

# Breaking Ground



Treaty Monitoring Bodies  
on Reproductive Rights

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This booklet summarizes the jurisprudence from United Nations treaty monitoring bodies on reproductive rights, particularly the standards on reproductive health information and contraception, maternal health care, abortion, and emerging issues in international human rights law. It is intended to provide treaty body experts and human rights advocates with succinct and accessible information on the standards being adopted across treaty monitoring bodies surrounding these important rights. This is the fourth edition of this publication. This publication is current through November 2019.

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➔ Indicates new TMB jurisprudence from 2018-2019; arrows next to bullet points indicate one or more new developments in that section.

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ART	Assisted reproductive technology
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
FGM	Female genital mutilation
GBV	Gender-based violence
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
STI	Sexually transmitted infection
WHO	World Health Organization

Please note that the term “women” is intended to include both women and girls unless otherwise noted.

# Introduction: Reproductive Rights in Context

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Reproductive rights are essential to the realization of all human rights and are critical to good health, survival, dignity, poverty reduction, equality, and the enjoyment of a wide range of human rights. They encompass a spectrum of civil, political, economic, and social rights, from the rights to health and life, to the rights to equality and non-discrimination, privacy, information, and the right to be free from torture or ill-treatment. They are enshrined in a constellation of rights expressed in human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention against Torture (CAT).

States' obligations to guarantee these rights require that women and girls not only have access to comprehensive reproductive health information and services, but also that they experience positive reproductive health outcomes such as lower rates of maternal mortality, and have the opportunity to make fully informed decisions—free from violence, discrimination, and coercion—about their sexuality and their reproductive lives.

This booklet summarizes the jurisprudence from United Nations treaty monitoring bodies on reproductive rights.

# I. Reproductive Rights

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## *a. General Legal Standards*

Many aspects of reproductive rights stem from the right to the highest attainable standard of physical and mental health. While many treaty monitoring bodies address the right to sexual and reproductive health within other rights, such as the right to privacy or the right to decide the number and spacing of children, the Committee on Economic, Social and Cultural Rights has developed a General Comment on the right to sexual and reproductive health as an integral part of the right to health.<sup>1</sup>

In General Comment No. 22, the Committee on Economic, Social and Cultural Rights (CESCR Committee) reiterated States' obligation "to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to ensure the full realization of the right to sexual and reproductive health."<sup>2</sup> The CESCR Committee described the right to sexual and reproductive health as covering a range of freedoms and entitlements. The CESCR Committee also recognized that individuals belonging to particular groups may be disproportionately affected by intersectional discrimination in the context of sexual and reproductive health, requiring special measures to guarantee substantive equality.<sup>3</sup>

States' obligations to respect, protect, and fulfill the right to sexual and reproductive health must be implemented in a way that ensures that all sexual and reproductive health information and services are available, accessible, acceptable, and of good quality.<sup>4</sup> The core obligation to ensure the satisfaction of minimum essential levels of the right to sexual and reproductive health includes the duty of States to:<sup>5</sup>

- Repeal or eliminate laws, policies and practices that criminalize, obstruct, or undermine an individual's or a particular group's access to sexual and reproductive health facilities, services, goods, and information.
- Guarantee universal and equitable access to affordable, acceptable and quality sexual and reproductive health services, goods, and facilities, in particular for women and disadvantaged and marginalized groups.
- Ensure all individuals and groups have access to comprehensive education and information on sexual and reproductive health, and ensure that it is non-discriminatory, non-biased, evidence-based, and taking into account the evolving capacities of children and adolescents.
- Ensure access to effective and transparent remedies and redress for violations of the right to sexual and reproductive health.

As recognized by the CESCR Committee in General Comment No. 22, the right to sexual and reproductive health is indivisible from and interdependent with other rights.<sup>6</sup> It extends beyond sexual and reproductive health care and services to include the underlying and social determinants of sexual and reproductive health.<sup>7</sup>

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Addressing the underlying and social determinants of health and general conditions in society that affect the enjoyment of the right to life with dignity can contribute positively to the realization of substantive gender equality and of reproductive rights.

- Social determinants of health refer to the conditions in which people are born, grow, live, work and age, which are shaped by unequal power structures and resource distribution at the local, national, and global levels, and include poverty and income inequality, systemic discrimination, and marginalization based on prohibited grounds of discrimination.<sup>8</sup>
- Underlying determinants of sexual and reproductive health include access to housing, safe drinking water, effective sanitation systems, and equal access to justice and freedom from violence and other rights violations, among other factors.<sup>9</sup>

These determinants impact the choices and meaningful agency that individuals can exercise with respect to their sexual and reproductive health, thus States must address them in laws, institutional arrangements and social practices in order to ensure that they do not prevent individuals from effectively enjoying their reproductive rights in practice.<sup>10</sup>



In General Comment No. 36, the Human Rights Committee expressed the view that the duty to protect life also implies that States should take appropriate measures to address the general conditions in society that may prevent individuals from enjoying their right to life with dignity.<sup>11</sup>

- This obligation includes ensuring access to essential goods and services, including health-care, developing campaigns for raising awareness of gender-based violence and harmful practices, and for improving access to medical examinations and treatments designed to reduce maternal and infant mortality.

## *b. Right to Contraception Information and Services*

Treaty monitoring bodies have consistently found that States must ensure that a full range of good quality, modern, and effective contraceptives, including emergency contraception, are available and accessible to everyone.<sup>12</sup> They have called on States to ensure particular contraception-related health outcomes for women as a means of ensuring substantive equality, including fulfilling the unmet need for contraceptives and reducing teenage pregnancy through access to contraceptive information and services.<sup>13</sup>

The CESCR Committee stresses that in order for goods and services to be of good quality, they must be evidence-based, scientifically and medically appropriate, and up-to-date, as the failure or refusal to incorporate technological advances and innovations jeopardizes the quality of care.<sup>14</sup> Modern methods of contraception should be affordable, with treaty monitoring bodies increasingly recognizing that contraceptives should be subsidized, covered by public health insurance schemes, or provided free of charge to women and girls.<sup>15</sup>

Treaty monitoring bodies emphasize the obligation of States to ensure that the use of contraceptives is voluntary, fully informed, and without coercion or discrimination, and that particular attention should be paid to groups who have historically been subject to coercive family planning practices, such as Roma, persons with disabilities, and women living with HIV.<sup>16</sup> Effective remedies should be available when violations of informed consent and other abuses around contraceptive access and use have occurred.<sup>17</sup> States also have an obligation to gather disaggregated data on contraceptive use and barriers to contraceptive access,<sup>18</sup> and to formulate laws, policies, and programs that reflect the needs of society, including marginalized groups.<sup>19</sup>

## Emergency Contraception

Treaty monitoring bodies have paid particular attention to the issue of access to emergency contraception, which prevents pregnancy following unprotected sexual intercourse. Emergency contraception should be available without a prescription,<sup>20</sup> should be free for victims of violence, including adolescents,<sup>21</sup> and special measures should be taken to ensure that it is available to women in conflict and post-conflict zones.<sup>22</sup> Failure to ensure legal and accessible emergency contraception for women who are victims of rape or sexual abuse can result in physical and mental suffering that may amount to ill-treatment.<sup>23</sup>

### *c. Right to Sexual and Reproductive Health Information*

Access to accurate and timely sexual and reproductive health information, including specific information on an individual's own health status, is essential to exercising autonomy and making informed choices concerning health care.<sup>24</sup> Information on sexual and reproductive health must be scientifically accurate, evidence-based, non-biased, non-discriminatory<sup>25</sup> and take into consideration the needs of the individual with reference to their age, gender, language ability, educational level, disability, sexual orientation, gender identity, and intersex status.<sup>26</sup>

States may not censor, withhold, or intentionally misrepresent sexual and reproductive health information, and they must ensure that this information does not reflect biases and prejudices about the role of women and the health services that should be available to them.<sup>27</sup> States are also required to provide age-appropriate, evidence-based, scientifically accurate comprehensive education for all on sexual and reproductive health.<sup>28</sup>

Treaty monitoring bodies have consistently emphasized that access to information is a critical element of accessing abortion services.<sup>29</sup> They have found that States should not place criminal sanctions on providers who provide information about abortion.<sup>30</sup> Further, they have called on States to eliminate informational barriers to abortion services, such as unnecessary or biased counseling requirements,<sup>31</sup> and to ensure that information provided is science and evidence-based and includes both the risks of having an abortion and carrying a pregnancy to term, in order to ensure women's autonomy and informed decision-making.<sup>32</sup>

➔ Recently the CESCRC Committee has recommended that States prohibit any exposure of women to biased or medically unsound information on the risks of abortion that impedes their access to sexual and reproductive health services.<sup>33</sup>

### Adolescent Access to Information and Comprehensive Sexuality Education

Treaty monitoring bodies have called on States to provide access to sexual and reproductive health information and services, as well as comprehensive sexuality education in and out of schools,<sup>34</sup> irrespective of age and without the consent of a parent or guardian.<sup>35</sup> States have an obligation to ensure that information provided is scientifically accurate and objective, age appropriate, and free of prejudice and discrimination.<sup>36</sup>

The school curriculum must be based on human rights standards, integrate a strong gender perspective, and address socialized gender roles and stereotypes, patriarchal attitudes, and unequal power dynamics.<sup>37</sup> Attention should be given to gender equality, sexual diversity, sexual and reproductive health rights, and violence prevention.<sup>38</sup> States must develop training for teachers on delivering comprehensive education on sexual and reproductive health and sexuality in a way that respects adolescents' right to privacy and confidentially.<sup>39</sup>

#### *d. Right to Maternal Health Care*

Treaty monitoring bodies have developed strong human rights standards on women's right to maternal health care, framing this right within the rights to life, health, equality and non-discrimination, and freedom from ill-treatment. The right to maternal health care encompasses a woman's right to the full range of services in connection with pregnancy and the postnatal period and the ability to access these services free from discrimination, coercion, and violence.<sup>40</sup> In General Recommendation No. 24, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) recommended that States should "require all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice."<sup>41</sup>

States must guarantee all women available, accessible, acceptable, and good quality maternal health services.<sup>42</sup>

Furthermore, treaty monitoring bodies have found that social and other determinants of health must be addressed in order for women to be able to seek and access the maternal health services they need.<sup>43</sup> In General Comment No. 36 the Human Rights Committee recommended that States should develop strategic plans and campaigns for improving access to treatments designed to reduce maternal mortality, as part of advancing the enjoyment of the right to life.<sup>44</sup>

Treaty monitoring bodies have specifically recognized that intersectional discrimination can hinder women's access to maternal health services, and have recommended that States put a particular focus on the maternal health needs of women from marginalized groups, including adolescents, poor women, minority women, rural women, migrant women, and women with disabilities. This requires the collection of disaggregated data on maternal mortality.<sup>45</sup>

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In the first decision by a treaty monitoring body on maternal mortality, *Alyne da Silva Pimentel v. Brazil*, the CEDAW Committee found that Brazil had discriminated against Alyne, an Afro-Brazilian woman who died following pregnancy and post-natal complications, on the basis of her gender, race, and socioeconomic status when she was denied maternal health services.<sup>46</sup> The CEDAW Committee recommended that Brazil ensure affordable emergency obstetric services, train health workers, impose sanctions on health care providers who violate women's reproductive rights, and implement a national plan for maternal health care.<sup>47</sup> The Committee recognized that these violations reached system-level factors of neglect, including the inadequate resources and ineffective implementation of State policies.<sup>48</sup>

### Freedom from Violence in Maternal Health Facilities

In addition to guaranteeing women available, accessible, acceptable and good quality maternal health services, treaty monitoring bodies recognize that States must guarantee women the right to be free from violence when seeking maternal health services. In certain instances, treaty monitoring bodies have recognized that the disrespect and abuse women face in maternal health facilities can amount to ill-treatment, including when women are detained and abused post-delivery for the inability to pay their maternal health care bills<sup>49</sup> and when incarcerated women are shackled to beds during labor and delivery.<sup>50</sup> Furthermore, a procedure called 'symphysiotomy', the surgical separation and widening of the pelvis to facilitate childbirth, when carried out for religious rather than medical reasons, and without informed consent, was found to violate the prohibition on torture and cruel, inhuman or degrading treatment by several treaty monitoring bodies.<sup>51</sup>

### *e. The Right to Abortion Services and Information*

Treaty monitoring bodies have long recognized the connection between restrictive abortion laws, high rates of unsafe abortion, and maternal mortality<sup>52</sup> and found that restrictive abortion laws violate a range of human rights, including the rights to health, life, privacy, freedom from gender discrimination or gender stereotyping, and freedom from ill-treatment.<sup>53</sup> Moreover, the CEDAW Committee has found that criminalization of abortion, denial or delay of safe abortion and post-abortion care, and forced continuation of pregnancy are forms of gender discrimination and gender-based violence.<sup>54</sup>

➔ In General Comment No. 36 on the right to life, the Human Rights Committee has reaffirmed that States have a duty to ensure that women and girls do not have to undertake unsafe abortions as part of preventing foreseeable threats to the right to life. Accordingly States must not impose criminal sanctions against women and girls undergoing abortion or against medical service providers assisting them in doing so, and at a minimum, States “**must provide access to safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or is not viable.**”<sup>55</sup> This formulation allows for a broad interpretation of the minimum grounds under which abortion should be made legal and also calls on states to take affirmative steps to provide access to abortion.

The treaty monitoring bodies have noted that denial of access to abortion may be based on gender stereotypes about the traditional roles of women primarily as mothers and caregivers, which may also constitute or exacerbate gender discrimination and undermine gender equality.<sup>56</sup> They have also expressed concern about situations where abortion is legal but stigmatized, which may lead women to resort to unsafe and clandestine abortions.<sup>57</sup>

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In response to these human rights violations, treaty monitoring bodies have found that States should:

- Decriminalize abortion in all circumstances.<sup>58</sup>
- Ensure certain legal grounds for abortion. Specifically, treaty monitoring bodies have recognized that abortion must be legal, at a minimum, when a woman's life or health is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, such as where the pregnancy is the result of rape or incest and in cases of severe or fatal fetal impairments.<sup>59</sup>
- Interpret exceptions to restrictive abortion laws broadly and ensure that health exceptions include risks to mental health.<sup>60</sup>
- Eliminate punitive measures for women who undergo abortions and for health care providers who provide abortion services.<sup>61</sup>
- Provide post-abortion care to women and adolescents, regardless of whether or not abortion is legal.<sup>62</sup>
- Address the socio-economic needs of women seeking abortion services.<sup>63</sup>
- Consider establishing a legal presumption stating that adolescents are competent to seek and have access to sexual and reproductive health commodities and services, including abortion.<sup>64</sup>

## Barriers to Abortion

Treaty monitoring bodies have noted that as for other reproductive health services, legal abortion services must be available, accessible, affordable, acceptable, and of good quality.<sup>65</sup> This means that States should liberalize their abortion laws to improve access and remove barriers that deny effective access by women and girls to safe and legal abortion.<sup>66</sup>

- The CESCR and CEDAW Committees have recognized that abortion services must be **economically accessible**, recommending that States lower the cost of abortion or otherwise provide financial support when needed.<sup>67</sup> The CEDAW Committee has described fees for abortion as being burdensome to women’s informed choice and autonomy.<sup>68</sup> The Committee against Torture (CAT Committee) has called on States to ensure free access to abortion in cases of rape.<sup>69</sup>
- States have an obligation to eliminate and refrain from adopting **medically unnecessary barriers** to abortion, including mandatory waiting periods, biased counselling requirements, and third-party authorization requirements.<sup>70</sup>
- The treaty monitoring bodies have recently paid increasing attention to States’ obligations to regulate the practitioners’ **refusal of care based on grounds of conscience**, if they allow the practice,<sup>71</sup> including by ensuring that refusal of care does not occur in emergency situations, and otherwise health-care providers refer women to alternative health-care providers. The State must not permit institutional refusals of care<sup>72</sup> and must ensure that “adequate number of health-care providers willing and able to provide such services should be available at all times in both public and private facilities and within reasonable geographical reach.”<sup>73</sup>

## Denial of Access to Abortion as Torture or Ill-Treatment

The Committee against Torture, the Human Rights Committee, and the CEDAW Committee have found that denying or delaying safe abortion or post-abortion care may amount to torture or cruel, inhuman or degrading treatment.<sup>74</sup>

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In *Mellet v. Ireland* and *Whelan v. Ireland*, two groundbreaking decisions that contributed to law reform in Ireland, the Human Rights Committee found that the prohibition and criminalization of abortion violated the rights to be free from cruel, inhuman, or degrading treatment, to privacy, and to equality before the law of a woman who wanted to end a pregnancy affected by a fatal fetal impairment. The Committee affirmed that prohibiting abortion can cause women severe mental suffering. The suffering can be exacerbated by the inability to receive care from trusted health professionals in their own country and by the financial, psychological, and physical burdens imposed on them by having to travel abroad to access abortion care.<sup>75</sup> The Human Rights Committee outlined the obligation of the State to remedy these violations by reforming its laws on abortion, and if necessary, its constitution.<sup>76</sup>

## II. Bodily Autonomy, Equality and Non-discrimination, Social Determinants of Health

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### *a. Bodily Autonomy and Reproductive Rights*

Ensuring women’s rights to non-discrimination and substantive equality requires that women can exercise autonomy and self-determination, as well as make important life decisions without undue influence or coercion. The CEDAW Committee has referred to “the right of women to autonomous decision-making about their health,” and recommended that States review abortion laws and practices with a view to ensure women’s autonomy to choose.<sup>77</sup>

The CESCR Committee has acknowledged the right of all individuals to autonomous decision-making on matters regarding their sexual and reproductive health and noted that, “The right of women to sexual and reproductive health is indispensable to their autonomy and their right to make meaningful decisions about their lives and health.”<sup>78</sup> In its most recent General Comment, the Human Rights Committee has built on these standards and has acknowledged the “central importance to human dignity of personal autonomy,”<sup>79</sup> as part of the right to life includes the right to enjoy a life with dignity.

## Procedural and Other Barriers to Reproductive Autonomy

Women are unable to exercise their reproductive autonomy where laws, policies, and practices impose arbitrary or unlawful barriers to their right to access sexual and reproductive health services. These barriers include:

- **Third-Party Authorization Requirements:** The treaty monitoring bodies have urged States to repeal third party authorization requirements—such as those required from spouses, judges, parents, guardians, or health authorities—to access reproductive health services and information, classifying these requirements as forms of discrimination against women and barriers to women’s access to reproductive health services.<sup>80</sup>
- **Inadequately Regulated Refusal of Care Based on Conscience:** States that permit health-care providers to invoke conscientious objection must adequately regulate the practice to ensure that it does not limit women’s access to reproductive health services, including abortion.<sup>81</sup> They must also implement a timely, systematic mechanism for referrals to an alternative health care provider and ensure that conscientious objection is a personal and not institutional practice.<sup>82</sup>
- **Waiting Periods:** The CAT and CEDAW Committees have recommended that States eliminate medically-unnecessary waiting periods for abortion.<sup>83</sup> Mandatory delay laws force women to travel multiple times to their abortion provider, incurring additional expense and burden which can particularly affect low-income women and women who live in rural areas. Those obstacles can themselves force women to delay their procedures even further into pregnancy, and although early abortion is a very safe procedure, the risk of complications increases with gestational age.

## Violence and Coercion

Treaty monitoring bodies have also recognized that women are denied reproductive autonomy when they are subjected to violence or coercion, which may include:

- **Forced reproductive health procedures**, including forced or coerced sterilization, forced or coerced abortion, and mandatory testing for pregnancy or sexually transmitted diseases, are violations of women's rights to health-related decision-making and informed consent.<sup>84</sup> Many women from marginalized groups, including women with disabilities, are subjected to forced or coerced sterilization, which the treaty monitoring bodies have found violates their right to be free from torture or ill-treatment.<sup>85</sup> The CEDAW Committee has identified forced sterilization as a form of gender-based violence<sup>86</sup> and has called for complaints about forced sterilization to be duly investigated and for the provision of remedies and redress that are “adequate, effective, promptly granted, holistic and proportionate to the gravity of the harm suffered.”<sup>87</sup>
- Harmful traditional practices, which treaty monitoring bodies have recognized violate a number of human rights, including limiting reproductive autonomy.
  - *CEFM*: child, early, and forced marriages are often accompanied by early and frequent pregnancy and childbirth, which also results in increased maternal mortality rates.<sup>88</sup> The CEDAW, Committee on the Rights of the Child (CRC Committee), and Human Rights Committees have expressed concern of the prevalence of child marriage in refugee camps,<sup>89</sup> where adolescent refugee girls are often sold as brides.<sup>90</sup> Additionally, refugee women are frequently forced into marriages for socio-economic and “protection” purposes.<sup>91</sup>

- *FGM*: The treaty monitoring bodies have long been concerned with the high prevalence of female genital mutilation (FGM).<sup>92</sup> The CEDAW and CRC Committees note that there is no medical reason for FGM and explain that the practice can cause immediate and long-term health consequences, including shock, severe pain, infections, complications during childbirth, and other long-term gynecological problems.<sup>93</sup>

### *b. Equality and Non-discrimination*

The rights to equality and non-discrimination are fundamental tenets of international human rights law. Gender equality includes the right to de-facto or substantive equality.<sup>94</sup> Realizing substantive gender equality requires addressing the historical roots of gender discrimination, gender stereotypes, and traditional understandings of gender roles that perpetuate discrimination and inequality.<sup>95</sup>

- *Substantive equality*: Treaty monitoring bodies have long recognized the need to use a substantive equality approach to ensure gender equality in the context of reproductive rights. They have called on States to ensure positive reproductive health outcomes, such as fulfilling unmet need for modern contraceptives, lowering rates of maternal mortality, and reducing rates of adolescent pregnancy.<sup>96</sup> They have repeatedly condemned laws that restrict or prohibit health services primarily or exclusively needed by women on the basis that they violate the rights to equality and non-discrimination.<sup>97</sup> The CEDAW Committee has stated that “it is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women.”<sup>98</sup>

- *Gender stereotypes:* Several of the treaty monitoring bodies, and CEDAW in particular, have regularly called on States to work to eradicate gender stereotypes, noting that patriarchal attitudes, cultural stigma, and gender stereotypes about women as mothers and caregivers, prejudices about sexual and reproductive health services, and taboos about sexuality outside of marriage all contribute to the lack of access to reproductive health information, goods and services.<sup>99</sup> In General Comment No. 22, the CESCR Committee called on States to eliminate discriminatory stereotypes, assumptions, and norms concerning sexuality and reproduction that underlie restrictive laws and undermine the realization of sexual and reproductive health.<sup>100</sup>

The CESCR Committee has stated that realizing women's rights and gender equality requires reforming the discriminatory laws, policies, and practices, and removing all barriers that interfere with women's access to comprehensive sexual and reproductive health services, goods, education, and information.<sup>101</sup> Both the CEDAW and CESCR Committees have suggested that States must adopt temporary special measures to eliminate conditions and combat gender-based stereotypes and attitudes that perpetuate inequalities and discrimination in order to enable all individuals and groups to enjoy sexual and reproductive health on a basis of equality.<sup>102</sup>

To achieve substantive equality, States must remedy entrenched discrimination by implementing temporary special measures through a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices.<sup>103</sup> These measures should cover the following areas:

- 
- **Recognize Difference:** States should recognize that women and men experience different kinds of rights violations due to discriminatory social and cultural norms, including in the context of health.<sup>104</sup> Women also may face intersecting discrimination based on multiple grounds, including race, disability, age, socio-economic status or due to membership of other marginalized groups.<sup>105</sup> Measures to guarantee non-discrimination and substantive equality should address the exacerbated impact that intersectional discrimination has on the realization of the right to sexual and reproductive health.<sup>106</sup>
  - **Ensure Equality of Outcomes:** Given that discrimination manifests itself differently between and among men and women, States should address these inequalities accordingly. States should focus on ensuring equal outcomes for women, including different groups of women, which may require States to take positive measures and mandate potentially different treatment of men and women, as well as between different groups of women, in order to overcome historical discrimination and ensure that institutions guarantee women's rights.<sup>107</sup>
  - **Address Discriminatory Power Structures:** States should examine and address current societal power structures, such as traditional family and work-place roles, and analyze the role that gender plays within them. Ensuring substantive equality requires States to change opportunities, institutions, and systems in order to address the inequalities experienced by women, by ensuring that they are not grounded in male paradigms of power and life patterns.<sup>108</sup>

# III. Issues in Focus

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## *a. Assisted Reproductive Technology and Surrogacy*

Recent advances in technology have made assisted reproductive technology (ART) a topic of increasing global interest. The Human Rights Committee has called on the elimination of excessive restrictions on the use of ART,<sup>109</sup> while the CEDAW Committee has praised States for passing legislation that regulates ART and guarantees access to all scientific methods of ART.<sup>110</sup> As with other reproductive health services, there is concern that access to ART is not available to all women.<sup>111</sup>

- ➔ • The CESCR Committee has recently decided that a mandatory transfer of an embryo to the woman's uterus without her consent constituted a violation of her right to the highest attainable standard of health and her right to gender equality.<sup>112</sup> The CESCR Committee recommended that, "States should update their regulations regularly to harmonize them with their human rights obligations and with the evolution of society and scientific progress."<sup>113</sup>
- The CRC Committee has recognized that surrogacy is a complex topic that raises a range of complex issues and has issued concluding observations on surrogacy to several States in relation to commercial surrogacy.<sup>114</sup> The Committee recommended that States monitor surrogacy arrangements and ensure that a child born through surrogacy motherhood should be able to get access to the information about his or her origin.
- ➔ • In 2019, the CEDAW Committee considered surrogacy for the first time. They recommended that States ensure that laws on surrogacy do not impose criminal liability or administrative sanctions on women who act as surrogates, and ensure that laws, regulations, and policies on surrogacy prevent deprivation of liberty and exploitation, as well as coercion, discrimination, and violence against them.<sup>115</sup>

## *b. Sexual and Reproductive Health and Rights in Humanitarian Settings*

Human rights law and international humanitarian law are complementary and mutually reinforcing, and States must therefore respect, protect, and fulfill sexual and reproductive health and rights during conflict and humanitarian emergencies, including ensuring access to services for women and girls who are survivors of gender-based violence.<sup>116</sup> The treaty monitoring bodies have developed extensive guidance for States which reinforce and complement State's humanitarian legal obligations.

In conflict-affected settings, the CEDAW Committee has called on States to:

- Ensure access to maternal health services, including antenatal care, skilled delivery services, prevention of vertical transmission, and emergency obstetric care.<sup>117</sup>
- Give priority to the provision of sexual and reproductive health services, including safe abortion services, noting with concern the effects of armed conflict on SRHR and maternal mortality.<sup>118</sup>

The CEDAW and CESCR Committees have noted that refugees, stateless persons, asylum seekers and undocumented migrants are in a situation of vulnerability due to their legal status which requires the State to take additional steps to ensure their access to affordable and quality sexual and reproductive information, goods, and healthcare.<sup>119</sup>

Principles of equality and equity, participation, transparency, and accountability are foundational to international human rights law and are necessary to guide and inform all aspects of humanitarian service provision to ensure that it reflects and meets the needs of the individuals and communities most directly affected.

A human rights-based approach to SRHR in humanitarian settings requires, *inter alia*:<sup>120</sup>

- Ensuring available, accessible, adequate, and quality services without discrimination.
- Ensuring those who seek services are able to make informed and autonomous decisions, without spousal, parental, or third-party consent.
- Establishing systems for maintaining privacy and confidentiality.
- Access to justice and effective remedies when individual rights are violated.

### *c. Capacity and Consent: Adolescents and Women with Disabilities*

Treaty monitoring bodies have specifically recognized that individuals belonging to particular groups may be disproportionately affected by intersectional discrimination in the context of sexual and reproductive health. They have recommended that States put a particular focus on the sexual and reproductive health needs of marginalized groups of women, including poor women, persons with disabilities, migrants, indigenous or other ethnic minorities, adolescents, lesbian, gay, bisexual, transgender and intersex persons, sex workers, and people living with HIV/AIDS.<sup>121</sup> Laws, policies and programmes, including temporary special measures and increased resources, are required to prevent and eliminate discrimination, stigmatization, and harmful stereotyping that hinders access to sexual and reproductive health<sup>122</sup>.

## i. Adolescents

Age is a prohibited ground of discrimination, and in relation to young persons, unequal access by adolescents to sexual and reproductive health information and services amounts to discrimination.<sup>123</sup> States should provide health services that are responsive to the particular needs and human rights of all adolescents<sup>124</sup> and “ensure that girls can make autonomous and informed decisions on their reproductive health.”

The vulnerability of adolescents, particularly those from marginalized groups, requires additional measures to fully protect, respect, and fulfill their sexual and reproductive rights.<sup>125</sup> In the decisions of *L.C v Peru* and *K.L v Peru* the CEDAW and Human Rights Committees found that the young age of the victims was an aggravating factor in assessing the severity of the human rights violations by the State.

Treaty monitoring bodies recognize that adolescents and youth face specific barriers in accessing contraception,<sup>126</sup> including taboos about adolescent sexuality<sup>127</sup> and legal restrictions on contraceptives for unmarried women.<sup>128</sup> The CESCR Committee has said that “States must also take affirmative measures to eradicate social barriers in terms of norms or beliefs that prevent girls and adolescents from autonomously exercising their right to sexual and reproductive health.”<sup>129</sup>

The CRC Committee has urged States to decriminalize abortion to ensure that girls have access to safe abortion and post-abortion services, review legislation with a view to guaranteeing the best interests of pregnant adolescents, and ensure that their views are always heard and respected in abortion-related decisions.<sup>130</sup> The CRC Committee has also urged States to remove parental and guardian consent requirements by giving consideration “to the introduction of a legal presumption that adolescents are competent to seek and have access to preventive or time-sensitive sexual and reproductive health commodities and services.”<sup>131</sup>

## ii. Women with Disabilities

Women and girls with disabilities face multiple barriers to the enjoyment of sexual and reproductive health and rights, often due to harmful stereotypes with the barriers including a failure to respect their legal capacity and a lack of accessibility of facilities, services, and information.<sup>132</sup> Of particular concern is the restriction or removal of legal capacity of women and girls with disabilities, which can facilitate forced interventions, such as sterilization, abortion, contraception, female genital mutilation, or surgery, or treatment performed on intersex children without their informed consent, and detention in institutions.<sup>133</sup>

The Committee on the Rights of Persons with Disabilities (CRPD Committee) has called on States to:

- Repeal discriminatory laws, policies, and practices, prohibit all forms of forced sterilization, forced abortion and non-consensual birth control,<sup>134</sup> and adopt affirmative action measures in relation to sexual health and reproductive rights for women and girls with disabilities.<sup>135</sup>
- Ensure that all women and girls with disabilities can exercise their legal capacity by making their own decisions (with support when desired) with regard to medical and/or therapeutic treatment, including decisions on retaining their fertility, reproductive autonomy, their right to choose the number and spacing of children, to consent and accept a statement of fatherhood, and the right to establish relationships.<sup>136</sup>

# V. Recommendations

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In recent years, the treaty monitoring bodies have made substantial progress in elaborating human rights standards on sexual and reproductive health and rights. In order to continue the development of human rights standards and ensure the full realization of these rights for women and girls around the world, treaty monitoring bodies should consider the following:

- i. Explicitly recognize that States have an obligation to ensure women's and girls' right to access abortion without restriction as to reason. Going beyond an exceptions-based framework to restrictive abortion laws, which does not fully enable women to exercise their reproductive autonomy, will help ensure gender equality by fully considering the negative health and human rights implications that restrictive abortion laws, policies, and practices have on all women.
- ii. Recognize that denial of access to sexual and reproductive health services, goods, and information is a form of gender discrimination that results from gender stereotypes, patriarchal attitudes, and taboos surrounding women's sexuality.
- iii. Continue to condemn violations of women's right to bodily autonomy, including the failure to obtain informed consent and restrictions on women's decision-making.
- iv. Address intersectional discrimination and the need to ensure effective policies that address needs of marginalized groups.

- v. Reinforce applicability of human rights law and the need for States to realize reproductive rights in humanitarian settings.
- vi. Require States to provide meaningful and effective remedies for women whose sexual and reproductive health and rights has been violated, including in humanitarian settings.
- vii. Develop human rights standards on assisted reproductive technology, including surrogacy, that puts the rights of women at the center and ensures that the right to benefit from scientific progress is implemented on a non-discriminatory basis.

## Endnotes

- 1 Committee on Economic, Social and Cultural Rights, *General Comment No. 22: On the right to sexual and reproductive health (Art. 12 of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/GC/22 (2016) [hereinafter CESCR Committee, *Gen. Comment No. 22*].
- 2 *Id.* para. 45.
- 3 *Id.* paras. 5, 10, 30. "...groups including but not limited to poor women, persons with disabilities, migrants, indigenous or other ethnic minorities, adolescents, lesbian, gay, bisexual, transgender and intersex persons, and people living with HIV/AIDS".
- 4 CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 12-21.; Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22<sup>nd</sup> Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 12, U.N. Doc. E/C.12/2000/4 (2000) [hereinafter CESCR Committee, *Gen. Comment No. 14*].;

*Availability:* States have an obligation to ensure adequate training of health care providers, a sufficient number of health facilities throughout the country, adequate sanitation and infrastructure for sexual and reproductive health services, including in rural areas, and essential drugs, as defined by the World Health Organization (WHO) Model List of Essential Medicines, including contraception, emergency contraception and medication abortion.

*Accessibility:* States must ensure that sexual and reproductive health information and services are accessible by guaranteeing:

*Physical accessibility:* States must ensure that women do not have to travel long distances to health facilities and have access to transportation to ensure their right to health information and services.

*Economic accessibility (Affordability):* States must ensure that health services and goods are affordable for everyone and should provide free or low-cost reproductive health goods and services for women who cannot afford them, including abortion and contraception. CEDAW recommends that contraception and abortion services should be accessible, including affordability. The CRC Committee has called on states to provide adolescents free reproductive health services, including access to contraception and safe abortion.

*Information accessibility:* Individuals must have access to comprehensive, age-appropriate, unbiased, and scientifically accurate sexuality education, and the information and education necessary to enable them to freely determine the number and spacing of their children. States may not censor, withhold, or intentionally misrepresent sexual and reproductive health information.

*Legal accessibility:* States must eliminate or remove all laws and policies that undermine the ability of certain individuals and groups to obtain the full range of reproductive health information, goods, and services.

*Acceptability:* Sexual and reproductive health services must respect the rights to confidentiality and informed consent, be culturally appropriate, and be sensitive to gender and life-cycle requirements. Further, they must be delivered in a way that respects women's dignity and is sensitive to their needs and perspectives.

*Quality:* Health services must be scientifically and medically appropriate, which requires skilled medical personnel, scientifically approved and unexpired drugs, sufficient hospital equipment, and incorporates technological advancements and innovations such as medication for abortion and assisted reproductive technologies.

- 5 CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 49.
- 6 *Id.* para. 10.
- 7 *Id.* paras. 7 and 8.
- 8 *Id.* para. 8.
- 9 *Id.* para. 7.
- 10 *Id.* para. 8.
- 11 Human Rights Committee, *General Comment No. 36: On the right to life (Art. 6 of the International Covenant on Civil and Political Rights)*, para. 26, U.N. Doc. CCPR/C/GC/36 (2018) [hereinafter Human Rights Committee, *Gen. Comment No. 36*].
- 12 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 13, 28, 45, 57, 62.; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, (20<sup>th</sup> Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 12(d), 17, U.N. Doc. A/54/38/Rev.1, chap I (1999) [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*].; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 34: The Rights of Rural Women*, (63<sup>rd</sup> Sess., 2016), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 38, 39(a), U.N. Doc. CEDAW/C/GC/34 (2016) [hereinafter CEDAW Committee, *Gen. Recommendation No. 34*].; Committee on the Rights of the Child, *General Comment No. 15: The right of the child to the enjoyment of the highest attainable standard of health (Art. 24)*, (62<sup>nd</sup> Sess., 2013), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 31, 70, U.N. Doc. CRC/C/GC/15 (2013) [hereinafter CRC Committee, *Gen. Comment No. 15*].; Committee on the Rights of the Child, *General Comment No. 20: The implementation of the rights of the child during adolescence*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 59, 63, U.N. Doc. CRC/C/GC/20\* (2016) [hereinafter CRC Committee, *Gen. Comment No. 20*].; CRC Committee, *Concluding Observations: Argentina*, para. 32, U.N. Doc.

- CRC/C/ARG/CO/5-6 (2018).; CEDAW Committee, *Concluding Observations: Mozambique*, para. 36(c), U.N. Doc. CEDAW/C/MOZ/CO/3-5 (2019).
- 13 CRC Committee, *Gen. Comment No. 15, supra* note 12, para. 56.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 17.; CRC Committee, *Concluding Observations: Kyrgyzstan*, paras. 51-52, U.N. Doc. CRC/C/KGZ/CO/3-4 (2014).; CEDAW Committee, *Concluding Observations: Angola*, para. 31(c), U.N. Doc. CEDAW/C/AGO/CO/6 (2013).; Human Rights Committee, *Concluding Observations: Malawi*, para. 9, U.N. Doc. CCPR/C/MWI/CO/1/Add.1 (2014).; CESCR Committee, *Concluding Observations: El Salvador*, para. 23, U.N. Doc. E/C.12/SLV/CO/3-5 (2014).
- 14 CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 21.
- 15 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 17, 28, 49(c).; Committee on the Elimination of Discrimination against Women, *Philippines Inquiry Summary (Article 8 of Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women)*, para. 52, U.N. Doc. CEDAW/OP.8/PHL/1 (2014).; CEDAW Committee, *Concluding Observations: Austria*, paras. 34, 35, U.N. Doc. CEDAW/C/AUT/CO/9 (2019).; CESCR Committee, *Concluding Observations: Slovakia*, para. 42(a), U.N. Doc. E/C.12/SVK/CO/3 (2019).; CESCR Committee, *Concluding Observations: Poland*, para. 49, U.N. Doc. E/C.12/POL/CO/6 (2016).; CAT Committee, *Concluding Observations: Philippines*, para. 39, U.N. Doc. CAT/C/PHL/CO/3 (2016).
- 16 *Id.* paras. 13, 45, 57.
- 17 *Id.* para. 64.
- 18 CESCR Committee, *Gen. Comment No. 14, supra* note 4, para. 20.
- 19 *Id.* para. 45.
- 20 CEDAW Committee, *Concluding Observations: Hungary*, para. 31(b), U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).
- 21 CRC Committee, *Gen. Comment No. 15, supra* note 12, para. 70.; CRC Committee, *Gen. Comment No. 20, supra* note 12, para. 59.; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 35: Gender-based violence against women, updating general recommendation No. 19, in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 40(c), U.N. Doc. CEDAW/C/GC/35 (2017) [hereinafter CEDAW Committee, *Gen. Recommendation No. 35*].; CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 13, 45, 57.; CEDAW Committee, *Concluding Observations: Peru*, paras. 35-36, U.N. Doc. CEDAW/C/PER/CO/7-8 (2014).; CRC Committee, *Concluding Observations: Costa Rica*, paras. 63-64, U.N. Doc. CRC/C/CRI/CO/4 (2011).
- 22 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 30: Women in conflict prevention, conflict, and post-conflict situations, in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 52(c), U.N. Doc. CEDAW/C/GC/30 (2013) [hereinafter CEDAW Committee, *Gen. Recommendation No. 30*].; CEDAW Committee, *Concluding Observations:*

- Central African Republic*, paras. 39-40, U.N. Doc. CEDAW/C/CAF/CO/1-5 (2014).
- 23 CEDAW Committee, *Gen. Recommendation No. 35*, *supra* note 22, paras. 18, 40(c).; CAT Committee, *Concluding Observations: Greece*, paras. 24, 25, U.N. Doc. CAT/C/GRC/7 (2018).
- 24 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 18.
- 25 *Id.* paras. 18, 19, 21, 40, 41, 43, 58.
- 26 *Id.* para. 19.
- 27 *Id.* paras. 41, 58.
- 28 *Id.* para. 47.
- 29 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 18.; Committee on the Rights of Persons with Disabilities, *General Comment No. 3: Women and girls with disabilities*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 40, U.N. Doc. CRPD/C/GC/3 (2016) [hereinafter CRPD Committee, *Gen. Comment No. 3*.]; Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, art. 10, para. H, G.A. Res. 34/180, U.N. GAOR, 34<sup>th</sup> Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981) [hereinafter CEDAW].; CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 12, para. 28.
- 30 Human Rights Committee, *Gen. Comment No. 36*, *supra* note 11, para. 8.; Human Rights Committee, *Concluding Observations: Netherlands*, paras. 30-31, U.N. Doc. CCPR/C/NLD/CO/5 (2019).; Human Rights Committee, *Concluding Observations: Ireland*, para. 9, U.N. Doc. CCPR/C/IRL/CO/4 (2014).; CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 40.
- 31 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 41.; CEDAW Committee, *Concluding Observations: Germany*, para. 38(b), U.N. Doc. CEDAW/C/DEU/CO/7-8 (2017).; CEDAW Committee, *Concluding Observations: Hungary*, para. 30, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).
- 32 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, paras. 18, 21, 47.; CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(e), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).
- 33 CESCR Committee, *Concluding Observations: Slovakia*, para. 42(b), U.N. Doc. E/C.12/SVK/CO/3 (2019).
- 34 CRC Committee, *Gen. Comment No. 20*, *supra* note 12, paras. 59 – 61.; CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, paras. 28, 44, 47, 48, 49(f), 63.
- 35 CRC Committee, *Gen. Comment No. 20*, *supra* note 12, para. 60.; CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 44.
- 36 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, paras. 18-21, 40-41, 43-44.; CEDAW Committee, *Concluding Observations: Italy*, para. 35, U.N. Doc. CEDAW/C/ITA/CO/7 (2017).; CEDAW Committee, *Concluding Observations: Nigeria*, para. 34(e), U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).; CEDAW Committee, *Concluding Observations: Ireland*, para. 39(c),

- U.N. Doc. CEDAW/C/IRL/CO/6-7 (2017).; CRC Committee, *Concluding Observations: Antigua and Barbuda*, para. 45(a), U.N. Doc. CRC/C/ATG/CO/2-4 (2017).;
- 37 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 35, 48.; CEDAW Committee, *Concluding Observations: Montenegro*, paras. 30-31, U.N. Doc. CEDAW/C/MNE/CO/2 (2017).; CEDAW Committee, *Concluding Observations: Portugal*, para. 33, U.N. Doc. CEDAW/C/PRT/CO/8-9 (2015).; CEDAW Committee, *Concluding Observations: Timor-Leste*, para. 27, U.N. Doc. CEDAW/C/TLS/CO/2-3 (2015).; CEDAW Committee, *Concluding Observations: Mongolia*, para. 25(a), U.N. Doc. CEDAW/C/MNG/CO/8-9 (2016).; *See also*, CRPD Committee, *Concluding Observations: Islamic Republic of Iran*, para. 49(b), U.N. Doc. CRPD/C/IRN/CO/1 (2017).
- 38 CRC Committee, *Gen. Comment No. 20, supra* note 12, para. 61.
- 39 CESCR Committee, *Concluding Observations: Denmark*, paras. 60, 61, U.N. Doc. E/C.12/DNK/CO/6 (2019).; CRC Committee, *Gen. Comment No. 15, supra* note 12.; CRC Committee, *Gen. Comment No. 20, supra* note 12, para.17.; CESCR Committee, *Gen. Comment No. 22, supra* note 1.
- 40 CEDAW, *supra* note 30, art. 12.
- 41 CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 31(e).
- 42 CESCR Committee, *Gen. Comment No. 14, supra* note 4, para. 12.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, paras. 26, 27.; CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 45.
- 43 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras.7-8.; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 26.; CESCR Committee, *Gen. Comment No. 14, supra* note 4, paras. 4, 10 – 12.; CRC Committee, *Gen. Comment No. 20, supra* note 12, para.57.; CRC Committee, *Gen. Comment No. 15, supra* note 12, paras. 5, 13, 17.
- 44 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 26.
- 45 CESCR Committee, *Gen. Comment No. 14, supra* note 4, para. 20.; 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)*, para. 20, U.N. Doc. E/C.12/GC/20 (2009) [hereinafter CESCR Committee, *Gen. Comment No. 20*.]; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 9: Statistical data concerning the situation of women*, (8<sup>th</sup> Sess., 1989), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. A/44/38 (1989) [hereinafter CEDAW Committee, *Gen. Recommendation No. 9*.]; Committee on the Rights of the Child, *General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)*, (34<sup>th</sup> Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 45, U.N. Doc. CRC/GC/2003/5 (2003) [hereinafter CRC Committee, *Gen. Comment No. 5*.]; CRC Committee, *Gen. Comment No. 20, supra* note 12, para.

- 37(c.); CEDAW Committee, *Concluding Observations: Romania*, paras. 40-41, U.N. Doc. CEDAW/C/ROU/CO/7-8 (2017).; CEDAW Committee, *Concluding Observations: Lesotho*, paras. 32-33, U.N. Doc. CEDAW/C/LSO/CO/1-4/Add.1 (2013).
- 46 Alyne da Silva Pimentel Teixeira v. Brazil, CEDAW Committee, Commc'n No. 17/2008, U.N. Doc. CEDAW/C/49/D/17/2008 (2011).
- 47 *Id.* paras. 7.6, 7.8.
- 48 *Id.* para. 7.6.
- 49 Human Rights Committee, *Concluding Observations: Nigeria*, para. 22, U.N. Doc. CCPR/C/NGA/CO/2 (2019).; CESCR Committee, *Concluding Observations: Kenya*, para. 53, U.N. Doc. E/C.12/KEN/CO/2-5 (2016).; CAT Committee, *Concluding Observations: Kenya*, para. 27, U.N. Doc. CAT/C/KEN/CO/2 (2013).
- 50 CAT Committee, *Concluding Observations: United States of America*, para. 21, U.N. Doc. CAT/C/USA/CO/3-5 (2014).
- 51 CAT Committee, *Concluding Observations: Ireland*, paras.29-30, U.N. Doc. CAT/C/IRL/CO/2 (2017).; Human Rights Committee, *Concluding Observations: Ireland*, para. 11, U.N. Doc. CCPR/C/IRL/CO/4 (2014).; CEDAW Committee, *Concluding Observations: Ireland*, para. 15(a), U.N. Doc. CEDAW/C/IRL/CO/6-7 (2017).
- 52 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 10, 28.; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; *See also*, Human Rights Committee, *Concluding Observations: Nigeria*, para. 22, U.N. Doc. CCPR/C/NGA/CO/2 (2019).; CEDAW Committee, *Concluding Observations: Paraguay*, paras. 30, 31, U.N. Doc. CEDAW/C/PRY/CO/6 (2011).; CEDAW Committee, *Concluding Observations: Sierra Leone*, para. 32(d), U.N. Doc. CEDAW/C/SLE/CO/6 (2014).; CESCR Committee, *Concluding Observations: Argentina*, para. 55, 56, U.N. Doc. E/C.12/ARG/CO/4 (2018).
- 53 Mellet v. Ireland, Human Rights Committee, Commc'n No. 2324/2013, paras. 7.6, 7.7, 7.8, U.N. Doc. CCPR/C/116/D/2324/2013 (2016).; Whelan v. Ireland, Human Rights Committee, Commc'n No. 2425/2014, paras. 7.7 - 7.9, 7.12, U.N. Doc. CCPR/C/119/D/2425/2014 (2017).; K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).; L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, para. 8.15, U.N. Doc. CEDAW/C/50/D/22/2009 (2011).; CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 10.; Alyne da Silva Pimentel Teixeira v. Brazil, CEDAW Committee, Commc'n No. 17/2008, U.N. Doc. CEDAW/C/49/D/17/2008 (2011).; CAT Committee, *Concluding Observations: El Salvador*, para. 23, U.N. Doc. CAT/C/SLV/CO/2 (2009).; CAT Committee, *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (2009).
- 54 CEDAW Committee, *Gen. Recommendation No. 35, supra* note 22, para. 18.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, paras. 11, 14.
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- 56 Committee on the Elimination of Discrimination against Women, *United Kingdom of Great Britain and Northern Ireland Inquiry Summary (Article 8 of Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women)*, paras. 73, 74, U.N. Doc. CEDAW/C/OP.8/GBR/1 (2018).; Committee on the Elimination of Discrimination against Women, *Philippines Inquiry Summary (Article 8 of Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women)*, para. 43, U.N. Doc. CEDAW/C/OP.8/PHL/1 (2014).; *L.C. v. Peru*, CEDAW Committee, Commc'n No. 22/2009, para. 8.15, U.N. Doc. CEDAW/C/50/D/22/2009 (2011).; CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 27, 31, 55.
- In *L.C. v. Peru*, the CEDAW Committee addressed stereotyped roles of women and considered that decisions regarding health-care were influenced by the stereotype that protection of the foetus should prevail over the health of the pregnant woman, thereby violating the State's obligation to take measures to achieve the elimination of practices based on stereotyped roles for women. In *Mellet v. Ireland*, some members of the Human Rights Committee considered that the legislative framework, which prohibited abortion except where the life of the pregnant woman is at risk, was based on a sexist stereotype limiting women to a reproductive role as mothers, and infringing rights to self-determination and to gender equality; *Mellet v. Ireland, Annex I*, individual opinion of Yadh Ben Achour (concurring), para. 4, Annex II individual opinion of Sarah Cleveland (concurring), paras. 14, 15; *See also*, Annex IV individual opinion of Víctor Rodríguez Rescia and Olivier de Frouville and Fabián Salvioli (concurring), paras. 10, 11.
- 57 CEDAW Committee, *Concluding Observations: Hungary*, para. 30, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.
- 58 Committee on the Elimination of Discrimination against Women, *United Kingdom of Great Britain and Northern Ireland Inquiry Summary (Article 8 of Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women)*, para. 58, U.N. Doc. CEDAW/C/OP.8/GBR/1 (2018).; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 34, 40, 49(a), 57.; Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of All Forms of Discrimination against Women, *Joint Statement: Guaranteeing sexual and reproductive health and rights for all women in particular women with disabilities*, para. 4, available at <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx> (29 August 2018).
- 59 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; *L.C. v. Peru*, CEDAW Committee, Commc'n No. 22/2009, para. 12(b), U.N. Doc. CEDAW/C/50/D/22/2009 (2011).; Statement of CEDAW Committee on the sexual and reproductive health and rights: Beyond 2014 ICPD review, para. 7, at <https://www.ohchr.org/Documents/HRBodies/CEDAW/Statements/SRHR26Feb2014.pdf>; *K.L. v. Peru*, Human Rights Committee, Commc'n No. 1153/2003, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).; Human Rights Committee, *Concluding Observations: Paraguay*, paras. 20,

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- 60 L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, para. 9(b)(i), U.N. Doc. CEDAW/C/50/D/22/2009 (2011).
- 61 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 14.; CRC Committee, *Concluding Observations: Nicaragua*, para. 59, U.N. Doc. CRC/C/NIC/CO/4 (2010).; CAT Committee, *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (2009).; CESC Committee, *Concluding Observations: Pakistan*, paras. 77, 78, U.N. Doc. E/C.12/PAK/CO/1 (2017).
- 62 CRC Committee, *Gen. Comment No. 15, supra* note 12, para. 70.; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; CESC Committee, *Gen. Comment No. 22, supra* note 1, para. 28.; CEDAW Committee, *Gen. Recommendation No. 35, supra* note 22, para. 18.; CAT Committee, *Concluding Observations: Poland*, para. 34(e), U.N. Doc. CAT/C/POL/CO/7 (2019).
- 63 Mellet v. Ireland, Human Rights Committee, Commc'n No. 2324/2013, paras. 7.11, U.N. Doc. CCPR/C/116/D/2324/2013 (2016).; Whelan v. Ireland, Human Rights Committee, Commc'n No. 2425/2014, U.N. Doc. CCPR/C/119/D/2425/2014 (2017).
- 64 CRC Committee, *Gen. Comment No. 20, supra* note 12, para. 39.
- 65 CESC Committee, *Gen. Comment No. 22, supra* note 1, paras. 11- 21.
- 66 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)*, (68<sup>th</sup> Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 10-11, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000) [hereinafter Human Rights Committee, *Gen. Comment No. 28*].; CESC Committee, *Gen. Comment No. 22, supra* note 1, paras. 28, 34, 40, 41, 45, 49(a), 49(e), 57.; CEDAW Committee, *Gen. Recommendation No. 35, supra* note 22, para. 29(c)(i).; CEDAW Committee, *Gen. Recommendation No. 34, supra* note 12, para. 39(c).; CRC Committee, *Gen. Comment No. 20, supra* note 12, para. 60.; CRC Committee, *Gen. Comment No. 15, supra* note 12, paras. 31, 70.; Human Rights Committee, *Concluding Observations: Angola*, paras. 21-22, U.N. Doc. CCPR/C/AGO/CO/2 (2019).; CESC Committee, *Concluding Observations: Cameroon*, para. 59, U.N. Doc. E/C.12/CMR/CO/4 (2019).; CEDAW Committee, *Concluding Observations: Colombia*, paras. 37-38, U.N. Doc. CEDAW/C/COL/CO/R.9 (2019).; CRC Committee, *Concluding Observations: Bahrain*, para. 38, U.N. Doc. CRC/C/BHR/CO/4-6 (2019).
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- 69 CAT Committee, *Concluding Observations: Peru*, para. 15(a), U.N. Doc. CAT/C/PER/CO/5-6 (2013).
- 70 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 41.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 14.
- 71 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 14.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 21.
- 72 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; Human Rights Committee, *Concluding Observations: Poland*, para. 24(a), U.N. Doc. CCPR/C/POL/CO/7 (2016).; Human Rights Committee: *Concluding Observations: Colombia*, para. 21, U.N. Doc. CCPR/C/COL/CO/7 (2016).; CESCR Committee, *Concluding Observations: Poland*, para. 47(b), U.N. Doc. E/C.12/POL/CO/6 (2016).
- 73 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 14, 43.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12.
- 74 CEDAW Committee, *Gen. Recommendation No. 35, supra* note 22, para. 18.; CAT Committee, *Concluding Observations: Poland*, para. 33(d), U.N. Doc. CAT/C/POL/CO/7 (2019).; CAT Committee, *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, para. 46, U.N. Doc. CAT/C/GBR/CO/6 (2019).
- 75 *Mellet v. Ireland*, Human Rights Committee, Commc'n No. 2324/2013, paras. 7.6, 7.7, 7.8, U.N. Doc. CCPR/C/116/D/2324/2013 (2016).
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- 77 CEDAW Committee, *Concluding Observations: New Zealand*, para. 35(a), U.N. Doc. CEDAW/C/NZL/CO/7 (2012).
- 78 CESCR Committee, *Gen. Comment No. 22, supra* note 1, para. 25.
- 79 Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 9.
- 80 CESCR Committee, *Gen. Comment No. 22, supra* note 1, paras. 41, 43.; Committee on the Rights of Persons with Disabilities, *General Comment No. 1: Article 12 of the Convention (Equal recognition before the law)*, (11<sup>th</sup> Sess., 2014), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 35, U.N. Doc. CRPD/C/GC/1 (2014) [hereinafter CRPD Committee, *Gen. Comment No. 1*].; CRPD Committee, *Gen. Comment No. 3, supra* note 30, para. 44.; CRC Committee, *Gen. Comment No. 15, supra* note 12, para. 31.; See also, CEDAW Committee, *Concluding Observations: Indonesia*, paras. 41, 42, U.N. Doc. CEDAW/C/IDN/CO/6-7 (2012).; CEDAW Committee, *Concluding Observations: Cook Islands*, para. 35, U.N. Doc. CEDAW/C/COK/1 (2007).;

CEDAW Committee, *Concluding Observations: Burkina Faso*, para. 38, U.N. Doc. CEDAW/C/BFA/CO/6 (2010).; Human Rights Committee, *Concluding Observations: Bolivia*, para. 9(b), U.N. Doc. CCPR/C/BOL/CO/3 (2013).; CAT Committee, *Concluding Observations: Bolivia*, para. 23, U.N. Doc. CAT/C/BOL/CO/2 (2013).

In its General Recommendation No. 33 on access to justice, the CEDAW Committee calls on States to, “abolish rules and practices that require parental or *spousal authorization* for access to services such as... health, including sexual and reproductive health.”; The CEDAW Committee has linked spousal consent requirements for accessing abortion with gender stereotyping and recommended that States eliminate such requirements as a means of promoting gender equality. The CEDAW Committee has also expressed concern about *multiple medical authorizations* for abortion services, such as permission from a panel of doctors or more than one certifying consultant, which may make women dependent on the benevolent interpretation of a rule which nullifies their autonomy.

- 81 CESC Committee, *Gen. Comment No. 22, supra* note 1, paras. 14, 43.; CEDAW Committee, *Concluding Observations: Hungary*, paras. 30-31, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).; CAT Committee, *Concluding Observations: Poland*, para. 23, U.N. Doc. CAT/C/POL/CO/5-6 (2013).
- 82 CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 11.; Human Rights Committee, *Gen. Comment No. 36, supra* note 11, para. 8.; Committee on Economic, Social and Cultural Rights, *General Comment No. 24: on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, (61<sup>st</sup> Sess., 2017), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 21, U.N. Doc. E/C.12/GC/24 (2017) [hereinafter CESC Committee, *Gen. Comment No. 24*.]; CESC Committee, *Concluding Observations: Poland*, paras. 46-47, U.N. Doc. E/C.12/POL/CO/6 (2016).; CEDAW Committee, *Concluding Observations: Slovakia*, para. 30-31, U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).; Human Rights Committee, *Concluding Observations: Colombia*, paras. 20, 21, U.N. Doc. CCPR/C/COL/CO/7 (2016).; CEDAW Committee, *Concluding Observations: Hungary*, paras. 30-31, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).
- 83 CEDAW Committee, *Concluding Observations: Hungary*, para. 30, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).; CAT Committee, *Concluding Observations: Poland*, paras. 33(d), 34(e), U.N. Doc. CAT/C/POL/CO/7 (2019).
- 84 CESC Committee, *Gen. Comment No. 22, supra* note 1, para. 57.; CEDAW Committee, *Gen. Recommendation No. 24, supra* note 12, para. 22.; CRPD Committee, *Gen. Comment No. 3, supra* note 30, para. 63(a).; CRPD Committee, *Gen. Comment No. 1, supra* note 81, para. 35.
- 85 CRPD Committee, *Gen. Comment No. 3, supra* note 30, paras. 44, 63(a).; CAT Committee, *Concluding Observations: Peru*, para. 19, U.N. Doc. CAT/C/PER/CO/5-6 (2013).; CAT Committee, *Concluding Observations: Czech Republic*, para. 12, U.N. Doc. CAT/C/CZE/CO/4-5 (2012).; *See also*, CEDAW Committee, *Gen. Recommendation No. 35, supra* note 22, para. 18.

- 86 CEDAW Committee, *Gen. Recommendation No. 35*, *supra* note 22, para. 18.
- 87 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 33: on women's access to justice*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 19(d), U.N. Doc. CEDAW/GC/33 (2015) [hereinafter CEDAW Committee, *Gen. Recommendation No. 33*]; CEDAW Committee, *Concluding Observations: Slovakia*, para. 33(d), U.N. Doc. CEDAW/SVK/CO/5-6 (2015); CEDAW Committee, *Concluding Observations: Barbados*, paras. 41-42, U.N. Doc. CEDAW/BRB/CO/5-8 (2017). \_
- 88 Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, *Joint General Recommendation No. 31 and General Comment No. 18: Harmful practices*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. CEDAW/GC/31-CRC/C/GC/18 (2014) [hereinafter CEDAW Committee & CRC Committee, *Joint Gen. Recommendation No. 31 & Gen. Comment No. 18*], para. 22.; CEDAW Committee, *Concluding Observations: Rwanda*, paras. 38, 39, U.N. Doc. CEDAW/RWA/CO/7-9 (2017).
- 89 CEDAW Committee, *Concluding Observations: Turkey*, para. 14, U.N. Doc. CEDAW/TUR/CO/7 (2016); CRC Committee, *Concluding Observations: Lebanon*, paras. 42, 43, U.N. Doc. CRC/LBN/CO/4-5 (2017); Human Rights Committee, *Concluding Observations: Bangladesh*, paras. 13, 14, U.N. Doc. CCPR/C/BGD/CO/1 (2017).
- 90 CEDAW Committee, *Concluding Observations: Turkey*, paras. 39, 40, U.N. Doc. CEDAW/TUR/CO/7 (2016).
- 91 *Id.* para. 14 (c).
- 92 CEDAW Committee & CRC Committee, *Joint Gen. Recommendation No. 31 & Gen. Comment No. 18*, *supra* note 88, para. 19.; CRC Committee, *Gen. Comment No. 20*, *supra* note 12, para. 27.; CEDAW Committee, *Gen. Recommendation No. 34*, *supra* note 12, paras. 22, 23.; CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, paras. 29, 49, 59.; CEDAW Committee, *Concluding Observations: Liberia*, paras. 23, 24, U.N. Doc. CEDAW/LBR/CO/7-8 (2015); CEDAW Committee, *Concluding Observations: Germany*, paras. 23, 24, U.N. Doc. CEDAW/DEU/CO/7-8 (2017); Human Rights Committee, *Concluding Observations: Burkina Faso*, paras. 15, 16, U.N. Doc. CCPR/C/BFA/CO/1 (2016); Human Rights Committee, *Concluding Observations: Ghana*, paras. 17, 18, U.N. Doc. CCPR/C/GHA/CO/1 (2016); CRC Committee, *Concluding Observations: Islamic Republic of Iran*, paras. 59, 60, U.N. Doc. CRC/IRN/CO/3-4 (2016); CRC Committee, *Concluding Observations: Sierra Leone*, paras. 22, 23, U.N. Doc. CRC/SLE/CO/3-5 (2016); CERD Committee, *Concluding Observations: Djibouti*, paras. 20, 21, U.N. Doc. CERD/DJI/CO/1-2 (2017).
- 93 CEDAW Committee & CRC Committee, *Joint Gen. Recommendation No. 31 & Gen. Comment No. 18*, *supra* note 88, para. 19.

- 94 Human Rights Committee, *Gen. Comment No. 28*, *supra* note 67.); Human Rights Committee, *General Comment No. 18: Non-discrimination*, (37<sup>th</sup> Sess., 1989), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 26, U.N. Doc. HRI/GEN/1/Rev.1 (1994) [hereinafter Human Rights Committee, *Gen. Comment No. 18*.]; Committee on Economic, Social and Cultural Rights, *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)*, (34<sup>th</sup> Sess., 2005), U.N. Doc. E/C.12/2005/4 (2005) [hereinafter CESCR Committee, *Gen. Comment No. 16*.]; CESCR Committee, *Gen. Comment No. 20*, *supra* note 46.; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 25: on Temporary Special Measures (article 4, Paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women)*, (30<sup>th</sup> Sess. 2004) U.N. Doc. A/59/38 (2004) [hereinafter CEDAW Committee, *Gen. Recommendation No. 25*].
- 95 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 27.
- 96 CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 12, para. 21.; CESCR Committee, *Gen. Comment No. 16*, *supra* note 94, para. 29.; *See also*, Human Rights Committee, *Concluding Observations: Rwanda*, U.N. Doc. CCPR/C/RWA/CO/4 (2016).; CEDAW Committee, *Concluding Observations: Argentina*, paras. 34-35, U.N. Doc. CEDAW/C/ARG/CO/7 (2016).; CEDAW Committee, *Concluding Observations: Thailand*, para. 39, U.N. Doc. CEDAW/C/THA/CO/6-7 (2017).; CEDAW Committee, *Concluding Observations: Congo*, para. 36(f), U.N. Doc. CEDAW/C/COG/CO/6 (2012).; CRC Committee, *Concluding Observations: Central African Republic*, para. 55, U.N. Doc. CRC/C/CAF/CO/2 (2017).; CEDAW Committee, *Concluding Observations: Nigeria*, paras. 37-38, U.N. Doc. CEDAW/C/NGA/CO/7-8 (2017).; CESCR Committee, *Concluding Observations: Namibia*, para. 65(a), U.N. Doc. E/C.12/NAM/CO/1 (2016).
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- 102 CEDAW Committee, *Gen. Recommendation No. 25*, *supra* note 94, paras. 7, 8.; CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, paras. 35, 36.
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- 105 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*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 18, U.N. Doc. CEDAW/C/GC/28 (2010) [hereinafter CEDAW Committee, *Gen. Recommendation No. 28*].; CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 30.; Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, art. 6, G.A. Res. A/RES/61/106, U.N. GAOR, 61<sup>st</sup> Sess., U.N. Doc. A/61/611, (*entered into force* May 3, 2008) [hereinafter CRPD].; CEDAW Committee, *Gen. Recommendation No. 25*, *supra* note 95, para. 12.; CESCR Committee, *Gen. Comment No. 20*, *supra* note 46, para. 17.; Human Rights Committee, *Gen. Comment No. 28*, *supra* note 67, para. 30.; CRPD Committee, *Gen. Comment No. 3*, *supra* note 30, paras. 3, 4, 38.
- 106 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, para. 30.
- 107 CEDAW Committee, *Gen. Recommendation No. 25*, *supra* note 95, paras. 8-10.; Committee on Economic, Social and Cultural Rights, *General Comment No. 3: The nature of States parties' obligations (Art. 2, para. 1 of the Covenant)*, (5<sup>th</sup> Sess., 1990), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 10, U.N. Doc. E/1991/23 (1990) [hereinafter CESCR Committee, *Gen. Comment No. 3*].; Human Rights Committee, *Gen. Comment No. 28*, *supra* note 67, para. 3.; CEDAW Committee, *Gen. Recommendation No. 28*, *supra* note 105, para. 20.
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- 121 CESCR Committee, *Gen. Comment No. 22*, *supra* note 1, paras. 2, 30, 31, 32, 36.; *See, also*, CEDAW Committee, *Concluding Observations: Thailand*, paras. 42-43, U.N. Doc. CEDAW/C/THA/CO/6-7 (2017).; CEDAW Committee, *Concluding Observations: Lesotho*, paras. 32-33, U.N. Doc. CEDAW/C/LSO/CO/1-4 (2011).
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- 130 CRC Committee, *Gen. Comment No. 20*, *supra* note 12, para. 60.
- 131 *Id.* para. 39.
- 132 CRPD Committee, *Gen. Comment No. 3*, *supra* note 30, paras. 30, 33, 38 – 46.
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- 134 *Id.* para. 62(a)(i).
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- 136 *Id.* para. 44.





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