UN Universal Periodic Review Joint Stakeholder Report

Gender Equity in Our Nation's Capital

Washington, D.C.

United States of America

Submitted by the Gender Justice Project (GJP) at the University of the District of Columbia David A. Clarke School of Law (UDC Law) in collaboration with the United Nations Association of the National Capital Area (UNA-NCA)

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About Us

The Gender Justice Project was founded in 2017 to heighten public awareness of the legal issues that impact women and LGBTQ individuals, especially those who have suffered multiple forms of discrimination. GJP is located at the University of the District of Columbia David A. Clarke School of Law, a public Historically Black Law School (HBCU) in the nation's capital.

Established in 1953, UNA-NCA is one of the oldest and largest chapters of the United Nations Association of the USA. UNA-NCA is a not-for-profit membership based organization that works with foreign policy and political decision makers, schools of all levels, and other organizations in the National Capital Area to build knowledge, understanding, informed opinion, and new ideas on the United Nations, its specialized agencies, and its relationship with the United States.

A. Introduction and Summary

(A1) Washington, D.C. (D.C.) has a long history of supporting human rights. In 2008, D.C. passed a resolution to be declared the first Human Rights City in the United States, becoming a model for communities around the world in working to provide leadership and advocacy to secure, protect, and promote human rights for all people.[1] D.C. also has one of the most comprehensive human rights acts in the country, making it illegal to discriminate on the basis of 20 protected traits, including race, sex, national origin, gender identity, sexual orientation, and family responsibilities.[2] D.C. is justifiably proud of its history of progressive legislation, including most recently a paid leave act to protect workers who need time off for their own illness or to care for a new child, aging parent, or ill family member.[3]

(A2) Yet, women and girls in D.C. lag behind on several important human rights standards. This is especially true for women of color, who fall at the bottom of the scale on many measures and lack protection for basic human rights of economic security, affordable housing, and access to health care. They also experience gender-based violence and mass incarceration at alarmingly disproportionate rates. Many of these inequities are vestiges of slavery and systemic racism that permeate the legal and social structures of D.C. For example, domestic workers, most of whom are women of color and immigrant women, are expressly excluded from the protections of the D.C. Human Rights Act.[4]

(A3) D.C.'s efforts to protect women's human rights are further impeded by Congressional oversight of all D.C. legislation. This deprivation of local autonomy is the subject of two separate UPR reports: a joint report of UNA-DCA with the D.C. Human Rights City Alliance and the George Washington University Law School International Human Rights Clinic (UNA-NCA Joint Report with DCHRCA and GW IHRC),[5] and a submission by the Office of the Statehood Delegation for the District of Columbia in conjunction with the New Columbia Statehood Commission.[6] Although this issue will not be discussed in detail here, its impact on D.C.'s progressive agenda has been profound. As just one example, Congress has routinely used its appropriations oversight process to block D.C. legislation that would provide low-income women with abortion coverage through District of Columbia health plans.[7] This restriction was finally removed in the FY 2020 budget after Democrats took control of the House of Representatives.[8]

(A4) This report addresses and offers recommendation on 5 key areas of human rights for women, girls, and LGBTQ individuals in our nation's capital:

1. Homelessness and lack of access to affordable housing among women of color and LGBTQ youth, including survivors of domestic violence (UDHR 25);
2. High levels of abject poverty and lack of income security, especially for low-wage workers (UDHR 23, 24, 25);

3. Lack of access to basic health care and education for low-income women, leading to high maternal mortality rates, unintended pregnancies, HIV/AIDS and other sexually transmitted diseases (UDHR 25);
4. Unacceptably high levels of gender-based violence, including sex trafficking of women of color and LGBTQ youth (UDHR 3, 4, 5); and
5. Mass incarceration of women and girls of color and inhumane prison conditions (UDHR 5, 10, 11).

B. Methodology

(B1) This report was prepared by the Gender Justice Project (GJP) at the University of the District of Columbia David A. Clarke School of Law (UDC Law) in collaboration with the United Nations Association of the National Capital Area (UNA-NCA). Students in the UDC Law Legislation Clinic conducted research on behalf of UNA-NCA and assisted with the drafting of the report. The GJP also coordinated efforts with the American Friends Service Committee (AFSC), the D.C. Human Rights City Alliance and the International Human Rights Law Clinic at George Washington University Law School, which submitted a shadow report in collaboration with UNA-NCA focusing on voting rights, statehood, and housing issues in the District of Columbia.

C. Priority issues in advancing the rights of women and girls

(C1) Housing & Homelessness. As documented in the UNA-NCA Joint Report with DCHRCA and GW IHRC, homelessness is a pervasive problem for Black residents of D.C.[9] This report will focus on homelessness through an intersectional gender lens, highlighting its impact on women of color, LGBTQ individuals, and young adults residing D.C. (UDHR 25).

- According to a 2017 survey, nearly 900 unaccompanied women experience homelessness in D.C. every night.[10] The experiences and needs of this sub-population differ from those of women who are experiencing homelessness with their families, as well as those of unaccompanied homeless men.[11]
- **Black or African American women make up a disproportionate share of unaccompanied women who are experiencing homelessness or housing instability in D.C.** Although they make up only fifty-two percent (52%) of all adult women in the city, seventy-five percent (75%) of the city's surveyed homeless unaccompanied women were Black or African American. Approximately 20% of the women identified as "LGBQ+" (compared to a total "LGBQ+" population in D.C. of 10.7%).[12]
- **Nearly one-third of women in the study indicated that violence was the cause of their homelessness or housing instability.**[13] Mental illness and substance abuse are also primary challenges, and women experiencing homelessness have higher odds of engaging in survival sex than the population at large.[14]

- **D.C. has one of the highest rates of youth homelessness in the nation.** The 2018 Youth Count D.C. survey estimated that more than 1,300 unaccompanied youth, youth separated from family, and youth heads of household were experiencing homelessness or housing instability in September 2018.[15] Nearly a third of all homeless unaccompanied youth self-identified as gay, lesbian, bisexual, pansexual, or queer/questioning.[16]

(C2) Poverty and Income Insecurity. The UNA-NCA Joint Report with DCHRCA and GW IHRC also targets inequality and poverty in the District of Columbia, deeply rooted in the city's long history of racial discrimination.[17] It comes as no surprise that income insecurity is at its most pervasive for women and children living at the intersection of racial and gender discrimination. (UDHR 25)

- **D.C.'s high poverty rate disproportionately affects women of color and female-headed households.** In 2017, D.C. posted an overall poverty rate of 17%.[18] That rate was much higher for Black women (24%) and female-headed families (42%). A quarter of the District's children lived in households below the poverty line.[19]
- **The wage gap for women of color in the District of Columbia is much higher than the national average of $0.80 cents for every dollar paid to white men.** The wage gap for African American women in D.C. is $0.52 cents, and for Latinas only $0.47 cents for every dollar paid to white men.[20]
- **More than 6 in 10 of minimum wage workers in D.C. are women.** Under a law passed in 2016, the minimum wage in D.C. will increase to $15.00 in 2020 and then will increase each year based on the Consumer Price Index.[21] However, tipped workers in D.C. earn only $4.45 per hour, increasing to $5.00 per hour by 2020.[22] Tipped workers experience a 13.7% poverty rate, more than three times the rate (4.5%) for non-tipped workers.[23]
- **The cost of living in D.C. is 39% higher than the national average.[24]** Five in ten low-income people in the District of Columbia are homeless or pay over half their income for rent.[25]

(C3) Reproductive Health and Maternal Mortality. D.C. has one of the highest maternal mortality rates in the country, more than 50% higher than the national average.[26] (UDHR 25)

- **Mortality rates are even higher among women of color, especially African American women**.[27] Maternal health disparity transcends economics and education – with black women of any income or educational level experiencing the worst outcomes.[28]
- D.C. also has correspondingly high infant mortality rates and unmet reproductive health needs, indicated by the high rates of unintended pregnancy and sexually transmitted infections.[29]

- **Recent closures of the two maternity wards in predominantly black neighborhoods have contributed to the disparity in maternal health outcomes**.[30]
- **Delayed prenatal care is contributing to poorer health outcomes for women of color and infants.** According to the 2018 D.C. Perinatal Health and Infant Mortality Report, approximately half of black women (48%) and more than 1 in 3 Hispanic women (35%) have not received prenatal care until their 2nd or 3rd trimester or have not received any care at all.[31]
- **Young women in D.C. are not receiving adequate sexuality education.** Although a comprehensive set of health guidelines for schools was passed, they are not being fully implemented.[32] The FY 2020 budget reduced funding for teen peer sexual health training, pregnancy prevention, and support services for pregnant students.[33]
- Other factors that contribute to higher maternal mortality rates in D.C. include domestic violence, unstable housing, lack of transportation and access to care, and substance use.[34]

(C4) Gender-Based Violence. Hate crimes and violence based on sexual orientation, gender, and gender identity are a pervasive problem in the District of Columbia. (UDHR 3, 4, 5)

- **According to FBI statistics released in 2017, D.C. ranked 5th (relative to geographical size and population) in gender-based hate crimes–**behind the states of California, Washington, Massachusetts, and New York.[35]
- **The Metropolitan Police Department (MPDC) reported 826 incidents of gender-based violence from January 2015 to March 31st, 2019.** In an independent study, the MPDC accounted for 178 incidents of hate crimes based on sexual orientation or gender identity/expression in 2017 alone. These incidents include assault, threats, robbery, and stalking.[36]
- The consequences of reporting violence include mental health conditions (suicide ideation, anxiety, PTSD, fear of retaliation, and suicide attempts); sexual risk-taking (HIV status and other serious physical health issues to hide status); and decreased school, work, and community involvement and achievement.[37]
- **The prevalence of human trafficking and the sex slave trade is also increasing in D.C.** As of July 2019, D.C. **ranks 28th** in the United States with 43 human trafficking cases reported (34 of which involved females and gender minorities).[38] In a 2017 study, the National Center for Missing & Exploited Children estimate that 1 in 7 endangered runaways were likely to become sex trafficking victims within the United States alone.[39]
- **Street-based sex workers who are engaged in survival sex work are often victims of gender-based violence. Research shows that over 80% of street-based sex workers have experienced violence in the course of their work.**[40] In D.C., one in five sex workers has been approached by police asking them for sex.[41] Criminalization of sex work has a greater negative impact on groups already facing discrimination, including communities of color, gay and trans

people, people with disabilities, immigrants, and people with criminal convictions.[42]

(C5) Criminal Justice. In 2016, the Washington Lawyers' Committee (WCL) for Civil Rights and Urban Affairs issued a report concluding that the overwhelming challenges faced by D.C. incarcerated women are a key criminal justice and civil rights concern for the District.[43] (UDHR 5, 10, 11) These concerns are echoed in the UNA-NCA Joint Report with DCHRCA and GW IHRC, which highlights the adverse effects of D.C.'s federally-run justice system.[44]

- **According to the WCL report, incarcerated women face many challenges, including education and employment, economic status, and physical and mental health issues.** Many have mental health or substance abuse disorders and they are likely to have experienced abuse in the past.[45]
- **According to the D.C. Department of Corrections, Black women make up 81.3% of inmates. This is an overrepresentation of Black women in DC who only make up 47.7% of the population.[46]**
- Over the last ten years, the share of girls involved at all stages of the juvenile justice system increased significantly even while the young men in the system shrunk substantially.[47]
- **A third of incarcerated adult women are being held in long-term federal facilities far from home.[48]** This often means that they are separated from their children, which has negative effects on both the mother and the children.[49]
- Pregnant women who deliver their babies while incarcerated in the District's Correctional Treatment Facility have their children taken immediately with no opportunity to bond.[50]
- **Educational opportunities for women incarcerated in federal prisons are limited.** They do not have automatic entrance in GED programs because there is a waiting list.[51] College level programs are difficult for women imprisoned in federal facilities to access because they must pay for them and Pell Grants are not easily or readily available.[52]
- **Reentry is especially challenging for D.C. women with disabilities, many of whom have histories of mental illness and substance abuse.** Their struggle to obtain housing, employment, and appropriate mental health care are exacerbated by the fact that many have been housed in federal detention centers far from home, isolated from their children and families.[53]

D. Human Rights Advances in D.C.

The District of Columbia has a sound record of enacting progressive legislation to benefit women, girls, and LGBTQ individuals. However, some of these measures have fallen short of their goals due to inadequate planning, assessment, implementation, and funding allocations.

(D1) The administration of Mayor Muriel Bowser has made ending homelessness in D.C. a top priority, and some progress has been made. Still, homelessness in D.C. remains a pervasive problem, especially for African American women and LGBTQ women and children.

- In 2015 the District adopted the Homeward D.C. strategic plan designed to transform its outdated homeless services system.[54] The plan was aimed at ending chronic homelessness but did not specifically target the needs of homeless women.[55]
- In 2017, the District's interagency Council on Homelessness (ICH) issued a strategic plan to end homelessness for youth[56] pursuant to two pieces of legislation passed by the DC Council.[57] The laws require D.C. to make data-driven plans based on an annual youth homelessness census, and to score themselves on different aspects of the plan quarterly.[58]
- Because so many women (76%)[59] find themselves homeless due to violence– domestic or intimate partner violence (56%),[60] violence by parent, guardian or other relative (50%)[61]—the District has sought to include a trauma-centered approach in its services to the homeless, including homeless women.[62]
- The FY 2020 budget fully funded the Youth Homelessness strategic plan, adding funding for 50 new permanent supportive housing slots, 50 new transitional housing beds, and 60 shelter beds. The budget provided funds for support services, homeless prevention, and aftercare services.[63] The budget also provided increased funding for housing, outreach, and services for individuals experiencing chronic homelessness.[64]

(D2) In recent years, D.C. has enacted several important laws to improve conditions for low-wage workers and working parents. However, the D.C. Council has rejected other measures that would have improved income security and has failed to adequately implement, track, and fund some of its new initiatives.

- D.C. was heralded as a leader when it passed a law removing the 5.75 percent sales tax on diapers, tampons, and other feminine hygiene products in 2016.[65] The "pink tax" repeal was intended to ease the burden for low-income women and families in D.C., but it was largely symbolic until the Mayor found money in the D.C. budget to fund the tampon tax portion in 2018, followed by the diaper tax portion in 2019.In the meantime, several other states took menstrual equity a step further by providing free menstrual products in schools, homeless shelters, and prisons.[66]
- Under a law passed in 2016, the minimum wage in D.C. will progressively increase to $15.00 per hour on July 1, 2020, then increasing each successive year starting in 2021 in proportion to the increase in the Consumer Price Index.[67] Women, African Americans, and LatinX workers have disproportionately benefited from this increase, while tipped workers have fallen further behind.[68] Nevertheless, in 2019 the D.C. Council repealed Initiative 77, a ballot measure passed by 56% of D.C. voters that would have increased wages for tipped

workers to the minimum wage. According to research, a lower minimum wage for tipped workers perpetuates racial and gender inequities and results in worse economic outcomes for tipped workers.[69]

- The D.C. Council passed the Universal Paid Leave Act (UPLA) in December 2016.[70] This law establishes an insurance program to provide leave for new parents, to care for an ill relative, or for personal medical leave. UPLA covers all people working in the private and non-profit sectors, and covers up to 90% of a worker's wages for those with lower incomes.[71] This is key to gender and racial equity because people working in low-wage jobs are least likely to be able to afford to take unpaid time off from work.[72] UPLA is still in the implementation phase. Collection of employer contributions began July 1, 2019, and paid leave benefits are scheduled to be available to workers beginning July 2020.
- In 2018, the D.C. Council unanimously enacted the Birth to Three for All Act, which provides for universal childcare and full wraparound services for all kids in D.C. from prenatal care until age three.[73] Increasing access to affordable, high-quality childcare and early education is essential to enable parents to work and give children the early learning opportunities that help them get a strong start.[74]
- The D.C. FY 2020 budget included $16 million for a variety of services to support children from birth to age 3, including $7.4 million for the child care subsidy program.[75] This legislation provides a strong framework to help low-wage workers in D.C., but full implementation of the Birth to Three for All Act was underfunded by $18.8 million.[76]
- The FY 2020 budget also restored and expanded funding for the Career Pathways Innovation Fund (CPIF), which was created in 2016 to help education providers implement goal-oriented, industry-specific training.[77] This will increase available opportunities for residents to improve their skills and train in industries that have a consistent demand for qualified workers.

(D3) D.C. has taken action to study and improve its reproductive and maternal health outcomes, but those initiatives have not yet yielded substantial improvement in outcomes.

- The D.C. Council unanimously passed a law in 2017 to establish the D.C. Maternal Mortality Review Committee to determine the causes associated with maternal deaths in the District and find solutions to lower the maternal death rate and improve maternal health.[78]
- The Mayor hosts an annual Maternal and Infant Health Summit which brings together elected officials, health officials and DC residents to explore strategies to improve perinatal health and address racial disparities in birth outcomes.[79] The Mayor also launched a "Thrive by Five" initiative focused on improving maternal and infant health outcomes and promoting healthy child development.[80]
- Despite these efforts, the D.C. teen birth rate remains unacceptably high because a significant number of sexually active young women are not accessing

reproductive healthcare.[81] This is especially true for African American women and adolescents living in Wards 4, 5, 7, and 8.[82]

(D4) **D.C. has enacted strong legislation to address gender-based violence, but gaps in legal protection and enforcement continue to place women and LGBTQ individuals in harm's way.**

- In 2014, D.C. enacted the Sexual Assault Victim's Rights Amendment Act (SAVRAA),[83] as a result of survivor and systems advocacy efforts to improve the District of Columbia's response to sexual assaults. SAVRAA provides victims with the right to a community-based victim advocate. Proposed legislation to expand and improve the program is under consideration by the D.C. Council,[84] but advocates believe that the proposed measures fall short in protecting survivors and ensuring evidence based and trauma-informed services.[85]
- The legislation that repealed fair wages for tipped workers would require sexual harassment training and reporting for employers of tipped workers.[86] This training is essential because people working for tips experience particularly high rates of sexual harassment due to the power imbalances intensified by the workers' financial reliance on tips.[87] However, this provision was passed subject to appropriation and has not been funded in the FY 2020 budget.[88]
- In 2019, the D.C. Council introduced the Community Safety and Health Amendment Act of 2019[89] to remove criminal penalties for engaging in consensual sexual exchange while clarifying that coercion, exploitation, and human trafficking are not tolerated in D.C. The bill, which remains under consideration, would also create a task force to monitor implementation and make recommendations.

(D5) Both the D.C. Council and the federal prison system have enacted some reforms to improve conditions for D.C. incarcerated women. However, many issues in the criminal justice system remain unaddressed.

- The Federal Bureau of Prisons created the Mothers and Infants Nurturing Together (MINT) Program which allows women in some federal prisons to go to a community center and bond with their babies for a few months after giving birth.[90]
- The DC Council passed the Neighborhood Engagement Achieves Results (NEAR) Act of 2015, which included policing reforms. An oversight report was released in 2017.[91] The use of force against women by the MPD declined from fiscal year 2015 to fiscal year 2016 and remained stable in fiscal year 2017.[92]

E. Conclusion and Recommendations

Although D.C. has a history of enacting progressive legislation to protect the human rights of women, girls, and LGBTQ individuals, it does not have a structural mechanism in place to assess the gender implications of its

operations, programs, and policies and to ensure accountability and transparency in its gender and racial policy outcomes.

For these reasons, the GJP and UNA-NCA recommend that:

(E1) D.C. should adopt a framework based on the principles of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women)[93] to better ensure that issues at the intersection of gender and race are centered in the decision-making process for all city departments, operations, programs, and policies. This will enable D.C. to engage in evidence-based policymaking to determine whether public investments achieve their intended outcomes and to make informed choices based on evaluations of social costs and benefits. Viewing policy through an intersectional gender lens will lead to better use of taxpayer dollars and better outcomes for children, adults, and families.[94]

- The Report of the Working Group on the Universal Periodic Review for the Thirtieth Session recommended that the United States should step up efforts to ratify CEDAW.[95] Despite support from the U.S. Federal Executive Branch,[96] the U.S. Congress has failed to act on this recommendation. The United Nations Association of the United States of America's UN Universal Periodic Review Stakeholder Report calls on the U.S. to ratify the CEDAW without delay.[97]
- Several NGO's including UNA-NCA, have joined forces to develop an effective civil society campaign, Cities for CEDAW, to encourage cities to adopt legislation using CEDAW as an overarching framework for advancing political and economic equality for women in the United States at the local level.[98] More than 40 cities, counties, and states have adopted legislation or resolutions to implement CEDAW locally.[99]
- By joining the Cities for CEDAW movement, D.C. will enhance its reputation and effectiveness as a United Nations Human Rights City and ensure accountability for living up to its international obligations to gender and racial equity. The CEDAW framework includes well-established protocols that will assist D.C. in conducting a gender/race audit of all D.C. operations, programs, and policies; adopting gender/racial equity metrics to assess proposed legislation and agency performance outcomes; and training all D.C. employees in gender/racial equity.

(E2) D.C. should enact legislation directing District agencies to measure intersecting identities including race, gender, gender identity, sexual orientation, disability, and socio-economic status in their annual progress reports and consider these factors when making policy decision and budget allocations.

- The problems facing women and LGBTQ individuals in D.C. are complicated and intersectional. For example, young women of color and LGBTQ youth are more

likely to drop out of school and become homeless, which in turn leaves them vulnerable to exploitation by pimps and sex traffickers.

- This intersectional approach also implicates the Convention on the Elimination of Racial Discrimination (CERD), to which the U.S. is a signatory, as well as the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities, which have not been ratified by the U.S. During its first UPR, the U.S. accepted a recommendation that it should ratify the CRC as a matter of priority.[100]

(E3) D.C. should fully implement the Universal Paid Leave Act (UPLA) to provide comprehensive coverage for all workers, including those in low-wage jobs. As it phases in UPLA, D.C. should collect and analyze intersectional data to evaluate the impact of paid leave on women of color, LGBTQ individuals, immigrant women, and low-wage workers.

(E4) D.C. should reconsider its repeal of Initiative 77 and conduct an intersectional study of poverty levels among tipped workers.

(E5) D.C. should continue to study the costs and benefits of decriminalizing sex work, including the disparate impact of criminalization on groups already facing discrimination.

(E6) D.C. should continue to engage in evidence-based policymaking with respect to its high rates of teen pregnancy and maternal mortality, and explore strategies to address racial disparities in birth outcomes.

(E7) D.C. should expand funding for the Birth to Three initiative and continue to prioritize low-income families when allocating funding. D.C. should measure the impact of Birth to Three on poverty rates for female-headed households, especially for families of color who are at the lowest end of the wealth gap.

(E8) D.C. should conduct an annual Homeless Women's Needs Assessment and disaggregate its Homeless Youth census data by race, gender, age, and sexual orientation to better assess the needs and target policies toward vulnerable populations.

(E9) D.C. should develop an assessment tool to determine the effectiveness of its trauma-informed services and connect its homelessness scorecard to an accountability process that provides clear next steps when the quarterly and annual goals are not met.

(E10) D.C. should make alternatives to incarceration accessible to D.C. women in the criminal justice system, and provide improved educational, medical, and psychological services to incarcerated women. These measures should include better access to family time for women to bond with their children.

(E11) D.C. should eliminate the domestic worker exclusion from the D.C. Human Rights Act, providing domestic workers with protection from sexual harassment and discrimination in the workplace.

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