *Spanish Constitution*, art. 4 of the *Convention on Human Rights*, art. 3 of the *Declaration on the Elimination of Violence Against Women*, art. 11 of the *Declaration on the Elimination of the Discrimination Against Women*, y art. 6 of the *Convention of the Economic, Social, and Cultural Rights*, inter alía)
- 3) **Art. 24 of the Spanish Constitution** – All persons have the right to obtain effective protection from judges and courts in the exercise of their legitimate rights and interests, and under no circumstances may be left without any defense and under no circumstances can be left without any defense. – All acts, omission of acts or decision by judicial actors (state or non-state) that have hidden evidence of all forms of abuse of my ex husband during verbal hearings as well as in written documents and testimonies introduced to the courts, or that in any way have prevented me in defending my rights andor interests before the Spanish courts violated my rights under art. 24 of the *Spanish Constitution*, art. 5, 6 and 13 del *Convention on Human Rights*, art. 3 y 4 de la *Declaración sobre la eliminación de la violencia contra la mujer*, art. 6 y 10 del *Convenio of the derechos económicos, sociales y culturales*, art. 9, 14, 23 y 24 del *Convenio sobre los derechos civiles y políticos*, y art. 2, 3, 5, 6, 8, 9, 10, 18, 19 y 20 del *Convenio sobre los Derechos del niño*, inter alía)
- 4) **Art. 14 del Constitución Española** - *Spaniards [and foreigners – art. 13.1] are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.* All acts, or omissions of acts, or judicial decisions by judicial actors (state or non-state) that have produced or have failed to prevent, directly or indirectly, discrimination against me, or my efforts to reclaim or protect my rights and interests in any way what-so-ever violated my rights under art. 14 of the *Spanish Constitution*, art. 3 of the *Declaration on the Elimination of Violence Against Women*, art. 2, 4, 5 & 12 of the *Declaration on the Elimination of Discrimination Against Women*, art. 2 of the *Convention of the Economic, Social, and Cultural Rights*, y art. 26 of the *Convention on the Civil and Political Rights*, inter alía)
- 5) **Art. 15 of the Spanish Constitution** – Right to moral integrity – All acts, omission of acts, or judicial decisions by judicial actors (state or non-state) that supported the efforts of my ex husband to impede my entrepreneurial efforts, intimidate me, torture or harm me psychologically, deprive me of my liberties and dignity, or defraud me in any way violated my rights under art. 15 of the *Spanish Constitution*, art. 2 & 3 of the *Convention on Human Rights*, y art. 3 and 4 of the *Declaration on the Elimination on the Violation Against Women*.
- 6) **Art. 18 of the Spanish Constitution** - 1. Guarantees the right to honour, to personal and family privacy and to the own image. All acts, omission of acts, or judicial decisions for judicial actors (state or non-state) that has directly or indirectly attacked my honor, intimacy privacy, or reputation

violated my rights under art. 18 of the *Spanish Constitution*, art. 8 of the *Convention on Human Rights*, and art. 17 of the *Convention on the Civil and Political Rights*, inter alía)

INTER ALIA (recalling the international conventions cited at the beginning of my complaint.)

Also, for consideration of the *Ilustre Colegio de Abogados de Madrid* is the contention of lawyers that their actions, and omission of actions, are “*customs and traditions by lawyers in Spain*,” o “*that they do not know how to act in other manner*.” At no moment one may consider or accept this reasoning as a defense or explanation. **Ignorance of the law is no defense.**

Also, the lawyers cited have contended that the problem was “*that the law in Spain is not as developed as in the USA...*” demonstrating a complete understanding and comprehension of the difference between the legal system in Spain and that in the USA, and their respective constitutions. The lack of knowledge and understanding of the dos legal structures is particularly worrisome given the fact that several implicated lawyers, above all Mr. Capell of Cuatrecasas and Ms. García Martin of Plehn Abogados, handle international commerce cases between the two countries and international banking systems.

The Spanish democratic structure (and its hierarchial structure of the Constitution, international conventions, civil and penal codes, and organic laws, etc.) offers infinitely more possibilities in protecting, defending, and advancing the rights of its citizens, above all women and minorities, than the judicial structure and laws in the USA. For the past 40 years activists in the USA have been fighting to pass laws, and ratify international conventions (and rights included) that have been integrated into the legal structure and Spanish Constitution for a long time (1978 (Constitution,) 1989 (civil code,) 1996 (penal code.) The problems is not in legislation, or Constitutional or civil rights, but lie in the lack of application and implementation of legislation, as well as basic legal principles by judicial actors. **Again, ignorance is no defense.**

Finally, the lawyers cited have always contended that “[*they*] have been practicing law for many years in Spain and managing cases in this way, therefore they know what they are doing,” This contention, contrary to absolve the of any responsibility for their actions or omission of actions, makes their actions even more serious as well as the responsibility of the Spanish government for their complicity in the violation of rights. **The fact that lawyers have been practicing law for many years contrary to the interests and rights of their clients, without being detected nor sanctioned by authorities and/or regulatory agencies, exposes a fundamental and institutionalized failure of the Spanish judicial system.**

For over 20 years the Spanish government have been promising to promote and advance the rights of women as well as combat domestic violence in Spain. **¿But, lawyers, judges, and courts continue working with the same rules and norms that have been used and applied before the passage of the Constitution, civil and penal code, international conventions, and organcic laws? siuen actuando con las mismas reglas y normas que han usados y aplicados antes de la aprobación del Constitución, código civil y penal, convenios internacionales, y leyes orgánicas? ¿Que la aprobación de estos instrumentos y leyes progresistas no ha cambiado en absoluto la forma en el cual abogados en España actúan, sin ningún sanciona o acción de la parte of the colegios de abogados o gobierno española?**

Todavía más grave, es que mismo cuando abogados reciben instrucciones específicos en cómo usar la constitución, código civil, y código penal españolas para defender los derechos e

interesas de su cliente (con argumentos legales bien desarrollados defendiendo todos reclamos) ellos no saben presentarlos al tribunal.

Estudios detrás de estudios, que sean por organizaciones internacionales (como Amnistía Internacional) o nacionales (como colegios de abogados regionales en EE.UU., Abogados por la Igualdad de Asturias, o Instituto de Mujer, etc.) están demostrando que tribunales están fallando de proteger los derechos de la mujer y los niños, tanto que protegerlos de la violencia de género, 70-98% del tiempo. **Estos datos elevados están resultando al nivel mundial en la muerte de cientos de miles de mujeres y niños cada año, la entrega de decenas de millones de niños a parientes violentos y pedofiliás, sin hablar de cuantas mujeres sufren de abuso psicológico por sistemas judiciales, y que están defraudado de cientos de billones de euros cada año.**

No es posible, ni lógico, que abogados y jueces están aplicando leyes correctamente, respetando debido proceso en su actuación, y respetando los derechos de ciudadanos que pasan por tribunales, **delante de un fracaso total de sistemas judiciales. ¡Algo su sede!**

Lo que muestra mi caso (e mis investigaciones que demuestra que mi caso no es aislado pero la norma) es que jamás se puede avanzar y proteger derechos de ciudadanos sin un cuerpo profesional de abogacía que está formado, preparado, entiende, quiere, y tiene incentivos de utilizar leyes progresivas y principios constitucionales en sus presentaciones y argumentos delante of the tribunales, tanto que utilizar el camino de apelación hasta el Corte Constitucional y tribunales internacionales para avanzarlos. Además, no es solamente un cuestión de promover y avanzar derechos, pero también se trata de desafiar tradiciones y costumbres dentro de tribunales que violan los derechos de ciudadanos, infringen la ley, discrimen contra la mujer, y suporta y sostiene la violencia de género.

***La competencia de abogados de tribunales:
Que dice los estudios sobre el problema, las causas y las curas⁵***
por Christen R. Blair

El Presidente del Tribunal Supremo Burger dice “[que] la falta de entrenamiento adecuado de abogados por su trabajo dentro de tribunal es una....problema muy serio en la administración de justicia...75% of the abogados que se presenten a tribunales eran deficiente...citando como ejemplos: falta de preparación, incapacidad de formar cuestiones correctamente, falta de capacidad de dirigir una repreguntas correctamente, falta de capacidad de presentar y manejar la presentación de documentos y cartas, falta de capacidad de formar objeciones de asuntos, falta de la capacidad de formar argumentos, y falta de comportamiento e etiqueta correcta básico delante del tribunal.” Luego el juez Kaufman añade “Aptitudes particulares que el sugirió...argumentos de apertura, repreguntas, el arte de objeciones y recapitulaciones...redactando quejas, respuestas, peticiones, y interrogatorios, y cogiendo deposiciones y entrevistas de testigos.”

CORRUPCION EXTENSIVA EN SISTEMAS JUDICIALES

⁵ *Trial Lawyer Incompetence: What The Studies Suggest About the Problem, The Causes and the Cures*, Christen R. Blair

Pero, más allá que la falta de competencia, moralidad, honradez, e integridad de abogados actuando en tribunales de familia, el *Ilustre Colegio de Abogados de Madrid* debe también considerar la corrupción judicial producida por estas deficiencias, y las otras consecuencias.

Corrupción y el sector judicial

por Mary Noel Pepys

Management Systems International, January 2003

<http://www.pepysinternational.com/publications/publications.html>

¿Por qué un país democrático debe preocuparse sobre la corrupción que impregna su sistema judicial?

En una democracia basado sobre la ley, el papel del poder judicial, como una poder del Estado independiente y igual, es de proteger los derechos humanos y libertades civiles en asegurando el derecho a un juicio justo por un tribunal imparcial y competente. Todos ciudadanos pueden esperar un acceso igual a los tribunales y un tratamiento igual por los organismos de investigación, las autoridades fiscales, y los tribunales, independientemente de su posición en la sociedad. De repente, bajo la mayoría de sistemas judiciales corruptas, los poderosos y ricos pueden escapar prosecución y condena...

Una sistema judicial replete con personas que están mal informado, mal pagado, y sobre cargado con trabajo es una receta buena para el corrupción...

*Aunque el papel of the tribunales es de proteger los derechos humanos y libertades civiles de cada ciudadano en un país democrático, muchas encuestas de opinión público demuestran que **normalmente la pública vea el poder judicial como uno de las instituciones gobernalles el más corrupto del país.** El percepción del corrupción es tan insidioso, y tan importante de superar, que el corrupción si mismo porque los dos producen los mismo resultados. Ciudadanos son menos probable de obedecer la ley si creen que otros, sobre todo los lideres gobernalles, son infringiendo la ley y evitando detección y castigos. Personas agraviadas recurrirá a "tomar la ley en sus propios manos" para resolver disputas más bien que presentarse al sistema judicial que vean como mal honesta y parcial.*

***Inversionistas extranjeros rehuirá estos países donof the sistemas judiciales tienen la reputación de la aplicación de la ley en una manera inconsistente y caprichosa.** En una arena más y más global con mercados muy competitivos, el crecimiento económico del país con un sistema judicial corrupto, real y apercebido, será gravemente retrasado...*

Hasta la corrupción dentro del sector judicial está controlada o erradicada, la mayoría de mecanismos legales y programáticos introducidos para reducir la corrupción en otros sectores de la sociedad será socavada significativamente.

Es difícil de esperar que ciudadanos vayan a respetar la ley cuando lideres gobernalles, sobre todo la policía, fiscales y jueces, ignoran las leyes, reglas y procedimientos que son tenidos y mandados de hacer cumplir. Hasta lideres gobernalles

que esquivar las leyes son procesados y condenados, el ciudadano considerarse temeraria si él sigue obedeciendo el sistema que sus líderes están evitando...

El corrupción están tan común en algunos arenas que las ciudadanos no piensan que su comportamiento es inmoral...

Una gran variedad de responsabilidades administrativos que no reciben bastante vigilancia creen una ambiente por corrupción sin restricciones en los tribunales. En muchos países, los procedimientos administrativos of the tribunales son burocráticos, incómodos, y confundiendo, y son hecho por los funcionarios quien tienen poderes amplios y discrecionales, con poco contabilidad...

Corrupción que existe en sistemas judiciales pueden ocurrir a cualquier momento, desde el principio de la investigación criminal o la presentación de una litigación civil hasta al final del proceso culminando en la aplicación de la decisión judicial. Mucho de la corrupción ocurre fuera de la vista del público y muchas veces solamente entre dos personas, y cuando los dos son implicados en el conducto ilegal y recibiendo beneficios mutuos...

Una forma insidioso de la corrupción emánate desde el sistema judicial sí mismo. El jefe de la policía, fiscales, o jueces pueden exigir autoridad administrativo importante sobre sus subordinantes...

El papel del Colegio de Abogados

Las medidas anti-corrupción por sistemas judiciales no se apoyan solamente con una estructura de tribunal. Pocas veces el Colegio de Abogados reconoce que se contribuya a la corrupción del poder judicial como conducto entre el litigante y el magistrado. Los colegios de abogados tienen la responsabilidad de exponer y reducir sobornos dentro de la sistema judicial con imposición de sanciones estrictas contra cualquier de sus miembros que contrata practicas judiciales corruptas...

Pero, la ultima respuesta, sin con el cual la corrupción jamás será erradicado, es la sociedad. Claramente, el comportamiento de cualquier persona está determinado por la amenaza del aprehensión, condenación, y castigación, pero los éticos personales y valores inmorales son los incentivos fundamentales sobre los cuales el comportamiento está basado. Reformas deben focalizar sobre los éticos personales, y las actitudes sociales hacia el comportamiento ético.

Mientras que el comportamiento sin ético beneficio unos personas y compañías, el país siempre sufre. Debe tener un despertamiento social a los efectos deletéreos que la corrupción tiene sobre el crecimiento económico y político del país. En este sentido, líderes públicos que quieren reformas deben iniciar campanas publicas exhortando reformas anti-corrupción...

A Handbook on Fighting Corruption
Center for Democracy and Governance,
Bureau for Global Programs, Field Support, and Research, February 1999

El costo de corrupción

En términos generales, la corrupción es el abuso del puesto público por una ganancia privado. Incluyen abusos unilaterales por oficios gubernales como malversación de fondos y nepotismo, tanto que abusos enlazando a actores públicos y privados como soborno, extorción, y tráfico de influencia, y fraude.

Corrupción surge en puestos políticos y burocráticos y pueden ser pequeños o grandes, organizados o sin organizados. Mientras que muchas veces la corrupción facilita actividades como la trafica de la droga, lavamiento de dinero, y prostitución, no está restringida a estas actividades. Para entender el problema y idear remedios, es importante de separar crimines y corrupción en el análisis del problema.

*Corrupción se impone un desafío muy grave sobre el desarrollo. En el ámbito político, socava la democracia y gobernación, subvirtiendo el proceso formal. Corrupción en elecciones y en cuerpos legislativos reduce la contabilidad y representación en la formulación de políticas; **corrupción en el poder judicial suspende el Estado de Derecho**; y corrupción en administración público resulta en la provisión de servicios desigual. Más generalmente, **la corrupción erada la capacidad institucional del gobierno como los procedimientos son ignorados**, recursos son desviados, y oficiales son contratados o promovidos sin respecto a su rendimiento. **Al mismo tiempo, corrupción socava la legitimidad del gobierno y valores democráticos como confianza y tolerancia.***

También, corrupción socava el desarrollo económico mediante la generación de distorsiones considerables e ineficiencias. En el sector privado, la corrupción aumenta el costo of the negocios a travesía del precio de pagos ilícitos, la gestión del coste de negociar con oficiales, y el riesgo de calzones acuerdos o detección.

La corrupción judicial, sobre todo cuando esta visto y considerado por actores judiciales y gubernales como algo de “normal” y “lo que su sede hacer” tienen consecuencias extensivos dentro de la sociedad.

Como se vea en las quejas presentadas, los abogados no han expresado ni el mínimo de entendimiento, ni comprensión básica, sobre los principios que dirigen los contratos y obligaciones como definido en principios universales de derecho, tanto que por el código civil española. Tampoco, han expresado ni el mínimo de entendimiento, ni comprensión básica, sobre la estructura del sistema bancaria española; la gestión y administración de cuentas, préstamos y las responsabilidades legales of the bancos. **Que su falta de su entendimiento era por incompetencia o lo han hecho propósito es inmaterial; daños y prejuicios han sido producidos.**

España ya no es un país aislado del resto del mundo; políticamente, económicamente, financiamiento, ni comercialmente. En las últimas décadas ha entrando en el mundo moderno y ha vuelto una economía y poder político importante dentro de Europa. Y, como todos países industriales y modernos, está encontrando y enfrentando los desafíos sociales y económicos que están producidos por esta modernización.

No solamente tiene un papel importante en Europa, pero es la “puerta de entrada” por la inmigración de África y América Latina (con problemas muy graves en la inmigración clandestina, trafica humano, y prostitución.) También, es la “puerta de entrada” de Europa por la droga desde

todos partes del mundo. Además, tiene una larga historia con el terrorismo y las terroristas que están actualmente vinculándose con redes internacionales. Y, como consecuencia debe enfrentarse con el crimine organizado y el lavado de dinero, con ellos siempre buscando nuevas maneras y manipulaciones en el ámbito comercial y judicial para llegar a sus fines.

En adición de todo lo que pasa dentro de esos “mercados,” España debe enfrentarse a sistemas bancarios y financieros (vinculados al nivel mundial) que desde 40 años están impregnados con corrupción, crimines de “collar blanco” extensivos, y ineficiencias de gestión extraordinarios; culminando en el crisis económico de hoy en día.

Sin un cuerpo de abogados profesionales preparados, honorables, y dedicados, con una transparencia completo en su actuación, es, y será, imposible para España de enfrentar todos estés desafíos en las décadas a venir.

Tampoco, España puede desarrollar mercados y empresas competitivas y eficiencias dentro de sus fronteras, y menos ser competitivas en el ámbito internacional sin una abogacía española que entienden principios básicos sobre el ley de contrato y sistemas bancaros y financieros. Sin un entendimiento y comprensión sobre los principios básicos y fundamentales del derecho, jamás entenderá leyes complicados tanto que los maniobras y manipulaciones enredados (legales y ilegales) que son usados extensivamente en el comercio internacional y sistemas financieros mundiales.

VIOLACIONES DE DERECHOS HUMANOS:

“SOBERANIA,” “ASUNTOS PRIVADOS” Y “INDEPENDENCIA JUDICIAL” –
INADMISSIBLE COMO DEFENSA

Estadísticas y reportes por *Amnistía Internacional* y *La Comisión de la Mujer l’ONU*, inter alía demuestra que la actuación de actores judiciales españoles son dirigido por costumbres y normas antiguas en tribunales. Que el gobierno española, y sus organismos (el *Defensor del Pueblo*, *Consejo General de Poder Judicial* y *Instituto de Mujer*⁶) no están dispuesto de examinar los problemas, lo vuelven complicita en las violaciones de derechos humanos por la violencia de género, **tanto que las violaciones de derechos de ciudadanos por la parte de actores judiciales.**

España: Información para el Comité de Derechos Humanos por Amnistía Internacional

*El Comité de Derechos Humanos ha establecido claramente que la obligación de garantizar a todas las personas los derechos reconocidos en el Pacto obliga a los Estados Partes a tomar todas las medidas necesarias para que las personas puedan disfrutar de esos derechos sin discriminación.⁷ La obligación de proteger los derechos humanos de las mujeres incluye la obligación de **garantizar tanto una protección efectiva frente a los actos de violencia de género cometidos por agentes gubernamentales y ciudadanos***

⁶ Mis denuncias oficiales a la *Defensor del Pueblo*, *Consejo General del Poder Judicial*, y *Instituto de Mujer* en el año 2012 están fichado sobre <http://worldpulse.com/node/52011> y <http://worldpulse.com/node/50602>

⁷ Observación general N° 28: La igualdad de derechos entre hombres y mujeres (artículo 3), doc. ONU : CCPR/C/21/Rev.1/Add.10, del 29 de marzo de 2000

particulares como el acceso a una reparación efectiva cuando se produzca dicha violencia.

Amnistía Internacional siente preocupación por que estos datos reflejan la ausencia de una protección efectiva del derecho de las mujeres a la vida y a no sufrir tortura u otros tratos o penas crueles, inhumanas o degradantes. Esta ausencia de protección se ve agravada en el caso de las mujeres pertenecientes a grupos vulnerables y con dificultades adicionales, como las mujeres que sufren discriminación por razón de nacionalidad, origen étnico o situación migratoria.

Amnistía Internacional considera que la Ley Orgánica de Medidas de Protección Integral contra la Violencia de Género (Ley 1/2004)⁸ ha sido un importante paso para mejorar la respuesta institucional a la violencia de género en España. Sin embargo, la organización siente preocupación por la falta de aplicación de algunos of the derechos garantizados por esta ley y por el hecho de que, en la práctica, muchas mujeres siguen sin protección. A la organización le preocupa en especial la ausencia de diligencia debida en la investigación y el procesamiento de actos de violencia de género, así como en la protección de mujeres que corren un peligro grave de ser víctimas de dicha violencia. Amnistía Internacional siente además preocupación por las especiales dificultades y obstáculos a que, a la hora de acceder a la justicia y a servicios especializados, se enfrentan las mujeres migrantes...

*Teniendo en cuenta estos motivos de preocupación, Amnistía Internacional considera que España todavía no está garantizando adecuadamente el derecho de las mujeres que corren peligro de sufrir o sufren violencia de género a un remedio efectivo, conforme recomendó el Comité al aclarar que, en determinadas circunstancias, se puede exigir a los Estados Partes que “adopten y apliquen medidas provisionales para evitar la repetición de las violaciones y reparar cuanto antes cualquier daño que esas violaciones puedan haber causado”.*⁹

*A Amnistía Internacional le preocupa el hecho de que las mujeres migrantes en España corren especial peligro de sufrir violencia de género y homicidios. El índice de víctimas mortales por millón es mucho más elevado entre las extranjeras que entre las españolas. A lo largo of the últimos nueve años (1999-2007), ese índice ha sido de 2,05 por millón entre las españolas y 13,18 entre las extranjeras.*¹⁰

La ausencia de redes familiares o sociales, las barreras lingüísticas y la dependencia económica del agresor son factores que aumentan la vulnerabilidad de las mujeres migrantes...

A Amnistía Internacional le preocupan las dificultades que experimentan la mayoría de las víctimas de esta violencia a la hora de acceder de forma efectiva a su derecho a la reparación, incluida la indemnización...

⁸ Fechada el 28 de diciembre de 2004 y publicada en el BOE, número 313 (29 de diciembre de 2004).

⁹ Observación general N° 31 (80): Naturaleza de la obligación jurídica general impuesta a los Estados Partes en el Pacto, doc. ONU: CCPR/C/21/Rev.1/Add.13, de 26 de mayo de 2004, párr.19.

¹⁰ Instituto de la Mujer, Gobierno de España:

http://www.mtas.es/mujer/mujeres/cifras/violencia/muertes_tablas.htm (6 de abril de 2008).

Para entender por qué y como actores judiciales actúan para apoyar la violencia de género, tanto que la discriminación contra la mujer, en España (y países alrededor del mundo) tiene que examinar las tradiciones y costumbres que desde miles de años han sostenido la situación.

Cuerpos rotos, mentes destrozadas Tortura y malos tratos a mujeres
por Amnistía Internacional

Niñas y mujeres de todas las edades son agredidas en nombre del honor en países de todas las regiones del mundo, acusadas de deshonorar a sus familias y a su comunidad con su conducta... El régimen del honor es implacable: las mujeres sobre quienes recae la sospecha no tienen la oportunidad de defenderse, y los miembros de la familia no tienen más alternativa aceptada socialmente que lavar la mancha en su honor agrediendo a la mujer...

El trato de la mujer como si fuera un objeto —propiedad de sus familiares varones— contribuye a esta forma de violencia contra la mujer. Cuando se resuelve un conflicto entregando a una mujer o cuando se pone en cuestión su castidad, lo que está en juego son los derechos de propiedad. En los delitos cometidos por motivos de honor se considera que la culpable es la víctima y que quien ha sufrido la pérdida del honor es el varón al que «pertenece»; en consecuencia, es él el agraviado y quien tiene las simpatías de la comunidad...

Los jueces son parte de la sociedad en la que viven y reflejan sus valores culturales, sus normas morales y sus prejuicios. Superar los prejuicios es un requisito previo que ha de cumplir cualquier autoridad judicial, pero la discriminación de la mujer y la negativa a interpretar la violencia contra la mujer como una cuestión de derechos humanos hacen que a menudo los prejuicios empañen el desarrollo of the juicios, así como las decisiones y las sentencias...

El hecho de que las mujeres no siempre pueden obtener un resarcimiento por los abusos sufridos se debe a varias razones, muchas de las cuales tienen sus raíces en que se priva a la mujer de sus derechos económicos, sociales y culturales....

La violencia doméstica no sólo daña el cuerpo de la mujer, sino que también puede debilitar o destruir su autoestima y su voluntad de oponer resistencia y reclamar un resarcimiento. La subordinación de la mujer al varón sigue siendo aceptada de forma generalizada en todas las culturas, incluso por la propia mujer, y se supone que está autorizada por «el orden natural», la religión o la tradición....

Quienes defienden la violencia contra la mujer, incluidos algunos gobiernos, han alegado en ocasiones que hay que respetar las costumbres y las tradiciones que desembocan en abusos contra la mujer por ser auténticas manifestaciones de la cultura de una nación o de una comunidad que no pueden analizarse desde la perspectiva of the derechos humanos...

Contrario de lo que contienen actores estatales y non-estatales implicados en *González de Alcalá vs. Wilcox*, las violaciones de derechos de ciudadanos dentro de la casa o en tribunales de familia no son, ni puede ser visto como “asuntos privados.”

Organisacion of the Estados Americanos
Jessica Ruth Gonzales

vs.

los Estados Unidos

Supplemental Amici Curiae Brief supplemental en soporte de Peticionario¹¹

“Tradicionalmente, la violencia de género ha sido conceptualizado como asunto privado o de familia fuera del control del estado. Para asegurar aplicación efectiva of the derechos humanos de la mujer, la Comisión ha repetidamente “sugerido un exanimación de [eso] dicotomía tradicional entre actos privados y públicos, una dicotomía en el cual asuntos privados, domésticos, o intimo son visto fuera de la competencia del Estado. En este dicotomía entre actos públicos y privados, la familia esta visto como el epicentro geográfico de asunto domestico y campo en el cual el estado no puede intervenir. El razonamiento equivocado es que el Estado debe abstenerse de cualquier interferencia en los asuntos de la familia, respetando su autonomía personal.” Id. at 26; see also Maria da Penha Maia Fernandes, Inter-Am. C.H.R., Report No. 54/01 ¶¶ 55, 56.

*Por supuesto, “[v]iolencia contra la mujer en la familia no es un asunto privado pero una violación de derechos humanos. Donde ocurre, los derechos humanos no son respetados completamente.” Amnistía Int’l, Russian Federation: Nowhere to Turn to – Violence Against Women in the Family, AI Index EUR 46/056/2005, Dec. 14, 2005. **El Corte Europea de Derechos Humanos ha reconocido regularmente que la violencia domestica no es un asunto privado y que los estados tienen un obligación positive de proteger individuos contra los actos de violencia por individuos privados.** See *Osman v. The United Kingdom*, 1998 - VIII E u r . C t . H . R . , a v a i l a b l e a t <http://cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=14692669&sk> in=hudoc-en&action=request (follow “Case of Osman v. the United Kingdom” hyperlink); *M.C. v. Bulgaria*, 2003-I-Eur.Ct. H.R. at 646 (2004). De repente, como el reporte 2006 por el Secretario del Naciones Unidos ha observado, mientras que el derecho **internacional “en los últimos 15 anos ha extendido los obligaciones de derechos humanos por el Estado en el ámbito de familia,” aplicación de leyes del Estado y pólizas en acuerdo con eses obligaciones “se queda un desafío penetrante, como normas y culturas legales muchas veces protege la privacidad y dominación del hombre dentro de la familia a expensas de la seguridad de la mujer y niñas.” U.N. Secretary-General, Ending Violence Against Women: From Words to Action, supra, at 36.***

La violencia de género, que sea de la violencia física, sexual o psicológica son violaciones de derechos humanos, y cualquier actor estatal o non-estatal, sobre todo **actores que exigen una**

¹¹ Presented by Legal Momentum, Asociacion para el Desarrollo Integral de Personas Violadas (ADIVAC), Break the Cycle, Harriett Buhai Center for Family Law, California Women’s Law Center, Center for Gender & Refugee Studies, Central American Resource Center, Professor John Cerone, Monica Ghosh Driggers, Esq., Honorable Marjory D. Fields, The Feminist Majority Foundation, Harvard Law School Gender Violence Clinic, Professor Dina Francesca Haynes, Human Rights Watch, The Immigration Law Clinic at the University of Detroit Mercy, The International Women’s Human Rights Clinic, The International Committee of the National Lawyers Guild, The Leitner Center for International Law and Justice at Fordham Law School, The Walter Leitner International Human Rights Clinic, Los Angeles Chapter of the National Lawyers Guild, The Allard K. Lowenstein International Human Rights Clinic, National Center for Women & Policing, The National Congress of Black Women, Inc., National Organization for Women Foundation, Inc., National Women’s Law Center, Professor Sarah Paoletti, Professor Susan Deller Ross, Seton Hall University School of Law Center for Social Justice, Professor Deborah M. Weissman, Women Lawyers Association of Los Angeles, and World Organization for Human Rights USA

posición de autoridad, y que cubren, esconden, o ignoran evidencia de dicha violencia se vuelven accesorios de las violaciones, tanto que principales en las violaciones de derechos y crímenes que ellos cometen en el cubrimiento de las violaciones originales.

Un mundo sin miedo
por Baltasar Garzón

“El filósofo cordobés Seneca lo decía hace miles de años en su Ensayo sobre la clemencia: “Lo peor del encubrimiento es que hay que proseguir siempre y que no es posible dar marcha atrás, porque los crimines han de taparse con nuevos crímenes.”¹²”

Autoridades alrededor del mundo tienen el derecho, tanto que la obligación de pedir una investigación sobre, y sanciones por, las violaciones de derechos de sus ciudadanos dentro de sus propios tribunales, tanto que tribunales al extranjero. A ningún momento estés autoridades se pueden defender su falta de actuar bajo los argumentos y razonamiento de “independencia judicial,” “soberanía,” o “asunto privado.”

La **independencia judicial** se aplica para qué jueces, y otros actores judiciales, **no están influido de violar sus obligación de guardar la imparcialidad es el presentación, exanimación, deliberación, o decisiones judiciales. A ningún momento se puede usar o aplicar el argumento de “independencia judicial” en casos donde la actuación de actores judiciales están dirigido por prejuicios o discriminación, o cuando tal actuación viola los derechos de ciudadanos (extranjeros incluidos.) Tampoco, se puede usarlo cuando los acciones (o omisión de acciones) de actores judiciales (estatales y no-estatales) cubren violaciones de derechos durante procesos judiciales.**

Tampoco, los actos, u omisiones de actos, que violan los derechos de ciudadanos, o que ocultan dichos actos, pueden defender bajo el principio de “soberanía” o “asunto privados.”

Violaciones de derechos humanos siempre han sido defendido bajo el argumento que eran el derecho del gobernante sobre su pueblo o personas bajo su control; **un derecho “soberano.”** Que mientras que los actos pasaba dentro de sus fronteras o territorios, nadie, ni ningún otro gobierno, tuvo el derecho de interviene o protestar, y que eran **“asuntos privados.”**

Así, se nació **el principio de jurisdicción universal.** *“El término “jurisdicción universal” refiere a la idea que cualquier tribunal nacional puede ejercer jurisdicción criminal sobre crímenes graves contra él ley internacional – eso crimen contra la humanidad... y tortura – basado sobre el principio que esos crimines dañan la comunidad internacional (o odre) su mismo, que Estados individuales pueden actuar para proteger.”* Centro de Recurso de Justicia Internacional - <http://www.ijrcenter.org>

No solamente personas o gobiernos tienen el derecho, pero tienen la obligación, de perseguir y sancionar todos actores, y sus accesorios, por sus violaciones de derechos de ciudadanos, como los que estamos viendo en tribunales de familia. La falta de gobiernos y sus agencias de cumplir con estés obligaciones le vuelen complicita y accesorios de todas violaciones de derecho producidos.

¹² *Un mundo sin miedo* por Baltasar Garzón, p. 86.

Mismo si gobiernos, y/o sus agencias y sus representantes, no están decretando violación de derechos de mujeres y niños dentro de sus territorios, el hecho que están fallando de llenar sus obligaciones de prevenir dichas violaciones, proteger víctimas, y sancionar a los perpetradores, lo vuelven responsable delante de la comunidad internacional. A ningún momento se puede defender la falta de actuar bajo “soberanía,” “asunto privado,” o “independencia judicial.”

EL MUNDO SIN MIEDO

En el cierre, presento las palabras siguientes del honorable juez Baltasar Garzón en *El Mundo sin Miedo*:

En el contrato suscrito con la sociedad no basta con hacer lo suficiente, sino que hay que optar por lo necesario y por lo que exige la realidad compleja en la que vivimos.

La sociedad española, la europea y la mundial necesitan respuestas y sobre todo necesitan acciones que nazcan del consenso y del derecho. Son demasiados los errores y las transgresiones del orden jurídico internacional, y excesivo el dolor que destilan los ríos de violencia e injusticia que lo recorren, para que de una vez por todas no detengamos a reflexionar sobre el mundo que estamos destruyendo y firmemos el gran acuerdo para salvarlo y salvarnos. No es ya una cuestión moral ética, ni siquiera lo es jurídica, sino de simple supervivencia.

Opina que todos somos corresponsables of the desastres que han asolado y todavía destruyen la convivencia de millones de personas, unos por acción y otros por omisión. Aquí no se salva nadie y, por ello, es nuestro problema y nuestro deber hacer lo necesario para remediarlo y conseguir cambiar la inercia de las cosas. Pienso, por ello, que la única respuesta ha de venir de la mano del derecho; a partir de ahí, todo lo demás ira cobrando sentido y perspectiva.

Creedme si os digo, como he intentado hacerlo a lo largo de estas páginas, que es posible un mundo diferente; que si hemos contribuido a formar este, podemos conseguir cambiarlo para mejor tanto en la institucional como en lo social, en lo público y en lo privado, en lo nacional y en lo internacional. Sin atajos, sin concesiones a la arbitrariedad, el nepotismo o la corrupción. Con un denuncia firme y constante of the comportamientos que quebrantan el pacto suscrito con el pueblo. Nadie puede ampararse en la sociedad para traicionarlo a para exigir impunidad, escudarse en ella cuando la causa de tal situación está en la agresión desplegada en contra de esa misma sociedad a través de las mil caras del terror y de la injusticia (corrupción, genocidios, guerras, terrorismo...).

A lo largo de la historia de la humanidad se han producido demasiados ejemplos negativos of the que podemos aprender para no fracasar de nuevo. Ne se trata de olvidar, sino de construir, sobre los cimientos hundidos en la memoria colectiva of the pueblos y en la firmeza democrática de sus instituciones, esa nueva realidad por la que luchamos.

Así, antes o después, países como Estados Unidos, Rusia, Israel, India, entre otros, deberán entender que formar parte de la comunidad internacional es asumir compromisos solidarios, aunque se tenga una posición de privilegio y de poder, y apoyar las instituciones que, desde la legalidad internacional están tratando de dar forma a una

justicia universal independiente, como acontece con la Corte Penal Internacional. Y asumir por parte de todos que el terrorismo que nos asola deber tener un tratamiento y una respuesta globales, racionalmente elaborados, que exigen su inclusión en el catalogo de delitos competencia de ese organismo judicial, una acción coordinada a todos los niveles. Solo así podremos hacer realidad el compromiso asumido con la sociedad, a la que no podemos traicionar de nuevo.

Siento, queridos hijos, que estamos ante un momento de cambios profundos y a vosotros os va a tocar vivirlo en primera persona. Como parte integrante de esta sociedad global, universal, tenemos la obligación, no solo de asistir sino, lo que es más importante, de participar en la elaboración de las respuestas. De cómo consigamos unir los esfuerzos, las acciones y los resultados, se derivara una suerte u otra. Ahora no podemos volver a equivocarnos, nuestra dignidad como seres humanos lo impide. Es el momento de enarbolar una vez más la bandera of the derechos humanos para demostrar que el mundo puede ser más seguros sin necesidad de acabar con las libertades y los derechos ya conseguidos, ni siquiera restringirlos. Los indicadores nos ponen alerta contra los peligros de la impunidad, el autoritarismo, la violación of the derechos humanos en demasiadas partes del mundo, pero también apuntan que hoy día la justicia va ganando terreno, y ya abrió sus puertas para que se imparta la que se negó durante mucho tiempo en países como Argentina, Chile, España o Italia, frente a los que en forma torpe e interesada han intentado acabar con la propia estructura judicial de juzgar y hacer ejecutar lo juzgado. En esta lucha desigual, en estos casos, se ha ganado la partida gracias a una sociedad firmemente decidida a no permitir que otra vez se abran las puertas del infierno y que nos engulla a todos. Por ello, porque se ha revelado eficaz, debemos consolidar esas estructuras sociales en aquellas partes del mundo en las que no han sido capaces de formarse. La cooperación humanitaria y la ayuda internacional deben ir dirigidas hacia esa vertebración económica y humanista en la que la defensa of the derechos humanos sea algo más que meros enunciados en un papel o en una norma. En este ámbito, los gobiernos tienen un papel importantísimo, pero también la sociedad civil. Ambas, de forma coordinada y organizada pueden y deben conseguir, sin imposiciones y con respeto a la propia iniciativa, que se forme una humanidad común, unida en la diversidad y en el respeto.

Este es el futuro de un mundo sin miedo y en paz, que definitivamente recupere la propia dignidad of the millones de víctimas masacradas y olvidadas.

Este es el futuro que quiero para vosotros los jóvenes, y este es el mundo al que he dedicado, y seguiré dedicando, todos mis esfuerzos, sin olvidar cada una de las tragedias y of the horrores que nos han obligado de vivir.

Espero que en examinando y evaluando los acciones, y omisión of the acciones, de Srs. Martínez de Haro of Vinader, Sra. García Martin, Sr. Hernández Jiménez, Sr. Capell, Sr. Fontes García Calamarte, Sr. Martínez López de Asiain y Sr. González Martínez el *Ilustre Colegio de Abogados* lo hará con todo consideración por los argumentos presentados, y la importancia que merece en combatiendo la violencia de género dentro de nuestro sociedades.

Uno sobre tres mujeres, o casi 1 billón de mujeres alrededor del mundo experiencia la violencia de género una vez en su vida, con las consecuencias y problemas de salud al nivel mundial siguientes:

- 40-70% de mujeres asesinadas cada años son matadas por su paraje intimo¹³
- Mas que 64 millones de mujeres cada año sufre heridas intencionales y no intencionales¹⁴

¹³ *Women and Health : Today's Evidence Tomorrow's Agenda*, World Health Organization 2009, p. 56.

- Mas que 100 millones de mujeres cada año sufren de trastornos neuropsiquiátricos¹⁵
- Mas que 100 millones de condiciones maternas y peri maternas y complicaciones ocurren cada año¹⁶
- 20 millones de personas son víctimas de la trafica humana cada año¹⁷
- Hay acoso sexual e intimidación (bullying) extensiva en el lugar de trabajo, colegios, y comunidades.

La enormidad del problema y sus efectos sobre sociedades alrededor del mundo son de proporciones épicas, y ya no se puede considerarlos “asuntos privados” o “disputas civiles” por oficios de ley, tribunales judiciales, o agencias gubernales o non-gubernales. Son problemas que existen y afectan todas sociedades, tanto que sus miembros. Todo el mundo tiene la obligación de actuar en una manera que respecta los derechos y libertades de lo demás, tanto que denuncia cualquier comportamiento en la familia, comunidad y lugar de trabajo que violan los derechos de lo demás.

ⁱ Amici Curiae Brief presented to the Inter-American Commission on Human Rights in the Case of Jessica Ruth Gonzales, Petition No. P-1490-05 (United States) by Andrew Rhys Davies, Katherine L. Caldwell of Allen & Overy LLP (NY, NY) for the Center for Justice and International Law (CEJIL); CLADEM, the Latin American and Caribbean Committee for the Defense of Women's Rights; Asociación Civil por la Igualdad y la Justicia (ACIJ)- Argentina; Asociación por los Derechos Civiles (ADC)-Argentina; Centro de Estudios Legales y Sociales (CELS)-Argentina; Fundación Mujeres en Igualdad-Argentina; Fundación para Estudio e Investigación de la Mujer-Argentina; Instituto de Derechos Humanos, Facultad de Ciencias Jurídicas y Sociales, Universidad Nacional de La Plata-Argentina; Tracy Robinson Faculty of Law, University of the West Indies-Barbados; La Oficina Jurídica Para la Mujer de Cochabamba-Bolivia; Constance Backhouse, Professor of Law and University Research Chair, University of Ottawa-Canada; Canadian Association of Sexual Assault Centres-British Columbia; Canada, Harmony House-Ottawa, Ontario, Canada; Profesor Elizabeth Sheehy, University of Ottawa Faculty of Law-Canada; Centro de Derechos Humanos y Litigio Internacional (CEDHUL)-Colombia; Corporación Sisma-Mujer-Colombia, Liga de Mujeres Desplazadas, Colombia; Fundación Paniamor-Costa Rica; La Fundación PROCAL (Promoción, Capacitación y Acción Alternativa)-Costa Rica; Centro de apoyo Aquelarre (CEAPA), Dominican Republic; Núcleo de Apoyo a la Mujer (NAM)-Dominican Republic; Jacqueline Sealy-Burke, Director, Legal Aid and Counseling Clinic (LACC)-Granada; Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, AC (CMDPDH)-Mexico; Organización Popular Independiente, AC, Cd. Juárez, Mexico; Organización Red de Mujeres Contra la Violencia-Nicaragua; Centro de la Mujer Panameña (CEMP)-Panama; Asociación Pro Derechos Humanos (APRODEH)-Lima, Peru; Red Nacional De Casas De Refugio Para Mujeres y Niñas Víctimas De Violencia; Familiar y Sexual-Peru

¹⁴ WHO Global Burden of Disease 2004 Report, p. 64 – World Health Organization

¹⁵ WHO Global Burden of Disease 2004 Report, p. 62 – World Health Organization

¹⁶ WHO Global Burden of Disease 2004 Report, p. 60 – World Health Organization

¹⁷ Remarks by the President to the Clinton Global Initiative, September 25, 2012 (www.whitehouse.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative)