

**women's rights
human rights**

international feminist perspectives

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may result in inferior nutrition, medical care, and education for female children), place women and girls at risk of violence. Eliminating the structural inequality that reinforces gender-based violence thus requires steps to ensure the underlying rights and to end discrimination with regard to those rights.

Notes

1. See, e.g., *Universal Declaration of Human Rights* (Universal Declaration), arts. 12, 16(3), G.A. Res. 217, UN Doc. A/810, at 71 (1948); *International Covenant on Civil and Political Rights*, (ICCPR), arts. 17(1), 23(1), December 16, 1966, 999 U.N.T.S. 171.
2. Women's Convention, G.A. Res. 34/180, December 18, 1979, UN GAOR, 34th Sess., Supp. No. 46, UN Doc. A/34/46 (1979).
3. See generally, *Declaration, Reservations, Observations and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination Against Women: Note by the Secretary-General*, UN Doc. CEDAW/SP/1992/2 (1992).
4. See, Universal Declaration, *supra* n. 1, art. 16(1); ICCPR, *supra* n. 1, art. 24(4).
5. *Convention on the Rights of the Child*, G.A. Res. 44/25, 44 UN GAOR, Supp. (No. 49), UN Doc. A/44/49, art. 19.
6. See, e.g., *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. Res. 39/46, December 10, 1984, U.N. GAOR, 39th Sess., Supp. (No. 51), UN Doc. A/39/51, art. 1(1).
7. Women's Convention, *supra* n. 2, arts. 1, 2(c) and (f), and 5.
8. *Idem*, art. 5.
9. For the text of general recommendation No. 19, see UN Doc. HRI/GEN/1, p. 74 (1992).
10. *Idem*, p. 75.
11. For discussion of the scope of duties under human-rights treaties and customary law to prevent, investigate, and punish violations of the integrity of the person, see Diane Orentlicher, *Settling Accounts: The Duty to Prosecute Human-Rights Violations of a Prior Regime*, *Yale Law Journal* 100: 2537, 2566-73 (1991).
12. *Velasquez Rodriguez v. Honduras*, Inter-American Court H.R. (ser. C) No. 4, Judgment of July 29, 1988.
13. *Idem*, paras. 172, 174.
14. See Restatement (Third) of the Foreign Relations Law of the United States (1987).
15. G.A. Res. 48/104 of December 20, 1993. For the text as adopted, see UN Doc. A/C.3/48/L.5 (1993).
16. *Idem*, Preamble, para. 12.

State Discriminatory Family Law and Customary Abuses

Julie Mertus

The mythical haven of the nuclear family plays an important role in many societies; this unit, characterized by a legally married adult man and woman accompanied by children, floats in a separate, "private" sphere informed by religion, culture, and tradition, free from governmental interference.¹ Under the cloak of the separate sphere ideology, states maintain that they are incapable of dealing with domestic violence, child brides, and other inequities in marriage. The private life of the family must be respected, the state argues, and government must stay out. Yet, "far from being an enclave, the family is vulnerable to the state, and the laws and social policies that impinge upon it undermine the notion of separate spheres."² The state, however, only intrudes upon family life to the extent that such interventions serve larger political and social goals.

The State's Interest in Family Law

Family law, while not the only factor, is an important mechanism through which the state can maintain or disrupt existing family arrangements and influence women's ability to participate fully in the social and political spheres. Women's obligations in societies are often defined in terms of their obligations in the family. By prescribing women's role in society—as reproducer, producer, or a combination of the two—and by regulating women's access to wealth—particularly the rights to property ownership and inheritance—family laws profoundly affect women's social and economic status, influencing everything from women's access to education and health care to their rates of fertility and mortality.