

Comments from the Center for Reproductive Rights for the Committee on the Elimination of Discrimination against Women’s draft update of General Recommendation No. 19

The Center for Reproductive Rights (“the Center”)—an international non-profit legal advocacy organization headquartered in New York City, with regional offices in Nairobi, Bogotá, Kathmandu, Geneva, and Washington, D.C.—uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to respect, protect, and fulfill. Since its inception more than twenty years ago, the Center has advocated for the realization of women and girls’ human rights on a broad range of issues, including on the right to access sexual and reproductive health services; preventing and addressing sexual violence; and the eradication of harmful traditional practices, including female genital mutilation and child marriage. We are pleased to provide this contribution in response to the Committee on the Elimination of Discrimination against Women’s (“CEDAW Committee” or “Committee”) call for submissions on the draft update of General Recommendation No. 19 (1992) on gender-based violence against women.

1. Violence against women and its relationship to a range of human rights

The Center welcomes the recognition of the rich guidance offered by human rights treaty bodies and special procedures, particularly by this Committee, in deepening the understanding of violence against women. The draft update would be strengthened by the inclusion of language and specific reference to this larger ecosystem of legal standards relevant to violence against women in order to provide states with more detailed and coherent guidance and to recognize the advances in preventing and addressing violence against women across international human rights bodies.

The CEDAW Committee and other human rights bodies consistently have recognized that violence against women impairs or nullifies women’s enjoyment of a range of human rights, including the rights to life, health, including sexual and reproductive health, and liberty and security of person, the rights to equal protection and equality in the family, and the right to be free from torture, cruel, inhuman, or degrading treatment, among others.¹ The standards developed around the prohibition on torture and cruel, inhuman, or degrading treatment (T/CIDT), in particular, are relevant to understanding and addressing gender-based violence. The CEDAW Committee has noted that “[g]ender-based violence is outlawed under human rights law, primarily through the prohibition of torture and cruel, inhuman or degrading treatment or punishment.”² Similarly, the Committee against Torture (“CAT Committee”) and the Special Rapporteur on Torture have found that state due diligence obligations to prohibit, prevent and redress torture and ill-treatment committed by private actors apply to acts of gender-based violence.³ The draft update would be strengthened by recognizing that the right to be free from gender-based violence against women is indivisible from and interdependent with other human rights and the particular relevance of T/CIDT standards to understanding and addressing gender-based violence against women.⁴

Paragraph 1 should be edited to include the following references:

“ . . . Since 1994, the work of the United Nations special rapporteur on violence against women, its causes and consequences, has also deepened understanding of gender-based violence against women and ways in which it should be addressed.”⁵

Human rights treaty bodies,⁶ as well as special procedures,⁷ including the Working Group on Discrimination against Women in Law and Practice,⁸ have also contributed in this regard.”

In addition, the draft update should include the following paragraph:

The right to be free from gender-based violence against women is indivisible from and interdependent with other human rights, including the rights to life, health, and liberty and security of person, the rights to equal protection and equality in the family, and the right to be free from torture, cruel, inhuman, or degrading treatment, among others.⁹

2. Reproductive rights violations as violence against women and torture and cruel, inhuman, or degrading treatment (T/CIDT)

The Center welcomes the recognition that violence affects women of all ages and can include physical, sexual, psychological or economic harm or suffering. The CEDAW Committee has long recognized the linkages between violence against women and the right to health, particularly sexual and reproductive health and rights.¹⁰ Other human rights treaty bodies and special procedures also have made links between reproductive rights violations and gender-based violence. As noted *supra*, standards around torture and cruel, inhuman, or degrading treatment (T/CIDT), in particular, have contributed to developing a broader understanding both of reproductive rights violations that may constitute gender-based violence as well as state obligations to prevent and address these violations.¹¹ In *M.E.N. v. Denmark*, the CEDAW Committee recognized the link between gender-based violence against women and T/CIDT, noting that “[g]ender-based violence is outlawed under human rights law, primarily through the prohibition of torture and cruel, inhuman or degrading treatment or punishment.”¹² Building on its previous jurisprudence related to abortion,¹³ the Human Rights Committee recently found in the case of *Mellet v. Ireland* that by criminalizing abortion, and hence denying the petitioner an abortion, the state had violated her right to freedom from cruel, inhuman, or degrading treatment.¹⁴ The Committee against Torture repeatedly has expressed concerns about restrictions on access to abortion as violating the prohibition of T/CIDT.¹⁵ Treaty bodies and special procedures also have found T/CIDT violations in the context of the female genital mutilation¹⁶; abusive treatment in healthcare settings¹⁷; and, involuntary sterilization, among others.¹⁸

In many areas, the guidance provided by the CEDAW Committee has been reinforced by that of other treaty bodies and guidance from special procedures. For example, as the CEDAW Committee recognizes that forced sterilization is a form of violence against women,¹⁹ the CAT Committee and Human Rights Committee also recognize forced sterilization as a form of T/CIDT.²⁰ Special procedures mandate holders have emphasized this overlap, framing forced sterilization as a form of battery that constitutes violence against women²¹ and noting that forced sterilizations or abortions of women with disabilities may constitute T/CIDT when conducted with the legal consent of a guardian but against the disabled woman’s will.²² Similarly, the CEDAW Committee has recognized the vulnerability of women in healthcare contexts, urging states to “prevent coercion in regards to fertility and reproduction.”²³ The U.N. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has also recognized that women “seeking maternal health care face a high risk of ill-treatment,

particularly before and after childbirth . . . [and that such treatment] inflicts physical and psychological suffering that can amount to ill-treatment.”²⁴

The Center urges the CEDAW Committee to recognize the linkages between reproductive rights violations, T/CIDT, and violence against women in this draft update. The Center proposes two possible places to include this language:

Paragraph 9 should be edited to include the following references to General Recommendations addressing sexual and reproductive health and rights:

“Footnote 14: General Recommendation No. 19, para. 6, ~~and~~ General Recommendation No. 28, par. 19, and General Recommendation 24, paras. 15 and 29.”

In addition, the draft update should include the following Paragraph 9bis:

“The Committee recognizes gender-based torture and cruel, inhuman, or degrading treatment (T/CIDT) as violence against women under the Convention. The intersection between T/CIDT and violence against women is particularly important in the context of sexual and reproductive health and rights, given the risk of torture or ill-treatment within healthcare or other custodial settings in part due to discrimination on the basis of sex, gender, or reproductive capacity.²⁵ Reproductive rights violations in healthcare settings, including, but not limited to coercive sterilizations²⁶ and abuses such as detention for failure to pay medical bills,²⁷ as well as the delay or denial of medical care, including access to safe abortion care,²⁸ can cause severe and lasting physical and emotional pain and suffering that constitutes T/CIDT and violence against women.²⁹”

3. Violence against women in healthcare settings

The Center appreciates the CEDAW Committee’s recognition that violence against women takes place in both public and private spheres and occurs in many different settings. However, Paragraph 12 would be strengthened by explicitly including healthcare settings, where the CEDAW Committee and numerous other human rights bodies and experts have found violations to occur.³⁰

Paragraph 12 should be edited to read:

“Gender-based violence against women occurs in all spheres of human interaction, whether public or private. These include the family, the community, the workplace, leisure, sport, educational and healthcare settings and technologically mediated environments, such as cyberspace. . . .”

4. Violence against women in private healthcare settings

The Center appreciates the CEDAW Committee’s recognition that state obligations extend to acts or omissions of non-state actors acting on behalf of the state and to privatized services constituting state action. However, Paragraphs 13.a.i and 14 would benefit from examples of

such private bodies providing public services or privatized services, and in particular private healthcare settings, where the CEDAW Committee and numerous other human rights bodies and experts have found state obligations to reach.³¹ The area of health services is particularly important as an increasing number of private facilities provide public health services,³² and these health settings are often the first point of contact with public services for women in some places, especially when they are pregnant.³³ As the Committee has noted, the “State is directly responsible for the action of private institutions when it outsources its medical services and that, furthermore, the State always maintains the duty to regulate and monitor private health-care institutions.”³⁴

Paragraph 13.a.i should be edited to read:

“Under the Convention and general international law, a State party is responsible for its own acts and omissions that constitute gender-based violence against women. These include the acts or omissions of officials in its executive, legislative and judicial branches, and of non-States actors acting on behalf of the State (including private bodies providing public services, **such as healthcare or educational facilities**). . . .”

Paragraph 14 should be edited to read:

“The general obligations described above encompass all areas of State action, including the legislative, executive and judicial branches, as well as privatised services, **such as privatised healthcare or educational services**. . . .”

5. Violence against women committed by non-state actors

As noted *supra*, this Committee along with other human rights expert bodies have consistently held the state accountable for violations committed by non-state actors providing public services.³⁵ More recently, human rights bodies, including this Committee, have addressed the scope of obligations of non-state parties under international law. In situations of armed conflict, international humanitarian law clearly sets out the obligations of non-state parties to an armed conflict.³⁶ International human rights bodies and experts also have recognized direct obligations of non-state parties in certain circumstances.³⁷ Paragraph 13.b would be strengthened by recognizing this development.

Paragraph 13.b should be edited to read:

- i. Under general international law, as well as under international treaties, a private actor’s acts or omissions may engage the international responsibility of the State. [. . .]
- ii. States parties are obliged to adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors. [. . .]
- iii. In addition, international law has recognized the direct obligations of non-State actors in certain circumstances.**^{38”}

6. *Barriers in access to reproductive health services*

The Center welcomes the Committee's recommendation to repeal discriminatory laws, particularly legislation that criminalizes abortion. The Committee and other human rights bodies consistently have called on states to amend or repeal laws that discriminate against women, including provisions criminalizing abortion.³⁹ However, women often face other legal and policy barriers in accessing safe abortion care, including third-party authorization requirements, biased counseling, mandatory waiting periods, and unregulated conscientious objection. These barriers prevent women from accessing lawful sexual and reproductive health services, which can lead to physical and mental harm. As part of the obligation to respect, states must go beyond decriminalization and repeal, remove, or amend these laws and policies that create barriers in access to reproductive health services.⁴⁰

Paragraph 15.j.i should be edited to read:

“provisions that allow child marriage and legislation that criminalises abortion, as well as legislation **or policies** that enshrines or facilitate gender-based violence against women, **including those that create barriers in access to sexual and reproductive health services**⁴¹,” [existing citations omitted]

The Center hopes that the information provided is useful to the CEDAW Committee in finalizing the update to General Recommendation No. 19 on violence against women. If you have any questions, or need further information, please do not hesitate to contact Rebecca Brown, Director of Global Advocacy, at rbrown@reprorights.org.

¹ CEDAW Committee, *General Recommendation No. 19: Violence Against Women*, para. 7, U.N. Doc. A/47/38 (1992) [hereinafter CEDAW Committee, *Gen. Recommendation 19*]; CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, (20th Sess., 1999), paras. 15, 29, U.N. Doc. A/54/38/Rev.1 (1999) [hereinafter CEDAW Committee, *Gen. Recommendation 24*]; M.E.N. v. Denmark, CEDAW Committee, Commc'n No. 35/2011, para. 8.8, U.N. Doc. CEDAW/C/55/D/35/2011 (2013) [hereinafter M.E.N. v. Denmark]; S.V.P. v. Bulgaria, CEDAW Committee, Commc'n No. 31/2011, para. 9.10, U.N. Doc. CEDAW/C/53/D/31/2011 (2012) [hereinafter S.V.P. v. Bulgaria].

² M.E.N. v. Denmark, *supra* note 1, para. 8.8.

³ CAT Committee, *General Comment No. 2: Implementation of Article 2 by States Parties*, para. 18, U.N. Doc. CAT/C/GC/2 (2008) [hereinafter CAT Committee, *Gen. Comment 2*]; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez*, Human Rights Council (31st Sess.), para. 11, U.N. Doc. A/HRC/31/57 (Jan. 5, 2016) [hereinafter SR Torture Report 2016].

⁴ The Committee has recognized this interdependence and indivisibility of rights in other contexts. *See, e.g.*, CEDAW Committee, *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*, para. 47, U.N. Doc. CEDAW/C/OP.8/PHL/1 (2014) (addressing effects of denial of access to contraception on other fundamental rights). Other treaty bodies also have recognized the importance of addressing this broader universe of rights. *See* CESCR, *General Comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 10, U.N. Doc. E/C.12/GC/22 (2016).

⁵ *See, e.g.*, Special Rapporteur on violence against women, its causes and consequences, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, Human Rights Council (17th Sess.), U.N. Doc. A/HRC/17/26 (May 2, 2011) (connecting interpersonal violence and institutional violence, finding the former often reinforced by the latter); Special Rapporteur on violence against women, its causes and consequences, *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin*

Ertürk: Political economy of women's human rights, Human Rights Council (11th Sess.), U.N. Doc. A/HRC/11/6 (May 18, 2009) (considering harmful practices of child marriage and FGM as forms of violence against women and girls); Special Rapporteur on violence against women, its causes and consequences, *Report of the Special Rapporteur on violence against women, its causes and consequences*, Ms. Radhika Coomaraswamy, Human Rights Council (53rd Sess.), U.N. Doc. E/CN.4/1997/47 (Feb. 12, 1997) (addressing drivers of violence against women).

⁶ See *Mellet v. Ireland*, Human Rights Committee, Commc'n No. 2324/2013, U.N. Doc. CCPR/C/116/D/2324/2013 (2016) [hereinafter *Mellet v. Ireland*]; *K.L. v. Peru*, Human Rights Committee, Commc'n No. 1153/2003, paras. 6.3-6.6, 7, U.N. Doc. CCPR/C/85/D/1153/2003 (2005) [hereinafter *K.L. v. Peru*]; *L.M.R. v. Argentina*, Human Rights Committee, Commc'n No. 1608/2007, para. 9.2, U.N. Doc. CCPR/C/101/D/1608/2007 (2011) [hereinafter *L.M.R. v. Argentina*]; Human Rights Committee, *General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women)*, para. 11, U.N. Doc. CCPR/C/21/Rev. 1/Add. 10 (2000) [hereinafter Human Rights Committee, *Gen. Comment 28*]; CAT Committee, *Concluding Observations: Ghana*, para. 23, U.N. Doc. CAT/C/GHA/CO/1 (2011); *Indonesia*, para. 16, CAT/C/IDN/CO/2 (2008); CAT Committee, *Concluding Observations: Poland*, para. 23, U.N. Doc. CAT/C/POL/CO/5-6 (2013); *Sierra Leone*, para. 17, U.N. Doc. CAT/C/SLE/CO/1 (2014).

⁷ See SR Torture Report 2016, *supra* note 3 (on gender); Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez, Human Rights Council (22nd Sess.), para. 46, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013) (on healthcare settings) [hereinafter SR Torture Report on Healthcare Settings]; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, Anand Grover, U.N. General Assembly (68th Sess.), U.N. Doc. A/68/297 (Aug. 9, 2013) (on humanitarian and conflict settings).

⁸ UN Working Group on Discrimination against Women in Law and Practice, *Report of the Working Group on the issue of discrimination against women in law and in practice*, Human Rights Council (32nd Sess.), U.N. Doc. A/HRC/32/44 (Apr. 8, 2016) (on health and safety) [hereinafter WG Discrimination against Women, Report on Health and Safety]; UN Working Group on Discrimination against Women in Law and Practice, *Report of the Working Group on the issue of discrimination against women in law and in practice*, Human Rights Council, A/HRC/29/40 (Apr. 2, 2015) (on cultural and family life).

⁹ CEDAW Committee, *Gen. Recommendation 19*, *supra* note 1, para. 7; see also *M.E.N. v. Denmark*, *supra* note 1, para. 8.6; *V.P.P. v. Bulgaria*, *supra* note 1, para. 9.10.

¹⁰ CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, paras. 15, 29; CEDAW Committee, *Gen. Recommendation 19*, *supra* note 1, para. 7; *V.P.P. v. Bulgaria*, *supra* note 1, para. 9.10 (linking violence against women to the right to health).

¹¹ See, e.g., CAT Committee, *Gen. Comment 2*, *supra* note 3, para. 22 (noting that women and girls are at risk of T/CIDT including within the medical treatment context, particularly around reproductive decisions).

¹² *M.E.N. v. Denmark*, *supra* note 1, para. 8.8.

¹³ *K.L. v. Peru*, *supra* note 6, paras. 6.3-6.6, 7 (finding that denial of therapeutic abortion constituted ill-treatment); *L.M.R. v. Argentina*, *supra* note 6, para. 9.2 (finding the violation especially serious due to the victim's status as a woman with a disability).

¹⁴ *Mellet v. Ireland*, *supra* note 6.

¹⁵ See, e.g., CAT Committee, *Concluding Observations: Poland*, para. 23, U.N. Doc. CAT/C/POL/CO/5-6 (2013); *Sierra Leone*, para. 17, U.N. Doc. CAT/C/SLE/CO/1 (2014).

¹⁶ Human Rights Committee, *Gen. Comment 28*, *supra* note 6, para. 11; CAT Committee, *Concluding Observations: Ghana*, para. 23, U.N. Doc. CAT/C/GHA/CO/1 (2011); *Indonesia*, para. 16, CAT/C/IDN/CO/2 (2008).

¹⁷ CAT Committee, *Concluding Observations: Austria*, para. 22, U.N. Doc. CAT/C/AUT/CO/4-5 (2010) (raising concerns about lack of privacy and humiliation during mandatory routine medical examinations of sex workers); see also SR Torture Report 2016, *supra* note 3, paras. 46-47 (noting that abuses range from extended delays in the provision of medical care, to detention of women post-delivery for failure to pay medical bills, and performing treatments that intentionally or negligently inflict severe pain or suffering for no legitimate medical purpose).

¹⁸ See, e.g., CESCR, *Gen. Comment 22*, *supra* note 4, para. 29; SR Torture Report on Healthcare Settings, *supra* note 7, para. 46; WG Discrimination against Women, Report on Health and Safety, *supra* note 8, paras. 13, 83.

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- ¹⁹ CEDAW Committee, *Gen. Recommendation 19*, *supra* note 1, para. 22; *see also* A.S. v. Hungary, CEDAW Committee, Commc'n No. 4/2004, para. 11.4, U.N. Doc. CEDAW/C/36/D/4/2004 (2006) [hereinafter A.S. v. Hungary]; CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, para. 22.
- ²⁰ Human Rights Committee, *Gen. Comment 28*, *supra* note 6, para. 20; Human Rights Committee, *Concluding Observations: Czech Republic*, para. 5(k), U.N. Doc. CCPR/C/CZE/CO/2 (2007); CAT Committee, *Concluding Observations: Slovakia*, para. 14, U.N. Doc. CAT/C/SVK/CO/2 (2009); *Peru*, para. 23, U.N. Doc. CAT/C/PER/CO/4 (2006).
- ²¹ Special Rapporteur on Violence against Women, its Causes and Consequences, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences: Policies and practices that impact women's reproductive rights and contribute to, cause or constitute violence against women*, Radhika Coomaraswamy, Commission on Human Rights (55th Sess.), para. 51, U.N. Doc. E/CN.4/1999/68/Add.4 (Jan. 21, 1999).
- ²² Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Manfred Nowak, Human Rights Council (7th Sess.), para. 69, U.N. Doc. A/HRC/7/3 (Jan. 15, 2008).
- ²³ CEDAW Committee, *Gen. Recommendation 19*, *supra* note 1, para. 24(m).
- ²⁴ SR Torture Report 2016, *supra* note 3, para. 47.
- ²⁵ CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, paras. 12, 15; CEDAW Committee, *Gen. Recommendation 19*, para. 24(m); S.V.P. v. Bulgaria, *supra* note 1, para. 9.10; A.S. v. Hungary, *supra* note 19, para. 11.4; CEDAW Committee, *Concluding Observations: Slovakia*, paras. 32-33, U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015); *Egypt*, paras. 41-42, U.N. Doc. CEDAW/C/EGY/CO/7 (2010); CAT Committee, *Gen. Comment 2*, *supra* note 3, para. 22; SR Torture Report 2016, *supra* note 3, para. 42.
- ²⁶ CEDAW Committee, *Gen. Recommendation 19*, *supra* note 1, para. 22; CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, para. 22; *see also* A.S. v. Hungary, *supra* note 19, para. 11.4; Human Rights Committee, *Gen. Comment 28*, *supra* note 6, para. 20; Human Rights Committee, *Concluding Observations: Czech Republic*, para. 5(k), U.N. Doc. CCPR/C/CZE/CO/2 (2007); CAT Committee, *Concluding Observations: Slovakia*, para. 14, U.N. Doc. CAT/C/SVK/CO/2 (2009); *Peru*, para. 23, U.N. Doc. CAT/C/PER/CO/4 (2006).
- ²⁷ SR Torture Report 2016, *supra* note 3, paras. 46-47 (noting that abuses range from extended delays in the provision of medical care, to detention of women post-delivery for failure to pay medical bills, and performing treatments that intentionally or negligently inflict severe pain or suffering for no legitimate medical purpose); CAT Committee, *Concluding Observations: Austria*, para. 22, U.N. Doc. CAT/C/AUT/CO/4-5 (2010).
- ²⁸ *Mellet v. Ireland*, *supra* note 6, para. 3.20; *K.L. v. Peru*, *supra* note 6, paras. 6.3-6.6, 7 (finding that denial of therapeutic abortion constituted ill-treatment); *L.M.R. v. Argentina*, *supra* note 6, para. 9.2 (finding the violation especially serious due to the victim's status as a woman with a disability); CAT Committee, *Concluding Observations: Poland*, para. 23, U.N. Doc. CAT/C/POL/CO/5-6 (2013); *Sierra Leone*, para. 17, U.N. Doc. CAT/C/SLE/CO/1 (2014).
- ²⁹ SR Torture Report on Healthcare Settings, *supra* note 18, para. 46.
- ³⁰ *See, e.g.*, *Alyne da Silva Pimentel Texeira v. Brazil*, CEDAW Committee, Commc'n No. 17/2008, paras. 7.3-7.4, 7.6, U.N. Doc. CEDAW/C/49/D/17/2008 (2011) [hereinafter *Alyne da Silva Pimentel Texeira v. Brazil*] (finding lack of appropriate maternal health services to constitute discrimination against women and a violation of the right to health); CAT Committee, *Concluding Observations: Kenya*, para. 27, U.N. Doc. CAT/C/KEN/CO/2 (2013) (expressing concerns about post-delivery detention of women unable to pay medical bills, including in private health facilities); SR Torture Report on Healthcare Settings, *supra* note 18, para. 46 (providing examples of reproductive rights violations in healthcare settings).
- ³¹ CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, paras. 15, 17; *Alyne da Silva Pimentel Texeira v. Brazil*, *supra* note 30, para. 7.5 (finding the State is directly responsible for the action of private institutions when it outsources its medical services); SR Torture Report on Healthcare Settings, *supra* note 18, para. 24 (reiterating CAT Committee's judgment that the "prohibition of torture must be enforced in all types of institutions and States must exercise due diligence to prevent, investigate, prosecute and punish violations by non-State officials or private actors").
- ³² Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, U.N. General Assembly (67th Sess.), para. 3, U.N. Doc. A/67/302 (Aug. 13, 2012) (noting the "global trend towards privatization in health systems"); *see also* CENTER FOR

REPRODUCTIVE RIGHTS, *Failure to Deliver: Violations of Women's Human Rights in Kenyan Health Facilities* 66 (2007), available at <http://www.reproductiverights.org/press-room/kenyan-high-court-maternity-hospital-illegally-imprisoned-women-violated-human-rights>.

³³ THE PARTNERSHIP FOR MATERNAL, NEWBORN & CHILD HEALTH, *Opportunities for Africa's newborns* 56 (2006), available at http://www.who.int/pmnch/media/publications/aonsectionIII_2.pdf.

³⁴ *Alyne da Silva Pimentel Texeira v. Brazil*, *supra* note 30, para. 7.5; *see also* CESCR, *Gen. Comment 22*, *supra* note 4, para. 43 (setting out state obligations to prohibit and prevent private health facilities from “imposing practical or procedural barriers to health services, such as physical obstruction from facilities, dissemination of misinformation, informal fees and third-party authorization requirements”).

³⁵ CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, paras. 15, 17; CESCR, *Gen. Comment 22*, *supra* note 4, paras. 42-43.

³⁶ Geneva Convention (IV) on Civilians, arts. 3, 12 (August 1949); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (8 June 1977); CEDAW Committee, *General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations*, para. 16, U.N. Doc. CEDAW/C/GC/30 (2013) [hereinafter CEDAW Committee, *Gen. Recommendation 30*].

³⁷ CEDAW Committee, *Gen. Recommendation 30*, *supra* note 36, para. 16; CRC Committee, *General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights*, para. 8, U.N. Doc. CRC/C/GC/16 (2013) [hereinafter CRC Committee, *Gen. Comment 16*]; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson*, Human Rights Council (29th Sess.), paras 30-31, U.N. Doc. A/HRC/29/51 (Jun. 16, 2015) [hereinafter SR Human Rights in Counter Terrorism Report 2015].

³⁸ CEDAW Committee, *Gen. Recommendation 30*, *supra* note 36, para. 16; CRC Committee, *Gen. Comment 16*, *supra* note 37, para. 8; SR Human Rights in Counter Terrorism Report 2015, *supra* note 37, paras 30-31.

³⁹ CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, para. 14; CRC Committee, *Concluding Observations: United Arab Emirates*, para. 58(d), U.N. Doc. CRC/C/ARE/CO/2 (2015); *Brazil*, para. 60, U.N. Doc. CRC/C/BRA/CO/2-4 (2015); *Chile*, para. 61, U.N. Doc. CRC/C/CHL/CO/4-5 (2015); *Nicaragua*, para. 59(b), U.N. Doc. CRC/C/NIC/CO/4 (2010); CAT Committee, *Concluding Observations: El Salvador*, para. 23, U.N. Doc. CAT/C/SLV/CO/2 (2009); *Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (2009); Human Rights Committee, *Concluding Observations: Costa Rica*, para. 11, U.N. Doc. CCPR/C/79/Add.107 (1999).

⁴⁰ CEDAW Committee, *General Recommendation No. 33 on women's access to justice*, para. 25(c), U.N. Doc. CEDAW/C/GC/33 (2015); CEDAW Committee, *Gen. Recommendation 24*, *supra* note 1, para. 11 (addressing state obligations with regard to conscientious objection); CESCR, *Gen. Comment 22*, *supra* note 4, para. 41.

⁴¹ CESCR, *Gen. Comment 22*, *supra* note 4, para. 41.