

**Flygtningenævnets baggrundsmateriale**

|                                 |                                                                                                               |
|---------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>Bilagsnr.:</b>               | <b>313</b>                                                                                                    |
| Land:                           | Diverse emner                                                                                                 |
| Kilde:                          | FN's Kvindekomité                                                                                             |
| Titel:                          | General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. |
| Udgivet:                        | 26. juli 2017                                                                                                 |
| Optaget på baggrundsmaterialet: | 13. maj 2024                                                                                                  |



# Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General  
26 July 2017

Original: English

---

## Committee on the Elimination of Discrimination against Women

### General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19

#### I. Introduction

##### Acknowledgements

The Committee acknowledges the valuable contributions of the more than 100 civil society and women's organizations, States parties to the Convention, representatives of academia, United Nations entities and other stakeholders that provided their views and comments during the elaboration of the present general recommendation. The Committee also acknowledges with gratitude the work of the Special Rapporteur on violence against women, its causes and consequences in the implementation of her mandate and her contribution to the present general recommendation.

1. In its general recommendation No. 19 (1992) on violence against women, adopted at its eleventh session,<sup>1</sup> the Committee clarified that discrimination against women, as defined in article 1 of the Convention, included gender-based violence, that is "violence which is directed against a woman because she is a woman or that affects women disproportionately", and that it constituted a violation of their human rights.

2. For more than 25 years, in their practice, States parties have endorsed the Committee's interpretation. The *opinio juris* and State practice suggest that the prohibition of gender-based violence against women has evolved into a principle of

---

<sup>1</sup> Although first addressed through its general recommendation No. 12 (1989) on violence against women, it was in general recommendation No. 19 that the Committee provided a detailed and comprehensive review of violence against women and a basis for its subsequent work on the issue.



customary international law. General recommendation No. 19 has been a key catalyst for that process.<sup>2</sup>

3. Acknowledging those developments, and the work of the Special Rapporteur on violence against women, its causes and consequences, and of the human rights treaty bodies<sup>3</sup> and the special procedures mandate holders of the Human Rights Council,<sup>4</sup> the Committee has decided to mark the twenty-fifth anniversary of the adoption of general recommendation No. 19 by providing States parties with further guidance aimed at accelerating the elimination of gender-based violence against women.

4. The Committee acknowledges that civil society groups, especially women's non-governmental organizations, have prioritized the elimination of gender-based

<sup>2</sup> In the decades since the adoption of general recommendation No. 19, most States parties have improved their legal and policy measures to address diverse forms of gender-based violence against women. See the report of the Secretary-General on the review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly (E/CN.6/2015/3), paras. 120-139. In addition, evidence in the practice of non-parties, Iran (Islamic Republic of), Palau, Somalia, the Sudan, Tonga and the United States of America, includes the following: adoption of national legislation on violence against women (United States, in 1994; Somalia, in 2012), invitations extended to and accepted by the Special Rapporteur on violence against women, its causes and consequences (visits to the United States, in 1998 and 2011; Somalia, in 2011; and the Sudan, in 2015); acceptance of the diverse recommendations on strengthening the protection of women from violence made in the context of the universal periodic review mechanism of the Human Rights Council; and endorsement of key resolutions of the Human Rights Council on eliminating violence against women, including resolution 32/19 of 1 July 2016. State practice to address gender-based violence against women is also reflected in landmark political documents and regional treaties adopted in multilateral forums, such as the Vienna Declaration and Programme of Action, in 1993; the Declaration on the Elimination of Violence against Women, in 1993; and the Beijing Declaration and Platform for Action, in 1995, and its five-year reviews; and regional conventions and action plans, such as the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, in 1994; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, in 2003; and the Convention on Preventing and Combating Violence against Women and Domestic Violence, in 2011. Other relevant international instruments are the Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in the Association of Southeast Asian Nations; the Arab Strategy for Combating Violence against Women, 2011-2030; and the agreed conclusions of the fifty-seventh session of the Commission on the Status of Women on the elimination and prevention of all forms of violence against women and girls (E/2013/27, chap. I, sect. A). The Rome Statute of the International Criminal Court, Security Council resolution 1325 (2000) and subsequent resolutions on women and peace and security, as well as many resolutions of the Human Rights Council, including resolution 32/19 of 1 July 2016, contain specific provisions on gender-based violence against women. Judicial decisions of international courts, which are a subsidiary means for the determination of customary international law, also demonstrate such development (see A/71/10, chap. V, sect. C, conclusion 13). Examples include European Court of Human Rights, *Opuz v. Turkey* (application No 33401/02), judgment of 9 June 2009, in which the Court was influenced by what it referred to as "the evolution of norms and principles in international law" (para. 164) through a range of international and comparative materials on violence against women; and Inter-American Court of Human Rights, *González et al. ("Cotton Field") v. Mexico*, judgment of 16 November 2009.

<sup>3</sup> See, for example, Human Rights Committee, general comment No. 28 (2000) on the equality of rights between men and women; Committee against Torture, general comment No. 2 (2007) on the implementation of article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016) on the right to sexual and reproductive health; and Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities.

<sup>4</sup> In particular, the Working Group on the issue of discrimination against women in law and practice and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

violence against women; their activities have had a profound social and political impact, contributing to the recognition of gender-based violence against women as a human rights violation and to the adoption of laws and policies to address it.

5. In its concluding observations on the periodic reports of States parties under the Convention<sup>5</sup> and the related follow-up procedures, general recommendations, statements, and views and recommendations issued in response to communications<sup>6</sup> and inquiries<sup>7</sup> under the Optional Protocol to the Convention, the Committee condemns gender-based violence against women, in all its forms, wherever it occurs. Through those mechanisms, the Committee has also clarified standards for eliminating such violence and the obligations of States parties in that regard.

6. Despite those advances, gender-based violence against women, whether committed by States, intergovernmental organizations or non-State actors, including private persons and armed groups,<sup>8</sup> remains pervasive in all countries, with high levels of impunity. It manifests itself on a continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public, including technology-mediated settings<sup>9</sup> and in the contemporary globalized world it transcends national boundaries.

7. In many States, legislation addressing gender-based violence against women is non-existent, inadequate or poorly implemented. An erosion of the legal and policy frameworks that aim to eliminate gender-based discrimination or violence, often justified in the name of tradition, culture, religion or fundamentalist ideology, and significant reductions in public spending, often as part of so-called “austerity measures” following economic and financial crises, further weaken States responses. In the context of shrinking democratic spaces and the consequent

<sup>5</sup> Almost 600 concluding observations have been adopted by the Committee since the adoption of general recommendation No. 19, most of which contain explicit references to gender-based violence against women.

<sup>6</sup> In particular, communications No. 2/2003, *A.T. v. Hungary*, views adopted on 26 January 2005; No. 4/2004, *A.S. v. Hungary*, views adopted on 14 August 2006; No. 6/2005, *Yildirim (deceased) v. Austria*, views adopted on 6 August 2007; No. 5/2005, *Goekce (deceased) v. Austria*, views adopted on 6 August 2007; No. 18/2008, *Vertido v. Philippines*, views adopted on 16 July 2010; No. 20/2008, *V.K. v. Bulgaria*, views adopted on 25 July 2011; No. 23/2009, *Abramova v. Belarus*, views adopted on 25 July 2011; No. 19/2008, *Kell v. Canada*, views adopted on 28 February 2012; No. 32/2011, *Jallow v. Bulgaria*, views adopted on 23 July 2012; No. 31/2011, *S.V.P. v. Bulgaria*, views adopted on 12 October 2012; No. 34/2011, *R.P.B. v. Philippines*, views adopted on 21 February 2014; No. 47/2012, *González Carreño v. Spain*, views adopted on 16 July 2014; No. 24/2009, *X. and Y. v. Georgia*, views adopted on 13 July 2015; No. 45/2012, *Belousova v. Kazakhstan*, views adopted on 13 July 2015; No. 46/2012, *M.W. v. Denmark*, views adopted on 22 February 2016; and No. 58/2013, *L.R. v. Republic of Moldova*, views adopted on 28 February 2017.

<sup>7</sup> See the report on Mexico produced by the Committee under article 8 of the Optional Protocol to the Convention and the reply from the Government of Mexico. Available from [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f2005%2fOP.8%2fMEXICO&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f2005%2fOP.8%2fMEXICO&Lang=en); report of the inquiry concerning Canada ([CEDAW/C/OP.8/CAN/1](#)); and the summary of the inquiry concerning the Philippines ([CEDAW/C/OP.8/PHL/1](#)).

<sup>8</sup> This includes all types of armed groups, such as rebel forces, gangs and paramilitary groups.

<sup>9</sup> See General Assembly resolution [68/181](#), entitled “Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders”; report of the Working Group for Broadband and Gender of the Broadband Commission for Sustainable Development, co-chaired by the United Nations Development Programme-United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), entitled “Cyber violence against women and girls: a worldwide wake-up call”, October 2015; and agreed conclusions of the fifty-seventh session of the Commission on the Status of Women ([E/2013/27](#), chap. I, sect. A).

deterioration of the rule of law, all of those factors contribute to the pervasiveness of gender-based violence against women and lead to a culture of impunity.

## II. Scope

8. The present general recommendation complements and updates the guidance to States parties set out in general recommendation No. 19 and should be read in conjunction with it.

9. The concept of “violence against women”, as defined in general recommendation No. 19 and other international instruments and documents, has places an emphasis on the fact that such violence is gender-based. Accordingly, in the present recommendation, the term “gender-based violence against women” is used as a more precise term that makes explicit the gendered causes and impacts of the violence. The term further strengthens the understanding of the violence as a social rather than an individual problem, requiring comprehensive responses, beyond those to specific events, individual perpetrators and victims/survivors.

10. The Committee considers that gender-based violence against women is one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated. Throughout its work, the Committee has made clear that such violence is a critical obstacle to the achievement of substantive equality between women and men and to the enjoyment by women of their human rights and fundamental freedoms, as enshrined in the Convention.

11. In general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, it is indicated that the obligations of States are to respect, protect and fulfil women’s rights to non-discrimination and the enjoyment of de jure and de facto equality.<sup>10</sup> The scope of those obligations in relation to gender-based violence against women occurring in particular contexts is addressed in general recommendation No. 28 and other general recommendations, including general recommendation No. 26 (2008) on women migrant workers; general recommendation No. 27 (2010) on older women and the protection of their human rights; general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations; joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices; general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women; general recommendation No. 33 (2015) on women’s access to justice; and general recommendation No. 34 (2016) on the rights of rural women. Further details on the relevant elements of the general recommendations referred to herein may be found in those recommendations.

12. In general recommendation No. 28 and general recommendation No. 33, the Committee confirmed that discrimination against women was inextricably linked to other factors that affected their lives. The Committee, in its jurisprudence, has highlighted the fact that such factors include women’s ethnicity/race, indigenous or minority status, colour, socioeconomic status and/or caste, language, religion or belief, political opinion, national origin, marital status, maternity, parental status, age, urban or rural location, health status, disability, property ownership, being

<sup>10</sup> General recommendation No. 28, para. 9. Other human rights treaty bodies also use that typology, including the Committee on Economic, Social and Cultural Rights, in its general comment No. 12 (1999) on the right to adequate food.

lesbian, bisexual, transgender or intersex, illiteracy, seeking asylum, being a refugee, internally displaced or stateless, widowhood, migration status, heading households, living with HIV/AIDS, being deprived of liberty, and being in prostitution, as well as trafficking in women, situations of armed conflict, geographical remoteness and the stigmatization of women who fight for their rights, including human rights defenders.<sup>11</sup> Accordingly, because women experience varying and intersecting forms of discrimination, which have an aggravating negative impact, the Committee acknowledges that gender-based violence may affect some women to different degrees, or in different ways, meaning that appropriate legal and policy responses are needed.<sup>12</sup>

13. The Committee recalls article 23 of the Convention, in which it is indicated that any provisions in national legislation or international treaties other than the Convention that are more conducive to the achievement of equality between women and men will prevail over the obligations in the Convention and, accordingly, the recommendations in the present general recommendation. The Committee notes that States parties' action to address gender-based violence against women is affected by reservations that they maintain to the Convention. It also notes that, as a human rights treaty body, the Committee may assess the permissibility of reservations formulated by States parties,<sup>13</sup> and reiterates its view that reservations, especially to article 2 or article 16,<sup>14</sup> the compliance with which is particularly crucial in efforts to eliminate gender-based violence against women, are incompatible with the object and purpose of the Convention and thus impermissible under article 28 (2).<sup>15</sup>

14. Gender-based violence affects women throughout their life cycle<sup>16</sup> and, accordingly, references to women in the present document include girls. Such violence takes multiple forms, including acts or omissions intended or likely to

<sup>11</sup> General recommendation No. 33, paras. 8 and 9. Other general recommendations relevant to intersecting forms of discrimination are general recommendation No. 15 (1990) on the avoidance of discrimination against women in national strategies for the prevention and control of AIDS, general recommendation No. 18 (1991) on disabled women, general recommendation No. 21 (1994) on equality in marriage and family relations, general recommendation No. 24 (1999) on women and health, general recommendation No. 26 (2008) on women migrant workers, general recommendation No. 27 (2010) on older women and protection of their human rights, general recommendation No. 30, joint general recommendation No. 31/general comment No. 18, general recommendation No. 32 and general recommendation No. 34. The Committee has also addressed intersecting forms of discrimination in its views on *Jallow v. Bulgaria*, *S.V.P. v. Bulgaria*, *Kell v. Canada*, *A.S. v. Hungary*, *R.P.B. v. Philippines* and *M.W. v. Denmark*, among others, and inquiries, in particular those concerning Mexico, of 2005, and Canada, of 2015 (see footnote 7 above).

<sup>12</sup> General recommendation No. 28, para. 18; and report of the inquiry concerning Canada (CEDAW/C/OP.8/CAN/1), para. 197.

<sup>13</sup> International Law Commission, Guide to practice on reservations to treaties (A/65/10/Add.1, chap. IV, sect. F, para. 3.2).

<sup>14</sup> Statement of the Committee on reservations (A/53/38/Rev.1, part II, chap. I, sect. A, para. 12); see also general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, para. 54-55. In its concluding observations on the reports of States parties under the Convention, the Committee has also indicated that reservations to articles 2, 7, 9 and 16, as well as to general reservations, are incompatible with the object and purpose of the Convention.

<sup>15</sup> General recommendation No. 28, paras. 41-42.

<sup>16</sup> See general recommendation No. 27 and joint general recommendation No. 31/general comment No. 18.

cause or result in death<sup>17</sup> or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty.<sup>18</sup> Gender-based violence against women is affected and often exacerbated by cultural, economic, ideological, technological, political, religious, social and environmental factors, as evidenced, among other things, in the contexts of displacement, migration, the increased globalization of economic activities, including global supply chains, the extractive and offshoring industry, militarization, foreign occupation, armed conflict, violent extremism and terrorism. Gender-based violence against women is also affected by political, economic and social crises, civil unrest, humanitarian emergencies, natural disasters and the destruction or degradation of natural resources. Harmful practices<sup>19</sup> and crimes against women human rights defenders, politicians,<sup>20</sup> activists or journalists are also forms of gender-based violence against women affected by such cultural, ideological and political factors.

15. Women's right to a life free from gender-based violence is indivisible from and interdependent on other human rights, including the rights to life, health, liberty and security of the person, equality and equal protection within the family, freedom from torture, cruel, inhuman or degrading treatment, and freedom of expression, movement, participation, assembly and association.

16. Gender-based violence against women may amount to torture or cruel, inhuman or degrading treatment in certain circumstances, including in cases of rape, domestic violence or harmful practices.<sup>21</sup> In certain cases, some forms of gender-based violence against women may also constitute international crimes.<sup>22</sup>

17. The Committee endorses the view of other human rights treaty bodies and special procedures mandate holders that, in determining when acts of gender-based violence against women amount to torture or cruel, inhuman or degrading treatment,<sup>23</sup> a gender-sensitive approach is required to understand the level of pain

<sup>17</sup> Deaths resulting from gender-based violence include murders, killings in the name of so-called "honour" and forced suicides. See the report on the inquiry concerning Mexico; and the report of the inquiry concerning Canada ([CEDAW/C/OP.8/CAN/1](#)); as well as the concluding observations of the Committee on the following periodic reports of States parties: Chile ([CEDAW/C/CHL/CO/5-6](#) and Corr.1); Finland ([CEDAW/C/FIN/CO/7](#)); Guatemala ([CEDAW/C/GUA/CO/7](#)); Honduras ([CEDAW/C/HND/CO/7-8](#)); Iraq ([CEDAW/C/IRQ/CO/4-6](#)); Mexico ([CEDAW/C/MEX/CO/7-8](#)); Namibia ([CEDAW/C/NAM/CO/4-5](#)); Pakistan ([CEDAW/C/PAK/CO/4](#)); South Africa ([CEDAW/C/ZAF/CO/4](#)); Turkey ([CEDAW/C/TUR/CO/7](#)); and United Republic of Tanzania ([CEDAW/C/TZA/CO/7-8](#)), among others.

<sup>18</sup> General recommendation No. 19, para. 6, and general recommendation No. 28, para. 19.

<sup>19</sup> Joint general recommendation No. 31/general comment No. 18.

<sup>20</sup> See the Inter-Parliamentary Union issues brief entitled "Sexism, harassment and violence against women parliamentarians" (October 2016).

<sup>21</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/HRC/31/57](#)); report of the Special Rapporteur ([A/HRC/7/3](#)), para. 36; concluding observations of the Committee against Torture on the following periodic reports of States parties under the Convention against Torture: Burundi ([CAT/C/BDI/CO/1](#)); Guyana ([CAT/C/GUY/CO/1](#)); Mexico ([CAT/C/MEX/CO/4](#)); Peru ([CAT/C/PER/CO/5-6](#)); Senegal ([CAT/C/SEN/CO/3](#)); Tajikistan ([CAT/C/TJK/CO/2](#)); and Togo ([CAT/C/TGO/CO/1](#)); Human Rights Committee, general comment No. 28 (2000) on the equality of rights between men and women; concluding observations of the Human Rights Committee on the following periodic reports of States parties under the International Covenant on Civil and Political Rights: Slovakia ([CCPR/CO/78/SVK](#)); Japan ([CCPR/C/79/Add.102](#)); and Peru ([CCPR/CO/70/PER](#)), among others.

<sup>22</sup> Including such crimes against humanity and war crimes as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity, according to articles 7 (1) (g), 8 (2) (b) (xxii) and 8 (2) (e) (vi) of the Rome Statute of the International Criminal Court.

<sup>23</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/HRC/31/57](#)), para. 11.

and suffering experienced by women,<sup>24</sup> and that the purpose and intent requirements for classifying such acts as torture are satisfied when acts or omissions are gender-specific or perpetrated against a person on the basis of sex.<sup>25</sup>

18. Violations of women's sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.<sup>26</sup>

19. The Committee regards gender-based violence against women as being rooted in gender-related factors, such as the ideology of men's entitlement and privilege over women, social norms regarding masculinity, and the need to assert male control or power, enforce gender roles or prevent, discourage or punish what is considered to be unacceptable female behaviour. Those factors also contribute to the explicit or implicit social acceptance of gender-based violence against women, often still considered a private matter, and to the widespread impunity in that regard.

20. Gender-based violence against women occurs in all spaces and spheres of human interaction, whether public or private, including in the contexts of the family, the community, public spaces, the workplace, leisure, politics, sport, health services and educational settings, and the redefinition of public and private through technology-mediated environments,<sup>27</sup> such as contemporary forms of violence occurring online and in other digital environments. In all those settings, gender-based violence against women can result from acts or omissions of State or non-State actors, acting territorially or extraterritorially, including extraterritorial military actions of States, individually or as members of international or intergovernmental organizations or coalitions,<sup>28</sup> or extraterritorial operations of private corporations.<sup>29</sup>

<sup>24</sup> For example, to understand that "severe suffering of the victim is inherent in rape, even when there is no evidence of physical injuries or disease. ... Women victims of rape also experience complex consequences of a psychological and social nature." Inter-American Court of Human Rights, *Fernández Ortega et al. v. Mexico*, judgment of 30 August 2010, para. 124. See also the reports of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/31/57), para. 8, and (A/HRC/7/3), para. 36.

<sup>25</sup> Committee against Torture, communication No. 262/2005, *V.L. v. Switzerland*, views adopted on 20 November 2006; reports of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/31/57), para. 8, and (A/HRC/7/3).

<sup>26</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/31/57); Committee on the Elimination of Discrimination against Women, communication No. 22/2009, *L.C. v. Peru*, views adopted on 17 October 2011, para. 8.18; and Human Rights Committee, communications No. 2324/2013, *Mellet v. Ireland*, views adopted on 31 March 2016, para. 7.4, and No. 2425/2014, *Whelan v. Ireland*, views adopted on 17 March 2017.

<sup>27</sup> See the report of the Secretary-General entitled "In-depth study on all forms of violence against women" (A/61/122/Add.1 and Corr.1).

<sup>28</sup> For example, as part of an international peacekeeping force. See general recommendation No. 30, para. 9.

<sup>29</sup> Concluding observations of the Committee on the periodic reports of Switzerland (CEDAW/C/CHE/CO/4-5) and Germany (CEDAW/C/DEU/CO/7-8).

### **III. State party obligations in relation to gender-based violence against women**

21. Gender-based violence against women constitutes discrimination against women under article 1 and therefore engages all obligations under the Convention. Article 2 provides that the overarching obligation of States parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women. That is an obligation of an immediate nature; delays cannot be justified on any grounds, including economic, cultural or religious grounds. In general recommendation No. 19, it is indicated that, with regard to gender-based violence against women, the obligation comprises two aspects of State responsibility for such violence, that which results from the acts or omissions of both the State party or its actors, on the one hand, and non-State actors, on the other.

#### **A. Responsibility for acts or omissions of State actors**

22. Under the Convention and general international law, a State party is responsible for acts or omissions of its organs and agents that constitute gender-based violence against women,<sup>30</sup> which include the acts or omissions of officials in its executive, legislative and judicial branches. Article 2 (d) of the Convention provides that States parties, and their organs and agents, are to refrain from engaging in any act or practice of direct or indirect discrimination against women and ensure that public authorities and institutions act in conformity with that obligation. Besides ensuring that laws, policies, programmes and procedures do not discriminate against women, in accordance with articles 2 (c) and (g), States parties must have an effective and accessible legal and legal services framework in place to address all forms of gender-based violence against women committed by State agents, whether on their territory or extraterritorially.

23. States parties are responsible for preventing such acts or omissions by their own organs and agents, including through training and the adoption, implementation and monitoring of legal provisions, administrative regulations and codes of conduct, and for investigating, prosecuting and applying appropriate legal or disciplinary sanctions, as well as providing reparation, in all cases of gender-based violence against women, including those constituting international crimes, and in cases of failure, negligence or omission on the part of public authorities.<sup>31</sup> In so doing, the diversity of women and the risks of intersecting forms of discrimination should be taken into consideration.

#### **B. Responsibility for acts or omissions of non-State actors**

24. Under general international law, as well as under international treaties, acts or omissions of a private actor may engage the international responsibility of the State in certain cases, which include the following:

---

<sup>30</sup> See International Law Commission, articles on responsibility of States for internationally wrongful acts, article 4, Conduct of organs of a State. See also Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, article 91.

<sup>31</sup> See footnote 6 above and general recommendation No. 33.

## 1. Acts or omissions by non-State actors attributable to the State

(a) The acts or omissions of private actors empowered by the law of that State to exercise elements of governmental authority, including private bodies providing public services, such as health care or education, or operating places of detention, are considered acts attributable to the State itself,<sup>32</sup> as are the acts or omissions of private agents acting on the instruction or under the direction or control of that State,<sup>33</sup> including when operating abroad;

## 2. Due diligence obligations for acts or omissions of non-State actors

(b) Article 2 (e) of the Convention explicitly provides that States parties are to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.<sup>34</sup> That obligation, frequently referred to as an obligation of due diligence, underpins the Convention as a whole<sup>35</sup> and accordingly States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women,<sup>36</sup> including actions taken by corporations operating extraterritorially. In particular, States parties are required to take the steps necessary to prevent human rights violations perpetrated abroad by corporations over which they may exercise influence,<sup>37</sup> whether through regulatory means or the use of incentives, including economic incentives.<sup>38</sup> Under the obligation of due diligence, States parties must adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors, including having laws, institutions and a system in place to address such violence and ensuring that they function effectively in practice and are supported by all State agents and bodies who diligently enforce the laws.<sup>39</sup> The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women in cases in which its authorities are aware or should be aware of the risk of such violence, or the failure to investigate, to prosecute and punish perpetrators and to provide reparations to victims/survivors of such acts, provides tacit permission or encouragement to perpetrate acts of gender-based violence against women.<sup>40</sup> Such failures or omissions constitute human rights violations.

25. In addition, both international humanitarian law and human rights law have recognized the direct obligations of non-State actors in specific circumstances, including as parties to an armed conflict. Those obligations include the prohibition of torture, which is part of customary international law and has become a peremptory norm (*jus cogens*).<sup>41</sup>

<sup>32</sup> See International Law Commission, articles on responsibility of States for internationally wrongful acts, article 5, Conduct of persons or entities exercising elements of governmental authority.

<sup>33</sup> Ibid., article 8, Conduct directed or controlled by a State.

<sup>34</sup> General recommendation No. 28, para. 36.

<sup>35</sup> Ibid., para. 13.

<sup>36</sup> General recommendation No. 19, para. 9.

<sup>37</sup> See Committee on the Rights of the Child, general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, paras. 43-44, and the Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.

<sup>38</sup> See, for example, Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 39.

<sup>39</sup> *Goekce (deceased) v. Austria*, para. 12.1.2, and *V.K. v. Bulgaria*, para. 9.4.

<sup>40</sup> General recommendation No. 19, para. 9.

<sup>41</sup> General recommendation No. 30.

26. The general obligations described above encompass all areas of State action, including in the legislative, executive and judicial branches and at the federal, national, subnational, local and decentralized levels, as well as action under governmental authority by privatized governmental services. They require the formulation of legal norms, including at the constitutional level, and the design of public policies, programmes, institutional frameworks and monitoring mechanisms aimed at eliminating all forms of gender-based violence against women, whether perpetrated by State or non-State actors. They also require, in accordance with articles 2 (f) and 5 (a) of the Convention, the adoption and implementation of measures to eradicate prejudices, stereotypes and practices that are the root causes of gender-based violence against women. In general terms, and without prejudice to the specific recommendations provided in the following section, the obligations include the following:

*Legislative level*

(a) According to articles 2 (b), (c), (e), (f) and (g) and 5 (a), States are required to adopt legislation prohibiting all forms of gender-based violence against women and girls, harmonizing national law with the Convention. In the legislation, women who are victims/survivors of such violence should be considered to be right holders. It should contain age-sensitive and gender-sensitive provisions and effective legal protection, including sanctions on perpetrators and reparations to victims/survivors. The Convention provides that any existing norms of religious, customary, indigenous and community justice systems are to be harmonized with its standards and that all laws that constitute discrimination against women, including those which cause, promote or justify gender-based violence or perpetuate impunity for such acts, are to be repealed. Such norms may be part of statutory, customary, religious, indigenous or common law, constitutional, civil, family, criminal or administrative law or evidentiary and procedural law, such as provisions based on discriminatory or stereotypical attitudes or practices that allow for gender-based violence against women or mitigate sentences in that context;

*Executive level*

(b) Articles 2 (c), (d) and (f) and 5 (a) provide that States parties are to adopt and adequately provide budgetary resources for diverse institutional measures, in coordination with the relevant State branches. Such measures include the design of focused public policies, the development and implementation of monitoring mechanisms and the establishment and/or funding of competent national tribunals. States parties should provide accessible, affordable and adequate services to protect women from gender-based violence, prevent its reoccurrence and provide or ensure funding for reparations to all victims/survivors.<sup>42</sup> States parties must also eliminate the institutional practices and individual conduct and behaviour of public officials that constitute gender-based violence against women, or tolerate such violence, and that provide a context for lack of a response or for a negligent response. This includes adequate investigation of and sanctions for inefficiency, complicity and negligence by public authorities responsible for the registration, prevention or investigation of such violence or for providing services to victims/survivors. Appropriate measures to modify or eradicate customs and practices that constitute discrimination against women, including those that justify or promote gender-based violence against women, must also be taken at the executive level;<sup>43</sup>

<sup>42</sup> See footnote 5 above and general recommendation No. 33.

<sup>43</sup> See joint general recommendation No. 31/general comment No. 18.

*Judicial level*

(c) According to articles 2 (d) and (f) and 5 (a), all judicial bodies are required to refrain from engaging in any act or practice of discrimination or gender-based violence against women and to strictly apply all criminal law provisions punishing such violence, ensuring that all legal procedures in cases involving allegations of gender-based violence against women are impartial, fair and unaffected by gender stereotypes or the discriminatory interpretation of legal provisions, including international law.<sup>44</sup> The application of preconceived and stereotypical notions of what constitutes gender-based violence against women, what women's responses to such violence should be and the standard of proof required to substantiate its occurrence can affect women's rights to equality before the law, a fair trial and effective remedy, as established in articles 2 and 15 of the Convention.<sup>45</sup>

## IV. Recommendations

27. Building on general recommendation No. 19 and the Committee's work since its adoption, the Committee urges States parties to strengthen the implementation of their obligations in relation to gender-based violence against women, whether within their territory or extraterritorially. The Committee reiterates its call upon States parties to ratify the Optional Protocol to the Convention and examine all remaining reservations to the Convention with a view to their withdrawal.

28. The Committee also recommends that States parties take the following measures in the areas of prevention, protection, prosecution and punishment, redress, data collection and monitoring and international cooperation in order to accelerate elimination of gender-based violence against women. All measures should be implemented with an approach centred around the victim/survivor, acknowledging women as right holders and promoting their agency and autonomy, including the evolving capacity of girls, from childhood to adolescence. In addition, the measures should be designed and implemented with the participation of women, taking into account the particular situation of women affected by intersecting forms of discrimination.

### A. General legislative measures

29. The Committee recommends that States parties implement the following legislative measures:

(a) Ensure that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual or psychological integrity, are criminalized and introduce, without delay, or strengthen, legal sanctions commensurate with the gravity of the offence, as well as civil remedies;<sup>46</sup>

(b) Ensure that all legal systems, including plural legal systems, protect victims/survivors of gender-based violence against women and ensure that they have access to justice and to an effective remedy, in line with the guidance provided in general recommendation No. 33;

<sup>44</sup> *Vertido v. Philippines*, para. 8.9 (b); *R.P.B. v. Philippines*, para. 8.3; and general recommendation No. 33, paras. 18 (e), 26 and 29.

<sup>45</sup> See general recommendation No. 33.

<sup>46</sup> See footnote 5 above.

(c) Repeal, including in customary, religious and indigenous laws, all legal provisions that are discriminatory against women and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence.<sup>47</sup> In particular, repeal the following:

(i) Provisions that allow, tolerate or condone forms of gender-based violence against women, including child<sup>48</sup> or forced marriage and other harmful practices, provisions allowing medical procedures to be performed on women with disabilities without their informed consent and provisions that criminalize abortion,<sup>49</sup> being lesbian, bisexual or transgender, women in prostitution and adultery, or any other criminal provisions that affect women disproportionately, including those resulting in the discriminatory application of the death penalty to women;<sup>50</sup>

(ii) Discriminatory evidentiary rules and procedures, including procedures allowing for the deprivation of women's liberty to protect them from violence, practices focused on "virginity" and legal defences or mitigating factors based on culture, religion or male privilege, such as the defence of so-called "honour", traditional apologies, pardons from the families of victims/survivors or the subsequent marriage of the victim/survivor of sexual assault to the perpetrator, procedures that result in the harshest penalties, including stoning, lashing and death, often being reserved for women and judicial practices that disregard a history of gender-based violence to the detriment of women defendants;<sup>51</sup>

(iii) All laws that prevent or deter women from reporting gender-based violence, such as guardianship laws that deprive women of legal capacity or restrict the ability of women with disabilities to testify in court, the practice of so-called "protective custody", restrictive immigration laws that discourage women, including migrant domestic workers, from reporting such violence, and laws allowing for dual arrests in cases of domestic violence or for the prosecution of women when the perpetrator is acquitted;

(d) Examine gender-neutral laws and policies to ensure that they do not create or perpetuate existing inequalities and repeal or modify them if they do so;<sup>52</sup>

(e) Ensure that sexual assault, including rape, is characterized as a crime against the right to personal security and physical, sexual and psychological integrity<sup>53</sup> and that the definition of sexual crimes, including marital and acquaintance or date rape, is based on the lack of freely given consent and takes into account coercive circumstances.<sup>54</sup> Any time limitations, where they exist, should

<sup>47</sup> Following the guidance provided in general recommendation No. 33.

<sup>48</sup> Article 16 (2) of the Convention; and joint general recommendation No. 31/general comment No. 18, para. 42 and para. 55 (f), regarding the conditions under which marriage at an earlier age than 18 years is allowed, in exceptional circumstances.

<sup>49</sup> See the summary of the inquiry concerning the Philippines (CEDAW/C/OP.8/PHL/1); communication No. 22/2009, *T.P.F. v. Peru*, views adopted on 17 October 2011; and Committee on Economic, Social and Cultural Rights, general comment No. 22.

<sup>50</sup> The Committee recalls General Assembly resolutions 62/149, 63/168, 65/206, 67/176, 69/186 and 71/187, in which the Assembly called upon all States that still maintained the death penalty to establish a moratorium on executions with a view to abolishing it.

<sup>51</sup> See, among others, the concluding observations of the Committee on the following periodic reports of States parties: Afghanistan (CEDAW/C/AFG/CO/1-2); Jordan (CEDAW/C/JOR/CO/6); Papua New Guinea (CEDAW/C/PNG/CO/3); and South Africa (CEDAW/C/ZAF/CO/4); and the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/35/23).

<sup>52</sup> General recommendation No. 28, para. 16.

<sup>53</sup> See *Vertido v. Philippines*.

<sup>54</sup> See *Vertido v. Philippines* and *R.P.B. v. Philippines*.

prioritize the interests of the victims/survivors and give consideration to circumstances hindering their capacity to report the violence suffered to the competent services or authorities.<sup>55</sup>

## B. Prevention

30. The Committee recommends that States parties implement the following preventive measures:

(a) Adopt and implement effective legislative and other appropriate preventive measures to address the underlying causes of gender-based violence against women, including patriarchal attitudes and stereotypes, inequality in the family and the neglect or denial of women's civil, political, economic, social and cultural rights, and to promote the empowerment, agency and voices of women;

(b) Develop and implement effective measures, with the active participation of all relevant stakeholders, such as representatives of women's organizations and of marginalized groups of women and girls, to address and eradicate the stereotypes, prejudices, customs and practices set out in article 5 of the Convention, which condone or promote gender-based violence against women and underpin the structural inequality of women with men. Such measures should include the following:

(i) Integration of content on gender equality into curricula at all levels of education, both public and private, from early childhood onwards and into education programmes with a human rights approach. The content should target stereotyped gender roles and promote the values of gender equality and non-discrimination, including non-violent masculinities, and ensure age-appropriate, evidence-based and scientifically accurate comprehensive sexuality education for girls and boys;

(ii) Awareness-raising programmes that promote an understanding of gender-based violence against women as unacceptable and harmful, provide information about available legal recourses against it and encourage the reporting of such violence and the intervention of bystanders; address the stigma experienced by victims/survivors of such violence; and dismantle the commonly held victim-blaming beliefs under which women are responsible for their own safety and for the violence that they suffer. The programmes should target women and men at all levels of society; education, health, social services and law enforcement personnel and other professionals and agencies, including at the local level, involved in prevention and protection responses; traditional and religious leaders; and perpetrators of any form of gender-based violence, so as to prevent repeat offending;

(c) Develop and implement effective measures to make public spaces safe for and accessible to all women and girls, including by promoting and supporting community-based measures adopted with the participation of women's groups. Measures should include ensuring adequate physical infrastructure, including lighting, in urban and rural settings, in particular in and around schools;

(d) Adopt and implement effective measures to encourage the media to eliminate discrimination against women, including the harmful and stereotypical portrayal of women or specific groups of women, such as women human rights

<sup>55</sup> See *L.R. v. Republic of Moldova* and general recommendation No. 33, para. 51 (b). Consideration should be given, in particular, to the situation of girls who are victims/survivors of sexual violence.

defenders, from their activities, practices and output, including in advertising, online and in other digital environments. Measures should include the following:

- (i) Encouraging the creation or strengthening of self-regulatory mechanisms by media organizations, including online or social media organizations, aimed at the elimination of gender stereotypes relating to women and men, or to specific groups of women, and addressing gender-based violence against women that takes place through their services and platforms;
- (ii) Guidelines for the appropriate coverage by the media of cases of gender-based violence against women;
- (iii) Establishing or strengthening the capacity of national human rights institutions to monitor or consider complaints regarding any media that portray gender-discriminatory images or content that objectify or demean women or promote violent masculinities;<sup>56</sup>

(e) Provide mandatory, recurrent and effective capacity-building, education and training for members of the judiciary, lawyers and law enforcement officers, including forensic medical personnel, legislators and health-care professionals,<sup>57</sup> including in the area of sexual and reproductive health, in particular sexually transmitted infections and HIV prevention and treatment services, and all education, social and welfare personnel, including those working with women in institutions, such as residential care homes, asylum centres and prisons,<sup>58</sup> to equip them to adequately prevent and address gender-based violence against women. Such education and training should promote understanding of the following:

- (i) How gender stereotypes and bias lead to gender-based violence against women and inadequate responses to it;<sup>59</sup>
- (ii) Trauma and its effects, the power dynamics that characterize intimate partner violence and the varying situations of women experiencing diverse forms of gender-based violence, which should include the intersecting forms of discrimination affecting specific groups of women and adequate ways of interacting with women in the context of their work and eliminating factors that lead to their revictimization and weaken their confidence in State institutions and agents;<sup>60</sup>
- (iii) National legal provisions and national institutions on gender-based violence against women, the legal rights of victims/survivors, international standards and associated mechanisms and their responsibilities in that context, which should include due coordination and referrals among diverse bodies and the adequate documentation of such violence, giving due respect for women's privacy and right to confidentiality and with the free and informed consent of the victims/survivors;

(f) Encourage, through the use of incentives and corporate responsibility models and other mechanisms, the engagement of the private sector, including

<sup>56</sup> Concluding observations of the Committee on the combined periodic reports of Croatia (CEDAW/C/HRV/CO/4-5).

<sup>57</sup> See footnote 5 above and the World Health Organization clinical and policy guidelines on responding to intimate partner violence and sexual violence against women (2013).

<sup>58</sup> See *Abramova v. Belarus*; communication No. 53/2013, *A. v. Denmark*, views adopted on 19 November 2015; and General Assembly resolution 65/229 on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

<sup>59</sup> See, among others, *Belousova v. Kazakhstan*, *R.P.B. v. Philippines*, *Jallow v. Bulgaria* and *L.R. v. Republic of Moldova*.

<sup>60</sup> See *M.W. v. Denmark*, *R.P.B. v. Philippines*, *Jallow v. Bulgaria* and *Kell v. Canada*.

businesses and transnational corporations, in efforts to eradicate all forms of gender-based violence against women and in enhancing its responsibility for such violence in the scope of its action,<sup>61</sup> which should entail protocols and procedures addressing all forms of gender-based violence that may occur in the workplace or affect women workers, including effective and accessible internal complaints procedures, the use of which should not exclude recourse to law enforcement authorities, and should also address workplace entitlements for victims/survivors.

## C. Protection

31. The Committee recommends that States parties implement the following protective measures:

(a) Adopt and implement effective measures to protect and assist women complainants of and witnesses to gender-based violence before, during and after legal proceedings, including by:

(i) Protecting their privacy and safety, in line with general recommendation No. 33, including through gender-sensitive court procedures and measures, bearing in mind the due process rights of victims/survivors, witnesses and defendants;

(ii) Providing appropriate and accessible protective mechanisms to prevent further or potential violence, without the precondition that victims/survivors initiate legal action, including through removal of communication barriers for victims with disabilities.<sup>62</sup> Mechanisms should include immediate risk assessment and protection comprising a wide range of effective measures and, where appropriate, the issuance and monitoring of eviction, protection, restraining or emergency barring orders against alleged perpetrators, including adequate sanctions for non-compliance. Protective measures should avoid imposing an undue financial, bureaucratic or personal burden on women who are victims/survivors. The rights or claims of perpetrators or alleged perpetrators during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women's and children's human rights to life and physical, sexual and psychological integrity and guided by the principle of the best interests of the child;<sup>63</sup>

(iii) Ensuring access to financial assistance, gratis or low-cost, high-quality legal aid,<sup>64</sup> medical, psychosocial and counselling services,<sup>65</sup> education, affordable housing, land, childcare, training and employment opportunities for women who are victims/survivors and their family members. Health-care services should be responsive to trauma and include timely and comprehensive mental, sexual and reproductive health services,<sup>66</sup> including emergency

<sup>61</sup> General recommendation No. 28, para. 28. See the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" (A/HRC/17/31).

<sup>62</sup> For example, protective orders in some countries allow for the banning of travel of people who are believed to be at risk of female genital mutilation.

<sup>63</sup> *Yildirim v. Austria*, *Goekce v. Austria*, *González Carreño v. Spain*, *M.W. v. Denmark* and *Jallow v. Bulgaria*.

<sup>64</sup> General recommendation No. 33, para. 37, and general recommendation No. 28, para. 34; see also *Kell v. Canada*, *Vertido v. Philippines*, *S.V.P. v. Bulgaria* and *L.R. v. Republic of Moldova*, among others.

<sup>65</sup> General recommendation No. 33, para. 16.

<sup>66</sup> Committee on Economic, Social and Cultural Rights, general comment No. 22.

contraception and post-exposure prophylaxis against HIV. States should provide specialized women's support services, such as gratis helplines operating around the clock and sufficient numbers of safe and adequately equipped crisis, support and referral centres and adequate shelters for women, their children and other family members, as required;<sup>67</sup>

(iv) Providing women in institutions, including residential care homes, asylum centres and places of deprivation of liberty, with protective and support measures in relation to gender-based violence;<sup>68</sup>

(v) Establishing and implementing appropriate multisectoral referral mechanisms to ensure effective access to comprehensive services for survivors of such violence, ensuring the full participation of and cooperation with non-governmental women's organizations;

(b) Ensure that all legal proceedings, protective and support measures and services concerning victims/survivors respect and strengthen their autonomy. They should be accessible to all women, in particular those affected by intersecting forms of discrimination, take into account any specific needs of their children and other dependants,<sup>69</sup> be available throughout the State party and be provided irrespective of residency status or ability or willingness to cooperate in legal proceedings against the alleged perpetrator.<sup>70</sup> States should also respect the principle of non-refoulement;<sup>71</sup>

(c) Address factors that heighten the risk to women of exposure to serious forms of gender-based violence, such as the ready accessibility and availability of firearms, including their export,<sup>72</sup> a high crime rate and pervasive impunity, which may increase in situations of armed conflict or heightened insecurity.<sup>73</sup> Efforts should be undertaken to control the availability and accessibility of acid and other substances used to attack women;

(d) Develop and disseminate accessible information, through diverse and accessible media and community dialogue, aimed at women, in particular those affected by intersecting forms of discrimination, such as those with disabilities, those who are illiterate or those who have no or limited knowledge of the official languages of a country, on the legal and social resources available to victims/survivors, including reparations.

## D. Prosecution and punishment

32. The Committee recommends that States parties implement the following measures with regard to prosecution and punishment for gender-based violence against women:

<sup>67</sup> See joint general recommendation No. 31/general comment No. 18.

<sup>68</sup> See footnote 54 above.

<sup>69</sup> *R.P.B. v. Philippines*, *Jallow v. Bulgaria* and *V.K. v. Bulgaria*.

<sup>70</sup> General recommendation No. 33, para. 10.

<sup>71</sup> In accordance with the Convention relating to the Status of Refugees, of 1951, and the Convention against Torture. See also general recommendation No. 32 and *A. v. Denmark*.

<sup>72</sup> See article 7 (4) of the Arms Trade Treaty. See also the concluding observations of the Committee on the following periodic reports of States parties: Pakistan (CEDAW/C/PAK/CO/4); to Democratic Republic of the Congo (CEDAW/C/COD/CO/6-7); France (CEDAW/C/FRA/CO/7-8); Switzerland (CEDAW/C/CHE/CO/4-5); and Germany (CEDAW/C/DEU/CO/7-8); and Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 9.

<sup>73</sup> General recommendation No. 30.

(a) Ensure effective access for victims to courts and tribunals and that the authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and, as appropriate, ex officio prosecution to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties.<sup>74</sup> Fees or court charges should not be imposed on victims/survivors;<sup>75</sup>

(b) Ensure that gender-based violence against women is not mandatorily referred to alternative dispute resolution procedures, including mediation and conciliation.<sup>76</sup> The use of those procedures should be strictly regulated and allowed only when a previous evaluation by a specialized team ensures the free and informed consent of victims/survivors and that there are no indicators of further risks to the victims/survivors or their family members. Procedures should empower the victims/survivors and be provided by professionals specially trained to understand and adequately intervene in cases of gender-based violence against women, ensuring adequate protection of the rights of women and children and that interventions are conducted with no stereotyping or revictimization of women. Alternative dispute resolution procedures should not constitute an obstacle to women's access to formal justice.

## **E. Reparations**

33. The Committee recommends that States parties implement the following measures with regard to reparations:

(a) Provide effective reparations to victims/survivors of gender-based violence against women. Reparations should include different measures, such as monetary compensation, the provision of legal, social and health services, including sexual, reproductive and mental health services for a complete recovery, and satisfaction and guarantees of non-repetition, in line with general recommendation No. 28, general recommendation No. 30 and general recommendation No. 33. Such reparations should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered;<sup>77</sup>

(b) Establish specific funds for reparations or include allocations in the budgets of existing funds, including under transitional justice mechanisms, for reparations to victims of gender-based violence against women. States parties should implement administrative reparations schemes without prejudice to the rights of victims/survivors to seek judicial remedies, design transformative reparations programmes that help to address the underlying discrimination or disadvantaged position that caused or significantly contributed to the violation, taking into account the individual, institutional and structural aspects. Priority should be given to the agency, wishes, decisions, safety, dignity and integrity of victims/survivors.

## **F. Coordination, monitoring and data collection**

34. The Committee recommends that States parties implement the following measures with regard to coordination and monitoring and the collection of data regarding gender-based violence against women:

<sup>74</sup> See, among others, *Vertido v. Philippines*, *S. V. P. v. Bulgaria* and *L.R. v. Republic of Moldova*.

<sup>75</sup> General recommendation No. 33, para. 17 (a).

<sup>76</sup> As indicated in general recommendation No. 33, para. 58 (c).

<sup>77</sup> See footnote 5 above and general recommendation No. 33, para. 19.

(a) Develop and evaluate all legislation, policies and programmes in consultation with civil society organizations, in particular women's organizations, including those that represent women affected by intersecting forms of discrimination. States parties should encourage cooperation among all levels and branches of the justice system and the organizations that work to protect and support victims/survivors of gender-based violence against women, taking into account their views and expertise.<sup>78</sup> States parties should encourage the work of human rights organizations and women's non-governmental organizations;<sup>79</sup>

(b) Establish a system to regularly collect, analyse and publish statistical data on the number of complaints about all forms of gender-based violence against women, including technology-mediated violence, the number and type of orders of protection issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction and the amount of time taken for the disposal of cases. The system should include information on the sentences imposed on perpetrators and the reparations, including compensation, provided to victims/survivors. All data should be disaggregated by type of violence, relationship between the victim/survivor and the perpetrator, and in relation to intersecting forms of discrimination against women and other relevant sociodemographic characteristics, including the age of the victim/survivor. The analysis of the data should enable the identification of failures in protection and serve to improve and further develop preventive measures, which should, if necessary, include the establishment or designation of observatories for the collection of administrative data on the gender-based killings of women, also referred to as "femicide" or "feminicide", and attempted killings of women;

(c) Undertake or support surveys, research programmes and studies on gender-based violence against women in order to, among other things, assess the prevalence of gender-based violence against women and the social or cultural beliefs exacerbating such violence and shaping gender relations. Studies and surveys should take into account intersecting forms of discrimination, on the basis of the principle of self-identification;

(d) Ensure that the process of collecting and maintaining data on gender-based violence against women complies with established international standards<sup>80</sup> and safeguards, including legislation on data protection. The collection and use of data and statistics should conform to internationally accepted norms for the protection of human rights and fundamental freedoms and ethical principles;

(e) Set up a mechanism or body, or mandate an existing mechanism or body, to regularly coordinate, monitor and assess the national, regional and local implementation and effectiveness of the measures, including those recommended in the present recommendation and other relevant regional and international standards and guidelines, to prevent and eliminate all forms of gender-based violence against women;

(f) Allocate appropriate human and financial resources at the national, regional and local levels to effectively implement laws and policies for the prevention of all forms of gender-based violence against women, provision of protection and support to victims/survivors, investigation of cases, prosecution of perpetrators and provision of reparations to victims/survivors, including support to women's organizations.

<sup>78</sup> *Yildirim v. Austria* and *Goekce (deceased) v. Austria*.

<sup>79</sup> General recommendation No. 28, para. 36.

<sup>80</sup> General Assembly resolution 68/261 on the Fundamental Principles of Official Statistics.

## G. International cooperation

35. The Committee recommends that States parties implement the following measures with regard to international cooperation to combat gender-based violence against women:

(a) Seek support, where necessary, from external sources, such as the specialized agencies of the United Nations system, the international community and civil society, in order to meet human rights obligations by designing and implementing all appropriate measures required to eliminate and respond to gender-based violence against women,<sup>81</sup> taking into consideration, in particular, the evolving global contexts and the increasingly transnational nature of such violence, including in technology-mediated settings and other extraterritorial operations of domestic non-State actors.<sup>82</sup> States parties should urge business actors whose conduct they are in a position to influence to assist the States in which they operate in their efforts to fully realize women's right to freedom from violence;

(b) Prioritize the implementation of the relevant Sustainable Development Goals, in particular Goals 5, to achieve gender equality and empowerment of all women and girls, and Goal 16, to promote peaceful and inclusive societies for sustainable development, provide access to justice and build effective, accountable and inclusive institutions at all levels; and support national plans to implement all the Goals in a gender-responsive manner, in accordance with the agreed conclusions of the sixtieth session of the Commission on the Status of Women on women's empowerment and the link to sustainable development, enabling meaningful participation of civil society and women's organizations in the implementation of the Goals and the follow-up processes, and enhance international support and cooperation for knowledge-sharing and effective and targeted capacity-building.<sup>83</sup>

---

<sup>81</sup> General recommendation No. 28, para. 29, and general recommendation No. 33, paras. 38 and 39.

<sup>82</sup> General recommendation No. 34, para. 13.

<sup>83</sup> General Assembly resolution 70/1, entitled "Transforming our world: the 2030 Agenda for Sustainable Development".