**Center for Reproductive Rights**

**Submission: OHCHR Report on protecting the rights of the child in humanitarian situations – Human Rights Council Resolution 34/16**

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’s and girls’ human rights on a broad range of issues, including on the right to access sexual and reproductive health services and on preventing and addressing sexual violence. The Center presents this submission to the Office of the High Commissioner for Human Rights (OHCHR) for its report on ‘Protecting the rights of the child in humanitarian situations’. In this submission, the Center will discuss how conflicts specifically affect adolescent girls and their sexual and reproductive health and rights (SRHR), highlighting the states’ obligation to ensure the provision of sexual and reproductive health information and services within a human rights-based approach.

1. **Situation of children and adolescent girls in conflict settings**

With adolescents and youth constituting a quarter of the global population – for a total of 1.8 billion people – it has never been more critical that their human rights be fully recognized and realized. In times of peace, adolescent girls[[1]](#endnote-1) face challenges in realizing their sexual and reproductive health and rights (SRHR), which are foundational to the attainment of other fundamental rights, such as life, health, education and equality. Conflict further exacerbates this situation.

*Adolescent Girls and Sexual and Reproductive Health and Rights*

Unintended pregnancy and childbearing can profoundly alter adolescents’ lives, undermining their educational attainment, economic opportunities, and ability to participate in public and political life.[[2]](#endnote-2) These effects are exacerbated for adolescent girls who have greater sexual and reproductive health needs due to their reproductive capacities, are likely to face greater barriers in accessing sexual and reproductive health services. They must also grapple with gender roles and stereotypes surrounding childrearing.

For many adolescent girls, bearing a child signifies the end of their formal education, either due to formal expulsion by the school as a sanction for becoming pregnant,[[3]](#endnote-3) due to childrearing obligations, or the need to work in order to support the child. Enabling adolescent girls to delay pregnancy is a key element of realizing their right to education, which in turn enables them to have greater economic opportunities, social empowerment and financial independence.[[4]](#endnote-4)

At the same time, adolescent girls may face greater barriers in accessing sexual and reproductive health services. In part, this is due to the stigma surrounding girls’ sexuality and social norms dictating that girls should only be sexually active for the purpose of procreation or only in the context of marriage. Gender norms and stereotypes can also result in girls being denied access to family resources, such as the financial

means to pay for health services; receiving less education, and therefore having less information about their SRHR; and having greater household responsibilities, resulting in less time to seek and access health services.[[5]](#endnote-5) Furthermore, pregnant adolescents may face inadequate access to quality maternal health care, paired with unique risks that can accompany early childbearing.

As a result, 70,000 girls die each year as a result of complications during pregnancy or childbirth,[[6]](#endnote-6) making it the leading cause of death for girls aged 15-19 in developing countries.[[7]](#endnote-7) Furthermore, 3.2 million minors

in developing countries undergo clandestine, unsafe abortions each year,[[8]](#endnote-8) placing their lives and health in jeopardy. In places with high rates of child marriage, girls – including young girls – who become married can face significant pressure to become pregnant almost immediately, in order to demonstrate their fertility, resulting in early pregnancies and their attendant health risks.[[9]](#endnote-9)

*Access to SRHR in Conflict Settings*

This situation is worsened in humanitarian situations. Conflict and crisis have dire consequences on adolescent girls’ SRHR. Girls affected by conflict[[10]](#endnote-10) often have limited access to reproductive health care and are particularly vulnerable to sexual violence, human trafficking, and early and forced marriage.[[11]](#endnote-11) In addition to being serious human rights violations, these abuses contribute to unintended pregnancies, and, in turn, can lead to high rates of unsafe abortion and maternal mortality.[[12]](#endnote-12) As such, access to sexual and reproductive health information and services is critical in these settings, but restrictive legal and policy frameworks, third-party authorization requirements, stigma, disintegrating health systems, unsafe environments, prohibitive costs, lack of information and decision-making power, and fear of further violence for seeking out care all make it difficult for girls to access the necessary information and services.[[13]](#endnote-13)

UN officials and experts are scaling up efforts to highlight the specific SRHR violations targeting children and adolescents, especially girls, in humanitarian settings. In Northeast Nigeria, for instance, in states affected by violations perpetrated by Boko Haram, the Office of the High Commissioner for Human Rights has documented evidence of extremely severe and widespread violations of the rights of women and girls, including sexual slavery, sexual violence, forced so-called"marriages", and forced pregnancy in violation of human rights and international humanitarian law principles.[[14]](#endnote-14) Girls as young as 14 and 15 affected by the conflict report instances of rape and sexual assault.[[15]](#endnote-15) As a result, the High Commissioner for Human Rights, Mr. Zeid Ra’ad Al Hussein, has called on Nigeria to interpret its current abortion law as progressively as possible, relying on the work of UN experts to ask Nigeria to go beyond the law’s sole exception of endangerment of the woman’s life.[[16]](#endnote-16)

The Special Rapporteur [on trafficking in persons](https://www.ohchr.org/EN/Issues/Trafficking/Pages/TraffickingIndex.aspx), especially women and children, and the [Special Rapporteur on the sale and sexual](https://www.ohchr.org/EN/Issues/Children/Pages/ChildrenIndex.aspx) exploitation of children have warned that all children fleeing conflict, especially those traveling alone, are vulnerable to abuse of different kinds: for example, sexual and labor exploitation, including as a consequence of trafficking; and being sold and being coerced into marriage. Such abuses occur in their homes, communities or in places where migrants and/or refugees reside – including reception centers, refugee camps or informal settlements at source, transit and destination countries. The Special Rapporteurs have noted that there is a lack of appropriate accountability mechanisms designed that women and children can use to access justice and remedies.[[17]](#endnote-17)

1. **Legal Framework – the sexual and reproductive health and rights of adolescent girls affected by conflict**

States have obligations to protect, respect and fulfill the right to sexual and reproductive health (SRH) for everyone, including adolescents. The right to sexual and reproductive health (SRH) is critical to, and grounded in, the realization of other fundamental rights, including the rights to life, health, freedom from torture and ill-treatment, privacy, education and non-discrimination. This right remains applicable in conflict-affected settings.

International jurisprudence, state practice, and academic literature have consistently affirmed that state obligations under international human rights law apply during situations of armed conflict, operating complementarily to international humanitarian law obligations. International legal and political bodies, including the International Court of Justice, have affirmed that fundamental human rights obligations, including economic, social, and cultural rights, continue to apply even during situations of armed conflict.[[18]](#endnote-18)

With regard to conflict and children’s health, the Committee on the Rights of the Child (CRC) has recognized that “armed conflict and humanitarian disasters result in the breakdown of social norms and family and community support structures,” expose adolescents to sexual and gender-based violence and deny their access to SRH services and information.[[19]](#endnote-19) It further notes that it is key to “recognize the particular challenges to children’s health for children affected by humanitarian emergencies” and that “[a]ll possible measures should be taken to ensure that children have uninterrupted access to health services.”[[20]](#endnote-20)

Specifically on SRHR, various UN treaty monitoring bodies, as well as international experts, have affirmed the importance of adolescent access to SRH services, including for adolescent girls affected by conflict. While the Committee on the Rights of the Child (CRC) has defined the meaning of these norms in relation to adolescents, these principles have been reinforced by the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of Discrimination against Women (CEDAW) and the Human Rights Committee. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on Health) has also asserted the importance of access to SRH services for adolescents.

The CRC has urged states to “ensure that health systems and services are able to meet the specific sexual and reproductive health needs of adolescents.”[[21]](#endnote-21) In this regard, the CRC has explicitly called for adolescents to have access to the full range of sexual and reproductive health services,[[22]](#endnote-22) including maternal health care; contraceptive information and services, including short- and long-term methods of contraception and emergency contraception; safe abortion services and post-abortion care; and information and services to prevent and address sexually transmitted infections.[[23]](#endnote-23) Furthermore, the CRC has urged state to “decriminalize abortion to ensure that girls have access to safe abortion and post-abortion services.”[[24]](#endnote-24) The Committee, in its general comment 20, has not only recognized the importance of adolescents’ evolving capacities to make independent decisions about their health, but has also called on states to introduce a “legal presumption that adolescents are competent to seek and have access to preventive or time-sensitive sexual and reproductive health commodities and services.”[[25]](#endnote-25)

In alignment with the principle of evolving capacity, the CRC, along with the CEDAW and the Special Rapporteur on the Right to Health, has called for the elimination of parental consent requirements for access to services. The CRC has said that there should not be any “barriers to commodities, information and counselling on SRHR, such as requirements for third party consent or authorization.”[[26]](#endnote-26) This aligns with CEDAW’s view that parental authorization constitutes a barrier to health services, as well as the Special Rapporteur’s view that parental consent and notification requirements “make adolescents reluctant to access needed services so as to avoid seeking parental consent, which may result in rejection, stigmatization, hostility or even violence.”[[27]](#endnote-27)

The CRC standards and principles are complemented by the CESCR, which enshrines a right to SRH for all, including adolescents. The CESCR interprets this right as encompassing “the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, over matters concerning one’s body and sexual and reproductive health” as well as “unhindered access to a whole range of health facilities, goods, services and information, which ensure all people full enjoyment of the right to sexual and reproductive health.”[[28]](#endnote-28) The CESCR has recognized that the Covenant’s obligations apply in situations of armed conflict and recommends that states increase efforts to ensure access to SRH services for populations affected by conflict or displacement.[[29]](#endnote-29) Under the CESCR, states have minimum core obligations of ensuring non-discriminatory, universal and equitable access to SRH services and information, particularly for women and girls; providing essential medicines; and ensuring access to redress for violations of SRHR.[[30]](#endnote-30)

*Maternal Health*

International law mandates that states should ensure that women and girls can survive pregnancy and childbirth, as a part of states’ minimum obligations.[[31]](#endnote-31) This includes access to quality pre- and post-natal care, emergency obstetric services and skilled birth attendants. In conflict-affected settings, the CEDAW has called on states to ensure access to a wide range of maternal health services and has interpreted the Convention to require “women seeking asylum and women refugees be granted, without discrimination, the right to…health care and other support….appropriate to their particular needs as women.”[[32]](#endnote-32) In its concluding observations, the CEDAW has also noted with concern the effects of armed conflict on SRHR and maternal mortality, calling on states to “accord priority to the provision of sexual and reproductive health services” in such settings.[[33]](#endnote-33)

*Contraception, including Emergency Contraception*

Under international law, all individuals, including adolescents, have the right to access contraceptive information and services.[[34]](#endnote-34) Everyone has the right to decide on the number, spacing and timing of their children; this right includes the “right to be informed and to have access to safe, effective, affordable and acceptable methods of family planning.”[[35]](#endnote-35) The CEDAW has also recognized that women and girls often experience increased sexual violence during conflict, and has called on states to ensure access to contraception, including emergency contraception, in conflict-affected settings.[[36]](#endnote-36)

*Abortion*

The CRC has called on states to decriminalize abortion to ensure that adolescent girls have access to safe abortion and post-abortion services. This standard affirms adolescents’ autonomy and decision-making within the realm of SRHR. In addition, in the CEDAW General Recommendation on women and conflict, the Committee urges states to “ensure that sexual and reproductive health care includes access to …safe abortion services” and post-abortion care.[[37]](#endnote-37) Prevention of unsafe abortion and provision of post-abortion care are non-derogable minimum core obligations on SRHR.[[38]](#endnote-38)

*Sexual and Gender-Based Violence*

Sexual and gender-based violence (SGBV) covers a range of human rights violations, including domestic violence, sexual violence, restrictions on abortion, female genital mutilation and child, early and forced marriage. The prevalence of SGBV increases in conflict affected situations.[[39]](#endnote-39) The CEDAW Committee, in its General Recommendation on Women in Conflict urges states to prevent, investigate and punish all forms of SGBV, and to ensure survivor’s access to justice, comprehensive medical treatment and psychosocial support.[[40]](#endnote-40) Moreover, the Committee has called on states to decriminalize abortion, especially in “cases of rape perpetrated in the context of the conflict.”[[41]](#endnote-41)

1. **Guaranteeing Children and Adolescents’ Access to SRH Information and Services: A Human Rights-Based Approach**

In conflict-affected settings, where state institutions are weakened, overwhelmed, or not functioning, humanitarian organizations play an important role in ensuring the provision of basic services and goods.[[42]](#endnote-42) In addition to the legal obligations detailed above, human rights principles are critical to ensuring that humanitarian funding, programs, and policies are driven by, benefit, and accountable to the individuals most directly affected by them. Principles of equality and non-discrimination, 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.[[43]](#endnote-43)

*Meaningful Participation of Adolescent Girls and their Right to be Heard*

Meaningful participation of girls affected by conflict, particularly those from vulnerable or marginalized groups, is a key priority in all stages of humanitarian response, from the development to the implementation, monitoring, and evaluation of service policies and programs. A human rights-based approach recognizes the agency of affected individuals to participate in, shape, and make decisions regarding programs and policies that are intended to be for their benefit.

As noted by the Special Rapporteur on Health, “[i]nvolvement in decision-making processes empowers affected communities and ensures ownership of decisions and resources, which leads to sustainable systems and, potentially, the resolution of conflicts.”[[44]](#endnote-44) Effective and meaningful participation, in turn, rests on the ability of affected individuals to have access to reliable SRHR-related information as well as transparency regarding humanitarian funding decisions and structures.[[45]](#endnote-45)

Meaningful participation of girls directly relates to their right to be heard. The CRC emphasizes the right of the child to be heard and to make their own SRH-related decisions. For instance, the CRC urged states to guarantee “the best interests of the pregnant adolescents and ensure that their views are always heard and respected in abortion-related decisions.”[[46]](#endnote-46) It also called on states to ensure that “girls can make autonomous and informed decisions on their reproductive health.”[[47]](#endnote-47) In 2016, the Committee, as well as

the Special Rapporteur on the Right to Health, requested that states introduce a “legal presumption that adolescents are competent to seek and have access to preventive or time-sensitive sexual and reproductive health commodities and services.”[[48]](#endnote-48) Under this framework, the fact that an adolescent recognizes his or her need for SRH services and takes the initiative to seek them out is evidence that she or he has the requisite capacity to make decisions about the use of such services.

*Voluntary and Informed Consent*

In alignment with the right to be heard and to participate in decision-making, adolescents have the right to not have SRH services forced upon them. The CRC has noted that children who are vulnerable to discrimination are less able to exercise their right to make autonomous decisions about their health.[[49]](#endnote-49) Thus, it has called on states to ensure the voluntary and informed consent of adolescents for all medical treatments and procedures.[[50]](#endnote-50)

*Child-Friendly Access to Justice and Legal Accountability*

A human rights-based approach also prioritizes a broad and robust understanding of accountability to ensure that policymakers, decision-makers, and others who have an impact on affected individuals and communities are held responsible for their actions and decisions. Individuals whose rights have been violated, including children and adolescents, should have access to remedies.

Effective accountability mechanisms require participation and transparency, as well as the ability to confer meaningful and effective remedies to victims of violations on a basis of non-discrimination.[[51]](#endnote-51) Accountability requires prompt investigation into violations and punishment of perpetrators, as well as legal and policy shifts in order to prevent future violations.[[52]](#endnote-52) Accountability for children also requires that justice systems are child-friendly.[[53]](#endnote-53) The CRC has called for states to ensure that children can access child-sensitive procedures to obtain effective remedies. It has also requested that states provide subsidized or free legal services and other appropriate support for children, such as social workers or psychologists.[[54]](#endnote-54)

Remedies, moreover, must aim to restore the rights of victims of violations and must include adequate, effective, and prompt reparation, forms of which include restitution, compensation, rehabilitation (e.g. medical or psychological services), satisfaction, and guarantees of non-repetition.[[55]](#endnote-55) As OHCHR has noted in its technical guidance on maternal mortality, human rights accountability entails multiple forms of monitoring, review, and oversight, including administrative, social, political and legal, and accountability for multiple actors within the system.[[56]](#endnote-56)

These fundamental principles must drive and guide all aspects of humanitarian funding, programs, and policies in conflict-affected settings to ensure effectiveness, sustainability, and the fulfillment of the needs and rights of those most directly affected.

1. **Recommendations**
* Conflict and post-conflict states, host states, and donor states should prioritize the realization of adolescent girls’ SRHR, including through the provision of comprehensive sexuality education and information, private and unbiased counseling, quality maternal health care, contraception and emergency contraception, safe abortion care, and post-abortion care services.
* States, relevant agencies, and humanitarian organizations should work together to allocate adequate resources to gather data, disaggregated by age, sex, location, ethnicity and sexual orientation, among others, on sexual violence and the provision of SRH services to ensure that interventions reflect the lived experiences of girls affected by conflict.
* Governments should take effective measures to prevent and address violations of women and girls’ SRHR in conflict settings, not only by holding perpetrators accountable and ensuring access to justice, but also by providing holistic reproductive health services for all women and girls affected by conflict.
* International human rights mechanisms and political bodies, including the Human Rights Council, must address sexual violence and violations of SRHR in conflict settings by including these issues in state reviews, as well as in resolutions that take a human rights-based approach to these topics.
1. For the purpose of this submission, we will be focusing on adolescent girls, meaning girls between the age of 10 and 19. [↑](#endnote-ref-1)
2. See Committee on the Elimination of Discrimination Against Women (CEDAW Committee), General Recommendation No. 21: Equality in marriage and family relations, (13th Sess., 1994), para. 21, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008); CEDAW Committee, General Recommendation No. 23, Political and Public Life (16 Sess., 1997), para. 10, U.N. Doc. HRI/GEN/1/Rev.6 (2003) [↑](#endnote-ref-2)
3. See Center for Reproductive Rights, Forced Out: Mandatory Pregnancy Testing and the Expulsion of Pregnant Students in Tanzanian Schools 25-26 (2013), available at http://reproductiverights.org/ sites/crr.civicactions.net/files/documents/crr\_Tanzania\_Report\_ Part1.pdf. [↑](#endnote-ref-3)
4. See United Nations Population Fund (UNFPA), Motherhood in Childhood: Facing the Challenge of Adolescent Pregnancy (2013) [hereinafter UNFPA, Motherhood in Childhood]. At 26-28 [↑](#endnote-ref-4)
5. See Changu Mannathoko & Heather Milkiewicz, Empowering Adolescent Girls Through Education Eliminating Exclusion and Discrimination 8 (2012) (noting that “Direct costs of schooling (for instance: school fees, exam fees, uniforms, books and stationary supplies) diminish opportunities for children to access and/or remain in school. This contributes to the high number of girls being pushed out of school, especially in favor of boys for whom education is accorded higher priority in many societies. Indirect costs (such as the opportunity cost in terms of lost income or household labor from girls) further diminish girls’ participation in education.”), available at www.worldwewant2015.org/file/290405/download/31481; International Labour Office, Gender Equality at the Heart of Decent Work 61-65 (2009), available at http://www.ilo.org/wcmsp5/groups/public/@ed\_norm/@ relconf/documents/meetingdocument/wcms\_105119.pdf [↑](#endnote-ref-5)
6. See UNFPA, Motherhood in Childhood, supra note vii [↑](#endnote-ref-6)
7. UNFPA, Marrying Too Young: End Child Marriage 11 (2012) [hereinafter UNFPA, Marrying Too Young]. [↑](#endnote-ref-7)
8. See UNFPA, Motherhood in Childhood, supra note vii [↑](#endnote-ref-8)
9. Center for Reproductive Rights, Child Marriage in South Asia: International and Constitutional Legal Standards and Jurisprudence for Promoting Accountability and Change 16 (2013), available at http:// reproductiverights.org/sites/crr.civicactions.net/files/documents/ ChildMarriage\_BriefingPaper\_Web.pdf. [↑](#endnote-ref-9)
10. This submission focuses on the rights and needs of adolescent girls affected by conflict, a category which includes refugees, internally displaced persons, as well as those individuals in or fleeing from active armed conflict settings. *See* International Committee of the Red Cross (ICRC), *Addressing the Needs* *of Women Affected by Armed Conflict* 9 (March 2004), *available at* https://www.icrc.org/eng/assets/files/other/icrc\_002\_0840\_women\_guidance.pdf (emphasizing the need to respond to the specific needs of women and girls affected by conflict regardless of whether they are “combatants, persons deprived of their freedom, refugees, internally displaced persons (IDPs), mothers and/or members of the civilian population”); *see also* Laurel Schreck, *Turning Point: A Special Report on the Refugee Reproductive* *Health Field*, 26:4 International Family Planning Perspectives 162 (Dec.2000), *available at* https://www.guttmacher.org/sites/default/files/article\_files/2616200.pdf (noting the importance of ensuring reproductive

health services across stages of displacement). Not all women and girls in displacement and refugee settings have been affected by conflict, but by no means does the focus of this paper suggest that the obligations applicable to displacement settings, including international human rights law or refugee law, are limited to individuals affected by conflict.. [↑](#endnote-ref-10)
11. United Nations Population Fund (UNFPA), State of World Population 2015: Shelter from the Storm 38-40 (2015), *available at* https://www.unfpa.org/sites/default/files/sowp/downloads/State\_of\_World\_Population\_2015\_EN.pdf

[hereinafter UNFPA, Shelter from the Storm]. *See also* CRR and UNFPA, Reproductive Rights: A Tool for Monitoring State Obligations (2013), *available at* http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/crr\_Monitoring\_Tool\_State\_Obligations.pdf. [↑](#endnote-ref-11)
12. UNFPA, Shelter from the Storm, *supra* note 2, 38-40. [↑](#endnote-ref-12)
13. *See id*  [↑](#endnote-ref-13)
14. See Office of the high Commissioner for Human Rights (OHCHR), Report of the United Nations High Commissioner for Human Rights on violation and abuses committed by Boko Haram and the impact on human rights in affected countries, para 38-43, U.N. doc A/HRC/30/67, (2015) [↑](#endnote-ref-14)
15. See id., [↑](#endnote-ref-15)
16. OHCHR, Human Rights Council 29th Session, oral update on Boko Haram, statement by Zeid Ra’ad Al Hussein, High Commissioner for Human Right, available at

<https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/29thSession/Pages/OralStatement.aspx?MeetingNumber=39&MeetingDate=Wednesday,%201%20July%202015> [↑](#endnote-ref-16)
17. OHCHR, Press Release, Migrant children at risk of trafficking and exploitation as current protection systems fail them – UN experts, World Day Against Trafficking in Persons - Sunday 30 July 2017 available at [http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21916&LangID=E](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21916&LangID=E) [↑](#endnote-ref-17)
18. See Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J., para. 136 (July 9); Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J., para. 25 (July 8); S.C. Res. 2122, preamble, U.N. Doc. S/RES/2122 (Oct. 18, 2013) [hereinafter S.C. Res. 2122]; S.C. Res. 1325, para. 9, U.N.Doc. S/RES/1325 (Oct. 31, 2000). [↑](#endnote-ref-18)
19. CRC Committee, General Comment 20 on the implementation of the rights of the child during adolescence, para 79, 6 December 2016, U.N. Doc CRC/C/GC/20 (2016) [hereinafter CRC Committee, Gen. comment No. 20] [↑](#endnote-ref-19)
20. CRC Committee, General Comment 15: The right of the child to the enjoyment of the highest attainable standard of health, (62nd Sess.), article 24 para. 2(b), U.N. Doc. CRC/C/GC/15 (2013) [hereinafter CRC Committee, Gen. Comment No. 15], [↑](#endnote-ref-20)
21. CRC Committee, General Comment 15para. 56 [↑](#endnote-ref-21)
22. See, e.g, id., paras. 56 & 69-70. [↑](#endnote-ref-22)
23. See generally id. [↑](#endnote-ref-23)
24. Committee on the Rights of the Child, General Comment No. 20 on the implementation of the rights of the child during adolescence, para.60, U.N. Doc. CRC/C/ GC/20 (Dec. 2016) [hereinafter CRC Committee, Gen. Comment No. 20]. [↑](#endnote-ref-24)
25. CRC Committee, Gen. Comment No. 20, supra note xvii, para. 39. [↑](#endnote-ref-25)
26. CRC Committee, Gen. Comment No. 20, supra note xvii, para 60 [↑](#endnote-ref-26)
27. CEDAW, GR 24 (women and health), para 21; SR on Health, report on the health of adolescents, para 59. [↑](#endnote-ref-27)
28. Committee on Economic, Social and Cultural Rights, General Comment No. 22 (2016) on the Right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), [hereinafter CESCR Committee Gen. Comment 22) [↑](#endnote-ref-28)
29. CESCR Committee, Gen.Comment 22, para 30 and 59 [↑](#endnote-ref-29)
30. CESCR GC 14 para 43; CESCR GC 3 para 10; See also SR Health Report on right to health (2013) para 11 [↑](#endnote-ref-30)
31. WHO, Professor Roger Magnusson, Professor of Health Law & Governance, Sydney Law School, University of Sydney, Advancing the right to health: the vital role of law, Chapter 17, pp. 281 – 299, January 16th 2017, available at <http://www.who.int/healthsystems/topics/health-law/health_law-report/en/> [↑](#endnote-ref-31)
32. CEDAW GR 32 para 33- 34 [↑](#endnote-ref-32)
33. CEDAW, COs on the Central African Republic (2014), para 40(b); see also CEDAW COs on the Democratic Republic of Congo (2006), para 35-36 (noting concern “about the highly negative impact on maternal and infant mortality and morbidity rates of the protracted armed conflict, which resulted in lack of access to obstetric care, dilapidated clinics and lack of utilization of existing services during pregnancy and childbirth,” and recommending the state take steps to improve women’s access to emergency obstetric care and health-related services). [↑](#endnote-ref-33)
34. See, e.g., CESCR, Gen. Comment No. 22, supra note 57, para. 6; CEDAW Committee, Gen. Recommendation No. 24, supra note 61, para. 28; CRC Committee, General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence, para. 59, U.N. Doc. CRC/C/ GC/20 (2016) [hereinafter CRC Committee, Gen. Comment No. 20]; CRC Committee, General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), para. 69, U.N. Doc. CRC/C/GC/15 (2013); Human Rights Committee, Concluding Observations: Paraguay, para. 13, U.N. Doc CCPR/C/PRY/CO/3 (2013); Peru, para. 14, U.N. Doc CCPR/C/PER/CO/5 (2013); CESCR, Concluding Observations: Armenia, para. 22, U.N. Doc. E/C.12/ARM/CO/2-3 (2014). [↑](#endnote-ref-34)
35. CEDAW Committee, General Recommendation No. 21: Equality in Marriage and Family Relations, para. 22, U.N. Doc. A/49/38 (1994); and CEDAW Committee, Concluding Observations: Angola, para. 32(e), U.N. Doc. CEDAW/C/AGO/CO/6 (2013); India, para. 30-31, U.N. Doc. CEDAW/C/ IND/CO/4-5 (2014); Hungary, para. 31(b), U.N. Doc CEDAW/C/HUN/CO/78 (2013); Poland, paras. 36-37, U.N. Doc. CEDAW/C/POL/CO/7-8 (2014); China, para. 39(d), U.N. Doc. CEDAW/C/CHN/CO/7-8 (2014); CESCR, Concluding Observations: Djibouti, para. 5, U.N. Doc. E C.12/DJI/CO/1-2 (2014); Poland, para. 27, U.N. Doc. E/C.12/POL/CO/5 (2009); Armenia, para. 22(b), U.N. Doc. E/C.12/ARM/CO/2-3 (2014); CRC Committee, Concluding Observations: Mozambique, para. 47(b), U.N. Doc. CRC/C/15/ Add.172 (2002); Human Rights Committee, Concluding Observations; Madagascar, para. 17(a), U.N. Doc. CCPR/C/MDA/CO/2 (2009); CEDAW Committee, Concluding Observations: Honduras, para 36(d), U.N. Doc. CEDAW/C/HND/CO/7-8 (2016); Human Rights Committee, Concluding Observations: Moldova, para. 18(a), U.N. Doc. CCPR/C/MDA/CO/3 (2016); CESCR, Concluding Observations: Poland, para. 49(a), U.N. Doc. E/C.12/ POL/CO/6 (2016). [↑](#endnote-ref-35)
36. CEDAW Committee, Gen. Recommendation No. 30, supra note 33, para. 52(c); CEDAW Committee, Concluding Observations: Central African Republic, paras. 39-40, U.N. Doc. CEDAW/C/CAF/CO/1-5 (2014); CEDAW Committee, Concluding Observations: Democratic Republic of the Congo, paras. 35-36, U.N. Doc. CEDAW/C/COD/CO/5 (2006) (calling on the state to “improve the availability of sexual and reproductive health services, including family planning, also with the aim of preventing early pregnancies and clandestine abortions”). [↑](#endnote-ref-36)
37. CEDAW Committee, Gen. Recommendation No. 30, para. 52(c) [↑](#endnote-ref-37)
38. CESCR, Gen. Comment No. 22, para. 49 [↑](#endnote-ref-38)
39. See United Nations High Commissioner for Refugees (UNHCR), World at War: UNHCR Global Trends, Forced Displacement in 2014 [hereinafter UNHCR, World at War], available

at http://unhcr.org/556725e69.html; International Committee of the Red Cross (ICRC), Humanitarian Perspectives on International Security in Times of Mutating Conflicts, Speech given by Mr. Peter Maurer, President of the ICRC (May 29, 2015), available at https://www.icrc.org/en/document/gcsp-20-years-constructive-change-peace-and-securityworld-

humanitarian-perspectives; ICRC, Wars Without Limits are Wars Without End, Speech given by Mr. Peter Maurer, President of the ICRC (March 5, 2015), available at https://www.icrc.org/en/document/wars-without-limits-are-wars-without-end. [↑](#endnote-ref-39)
40. CEDAW Committee, Gen. Recommendation No. 30, para. 38(e); see also CAT Committee, Concluding Observations: Iraq, para. 13, U.N. Doc. CAT/C/IRQ/CO/1 (2015 [↑](#endnote-ref-40)
41. CEDAW Committee, Concluding Observations: Democratic Republic of the Congo, paras. 10, 32, U.N. Doc. CEDAW/C/COD/CO/6-7 (2013); see also CEDAW Committee, Concluding Observations: Central African Republic, para 40, U.N. Doc. CEDAW/C/CAF/CO/1-5 (2014) (recommending that the state “[e]nsure that women who are victims of rape, including rapes perpetrated during the conflict, have access to health-care and psychosocial services, including emergency contraception and safe abortion services” [↑](#endnote-ref-41)
42. In fact, both IHL and IHRL envision a key role for aid organizations. IHL obligates parties to a conflict and third states to facilitate the passage of humanitarian relief to civilians in need. See ICRC, Customary IHL Database, Rule 55, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule55 (last visited May 31, 2017). See also CESCR, Gen. Comment No. 14, para. 65 (recognizing the important role of UN agencies in providing access to basic goods and services in humanitarian settings); Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, Rep. on the right to health, para. 60, U.N. Doc. A/68/297 (Aug. 9, 2013) (by Anand Grover)

[hereinafter SR Health Report (2013)]. [↑](#endnote-ref-42)
43. See The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies, HRBA Portal (March 2005), <http://hrbaportal.org/the-human-rights-based-approach-todevelopment-cooperation-towards-a-common-understanding-among-unagencies> [hereinafter Human Rights Based Approach to Development]. [↑](#endnote-ref-43)
44. SR Health Report (2013), supra note xxxviii para. 12. [↑](#endnote-ref-44)
45. Id., para. 12. [↑](#endnote-ref-45)
46. CRC, GC 20 para 60 [↑](#endnote-ref-46)
47. CRC, GC 15 para 56 [↑](#endnote-ref-47)
48. CRC GC 20 para 39 [↑](#endnote-ref-48)
49. CRC, GC 16 para 21 [↑](#endnote-ref-49)
50. CRC GC 20 para 39 [↑](#endnote-ref-50)
51. See generally United Nations General Assembly Res. 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147 (21 March 2006) [hereinafter UNGA Res. 60/147]; see also SR Health Report (2013), supra note 16, paras. 61-67. [↑](#endnote-ref-51)
52. UNGA Res. 60/147, supra note , para. 3(b). [↑](#endnote-ref-52)
53. CRC GC 5 para 24 [↑](#endnote-ref-53)
54. OHCHR, Access to Justice for Children, A/HRC/25/35 (2013), para 40-41 [↑](#endnote-ref-54)
55. Restitution aims to restore the victim to her original situation before the violation and includes restoration of enjoyment of human rights, return to one’s place of residence, or return of property. Compensation is required as appropriate and proportional to the gravity of the violation and the circumstances of each case. Rehabilitation includes medical and psychological care as well as legal and social services. Satisfaction aims to ensure the cessation of continuing violations and includes verification and public disclosure of facts. Guarantees of non-repetition aim to prevent future violations and include structural and systemic changes, such as legal reform and education. Id. paras. 19-23. See also Human Rights Committee, Gen. Comment No. 31, supra note 46, para. 16; CAT Committee, General Comment No. 3: Implementation of article 14 by States parties, para. 2, U.N. Doc. CAT/C/GC/3 (2012); CEDAW Committee, General Recommendation No. 33 on women’s access to justice, para. 19(f), U.N. Doc. CEDAW/C/GC/33 (2015). [↑](#endnote-ref-55)
56. OHCHR, Technical guidance on the application of a human-rights based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality, paras. 74-75, U.N. Doc. A/HRC/21/22 (July 2, 2012). [↑](#endnote-ref-56)