

dr. Denis  
**Mukwege**  
Foundation

**Core State Obligations for  
Conflict-Related Sexual Violence:  
An Overview of International Law**

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# Introduction

Launched in June 2023, the *Guidebook on State Obligations for Conflict-Related Sexual Violence* comprehensively compiles the applicable international law and standards relevant to CRSV to inform States of their international legal obligations to address CRSV. It covers State obligations set out under international humanitarian law (IHL), international human rights law (IHRL) and UN Security Council (UNSC) resolutions, and analyses these obligations by legal instrument. The Guidebook aims to improve States' awareness of their international obligations,<sup>1</sup> and to provide them with an accessible and easy to use tool to ensure that they are meeting their obligations to prevent, stop, and respond to CRSV under international law. It is also intended to serve as an advocacy tool for survivor groups, CSOs, and NGOs.

**NOTE TO READERS:** CRSV is sexual violence that is related to a conflict. Generally, sexual violence refers to any act of a sexual nature committed against any person under coercive circumstances without their consent, and may be physical, psychological and/or verbal. However, approaches differ on how closely related sexual violence should be to conflict in order to be qualified as CRSV. Further, CRSV can fall within the scope of other kinds of internationally prohibited violence. For example, under the Convention on the Elimination of All Forms of Discrimination against Women, CRSV may be a manifestation of gender-based violence. Readers are encouraged to consult the Guidebook's "[Introduction](#)" chapter for more information on the definition of CRSV.

Having realised during the drafting of the Guidebook that many of the obligations identified in it repeat and are mutually reinforcing across legal frameworks, the decision was made to create the Overview. The Overview is organised by obligation as opposed to legal instrument, and identifies the "core" obligations that are consistent across the legal frameworks analysed in the Guidebook, with the exception of UNSC resolutions. The Overview is meant to be a shorter and simplified version of the Guidebook, and to provide States, survivors and other stakeholders with a general, rather than detailed and complex, overview of what is required under international law.

The Guidebook and the Overview are meant to serve as the core pillars of the work of the Mukwege Foundation's *Red Line Initiative*. The *Red Line Initiative* is rooted in the belief that sexual violence in conflict and as a method of warfare represents a violation of our shared humanity that can no longer be accepted as an unfortunate, but unpreventable part of armed conflict. Rather, it must be prioritised as a wholly unacceptable tactic that has no place in modern warfare. Like all aspects of the Mukwege Foundation's work, the *Red Line Initiative* employs a survivor-centred approach that seeks to not only ensure that the law is responsive to the needs and desires of victims/survivors, but also that victims/survivors actively participate in the design and development of education and advocacy tools to realise their legal rights to justice, accountability, and redress.

The Overview contains 5 chapters:

1. Introduction
2. Prevention
3. Justice and accountability
4. Humanitarian response
5. Reparations

The titles for chapters 2 to 5 repeat the themes used in the Guidebook to categorise CRSV obligations under an international legal instrument. Each chapter contains all core obligations that are directly relevant to that same theme, defined as follows:

1. Prevention. “Prevention” refers to the actions that States must take to prevent the (re)occurrence of CRSV;
2. Justice and accountability. “Justice and accountability” concerns the steps required to investigate/prosecute perpetrators of CRSV and to hold States accountable for violations of their international obligations, as well as to make all justice avenues accessible to victims/survivors;
3. Humanitarian response. “Humanitarian response” refers to what **States** must immediately do to alleviate the suffering of victims/survivors of CRSV in a crisis;
4. Reparations. The 2005 UN General Assembly (UNGA) resolution on [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Humanitarian Law](#)<sup>2</sup> sets out the right of victims/survivors to redress from States.<sup>3</sup> The concept of “redress” has two components: substantive, in the form of reparation (restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition); and procedural, in the form of an effective remedy. “Remedy” relates to ensuring that there is an appropriate legislative framework and institutions to provide for prompt and effective investigations, victim/survivor participation in any proceedings, and prosecution and punishment of those responsible. Several international instruments address these two components together under the heading of “remedy” without distinguishing. However, in the Overview, as in the Guidebook, remedy is addressed as a part of “Justice and Accountability”, while reparation is covered under “Reparations.”

Some obligations may fall within multiple thematic areas. Their placement in one thematic area should not be understood as limiting an obligation’s scope.

## 1. Methodology

The Overview is based on an extensive review of all international legal obligations covered in the Guidebook that we define as “common”. “Common” designates those obligations that appear in more than one legally binding source of international law, and whose content is largely similar. This allowed us to combine all common obligations into one “core” obligation. All core obligations contain footnotes to direct readers to the binding sources of international law they are derived from, so that they

may be consulted for further detail. Express reference to such sources in the Overview's main text is made only where we felt it necessary to provide guidance on differences across legal frameworks.

Binding sources of international law include treaties and their protocols, customary law (which is where there is widespread, representative State practice that is accepted by States as being required by law),<sup>4</sup> and the jurisprudence of international courts and tribunals (which, while binding only on the parties to a case, is nevertheless authoritative).<sup>5</sup> Where a common obligation is not extensively detailed under binding international law, reference is also made to other material from authoritative bodies, such as the UN treaty bodies, which offer guidance as to how an obligation may be best interpreted and implemented. While not strictly binding, such material is persuasive.

## 2. Scope

The Overview focuses on **State** obligations to prevent, stop, and respond to CRSV under international law, whether committed by State or non-State, public or private actors. Due to its condensed nature, the Overview is limited in the detail it provides. Readers looking for a more thorough examination of these obligations are encouraged to consult the Guidebook.

### 2.1 The Non-Inclusion of UNSC Resolutions

The absence of UNSC resolutions in the Overview's core obligations is not meant to overshadow their impact on the fight against CRSV. The UNSC has frequently examined conflict situations involving CRSV under its Women, Peace and Security Agenda, and has openly expressed concern over CRSV committed in numerous countries. Thanks to its vast enforcement powers under Chapter VII of the UN Charter, the UNSC has established multiple sanctions regimes against perpetrators of CRSV, and created the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, whose contribution to the eradication of CRSV has been priceless.<sup>6</sup> In recognition of the UNSC's role and influence in raising awareness of and addressing CRSV, the Guidebook includes a chapter on its relevant resolutions.

Obligations derived from UNSC resolutions are not included in the Overview for two reasons. First, UNSC resolutions do not contribute to the development of customary international law and, as a result, do not help create obligations that exist independently of treaty law. While the International Law Commission (ILC) has found that in certain cases the practice of international organisations may contribute to the existence and content of rules of customary international law,<sup>7</sup> the weight to be given to such practice depends on a variety of factors, including the number of Member States the organisation is made up of and its nature.<sup>8</sup> The UNSC, while an organ of the UN, is comprised of a small number of States and, consequently, its practice is unlikely to be given much weight. UNSC resolutions are also unlikely to provide evidence that a practice has been accepted by States as law: while resolutions of an international organisation may provide evidence for determining the existence and content of a rule of customary international law, or contribute to its development, by

reflecting its Members' views, the weight of resolutions adopted by organs with more limited membership 'is likely to be less'.<sup>9</sup> This is not true for resolutions of the UN General Assembly, 'a plenary organ of the United Nations with virtually universal participation',<sup>10</sup> as evidenced by the International Court of Justice's jurisprudence.<sup>11</sup>

Secondly, UNSC resolutions are not always binding, unlike treaty and customary law. Whether resolutions may be deemed 'decisions'<sup>12</sup> and, as such, have binding force depends on the language that they use. In each case, regard must be had to the terms of the resolution, the discussions leading to it, the UN Charter provisions invoked and all circumstances surrounding the adoption of a resolution.<sup>13</sup> Even when the Council adopts legally binding resolutions, their implementation has encountered obstacles at the national level.<sup>14</sup> It is perhaps because of this that the resolutions on CRSV, while often using binding language, also contain provisions that are more properly characterised as recommendations,<sup>15</sup> and/or replicate obligations that already exist under IHL and IHRL. For example, in resolution 1325,<sup>16</sup> the Council required all parties to an armed conflict to cease all acts of sexual violence with immediate effect by recalling their commitments under the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Geneva Conventions, among others.

### **3. Impact**

We believe that the Overview will make the law relevant to CRSV more accessible to those who are not familiar with navigating the range of international legal instruments that address CRSV. The Overview should be used as an additional tool that supplements the Guidebook, and will hopefully contribute to a deeper understanding for the Mukwege Foundation, States, CRSV survivors and other stakeholders of the scope of States' current obligations and help to identify where there are gaps or deficiencies.



# Prevention

## Introduction

States have multifaceted obligations to prevent CRSV. Prevention is not merely about averting individual incidents of CRSV, but about fostering a culture where such acts are universally deemed unacceptable. Drawing from the foundational tenets of international humanitarian law, international human rights law, and regional human rights mechanisms, prevention encompasses a spectrum of actions. From educating populations about the horrors of CRSV and challenging deeply entrenched societal norms that allow for the perpetuation of such violence, to establishing robust legal frameworks that criminalise these acts and holding perpetrators accountable, prevention demands a holistic approach. It requires States to be proactive, to anticipate potential triggers of CRSV, and to put in place measures that not only respond to but also anticipate and mitigate these risks. In sum, the obligation to prevent CRSV embodies a State's broader obligations to safeguard the rights, dignity, and safety of its populace, ensuring that no individual lives in fear of it.

In this section, we have ordered the common prevention obligations in the following manner: first, we begin with prevention obligations considered “procedural”, meaning the legislative foundations necessary for a State to be able to begin to address CRSV. Second, common obligations related to the scope of a State’s obligation to prevent, including territorial and in relation to non-state actors are set out. Finally, this section presents the common “substantive” prevention obligations, i.e., obligations that are meant to address and remedy the deep-seated social norms that allow for the commission and re-occurrence of CRSV.

## Common Obligations

### **States should ratify a variety of international legal instruments to eradicate CRSV**

States should ratify all international legal instruments relevant to the eradication of CRSV, such as:

- The Geneva Conventions and their Additional Protocols;<sup>17</sup>
- All core United Nations human rights treaties and their Optional Protocols;<sup>18</sup>
- All regional human rights treaties and their Protocols;<sup>19</sup>
- The Rome Statute of the International Criminal Court;<sup>20</sup>
- The Convention relating to the Status of Refugees (1951) and its Protocol (1967);<sup>21</sup>
- The Arms Trade Treaty;<sup>22</sup>
- The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness,<sup>23</sup> the International Labour Organization Domestic Workers Convention, 2011 (No. 189) and all other

instruments relevant to the eradication of CRSV that occurs in the form of trafficking.<sup>24</sup>

## **States must criminalise CRSV in all its forms**

States must take measures necessary to suppress acts contrary to international humanitarian law and human rights law.<sup>25</sup> Criminalising sexual violence in all its forms and in all contexts is an important part of implementing this more general obligation.<sup>26</sup>

To criminalise CRSV effectively, States must review, amend, rescind or nullify any existing laws and regulation that facilitate its perpetration,<sup>27</sup> and should incorporate all international legal provisions relevant to the eradication of CRSV within their domestic legislation.<sup>28</sup>

## **States must not define sexual violence, in particular rape, restrictively**

When criminalising CRSV, States must not define sexual violence restrictively.<sup>29</sup> States must characterise sexual violence, in particular rape, as a crime based on the lack of freely given consent,<sup>30</sup> including in the absence of physical resistance by the victim/survivor,<sup>31</sup> and take into account coercive circumstances.<sup>32</sup> For example, States should not describe sexual violence as ‘sexual intercourse involving male and female genital organs’, which excludes other forms of sexual abuse and rape of male victims,<sup>33</sup> or as involving only ‘force or threat of immediate attack’.<sup>34</sup>

Further, consent should not be presumed in circumstances of generalised violence and mass atrocities in which international crimes are committed.<sup>35</sup>

## **States must address CRSV committed by private actors**

The responsibility of States extends beyond addressing violations of international law by State agents to also ensuring accountability for private individuals and entities that have perpetrated CRSV, such as national corporations operating extraterritorially in conflict-affected areas, armed groups, paramilitaries, private military contractors, organised criminal groups, vigilantes, and other non-state actors. States must prevent and respond to violations of international law committed by private actors.<sup>36</sup>

In certain circumstances, States can also become directly responsible for the violations, which entails further obligations such as to provide reparations.<sup>37</sup> This depends on whether:

- The acts or omissions of private actors are acts attributable to the State itself;<sup>38</sup>
- The acts or omissions committed by private agents are on the instruction or under the direction or control of that State;<sup>39</sup>
- The State did not take steps to prevent human rights violations perpetrated by any person, organisation or enterprise. A failure to do so when State authorities are aware or should be aware of the risk of such violations constitutes a breach of international law.<sup>40</sup>

## **States must address CRSV that occurs outside their territory**

States' obligations to prevent and respond to CRSV must be fulfilled both within and outside their territory.

International humanitarian law is applicable to any armed conflict, whether international or non-international. As a result, parties to a conflict cannot be absolved of their obligations under international humanitarian law when the conflict reaches beyond the territory of a single State.<sup>41</sup>

The matter is more complex under international human rights law. For a State to have human rights duties towards any person, and for that person to have human rights enforced by and against that State, that State must have jurisdiction (meaning control) over that person or the space they inhabit.<sup>42</sup> For that to happen, control must be effective.<sup>43</sup> Control is effective if, for example:

- That State exercises control over an area, usually its own territory, or another territory where it conducts military actions that indicate power or authority, as in the case of States that occupy others;<sup>44</sup>
- That State exercises control over specific individuals, such as detainees;<sup>45</sup>
- That State exercises control over activities that have a foreseeable impact on that person's human rights.<sup>46</sup>

## **States must ensure that no one under their jurisdiction suffers CRSV that amounts to torture or ill-treatment<sup>47</sup>**

To protect an individual's dignity and physical and mental integrity, States must ensure that no one under their jurisdiction suffers CRSV that amounts to torture or ill-treatment,<sup>48</sup> whether committed by private or public actors.<sup>49</sup> States must prevent torture of which the authorities had or should have had knowledge,<sup>50</sup> and should provide protection to any person without discrimination.<sup>51</sup> The prohibition is absolute, and remains in force in emergencies, such as war.<sup>52</sup>

Torture means any physical or mental act that causes severe pain or suffering and is intentionally inflicted on a person for a specific purpose, such as:

- Obtaining information or a confession;
- Punishment for an act that person or another (may have) committed;
- Intimidation or coercion;
- Discrimination of any kind.<sup>53</sup>

Torture must be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.<sup>54</sup>

Pain and suffering that is not severe enough but still meets all other elements of torture amounts to other cruel, inhuman or degrading treatment or punishment ("ill-treatment"), and is just as equally prohibited.<sup>55</sup>

## **States must not deport, expel, return (“refouler”), extradite or otherwise remove a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to CRSV that amounts to torture or ill-treatment**

States must not deport, expel, return (“refouler”), extradite or otherwise remove a person from their territory where there are substantial grounds for believing that there is a real risk of CRSV in the country to which the person may subsequently be removed.<sup>56</sup> In addition, States must not remove any person to a third State where they may later be returned to the country where they suffered this risk.<sup>57</sup>

The risk of CRSV need not be highly probable, but it must be real and foreseeable, taking into account that country’s situation and the individual’s personal circumstances.<sup>58</sup>

The prohibition remains in force even if the risk is caused by non-State actors, whose acts the receiving State is unable to prevent or whose impunity it is unable to counter.<sup>59</sup>

## **States should collect data on CRSV to develop policies aimed at its eradication**

States should collect, analyse and use quantitative and qualitative data to develop and monitor policies aimed at the eradication of CRSV.<sup>60</sup> Data should be disaggregated by age, sex, ethnicity and other intersecting identities of the victims/survivors,<sup>61</sup> and include the number of complaints, investigations, prosecutions and convictions that may have taken place.<sup>62</sup> Data should respect standards of confidentiality, anonymity and protection of personal data.<sup>63</sup>

## **States must allow victims/survivors of CRSV to participate in its eradication**

States must allow victims/survivors of CRSV to participate in all processes relevant to its eradication,<sup>64</sup> in a gender-inclusive and culturally-sensitive manner.<sup>65</sup> For example, States may do so by:

- Promoting their fair and equitable representation in national and local governments’ functions, public services, the army and the police and other law enforcement institutions, particularly at high-level positions;<sup>66</sup>
- Involving women’s organisations, marginalised women and girls, other civil society organisations, the private sector and the media in all efforts to eliminate prejudices and customary practices based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;<sup>67</sup>
- Involving victims/survivors of CRSV, including those belonging to marginalised groups, in conflict-prevention processes,<sup>68</sup> peace-making and post-conflict

procedures,<sup>69</sup> security sector reform and disarmament, demobilisation and reintegration,<sup>70</sup> and migration policies;<sup>71</sup>

- Involving victims/survivors of CRSV to participate in the provision of redress, for example through consultation or inclusion as staff.<sup>72</sup>

## **States must educate their population on CRSV**

States must widely educate their population, whether civilian or military, on the prohibition of CRSV.

At the civilian level, States must undertake sustained awareness campaigns, ensuring that every segment of society, from urban centres to remote villages, is informed about the criminal nature and the moral reprehensibility of CRSV. Such educational endeavours should not only focus on the legal ramifications but also address the deep-seated cultural and societal norms that may inadvertently perpetuate such violence.<sup>73</sup> Accordingly, States are encouraged to integrate CRSV education into school curricula, ensuring that future generations grow up with a clear understanding of the issue and its implications.<sup>74</sup> Similarly, to avoid the revictimisation of CRSV victims/survivors, States should provide targeted training on CRSV to police and all those working within the criminal justice system, including lawyers, prosecutors, judges and medical personnel, border and security guards, and labour inspectors.<sup>75</sup>

At the military level, States should provide training on CRSV specifically designed for members of their security forces deployed internationally,<sup>76</sup> and adopt codes of conduct and protocols expressly prohibiting all forms of sexual violence.<sup>77</sup>

## **States must take special measures to address discriminatory forms of CRSV**

While States must apply international law without discrimination,<sup>78</sup> to prohibit discrimination is not to prohibit differentiation in treatment: in addressing CRSV, States must be inclusive and responsive to the unique challenges faced by individuals that are part of groups at higher risk of CRSV as a result of structurally and societally imposed, and often intersectional,<sup>79</sup> conditions of discrimination. In this sense, States must not only refrain from violating their rights, but also adopt positive measures to prevent violations.<sup>80</sup>

As a general rule, States must afford special protection to persons at risk of CRSV such as:<sup>81</sup>

- Women;<sup>82</sup>
- Children;<sup>83</sup>
- Persons with disabilities;<sup>84</sup>
- LGBTQI+ persons;<sup>85</sup>
- Refugees, asylum-seekers, and internally displaced persons;<sup>86</sup>
- Racial and ethnic minorities;<sup>87</sup>
- Indigenous persons;<sup>88</sup>
- Religious and linguistic minorities;<sup>89</sup>

- Economically, socially and/or politically disadvantaged persons;<sup>90</sup>
- Persons in detention.<sup>91</sup>

Examples of special protection measures include:

- Protecting detained persons against acts of violence or intimidation. For example, women in detention must be provided with separate dormitories (except where families are accommodated as family units) and sanitary conveniences, and be under the supervision of women;<sup>92</sup>
- Prohibiting the recruitment and use of children in armed conflict;<sup>93</sup>
- The inclusion of persons with disabilities on an equal basis in national emergency and evacuation protocols,<sup>94</sup> their prioritisation in receiving humanitarian relief by virtue of the medical assistance or care they may require,<sup>95</sup> and the establishment of information and communication helplines and hotlines that are accessible to them;<sup>96</sup>
- Reducing overcrowding in refugee camps, and providing medical, social, legal, psychological and material support to and identify the specific needs of persons located in migrant holding centres;<sup>97</sup>
- Informing victims/survivors that belong to linguistic minorities of their rights, support services and legal measures in a language that they understand or with the assistance of interpreters and translators;<sup>98</sup>
- Providing children born of rape and their mothers with support, including free legal aid, subsidies for the child's upbringing, counselling, equal access to vocational training, and public awareness campaigns to combat their stigmatisation and social isolation.<sup>99</sup>

**NOTE TO READERS:** For more information on the meaning of intersectionality, readers are encouraged to consult the Guidebook's "Introduction" chapter, "An Intersectional Approach to International Law" subsection. For more information on at-risk groups, readers should consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection.

## **States should establish national human rights mechanisms to help them eradicate CRSV**

States should establish national human rights mechanisms to help them discharge their obligations to prevent and respond to CRSV.<sup>100</sup> Further, they should guarantee that such mechanisms are fully independent, provided with the resources necessary for the effective exercise of their mandate and are compliant with the principles relating to the status of national institutions for the promotion and protection of human rights ([the Paris Principles](#)).<sup>101</sup>

## **States must report on the measures they have adopted to eliminate CRSV to the relevant overseeing body**

States must report on all measures they have adopted to give effect to their international legal obligations to prevent and respond to CRSV. Reports must be submitted to the bodies that oversee the implementation of the treaties that States have ratified,<sup>102</sup> and be made available to the public.<sup>103</sup>

In their reports, States should indicate the factors and difficulties, if any, affecting the implementation of their international legal obligations and steps taken to overcome them,<sup>104</sup> and include the data that they have collected on CRSV.<sup>105</sup>

# Justice and Accountability

## Introduction

The concepts of justice and accountability are intertwined and indispensable to the fight to end CRSV. Justice is not merely confined to the corridors of courts; it is a broader commitment to ensuring that victims/survivors of CRSV are heard, acknowledged, and provided with avenues for redress. Accountability, on the other hand, demands that States not only investigate and punish perpetrators but also establish mechanisms that prevent the recurrence of CRSV. In short, States have an extensive set of responsibilities that go beyond prosecution, encompassing a holistic approach to justice that addresses the needs of victims, holds perpetrators accountable, and aims to eradicate CRSV in all its forms.

Obligations under this category reflect the order from start to finish of all of the components necessary to achieving meaningful justice and accountability. This order is not an unbending rule: the process towards justice and accountability for CRSV is not always clear-cut and may take different routes to realisation.

## Common Obligations

### **States must provide victims/survivors of CRSV with access to justice**

States must remove and prevent barriers that preclude victims/survivors of CRSV from accessing justice,<sup>106</sup> including seemingly neutral measures that have an adverse impact on certain persons, such as laws that criminalise homosexuality. Their enforcement results in the victim/survivor having to choose between silence or a risk of facing charges after reporting sexual violence.<sup>107</sup>

Other obstacles to justice include:

- Statutes of limitations that subject the investigation and prosecution of CRSV to a time limit;<sup>108</sup>
- Amnesties granted to perpetrators of CRSV;<sup>109</sup>
- Defences of superior order;<sup>110</sup>
- Rules of immunity;<sup>111</sup>
- Broad State secrecy laws;<sup>112</sup>
- The stigmatisation and marginalisation faced by victims/survivors of sexual violence at the family and community levels;<sup>113</sup>
- Lack of confidentiality and protection of victims/survivors throughout criminal proceedings;<sup>114</sup>
- Lack of free legal aid for victims/survivors;<sup>115</sup>
- Evidential burdens and procedural requirements that interfere with a victim/survivor's right to redress, such as courts requiring evidence of physical



resistance to sexual violence by the victims/survivors to show lack of consent;<sup>116</sup>

- Disregard for the best interests of a child victim/survivor during proceedings;<sup>117</sup>
- Corruption of justice system professionals;<sup>118</sup>
- The inaccessibility of legal information and procedures to report violations and abuses;<sup>119</sup>
- Inadequate and/or discriminatory domestic legislation,<sup>120</sup> such as laws that permit rapists to escape punishment if they marry the victim/survivor,<sup>121</sup> laws that punish victims/survivors of domestic violence,<sup>122</sup> and restrictive immigration laws that discourage victims/survivors from submitting complaints;<sup>123</sup>
- The mandatory referral of cases of sexual violence to alternative dispute resolution processes.<sup>124</sup>

## **States must establish impartial and effective complaints mechanisms to receive complaints of CRSV**

To ensure that victims/survivors of CRSV have access to effective protection and remedies, States must establish impartial and effective complaints mechanisms to receive complaints of CRSV.<sup>125</sup> Such mechanisms must be made known and accessible to the public.<sup>126</sup> In particular, it is fundamental that they be available to:

- Persons deprived of their liberty,<sup>127</sup> for example via telephone hotlines or confidential complaints boxes in detention facilities.<sup>128</sup> Complaints must be promptly examined,<sup>129</sup> preferably by a body independent of the authority in charge of places of detention or imprisonment;<sup>130</sup>
- Persons belonging to at-risk or marginalised groups.<sup>131</sup>

States should protect victims/survivors of CRSV that have submitted complaints against reprisals and intimidation.<sup>132</sup>

## **States must investigate reports of CRSV**

States must independently, impartially, promptly and thoroughly investigate reports of CRSV committed by State or non-State actors under their jurisdiction.<sup>133</sup>

States should keep victims/survivors informed about the investigation's progress and results,<sup>134</sup> while mindful of the impact the investigation may have on victims/survivors. To that end, States should use investigative procedures and practices sensitive to the needs of at-risk victims/survivors,<sup>135</sup> for example by hiring female police officers and qualified interpreters, and establishing special protection units and gender desks in police stations.<sup>136</sup> States should also ensure that, where the physical and psychological forensic examination of the victim/survivor is necessary, it is conducted independently and with all appropriate sensitivity, in accordance with the [Istanbul Protocol](#).<sup>137</sup>

The duty to investigate arises automatically in cases of CRSV amounting to torture or ill-treatment, even in the absence of a formal complaint.<sup>138</sup>

## States must prosecute incidents of CRSV

States must prosecute CRSV committed by State or non-State actors under their jurisdiction,<sup>139</sup> with penalties commensurate with the severity of the crime.<sup>140</sup>

To guarantee the proper administration of justice in cases of CRSV, States should strengthen the independence of the judiciary against interference,<sup>141</sup> for example by halting the application of military law,<sup>142</sup> and providing judges with the resources necessary to investigate past and ongoing serious human rights violations in conflict situations.<sup>143</sup>

States should respect and guarantee the unique needs of at-risk victims/survivors in the prosecution of CRSV,<sup>144</sup> for example by:

- Establishing juvenile specialised courts and criminal procedures;<sup>145</sup>
- Increasing the number of judges specialising in sexual violence;
- Improving the representation of women in the judiciary.<sup>146</sup>

In the absence of domestic prosecution, States can cooperate with an international criminal tribunal, such as the International Criminal Court, and hand over perpetrators of CRSV for trial.<sup>147</sup>

## States must protect victims/survivors of CRSV from retaliation

In the absence of protection, victims/survivors of CRSV may be afraid of resorting to justice for fear of retaliation. States must adopt measures to protect victims/survivors who resort to legal proceedings.<sup>148</sup>

Measures include:

- Protection orders for victims/survivors in situations of immediate danger;<sup>149</sup>
- Legislation criminalising threats, harassment, intimidation and omission by State officials;<sup>150</sup>
- Protecting their privacy and safety, including through gender-sensitive court procedures and measures;<sup>151</sup>
- Conducting proceedings in a prompt and speedy manner, to avoid unnecessary delay;<sup>152</sup>
- Removing alleged perpetrators from any position of control or power, whether direct or indirect, over complainants, victims/survivors, witnesses and their families as well as those conducting investigations;<sup>153</sup>
- Protecting persons and organisations fighting for and representing victims/survivors against threats, harassment and reprisal.<sup>154</sup>

Any individual, because of their status as victim/survivor of CRSV, may be exposed to further violence and be revictimised as a result, whether within or outside the courtroom. This obligation, with its focus on retaliation, is meant to deal only with the procedural aspects of the revictimisation faced by victims/survivors that begin legal proceedings. The next section, focusing on Humanitarian Response, covers instead

all substantive, positive measures that States must or should adopt to ensure that victims/survivors avoid revictimisation in their daily lives and are able to recover.

# Humanitarian Response

## Introduction

A State's humanitarian response requires a multi-faceted approach that goes beyond legal redress. It encompasses medical, psychological, and social support services that are designed to meet the immediate and long-term needs of victims. States are obligated to provide comprehensive, holistic care to ensure that victims/survivors not only recover, but are also empowered to rebuild their lives.

## Common Obligations

### **States must provide victims/survivors of CRSV with appropriate, holistic care**

In conflict-affected areas, access to essential services such as health care, including sexual and reproductive health services, is disrupted. Consequently, victims/survivors are at a greater risk of unplanned pregnancy, severe sexual and reproductive injuries, contracting sexually transmitted infections and suffering other physical and psychological injuries following CRSV. States must take measures to provide all victims/survivors with the medical care and assistance that they require without discrimination and in an accessible manner,<sup>155</sup> including:

- Ensuring equal access to health care facilities and reproductive health services, including treatment for sexually transmitted infections, that are affordable, adequate, culturally relevant and accessible;<sup>156</sup>
- Ensuring equal access to psychosocial and psychological care;<sup>157</sup>
- Ensuring that health care services are provided by qualified health workers, trained in recognising signs of sexual violence and adapting care to the unique needs of at-risk groups;<sup>158</sup>
- A patient privacy policy to ensure doctor-patient confidentiality;<sup>159</sup>
- Improving access to maternal health care, pre- and post- natal care and emergency obstetric services;<sup>160</sup>
- Facilitating access to adequate contraceptive and family planning methods;<sup>161</sup>
- Ensuring that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents;<sup>162</sup>
- Allowing access to legal voluntary termination of pregnancy under safe and dignified conditions without harassment or risk of criminal penalties.<sup>163</sup>

In practice, victims/survivors have needs that go beyond medical care and assistance and are likely to last after the temporal scope of armed conflict and the application of international law. International humanitarian law and international human rights law are complementary on this issue, and require the adoption of a survivor-centred approach that considers the need to respect victims/survivors' human rights. It would be meaningless to provide medical care if adequate food, clothing, shelter and hygiene were not provided alongside, especially when severely wounded persons are being

treated over a longer period of time. In light of its object and purpose, the obligation to provide victims/survivors with care should be interpreted holistically, to encompass not only medical care but also, at a minimum, the provision of food, clothing, shelter and hygiene.<sup>164</sup>

In this sense, States must rehabilitate victims/survivors. Rehabilitation seeks to enable the maximum possible self-sufficiency and function for the individual concerned, and may involve adjustments to the person's physical and social environment. Rehabilitation for victims/survivors should aim to restore, as far as possible, their independence, physical, mental, social and vocational ability, and full inclusion and participation in society in the aftermath of CRSV.<sup>165</sup> Rehabilitative measures include:

- Setting up and adequately funding prevention and early assistance centres, and temporary shelters;<sup>166</sup>
- Establishing a free 24-hour hotline for anyone experiencing violence;<sup>167</sup>
- Provision of material and legal assistance to victims/survivors.<sup>168</sup> For example, States should grant victims/survivors of human trafficking a stable residence status and basic livelihood;<sup>169</sup>
- Re-integrative and social services, community and family-oriented assistance and services, vocational training, and education.<sup>170</sup>

# Reparations

## Introduction

Reparations are emblematic of a State's commitment to justice, acknowledgment of harm, and its dedication to restoring the dignity of victims/survivors by ensuring that they are given meaningful avenues for healing and restoration.

The provision of reparations goes beyond compensation. It encompasses a range of measures such as restitution, rehabilitation, and satisfaction, aimed at holistically remedying the physical, psychological, and social harms suffered by victims/survivors. In essence, reparations represent a State's pledge to rebuild trust, foster reconciliation, and unequivocally affirm the inherent dignity and worth of every individual affected by CRSV.

## Common Obligations

### **States must make reparations to victims/survivors of CRSV**

States must make reparations to victims/survivors of CRSV, whether committed by State or non-State actors, for the harm suffered.<sup>171</sup> Victims/survivors have a right to have reparations be determined by any authority competent to do so, such as national tribunals.<sup>172</sup> Reparation includes:

- Compensation, whether in the form of money, goods or services.<sup>173</sup> Monetary compensation alone may not be sufficient reparation for a victim/survivor of CRSV;<sup>174</sup>
- Restitution.<sup>175</sup> While not always possible, restitution is designed to re-establish the victim/survivor's situation before the commission of CRSV. For restitution to be effective, States should address any structural causes of the violation, including discrimination related to, for example, gender, sexual orientation, disability, political or other opinion, ethnicity, age and religion, and all other grounds of discrimination;<sup>176</sup>
- Rehabilitation,<sup>177</sup> as discussed under "Humanitarian Response";
- Satisfaction.<sup>178</sup> Satisfaction encompasses the non-material damage caused by the violations suffered.<sup>179</sup> Measures of satisfaction include, for example, investigation and criminal prosecution of CRSV, full and public disclosure of the truth, an official declaration or judicial decision restoring the victims/survivors' dignity and reputation, and arranging an official apology;<sup>180</sup>
- Guarantees of non-repetition.<sup>181</sup> Guarantees of non-repetition require States to adopt measures to combat impunity for CRSV, such as those listed throughout the Overview.<sup>182</sup>

Adequate reparation is effective and timely, sensitive and tailored to the needs of at-risk victims/survivors, holistic and proportional to the gravity of the harm suffered.<sup>183</sup>

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<sup>1</sup> Mukwege Foundation, 'Expert Conference, Understanding the Treaty Making Process. Session II: Overview

of the Existing Treaty Frameworks including Their Enforcement' (6 July 2022) <[www.youtube.com/watch?v=GlaEhDjPAyE&ab\\_channel=MukwegeFoundation](http://www.youtube.com/watch?v=GlaEhDjPAyE&ab_channel=MukwegeFoundation)> accessed 18 January 2023.

<sup>2</sup> UNGA Res 60/147 (16 December 2005) UN Doc [A/RES/60/147](#).

<sup>3</sup> In some cases, the obligation to provide redress may not be exclusively States'. For example, following criminal proceedings defendants (i.e., the perpetrators) have the primary responsibility to provide victims/survivors with redress.

<sup>4</sup> Statute of the International Court of Justice, art 38.

<sup>5</sup> United Nations Charter, art 25.

<sup>6</sup> *For more details, see the Guidebook's chapter 'United Nations Peace and Security'*.

<sup>7</sup> ILC, 'Report of the International Law Commission Seventieth session (30 April–1 June and 2 July–10 August 2018): Identification of Customary International Law' UN Doc [A/73/10](#) Conclusion 4(2).

<sup>8</sup> ILC, 'Report of the International Law Commission Seventieth session (30 April–1 June and 2 July–10 August 2018): Identification of Customary International Law' UN Doc [A/73/10](#) Commentary on Conclusion 4.

<sup>9</sup> ILC, 'Report of the International Law Commission Seventieth session (30 April–1 June and 2 July–10 August 2018): Identification of Customary International Law' UN Doc [A/73/10](#) Commentary on Conclusion 12.

<sup>10</sup> ILC, 'Report of the International Law Commission Seventieth session (30 April–1 June and 2 July–10 August 2018): Identification of Customary International Law' UN Doc [A/73/10](#) Commentary on Conclusion 12.

<sup>11</sup> *See, for example, Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) (Judgment)* [1986] International Court of Justice Rep 14 para 188 *and Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)* [1996] International Court of Justice Rep 226 para 71.

<sup>12</sup> *See* UN Charter, arts 24 and 48.

<sup>13</sup> *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] International Court of Justice Rep 16 para 114.

<sup>14</sup> *See* Stefan Talmon, 'The Security Council as World Legislature' (2005) 99(1) *The American Journal of International Law* 175 p 191 *and* UNSC, '4950<sup>th</sup> Meeting' (22 April 2004) UN Doc [S/PV.4950](#) p 23.

<sup>15</sup> United Nations Charter, art 39.

<sup>16</sup> UNSC Res 1325 (31 October 2000) UN Doc [S/RES/1325](#).

<sup>17</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations of the Committee on the Elimination of Discrimination against Women, Kenya' (5 April 2011) UN Doc [CEDAW/C/KEN/CO/7](#) para 52; Committee on the Rights of the Child, 'Concluding Observations on the Second Report of the United States of America Submitted under Article 8 of the Optional Protocol to

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the Convention on the Involvement of Children in Armed Conflict' (26 June 2013) UN Doc [CRC/C/OPAC/USA/CO/2](#) para 30.

<sup>18</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 24 and 'Concluding Observations on the Combined Tenth to Seventeenth Periodic Reports of Sri Lanka' (6 October 2016) UN Doc [CERD/C/LKA/CO/10-17](#) para 31; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Ethiopia' (20 January 2011) UN Doc [CAT/C/ETH/CO/1](#) para 39; Committee on the Rights of the Child, 'General Comment No. 22 (2017) of the Committee on the Rights of the Child on the General Principles regarding the Human Rights of Children in the Context of International Migration' (16 November 2017) UN Doc [CRC/C/GC/22](#) para 55(e) and 'General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence' (18 April 2011) UN Doc [CRC/C/GC/13](#) para 41 and 'Concluding Observations on the Second Periodic Report of the Holy See' (25 February 2014) UN Doc [CRC/C/VAT/CO/2](#) para 62; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Kuwait' (18 October 2019) UN Doc [CRPD/C/KWT/CO/1](#) para 5; African Commission on Human and Peoples' Rights, [Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa \(the Robben Island Guidelines\)](#), art 1.

<sup>19</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Brazil' (19 December 2022) UN Doc [CERD/C/BRA/CO/18-20](#) para 8(c); Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Ukraine' (9 March 2017) UN Doc [CEDAW/C/UKR/CO/8](#) para 29(a); Committee against Torture, 'Concluding Observations on the Second Periodic Report of Namibia' (1 February 2017) UN Doc [CAT/C/NAM/CO/2](#) para 27 and 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Belgium' (19 January 2009) UN Doc [CAT/C/BEL/CO/2](#) para 25 and 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Mexico' (6 February 2007) UN Doc [CAT/C/MEX/CO/4](#) para 11; Committee on the Rights of the Child, 'Consideration of Reports Submitted by States Parties under Article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Concluding Observations: Colombia' (21 June 2010) UN Doc [CRC/C/OPAC/COL/CO/1](#) para 36 and 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Norway' (4 July 2018) UN Doc [CRC/C/NOR/CO/5-6](#) para 18(g); Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Cyprus' (8 May 2017) UN Doc [CRPD/C/CYP/CO/1](#) para 40; African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), art 1.

<sup>20</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 87(a)-(g); Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Ethiopia' (20 January 2011) UN Doc [CAT/C/ETH/CO/1](#) para 40; Committee on the Rights of the Child, 'Consideration of Reports Submitted by States Parties under Article 8, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Concluding Observations: Democratic Republic of Congo' (7 March 2012) UN Doc [CRC/C/OPAC/COD/CO/1](#) para 37; African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), art 1.

<sup>21</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations of the Committee on the Elimination of Discrimination against Women, Kenya' (5 April 2011) UN Doc [CEDAW/C/KEN/CO/7](#) para 52; Committee against Torture, 'Concluding Observations on the Fifth Periodic Report of Sri Lanka' (27 January 2017) UN Doc [CAT/C/LKA/CO/5](#) para 44; Committee on the Rights of the Child, 'Concluding Observations on the Report Submitted by Iraq under Article 8, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict' (5 March 2015) UN Doc [CRC/C/OPAC/IRQ/CO/1](#) para 38(e)..

<sup>22</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 33(e); Committee on the Rights of the Child, 'Consideration of Reports Submitted by States Parties under Article 8 of the Optional Protocol to the Convention on the Rights of



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the Child on the Involvement of Children in Armed Conflict. Concluding Observations: Colombia' (21 June 2010) UN Doc [CRC/C/OPAC/COL/CO/1](#) para 50.

<sup>23</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Jordan' (26 December 2017) UN Doc [CERD/C/JOR/CO/18-20](#) para 17(f); Committee against Torture, 'Concluding Observations on the Initial Report of Iraq' (7 September 2015) UN Doc [CAT/C/IRQ/CO/1](#) para 26; Committee on the Rights of the Child, 'Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq' (3 March 2015) UN Doc [CRC/C/IRQ/CO/2-4](#) para 32(e); Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of India' (29 October 2019) UN Doc [CRPD/C/IND/CO/1](#) para 39(b).

<sup>24</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Jordan' (26 December 2017) UN Doc [CERD/C/JOR/CO/18-20](#) para 21(c); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 38 on Trafficking in Women and Girls in the Context of Global Migration' (20 November 2020) UN Doc CEDAW/C/GC/38 paras 121-122; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Sri Lanka' (8 December 2011) UN Doc [CAT/C/LKA/CO/3-4](#) para 24.

<sup>25</sup> First Geneva Convention, art 49; Second Geneva Convention, art 50; Third Geneva Convention, art 129; Fourth Geneva Convention, art 146; First Protocol Additional to the Geneva Conventions, art 86(1); Customary International Humanitarian Law Study, [rule 139](#); Genocide Convention, art 1; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ([Judgment](#)) [2007] International Court of Justice Rep 43 para 426; International Covenant on Civil and Political Rights, art 2(2); Convention against Torture, art 2(1); African Charter on Human and People's Rights, art 1; African Commission on Human and People's Rights, [Social and Economic Rights Action Centre and Another v Nigeria \(SERAC Case\)](#), Communication 155/96 (2001) para 57; Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), art 4(1).

<sup>26</sup> *Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* ([Judgment](#)) [1986] International Court of Justice Rep 14 para 220; International Convention on the Elimination of All Forms of Racial Discrimination, arts 4(a) and 5(b); Communication No. 2615/2015 *Devi Maya Nepal v Nepal*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (14 June 2022) UN Doc [CCPR/C/132/D/2615/2015](#) para 9; Convention on the Elimination of All Forms of Discrimination against Women, art 2(b); Convention against Torture, arts 1, 2, 4 and 16; Convention on the Rights of the Child, art 4; African Commission on Human and People's Rights, [General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#) (2017) para 61; European Convention on Human Rights, arts 3 and 8; [M.C. v Bulgaria](#) App no 39272/98 (European Court of Human Rights, 4 December 2003) para 153; [E.G. v Moldova](#) App no 37882/13 (European Court of Human Rights, 13 April 2021) para 39; Istanbul Convention, art 36.

<sup>27</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art 2(1)(c); Human Rights Committee, 'Concluding Observations on the Third Periodic Report of the Central African Republic' (30 April 2020) UN Doc [CCPR/C/CAF/CO/3](#) para 14; Convention on the Elimination of All Forms of Discrimination against Women, arts 2(c) and (g); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 22; United Nations Human Rights Council, 'Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (5 January 2016) UN Doc [A/HRC/31/57](#) para 14; Committee on the Rights of the Child, 'General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (27 November 2003) UN Doc [CRC/GC/2003/5](#) para 21; Convention on the Rights of Persons with Disabilities, art 4(1)(b).

<sup>28</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 8; Committee on the Elimination of Discrimination against Women, 'Concluding Observations of the Committee on the Elimination of Discrimination against Women, Liberia' (7 August 2009) UN Doc [CEDAW/C/LBR/CO/6](#) para 13; Committee on the Elimination of

Discrimination against Women, 'Concluding Observations of the Committee on the Elimination of Discrimination against Women, Montenegro' (4 November 2011) UN Doc [CEDAW/C/MNE/CO/1](#) para 9(b); Committee against Torture, 'Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland' (7 June 2019) UN Doc [CAT/C/GBR/CO/6](#) paras 8-9; Committee on the Rights of the Child, 'General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (27 November 2003) UN Doc [CRC/GC/2003/5](#) para 1; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland' (3 October 2017) UN Doc [CRPD/C/GBR/CO/1](#) paras 7(a) and (c).

<sup>29</sup> For a definition of CRSV, consult the Guidebook's "Introduction" chapter.

<sup>30</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 29(e); European Convention on Human Rights, arts 3 and 8; [M.C. v Bulgaria](#) App no 39272/98 (European Court of Human Rights, 4 December 2003) para 166; [Angulo Losada v Bolivia](#) (Sentencia) (Inter-American Court of Human Rights Series C No 475) (18 November 2022) paras 145 and 149.

<sup>31</sup> Communication No. 698/2015 *Z.K. and A.K. v Switzerland*, Decision Adopted by the Committee against Torture under Article 22 of the Convention (30 July 2020) UN Doc [CAT/C/63/D/698/2015](#) para 9.5; [M.C. v Bulgaria](#) App no 39272/98 (European Court of Human Rights, 4 December 2003) para 166.

<sup>32</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 29(e); [M.C. v Bulgaria](#) App no 39272/98 (European Court of Human Rights, 4 December 2003) para 163; [Angulo Losada v Bolivia](#) (Sentencia) (Inter-American Court of Human Rights Series C No 475) (18 November 2022) para 148.

<sup>33</sup> Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Japan' (3 August 2007) UN Doc [CAT/C/JPN/CO/1](#) para 25.

<sup>34</sup> Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Bosnia and Herzegovina' (20 January 2011) UN Doc [CAT/C/BIH/CO/2-5](#) para 9.

<sup>35</sup> African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 38.

<sup>36</sup> Geneva Conventions, common art 1; International Committee of the Red Cross, *Commentary on the Third Geneva Convention* (ICRC and Cambridge University Press 2020) [Commentary on Common Article 1](#), paras 183-185; Genocide Convention, art IV; International Convention on the Elimination of Racial Discrimination, arts 2(1), 4 and 5(b); International Covenant on Civil and Political Rights, art 7; Human Rights Committee, 'General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)' (10 March 1992) para 2; Convention on the Elimination of All Forms of Discrimination against Women, art 2; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women on Harmful Practices' (14 November 2014) UN Doc [CEDAW/C/GC/31-CRC/C/GC/18](#) footnote 6; Convention against Torture, arts 2 and 16; Committee on the Rights of the Child, 'General Comment No. 16 (2013) on State Obligations regarding the Impact of the Business Sector on Children's Rights' (17 April 2013) UN Doc [CRC/C/GC/16](#) paras 27-29 and 52; Committee on the Rights of People with Disabilities, 'General Comment No. 3 (2016) Article 6: Women and Girls with Disabilities' (25 November 2016) UN Doc [CRPD/C/GC/3](#) para 26; African Charter on Human and Peoples' Rights, art 1; African Commission on Human and Peoples' Rights, [Social and Economic Rights Action Centre and Another v Nigeria \(SERAC Case\)](#), Communication 155/96 (2001) para 57 and [Egyptian Initiative for Personal Rights \(EIPR\) and Interights v Arab Republic of Egypt](#), Communication 323/2006 (2011) para 163; Maputo Protocol, art 4(2)(a); European Convention on Human Rights, art 8; [E.B. v Romania](#) App no 49089/10 (European Court of Human Rights, 19 March 2019) para 53; [M.C. v Bulgaria](#) App no 39272/98 (European Court of Human Rights, 4 December 2003) para 149; [Gjini v Serbia](#) App no 1128/16 (European Court of Human Rights, 15 January 2019) paras 79 and 92; Istanbul Convention, arts 4(1), 7(1) and 12(2); [Bedoya Lima v Colombia](#) (Judgment) (Inter-American Court of Human Rights Series C No 431) (26 August 2021) para 88; Convention of Belém do Pará, arts 7 and 1.

<sup>37</sup> Customary International Humanitarian Law Study, rule 149; International Committee of the Red Cross, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12*

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August 1949 (ICRC, 1987) [Commentary on Article 91 \(API\)](#), paras 3660 and 3655; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ([Judgment](#)) [2007] International Court of Justice Rep 43 para 379; [Gjini v Serbia](#) App no 1128/16 (European Court of Human Rights, 15 January 2019) para 79.

<sup>38</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ([Judgment](#)) [2007] International Court of Justice Rep 43 para 379; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 24(a); Communication No. 116/2017 *S.H. v Bosnia and Herzegovina*, Views Adopted by the Committee on the Elimination of Discrimination against Women under Article 7 (3) of the Optional Protocol (26 August 2020) UN Doc [CEDAW/C/76/D/116/2017](#) para 8.3.

<sup>39</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 24(a); Communication No. 116/2017 *S.H. v Bosnia and Herzegovina*, Views Adopted by the Committee on the Elimination of Discrimination against Women under Article 7 (3) of the Optional Protocol (26 August 2020) UN Doc [CEDAW/C/76/D/116/2017](#) para 8.3; Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 15; Inter-American Convention to Prevent and Punish Torture, art 3.

<sup>40</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 24(b); Convention against Torture, arts 2 and 16; Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) paras 15 and 18; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, art 4; CRC Committee, 'Concluding Observations on the Report Submitted by Peru under Article 8(1) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict' (7 March 2016) UN Doc [CRC/C/OPAC/PER/CO/1](#) para 18; African Commission on Human and Peoples' Rights, [Zimbabwe Human Rights NGO Forum v Zimbabwe](#), Communication 245/02 (2006) para 144; [Espinoza González v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 67.

<sup>41</sup> *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* ([Judgment](#)) [1986] International Court of Justice Rep 14 para 218; *Prosecutor v Tadić* ([Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction](#)) IT-94-1-A (2 October 1995) (AC) para 102; Geneva Conventions, common arts 2 and 3; International Committee of the Red Cross, 'What Is the Difference between IHL and Human Rights Law?' (22 January 2015) <[www.icrc.org/en/document/what-difference-between-ihl-and-human-rights-law](http://www.icrc.org/en/document/what-difference-between-ihl-and-human-rights-law)> accessed 11 April 2023.

<sup>42</sup> For a detailed explanation of the concept of jurisdiction, consult the Guidebook's "Introduction" chapter, "The Extraterritorial Scope of International Legal Obligations: Understanding Jurisdiction" subsection. Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Fifth to Ninth Reports of Ireland' (23 January 2020) UN Doc [CERD/C/IRL/CO/5-9](#) paras 47 and 48(d); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) paras 12(a) and (c); Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 7; Convention on the Rights of the Child, art 2; Committee on the Rights of the Child, 'General Comment No. 16 (2013) on State Obligations regarding the Impact of the Business Sector on Children's Rights' (17 April 2013) UN Doc [CRC/C/GC/16](#) para 39 and 'General Comment No. 22 (2017) of the Committee on the Rights of the Child on the General Principles regarding the Human Rights of Children in the Context of International Migration' (16 November 2017) UN Doc [CRC/C/GC/22](#) para 12; Convention on the Rights of Persons with Disabilities, art 4(5); Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland' (3 October 2017) UN Doc [CRPD/C/GBR/CO/1](#) para 7(a).

<sup>43</sup> *The manner in which a State obtained effective control is irrelevant: States may also exercise human rights jurisdiction through national contingents 'assigned to an international peace-keeping or peace-enforcement operation'*. CCPR, 'General Comment No. 31: The Nature of the General Legal Obligation

Imposed on States Parties to the Covenant' (26 May 2004) UN Doc [CCPR/C/21/Rev.1/Add. 13](#) para 10.

<sup>44</sup> [The Environment and Human Rights](#) (Advisory Opinion) (Inter-American Court of Human Rights Series OC-23/17) (15 November 2017) para 80.

<sup>45</sup> Communication No. 323/2007 *J.H.A. v. Spain*, Decision of the Committee against Torture under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (21 November 2008) UN Doc [CAT/C/41/D/323/2007](#) para 8.2.

<sup>46</sup> CCPR, 'General Comment No. 36: Article 6: Right to Life' (3 September 2011) UN Doc [CCPR/C/GC/36](#) para 63; Communication No. 3042/2017 *A.S., D.I., O.I. and G.D. v Italy*, Views Adopted by the CCPR under Article 5(4) of the Optional Protocol (28 April 2021) UN Doc [CCPR/C/130/D/3042/2017](#); Communication No. 107/2019 *Chiara Sacchi et al v Germany*, Decision Adopted by the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (11 November 2021) UN Doc [CRC/C/88/D/107/2019](#); [The Environment and Human Rights](#) (Advisory Opinion) (Inter-American Court of Human Rights Series OC-23/17) (15 November 2017) para 101; African Commission on Human and Peoples' Rights (ACHPR), '[General Comment No. 3 on the African Charter on Human and Peoples' Rights: the Right to Life \(Article 4\)](#)' (2015) para 18; P Janig, '[Extraterritorial Application of Human Rights](#)' in C Binder, M Nowak, J A Hofbauer and P Janig (eds), *Elgar Encyclopedia of Human Rights* (Edward Elgar Publishing 2022) para 34.

<sup>47</sup> *For a definition of torture and ill-treatment, consult the Guidebook's chapter on the Convention against Torture.*

<sup>48</sup> Customary International Humanitarian Law Study, rule 90; International Covenant on Civil and Political Rights, art 7; Convention against Torture, art 2; Convention on the Rights of Persons with Disabilities, art 15; African Charter on Human and People's Rights, art 1; African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), art 3(4); European Convention on Human Rights, art 3; [E.G. v Moldova](#) App no 37882/13 (European Court of Human Rights, 13 April 2021) para 39; American Convention on Human Rights, arts 1 and 5; Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), art 7(a).

<sup>49</sup> International Committee of the Red Cross, *Commentary on the Third Geneva Convention* (ICRC and Cambridge University Press 2020) [Commentary on Common Article 1](#), paras 183-185; Human Rights Committee (CCPR), 'General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)' ([10 March 1992](#)) para 2; African Charter, art 1; African Commission on Human and Peoples' Rights, '[Social and Economic Rights Action Centre and Another v Nigeria \(SERAC Case\)](#)', Communication 155/96 (2001) para 57; [E.B. v Romania](#) App no 49089/10 (European Court of Human Rights, 19 March 2019) para 53; [M.C. v Bulgaria](#) App no 39272/98 (ECtHR, 4 December 2003) para 149; [Gjini v Serbia](#) App no 1128/16 (European Court of Human Rights, 15 January 2019) para 79; [Bedoya Lima v Colombia](#) (Judgment) (Inter-American Court of Human Rights Series C No 431) (26 August 2021) para 88; Convention of Belém do Pará, arts 7 and 1; Inter-American Convention to Prevent and Punish Torture, art 3.

<sup>50</sup> Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) paras 15 and 18; [Bedoya Lima v Colombia](#) (Judgment) (Inter-American Court of Human Rights Series C No 431) (26 August 2021) para 88.

<sup>51</sup> Communication No. 2234/2013 *M.T. v Uzbekistan*, Views Adopted by the Human Rights Committee at Its 114<sup>th</sup> Session (29 June-24 July 2015) (21 October 2015) UN Doc [CCPR/C/114/D/2234/2013](#) para 9; Communication No. 1610/2007 *L.N.P. v Argentina*, Views Adopted by the Human Rights Committee (16 August 2011) UN Doc [CCPR/C/102/D/1610/2007](#) para 14; Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 7; [E.B. v Romania](#) App no 49089/10 (European Court of Human Rights, 19 March 2019) para 53.

<sup>52</sup> Human Rights Committee, 'General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)' ([10 March 1992](#)) para 3; Convention against Torture, art 2(2); Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 3.

<sup>53</sup> Convention against Torture, art 1.

<sup>54</sup> Convention against Torture, art 1.

<sup>55</sup> Convention against Torture, art 16; Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 3.

<sup>56</sup> Geneva Conventions, common art 3; Fourth Geneva Convention, arts 45(4) and 49; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women' (14 November 2014) UN Doc [CEDAW/C/GC/32](#) paras 13 and 23; Communication No. 33/2011 *M. N. N. v Denmark*, Decision Adopted by the Committee on the Elimination of Discrimination against Women at Its Fifty-Fifth Session, 8-26 July 2013 (15 August 2013) UN Doc [CEDAW/C/55/D/33/2011](#) para 8.9; Convention against Torture, arts 3 and 16; Committee against Torture, 'General Comment No. 4 (2017) on the Implementation of Article 3 of the Convention in the Context of Article 22' (4 September 2018) UN Doc [CAT/C/GC/4](#) para 26; Convention on the Rights of the Child, arts 6, 37 and 38; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, arts 3 and 4; Committee on the Rights of the Child, 'General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children outside Their Country of Origin' (1 September 2005) UN Doc [CRC/GC/2005/6](#) para 28; European Convention on Human Rights, art 3; Istanbul Convention, art 61; American Convention on Human Rights, art 22; *Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection* (Advisory Opinion) (Inter-American Court of Human Rights Series OC-21/14) (19 August 2014) para 218.

<sup>57</sup> Committee against Torture, 'General Comment No. 4 (2017) on the Implementation of Article 3 of the Convention in the Context of Article 22' (4 September 2018) UN Doc [CAT/C/GC/4](#) paras 12 and 22; *Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection* (Advisory Opinion) (Inter-American Court of Human Rights Series OC-21/14) (19 August 2014) para 212.

<sup>58</sup> Communication No. 279/2005 *C.T. and K.M. v Sweden*, Decision of the Committee against Torture under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (7 December 2006) UN Doc [CAT/C/37/D/279/2005](#) para 7.3; Committee against Torture, 'General Comment No. 1: Implementation of Article 3 of the Convention in the Context of Article 22 (Refoulement and Communications)' (21 November 1997) UN Doc [A/53/44](#) para 6; Communication No. 717/2015 *A. Sh. et al v Switzerland*, Decision of the Committee against Torture under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (21 June 2018) UN Doc [CAT/C/63/D/717/2015](#) para 9.4; *N. v Sweden* App no 23505/09 (European Court of Human Rights, 20 July 2010) para 54; *Vilvarajah and others v The United Kingdom* App no 13163/87; 13164/87; 13165/87; 13447/87; 13448/87 (European Court of Human Rights, 30 October 1991) para 108.

<sup>59</sup> Committee against Torture, 'General Comment No. 4 (2017) on the Implementation of Article 3 of the Convention in the Context of Article 22' (4 September 2018) UN Doc [CAT/C/GC/4](#) para 30; *H.L.R. v France* App no 24573/94 (European Court of Human Rights, 29 April 1997) para 40.

<sup>60</sup> Committee on the Elimination of Racial Discrimination, 'General Recommendation XXV on Gender-Related Dimensions of Racial Discrimination' (20 March 2000) para 6; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women on Harmful Practices' (14 November 2014) UN Doc [CEDAW/C/GC/31-CRC/C/GC/18](#) para 37; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Bosnia and Herzegovina' (20 January 2011) UN Doc [CAT/C/BIH/CO/2-5](#) para 9 and 'Concluding Observations on the Seventh Periodic Report of Peru' (18 December 2018) UN Doc [CAT/C/PER/CO/7](#) para 33(b) and 'Concluding Observations on the Sixth Periodic Report of Bosnia and Herzegovina' (22 December 2017) UN Doc [CAT/C/BIH/CO/6](#) para 19(d); Committee on the Rights of the Child, 'General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence' (18 April 2011) UN Doc [CRC/C/GC/13](#) para 47(d)(i); Convention on the Rights of Persons with Disabilities, art 31(1); Istanbul Convention, art 11(1); *Women Victims of Sexual Torture in Atenco v Mexico* (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 360; Convention of Belém do Pará, art 10.

<sup>61</sup> Committee on the Elimination of Racial Discrimination, 'General Recommendation XXV on Gender-Related Dimensions of Racial Discrimination' (20 March 2000) para 6; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 38(d); Committee against Torture, 'Concluding Observations on the Third Periodic Report of Senegal, Adopted by the Committee at Its Forty-Ninth Session (29 October - 23 November 2012)' (17 January 2013) UN Doc [CAT/C/SEN/CO/3](#) para 26; Committee on the Rights of the Child, 'General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44,

para. 6)' (27 November 2003) UN Doc [CRC/GC/2003/5](#) para 48; Committee on the Rights of Persons with Disabilities, 'General Comment No. 7 (2018) on the Participation of Persons with Disabilities, including Children with Disabilities, through Their Representative Organizations, in the Implementation and Monitoring of the Convention' (9 November 2018) UN Doc [CRPD/C/GC/7](#) para 91; [Vicky Hernandez v Honduras](#) (Judgment) (Inter-American Court of Human Rights Series C No 422) (26 March 2021) para 179.

<sup>62</sup> Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America' (8 May 2008) UN Doc [CERD/C/USA/CO/6](#) para 26 and 'Concluding Observations on the Combined 20th to 22nd Periodic Reports of Ecuador, Adopted by the Committee at Its Eighty-First Session (6–31 August 2012)' (24 October 2012) UN Doc [CERD/C/EQU/CO/20-22](#) para 23; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) paras 34(b) and (e); Committee against Torture, 'Concluding Observations on the Sixth Periodic Report of Bosnia and Herzegovina' (22 December 2017) UN Doc [CAT/C/BIH/CO/6](#) para 37(c) and 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Mauritius' (15 June 2011) UN Doc [CAT/C/MUS/CO/3](#) para 17 and 'Concluding Observations on the Third Periodic Report of Senegal, Adopted by the Committee at Its Forty-Ninth Session (29 October - 23 November 2012)' (17 January 2013) UN Doc [CAT/C/SEN/CO/3](#) para 15; Committee on the Rights of the Child, 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Ukraine' (27 October 2022) UN Doc [CRC/C/UKR/CO/5-6](#) para 23(c); [Vicky Hernandez v Honduras](#) (Judgment) (Inter-American Court of Human Rights Series C No 422) (26 March 2021) para 179.

<sup>63</sup> Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: Spain' (8 April 2011) UN Doc [CERD/C/ESP/CO/18-20](#) para 11(a); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 34(c)-(d); Convention on the Rights of Persons with Disabilities, arts 31(1)(a)-(b).

<sup>64</sup> Convention on the Elimination of All Forms of Racial Discrimination, art 5(c); Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Seventeenth to Nineteenth Periodic Reports of Colombia' (22 January 2020) UN Doc [CERD/C/COL/CO/17-19](#) para 15(a); International Covenant on Civil and Political Rights, art 2(2); Convention on the Rights of the Child, art 12; Convention on the Rights of Persons with Disabilities, art 4(3); [V.R.P., V.P.C. v Nicaragua](#) (Judgment) (Inter-American Court of Human Rights Series C No 350) (8 March 2018) para 159.

<sup>65</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Seventeenth to Nineteenth Periodic Reports of Colombia' (22 January 2020) UN Doc [CERD/C/COL/CO/17-19](#) para 15(a); Convention on the Elimination of All Forms of Discrimination against Women, arts 7, 8 and 14; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 57.

<sup>66</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 18; Human Rights Committee, 'Concluding Observations on the Democratic Republic of the Congo' (30 November 2017) UN Doc [CCPR/C/COD/CO/4](#) para 16; Convention on the Rights of Persons with Disabilities, art 29(b); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) paras 81(e)-(f).

<sup>67</sup> Convention on the Elimination of All Forms of Discrimination against Women, art 5; Committee on the Rights of Persons with Disabilities, 'General Comment No. 3 (2016) Article 6: Women and Girls with Disabilities' (25 November 2016) UN Doc [CRPD/C/GC/3](#) para 64(a); Istanbul Convention, art 17(1).

<sup>68</sup> Committee on the Elimination of Discrimination against Women, 'General recommendation No. 39 on the Rights of Indigenous Women and Girls' (26 October 2022) UN Doc [CEDAW/C/GC/39](#) para 30; 3 CRPD Committee, 'Report of the Committee on the Rights of Persons with Disabilities on its Twenty-Seventh Session (15 August–9 September 2022)' (13 October 2022) UN Doc [CRPD/C/27/2](#) para 31; Committee on the Elimination of Discrimination against Women and Committee on the Rights of the

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Child, 'Ensuring Prevention, Protection and Assistance for Children Born of Conflict Related Rape and Their Mothers: Joint Statement by CEDAW and CRC' (19 November 2021) pp 3-6; 7 Committee on the Rights of the Child, 'General Comment No. 20 (2016) on the Implementation of the Rights of the Child during Adolescence' (6 December 2016) UN Doc [CRC/C/GC/20](#) para 82.

<sup>69</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 42; Conference of States Parties to the Convention on the Rights of Persons with Disabilities, 'Protecting the Rights of Persons with Disabilities in Armed Conflict and Humanitarian Emergencies' (30 March 2021) UN Doc [CRPD/CSP/2021/2](#) para 18; Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, 'Ensuring Prevention, Protection and Assistance for Children Born of Conflict Related Rape and Their Mothers: Joint Statement by CEDAW and CRC' (19 November 2021) pp 3-6; African Commission on Human and Peoples' Rights, [Res 283](#) on the Situation of Women and Children in Armed Conflict (2014) ACHPR/Res.283(LV)2014.

<sup>70</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) paras 67-69.

<sup>71</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 57.

<sup>72</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 30 and 'Concluding Observations on the Second Periodic Report of Iraq' (15 June 2022) UN Doc [CAT/C/IRQ/CO/2](#) para 21(c); African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) paras 18-19 and [Res 283](#) on the Situation of Women and Children in Armed Conflict (2014) ACHPR/Res.283(LV)2014; [Aydin v Turkey](#) App no 23178/94 (ECtHR, 25 September 1997) para 103; [Espinoza González v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 242.

<sup>73</sup> First Geneva Convention, art 47; Second Geneva Convention, art 48; Third Geneva Convention, art 127; Fourth Geneva Convention, art 144; First Protocol Additional to the Geneva Conventions, art 83; Second Protocol Additional to the Geneva Conventions, art 19; Customary International Humanitarian Law Study, rule 143; International Convention on the Elimination of Racial Discrimination, arts 2(1) and 7; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Seventeenth to Nineteenth Periodic Reports of Colombia' (22 January 2020) UN Doc [CERD/C/COL/CO/17-19](#) para 11(c); International Covenant on Civil and Political Rights, art 2(2); Human Rights Committee, 'Concluding Observations on the Third Periodic Report of the Central African Republic' (30 April 2020) UN Doc [CCPR/C/CAF/CO/3](#) para 14; Communication No. 2245/2013 *Purna Maya v Nepal*, Views Adopted by the Human Rights Committee under Article 5 (4) of the Optional Protocol (23 June 2017) UN Doc [CCPR/C/119/D/2245/2013](#) para 15; Convention on the Elimination of All Forms of Discrimination against Women, art 5; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 25: Article 4, Paragraph 1, of the Convention (Temporary Special Measures)' ([Thirtieth Session, 2004](#)) para 10; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Chad' (4 June 2009) UN Doc [CAT/C/TCD/CO/1](#) para 20(a); Convention on the Rights of the Child, art 42; African Charter on Human and Peoples' Rights, art 25; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 21; Maputo Protocol, art 4(2)(d); Istanbul Convention, art 12(1); [Guzmán Albarracín v Ecuador](#) (Judgment) (Inter-American Court of Human Rights Series C No 405) (24 June 2020) para 243; [Angulo Losada v Bolivia](#) (Sentencia) (Inter-American Court of Human Rights Series C No 475) (18 November 2022) para 213; Convention of Belém do Pará, art 8.

<sup>74</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) paras 30(b)(i)-(ii); Committee against Torture, 'Concluding Observations on the Second Periodic Report of Namibia' (1 February 2017) UN Doc [CAT/C/NAM/CO/2](#) para 29; Committee on the Rights of the Child, 'General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices' (14 November 2014) UN Doc [CRC/C/GC/18](#) para 88; Committee on the

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<sup>75</sup> International Committee of the Red Cross, *Commentary on the First Geneva Convention* (ICRC and Cambridge University Press 2016) [Commentary on Article 47](#), paras 2778-2781; Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: India' (5 May 2007) UN Doc [CERD/C/IND/CO/19](#) para 15 and 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 15 and 'Concluding Observations on the Combined Twenty-Third and Twenty-Fourth Periodic Reports of Norway' (2 January 2019) UN Doc [CERD/C/NOR/CO/23-24](#) para 22(b) and 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America' (8 May 2008) UN Doc [CERD/C/USA/CO/6](#) para 26(ii) and 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Jordan' (26 December 2017) UN Doc [CERD/C/JOR/CO/18-20](#) para 17(e); International Covenant on Civil and Political Rights, arts 2(2) and 17; Human Rights Committee, 'Concluding Observations on Indonesia' (21 August 2013) UN Doc [CCPR/C/IDN/CO/1](#) para 5; Communication No. 1610/2007 *L.N.P. v Argentina*, Views Adopted by the Human Rights Committee (16 August 2011) UN Doc [CCPR/C/102/D/1610/2007](#) para 13.7; Committee on the Elimination of Discrimination against Women, 'Report of the Inquiry Concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women' (30 March 2015) UN Doc [CEDAW/C/OP.8/CAN/1](#) para 217; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Burundi' (15 February 2007) UN Doc [CAT/C/BDI/CO/1](#) para 16(a); Committee on the Rights of the Child, 'General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (27 November 2003) UN Doc [CRC/GC/2003/5](#) para 53; Committee on the Rights of the Child, 'General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices' (14 November 2014) UN Doc [CRC/C/GC/18](#) para 73(b) and 49; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 22; African Commission on Human and Peoples' Rights, [Res 283](#) on the Situation of Women and Children in Armed Conflict (2014) ACHPR/Res.283(LV)2014; Istanbul Convention, art 15; [Espinoza Gonzáles v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 327; [Angulo Losada v Bolivia](#) (Sentencia) (Inter-American Court of Human Rights Series C No 475) (18 November 2022) para 210.

<sup>76</sup> First Geneva Convention, art 47; Second Geneva Convention, art 48; Third Geneva Convention, art 127; Fourth Geneva Convention, art 144; First Protocol Additional to the Geneva Conventions, arts 83 and 87(2); Second Protocol Additional to the Geneva Conventions, art 19; Human Rights Committee, 'Concluding Observations on Germany' (4 May 2004) UN Doc [CCPR/CO/80/DEU](#) para 11; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 38(c) and 'Concluding Observations on the Report of Myanmar Submitted under the Exceptional Reporting Procedure' (18 March 2019) UN Doc [CEDAW/C/MMR/CO/EP/1](#) para 36; Committee on the Rights of the Child, 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Ukraine' (27 October 2022) UN Doc [CRC/C/UKR/CO/5-6](#) para 17; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 22; African Commission on Human and Peoples' Rights, [Res 111](#) on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence (2007) ACHPR/Res.111(XXXII)07; [Río Negro Massacres v Guatemala](#) (Judgment) (Inter-American Court of Human Rights Series C No 250) (4 September 2012) para 291.

<sup>77</sup> Human Rights Committee, 'Concluding Observations on the Second Periodic Report of Nepal' (15 April 2014) UN Doc [CCPR/C/NPL/CO/2](#) para 5; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 38(c) and 'Concluding Observations on



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the Report of Myanmar Submitted under the Exceptional Reporting Procedure' (18 March 2019) UN Doc [CEDAW/C/MMR/CO/EP/1](#) para 36; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 22.

<sup>78</sup> Geneva Conventions, common art 3; First Geneva Convention, art 9; Second Geneva Convention, art 9; Third Geneva Convention, art 9; Fourth Geneva Convention, art 10; First Protocol Additional to the Geneva Conventions, art 75(1); Second Protocol Additional to the Geneva Conventions, art 2(1); Customary International Humanitarian Law Study, [rule 88](#); Convention on the Elimination of All Forms of Discrimination against Women, art 2; Convention against Torture, art 1(1); Convention on the Rights of the Child, art 2(1); African Charter on Human and Peoples' Rights, art 2; European Convention on Human Rights, art 14; Istanbul Convention, art 4(3); American Convention on Human Rights, art 1.

<sup>79</sup> *On the definition of intersectionality, consult the Guidebook's "Introduction" chapter, "An Intersectional Approach to International Law" subsection.* Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women' (16 December 2010) UN Doc [CEDAW/C/GC/28](#) para 18; Committee on the Rights of the Child, 'General Comment No. 22 (2017) of the Committee on the Rights of the Child on the General Principles regarding the Human Rights of Children in the Context of International Migration' (16 November 2017) UN Doc [CRC/C/GC/22](#) para 23; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Haiti' (13 April 2018) UN Docs [CRPD/C/HTI/CO/1](#) para 30; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 20 and '[Principles and Guidelines on the Implementation of Economic, Social, and Cultural Rights in the African Charter on Human and Peoples' Rights](#)' (2010) p 16; *Opuz v Turkey* App no 33401/02 (European Court of Human Rights, 9 June 2009) para 159; *Fernández Ortega v Mexico* (Judgment) (Inter-American Court of Human Rights Series C No 215) (30 August 2010) para 133.

<sup>80</sup> *Artavia Murillo et al ("In Vitro Fertilization") v Costa Rica* (Judgment) (Inter-American Court of Human Rights Series C No 257) (28 November 2012) para 292.

<sup>81</sup> ***This is not meant to be an exhaustive list, see*** Committee on Economic, Social and Cultural Rights, 'General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)' (2 July 2009) UN Doc [E/C.12/GC/20](#) paras 19-35; Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 21; CAT, arts 2 and 16.

<sup>82</sup> *For more information, consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection, and the chapter on the Convention on the Elimination of All Forms of Discrimination against Women.* First Geneva Convention, art 12(4); Third Geneva Convention, art 14(2); Fourth Geneva Convention, arts 27(2), 76, 85 and 124; First Protocol Additional to the Geneva Conventions, Article 76(1); Customary International Humanitarian Law Study, rule 134; Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined 20th to 22nd Periodic Reports of Ecuador, Adopted by the Committee at Its Eighty-First Session (6-31 August 2012)' (24 October 2012) UN Doc [CERD/C/EQU/CO/20-22](#) para 23; CAT Committee, 'Concluding Observations on the Second Periodic Report of Ireland' (31 August 2017) UN Doc [CAT/C/IRL/CO/2](#) para 31; Convention on the Rights of Persons with Disabilities, Preamble; African Charter on Human and Peoples' Rights, art 18(3); Maputo Protocol; Istanbul Convention, arts 12(3) and 18(3); Convention of Belém do Pará, art 9.

<sup>83</sup> *For more information, consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection, and the chapter on the Convention on the Rights of the Child.* Fourth Geneva Convention, arts 24, 38(5), 50 and 76(5); First Protocol Additional to the Geneva Conventions, arts 70(1), 77(1) and 78; Second Protocol Additional to the Geneva Conventions, art 4(3); Customary International Humanitarian Law Study, rule 135; Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined Seventeenth to Nineteenth Periodic Reports of Colombia' (22 January 2020) UN Doc [CERD/C/COL/CO/17-19](#) para 13(c); Convention on the Rights of Persons with Disabilities, art 7; African Charter on Human and Peoples' Rights, art 18(3); African Charter on the Rights and Welfare of the Child, arts 16, 22 and 27; Istanbul Convention, arts 12(3) and 18(3).

<sup>84</sup> *For more information, consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection, and the chapter on the Convention on the Rights of*

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*Persons with Disabilities*. Fourth Geneva Convention, arts 14 and 17; Customary IHL Study, rule 138; Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Brazil' (19 December 2022) UN Doc [CERD/C/BRA/CO/18-20](#) para 6; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 36; CRPD, arts 3(d); Maputo Protocol, art 23(b).

<sup>85</sup> *For more information, consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection, and the chapter on the Convention against Torture (obligation III.5).* Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Brazil' (19 December 2022) UN Doc [CERD/C/BRA/CO/18-20](#) para 6; Committee on the Elimination of Discrimination against Women, 'General recommendation No. 39 on the Rights of Indigenous Women and Girls' (26 October 2022) UN Doc [CEDAW/C/GC/39](#) para 22; CAT Committee, 'Concluding Observations on the Fifth Periodic Report of China' (3 February 2016) UN Doc [CAT/C/CHN/CO/5](#) para 55-56.

<sup>86</sup> *For more information, consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection, and the chapter on the Convention against Torture (obligation III.5).* Fourth Geneva Convention, arts 4(1), 44 and 49; GCIV, art 49, Customary International Humanitarian Law Study, rule 129; ICRC, *Commentary on the Fourth Geneva Convention* (ICRC 1958) [Commentary on Article 44](#), p 264; Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined Seventeenth to Nineteenth Periodic Reports of Colombia' (22 January 2020) UN Doc [CERD/C/COL/CO/17-19](#) para 10; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 36; Convention against Torture, arts 2 and 16; United Nations Human Rights Council, 'Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (23 November 2018) UN Doc [A/HRC/37/50](#) para 31; Convention on the Rights of the Child, art 2(1); Istanbul Convention, art 60.

<sup>87</sup> *For more information, consult the Guidebook's "Introduction" chapter, "The Concept of 'Vulnerability' in International Human Rights Law" subsection, and the chapter on the Convention against Torture (obligation III.5).* Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 36; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Italy' (16 July 2007) UN Doc [CAT/C/ITA/CO/4](#) paras 21(a)-(b).

<sup>88</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art 2(2); Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Brazil' (19 December 2022) UN Doc [CERD/C/BRA/CO/18-20](#) para 6.

<sup>89</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 36.

<sup>90</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 36.

<sup>91</sup> *For more information, consult the Guidebook's chapter on the Convention against Torture, obligation III.6.* Geneva Conventions, common art 3; Third Geneva Convention, arts 13 and 14; Second Protocol Additional to the Geneva Conventions, art 5; Customary International Humanitarian Law Study, rules 87 and 89; Convention against Torture, art 11; Convention on the Rights of the Child, art 37; Convention on the Rights of Persons with Disabilities, art 14; European Convention on Human Rights, art 3; [Gjini v Serbia](#) App no 1128/16 (European Court of Human Rights, 15 January 2019) para 77; American Convention on Human Rights, art 5; [Miguel Castro-Castro Prison v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 160) (25 November 2006) para 308.

<sup>92</sup> Third Geneva Convention, arts 25(4), 29(2), 97(4) and 108(2); Fourth Geneva Convention, arts 76(4), 85(4), 97(4) and 124(3); First Protocol Additional to the Geneva Conventions, art 75(5); Second Protocol Additional to the Geneva Conventions, art 5(2)(a); Customary International Humanitarian Law Study, rule 119; ICRC, *Commentary on the Third Geneva Convention* (ICRC and Cambridge University Press

2020) [Commentary on Article 14](#), para 1684; Convention on the Elimination of All Forms of Discrimination against Women, arts 1, 2, 5(a) and 12; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women' (14 November 2014) UN Doc [CEDAW/C/GC/32](#) para 34; Committee against Torture, 'Concluding Observations on the Seventh Periodic Report of Peru' (18 December 2018) UN Doc [CAT/C/PER/CO/7](#) para 25(f); Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Togo' (28 July 2006) UN Doc [CAT/C/TGO/CO/1](#) para 20.

<sup>93</sup> Fourth Geneva Convention, art 50; First Protocol Additional to the Geneva Conventions, art 77(2); Second Protocol Additional to the Geneva Conventions, art 4(3)(c); Customary International Humanitarian Law Study, rule 137; Convention on the Rights of the Child, art 38; Optional Protocol on the Involvement of Children in Armed Conflict; Committee on the Rights of the Child, 'General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children outside Their Country of Origin' (1 September 2005) UN Doc [CRC/GC/2005/6](#) para 28.

<sup>94</sup> Committee on the Rights of Persons with Disabilities, 'Report of the Committee on the Rights of Persons with Disabilities on its Twenty-Seventh Session (15 August-9 September 2022)' (13 October 2022) UN Doc [CRPD/C/27/2](#) para 45(a).

<sup>95</sup> First Protocol Additional to the Geneva Conventions, arts 8(a) and 70; Committee on the Rights of Persons with Disabilities, 'Report of the Committee on the Rights of Persons with Disabilities on its Twenty-Seventh Session (15 August-9 September 2022)' (13 October 2022) UN Doc [CRPD/C/27/2](#) para 39.

<sup>96</sup> Committee on the Rights of Persons with Disabilities, 'Report of the Committee on the Rights of Persons with Disabilities on its Twenty-Seventh Session (15 August-9 September 2022)' (13 October 2022) UN Doc [CRPD/C/27/2](#) para 27(b).

<sup>97</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art 5; Committee on the Elimination of All Forms of Racial Discrimination, 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 20 and 'Concluding Observations on the Eighteenth to Twentieth Periodic Reports of Rwanda' (10 June 2016) UN Doc [CERD/C/RWA/CO/18-20](#) para 21(c) and 'Concluding Observations on the Twenty-First to Twenty-Third Periodic Reports of Spain' (21 June 2016) UN Doc [CERD/C/ESP/CO/21-23](#) para 22 and 'Concluding Observations on the Combined Nineteenth and Twentieth Periodic Reports of Italy' (17 February 2017) [CERD/C/ITA/CO/19-20](#) para 20(f); Committee on the Rights of the Child, 'Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq' (3 March 2015) UN Doc paras 75(a) and (e).

<sup>98</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Nineteenth and Twentieth Periodic Reports of Italy' (17 February 2017) [CERD/C/ITA/CO/19-20](#) para 20(f) and 'Concluding Observations on the Combined Twenty-Third and Twenty-Fourth Periodic Reports of Norway' (2 January 2019) UN Doc [CERD/C/NOR/CO/23-24](#) para 22(c); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 39 on the Rights of Indigenous Women and Girls' (26 October 2022) UN Doc [CEDAW/C/GC/39](#) para 27; Committee against Torture, 'General Comment No. 4 (2017) on the Implementation of Article 3 of the Convention in the Context of Article 22' (4 September 2018) UN Doc [CAT/C/GC/4](#) para 18 and 'Concluding Observations on the Second Periodic Report of Namibia' (1 February 2017) UN Doc [CAT/C/NAM/CO/2](#) para 11(a); African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), art 20; Istanbul Convention, arts 19 and 56.

<sup>99</sup> Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, 'Ensuring Prevention, Protection and Assistance for Children Born of Conflict Related Rape and Their Mothers: Joint Statement by CEDAW and CRC' (19 November 2021) pp 3-6.

<sup>100</sup> Committee on the Elimination of Racial Discrimination, '[General Recommendation XVII on the Establishment of National Institutions to Facilitate the Implementation of the Convention](#)' (1993); Optional Protocol to the Convention against Torture, arts 17-22 (**the obligation uses mandatory language under this framework**); Committee on the Rights of the Child, 'General Comment No. 2 (2002): The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child' (15 November 2002) UN Doc [CRC/GC/2002/2](#) para 1; Convention on the Rights of Persons with Disabilities, art 33(2) (**the obligation uses mandatory language under this framework**); African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), art 41; Istanbul Convention, art 10 (**the obligation uses mandatory language under this framework**).

<sup>101</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 17; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Bosnia and Herzegovina' (20 January 2011) UN Doc [CAT/C/BIH/CO/2-5](#) para 25 and 'Guidelines on National Preventive Mechanisms' (9 December 2010) UN Doc [CAT/OP/12/5](#); Committee on the Rights of the Child, 'Concluding Observations on the Fourth Periodic Report of Yemen' (25 February 2014) UN Doc [CRC/C/YEM/CO/4](#) para 20; Convention on the Rights of Persons with Disabilities, art 33(2); African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), art 41.

<sup>102</sup> *For information on the ratification of international treaties, consult the Guidebook's "Ratification and Enforcement of Treaties" chapter.* International Convention on the Elimination of All Forms of Racial Discrimination, art 9; International Covenant on Civil and Political Rights, art 40; Convention on the Elimination of All Forms of Discrimination against Women, art 18; Convention against Torture, art 19; Convention on the Rights of the Child, art 44; Convention on the Rights of Persons with Disabilities, art 35; Istanbul Convention, art 68; African Charter on Human and Peoples' Rights, art 62.

<sup>103</sup> Committee on the Rights of the Child, 'General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (27 November 2003) UN Doc [CRC/GC/2003/5](#) para 72; Convention on the Rights of Persons with Disabilities, art 31(3); Istanbul Convention, art 11(1).

<sup>104</sup> Human Rights Committee, 'General Comment No 28: Article 3 (The Equality of Rights between Men and Women)' (29 March 2000) UN Doc [HRI/GEN/1/Rev.9 \(Vol. I\)](#) para 3; Convention on the Rights of the Child, art 44.

<sup>105</sup> Committee on the Elimination of Racial Discrimination, 'General Recommendation XXV on Gender-Related Dimensions of Racial Discrimination' ([20 March 2000](#)) para 6 and 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: Spain' (8 April 2011) UN Doc [CERD/C/ESP/CO/18-20](#) para 11(a) and 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: India' (5 May 2007) UN Doc [CERD/C/IND/CO/19](#) para 9; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Bosnia and Herzegovina' (20 January 2011) UN Doc [CAT/C/BIH/CO/2-5](#) para 9; Committee on the Rights of the Child, 'General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence' (18 April 2011) UN Doc [CRC/C/GC/13](#) para 47(d)(i); Convention on the Rights of Persons with Disabilities, arts 31(1) and 35; Istanbul Convention, art 11; Convention of Belém do Pará, art 10.

<sup>106</sup> Geneva Conventions, common art 3; Fourth Geneva Convention, art 27(4); First Protocol Additional to the Geneva Conventions, art 75; Second Protocol Additional to the Geneva Conventions, art 4(1); International Committee of the Red Cross, *Commentary on the First Geneva Convention* (ICRC and Cambridge University Press 2016) [Commentary on Common Article 3](#), para 573; International Convention on the Elimination of All Forms of Racial Discrimination, art 5(a); Human Rights Committee, 'Concluding Observations on the Democratic Republic of the Congo' (30 November 2017) UN Doc [CCPR/C/COD/CO/4](#) para 19; Convention on the Elimination of All Forms of Discrimination against Women, art 5(a); Convention against Torture, arts 12-14; Committee on the Rights of the Child, 'Concluding Observations on the Second Periodic Report of the Holy See' (25 February 2014) UN Doc [CRC/C/VAT/CO/2](#) para 61(e); Convention on the Rights of Persons with Disabilities, art 13; African Charter on Human and Peoples' Rights, art 7; African Commission on Human and Peoples' Rights, [Kenneth Good v Republic of Botswana](#), Communication 313/05 (2010) para 169; Maputo Protocol, art 8; Istanbul Convention, art 4; American Convention on Human Rights, arts 8(1) and 25(1); [Las Dos Erres Massacre v Guatemala](#) (Judgment) (Inter-American Court of Human Rights Series C No 211) (24 November 2009) para 233.

<sup>107</sup> ICRC, 'Domestic Implementation of International Humanitarian Law Prohibiting Sexual Violence: A Checklist for States and the International Red Cross and Red Crescent Movement' (ICRC, December 2020) p 13 <<https://www.icrc.org/en/document/checklist-domestic-implementation-international-humanitarian-law-prohibiting-sexual>> accessed 10 January 2024; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 29(c); Committee on the Rights of the Child, 'Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq' (3 March 2015) UN Doc [CRC/C/IRQ/CO/2-4](#) para 27.

<sup>108</sup> Customary International Humanitarian Law Study, rule 160; Communication No. 2556/2015 *Fulmati Nyaya v Nepal*, Views Adopted by the Human Rights Committee under Article 5 (4) of the Optional Protocol (11 June 2019) UN Doc [CCPR/C/125/D/2556/2015](#) para 9(e); Communication No. 2615/2015 *Devi Maya Nepal v Nepal*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (14 June 2022) UN Doc [CCPR/C/132/D/2615/2015](#) para 9; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) para 19(f); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 40; Committee on the Rights of the Child, 'Concluding Observations on the Second Periodic Report of the Holy See' (25 February 2014) UN Doc [CRC/C/VAT/CO/2](#) para 61(e); African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 37; Istanbul Convention, art 58; [Río Negro Massacres v Guatemala](#) (Judgment) (Inter-American Court of Human Rights Series C No 250) (4 September 2012) para 257(a).

<sup>109</sup> Second Protocol Additional to the Geneva Conventions, art 6(5); Customary International Humanitarian Law Study, rules 158 and 159; ICRC, 'Domestic Implementation of International Humanitarian Law Prohibiting Sexual Violence: A Checklist for States and the International Red Cross and Red Crescent Movement' (ICRC, December 2020) p 13 <<https://www.icrc.org/en/document/checklist-domestic-implementation-international-humanitarian-law-prohibiting-sexual>> accessed 10 January 2024; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Sixteenth and Seventeenth Periodic Reports of Guatemala' (27 May 2019) UN Doc [CERD/C/GTM/CO/16-17](#) para 15; Human Rights Committee, 'Concluding Observations on the Second Periodic Report of Nepal' (15 April 2014) UN Doc [CCPR/C/NPL/CO/2](#) para 5; Communication No. 2245/2013 *Purna Maya v Nepal*, Views Adopted by the Human Rights Committee under Article 5 (4) of the Optional Protocol (23 June 2017) UN Doc [CCPR/C/119/D/2245/2013](#) para 15; Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Ukraine' (9 March 2017) UN Doc [CEDAW/C/UKR/CO/8](#) para 11(d); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 41 and 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 5; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 28; [E.G. v Moldova](#) App no 37882/13 (European Court of Human Rights, 13 April 2021) paras 43-45; [Río Negro Massacres v Guatemala](#) (Judgment) (Inter-American Court of Human Rights Series C No 250) (4 September 2012) para 257(a).

<sup>110</sup> Customary International Humanitarian Law Study, rules 153 and 154; ICRC, *Commentary on the First Geneva Convention* (ICRC and Cambridge University Press 2016) [Commentary on Article 49](#), para 2845; CCPR, 'General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)' ([10 March 1992](#)) para 3; Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 26; African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), arts 11 and 13; Inter-American Convention to Prevent and Punish Torture, art 4; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 338.

<sup>111</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 42; African Commission on Human and Peoples' Rights, [Robben Island Guidelines](#), art 16.

<sup>112</sup> Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: China' (12 December 2008) UN Doc [CAT/C/CHN/CO/4](#) para 16; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 68; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 287; [Myrna Mack Chang v Guatemala](#) (Judgment) (Inter-American Court of Human Rights Series C No 101) (25 November 2003) para 182.

<sup>113</sup> Communication No. 2556/2015 *Fulmati Nyaya v Nepal*, Views Adopted by the Human Rights Committee under Article 5 (4) of the Optional Protocol (11 June 2019) UN Doc [CCPR/C/125/D/2556/2015](#) para 7.8; Committee against Torture, 'Concluding Observations on the Fifth Periodic Report of Colombia' (29 May 2015) UN Doc [CAT/C/COL/CO/5](#) para 14; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) paras 60-61.

<sup>114</sup> Communication No. 2245/2013 *Purna Maya v Nepal*, Views Adopted by the Human Rights Committee under Article 5 (4) of the Optional Protocol (23 June 2017) UN Doc [CCPR/C/119/D/2245/2013](#) para 15; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 31(d); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 29.

<sup>115</sup> Human Rights Committee, 'Report on Follow-Up to the Concluding Observations of the Human Rights Committee: Evaluation of the Information on Follow-Up to the Concluding Observations on Bosnia and Herzegovina' (8 September 2020) UN Doc [CCPR/C/129/2/Add.3](#) p 1; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) para 17(a); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 29; Maputo Protocol, art 8; Istanbul Convention, art 57.

<sup>116</sup> D Šimonović, 'Rape as a Grave, Systematic and Widespread Human Rights Violation, a Crime and a Manifestation of Gender-Based Violence against Women and Girls, and Its Prevention: Report of the Special Rapporteur on Violence Against Women, Its Causes And Consequences' (19 April 2021) UN Doc [A/HRC/47/26](#) para 33; Convention on the Elimination of All Forms of Discrimination against Women, arts 2 and 15; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 26(c); Communication No. 65/2014 *S.T. v Russian Federation*, Views Adopted by the Committee on the Elimination of Discrimination against Women under Article 7 (3) of the Optional Protocol (8 April 2019) UN Doc [CEDAW/C/72/D/65/2014](#) para 9.5; Communication No. 698/2015 *Z.K. and A.K. v Switzerland*, Decision Adopted by the Committee against Torture under Article 22 of the Convention (30 July 2020) UN Doc [CAT/C/63/D/698/2015](#) para 9.5; African Commission on Human and Peoples' Rights, '[Robben Island Guidelines](#)', art 16; '[Espinoza Gonzáles v Peru](#)' (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 242; '[Women Victims of Sexual Torture in Atenco v Mexico](#)' (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 310.

<sup>117</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) para 25(b); Communication No. 32/2011 *Isatou Jallow v Bulgaria*, Views Adopted by the Committee on the Elimination of Discrimination against Women at Its Fifty-Second Session, 9-27 July 2012 (28 August 2012) UN Doc [CEDAW/C/52/D/32/2011](#) para 8.6; Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 36; American Convention, art 19; '[V.R.P., V.P.C. v Nicaragua](#)' (Judgment) (Inter-American Court of Human Rights Series C No 350) (8 March 2018) para 155.

<sup>118</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Ukraine' (9 March 2017) UN Doc [CEDAW/C/UKR/CO/8](#) para 19(a); Committee on the Rights of the Child, 'Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq' (3 March 2015) UN Doc [CRC/C/IRQ/CO/2-4](#) para 13; African Charter on Human and Peoples' Rights, art 26; '[Women Victims of Sexual Torture in Atenco v Mexico](#)' (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 287.

<sup>119</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) paras 17(c)-(f); Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Haiti' (13 April 2018) UN Docs [CRPD/C/HTI/CO/1](#) paras 25(d) and (b); Istanbul Convention, arts 19 and 21.

<sup>120</sup> Committee on the Rights of Persons with Disabilities, 'General Comment No. 7 (2018) on the Participation of Persons with Disabilities, including Children with Disabilities, through Their Representative Organizations, in the Implementation and Monitoring of the Convention' (9 November

2018) UN Doc [CRPD/C/GC/7](#) para 94(a) and 'General Comment No. 5 (2017) on Living Independently and Being Included in the Community' (27 October 2017) UN Doc [CRPD/C/GC/5](#) para 15(a); African Commission on Human and Peoples' Rights, *Amnesty International and Others v Sudan*, Communications 48/90-50/91-52/91-89/93 (1999) para 73; Maputo Protocol, art 8; Istanbul Convention, art 4(2).

<sup>121</sup> Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Guatemala' (25 July 2006) UN Doc [CAT/C/GTM/CO/4](#) para 19; Committee on the Rights of the Child, 'General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices' (14 November 2014) UN Doc [CRC/C/GC/18](#) para 55(c).

<sup>122</sup> United Nations Human Rights Council, 'Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Addendum: Mission to Papua New Guinea' (7 February 2011) UN Doc [A/HRC/16/52/Add.5](#) para 69.

<sup>123</sup> Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: Japan' (6 April 2010) UN Doc [CERD/C/JPN/CO/3-6](#) para 17 and 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: Spain' (8 April 2011) UN Doc [CERD/C/ESP/CO/18-20](#) para 12; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 29(c).

<sup>124</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 32(b); Istanbul Convention, art 48(1).

<sup>125</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art 6; Committee on the Elimination of Racial Discrimination, '[General Recommendation No. XXXI on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System](#)' (2005) and 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 22(a); Convention against Torture, art 13; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Ethiopia' (20 January 2011) UN Doc [CAT/C/ETH/CO/1](#) para 18; Committee on the Rights of the Child, 'General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence' (18 April 2011) UN Doc [CRC/C/GC/13](#) paras 49-50; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Uganda' (12 May 2016) UN Doc [CRPD/C/UGA/CO/1](#) para 31(a) and 'Concluding Observations on the Initial Report of Bosnia and Herzegovina' (2 May 2017) UN Doc [CRPD/C/BIH/CO/1](#) para 30 and 'Concluding Observations on the Initial Report of Cyprus' (8 May 2017) UN Doc [CRPD/C/CYP/CO/1](#) para 40 and 'Concluding Observations on the Initial Report of Indonesia' (12 October 2022) UN Doc [CRPD/C/IDN/CO/1](#) para 37(b); Istanbul Convention, art 21.

<sup>126</sup> Convention against Torture, art 13; Committee on the Rights of the Child, 'Concluding Observations on the Second Periodic Report of Côte d'Ivoire' (12 July 2019) UN Doc [CRC/C/CIV/CO/2](#) para 32(b); Istanbul Convention, art 21; African Charter on Human and Peoples' Rights, art 5.

<sup>127</sup> First Geneva Convention, art 78(1); Fourth Geneva Convention, art 101(1); International Committee of the Red Cross, 'Sexual Violence in Detention' (*ICRC*, June 2020) p 20 <[www.icrc.org/en/publication/4293-sexual-violence-detention](http://www.icrc.org/en/publication/4293-sexual-violence-detention)> accessed 10 January 2024; Committee against Torture, 'Concluding Observations on the Fifth Periodic Report of Estonia, Adopted by the Committee at Its Fiftieth Session (6-31 May 2013)' (17 June 2013) UN Doc [CAT/C/EST/CO/5](#) para 20(e).

<sup>128</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 23.

<sup>129</sup> Committee against Torture, 'General Comment No. 2 on the Implementation of Article 2 by States Parties' (24 January 2008) UN Doc [CAT/C/GC/2](#) para 13.

<sup>130</sup> Committee against Torture, 'Observations of the Committee against Torture on the Revision of the Standard Minimum Rules for the Treatment of Prisoners' (28 March 2014) UN Doc [CAT/C/51/4](#) para 57 and 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Ethiopia' (20 January 2011) UN Doc [CAT/C/ETH/CO/1](#) para 18.

<sup>131</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 23.

<sup>132</sup> First Geneva Convention, art 78(3); Fourth Geneva Convention, art 101(3); Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Togo' (28 July 2006) UN Doc [CAT/C/TGO/CO/1](#) para 20 and 'Concluding Observations on the Fifth Periodic Report of Sri Lanka' (27 January 2017) UN Doc [CAT/C/LKA/CO/5](#) para 18.

<sup>133</sup> First Geneva Convention, art 49(3); Second Geneva Convention, art 50(3); Third Geneva Convention, art 129(3); Fourth Geneva Convention, art 146(3); First Protocol Additional to the Geneva Conventions, arts 85(1) and 86(1); Customary International Humanitarian Law Study, rule 158; International Committee of the Red Cross, Commentary on the First Geneva Convention (ICRC and Cambridge University Press 2016) [Commentary on Article 49](#), paras 2896-2898; International Convention on the Elimination of All Forms of Racial Discrimination, art 6; Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America' (8 May 2008) UN Doc [CERD/C/USA/CO/6](#) para 26(iv); International Covenant on Civil and Political Rights, arts 2(3) and 7; Communication No. 2615/2015 *Devi Maya Nepal v Nepal*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (14 June 2022) UN Doc [CCPR/C/132/D/2615/2015](#) para 7.4; Convention on the Elimination of All Forms of Discrimination against Women, art 2; Convention on the Elimination of All Forms of Discrimination against Women, art 2; Convention against Torture, arts 12 and 13; Convention on the Rights of the Child, art 19(2); African Charter on Human and Peoples' Rights, art 5; European Convention of Human Rights, art 3; [Gjini v Serbia](#) App no 1128/16 (European Court of Human Rights, 15 January 2019) para 92; Istanbul Convention, art 49; American Convention on Human Rights, arts 1(1) and 5; Inter-American Convention on the Prevention and Punishment of Torture, arts 1 and 6; Convention of Belém do Pará, art 7(b).

<sup>134</sup> Communication No. 2615/2015 *Devi Maya Nepal v Nepal*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (14 June 2022) UN Doc [CCPR/C/132/D/2615/2015](#) para 9; Communication No. 116/2017 *S.H. v Bosnia and Herzegovina*, Views Adopted by the Committee on the Elimination of Discrimination against Women under Article 7 (3) of the Optional Protocol (26 August 2020) UN Doc [CEDAW/C/76/D/116/2017](#) para 8.4; Committee on the Rights of the Child, 'General Comment No. 12 (2009): The Right of the Child to Be Heard' (20 July 2009) UN Doc [CRC/C/GC/12](#) para 64; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 34; [Gjini v Serbia](#) App no 1128/16 (European Court of Human Rights, 15 January 2019) para 95; [Espinoza Gonzáles v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 242.

<sup>135</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art 6; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Third and Twenty-Fourth Periodic Reports of Norway' (2 January 2019) UN Doc [CERD/C/NOR/CO/23-24](#) para 22(c); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 17(d); Convention on the Rights of the Child, art 19(2); Committee on the Rights of the Child, 'General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence' (18 April 2011) UN Doc [CRC/C/GC/13](#) para 51; Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, art 8; Committee on the Rights of the Child, 'Guidelines regarding the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography' (10 September 2019) UN Doc [CRC/C/156](#) para 76; Convention on the Rights of Persons with Disabilities, arts 12 and 16(5); [E.B. v Romania](#) App no 49089/10 (European Court of Human Rights, 19 March 2019) para 60; [Espinoza Gonzáles v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 242.

<sup>136</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Third and Twenty-Fourth Periodic Reports of Norway' (2 January 2019) UN Doc [CERD/C/NOR/CO/23-24](#) para 22(c); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 17(d); Communication No. 116/2017 *S.H. v Bosnia and Herzegovina*, Views Adopted by the Committee on the Elimination of



Discrimination against Women under Article 7 (3) of the Optional Protocol (26 August 2020) UN Doc [CEDAW/C/76/D/116/2017](#) para 8.4; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 24.

<sup>137</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 25; Committee on the Rights of the Child, 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Ukraine' (27 October 2022) UN Doc [CRC/C/UKR/CO/5-6](#) para 23(f); *Aydin v Turkey* App no 23178/94 (European Court of Human Rights, 25 September 1997) para 107.

<sup>138</sup> Convention against Torture, art 12; Committee against Torture, 'Concluding Observations on the Second Periodic Report of the Democratic Republic of the Congo' (3 June 2019) UN Doc [CAT/C/COD/CO/2](#) paras 33(a) and 35(a) and 'Concluding Observations on The Second Periodic Report of Serbia' (3 June 2015) UN Doc [CAT/C/SRB/CO/2](#) para 10; *J v Peru* (Judgment) (Inter-American Court of Human Rights Series C No 275) (27 November 2013) para 350; *Espinoza González v Peru* (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 239.

<sup>139</sup> First Geneva Convention, art 49(3); Second Geneva Convention, art 50(3); Third Geneva Convention, art 129(3); Fourth Geneva Convention, art 146(3); First Protocol Additional to the Geneva Conventions, arts 85(1) and 86(1); Customary International Humanitarian Law Study, rule 158; Genocide Convention, art IV; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* (Judgment) [2007] International Court of Justice Rep 43 para 379; International Convention on the Elimination of All Forms of Racial Discrimination, art 6; Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America' (8 May 2008) UN Doc [CERD/C/USA/CO/6](#) para 26(iv); International Covenant on Civil and Political Rights, arts 2(3) and 7; Communication No. 2615/2015 *Devi Maya Nepal v Nepal*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (14 June 2022) UN Doc [CCPR/C/132/D/2615/2015](#) para 9; Convention on the Elimination of All Forms of Discrimination against Women, art 2; Convention against Torture, art 5(1); Committee against Torture, 'Concluding Observations on the Initial Report of Iraq' (7 September 2015) UN Doc [CAT/C/IRQ/CO/1](#) para 13; Convention on the Rights of the Child, art 19(2); Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, art 4; Convention on the Rights of Persons with Disabilities, art 16(5); African Charter on Human and Peoples' Rights, art 5; African Commission on Human and Peoples' Rights, *Egyptian Initiative for Personal Rights (EIPR) and Interights v Arab Republic of Egypt*, Communication 323/2006 (2011) para 163; European Convention on Human Rights, art 3; Istanbul Convention, arts 44 and 49; American Convention on Human Rights, art 1(1) and 5; Inter-American Convention to Prevent and Punish Torture, art 12; Convention of Belém do Pará, art 7(b).

<sup>140</sup> Fourth Geneva Convention, art 67; Customary International Humanitarian Law Study, rules 150 and 158; International Committee of the Red Cross, *Commentary on the First Geneva Convention* (ICRC and Cambridge University Press 2016) [Commentary on Article 49](#), para 2896; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Fifth to Ninth Reports of Ireland' (23 January 2020) UN Doc [CERD/C/IRL/CO/5-9](#) para 42(a); Convention against Torture, art 4(2); Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Burundi' (15 February 2007) UN Doc [CAT/C/BDI/CO/1](#) para 8 and 'Concluding Observations on the Seventh Periodic Report of Peru' (18 December 2018) UN Doc [CAT/C/PER/CO/7](#) para 33(a); Committee on the Rights of the Child, 'Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Colombia' (6 March 2015) UN Doc [CRC/C/COL/CO/4-5](#) paras 28(h) and 30(c); African Commission on Human and Peoples' Rights, *Robben Island Guidelines*, arts 8 and 12; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 36; Istanbul Convention, art 45(1).

<sup>141</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 16 and 'General Recommendation No. 35 on Combating Racist Hate Speech' (2013) UN Doc [CERD/C/GC/35](#); Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Ninth Periodic Report of Ukraine' (31 October 2022) UN Doc [CEDAW/C/UKR/CO/9](#) para 16 (c)(i); Committee against Torture, 'Consideration of Reports

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<sup>142</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Brazil' (19 December 2022) UN Doc [CERD/C/BRA/CO/18-20](#) para 36(f); Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Colombia' (4 May 2010) UN Doc [CAT/C/COL/CO/4](#) para 16 and 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Mexico' (6 February 2007) UN Doc [CAT/C/MEX/CO/4](#) para 14 and 'Concluding Observations on the Initial Report of the State of Palestine' (23 August 2022) UN Doc [CAT/C/PSE/CO/1](#) para 49; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 287; [Peasant Community of Santa Barbara v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 299) (1 September 2015) paras 244, 245, 246 and 251.

<sup>143</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twelfth to Sixteenth Periodic Reports of the Sudan' (12 June 2015) UN Doc [CERD/C/SDN/CO/12-16](#) para 7(c); Committee against Torture, 'Concluding Observations on the Seventh Periodic Report of Guatemala' (26 December 2018) UN Doc [CAT/C/GTM/CO/7](#) para 27(a) and 'Concluding Observations on the Seventh Periodic Report of Ecuador' (11 January 2017) UN Doc [CAT/C/ECU/CO/7](#) para 24; [Las Dos Erres Massacre v Guatemala](#) (Judgment) (Inter-American Court of Human Rights Series C No 211) (24 November 2009) para 233(b).

<sup>144</sup> [E.B. v Romania](#) App no 49089/10 (European Court of Human Rights, 19 March 2019) para 60.

<sup>145</sup> Committee on the Rights of the Child, 'General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence' (18 April 2011) UN Doc [CRC/C/GC/13](#) para 56.

<sup>146</sup> Committee against Torture, 'Concluding Observations on the Second Periodic Report of the Democratic Republic of the Congo' (3 June 2019) UN Doc [CAT/C/COD/CO/2](#) para 33(c) and 'Concluding Observations on the Initial Report of the United Arab Emirates' (22 August 2022) UN Doc [CAT/C/ARE/CO/1](#) para 24.

<sup>147</sup> Genocide Convention, art VI; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 81(j) and 'Concluding Observations on the Report of Myanmar Submitted under the Exceptional Reporting Procedure' (18 March 2019) UN Doc [CEDAW/C/MMR/CO/EP/1](#) para 28; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Benin' (19 February 2008) UN Doc [CAT/C/BEN/CO/2](#) para 16.

<sup>148</sup> Convention on the Elimination of All Forms of Discrimination against Women, art 15; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 25 and [Robben Island Guidelines](#), art 49; European Convention on Human Rights, art 8; [J.L. v Italie](#) App no 5671/16 (European Court of Human Rights, 27 May 2021) para 119; Istanbul Convention, art 56; [Espinoza González v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) para 256; [Fernández Ortega v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 215) (30 August 2010) para 196.

<sup>149</sup> African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 25.

<sup>150</sup> African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 31.

<sup>151</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) paras 18(f) and 31(a)(i); African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) pp 35-36; [J.L. v Italie](#) App no 5671/16 (European Court of Human Rights, 27 May 2021) paras 119 and 139; Istanbul Convention, art 56; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) paras 272-273.

<sup>152</sup> Communication No. 116/2017 *S.H. v Bosnia and Herzegovina*, Views Adopted by the Committee on the Elimination of Discrimination against Women under Article 7 (3) of the Optional Protocol (26 August 2020) UN Doc [CEDAW/C/76/D/116/2017](#) para 8.4; Committee against Torture, 'Concluding

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<sup>153</sup> Committee against Torture, 'Concluding Observations on the Fifth Periodic Report of Uzbekistan' (14 January 2020) UN Doc [CAT/C/UZB/CO/5](#) para 13(b); African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 31; Istanbul Convention, art 56.

<sup>154</sup> Committee on the Elimination of Discrimination against Women, 'Report on Mexico Produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention, and Reply from the Government of Mexico' (27 January 2005) UN Doc [CEDAW/C/2005/OP.8/MEXICO](#) para 282; Istanbul Convention, art 56.

<sup>155</sup> Customary International Humanitarian Law Study, rule 110; Geneva Conventions, common art 3(2); First Geneva Convention, art 12(2); Third Geneva Convention, arts 12(1) and 13(1); First Protocol Additional to the Geneva Conventions, art 10(2); Second Protocol Additional to the Geneva Conventions, art 7(2); International Committee of the Red Cross, 'Prevention and Criminal Repression of Rape and Other forms of Sexual Violence during Armed Conflicts' (ICRC, March 2015) p 4 <[www.icrc.org/en/document/prevention-and-criminal-repression-rape-and-other-forms-sexual-violence-during-armed](#)> accessed 10 January 2024; International Convention on the Elimination of All Forms of Racial Discrimination, art 5(e)(iv); Convention on the Elimination of All Forms of Discrimination against Women, art 12(1); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 50; Convention against Torture, art 14; Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 15; Convention on the Rights of the Child, arts 24 and 39; Committee on the Rights of the Child, 'General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children outside Their Country of Origin' (1 September 2005) UN Doc [CRC/GC/2005/6](#) para 21; Convention on the Rights of Persons with Disabilities, arts 11 and 25; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Poland' (29 October 2018) UN Doc [CRPD/C/POL/CO/1](#) para 10(c); African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 26; Maputo Protocol, art 14; Istanbul Convention, art 18; [Espinoza Gonzáles v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) paras 314-315.

<sup>156</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States of America' (25 September 2014) UN Doc [CERD/C/USA/CO/7-9](#) para 15(a) and 'Concluding Observations on the Combined Sixteenth and Seventeenth Periodic Reports of Guatemala' (27 May 2019) UN Doc [CERD/C/GTM/CO/16-17](#) para 33; Human Rights Committee, 'Concluding Observations on the Democratic Republic of the Congo' (30 November 2017) UN Doc [CCPR/C/COD/CO/4](#) para 20; Committee on the Elimination of Discrimination against Women, 'Summary of the Inquiry Concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women' (22 April 2015) UN Doc [CEDAW/C/OP.8/PHL/1](#) para 52(a) and 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 52(c); Committee on the Rights of the Child, 'General Comment No. 3 (2003): HIV/AIDS and the Rights of the Child' (17 March 2003) UN Doc [CRC/GC/2003/3](#) para 28; Committee on the Rights of Persons with Disabilities, 'Report of the Committee on the Rights of Persons with Disabilities on its Twenty-Seventh Session (15 August-9 September 2022)' (13 October 2022) UN Doc [CRPD/C/27/2](#) para 49; African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 26; African Commission on Human and Peoples' Rights, '[General Comment No. 2 on Article 14\(1\) \(a\), \(b\), \(c\) and \(f\) and Article 14\(2\) \(a\) and \(c\)\) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#)' (2014) para 32; [Espinoza Gonzáles v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) paras 314-315.

<sup>157</sup> International Committee of the Red Cross, 'Prevention and Criminal Repression of Rape and Other forms of Sexual Violence during Armed Conflicts' (ICRC, March 2015) p 4

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<sup>158</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change' (13 March 2018) UN Doc [CEDAW/C/GC/37](#) para 68(g); Committee against Torture, 'Observations of the Committee against Torture on the Revision of the Standard Minimum Rules for the Treatment of Prisoners' (28 March 2014) UN Doc [CAT/C/51/4](#) para 17; Committee on the Rights of the Child, 'General Comment No. 4 (2003) Adolescent Health and Development in the Context of the Convention on the Rights of the Child' (1 July 2003) UN Doc [CRC/GC/2003/4](#) para 42; Istanbul Convention, art 20; [Espinoza Gonzáles v Peru](#) (Judgment) (Inter-American Court of Human Rights Series C No 289) (20 November 2014) paras 314-315.

<sup>159</sup> First Protocol Additional to the Geneva Conventions, art 16(3); Second Protocol Additional to the Geneva Conventions, art 10(3)-(4); International Committee of the Red Cross, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (ICRC, 1987) [Commentary on Article 16 \(API\)](#), para 670; Committee on the Elimination of Discrimination against Women, 'Summary of the Inquiry Concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women' (22 April 2015) UN Doc [CEDAW/C/OP.8/PHL/1](#) para 52(e); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 13; Committee on the Rights of the Child, 'General Comment No. 12 (2009): The Right of the Child to Be Heard' (20 July 2009) UN Doc [CRC/C/GC/12](#) para 101.

<sup>160</sup> Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America' (8 May 2008) UN Doc [CERD/C/USA/CO/6](#) para 33; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Combined Second and Third Periodic Reports of Mexico' (20 April 2022) UN Doc [CRPD/C/MEX/CO/2-3](#) para 59(b); African Commission on Human and Peoples' Rights, '[General Comment No. 2 on Article 14\(1\) \(a\), \(b\), \(c\) and \(f\) and Article 14\(2\) \(a\) and \(c\) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#)' (2014) para 32.

<sup>161</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Eighteenth to Twentieth Periodic Reports of Brazil' (19 December 2022) UN Doc [CERD/C/BRA/CO/18-20](#) para 17(d); Human Rights Committee, 'Concluding Observations on Armenia' (25 November 2021) UN Doc [CCPR/C/ARM/CO/3](#) para 18; Committee on the Elimination of Discrimination against Women, 'Report of the Committee on the Elimination of Discrimination against Women, Twenty-Second Session (17 January-4 February 2000) and Twenty-Third Session (12-30 June 2000)' (17 August 2000) UN Doc [A/55/38](#) para 130; Committee against Torture, 'Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture: Ecuador' (7 December 2010) UN Doc [CAT/C/ECU/CO/4-6](#) para 18(f); Committee against Torture, 'Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Peru, Adopted by the Committee at Its Forty-Ninth Session (29 October - 23 November 2012)' (21 January 2013) UN Doc [CAT/C/PER/CO/5-6](#) para 15(b); African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 26.

<sup>162</sup> Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, 'Ensuring Prevention, Protection and Assistance for Children Born of Conflict Related Rape and Their Mothers: Joint Statement by CEDAW and CRC' ([19 November 2021](#)) p 5; Committee on the Rights of the Child, 'General Comment No. 23 (2017) of the Committee on the Rights of the Child on State Obligations regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return' (16 November 2017) UN Doc [CRC/C/GC/23](#) paras 20-21.

<sup>163</sup> International Committee of the Red Cross, '[Is There a "Right to Abortion" for Women and Girls Who Become Pregnant as a Result of Rape? A Humanitarian and Legal Issue](#)' (2013) p 5; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America' (21 September 2022) UN Doc [CERD/C/USA/CO/10-12](#) para 36 and 'Concluding Observations on the Combined Eighteenth and Nineteenth Periodic Reports of El Salvador' (13 September 2019) UN Doc [CERD/C/SLV/CO/18-19](#) para 27(c); Human Rights Committee, 'Concluding Observations on Armenia' (25 November 2021) UN Doc [CCPR/C/ARM/CO/3](#) para 18 and 'Concluding Observations on the Democratic Republic of the Congo' (30 November 2017) UN Doc [CCPR/C/COD/CO/4](#) para 22; Communication No. 22/2009 *L.C. v Peru*, Views Adopted by the Committee on the Elimination of Discrimination against Women at Its Fiftieth Session, 3 to 21 October 2011 (25 November 2011) UN Doc [CEDAW/C/50/D/22/2009](#) paras 8.18 and 9.2; Committee against Torture, 'Concluding Observations on the Third Periodic Report of El Salvador' (19 December 2022) UN Doc [CAT/C/SLV/CO/3](#) para 31 and 'Concluding Observations on the Third Periodic Report of El Salvador' (19 December 2022) UN Doc [CAT/C/SLV/CO/3](#) para 31; Committee on the Rights of the Child, 'General Comment No. 20 (2016) on the Implementation of the Rights of the Child during Adolescence' (6 December 2016) UN Doc [CRC/C/GC/20](#) para 60; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Poland' (29 October 2018) UN Doc [CRPD/C/POL/CO/1](#) para 44(e); African Commission on Human and Peoples' Rights, '[Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 26; African Commission on Human and Peoples' Rights, '[General Comment No. 2 on Article 14\(1\) \(a\), \(b\), \(c\) and \(f\) and Article 14\(2\) \(a\) and \(c\) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#)' (2014) para 32.

<sup>164</sup> International Committee of the Red Cross, *Commentary on the First Geneva Convention* (ICRC and Cambridge University Press 2016) [Commentary on Common Article 3](#), para 761; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 24.

<sup>165</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) paras 11-12; Convention on the Rights of Persons with Disabilities, art 26; Conference of States Parties to the Convention on the Rights of Persons with Disabilities, 'Protecting the Rights of Persons with Disabilities in Armed Conflict and Humanitarian Emergencies' (30 March 2021) UN Doc [CRPD/CSP/2021/2](#) para 24; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) paras 40-43.

<sup>166</sup> Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America' (8 May 2008) UN Doc [CERD/C/USA/CO/6](#) para 26(i); Human Rights Committee, 'Concluding Observations on Sweden' (7 May 2009) UN Doc [CCPR/C/SWE/CO/6](#) para 8; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) para 16(b) and 'General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19' (26 July 2017) UN Doc [CEDAW/C/GC/35](#) para 31(a)(iii); Committee against Torture, 'Concluding Observations on the Initial Report of Iraq' (7 September 2015) UN Doc [CAT/C/IRQ/CO/1](#) para 24(b) and 'Concluding Observations on the Sixth Periodic Report of Latvia' (24 December 2019) UN Doc [CAT/C/LVA/CO/6](#) para 27(b); Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Kenya' (30 September 2015) UN Doc [CRPD/C/KEN/CO/1](#) para 32(d); Istanbul Convention, art 23.

<sup>167</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women on Harmful Practices' (14

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<sup>168</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 18(e) and 'Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding Observations of the Committee on the Elimination of Racial Discrimination: India' (5 May 2007) UN Doc [CERD/C/IND/CO/19](#) para 15 and 'Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States of America' (25 September 2014) UN Doc [CERD/C/USA/CO/7-9](#) para 15(a); Human Rights Committee, 'Concluding Observations on the Democratic Republic of the Congo' (30 November 2017) UN Doc [CCPR/C/COD/CO/4](#) para 20; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 24; Istanbul Convention, art 20.

<sup>169</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Seventeenth to Nineteenth Periodic Reports of the Republic of Korea' (10 January 2019) UN Doc [CERD/C/KOR/CO/17-19](#) para 26(b); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 38 on Trafficking in Women and Girls in the Context of Global Migration' (20 November 2020) UN Doc [CEDAW/C/GC/38](#) paras 93-95.

<sup>170</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 13; Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, 'Ensuring Prevention, Protection and Assistance for Children Born of Conflict Related Rape and Their Mothers: Joint Statement by CEDAW and CRC' ([19 November 2021](#)) p 5; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 24.

<sup>171</sup> *For a detailed discussion on reparations, consult the Guidebook's "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)" subchapter, obligation III.19.* Customary International Humanitarian Law Study, rules 149 and 150; Second Protocol Additional to the Geneva Conventions, art 91; International Convention on the Elimination of All Forms of Racial Discrimination, art 6; International Covenant on Civil and Political Rights, art 2(3)(a); Convention on the Elimination of All Forms of Discrimination against Women, arts 15(1) and 2(c); Convention against Torture, art 14; Committee on the Rights of the Child, 'General Comment No. 16 (2013) on State Obligations regarding the Impact of the Business Sector on Children's Rights' (17 April 2013) UN Doc [CRC/C/GC/16](#) para 30; Committee on the Rights of Persons with Disabilities, 'Concluding Observations on the Initial Report of Ukraine' (2 October 2015) UN Doc [CRPD/C/UKR/CO/1](#) para 12; African Charter on Human and Peoples' Rights, art 7; African Commission on Human and Peoples' Rights, '[Zimbabwe Human Rights NGO Forum v Zimbabwe](#)', Communication 245/2002 (2006) para 213 and '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) paras 26 and 33; Maputo Protocol, art 25; European Convention on Human Rights, art 13; [Gjini v Serbia](#) App no 1128/16 (ECtHR, 15 January 2019) para 79; Istanbul Convention, art 29; American Convention on Human Rights, arts 25 and 63(1); [V.R.P., V.P.C. v Nicaragua](#) (Judgment) (Inter-American Court of Human Rights Series C No 350) (8 March 2018) para 150.

<sup>172</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art 6; International Covenant on Civil and Political Rights, art 2(3)(a); Convention against Torture, art 14; Maputo Protocol, art 25; European Convention on Human Rights, art 13.

<sup>173</sup> Customary International Humanitarian Law Study, rule 150; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 18(e); Human Rights Committee, 'General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)' ([10 March 1992](#)) 15; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) paras 19(a)-(b); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 10; Committee on the Rights of the Child, 'General Comment No. 25 (2021) on

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<sup>174</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 9; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 375.

<sup>175</sup> Customary International Humanitarian Law Study, rule 150; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 18(e); Human Rights Committee, 'Concluding Observations on the Second Periodic Report of Nepal' (15 April 2014) UN Doc [CCPR/C/NPL/CO/2](#) para 5; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) paras 19(a)-(b); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 8; Committee on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in relation to the Digital Environment' (2 March 2021) UN Doc [CRC/C/GC/25](#) para 46; African Commission on Human and Peoples' Rights, [Sudan Human Rights Organisation & Centre on Housing Rights and Evictions \(COHRE\) v Sudan](#), Communications 279/03-296/05 (2009) para 229(4); [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 326.

<sup>176</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' (1 November 2013) UN Doc [CEDAW/C/GC/30](#) para 79; Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 8; African Commission on Human and Peoples' Rights, [Guidelines on Combating Sexual Violence and its Consequences in Africa](#)' (2017) p 42.

<sup>177</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 18(e); Communication No. 2835/2016 *Eugénie Chakupewa et al. v Democratic Republic of the Congo*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (9 December 2021) UN Doc [CCPR/C/131/D/2835/2016](#) para 8; Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) paras 19(a)-(b); Committee on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in relation to the Digital Environment' (2 March 2021) UN Doc [CRC/C/GC/25](#) para 46; Convention on the Rights of Persons with Disabilities, art 26; African Commission on Human and Peoples' Rights, [General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) paras 40-43; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 326.

<sup>178</sup> Customary International Humanitarian Law Study, rule 150; Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 18(e); Communication No. 2835/2016 *Eugénie Chakupewa et al. v Democratic Republic of the Congo*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (9 December 2021) UN Doc [CCPR/C/131/D/2835/2016](#) para 8; Committee on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in relation to the Digital Environment' (2 March 2021) UN Doc [CRC/C/GC/25](#) para 46; [Women Victims of Sexual Torture in Atenco v Mexico](#) (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 326.

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<sup>179</sup> Communication No. 2835/2016 *Eugénie Chakupewa et al. v Democratic Republic of the Congo*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (9 December 2021) UN Doc [CCPR/C/131/D/2835/2016](#) para 8.

<sup>180</sup> Communication No. 2615/2015 *Devi Maya Nepal v Nepal*, Views Adopted by the Human Rights Committee under article 5 (4) of the Optional Protocol (14 June 2022) UN Doc [CCPR/C/132/D/2615/2015](#) para 9; Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 16; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) para 44; *Miguel Castro-Castro Prison v Peru* (Judgment) (Inter-American Court of Human Rights Series C No 160) (25 November 2006) para 410(h)(i).

<sup>181</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq' (11 January 2019) UN Doc [CERD/C/IRQ/CO/22-25](#) para 18(e); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 18; Committee on the Rights of the Child, 'General Comment No. 25 (2021) on Children's Rights in relation to the Digital Environment' (2 March 2021) UN Doc [CRC/C/GC/25](#) para 46; African Commission on Human and Peoples' Rights, '[General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#)' (2017) paras 45-46 and 71; *Women Victims of Sexual Torture in Atenco v Mexico* (Judgment) (Inter-American Court of Human Rights Series C No 371) (28 November 2018) para 326; *Guzmán Albarracín v Ecuador* (Judgment) (Inter-American Court of Human Rights Series C No 405) (24 June 2020) para 243; *Angulo Losada v Bolivia* (Sentencia) (Inter-American Court of Human Rights Series C No 475) (18 November 2022) para 213.

<sup>182</sup> Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 18.

<sup>183</sup> Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Combined Sixteenth and Seventeenth Periodic Reports of Guatemala' (27 May 2019) UN Doc [CERD/C/GTM/CO/16-17](#) para 16(b); Committee on the Elimination of Discrimination against Women, 'General Recommendation No. 33 on Women's Access to Justice' (3 August 2015) UN Doc [CEDAW/C/GC/33](#) paras 19(a)-(b); Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 6; Committee against Torture, 'General Comment No. 3 (2012) on the Implementation of Article 14 by States Parties' (13 December 2012) UN Doc [CAT/C/GC/3](#) para 6; Committee on the Rights of the Child, 'General Comment No. 16 (2013) on State Obligations regarding the Impact of the Business Sector on Children's Rights' (17 April 2013) UN Doc [CRC/C/GC/16](#) para 30; African Commission on Human and Peoples' Rights, *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v Sudan*, Communications 279/03-296/05 (2009) para 99; *Angulo Losada v Bolivia* (Sentencia) (Inter-American Court of Human Rights Series C No 475) (18 November 2022) para 175.