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Human Rights and State Responsibility: Responsibility of the State for the Domestic Violation of Womens' Rights by Private Actors

Violence against women is one of the most important human rights violations affecting women worldwide, regardless of color, nationality, or age. The question of state responsibility in this regard has become a very controversial issue, particularly with respect to domestic violations perpetrated by private actors.

For many years it was generally thought that the responsibility of the State vis-à-vis human rights violations applied to instances where the State directly participated in the act of violence. However, this definition became a barrier in the realm of women's rights, as women are more at risk of facing violence in their home by a husband or partner, than in "outside" spheres by State officials.

Based on the above definition, which was supported by a majority of academics, jurists, international NGOs and human rights defenders, the State could not be held responsible for acts of violence committed by private actors. This was because such events do not include the State as a participant in the act of violence. As such, this traditional definition of State responsibility has been a major obstacle for female victims seeking protection from domestic violence.

During the last years, the creation of the standard so-called due diligence (the obligation of States to protect and promote the rights and freedoms) has dramatically changed this idea. According to the due diligence standard, not only the State's agents (such as police, security and armed forces) are required to protect human rights, but also the judiciary, legislative and executive powers are required to be administered in a similar fashion so as to improve human rights respect by private actors.

In this paper we want to offer to human rights and women's rights defenders an opportunity to better understand all aspects of the international responsibility of the state for domestic violations perpetrated by private actors. In so doing, we will explain the nature of domestic violations perpetrated by private actors as well as show how States can prevent such forms of violations. In our first section, we will explain the classic concept of State responsibility in the area of violations against women. In our second section, we will examine the issue of State accountability vis-à-vis domestic violations against women through the concept of Due Diligence.