

Petition No. P-1490-05

Before the
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
ORGANIZATION OF AMERICAN STATES**

Jessica Ruth Gonzales
(Petitioner)

v.

The United States of America
(Respondent)

Brief *Amici Curiae* in Favor of Petitioner

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Family Violence Prevention Fund

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In Motion

Justice for Children

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**BRIEF OF *AMICI CURIAE*
IN FAVOR OF PETITIONER**

INTRODUCTION AND SUMMARY OF ARGUMENT

By any measure, as the 20th century closed, the United States continued to fail miserably in ensuring the rights of all its children to be healthy, safe, and secure in their own homes and communities....

Patricia K. Susi, *The Forgotten Victims of Domestic Violence*, 54 J. MO. B. 231, 234-35 (1998).

1. Nothing illustrates this sad reality more powerfully than the facts surrounding the death of Jessica Gonzales' three children, Rebecca, 10, Katheryn, 8, and Leslie, 7, caused by their father. On June 22, 1999, Mr. Gonzales abducted the children from their home. The Castle Rock Police Department ("CRPD") repeatedly refused to assist Ms. Gonzales in her efforts to find the children and ensure their safety. As a result, all three of the children died. The CRPD's failure to protect the Gonzales children from their father is an example of the United States' continuing violation of its obligations under Article VII of the American Declaration of the Rights and Duties of Man and the Convention on the Rights of the Child (hereinafter the "CRC").
2. On June 22, 1999, Simon Gonzales kidnapped the three Gonzales children. Hours later, after a shootout with police, the dead bodies of their three children were found in the cab of his pickup truck. He was able to endanger their children because the police did not enforce a protective order that precluded Mr. Gonzales from being alone at that time with their children. The police failed to protect the children even though the police were aware of the protective order and had been told that the children were in danger in Mr. Gonzales' presence.
3. The Gonzales children had a basic human right to be protected from harm. The CRPD and Colorado authorities' failure to protect them violates this basic human right. The United States has accepted this failure and violation of rights by not requiring that states adopt adequate measures to provide for this protection. The United States' failure to ensure protection of children in all of the States is in violation of its obligations under international law.
4. *Amici* submit this brief to explain the impact of domestic violence on children, to describe some of the international laws that require the United States to protect children's rights, and to demonstrate how the inaction of the CRPD and Colorado authorities demonstrates that the United States fails to satisfy international standards. The United States' failure is two fold: (1) it does not have any measure which holds states responsible for protecting the rights of children; and (2) it has not provided any guidance to states and local entities regarding the rights of children. The United States has failed to uphold its duty to ensure that the rights of children are protected.

INTEREST OF *AMICI*

5. The signatories to this brief are national and international nongovernmental organizations dedicated to the protection of children and their human rights. Please see Appendix A for detailed descriptions.

BRIEF STATEMENT OF FACTS

6. Jessica and Simon Gonzales were married in 1990 and had three children.¹ By 1996, Mr. Gonzales' behavior had become increasingly erratic. As he became heavily involved with drugs, he began to be destructive towards his children, Ms. Gonzales, their belongings and himself. After he tried to hang himself in 1999 in the family's garage, Ms. Gonzales filed for divorce. Mr. Gonzales moved out of the house, but continued to harass Ms. Gonzales and the children. He repeatedly broke into the house and stole items and stalked Ms. Gonzales and the children. The children reported to their mother that they were afraid of him and they did not like spending time with him.

7. On May 21, 1999, Ms. Gonzales obtained a temporary restraining order against Mr. Gonzales. The restraining order required Mr. Gonzales not to molest or disturb the peace of Ms. Gonzales or their three children, excluded Mr. Gonzales from the family home, and criminalized any violation of the order. On June 4, 1999, the state court made the temporary restraining order permanent with the modification that Mr. Gonzales was permitted occasional visitation with the children.

8. A little more than two weeks later, on June 22, 1999, Mr. Gonzales abducted the three children from in front of the family home. As soon as Ms. Gonzales realized that the children were missing, she called the Castle Rock Police Department. At approximately 5:50 p.m., she told the police that she had a restraining order against Mr. Gonzales, that the children were missing and that she suspected her husband had taken them despite there being no scheduled visitation for that day. No one from the Police Department came to her home. Upon her second call to the CRPD, at 7:30 p.m., two officers briefly visited her home. They told her to wait until 10:00 p.m. and to contact the Police Department if the children had not yet returned.

9. Shortly after 8:30 p.m., Mr. Gonzales called Ms. Gonzales and told her that he had the children and that they were at an amusement park in Denver, Colorado. Mr. Gonzales pleaded with Ms. Gonzales to revive their relationship. When she refused, he stated, "Well then I know what I need to do." After speaking with Mr. Gonzales' girlfriend, who told Ms. Gonzales that earlier in the day he had threatened to drive off a cliff, Ms. Gonzales again called the CRPD. Again, she was told to wait until 10:00 p.m. to see if the children were returned.

10. A little after 10:00 p.m., when the children had not yet arrived, Ms. Gonzales again called the CRPD. Her concerns were once more dismissed, and she was told to call back if the children were not back by midnight. When the children did not return

¹ All of the facts discussed in this section are set forth in Section II of the Gonzales' Merits Brief, submitted March 24, 2008, and the exhibits referenced and attached there.

by midnight, Ms. Gonzales went down to the police station in person. Her statement was taken, but none of the officers actively investigated the situation.

11. Around 3:20 a.m. on June 23, 1999, Mr. Gonzales arrived at the CRPD and opened fire with a semi-automatic handgun he had purchased earlier in the evening, after he abducted the girls. Police officers shot Mr. Gonzales dead. They then found the bodies of Rebecca, Katheryn, and Leslie inside his truck.

12. Ms. Gonzales filed suit in United States District Court for the District of Colorado, claiming a violation of the Due Process Clause, which provides that no state shall “deprive any person of life, liberty, or property, without the due process of law,” arguing that from a substantive perspective, she and her daughters had a right to police protection from Mr. Gonzales and from a procedural perspective, she possessed a protected property interest in the enforcement of the restraining order, which was arbitrarily denied by the CRPD. Her claim was ultimately dismissed by the United States Supreme Court.²

ARGUMENT

I. **DOMESTIC VIOLENCE HAS PROFOUND, LONG-LASTING EFFECTS ON CHILDREN.**

13. The research supports the obvious conclusion that domestic violence has a dramatic impact on children. (For our purposes, “children” refers to individuals under the age of 18.) Not only do children suffer as direct victims of domestic violence, children also suffer tragic consequences simply from observing domestic violence. Sadly, the tragic death of the Gonzales children is not an isolated incident in the United States, where the high incidence of violence in the home has taken a monstrous toll on children’s physical and psychological well-being.

A. **Domestic Violence Is Prevalent in the United States.**

14. There is no dispute regarding the prevalence of domestic violence in the United States; even the United States Government’s own submission characterizes the problem as “acute” and acknowledges that there were at least 3.5 million incidents of domestic violence in a four-year period.³

15. As staggering as this statistic appears, it likely underestimates the incidence of domestic violence in the United States. Experts have long known that abuse suffered in the home often remains hidden. Indeed, according to current estimates, only about half

² *Town of Castle Rock, Colo. v. Gonzales*, 545 U.S. 748 (2005). The Supreme Court only ruled upon the procedural due process claim because the Tenth Circuit had ruled that her substantive due process claim was foreclosed by *DeShaney v. Winnebago County Dep’t of Soc. Servs.*, 489 U.S. 189 (1989) and Ms. Gonzales did not appeal that part of the ruling. See *Gonzales*, 545 U.S. at 755, 768-69.

³ Response of the United States at 12, *Gonzales v. United States*, Petition # P-1490-05 (Inter-Am. C.H.R. Sept. 25, 2006).

of the domestic violence that occurs in the United States is actually reported to the police.⁴

16. Many victims decline to report incidents of violence, either fearing punishment from their abusers, reacting against the stigma attached to being a battered spouse, and/or blaming themselves for somehow provoking the abuse.⁵ Those victims who were exposed to frequent incidents of intimate partner violence as children, often perceive the violence as a normal part of an intimate relationship, and make no effort to report abuse.⁶ Thus, intimate partner domestic violence is much more common than available statistics suggest.

17. With such a widespread problem, it is clear that domestic violence plagues all different sectors of society.⁷ However, some sectors of the population are more at risk than others. Women are five to eight times more likely to be victims of domestic violence than men.⁸ Additionally, poor women are more likely to experience domestic violence than women with higher household incomes.⁹

18. It is clear that children are also often exposed to domestic violence, although definitive numbers regarding the number of children present in households where domestic violence is occurring do not exist. One expert conservatively estimates the rate of such exposure at 10% to 20% of the entire United States population of children per year, with as many as one-third exposed at some point during their childhood.¹⁰ One study found that more than half of the female victims of domestic violence also have children under the age of 12 living with them.¹¹ Moreover, the demographics of the victims are similar to those of women exposed to domestic violence. For example, a study of five major United States cities similarly found that poverty, substance abuse, low educational attainment of the principal caregiver and single-female households had

⁴ Feminist Majority Found., Domestic Violence Info. Ctr., *Domestic Violence Facts*, <http://www.feminist.org/other/dv/dvfact.html> (last visited Sept. 5, 2007).

⁵ Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 Mich. L. Rev. 1, 12-13 (1991).

⁶ Nat'l Res. Ctr. on Domestic Violence, *Children Exposed to Intimate Partner Violence* 5-6 (2002); John W. Fantuzzo & Wanda K. Mohr, *Prevalence and Effects of Child Exposure to Domestic Violence*, 9 Future of Child. 21, 23 (1999); see also Lillian Bensley et al., *Childhood Family Violence History and Women's Risk for Intimate Partner Violence and Poor Health*, Am. J. Preventative Med., July 2003, at 38-39.

⁷ For a more detailed discussion of women affected by domestic violence, see Women Empowered Against Violence's (WEAVE) Amicus Brief, submitted on October 17, 2008, Section 1.

⁸ Lawrence A. Greenfeld et al., U.S. Dep't Justice, *Violence by Intimates* 38 (1998).

⁹ Patricia Tjaden & Nancy Thoennes, U.S. Dep't Justice, *Extent, Nature and Consequences of Intimate Partner Violence Findings from the National Violence Against Women Study* 4 (2001) (finding that women with annual household incomes of less than \$75,000 were seven times as likely as women with annual household incomes of more than \$75,000 to be victims of domestic violence).

¹⁰ Bonnie E. Carlson, *Children Exposed to Intimate Partner Violence: Research Findings and Implications for Intervention*, 1 Trauma, Violence & Abuse 321, 323 (2000). These figures are consistent with surveys of adults, which indicate that between 20% and 41% remember witnessing instances of domestic violence as children. Joanne Davis & Ernestine Briggs, Nat'l Violence Against Women Prevention Res. Ctr., Med. Univ. of S.C., *Witnessing Violence Fact Sheet*, <http://www.musc.edu/vawprevention/research/witnessing.shtml> (last visited Sept. 6, 2007).

¹¹ Greenfeld, *supra* note 8, at v.

more children, particularly under the age of five, present in households experiencing domestic violence.¹²

B. Children Are Often the Direct Victims of Domestic Violence.

19. Where adults have been victimized by domestic violence, their children are likely to be abused as well.¹³ In fact, history of domestic violence may be the single most common background factor in cases of child abuse.¹⁴ Similarly, domestic violence is the single most common precursor to child death in the United States.¹⁵ Empirical studies of domestic violence have found that children suffer abuse in as many as 70% of households where an adult was also the victim of domestic violence.¹⁶ Although child abuse occurring in such households may be temporally independent (occurring after a pattern of intimate partner abuse is already firmly established¹⁷), once a batterer begins to abuse children, the severity of such abuse increases in rough proportion with the severity of spousal battery; the abuse may range from slapping, kicking, hitting, and punching to the use of weapons and sexual abuse.¹⁸

20. The 70% figure cited in the preceding paragraph is a conservative estimate. Like the incidence of domestic violence in general, associated child abuse may remain hidden. Experts acknowledge that even data gathered from battered spouses reporting domestic violence may underestimate the incidence of child abuse.¹⁹ Parents may either be unaware, or more commonly, unwilling to discuss the abuse of their children.²⁰ Moreover, the incidence of child abuse in a violent household is not limited to abuse perpetrated by a batterer. Battered spouses, themselves victims of domestic violence, may also victimize their children.²¹

21. The relative paucity of legal protections for child victims of domestic violence in the United States, and the failure to hold the relevant authorities accountable in the

¹² J. Fantuzzo et al., *Domestic Violence and Children: Prevalence and Risk in Five Major Cities*, 36 J. Am. Acad. Child & Adolescent Psychiatry 116-22 (1997).

¹³ See, e.g., Joy D. Osofsky, *The Impact of Violence on Children*, 9 Future of Child. 33, 34 (1999) (finding that children in violent households are 15 times more likely to suffer from abuse and neglect).

¹⁴ *Id.* at 109.

¹⁵ Nat'l Ctr. for Child. Exposed to Violence, *Domestic Violence*, <http://www.ncccv.org/violence/domestic.html> (last visited Sept. 6, 2007) (citing L. G. Mill et al., *Child Protection and Domestic Violence: Training, Practice and Policy Issues*, 22 Child. and Youth Servs. Rev. 309, 315-32 (2002)).

¹⁶ Lee E. Bowker et al., *On the Relationship Between Wife Beating & Child Abuse, in Feminist Perspectives on Wife Abuse* 158, 162 (1988); see also Jacquelyn C. Campbell & Linda A. Lewandowski, *Mental and Physical Effects of Intimate Partner Violence on Women and Children*, 20 Psychiatric Clinics N. Am. 353, 358 (1997) (noting that 40-70% of children entering battered women's shelters are abused); Barbara J. Hart, Minn. Ctr. Against Violence & Abuse, *Parental Abduction and Domestic Violence* (1992), <http://www.mincava.umn.edu/documents/hart/hart.html> (noting that "more than half of men who batter their female partners also abuse their children").

¹⁷ Hart, *supra* note 16.

¹⁸ Bowker et al., *supra* note 16, at 164.

¹⁹ Carlson, *supra* note 10.

²⁰ *Id.*; see also Bowker et al., *supra* note 16, at 165.

²¹ Evan Stark, *REPORT: The Battered Mother in the Child Protective Service Caseload: Developing an Appropriate Response*, 23 Women's Rights L. Rep. 107, 114 (2002).

courts for safeguarding children's rights, continues to endanger very large numbers of children, those most in need of protection. Indeed, as the Gonzales case demonstrates, even where a battered parent succeeds in escaping a batterer, her children are far from safe.²²

C. Any Exposure to Domestic Violence Has Serious Negative Effects on Children.

22. Even in cases where children have not suffered physical injury at the hands of batterers, they may still bear the psychological scars of exposure to domestic violence throughout their adolescence and into adulthood. Such exposure occurs in a variety of ways, including watching violent incidents firsthand, hearing the battered parent's cries of pain and other sounds of violence as it occurs, and seeing the violence reflected in a battered parent's injuries.²³

23. Negative psychological consequences from exposure to domestic violence can be severe, and include higher incidence of low self-esteem and depression (especially among girls),²⁴ and increased levels of anger and anxiety²⁵ attributed to elevated stress levels caused by unstable home environments.²⁶

24. The psychological consequences of exposure to domestic violence severely impair children's behavioral, social and cognitive development, also causing an array of psychosomatic symptoms.

1. Negative Behavioral Consequences.

25. Altered behavioral functioning may be the most dangerous result of childhood exposure to domestic violence, as child witnesses are much more likely to perpetuate the cycle of domestic violence as adults. Studies have shown that children who have witnessed domestic violence often exhibit more aggressive and violent behavior than other children,²⁷ and carry such aggressiveness into adulthood.²⁸ In particular, children who have been abused, and have witnessed the abuse of a parent, were found one hundred times more likely to become batterers themselves.²⁹

26. Relatedly, studies of adult women who witnessed domestic abuse as children indicate that they were four times more likely to be abused by their partners, either

²² See Section I.D. *infra*.

²³ Jeffery L. Edleson, *Children's Witnessing of Adult Domestic Violence*, 14 J. Interpersonal Violence 839, 839 (1999).

²⁴ Hart, *supra* note 16; see also H. Lien Bragg, U.S. Dep't Health & Human Servs., *Child Protection in Families Experiencing Domestic Violence* 10 (2003) (noting that children witnessing domestic violence suffer from low self-esteem and depression).

²⁵ Children's Bureau, U.S. Dep't Health & Human Servs., *Children and Domestic Violence* 2 (2003).

²⁶ Nat'l Res. Ctr. on Domestic Violence, *Children Exposed to Intimate Partner Violence*, *supra* note 6, at 5.

²⁷ Edleson, *supra* note 23, at 846, 860.

²⁸ *Id.* at 861.

²⁹ Evan Stark & Anne Flitcraft, *Woman-Battering, Child Abuse and Social Heredity: What is the Relationship?*, in *Marital Violence* (N. Johnson ed., 1985); Edleson, *supra* note 23, at 861.

physically or sexually, than comparable women who had not been exposed to domestic violence.³⁰ This is likely because “[w]omen who have witnessed interparental violence may perceive violence as a normal part of intimate relationships.”³¹

27. Other negative behavioral consequences include: a significantly higher likelihood of engaging in high risk, health adverse behaviors, both as adolescents and adults, including smoking, alcohol abuse and drug abuse.³² Incidence of arrest is also higher for children who have been exposed to domestic violence.³³

2. Negative Social and Cognitive Consequences.

28. Children who witness domestic violence are also harmed in their social development. Almost every study indicates a higher probability that children witnessing domestic violence will have “poor peer, sibling, and social relationships.”³⁴ Specifically, these children “may lack the ability to make or keep friends”³⁵ and be more likely to bully, exhibit clinging behaviors, and develop speech problems.³⁶ Overall, a child who witnesses domestic violence is more likely to have difficulty interacting in a social context.

29. In addition to affected social functioning, children exposed to domestic violence are at risk of impaired cognitive development.³⁷ Although the relative number of studies analyzing cognitive effects is small, the existing academic literature shows a link between exposure to domestic violence and lower levels of cognitive function.³⁸

3. Psychosomatic Symptoms.

30. Witnessing domestic violence has also caused clearly discernable psychosomatic effects in many children.³⁹ Symptoms range from mild headaches and trouble sleeping, to bed wetting, vomiting, and diarrhea.⁴⁰

31. Thus, even children who escape direct physical injury suffer indirectly from the violence inflicted by a battering parent.

³⁰ Bensley et al., *supra* note 6.

³¹ *Id.* at 41.

³² Megan H. Bair-Merritt et al., *Physical Health Outcomes of Childhood Exposure to Intimate Partner Violence: A Systematic Review*, 117 *Pediatrics* 278, 284 (2006), available at <http://www.pediatrics.org/cgi/content/full/117/2/e278>.

³³ Stark, *supra* note 21, at 116.

³⁴ Children’s Bureau, *Children and Domestic Violence*, *supra* note 25, at 2; see also Bragg, *supra* note 23, at 10 (noting that children who have witnessed domestic violence have trouble interacting with peers and siblings).

³⁵ Nat’l Res. Ctr. on Domestic Violence, *Children Exposed to Intimate Partner Violence*, *supra* note 6, at 5.

³⁶ Campbell & Lewandowski, *supra* note 16, at 361.

³⁷ Jerome R. Kolbo et al., *Children Who Witness Domestic Violence: A Review of Empirical Literature*, 11 *J. Interpersonal Violence* 281, 289 (1996).

³⁸ Carlson, *supra* note 10, at 327; Edleson, *supra* note 23, at 860.

³⁹ Kolbo et al., *supra* note 37, at 281, 289.

⁴⁰ Nat’l Res. Ctr. on Domestic Violence, *Children Exposed to Intimate Partner Violence*, *supra* note 6, at 6; Campbell & Lewandowski, *supra* note 16, at 361.

D. There Is a Danger of Child Abduction When a Battered Spouse Attempts to Leave the Abuser.

32. In the absence of strong legal and community protections, a victim of domestic violence (in most cases female) cannot protect herself, and her children, from domestic violence simply by leaving the household.⁴¹ To the contrary, empirical research and anecdotal evidence confirm that in order to regain control over departing spouses and children, batterers will escalate violence after the battered spouse attempts to separate from her abuser.⁴² The evidence in empirical studies demonstrates that as many as 75% of emergency room visits by spouses for injuries sustained as a result of domestic violence, 75% of calls for law enforcement intervention by victims of domestic violence, and as many as half of the domestic violence related homicides, all occur post-separation.⁴³

33. Although there are no studies regarding the number of post-separation child victims of domestic violence, the available anecdotal evidence establishes that the abduction and murder of the Gonzales children is by no means unique in the United States. In another tragic incident in Castle Rock in the fall of 2006, Joseph Blecha murdered his wife and stepdaughter, before committing suicide.⁴⁴ Other cases involve harm to children where restraining orders had been entered against the batterer: (1) the murder of three children by a batterer during a court ordered unsupervised visitation, after his attempts to persuade his wife to resume the marital relationship had failed; (2) the kidnapping and murder of two children by a batterer the day after he learned of his wife's intention to file for divorce; and (3) the murder of a battered woman and her children in the midst of an attempt to escape from their abuser.⁴⁵ In the latter case, the victims were killed in or near their car, which they had packed with personal items in preparation for their escape.⁴⁶

34. In many cases, a batterer abducts a victim's children as an alternative (or a prelude) to further violence. As with the escalation of violence, this is another means to coerce the resumption of the marital relationship and/or reestablish the batterer's control.⁴⁷ The Gonzales case is representative. Mr. Gonzales sought to use his children to coerce his estranged wife into resuming their relationship by threatening to seek custody of the children, and exploiting his weekly visits with them to pressure Ms. Gonzales into reuniting with him. In fact, on the day that he kidnapped their daughters, Mr. Gonzales told Ms. Gonzales in response to her refusal to rekindle the relationship, "Well, then, I know what I have to do."⁴⁸ Ultimately, Mr. Gonzales

⁴¹ Hart, *supra* note 16.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Autopsy Reveals Burn Victims Each Died From Gunshot Wound to Head*, TheDenverChannel.com, September 14, 2007, available at <http://www.thedenverchannel.com/news/9853286/detail.html>.

⁴⁵ Hart, *supra* note 16.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ See Declaration of Jessica Gonzales ¶¶ 31, 34, *Gonzales v. United States*, Petition # P-1490-05 (Inter-Am. C.H.R. Dec. 6, 2006).

kidnapped his children in a final act of revenge for Ms. Gonzales' refusal to rekindle their relationship.⁴⁹

35. Indeed, the abduction of the Gonzales children, like the majority of the 350,000 child abductions in the United States, occurred in the context of parental relationships marred by domestic violence.⁵⁰ Although most of these abductions did not end in the same manner as the Gonzales case, abductions by fathers result in some form of violence 40% of the time.⁵¹ Even where abducted children are not physically injured, three out of ten suffer mild to severe mental harm as a result of the abduction.⁵²

36. Thus, where a battered parent has taken the momentous step of leaving an abusive relationship, that is the time when she and her children are in the greatest peril and most in need of legal protections and intervention from the organs of public safety. These safeguards were absent in the case before this Court, and the tragic deaths of the Gonzales children are representative examples of the chronic failure of the United States to adequately provide a basic level of security for many children who are domestic violence victims.

II. THE UNITED STATES DOES NOT PROVIDE FOR THE PROTECTION OF CHILDREN'S RIGHTS AND SECURITY FOR ALL CHILDREN WITHIN ITS JURISDICTION.

A. A Child's Right to be Protected From Violence Is Not Recognized Under the United States Constitution.

37. Despite the evidence that domestic violence is a serious problem in the United States and that it has devastating effects on children who are exposed to it, the United States has not taken steps to ensure that children are protected from exposure to domestic violence. It is a simple fact that under United States law, as embodied in the United States Constitution and the binding constitutional jurisprudence of the United States Supreme Court, the State has no constitutional obligation to intervene to secure the safety of the children within its borders. In *DeShaney v. Winnebago County Department of Social Services*, the seminal United States case on this issue, the Supreme Court found that the Constitution only protected an individual by limiting the State's power to act, and was "not ... a guarantee of certain minimal levels of safety and security."⁵³

38. In *DeShaney*, a child was beaten repeatedly by his father over the course of a two year period, ultimately sustaining brain damage so severe as to render the boy, named Joshua, profoundly retarded and requiring lifetime institutionalization.⁵⁴ The Winnebago County Department of Social Services, which was responsible for

⁴⁹ See *id.* ¶ 34.

⁵⁰ Hart, *supra* note 16.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 195 (1989).

⁵⁴ *Id.* at 193.

protecting children like Joshua, although aware that he was being abused (even to the point of keeping careful records of Joshua's injuries), failed to intervene and protect him.⁵⁵

39. The Supreme Court found that this egregious dereliction of responsibilities by a State agency with the express mission of protecting children did not amount to a constitutional violation since the United States Constitution does not require any state to provide protection for an individual, even a child, from injuries caused by private parties. Thus, although "the State may have been aware of the dangers Joshua faced [...], it played no part in their creation" and could therefore not be held accountable for its failure to protect him.⁵⁶

40. Whatever slim possibility remained after *DeShaney* regarding a constitutional right to the State's protection for victims of domestic violence, in *Castle Rock v. Gonzales*, the Supreme Court conclusively settled the question: even where the State expressly provided victims of domestic violence with an enforceable court order intended to protect them from further violence, the victim does not have a due process right to enforcement of the restraining order.⁵⁷ In other words, there is no law enforcement duty under the United States Constitution to take any action at all in response to domestic violence.

41. The Supreme Court's ruling means that the Gonzales children (like Joshua DeShaney), children whose young lives were taken from them, have no legal recourse against the State for the gross negligence demonstrated by the authorities charged with securing their safety. Likewise, these cases constitute binding precedent, severely limiting the legal remedies available to the millions of past and future child victims of domestic violence in the United States.

42. The lack of recognition and enforcement of children's rights to protection from domestic violence under the United States Constitution has reduced the accountability necessary for effective enforcement of existing laws. In the absence of such federal accountability, there is no guarantee that the states and local governments will take the steps necessary to protect children from harm inflicted by their parents or caretakers, whether it is physical abuse or other exposure to violence.⁵⁸

B. Existing Laws Do Not Ensure That Children's Rights Will Be Protected in Situations of Domestic Violence.

43. Although the United States has made strides in acknowledging the country's epidemic of domestic violence by creating programs and systems that are responsive to the needs of adult victims, the damage done to children living in abusive homes has

⁵⁵ *Id.*

⁵⁶ *Id.* at 201.

⁵⁷ *Castle Rock v. Gonzales*, 545 U.S. 748, 768 (2004).

⁵⁸ See Declaration of Randy Saucedo, *Gonzales v. United States*, Petition # P-1490-05 (Inter-Am. C.H.R. Sept. 25, 2006).

remained in the background and the federal and state laws enacted to combat domestic violence are inadequate to protect many children.⁵⁹

1. Federal Laws Addressing Domestic Violence Do Not Sufficiently Protect Children.

44. United States federal law does not adequately safeguard children from exposure to domestic violence or ensure their right to a safe home environment. The three main federal statutes addressing domestic violence are the Violence Against Women Act (“VAWA”), the Child Abuse Prevention and Treatment Act (“CAPTA”) and the Adoption Assistance and Child Welfare Act (“AACWA”). However, none of these set forth specific nationwide standards to provide protection for victims of domestic violence. Accordingly, the United States has not provided sufficient guidance to state and local government regarding children’s rights.

45. VAWA was initially passed in 1994 and has been amended several times.⁶⁰ VAWA’s most important contributions have been to provide funding for state-run programs dealing with domestic violence, including grants to state and local governments that adopt policies encouraging domestic violence arrests.⁶¹ Although VAWA represents a marked improvement in the fight against domestic violence toward women, it only addresses the impact of domestic violence on children to a limited extent (e.g., through provisions for treatment and counseling).⁶²

46. Similarly, both CAPTA and AACWA have provided an impetus for the development of child welfare systems in individual states by providing federal funding for such systems.⁶³ However, each piece of legislation allows the states to define “child abuse” and “neglect” for the purposes of their child welfare statutes.⁶⁴ The result is a hodgepodge of statutory schemes that vary dramatically in scope, making it extremely difficult, if not impossible, to ensure that all children are equally and adequately protected against domestic violence.

⁵⁹ To the extent that the United States’ legal system has recognized the plight of children suffering from domestic violence, it has done so through laws that create presumptions against a court awarding custody of a child to an abusive parent. While these laws are commendable, they are the proverbial finger in the dike, and do little or nothing to address the myriad dangers to children living in abusive households. See Leigh Goodmark, *From Property to Personhood: What the Legal System Should Do for Children in Family Violence Cases*, 102 W. Va. L. Rev. 237, 239 (1999).

⁶⁰ See Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 1902 (codified as amended in scattered sections of 8, 18, 28, and 42 U.S.C.).

⁶¹ 42 U.S.C. § 3796hh (2005).

⁶² Martha Matthews, *The Impact of Federal and State Laws on Children Exposed to Domestic Violence*, 9 Future of Child. 50, 51-52 (1999). For a more detailed discussion of VAWA and its relationship to this case, see New York Legal Assistance Group and University of Texas School of Law, Amicus Brief, submitted on October 17, 2008.

⁶³ *Id.* at 55.

⁶⁴ *Id.*

2. **State Laws Addressing Domestic Violence Do Not Sufficiently Protect Children.**

47. Not surprisingly, given the lack of concrete federal guidance, most states have not enacted laws that adequately protect children from exposure to domestic violence, through either domestic violence or child welfare statutes. With respect to domestic violence statutes, every state has a statute protecting the “direct” victims of domestic violence, *i.e.*, battered spouses or intimate partners. However, less than half of the states and territories have enacted any sort of legislation affording specific legal protections to children exposed to domestic violence. Indeed, Alabama, American Samoa, Colorado, Connecticut, the District of Columbia, Guam, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, the Northern Mariana Islands, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, the Virgin Islands, Virginia, West Virginia, Wisconsin and Wyoming do not address specific legal protections to children exposed to domestic violence. Moreover, in many of those states that actually do have specific laws regarding a child’s exposure to domestic violence, the statutory schemes provide only for penalty enhancements to the actual domestic violence crime, but do not specifically provide for the protection of children.⁶⁵

48. A critical component of any such recognition is an understanding that it is the batterer that is responsible for the risk to the children not the victim. Accordingly, the statutes need not punish the victim as a perpetrator of child abuse. Rather, as states change their laws to recognize the danger to children, they should also increase their efforts to provide victims with resources to recognize the abuse, the dangers to children and to remove themselves from the situation.⁶⁶ One avenue for this change is to encourage collaboration between state organizations dealing with domestic violence and child abuse.⁶⁷

3. **Court Application of the Statutes Has Not Reflected an Awareness and Concern for Domestic Violence and Its Negative Effects on Children.**

49. The actions of the judiciary reflect a similar unawareness of the dangers facing children exposed to domestic violence. Although the majority of the states require courts to consider domestic violence in making custody and visitation determinations, courts routinely discount the impact that witnessing violence has on children, fail to consider partner abuse in making determinations regarding custody and visitation, or

⁶⁵ Children’s Bureau, U.S. Dep’t of Health & Human Servs., *Children and Domestic Violence: A Summary of State Laws* (2004); Leslie D. Johnson, *Caught in the Crossfire: Examining Legislative and Judicial Response to the Forgotten Victims of Domestic Violence*, 22 Law & Psychol. Rev. 271, 272 (1998).

⁶⁶ Barbara J. Hart, *Children of Domestic Violence: Risks and Remedies*, Child Services Quarterly, Winter 1992, available at <http://www.mincava.umn.edu/documents/hart/hart.html>.

⁶⁷ Linda Spears, *Building Bridges Between Domestic Violence and Child Protective Services* (1999), updated 2000, available at <http://www.vaw.umn.edu/documents/dvcps/dvcps.html#id129817>.

simply disregard the laws altogether.⁶⁸ Many courts have also taken it upon themselves to exclude domestic violence from the “fitness of the parent” determination, asserting that in the absence of child abuse by the batterer, the child is not harmed and, therefore, the batterer should not be labeled as an unfit parent.⁶⁹

50. For example, in one case involving a father’s attempt to obtain a restraining order against his ex-wife’s new husband, the Supreme Court of Iowa determined that the two children, who had witnessed domestic violence toward their mother by her new husband, were not included in the State’s restraining order law; therefore, their father could not bring such an action before the court on their behalf.⁷⁰ Although this case involved a narrow issue of statutory construction, other state court decisions also illustrate the judiciary’s effort to minimize the seriousness of exposing a child to domestic violence. For example, there are courts which have held that even when a domestic violence perpetrator ends up killing a spouse that is not enough in and of itself to terminate parental rights⁷¹ and others that have given custody to a parent just released from prison for killing his spouse, the child’s mother, in the presence of the child.⁷²

51. Cases such as these illustrate the need for the legislature to enact laws that more explicitly address the needs of children exposed to domestic violence and provide for more judicial training on the laws that exist.

III. INTERNATIONAL LAW REQUIRES THE UNITED STATES TO PROTECT THE CHILDREN WITHIN ITS JURISDICTION AND CONTROL.

52. In contrast to United States law, international law has long recognized the need to protect children. For example, the Geneva Declaration of the Rights of the Child of 1924, the four Geneva Conventions of 1949, the Declaration of the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Declaration of the Rights and Duties of Man, and the American Convention on Human Rights, United Nations General Assembly Convention on the Rights of the Child, each contain provisions that require states to protect and assist children.

53. In particular, the Declaration of the Rights of the Child was a groundbreaking document that was adopted by the General Assembly of the United Nations in 1959. Through that document, the United Nations declared that mankind owes children “*the*

⁶⁸ Joan Meier, *Domestic Violence, Child Custody and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, 11 Am. U. J. Gender Soc. Pol. & Law 657, 2003; Goodmark, *supra* note 59, at 260.

⁶⁹ Annette M. Gonzalez & Linda M. Rio Reichmann, *Representing Children in Civil Cases Involving Domestic Violence*, 39 Fam. L.Q. 197, 217-18 (2005); Meier, *supra* note 67, at 675-716.

⁷⁰ *D.M.H. v. Thompson*, 577 N.W.2d 643 (1998).

⁷¹ Nancy K.D. Lemon, *The Legal System’s Response to Children Exposed to Domestic Violence*, 9 Future of Child. 67, 72 n.43 (1999) (citing *In re Mark V.*, 177 Cal. App. 3d 754 (1986); *In re H.L.T.*, 298 S.E.2d 33 (Ga. App. 1982)).

⁷² *Id.* at 72 n.50.

best it has to give.” The United Nations also stated a basic principle of human rights that children “shall be protected against all forms of neglect, cruelty, and exploitation.” (Principle 9.) Further, children “shall in all circumstances be among the first to receive protection and relief.” (Principle 8.)

54. In other words, the right of children to be protected from violence is a cornerstone of the law on international human rights and the United States should recognize this principle and provide protection. Indeed, the United States is obligated to provide such protection under several international laws.

A. Inter-American Human Rights Instruments, Including Article VII of the American Declaration, Require Affirmative Measures to Protect Children.

55. As a signatory to the Charter of Organization of American States (“OAS Charter”) and the American Declaration on the Rights and Duties of Man, the United States is required to ensure that children are provided human rights.⁷³ Not only are these rights specifically included in the Charter and American Declaration themselves, the Commission also has the right to interpret the standard of these documents in relation to other Inter-American treaties, including the American Convention on Human Rights, regardless of whether the particular convention was specifically signed by the member country at issue in the case.

56. Signatories to the OAS Charter are bound by its provisions,⁷⁴ and the General Assembly of the OAS has repeatedly recognized the American Declaration as a source of international legal obligations for OAS Member States including, specifically, the United States.⁷⁵ Indeed, the preamble to the OAS Charter reads, “the true significance of American solidarity and good neighborliness can only mean the consolidation ... a

⁷³ The United States’ claim that the American Declaration is a “non-binding” instrument is belied by precedent of both the Inter-American Commission on Human Rights and the Inter-American Court. The Inter-American Commission has made clear that the principles to ensure the basic human rights espoused in the American Convention on Human Rights will be used to determine the rights and obligations of the signatories of the American Declaration. See *Alejandro v. Cuba*, Case 11.589, Inter-Am. C.H.R., Report No. 86/99, OEA/Ser.L./V/II.106 doc. 3 rev. at 586, ¶ 39 (1999); *Victims of the Tugboat “13 de Marzo” v. Cuba*, Case 11.436, Inter-Am. C.H.R., Report No. 47/96, OEA/Ser.L./V/II.95 doc. 7 rev. at 127, ¶¶ 77-78 (1997); see also Inter-Am. Comm’n on Human Rights, Country Report, *Report on the Situation of Human Rights of Asylum Seekers within the Canadian Refugee Determination System*, OEA/Ser.L/V/II.106, Doc. 40 rev. ¶ 29 (2000).

⁷⁴ Charter of the Organization of American States, entered into force Dec. 13, 1951, 119 U.N.T.S. 3; amended by Protocol of Buenos Aires, entered into force Feb. 27, 1970, 72 U.N.T.S. 324, O.A.S. T.S. No.1-A; amended by Protocol of Cartagena, entered into force Nov. 16, 1988, O.A.S. T.S. No. 66, 25 I.L.M. 527; amended by Protocol of Washington, entered into force Sept. 25, 1997, 1-E Rev. OEA Documentos Oficiales OEA/Ser.A/2 Add. 3 (SEPF), 33 I.L.M. 1005; amended by Protocol of Managua, entered into force Jan. 29, 1996, 1-F Rev. OEA Documentos Oficiales OEA/Ser.A/2 Add.4 (SEPF), 33 I.L.M. 1009; see also *Roach & Pinkerton v. United States*, Case 9647, Res. 3/87, Inter-Am. C.H.R., OEA/Ser.L/V/II.71 doc. 9 rev.1, ¶ 46 (1987).

⁷⁵ See, e.g., O.A.S. G.A. Res. 314 (VII-0/77) (June 22, 1977) (charging the Inter-American Commission with the preparation of a study to “set forth their obligation to carry out the commitments assumed in the American Declaration of the Rights and Duties of Man”).

system of individual liberty and social justice based on respect for the essential rights of man.” The Inter-American Court confirms the obligations on Member States noting that the “Declaration contains and defines the fundamental rights referred to in the Charter.”⁷⁶

57. The Commission’s Rules of Procedure establish that the Commission is the body empowered to supervise OAS Member States’ compliance with the human rights norms contained in the OAS Charter and the American Declaration. Specifically, Article 23 of the Commission’s Rules provides that “[a]ny person ... legally recognized in one or more of the Member States of the OAS may submit petitions to the Commission ... concerning alleged violations of a human right recognized in ... the American Declaration of the Rights and Duties of Man.”⁷⁷

58. Likewise, Articles 18 and 20 of the Commission’s Statute specifically direct the Commission to receive, examine, and make recommendations concerning alleged human rights violations committed by an OAS member state, and “to pay particular attention” to the observance of certain key provisions of the American Declaration by states that are not party to the American Convention.

59. Finally, the Commission itself has consistently asserted its general authority to “supervise[e] member states’ observance of human rights in the Hemisphere,” including those rights prescribed under the American Declaration, and specifically as against the United States.⁷⁸

60. With respect to the rights that must be provided to children, the American Declaration itself could not be more clear. In Article VII, the American Declaration provides that “all children have the right to special protection, care and aid.”⁷⁹ When considering alleged violations of the American Declaration, the Inter-American Commission has recognized this right to special protection, asserting that “in the case of children the highest standard must be applied.”⁸⁰ Accordingly, under the American

⁷⁶ Inter-Am. Ct. Hum. Rts., *Advisory Opinion OC-10/89 on Interpretation of the American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights*, Ser. A No. 10, ¶¶ 43, 45 (1989).

⁷⁷ Articles 23, 49, and 50 of the Inter-American Commission of Human Rights’ Rules of Procedure confirm that such petitions may contain denunciations of alleged human rights violations by OAS Member States that are not parties to the American Convention on Human Rights. Inter-Am. Comm’n Hum. Rts., R. Pro., arts. 23, 49, 50 (2000).

⁷⁸ *Detainees in Guantánamo Bay, Cuba, Request for Precautionary Measures*, Inter-Am. C.H.R. at 2 (March 13, 2002); see also *Roach & Pinkerton v. United States*, Case 9647, Res. 3/87, Inter-Am. C.H.R., OEA/Ser.L/V/II.71 doc. 9 rev.1, ¶¶ 46-49 (1987) (affirming that, pursuant to the Commission’s statute, the Commission “is the organ of the OAS entrusted with the competence to promote the observance of and respect for human rights”).

⁷⁹ See Inter-Am. Comm’n Hum. Rts., <http://www.cidh.org/Basicos/English/Basic1.%20Intro.htm#I> (last visited Sept. 6, 2007) (stipulating that although the American Declaration was not originally adopted as a treaty, it is a source of binding international obligations for all members of the Organization for American States).

⁸⁰ *Fonseca v. Brazil*, Case 11.634, Inter-Am. C.H.R., Report No. 33/04, OEA/Ser.L/V/II.122 doc. 5 rev. 1 at 845 (2004).

Declaration, the United States is obligated to protect its children from the harms and abuses of domestic violence and its effects.

61. More specifically, the Gonzales children were entitled to the same protection under the Declaration as children living throughout the Member States of the OAS and the Commission has the necessary authority to hold the United States accountable for its failure to ensure their protection.

62. Beyond the mandates of the American Declaration, which, on their face and as applied by the Court and Commission, establish an indisputable obligation to protect children from abuse, international tribunals also interpret applicable international human rights instruments in light of evolving norms of human rights laws expressed in domestic, regional, and international contexts. Both the Inter-American Commission and the Inter-American Court are leaders among international bodies in their willingness to set forth standards to ensure that countries do not violate their obligations to the human rights of children.

63. As observed by Philip Alston and John Tobin in their comprehensive analysis of children's rights, while the Americas have no particular charter or convention that deals with children's rights, "the institutions set up to implement the human rights obligations of the Member States of the Organizations of American States have proven to be sensitive to children's rights and prepared to make important contributions to their promotion."⁸¹ Indeed, the Inter-American Court has issued a full advisory opinion on the juridical condition and human rights of the child, espousing the fundamental nature of children's rights and the need to provide "comprehensive protection" to children.⁸²

64. Thus, the Commission has noted that "in interpreting and applying the American Declaration, it is necessary to consider its provision in the context of developments in the field of international human rights laws since the Declaration was first composed and with due regard to other relevant rules of international law applicable to member states against which complaints of violations of the Declaration are properly lodged."⁸³

65. When interpreting and applying the American Declaration, the Inter-American Commission may give due regard to all relevant rules of international law applicable to Member States, including "international custom, as evidence of a general practice

⁸¹ Philip Alston & John Tobin, UNICEF, *Laying the Foundations for Children's Rights* 22 (2005), available at http://www.unicef-icdc.org/publications/pdf/ii_layingthefoundations.pdf.

⁸² See Inter-Am. Ct. of Hum. Rts., *Advisory Opinion OC-17 on the Juridical Condition and Human Rights of the Child* 31-32 (2002).

⁸³ *Ramón Martínez Villareal v. United States*, Case 11.753, Report No. 52/02, Inter-Am. C.H.R., Doc. 5 rev. 1 at 821, ¶ 60 (2002) (citing *Garza v. United States*, Case No. 12.243, Inter-Am. C.H.R. *Garza v. United States*, Case 12.243, Inter-Am. C.H.R., Report No. 52/01, OEA/Ser.L/V/II.111 Doc. 20 rev., ¶¶ 88-89 (2000); see also *Maya Indigenous Cmty. v. Belize*, Case No. 12.053, Inter-Am. C.H.R., Report No. 40/04, OEA/Ser.L/V/II.122 Doc. 5 rev. 1 at 727, ¶¶ 86-88 (2004); *Dann v. United States*, Case No. 11.140, Inter-Am. C.H.R., Report No. 75/02, Doc. 5, rev. 1 at 8600, ¶¶ 96-97 (2001).

accepted as law.”⁸⁴ The International Court of Justice has affirmed that “to have become a general rule of international law, ... a very widespread and representative participation in [a] convention might suffice of itself, provided that it included that of States whose interests were specially affected,” especially where state practice has been “both extensive and virtually uniform in the sense of the provision invoked.”⁸⁵ Over 35 years ago, the International Court of Justice (ICJ) pronounced, “an international instrument must be interpreted and applied within the overall framework of the judicial system in force at the time of the interpretation.”⁸⁶

66. More specifically, the Inter-American Court has held that “to determine the legal status of the American Declaration it is appropriate to look to the inter-American system of today in light of the evolution it has undergone since the adoption of the Declaration, rather than to examine the normative value and significance which that instrument was believed to have had in 1948.”⁸⁷ Indeed, the Inter-American Commission has interpreted the obligations in the Declaration in accordance with the Convention, as well as case law.⁸⁸

67. Article 19 of the American Convention mandates that “[e]very minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.” States have obligations to investigate “every situation involving a violation of the rights protected” by the American Convention, including the right to life, rights of the child, the right to equal protection, and the right to judicial protection.⁸⁹ Together, the American Declaration and American Convention reflect the “broadly-recognized international obligation of states to provide enhanced protection to children.”⁹⁰

B. The Inter-American Obligations Should Be Interpreted in Light of the United Nation’s Human Rights Treaties Which Likewise Require Affirmative Measures to Protect Children.

68. Similarly, the Commission should interpret the United States’ obligations in light of the principles codified in United Nations instruments, including the United Nations

⁸⁴ Statute of the International Court of Justice art. 38(1)(b), 59 Stat. 1055, 3 Bevens 1179 (1945); *see also Garza v. United States*, Case 12.243, Inter-Am C.H.R., Report No. 52/01, OEA/Ser.L/V/II.111, doc. 20 rev. at 1255, ¶ 88 (2000).

⁸⁵ *See North Sea Continental Shelf Cases (F.R.G. v. Den., Neth.)*, 1969 I.C.J. 2, ¶ 73 (Feb. 20).

⁸⁶ Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 I.C.J. 16 (June 21).

⁸⁷ Inter-Am. Ct. Hum. Rts., *Advisory Opinion OC-17 on the Juridical Condition and Human Rights of the Child*, *supra* note 82, ¶ 37.

⁸⁸ *See Alejandro v. Cuba*, Case 11.589, Inter-Am. C.H.R., Report No. 86/99, OEA/Ser.L/V/II.106 doc. 3 rev. at 586, ¶ 39 (1999); *Victims of the Tugboat “13 de Marzo” v. Cuba*, Case 11.436, Inter-Am. C.H.R. Report No. 47/96, OEA/Ser.L/V/II.95 doc. 7 rev. at 127, ¶¶ 77-78 (1997); *see also* Inter-Am. Comm’n on Human Rights, Country Report, *Report on the Situation of Human Rights of Asylum Seekers within the Canadian Refugee Determination System*, OEA/Ser.L/V/II.106, Doc. 40 rev. ¶ 29 (2000).

⁸⁹ *Velasquez Rodriguez Case*, 1988 Inter-Am. Ct. H.R. (ser. C) No. 4, at 30-31 (July 29, 1988).

⁹⁰ *Domingues v. United States*, Case 12.285, Inter-Am. C.H.R., Report No. 62/02, doc. 5 rev. 1 at 913, ¶ 83 (2002).

General Assembly Convention on the Rights of the Child (“CRC”), the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”). All of these instruments emphasize the special protection that should be afforded children.

69. All of Article 24 of the ICCPR affirmatively states that each minor has “a right to such measures of protection as are required by his status as a minor.”⁹¹ Similarly, the ICESCR sets forth in Article 10 that “Special measures of protection and assistance should be taken on behalf of all children...”⁹² Finally, the CRC, which presents numerous safeguards to which each and every child is entitled, highlights the obligations of each state by stating that the signatory parties “shall respect and ensure the rights set forth.”⁹³ These statements highlight that international law has imposed upon countries the requirement that they take affirmative action to ensure the protection of children within their control and jurisdiction.

70. Indeed, the Inter-American Court deemed the U.N. Convention on the Rights of the Child, having been ratified by almost all OAS Member States, reflective of broad international consensus (*opinion juris*) on the principles contained therein, and therefore applicable when interpreting not only the American Convention but also other treaties relevant to children’s rights in the Americas.⁹⁴

71. The CRC codified the principles of the Declaration of the Rights of the Child in a legally-binding convention. The CRC is currently the most widely ratified of all United Nations Human Rights treaties, having been ratified by 192 Member States. The CRC affirms and describes the fundamental human rights of all children, and the United States, as well as other signatories,⁹⁵ have agreed to fulfill its provisions. According to the Inter-American Court of Human Rights (“the Inter-American Court”), the CRC rendered children “subjects entitled to rights, [and] not only objects of protection.”⁹⁶

72. The various provisions of the CRC qualify as customary norms of international law under the above definition, particularly given that the CRC is the most widely

⁹¹ International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316 (1966) (Mar. 23, 1976). The affirmative obligations contained were confirmed by the U.N. Human Rights Committee when it interpreted the ICCPR as obligating states to take measures to prevent violations of the enumerated rights by state and private actors. U.N. Human Rights Comm., *General Comment 31, Nature of the General Legal Obligation on States Parties to the Convention*, ¶ 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (Mar. 29, 2004).

⁹² International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI) at 49, U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1967).

⁹³ Convention on the Rights of the Child, G.A. Res. 44/25, at 167, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (Nov. 20, 1989).

⁹⁴ See Inter-Am. Ct. of Hum. Rts., *Advisory Opinion OC-17 on the Juridical Condition and Human Rights of the Child*, *supra* note 81, at 29-30.

⁹⁵ The United States has signed, but not ratified, the CRC. Don S. Browning, *The United Nations Convention on the Right of the Child: Should It Be Ratified and Why?*, 20 Emory Int’l. L. Rev. 157, 157 (2006).

⁹⁶ *Id.* ¶ 137(1).

ratified international treaty in human rights history.⁹⁷ The continued practice and general acquiescence to the CRC and its provisions by other states is further manifested by state decisions to change their own legislation to provide comprehensive protection to children.⁹⁸ OAS Member States including Argentina, Chile, Mexico, Nicaragua, and Panama have provided constitutional language mandating that priority be given in domestic law to the CRC.⁹⁹

73. More importantly, the United States Supreme Court recently cited the CRC in its decision to abolish capital punishment for people under the age of 18.¹⁰⁰ In that case, the Supreme Court referred to foreign and international law as “relevant to its assessment of evolving standards of decency” and recognized “this Nation’s evolving understanding of human dignity certainly is neither wholly isolated from, nor inherently at odds with, the values prevailing in other countries.”¹⁰¹

74. In interpreting the rights of children guaranteed under the American Declaration and the American Convention, in the *Street Children* case, the Inter-American Court explicitly included the CRC as a customary norm of international law.¹⁰² The Inter-American Court has explicitly stated that “[b]oth the American Convention and the Convention on the Rights of the Child form part of a very comprehensive international *corpus juris* for the protection of the child ... (that) help establish the content and scope of Article 19 of the American Convention.”¹⁰³

75. Consequently, the United States’ fulfillment of its obligations to children under the American Declaration should also be examined in light of the affirmative obligations included in these United Nations instruments.¹⁰⁴ The Inter-American Court has consistently espoused the views that in interpreting the obligations of states under a treaty such as the American Convention, “not only the agreements and instruments formally related to it should be taken into consideration, ... but also the system within which it is [inscribed].”¹⁰⁵

⁹⁷ Child Right Information Network, *Convention on the Rights of the Child*, available at http://www.crin.org/resources/treaties/CRC.asp?CatName_International+TreatyoftheUNMemberStates (Only the United States and Somalia have not ratified the treaty). Indeed, the Inter-American Court has specifically held that the American Declaration be interpreted under the precepts of the CRC. See *Villagran Morales Case (The “Street Children” Case)*, 1999 Inter-Am. Ct. H.R. (ser. C) No. 63, 45-48 (Nov. 19, 1999).

⁹⁸ See Inter-Am. Ct. of Human Rights, *Advisory Opinion OC-17 on the Juridical Condition and Human Rights of the Child*, *supra* note 82, at 5.

⁹⁹ See Alston & Tobin, *supra* note 81.

¹⁰⁰ See *Roper v. Simmons*, 543 U.S. 551, 576 (2005).

¹⁰¹ *Id.* at 604-05.

¹⁰² See *Villagran*, 1999 Inter-Am. Ct. H.R. at 45 (recalling the text of Articles 2, 3, 6, 20, 27, and 37 of the CRC).

¹⁰³ See *id.* at 46.

¹⁰⁴ See *id.*

¹⁰⁵ *Id.* at 45 (citing Inter-Am. Ct. Hum. Rts., *Advisory Opinion OC-16 /No. 16/Ser.A/ on The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law* ¶ 113 (1999)); see also Uche U. Ewelukwa, *Litigating the Rights of Street Children in Regional or International Fora: Trends, Options, Barriers, and Breakthroughs*, 9 Yale Hum. Rts. & Dev. L. J. 85, 102-03 (2006)

76. These United Nations instruments make clear that the right of children to be protected from violence is a cornerstone of the United Nations definitions and determinations of human rights and the United States should be required to recognize this principle and provide protection. This enhances the Inter-American obligations, making clear that the United States has a duty to ensure children's rights are protected within its borders.

C. Other Regional Human Rights Instruments Likewise Require Affirmative Measures to Protect Children.

77. As in the Inter-American system and applicable United Nations instruments, other international bodies and laws also affirmatively protect children from abuse and violence. These universal and regional human rights instruments (analogous to the Declaration Article VII) have been specifically interpreted to require nation states to protect the human rights of the child. The Commission should also view these determinations as instructive in finding the United States failed to comply with Article VII.

78. For example, the European Convention for the Protection of Human Rights and Fundamental Freedoms requires all state parties to ensure broad protection from abuse for all people, and in particular children.¹⁰⁶ Article 3 of the Convention provides "No one shall be subjected to torture or to inhumane or degrading treatment or punishment." The European Court of Human Rights has interpreted this provision as imposing a duty on its Member States to protect children from abuse.¹⁰⁷ The Court has stated that Article 3 requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment, including such ill-treatment administered by private individuals.¹⁰⁸ These measures should provide effective protection, in particular, of children and other vulnerable persons, and include reasonable steps to prevent ill-treatment of which authorities had or ought to have had knowledge.¹⁰⁹ Thus a failure, over four and a half years, to protect children from serious neglect and abuse of which local authorities were aware evidenced a constituted a breach of Article 3 of the Convention in the case of *Z and Others v. the United Kingdom*, [GC] no. 29392/95, ECHR 2001-V, § 74-75.¹¹⁰

79. In finding a violation of the Convention in a case where state authorities failed to take action on domestic violence, the European Court stated that the test was whether

(footnote continued from previous page)

(supporting the Inter-American Court's practice of evolutive interpretation that allows the court to use outside sources of law in interpreting the treaty upon which a human rights body is based).

¹⁰⁶ European Convention for the Protection of Human Rights and Fundamental Freedoms, *opened for signature* Nov. 4, 1950, 213 U.N.T.S. 221 (*entered into force* Sept. 3, 1953).

¹⁰⁷ See *E and Others v. UK*, App. No. 33218/96, 2002 Eur. Ct. H.R. ¶¶ 88-101, *available at* <http://www.bailii.org/eu/cases/ECHR/2002/769.html>.

¹⁰⁸ See *A v. UK*, Case No. 100/1997/884/1096, 1998 Eur. Ct. H.R., *Report of Judgments and Decisions* 1998-VI, p. 2699, § 22.

¹⁰⁹ *Osman v. UK*, App. No. 23452/94, 1998 Eur. Ct. H.R. 101, *Reports of Judgment and Decisions*, 1998-VI, § 116.

¹¹⁰ *E and Others v. UK*, *supra* note 106, ¶ 88.

the State “was, or ought to have been, aware that the [children] applicants were suffering or at risk of abuse and, if so, whether they took the steps reasonably available to them to protect them from that abuse.”¹¹¹

80. Likewise, the African Charter on the Rights and Welfare of the Child also affords children special protections. The Charter recognizes that “the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding” and that “the child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and require legal protection in conditions of freedom, dignity and security.”¹¹²

81. The Charter further obligates the Member States to “recognize the rights, freedoms and duties enshrined in this Charter ...” and to undertake “the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.”¹¹³

82. Finally, the Charter establishes the African Committee of Experts on the Rights and Welfare of the Child to monitor and ensure protection of the rights enshrined in the Charter. This body has focused on several important actions: (1) declaring June 16 as the “Day of the African Child”; (2) holding hearings and deliberations, which have resulted in adopting rules of procedure and guidelines for reporting and communication; and (3) going on missions of advocacy and investigation to states that have adopted the CRC and urging their participation in the African Charter.¹¹⁴ The Committee has been partnering with nongovernmental organizations to effect change in the various states and regions.

83. Universal and regional human right laws therefore support a finding that Article VII affords special protections for the human rights of children. Universal and regional human rights instruments, like Article VII of the American Declaration, afford special protection for the human rights of children and require that states provide particular care to children and protect them from harm and abuse.

D. Affirmative Obligations to Protect Children’s Rights Should Be Interpreted in Light of State Practices Which Affirmatively Protect Children’s Rights.

84. Countries throughout the world have taken proactive steps to ensure that the human rights of their children are protected. Most commonly, countries have set up independent human rights institutions for children through Children’s Rights

¹¹¹ *Id.*, ¶ 91.

¹¹² Charter on the Rights and Welfare of the African Child, Preamble, *adopted* July 11, 1990, OAU Doc. CAB/LEG/24.9/49 (*entered into force* Nov. 29, 1999).

¹¹³ *Id.* art. 1(1).

¹¹⁴ Children’s Rights Information Network, *A Generation On: Enforcing Children’s Rights* 20-21 (2007).

Commissioners or Ombudsmen. The Commissioners and Ombudsmen serve various functions in each country, but are generally responsible for lobbying the government for legislation necessary to ensure the protection of children's rights. In some instances, children may bring their claims directly to the Ombudsmen who have the power to adjudicate.¹¹⁵ Other Ombudsmen act as advocates for children within the general court system.¹¹⁶

85. Other countries have gone beyond developing independent institutions to adopt specific legislation that protects the rights of children. For example, Northern Ireland, in addition to an Ombudsman, has established a National Children's Office, National Children's Advisory Counsel, and the Office of Minister for Children.¹¹⁷ Additionally, Northern Ireland has created the National Children's Strategy, a 10-year plan to ensure: (1) that children will have a voice in matters which affect them; (2) enhancement of children's lives through research regarding their needs, rights and effectiveness of services; and (3) that children will receive support and services to assist their development.¹¹⁸ The country has also adopted several other pieces of legislation specifically targeting children's rights and needs.¹¹⁹ South Africa has included specific rights for children in its Constitution's Bill of Rights, which includes that "Every child has a right ... to be protected from maltreatment, neglect, abuse or degradation." The South African Constitutional Court has held that these provisions are not merely interpretive principles, but actual rights.¹²⁰

IV. THE UNITED STATES DOES NOT ADEQUATELY PROTECT THE HUMAN RIGHTS OF CHILD VICTIMS OF DOMESTIC VIOLENCE.

86. Far from providing the "enhanced" protection for children's rights required by the applicable provisions of the CRC, the American Declaration, the American Convention, and customary international law, the United States has failed to guarantee its children one of the most basic human rights: the right to protection from physical and mental violence. As a consequence of this failure, studies show that millions of children, like Rebecca, Katheryn and Leslie Gonzales, bear the physical brunt, and in the absence of physical abuse, the long-term psychological damage resulting from exposure to domestic violence.

87. There is little doubt that Article VII, as interpreted under international law, obligates the United States to ensure that its children are affirmatively protected from harm. Unfortunately, the United States has consistently failed to honor that obligation.

¹¹⁵ *Id.* at 12.

¹¹⁶ *Id.*

¹¹⁷ U.N. Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention on the Rights of the Child, Concluding Observations: Ireland 2* (2006).

¹¹⁸ Office of the Minister for Children, *National Children's Safety Strategy 2000-2010*, <http://www.omc.gov.ie/viewtxt.asp?fn=%2Fdocuments%2FAboutus%2Fstrat.htm>.

¹¹⁹ U.N. Comm. on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention on the Rights of the Child, Concluding Observations: Ireland*, *supra* note 116, at 1.

¹²⁰ *Minister of Welfare and Population Development v. Fitzpatrick and Others* 2000 (3) SA 422 (CC) (S. Afr.).

As evidenced by *DeShaney* and *Gonzales* the United States is simply unwilling to recognize this obligation.¹²¹ Even if the right were recognized, the United States has refused to create a legal system that adequately holds the authorities that would be charged with protecting that right (e.g., the police and child welfare officials) accountable for their refusal to protect the health and safety of children throughout the country.¹²² Moreover, the United States has failed to uphold its duties by not providing a legal system that focuses on the impact of domestic violence on child victims. The United States should be held internationally accountable for these failures.

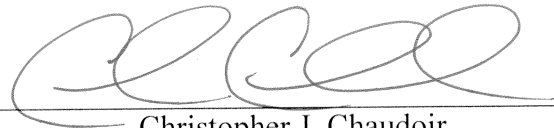
CONCLUSION

88. The United States, like all OAS Member States, has an obligation to protect victims of domestic violence. The Commission should therefore recognize the affirmative duties of states, pursuant to the American Declaration, to exercise due diligence to prevent, investigate, punish, and remedy domestic violence. The Commission should evaluate the United States' compliance with its international obligations in light of this affirmative duty of due diligence.

89. We urge the Commission to render its recommendations in accordance with the above principles in declaring that the United States, through failing to exercise due diligence to protect the lives of Rebecca, Katheryn, and Leslie in the case of Jessica Gonzales, has violated its obligations under the American Declaration. We request that the Commission grant Ms. Gonzales relief that will reinforce the United States obligations under the American Declaration.

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¹²¹ See, e.g., *Fonseca v. Brazil*, Case 11.634, Inter-Am. C.H.R., Report No. 33/04, OEA/Ser.L/V/II.122 doc. 5 rev. 1 at 845 (2004); *Domingues v. United States*, Case 12.285, Inter-Am. C.H.R., Report No. 62/02, doc. 5 rev. 1 at 913, ¶ 83 (2002); see also G. Kristian Miccio, *With All Due Deliberate Care: Using International Law and the Federal Violence Against Women Act to Locate the Contours of State Responsibility for Violence Against Mothers in an Age of DeShaney*, 29 Colum. Hum. Rts. L. Rev 641, 655-68 (1998) (arguing that international instruments create requirements of affirmative action by the Member States).

¹²² The Supreme Court in *Gonzales* invited states to institute legal remedies for children victimized as a result of the authorities' failure to intervene and protect them from injury by their parent or caretaker. *Gonzales*, 545 U.S. at 768-69.

**APPENDIX A
AMICUS ORGANIZATIONS**

BREAK THE CYCLE

Break the Cycle is an innovative national nonprofit organization whose mission is to engage, educate, and empower youth to build lives and communities free from domestic and dating violence. Break the Cycle achieves this mission through national efforts to affect public policy, legal systems and support systems through training, technical assistance and advocacy. Further, Break the Cycle works directly with young people, ages 12 to 24, providing them with preventive education, free legal services, advocacy and support. Break the Cycle's early intervention legal services offer sensitive, confidential and free legal advice, counsel and representation to young people who are experiencing abuse in their relationships or homes in protective order cases and related family law matters. Break the Cycle envisions a world in which young people are empowered with the rights, knowledge and tools to achieve healthy, nonviolent relationships and homes. It is only through partnership with governmental agencies who work to protect the public that individuals can exercise their rights to live free from violence (www.breakthecycle.org).

**THE CHILDREN'S RIGHTS PROJECT OF THE PUBLIC COUNSEL LAW
CENTER**

Established in 1970, Public Counsel provides free assistance to the most vulnerable members of society including abused and neglected children, victims of domestic violence, the homeless, the elderly and the disabled. Public Counsel's largest project, the Children's Rights Project, is dedicated to assisting the children and youth in our community. The multidisciplinary project utilizes the services of lawyers, social workers, psychologists, students, teachers and many other volunteers to assist a wide variety of at-risk children. These include children who are in or aging out of the foster care system, indigent youth who must overcome learning, physical, and mental health disabilities, and children who are tragically homeless on the streets. In 2007, the Project helped more than 6,000 vulnerable children and at-risk youth.

COALITION AGAINST CHILD ABUSE AND NEGLECT (CCAN)

The mission of the Coalition Against Child Abuse & Neglect (CCAN) is to protect children against abuse and neglect with compassionate support and innovative professional programs and services. Through advocacy, education, and direct services, including victims' peer support groups and mental health services, CCAN serves as voice for all children. It was founded in 1979.

**DOMESTIC VIOLENCE LEGAL EMPOWERMENT APPEALS PROJECT (DV
LEAP)**

The Domestic Violence Legal Empowerment and Appeals Project (DV LEAP) was founded in 2003 by one of the nation's leading domestic violence lawyers to further the civil rights of battered women and children through appellate litigation. DV LEAP's

long-term goal is to change the culture of the trial courts hearing domestic violence cases – by establishing strong precedents affirming the rights of victims of abuse, while implementing those rights and ensuring fair processes in the trial courts through regular appellate review. Despite numerous legislative and policy reforms designed to protect victims of domestic violence, many women and children are denied legal protections in court. Appellate review has been remarkably successful in correcting trial court errors, but appeals have been extremely rare, due both to their expense, and the need for scarce appellate and domestic violence expertise. Systematic and sophisticated appellate litigation is critically needed to protect the legal rights of and provide safety and justice for victims of domestic violence. DV LEAP fills this vacuum for victims of abuse by providing *pro bono* appeals, training and strategic assistance to lawyers and courts. DV LEAP is a partnership of the George Washington University Law School and a network of participating law firms.

FAMILY VIOLENCE PREVENTION FUND

The Family Violence Prevention Fund (FVPPF) is a national non-profit organization, founded in 1980 and incorporated in the state of California, that works to end violence against women and children. The FVPPF mobilizes concerned individuals, children's groups, allied professionals, women's rights, civil rights, and other social justice organizations to join the campaign to end violence through public education/prevention campaigns, public policy reform, model training, advocacy programs, and organizing. The FVPPF operates the following programs in support of families:

- Child Welfare. Developing programs for Child Protective Services to enable them to assist families in which both child abuse and domestic violence are occurring.
- Children Exposed to Violence. Developing policy that supports resources for services to children who have grown up in violent homes, and their parents.
- Fathering After Violence. Developing strategies for working with fathers who have been violent, or who are at risk for becoming violent, to assist them in improving their parenting and ending their violence.
- Judicial. Educating judges nationwide on the criminal and civil aspects of domestic violence, including the safety and protection of battered women and their children.
- Health Care. Teaching healthcare providers in community health centers, clinics, hospitals, and HMOs throughout the country how to screen for, and intervene with, patients who have experienced abuse.
- American Indian/Alaskan Native project. Developing culturally appropriate healthcare-based prevention efforts in six Native American/Alaskan Native communities.

HUMAN RIGHTS WATCH

Human Rights Watch is the largest human rights organization based in the United States. Founded in 1978 as Helsinki Watch to monitor the compliance of Soviet bloc countries with the human rights provisions of the landmark Helsinki Accords, today Human Rights Watch conducts fact-finding investigations into human rights abuses in all regions of the world and regularly publishes those findings. Human Rights Watch believes that

international standards of human rights apply to all people equally, and that sharp vigilance and timely protest can prevent the tragedies of the twentieth century from recurring. Human Rights Watch is an independent, nongovernmental organization, supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly.

ILLINOIS CLEMENCY PROJECT FOR BATTERED WOMEN

The Illinois Clemency Project for Battered Women has 1993 represented women in prison in Illinois for fighting back against an abusive partner. We have filed approximately 60 clemency petitions, and 13 women have been freed from prison as a result of our work. We are an organization of volunteer lawyers, law students, feminist law professors, and domestic violence advocates.

INMOTION

Since 1993, inMotion has helped thousands of women free themselves from abusive relationships, stay in their homes and win the financial support to which they—and their children—are legally entitled. Our mission is to make a real and lasting difference in the lives of women—low-income, under-served, abused—by offering them legal and social services designed to foster equal access to justice and an empowered approach to life. We fulfill our mission by providing free legal services, primarily in the areas of matrimonial, family and immigration law, and intensive social work support in a way that acknowledges mutual respect, encourages personal growth, and nurtures individual and collective strength. Informed by this work, inMotion promotes policies that make our society more responsive to the legal issues confronting the women we serve.

JUSTICE FOR CHILDREN (JFC)

Justice for Children (JFC) is a national child advocacy organizations. Our mission is to raise the consciousness of our society about the failure of our governmental agencies to protect victims of child abuse, to provide legal advocacy for abused children and to develop and implement collaborative solutions to enhance the quality of life for these children. JFC's first and only priority is protection of children.

MEN STOPPING VIOLENCE

Men Stopping Violence is a social change organization dedicated to ending men's violence against women. MSV works locally and nationally to dismantle belief systems, social structures, and institutional practices that oppress women and children and dehumanize men themselves. We look to the violence against women's movement to keep the reality of the problem and the vision of the solution before us. We believe that all forms of oppression are interconnected. Social justice work in the areas of race, class, gender, age, and sexual orientation are all critical to ending violence against women. Today most of our work centers on identifying, education and working with male allies to address violence against women.

NASSAU COUNTY COALITION AGAINST DOMESTIC VIOLENCE, INC.

The Nassau County Coalition Against Domestic Violence (NCCADV) provides comprehensive services to victims of domestic/dating violence and rape/sexual assault. We operate a 24-hour Domestic/Dating Violence and Rape/Sexual Assault Hotlines, as well as the only shelter for domestic violence victims and their children. Direct services include the hotline, crisis intervention, counseling, advocacy, legal assistance, emergency and transitional housing, elder abuse services and programs for children who are witnesses of domestic violence. The Coalition works in schools and in the community to increase public awareness, train professionals, promote needed system changes, and ensure social accountability and responsiveness in identifying and assisting victims.

PACE WOMEN'S JUSTICE CENTER

In 1991, the Pace Women's Justice Center of Pace University School of Law was founded as the first academic legal center in the country devoted to training attorneys and others in the community on domestic violence issues. The Center has since grown to be a highly respected, multi-faceted training, resource and legal services center dedicated to providing domestic violence victims and survivors, the elderly, women with low income, survivors of sexual assault, and children the education and legal tools they need to stop violence against women, seek economic justice, empower the underrepresented, and save lives.

ROCKLAND FAMILY SHELTER

A privately operated, grassroots organization, Rockland Family Shelter (RFS) is dedicated to ending violence in the lives of women and children. Incorporated in 1978, its mission is to create a society free of violence where all individuals are empowered to live with dignity and without fear. RFS services include a 24-hour crisis hotline, an emergency shelter for survivors of sexual assault and domestic violence, a legal program providing critically needed representation to women in local courts and numerous education and outreach programs. In a society where gender-based violence is an historically rooted and pervasive reality, RFS is committed to offering services that are relevant and respectful of the many diverse communities within Rockland County NY.

SAFEHOUSE CENTER

SafeHouse Center is a non-profit organization dedicated to ending domestic violence and sexual assault in Washtenaw County, Michigan. SafeHouse provides free and confidential services for any person victimized that lives or works in Washtenaw County. Our programs include counseling, court accompaniment, information and referrals, emergency shelter and personal advocacy.

SOUTH CAROLINA COALITION AGAINST DOMESTIC VIOLENCE AND SEXUAL ABUSE (SCCADVASA)

The South Carolina Coalition Against Domestic Violence and Sexual Assault (SCCADVASA) is a not-for-profit organization incorporated in South Carolina in 1981.

SCCADVASA is a coalition formed by organizations and individuals advocating for women facing violence in any of its manifestations. We are actively involved in facilitating communication between organizations, strengthening them and serving as a collective voice in denouncing oppression, gender discrimination and generating creative, sensitive and efficient solutions. We are a network of 23 organizations, all of whom serve victims of domestic and sexual violence. SCCADVASA has a long history of working at the state and national level, serving as a “voice” for battered women and their children and those who provide direct services to them.

**WILLAMETTE UNIVERSITY COLLEGE OF LAW CHILD AND FAMILY
ADVOCACY CLINIC**

The Child & Family Advocacy Clinic at Willamette University College of Law is devoted to the protection of children and families around the world. The faculty and students work to advance legal protections that provide stability to the family structure and nurture children’s healthy development, as well as pro bono legal representation to individual children and families in crisis.