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**From the Cradle to the Grave: The Lifelong Criminalization
of Survivors of Gender-Based Violence**

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From the Cradle to the Grave: The Lifelong Criminalization of Survivors of Gender-Based Violence

I. Introduction

1. This Submission describes the human rights violations experienced by women implicated in the criminal legal system. It focuses on criminalized survivors whose status as “offender” overlaps with and is often directly related to their experiences as a victim.¹ It highlights the scope of this crisis, tracing the criminalization of survivors across their lifespans.

2. Over the past two decades, the number of women who have been incarcerated has increased by more than 585%.² Black and Latina women have been disproportionately imprisoned compared with white women.³ Many of these women have suffered intimate partner violence (IPV). It is estimated that up to 75% have suffered brain injuries.⁴

3. Survivors are deprived of effective responses from state officials to prevent and address IPV. Most state laws preclude women from a meaningful opportunity to assert self-defense during prosecution.⁵ If convicted, they have few opportunities to offer evidence to mitigate their sentences. Once sentenced to prison, they suffer discriminatory and degrading conditions. Upon release, they are denied gender-responsive reentry programming.

4. These conditions violate human rights treaties to which the U.S. is obligated to respect.⁶ The U.S. has failed to observe the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) which supplement the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the Tokyo Rules on Alternatives to Imprisonment that set forth standards to protect women in criminal legal systems. The U.S. has failed to enact past recommendations from the Human Rights Council or UN Special Rapporteur Reports.

II. Data and Background Information

A. Rising Incarceration Rates of Women

5. Nationally, women’s incarceration has gone up twice the pace of men. The Department of Justice reports that the number of women under the jurisdiction of correctional authorities increased in four-fifths of the states in recent years.⁷ In North Carolina, there has been a 1,067% increase of women in jails, and 386% increase of women in prisons over the last few decades.⁸ Girls now constitute a growing proportion of all teen arrests.⁹

B. Racial disparities with regard to the number of incarcerated women

6. Black and Latina women are disproportionately imprisoned compared with white women.¹⁰ Black, American Indian, and Alaska Native women are overrepresented in state and federal prisons.¹¹ These disproportionate numbers are driven by structural racism, which creates burdens for these women in their efforts to obtain stable housing, living wages, health care, and

other provisions of the social contract. Structural racism contributes to biased actions throughout the criminal system including racial profiling, arrests, bail determinations, and sentencing.¹²

C. Significant numbers of incarcerated women with IPV histories

7. It is estimated that upwards of 70% of incarcerated women have been victims of IPV.¹³ Most violent crimes for which women are convicted derive from self-defense or defense of children. A recent study suggests that 74% of women incarcerated for murder or manslaughter had experienced IPV within a year before the killing.¹⁴ Survivors are implicated in drug related crimes, often because they are coerced into selling drugs by an abusive partner, possess illegal substances as a means of self-medication, or because their employability has been diminished because of abuse.¹⁵ Abusers force survivors to participate in the illegal purchase and possession of firearms, violent crimes against third parties, trafficking-related offenses, and property crimes. Women are frequently charged with crimes against their children for “failing to protect” them from an abusive partner’s violence.

D. Significant Numbers of Survivors with Brain Injuries (BI).

8. Studies have found that up to 75% of IPV victims have suffered a BI.¹⁶ A recent study in California found that approximately one-third of survey respondents had been strangled more than once in the year before the killing.¹⁷ Other violent behaviors like slapping, shoving, or pushing can lead to BIs, which often result in overwhelming feelings of mood swings, overreaction and acts of rage.¹⁸ As a result, brain injured survivors may exhibit criminalized behaviors.¹⁹ Women who have been convicted of a violent crime are more likely to have sustained a pre-crime BI than other populations; one study found a mean of two BIs with loss of consciousness per individual.²⁰ Yet, due to gender bias that affects existing research (focusing on contact sports and military service), few resources have been allocated to identifying and responding BIs in women.²¹ When BIs occur in intimate relationships, they are often ignored.²² Social interaction, planning and follow-through are challenging for those with BIs, making it hard to maintain employment and housing or make use of services after conviction.²³

III. The Criminalized Survivor: Prison Pregnancies, Babies, and Girls

A. Born Behind Bars

9. More reproductive-aged women are incarcerated in the U.S. than anywhere else in the world.²⁴ Approximately 4% of women entering prison are pregnant,²⁵ roughly 55,000 pregnancy admissions annually.²⁶ An increasing number of babies (roughly 2000 annually) have been born behind bars, many to women who are IPV survivors.²⁷ Mandatory sentencing, mandatory minimums, and the refusal to consider caretaking responsibilities as a basis for downward departures in sentencing have contributed to the mass incarceration of mothers who are survivors of GBV.

10. KS’s case illustrates the violations pregnant women suffer due to mandatory minimum sentences where an abuser’s duress and control are not considered by the courts.²⁸ At age 18, Ms. S began dating an abusive drug dealer.²⁹ Although she never sold or used drugs, and

carried them only under duress, federal prosecutors charged her with conspiracy to distribute cocaine.³⁰ Ms. S, who was seven months pregnant, was sentenced to 24 years under harsh mandatory minimum drug sentencing laws, with no chance for parole. She gave birth in prison while shackled to a bed; two days later, her son was taken away, and she was sent back to a prison cell.³¹ Although she had no previous criminal convictions, she served over six years before her sentence was commuted.³²

B. Prison Pipelines: Sexual Abuse to Prison Pipeline, Family and Child Welfare Systems

11. The criminalization of girls who have experienced GBV and trafficking begins with the failure to identify survivors. *Per se* sex trafficking victims are often arrested on prostitution charges, truancy, or for running away. Implementation of “safe harbor statutes,” enacted to avoid prosecution of child victims of sex trafficking, has been spotty. Girls face status offense charges because authorities fail to consider that the root cause of the behavior is often GBV.³³

12. Adolescent girls may face false reporting charges when reporting sexual violence to police who may not believe them. This is particularly true for girls of color, who may be viewed as being more adult-like than white girls of the same age and thus do not merit the same compassion and protection. Girls may be less likely to know their rights or to assess their risk of arrest when, in an understandable change of heart given the hostile response by police officers, they decide to drop the charges and (falsely) admit that the assault never happened.³⁴

13. Victims of IPV face difficult decisions about how to protect their children and themselves, and often have few options. If they are able to end their relationship and flee with their children, their partners can allege “parental kidnapping” or another crime related to the deprivation of the other parent’s rights to their children. If they do not or cannot separate from their abusers, they may be charged with child abuse for “failing to protect” their children from their abuser’s violence. This dangerous “catch-22” means that no matter what choice a survivor makes with regards to her children, she finds herself facing multiple dangers from her partner and from systems that should be protecting her.³⁵ For the children of victimized mothers, this may mean a lifetime of involuntary enmeshment in both criminal and civil legal systems.

IV. Barriers to Seeking Help

A. The Criminalization of Victims and Its Impact on Seeking Help

14. Criminalization becomes a bar to seeking help, particularly in marginalized communities where police are often a source of harm rather than protection. Race, immigration status, gender identity, and economic vulnerability compound the obstacles survivors face. Distrust of the system denies survivors the support they need and reinforces the cycles of violence and oppression that criminalization claims to address.

15. Mandatory arrest laws have led to a significant increase in the arrests of survivors, notwithstanding the passage of primary aggressor laws. Even if there are no mandatory arrest laws, survivors are frequently arrested when they inflict self-defensive injuries or when their partners are able to persuade police that she was the aggressor.³⁶

16. Victims of violence risk being prosecuted for perjury, obstruction of justice, or false reporting if they decline to participate in prosecution. Prosecutors use material witness warrants to jail survivors who have indicated that they will not testify.³⁷ This coercive legal framework discourages victims from engaging with law enforcement, thereby reinforcing their silence and isolation.³⁸

B. Immigration Barriers

17. Anti-immigrant laws, policies, and rhetoric, which have been on the rise, particularly under the Trump administration³⁹ have created unprecedented levels of fear among immigrant communities, discouraging victims from seeking help. Humanitarian protections such as asylum, and T and U Visas for victims of GBV are increasingly fragile.⁴⁰

V. Legal Deficits and Deficiencies

18. When survivors come into contact with the legal system—often as a result of acts of survival—their circumstances as victims of violence and trauma are systematically ignored. Survivors have very limited abilities to raise self-defense. Women who are coerced into committing a criminal act are often swept into prosecution under conspiracy laws or pressured plea deals with little regard to the duress under which they acted.

A. Exculpation concerns: Self-defense.

19. State laws often preclude a meaningful opportunity for women to claim self-defense. To successfully argue self-defense, she must show that she used force in response to a reasonable fear of imminent or immediate serious bodily harm or death, and that the force used was not disproportionate to the threat. Self-defense claims are not interpreted to consider the actual circumstances of a survivor.

20. No state laws treat self-defense as an affirmative defense to include contexts specific to GBV, other than in the trafficking context. Only a handful of states consider history of abuse relevant when establishing a defense of self-defense or duress.⁴¹ In North Carolina, case law interpreting the self-defense statute has gained notoriety for its unduly restrictive interpretation of the “imminence” factor that requires a reasonable belief that deadly force “is necessary to prevent imminent death of great bodily harm to himself or herself or another.”⁴² In *State v. Norman*, the domestic violence victim was convicted of a homicide committed in anticipation that upon awakening from a nap, her husband was going to kill her or force her to prostitute at a truck stop.⁴³ Although she had suffered horrific abuse for at least 20 years and had unsuccessfully attempted to flee on numerous occasions, her conviction was upheld based upon the court’s determination that she failed to demonstrate an imminent threat of great bodily harm.⁴⁴

21. The development of “Stand Your Ground” (SYG) laws, adopted in some 30 states, has complicated a survivor’s right to raise self-defense.⁴⁵ SYG laws expand the “Castle Doctrine” and remove the common law duty to retreat in public spaces, while extending immunity from prosecution or civil suit for the use of deadly force in self-defense beyond the home.⁴⁶ These

laws are applied in a discriminatory manner and harshly impact racial minorities, youth, and female survivors of IPV.⁴⁷

22. MA's case has become the emblematic SYG IPV case.⁴⁸ In 2011, Ms. A, an African-American woman, unsuccessfully tried to defend herself using Florida's SYG law. Ms. A was arrested after shooting upward into a wall during an altercation with her abusive husband, against whom she had a court-issued protection order. One shot was fired, and no one was injured. Although her husband assaulted and threatened to kill her before she fired the gun, Ms. A was denied SYG immunity and was convicted of three counts of aggravated assault with a deadly weapon without intent to kill.⁴⁹ She was sentenced to 20 years due to Florida's mandatory minimum sentencing law. Although granted a new trial, rather than face a second trial with a potential 60-year sentence, Ms. A accepted a plea deal in 2014.⁵⁰

B. Exculpation Concerns: Coerced Criminalization and Imputed Liability

23. Few state laws prevent prosecution for coerced criminalization, and those that do are limited to sex trafficking. The legal system has failed to recognize the power dynamics of duress, IPV and trafficking.⁵¹ Two examples from the state of Maryland demonstrate the lack of legal protections for survivors. RB, a woman who suffered egregious abuse, was forced to clean up and hide evidence after her partner killed a woman in her apartment.⁵² EP was forced to tie up two men who her boyfriend then robbed and shot after she left the premises. Both were convicted of first-degree murder for actions they were compelled to take.⁵³ Even if a survivor can show that they are acting under duress, that may not be sufficient to relieve them of criminal liability. Survivors of sex trafficking have been convicted of crimes related to their status as trafficking survivors.

24. Survivors are frequently held criminally responsible for failing to prevent their partners from inflicting injuries on their children. TH sought medical treatment for her infant child after noticing that his leg was swollen. Doctors found that the baby had a broken leg and that he and his sister both had broken ribs. Ms. H, who had been abused by her partner, was unaware that he was also harming the children. Ms. H's partner was charged with child abuse; Ms. H was charged with permitting child abuse. Throughout the proceedings, her partner threatened and abused her. Her partner pled guilty and was sentenced to two years imprisonment. Despite Ms. H's obvious fear of her partner and her reports that he was continuing to abuse even while in jail, her status as a survivor was dismissed by prosecutors and judge. She was sentenced to thirty years imprisonment.⁵⁴

25. Survivors may be prosecuted under felony murder laws when they are forced to commit felonies at the behest of abusive partners, which often carry a life sentence.⁵⁵ Many states hold a survivor criminally liable for any omission which results in harm to their child in circumstances where they are unable to leave an abuser or find it impossible to protect their children. For example, the Texas Penal Code authorizes the prosecution of a survivor where her "omissions" may contribute to the injury or death of her child, even when she may be unable to separate her child from the abuser.⁵⁶

C. Evidentiary Barriers and the Discrediting of Women's Experiences of GBV

26. Survivors face additional barriers related to bias in the courtroom and often have difficulties submitting evidence. Harmful myths and misconceptions about IPV taint the ability of factfinders to fairly and accurately assess the evidence presented.

27. The case of JS, on death row in California, is a textbook example of how prosecutors discredit and erase women's trauma in criminal cases.⁵⁷ JS had lived with her surrogate father and co-defendant, MT, for years by the time she was arrested.⁵⁸ MT vaginally, orally, and anally raped Ms S for the first time when she was fourteen years old.⁵⁹ He burned her with a cigarette, beat her, held a gun to her head, and strangled her.⁶⁰ Yet in the courtroom, prosecutors crafted an image of Snyder as a willing and loving participant to the relationship with MT, and dismissed the violence.⁶¹ Ms. S was convicted and sentenced to die. The prosecution's treatment of Ms. S reflects broader patterns of discrimination in cases where survivors encounter a gendered double bind when testifying. If she is emotional, she may be considered less than credible; if she is poised and in control, she does not fit the stereotype.⁶²

D. Sentencing concerns

28. Women who commit violent offences against their partners or other offenses related to ongoing IPV are often sentenced without consideration of their circumstances. If they must use a weapon in self-defense to overcome the abuser's size and strength advantage, they may face sentencing enhancement.⁶³ Threats by an abuser's family and friends, as well as her ingrained fear because of a history of abuse may prevent her from offering mitigating evidence.⁶⁴

29. North Carolina's laws provide an example of these injustices. North Carolina uses a rigid structured sentencing scheme that does not include mitigating factors related to a survivor's history of abuse.⁶⁵ North Carolina does not provide meaningful opportunities for sentencing hearings following a conviction. In many instances, sentences are imposed on the same day as the conviction, leaving little time for defense attorneys to present mitigating factors for fully informed sentencing decisions.⁶⁶

30. Criminalized survivors in Florida experience numerous harms in the sentencing phase of their cases.⁶⁷ MA's case is such an example: if prosecutors believe that there were "other alternatives" for survivors, however unreasonable such "alternatives" may be, such as leaving, prosecutors may ignore evidence of abuse and argue that the victim committed the crime intentionally and without remorse, resulting in a harsher sentence.⁶⁸

31. Sentencing enhancements, such as Florida's "10-20-Life" law, further increase prison terms for firearm-related crimes, sometimes producing excessive sentences without regard to the IPV context of the crime.⁶⁹ Judicial bias also poses a challenge. Implicit or explicit prejudices can influence sentencing decisions, particularly in cases involving race or socioeconomic status.⁷⁰ Florida, North Carolina, and many other states, do not have sentencing reduction laws related to the circumstances of survivors.

32. Death row cases are especially alarming. In a study examining 48 women on death row, researchers found that at least 96% of them had experienced GBV in their lifetimes.⁷¹ Nearly

90% had experienced sexual or physical violence, and more than 80% had suffered some form of psychological abuse.⁷² At least 79% of survivors on death row were abused by a family member; 74% suffered harm from intimate partners.⁷³

33. ML was six years old the first time she was sexually abused.⁷⁴ By the time Ms. L was sentenced to death in Texas, she had survived two violent intimate partners and given birth to twelve children.⁷⁵ When male officers interrogated her following the death of her daughter who died from a head injury suffered in a fall, Ms. L was in shock.⁷⁶ Exhausted and overwhelmed after five hours of questioning, Ms. L acquiesced to their accusations and stated, “I guess I did it.”⁷⁷ Yet instead of recognizing how trauma shaped her response, prosecutors fought to erase her past, objecting to expert testimony that could have explained the profound impact of lifelong violence.⁷⁸ The jury never heard how years of abuse, fear, and coercion had conditioned Ms. L to break under pressure.⁷⁹

34. Research shows that “gender stereotypes remain commonplace in women’s capital prosecutions.”⁸⁰ The case of MA, a Black woman who passed away on Florida’s death row, serves an example of intersectional discrimination. Ms. A survived constant physical and sexual abuse since childhood.⁸¹ At least three intimate partners beat her badly enough to cause her hospitalization.⁸² Yet, the defense failed to mention Ms. A’s history of IPV, arguing instead that she should not be put to death because of her “lifestyle,” and because she grew up in a “culture” of “drugs, thugs and violence”⁸³ which was responsible for her character development.⁸⁴

35. When these women stood trial, their trauma was discredited or actively used against them.⁸⁵ Courts, prosecutors, and defense attorneys must acknowledge the role of GBV in capital cases and take concrete steps to ensure justice for women who have survived abuse.⁸⁶ Defense attorneys must be trained to investigate and present evidence of survivors’ abuse and trauma, and prosecutors should be prevented from relying on gender stereotypes to prevent these repeat outcomes.⁸⁷

VI. The Aftermath of Conviction and Sentencing: Prison Conditions, and Reentry Injustice

A. Conditions of confinement

36. State and federal prisons, and local jails are noncompliant with human rights standards governing the treatment of prisoners and conditions of confinement. Moreover, the U.S. lacks an independent authority to monitor prison conditions, and there is no enforcement mechanism to bring prisons into compliance.⁸⁸

37. The use of solitary confinement continues to be widespread in jails and prisons.⁸⁹ TM, a formerly incarcerated woman at North Carolina Correctional Institute for Women (NCCIW), reported that people in solitary sleep on the floor, shower only once a week, and are released for one hour per day provided the staffing at the prison is sufficient to do so.⁹⁰ LL, a formerly incarcerated woman in North Carolina, reported that the officers at Surry County Jail limited detainees in the segregation unit to one hour of recreation per week.⁹¹ There are virtually no means of contacting the outside world while inside a segregated unit.⁹²

38. The practice of conducting invasive and dehumanizing strip searches remains prevalent in jails and prisons.⁹³ Strip searches are traumatic, particularly for women with a history of sexual abuse and violence.⁹⁴ Strip searches appear to be routinely used as a display of power rather than as a genuine means of uncovering contraband.⁹⁵

39. In North Carolina, women report being denied sufficient menstrual products or a change of bedclothes when they bleed on their sheets as a result.⁹⁶ Women on Rikers Island were forced to remove their tampons as part of strip search procedures.⁹⁷ One formerly incarcerated woman in North Carolina shared that an officer requested to see her menstrual pad and underwear, evoking traumatic memories from her previous abusive relationship.⁹⁸

40. Racial discrimination impacts conditions of incarceration for women in North Carolina. Multiple women from NCCIW reported favoritism from prison staff towards persons incarcerated of their same race and mistreatment towards those of a different race.⁹⁹ Staff members who verbally or physically abuse women face little to no repercussions.¹⁰⁰

41. Lack of medical care, poor sanitation, and overcrowding are dire threats.¹⁰¹ TM reported horrific conditions inside the prison during the height of the COVID-19 pandemic. Prisoners were confined to a single, non-airconditioned room for 52 days straight, served sandwiches with rotten meat, and given contaminated water from the janitor's closet. Ms. M noted that many women died because of the poor conditions and the staff's inability to manage the spread of the virus.¹⁰² She noted that access to medical care is limited even under "normal" conditions. Her mother, her fierce advocate, called the warden multiple times every day until the prison provided her with medical treatment. Ms. M indicated that absent her mother's intervention, she may not have received any care. She observed that the closer to one's release, the less likely they are to receive medical care.¹⁰³

42. Incarcerated women in Maryland face similar conditions. Health care is provided through a private, for-profit corporation that has been sued repeatedly for its numerous failures to provide adequate care. Mental health counseling services are severely restricted, and women report being taken off of psychiatric medications that they have taken for years. There is no hospice or adequate palliative care for people experiencing terminal or chronic, painful conditions.¹⁰⁴

43. There is no independent body at the federal or state level to assure compliance with human rights standards in U.S. jails and prisons. There is an insufficient allocation of funds to expand access to vital resources.

B. Reentry

44. Women exiting from prison face challenges in securing housing, economic support, employment, healthcare, navigating child custody arrangements and parenting supports.¹⁰⁵ Prisons do not provide adequate tools to women to help them to reenter society after their sentence.

45. While re-entry efforts within prisons should begin long before a person leaves prison,¹⁰⁶ the programs are often inaccessible and inadequate in preparing people for what to expect when they return home.¹⁰⁷ In North Carolina, formerly incarcerated women have reported that corrections staff do not provide consistent re-entry planning or support due to a lack of adequate

staffing and rapid employee turnover, and case managers often display apathetic or even punitive attitudes towards women seeking re-entry support.¹⁰⁸

46. For many survivors, the trauma of GBV may complicate their ability to reacclimate to life after incarceration.¹⁰⁹ Some women in North Carolina prisons reported a lack of mental health services, including counseling or peer support groups, to address the lasting trauma of violence.¹¹⁰ The failure to provide mental health services in prison, particularly for the effects of GBV, creates significant difficulties for survivors upon release.¹¹¹

47. Job training programs in prisons aim to equip people with skills and employment experience that they can utilize after their sentence. However, these programs are far less common in women's prisons, and often offer lower wages compared to those in men's prisons.¹¹² Survivors may be ineligible for work or training programs for a number of arbitrary reasons, for example, not having enough time left in a sentence.¹¹³

48. Prison programs are not designed with the practical, specific needs of incarcerated individuals who will leave the prison.¹¹⁴ Women in North Carolina prisons have suggested that mock interviews, resume building classes, parenting classes, and communication skills lessons would be beneficial for preparing them for release.¹¹⁵ Prisons often do not offer these resources and staff often fail to respond to those seeking those supports.¹¹⁶

49. Women face reentry issues that are often distinguishable from men who have been incarcerated.¹¹⁷ Although a recent North Carolina executive order establishes a Joint Reentry Council to develop a strategic plan and requires local reentry councils in every county, the order fails to include any specific directives to address the needs of women.¹¹⁸ As a result of the state's inadequate supports, reentry services for formerly incarcerated women are largely led by local nonprofit organizations.¹¹⁹ While many community-based groups offer essential services, they lack the capacity to provide many critical resources, such as housing assistance.¹²⁰ There is no centralized state reentry resource, making it difficult for women to access necessary support.¹²¹

50. There is no re-entry facility for women in Maryland, despite such services being provided for men. A 2021 law required the state to construct and operate a women's pre-release center in Baltimore City that would provide educational and occupational programs, parenting and family reunification programs, and other gender-responsive services. That facility was required to open by the end of 2023. The Department of Public Safety and Correctional Services has yet to even identify an appropriate site for the facility. New legislation is pending that would require the facility to be operational by 2027; it is unlikely that the legislation will pass.¹²²

51. Survivors may be designated as registered sex offenders for crimes like prostitution and for their participation in the trafficking, although such acts were a result of the trafficking or coercion.¹²³ A young woman named S fell victim to a man she met who initially posed as a caring protector but then coerced her into commercial sex work under threats of violence. After over a year of physical, sexual, and psychological abuse, and under the threat of death, S was forced to facilitate his trafficking operation. Although a victim herself who fully cooperated with prosecutors, she was convicted for conspiracy to commit federal law violations, sentenced

to five years' probation, and required to register as a sex offender, thus limiting her housing and employment options, her ability to vote, and causing never-ending stigma.¹²⁴

VII: Violations Viewed Through a Human Rights Lens

A. Treaties

52. As human rights bodies around the world have recognized, GBV is a human rights violation. It is not just a private matter taking place “by accident, or because of an in-born vulnerability,”¹²⁵ but rather, “is the result of structural, deep-rooted discrimination, which the state has an obligation to address.”¹²⁶ GBV undermines fundamental human rights to equality and non-discrimination,¹²⁷ life,¹²⁸ health,¹²⁹ security of person,¹³⁰ privacy,¹³¹ and freedom from torture and cruel, inhuman or degrading treatment.¹³² Criminalizing GBV survivors in the U.S. violates all of these rights—specifically the rights to life, liberty and security of person, equal protection/non-discrimination, due process and access to the courts, and the rights to family unity and the best interests of the child. When survivors act in self-defense or are coerced into criminal activities by abusers, they face prosecution rather than protection from the U.S. legal system. This practice directly contravenes fundamental principles established in international human rights treaties and instruments.¹³³

53. Black women and other women of color are disproportionately impacted by human rights violations in violation of the Convention on the Elimination of Racial Discrimination (CERD), which mandates that States Parties eliminate both direct and indirect forms of racial discrimination.¹³⁴ When applied to Black women survivors of GBV, CERD's General Recommendation No. 25 on gender-related dimensions of racial discrimination calls for the protection of women of color against intersecting forms of violence and discrimination.¹³⁵ A 2014 UN Shadow Report from Black Women's Blueprint highlights how U.S. policies and law enforcement practices disproportionately criminalize Black women survivors who defend themselves from IPV or sexual assault.¹³⁶

B. Bangkok rules

54. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) are most pertinent to the circumstances of criminalized survivors.¹³⁷ Article 2.1 of the Bangkok Rules prohibits any discrimination “on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status.”

55. Criminalized survivors face discrimination throughout the criminal legal system. Their circumstances as survivors of abuse are not accounted for, and are often used against them at arrest, trial, and sentencing, as in the cases of MA and MA, in contravention of provisions of the Bangkok Rules. Rule 57 calls for the history of victimization to be considered and alternatives developed to properly respond to incarcerated women. North Carolina is one example where laws and procedures do not include relevant mitigating factors for the court's consideration, as called for in Rule 61.

56. While incarcerated, women continue to suffer violations of the Bangkok Rules. Women from North Carolina report that upon admission, they have been denied clear information about prison protocol and access to legal advice as required by Rule 2.¹³⁸ Prisons fail to provide essential services and products to women prisoners such as clean water, food, clothing, menstrual products, medical screenings, mental health care, and substance use treatment (Rules 5-18).¹³⁹ Women are frequently subjected to physical violence, verbal abuse, and dehumanizing contact with prison staff, compounding their trauma (Rules 9-25). Prisons fail to conduct assessments and provide adequate rehabilitation programs and reintegration assistance, making adjusting to life after incarceration difficult (Rules 43-47).

57. The increase in incarceration rates of women in the U.S., overcrowding and understaffing of jails and prisons, and lack of adequate resources all contribute to the violations of the Bangkok Rules. Without an independent enforcement mechanism to monitor compliance, there is little hope that the U.S. will address these violations.

C. Special Rapporteur Reports, Prior Recommendations

58. Prior UPR Recommendations for the U.S. have focused on addressing the challenges that criminalized survivors face. These include addressing overcrowding in prisons, reducing mandatory minimum sentences, eliminating the death penalty, and revising sentences that equate to life imprisonment for non-violent crimes.¹⁴⁰

59. The UN Special Rapporteur on violence against women and girls has also issued several related reports. In 2012, the Commission focused on the prevalence of gender-related killings of women, many of which occur in IPV situations.¹⁴¹ The report on “Prostitution and violence against women and girls” cites violence against women as a cause of prostitution, arrest and prosecution, and incarceration of women and girls.¹⁴² Additionally, the report on “Custody, violence against women and children” links custody disputes with violent men to women being imprisoned for violating custodial rights and responsibilities.¹⁴³ The U.S. has yet to meaningfully address findings or comply with recommendations.

VIII. Final Recommendations

60. Comply with Recommendations from the UPR 3rd cycle- 36th session, United States of America, Thematic List of Recommendations.¹⁴⁴

- 26.163 Take further and more targeted measures to address the disproportionate impact of violence on the poor, minorities and immigrant women, and expedite the ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child (Botswana);
Source of Position: A/HRC/46/15/Add.1 - Para.20
- 26.220 Take measures to combat systemic racism and police violence against people of African descent (Togo);
Source of Position: A/HRC/46/15/Add.1 - Para.6
- 26.322 Prioritize services for preventing and responding to gender-based violence, including in institutional settings such as the penitentiary system (Greece);
Source of Position: A/HRC/46/15/Add.1 - Para.6

- 26.323 Vigorously continue measures directed at the elimination of violence against women and girls (Georgia);
Source of Position: A/HRC/46/15/Add.1 - Para.6

61. Comply with recommendations from the Inter-American Commission on Human Rights to provide:¹⁴⁵

- Access to health care, including mental health care
- Access to treatment to address substance dependence
- Access to shelter and/or housing
- Relocation programs
- Financial stability and a living wage
- Community support, support groups, hotlines
- Assistance with childcare
- Access to information about government services
- Access to education, including vocational training
- Access to affordable and convenient means of transportation
- Access to food and clothing
- Education about right to be free from GBV
- Legal assistance to navigate immigration system
- Help obtaining and securing identification documentation

62. We advance the following suggestions for recommendations to the U.S. to end the lifelong criminalization of survivors:

- Enact a federal vacatur law.¹⁴⁶
- Characterize victims as victims.¹⁴⁷
- Legal representation at all stages in criminal proceedings.¹⁴⁸
- Compensation for trafficking victims.¹⁴⁹
- Cease separating infants from mothers through community-based programs and alternative sentencing for victims who are pregnant or in the postpartum period.¹⁵⁰
- Restore voting rights for all felons.¹⁵¹
- Dismantle systemic obstacles to housing, employment, education, public assistance, and civic engagement.¹⁵²

IX Appendices

- 1. Contact Information: Primary Authors of the Report**
- 2. Survivor Stories: Violations of Human Rights**
- 3. List of supporting organizations**

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Appendix 1 — Contact Information: Primary Authors of the Report

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Cornell Law School, Cornell Center on the Death Penalty Worldwide

Professor Sandra Babcock, International Human Rights Clinic and Director, Wen Liang
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Center on Gender Justice & Opportunity, Georgetown University Law Center

Rebecca Epstein, Executive Director
600 New Jersey Avenue NW, Washington, DC 20001
<https://genderjusticeandopportunity.georgetown.edu/the-center/>

University of Maryland Francis King Carey School of Law, Gender, Prison, and Trauma Clinic,

Leigh Goodmark, Marjorie Cook Professor of Law and Director
500 W. Baltimore Street, Baltimore, MD 21201-1786
<https://www.law.umaryland.edu/academics/clinics/gender-prison-and-trauma-clinic/>

National Defense Center for Criminalized Survivors, Battered Women's Justice Project

Cindene Pezzell, Director
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<https://bwjp.org/our-work/national-defense-center-for-criminalized-survivors/>

Appendix 2 — Survivor Stories: Violations of Human Rights

From the Cradle to the Grave: The Lifelong Criminalization of Survivors of Gender-Based Violence

The following selected narratives give content to the circumstances described in the UPR Submission entitled “From the Cradle to the Grave: The Lifelong Criminalization of Survivors” as experienced by criminalized survivors. These narratives serve as examples of the suffering of the many survivors who have been denied their human rights. In each case, the survivors were implicated in the criminal legal system because of their efforts to survive, denied the full protection of the law to which they were entitled, and all the while, have persevered to tell their stories.

KS

In 1989, at age 18, KS began her freshman year at a prestigious historically Black university. The next year, she began dating a physically abusive man who was also a drug dealer. The tumultuous relationship impacted her studies and—although she never sold or used drugs and carried them only under duress—federal prosecutors charged her with conspiracy to distribute cocaine. Ms. S, who was seven months pregnant, was sentenced to 24 years in federal prison under harsh mandatory minimum drug sentencing laws, with no chance for parole. This was true despite the fact that she was a first-time, non-violent offender, was a victim of severe intimate partner violence (including threats to her and her family by a man who had recently killed someone), and was pregnant at the time of sentencing.

Ms. S was sent to prison before her son was born and gave birth while in prison while shackled to a bed. Two days later, her son was taken away, and she was sent back to a prison cell with a gorging breast and in extreme pain. In prison, far from her family’s home, she was unable to develop a relationship with her son.

Due to extensive advocacy over six years, Ms. S’s sentence was ultimately commuted by President Clinton in 2000. In 2025, President Biden fully pardoned Ms. S, thereby expunging her criminal record.

Ms. S’s case illustrates how mandatory minimum sentences harshly penalize women through the “girlfriend problem,” where women, often emotionally tied to drug-involved men but lacking information to trade for leniency, receive the same long sentences as the primary offenders.

LL

LL, a young woman from North Carolina, had been in and out of prison over a period of three years for charges related to drug addiction. While in Surry County Jail, she was accused of bringing in substances after her cellmate was found with drugs. Ms. L’s family had posted her bond, and she was a half hour from walking out the door when she found herself in the segregated unit. While in the segregated unit, Ms. L was unable to contact her family,

permitted to shower only once every three days, and allowed only one hour of recreation for the whole week.

For two weeks, Ms. L was kept in a “turtle suit,” otherwise known as an anti-suicide smock. Ms. L says she never made any threats to harm herself or others but was kept in the suit for purposes of punishment because of the animosity of the staff. While confined at North Carolina Correctional Institute for Women (NCCIW) in Raleigh, North Carolina, Ms. L was stunned by the racial prejudice she experienced.

Early on in her sentence at NCCIW, Ms. L was given an attempted escape charge and placed in solitary confinement for 35 days. She was told that she was not allowed to be in the area where she had been; however, she had not been made aware of the rules of the prison, and further, that the charging officer on duty was hostile toward her. While in solitary confinement, an experience defined as torture if held for more than 15 days, Ms. L was unable to communicate with her family and suffered anxiety and fear.

Ms. L often felt unsafe in prison, and she could not rely on the staff to take her concerns seriously. At one point, three other prisoners attacked her in the bathroom, cut her face with a razor blade, and made her remove all of her clothes. The officer on duty apparently knew it was going to happen and then made Ms. L clean up the bathroom afterwards. The trauma of the event was permanent.

MA

MA's case has become the emblematic SYG domestic violence case in the United States. In May 2011, Ms. A, an African-American woman, unsuccessfully tried to defend herself at trial using Florida's SYG law. Ms. A was arrested on August 1, 2010, after shooting upward into a wall during an altercation with her abusive husband, RG, against whom she had a court-issued injunction for protection. One shot was fired, and no one was injured. Despite the fact that RG assaulted Ms. A and threatened to kill her before she fired the gun, Ms. A was denied SYG immunity and was charged with three counts of aggravated assault with a deadly weapon without intent to kill. While the Florida statute allows an individual to defend oneself if he or she believes it is necessary to prevent death or great bodily injury, the trial court, in a ruling that advocates criticized as a misreading of the law, required that an individual must first suffer serious bodily injury in order to defend him or herself. Because Ms. A could not demonstrate that she suffered serious bodily injury at the time that she fired the shot, she was unable to claim self-defense. After twelve minutes of deliberation, a jury of six people convicted Ms. A of three counts of aggravated assault with a deadly weapon with no intent to harm. Her sentence was set at twenty years due to Florida's mandatory minimum sentencing law.

On appeal, the prosecutor announced she would seek three consecutive 20-year sentences rather than concurrent sentences. The appeals court judge determined that the previous ruling improperly required Ms. A to prove her husband had abused her, granting her a new trial. Rather than face a second trial with a potential 60-year sentence, Ms. A accepted a plea deal

in 2014. In January 2017, Ms. A was released after serving the house arrest portion of her sentence.

ME

ME fled to North Carolina to escape an abusive relationship with the father of her children. Shortly thereafter, she was charged with manslaughter and served four and a half years in prison for killing a family member who was found to be abusing her child. Over the course of her sentence, she was incarcerated in North Carolina Correctional Institute for Women, Neuse Correctional Institute and Anson Correctional Institute.

In reflecting on her experiences, Ms. E found prison to be incredibly isolating and dehumanizing. When she was admitted to NCCIW, she was subjected to a form of quarantine, unable to mix with the general population, unable to enter the yard or eat dinner with the general population. She recalled feeling immediately isolated and afraid. She found the disregard for her privacy to be another traumatic experience. Male guards regularly walked by while she was on the toilet or while in the shower—which was particularly traumatizing for her, as a victim of domestic violence and sexual assault. She recalled that she and other women were frequently denied menstrual products and were not allowed to shower every day while on their period. This was particularly difficult when she was held in solitary confinement, because she would bleed onto her clothing and bedclothes, and could only change her sheets or clothes once a week. Although she was diagnosed with post-traumatic stress disorder stemming from her experiences, she had no opportunity to seek individualized treatment or counseling while in prison. Her “treatment” was limited to meeting with a therapist once or twice a year, and only to refill medications.

Because she was frequently transferred from one prison to another, Ms. E did not have any opportunity to participate in jobs or educational programs. She observed that the women’s prison did not have nearly as many options as the men’s prisons. Many of the programs were inaccessible to a significant population, because jobs or other educational programs required that a person must not be too far off from her release date. Women who had infractions for disciplinary matters were also denied entrance into many of the programs even when their infractions are related to untreated mental health and trauma-related problems. Further, she noted that the programs offered in the prison system do not focus on what a person will need when they first return home from incarceration. She observed that recently released individual's needs are generally more immediate than what the prison offered in terms of reentry preparation such as securing housing, reconnecting with families, and developing financial stability and gaining employment. Domestic violence victims often require additional support in managing day-to-day stressors and recovering from trauma. Ms. E found that prison programs were not responsive to these needs, and that there were not enough prison staff to support individuals in their re-entry efforts.

In her own experience and her work with re-entry facilities, she has observed that the failure to provide mental health services has had a major impact on re-entry efforts. After being released, loud noises and unexpected touches from other people were often stressful, and she often experienced anxiety around groups of people and had difficulty sleeping. Until she was able to

start working on navigating these trauma responses, she was unable to progress forward with other needs.

In North Carolina, there are few reentry programs for women, and those that exist are underfunded, with limited capacity to house participants. Programs like Benevolence Farm, where Ms E now serves as a community advocacy director, often operate at full capacity, with waiting lists extending for years. Women leaving prison, especially mothers, face numerous barriers, including challenges in finding affordable childcare, which can threaten their job security and housing stability. Her own reentry experience was complicated by the difficulty of reuniting with her children, with the lack of support and the stigma from having a criminal record.

S's Story

S endured a difficult upbringing with parents struggling with mental illness, leading to her being forced out of her home as a teenager. After moving across the country with a partner who became abusive, she found herself struggling financially and eventually coerced into a trafficking situation, resulting in a prostitution conviction. With no way to clear her record, she was unable to secure stable employment and ended up working as an exotic dancer for over eleven years until she decided to enroll in community college. After attending school, she secured a job at a major corporation because the application only asked for the past seven years of criminal history. Just as she secured this position, her arrest photo surfaced on public websites, triggering severe anxiety and prompting her to change her name and taking steps to have her mugshot removed; years later, she learned about new legal protections offered by the State of Florida for trafficking survivors and fought through a grueling process to have her record vacated, finally allowing her to move forward without the weight of her past.

SM

After suffering a hamstring injury in 2004 that cost her athletic scholarship at St. John's University, Ms M sought ways to fund her tuition. In early 2005, she met CD, who initially posed as a caring protector but soon coerced her into commercial sex work under threats of violence. What began as exotic dancing escalated into a harrowing eighteen-month ordeal of physical, sexual, and psychological abuse, during which CD controlled Ms. M and other women through terror. Under the threat of death, Ms. M was forced to facilitate his trafficking operation by transporting other victims and collecting money, Ms. M was later indicted in 2007 for conspiracy to commit federal law violations. Despite being a victim herself and fully cooperating with federal prosecutors, she was convicted, sentenced to five years' probation, and required to register as a sex offender.

TD

TM was charged with voluntary manslaughter after she shot and killed her abusive ex-boyfriend. She was sentenced to and served 73 months in North Carolina Correctional Institution for Women. She felt the legal system failed to recognize her as a victim

of domestic violence, as her history of abuse was largely ignored in the prosecution and sentencing process.

Ms. M describes her entry into prison as terrifying. NCCIW was marked by severe neglect and harsh conditions which were further exacerbated by the COVID-19 pandemic. She did not receive any guidance on prison protocol, or access to legal advice—she was left to learn these things on her own. She was held in overcrowded conditions. She and other women were confined to a single room for 52 days with no access to the outside world. She and other women experienced food deprivation as a result of frequent significant food shortages. In summer months, there was no air conditioning or ventilation, and the harsh cleaning chemicals used in the prison she was forced to breathe felt suffocating and caused health problems.

The prison staff were largely indifferent to the needs of the prisoners. Many brought in drugs and engaged in or encouraged physical and verbal abuse. Ms. M recalls numerous instances of mistreatment, verbal abuse, and racially motivated violence that were committed or sanctioned by prison staff. Discipline within the prison was arbitrary and cruel. Ms. M was placed in solitary confinement and was denied air conditioning and other basic necessities. Infraction rules were selectively enforced. She also remembered feeling uncomfortable very often because of the lack of privacy. As a result of her history of abuse, she found the staff's personal searches and presence in private spaces triggering. On one occasion when she had had her menstrual period, a staff member demanded to see her sanitary pad. This caused her extreme trauma as it reminded her of her abusive ex-boyfriend.

Ms. M also recalled the difficulties of getting health care. She had experienced severe abuse in her prior relationship, as well as seizures and migraines as a result of head trauma that her ex-partner inflicted. She was deep in drug addiction, severely anemic, and needed hernia surgery when she first entered the prison. She had a difficult time getting medical exams, medications, and substance use treatment. Ms. M expressed that the only reason she thinks she received any care was because her mother called the prison daily until they acquiesced—and absent her mother's interventions, the prison would not have acted as quickly. She observed that the closer a woman would get to release, the less care they would receive. She witnessed many women die from their medical needs being neglected by the prison.

Ms. M participated in programs that were designed to help her reacclimate to outside life. While they were valuable, these programs were not available to all prospective participants, and she believes that they should be significantly expanded.

Appendix 3 – List of Supporting Organizations

From the Cradle to the Grave: The Lifelong Criminalization of Survivors of Gender-Based Violence

North Carolina Coalition Against Domestic Violence



Emancipate NC



The Taifa Group



Benevolence Farm



The Women's Fund Miami-Dade



North Carolina Coalition Against Sexual Assault

