



# GIRLS' RIGHTS ARE HUMAN RIGHTS

An in-depth study of the status of girls in the international human rights framework

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# ACRONYMS

<b>ACRWC</b>	African Charter on the Rights and Welfare of the Child
<b>AG</b>	African Group
<b>BDPA</b>	Beijing Declaration and Platform for Action
<b>CAAC</b>	Children and armed conflict
<b>CAT</b>	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment
<b>CAT Committee</b>	Committee against Torture
<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination against Women
<b>CEDAW Committee</b>	Committee on the Elimination of Discrimination against Women
<b>CEFM</b>	Child, early and forced marriage
<b>CERD</b>	Convention on the Elimination of All Forms of Racial Discrimination
<b>CESCR Committee</b>	Committee on Economic, Social and Cultural Rights
<b>CHR</b>	Commission for Human Rights
<b>CPD</b>	Commission on Population and Development
<b>CRC</b>	Convention on the Rights of the Child
<b>CRC Committee</b>	Committee on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CRPD Committee</b>	Committee on the Rights of Persons with Disabilities
<b>CSW</b>	Commission on the Status of Women
<b>DAW</b>	Discrimination against women
<b>DDR</b>	Demobilisation, disarmament, and reintegration
<b>DDRRR</b>	Demobilisation, disarmament, rehabilitation, recovery and reintegration
<b>ExCom</b>	Executive Committee of the High Commissioner's Programme
<b>FGM/C</b>	Female genital mutilation/cutting
<b>FWCW</b>	Fourth World Conference on Women
<b>GBV</b>	Gender-based violence
<b>GC</b>	General Comment
<b>GR</b>	General Recommendation
<b>HRC</b>	Human Rights Council
<b>HRTB</b>	Human Rights Treaty Bodies
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICED</b>	International Convention for the Protection of All Persons from Enforced Disappearances
<b>ICESCR</b>	International Covenant on Social, Economic and Cultural Rights
<b>ICMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>ICPD</b>	International Conference on Population and Development

<b>ICT</b>	Information and communication technology
<b>IDP</b>	Internally displaced person
<b>IE</b>	Independent Expert
<b>ILO</b>	International Labour Organization
<b>LAC States</b>	Latin American and Caribbean States
<b>LLDT</b>	Learn, Lead, Decide, and Thrive
<b>MDGs</b>	Millennium Development Goals
<b>OAS</b>	Organization of American States
<b>OHCHR</b>	United Nations Office of the High Commissioner for Human Rights
<b>OP</b>	Operational paragraph
<b>PoA</b>	Program of Action
<b>PP</b>	Preambular paragraph
<b>SAARC</b>	South Asian Association for Regional Cooperation
<b>SDGs</b>	Sustainable Development Goals
<b>SG</b>	Secretary-General
<b>SP</b>	Special Procedures
<b>SR</b>	Special Rapporteur
<b>SRH</b>	Sexual and reproductive health
<b>SRHR</b>	Sexual and reproductive health and rights
<b>SRSO</b>	Special Representative of the Secretary-General
<b>STEM education</b>	Science, technology, engineering and mathematics education
<b>TVET</b>	Technical, vocational and tertiary education and training
<b>UDHR</b>	Universal Declaration on Human Rights
<b>UN</b>	United Nations
<b>UNGA</b>	United Nations General Assembly
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNIFEM</b>	United Nations Development Fund for Women
<b>UNSC</b>	United Nations Security Council
<b>URG</b>	Universal Rights Group
<b>VAC</b>	Violence against children
<b>VAW</b>	Violence against women
<b>VAWG</b>	Violence against women and girls
<b>VDPA</b>	Vienna Declaration and Programme of Action
<b>WASH</b>	Water and Sanitation for Health
<b>WG</b>	Working Group
<b>WHO</b>	World Health Organization
<b>WPS</b>	Women, Peace and Security

# INTRODUCTION

Girls continue to be the largest excluded group in the world. They face discrimination and abuse simply for being young and female, and additional circumstances and contexts can increase their marginalisation. Violence against girls can occur at birth, or even before. Gender discriminatory practices, such as early marriage and female genital mutilation, further impede girls' development. Adolescent girls are often taken from school before completing secondary level, because sons are seen as a better investment in the family's future. Gendered stereotypes around domestic work also lead to girls being removed from school in order to contribute to household and agricultural chores. Girls who stay in school often face poor conditions, gender-insensitive environments, and gender bias in school materials. However, girls deserve the full protection of their governments, and support from their families and communities. When a girl can grow up safe, happy, and healthy with full enjoyment of her equal rights, she can grow up to reach her full potential.

That is why Plan International is rallying those in power, civil society organisations, and young activists—especially girls—to join the movement for girls' rights. Our new 5-year Global Strategy, launched in 2017, is designed to deliver significant change for girls and boys, with a special emphasis on gender equality. We continue to work to transform the lives of vulnerable girls and boys, but recognise that girls are disproportionately disadvantaged compared to boys, whether in education, health, work or family life. By challenging the root causes of inequalities, we aim to achieve large-scale changes as gender equality will secure a better world for all children. So, we are scaling up our global efforts to achieve equality for girls, with a bold new ambition to work with 100 million girls so that they can learn, lead, decide, and thrive—including in humanitarian settings.

- **Learn:** Vulnerable and excluded children, particularly girls, have the education and skills they need to succeed in life and make a decent living.
- **Lead:** Vulnerable and excluded children, particularly girls, have the power to take action on issues that matter to them and shape the decisions that affect their lives.
- **Decide:** Vulnerable and excluded children, particularly girls, have control over their lives and bodies, and make informed choice about identity and relationships, and if/when to have children.
- **Thrive:** Vulnerable and excluded children, particularly girls, grow up equally valued and cared for, free from discrimination, fear, or violence.

As this report explores, the international community has repeatedly promised to make gender equality a reality. Yet, at current rates of change, it will take decades for girls and boys to be treated as equals. It will take more efforts to realise girls' rights—but claiming girls' rights, starts with understanding girls' rights. Through reviewing over 1,300 international policy documents and identifying existing references to girls and their rights in the international human rights framework, this study considers whether the international community and its instruments adequately addresses girls' lived realities, and makes recommendations to strengthen and advance girls' rights.

This report is part of a broader campaign to highlight girls' plights and strengthen girls' rights. Our online '[Girls' Rights Platform](#)' hosts a number of different tools, including an interactive, searchable human rights database of all documents reviewed for this study to facilitate access to agreed language and influence future drafting of international texts in the hopes that it will better reflect girls' needs, vulnerabilities, and capabilities.

# EXECUTIVE SUMMARY

Girls' rights are human rights. Yet, millions of girls continue to struggle to claim their rights. Girls are disproportionately disadvantaged in education, health, work and family life – particularly in the world's poorest countries. When factors like poverty, ethnicity or disability intersect and where gender stereotyping and unequal power relations prevail, girls' disadvantage is magnified. However, girls deserve the full protection of their governments, and support from their families and communities. When a girl can grow up safe, happy, and healthy with full enjoyment of her rights, she can grow up to reach her full potential.

**'Girl' in our report refers to all girls – from birth until they reach the age of 18.**

Thankfully, the international community has repeatedly promised to make gender equality a reality. It has recognised that the human rights of girls are an “inalienable, integral and indivisible part of universal human rights” – a major breakthrough incorporated in the 1993 Vienna Declaration and Programme of Action and further explored in ICPD's Programme of Action and the Beijing Declaration and Platform for Action. However, in the last decade, progress has stagnated and specific focus on the girl child has shifted away. Gender- and age-neutral approaches have dominated the international agenda due to competing children's and women's rights discourses.

At current rates of change, it will take many more decades for girls and boys to be treated as equals. It will take more efforts to realise girls' rights—but claiming girls' rights, starts with understanding girls' rights. Our 'Girls' Rights are Human Rights' report considers whether the international community adequately addresses girls' lived realities in international instruments and makes recommendations to strengthen and advance girls' rights. It is an in-depth study into the status of girls in international law, reviewing and analysing existing references to girls and their rights in over 1,300 international policy documents – covering a total period of 87 years from 1930 to 2017. It is part of a broader campaign to highlight girls' plights and strengthen girls' rights.

## Summary of findings

### *Legally binding laws and treaties*

While international law safeguards the rights of all human beings – including girls – only few provisions in human rights treaties mention or attribute rights to girls specifically. Girls theoretically do enjoy further protection on the basis of their gender and status as minors by the mutually reinforcing women's and children's rights conventions. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC), together with their Optional Protocols, therefore constitute an important framework for the protection and promotion of the human rights of the girl child, yet lack specificity and focus on intersectionality – rendering the girl child effectively invisible.

**Intersectionality refers to the complex and cumulative way that the effects of different forms of discrimination (for example on the basis of age, gender, race, and others) combine, overlap, and intersect.**

Although the CRC was designed to be gender-neutral, scholars have argued that the interpretation given to the CRC is biased and predominantly in favour of boys, while disregarding girls' rights. For example, violations that primarily affect boys (i.e. child soldiers) are covered under Article 38 while the same consideration is not

given to violations predominantly affecting girls, such as child marriage.<sup>1</sup> Although CEDAW theoretically applies to all women, girls seldom feature within it as rights-bearing individuals: it only refers to girls once in the context of education and female student drop-out rates (Art. 10 (f)). What are supposed to be the core conventions for the protection of girls in international law are therefore less effective than hoped.

When girls are specifically acknowledged in international law, it is predominantly in the context of violence, education and discrimination. Regional conventions widen the contexts in which girls are recognised and include additional references to property rights, employment, health care, sexual and reproductive health, and more. Core international conventions, however, frequently fail to differentiate between age and gender. Girls often become invisible; their rights, and the particular challenges they face, concealed under the ageless category of ‘women’, or the gender-neutral category of ‘children’, ‘adolescents’, or ‘youth’.<sup>2</sup>

### **International soft law**

Analysis of international soft law focusing on women’s rights reveals a lack of age-specific language and a failure to adequately address the specific situations faced by girls due to their intersecting identities. In documents that mention girls, references are often merely an add-on to the term ‘women’.

Some General Comments/General Recommendations state that all references to ‘women’ generally include girls for the purpose of the text. Even where headings and phrases read ‘women and girls’, the content that follow almost exclusively refers to women, and make little reference to linkages between women’s and girls’ status. What is more, the elimination of gender discrimination against girls is oftentimes considered the ‘first step’ towards the realisation of her full potential as a woman.

**The politics involved in drafting, negotiating, and adopting international standards is the main reason that the international framework lacks consistency to successfully address issues faced by girls.**

The politics involved in drafting, negotiating, and adopting international standards has also meant that the international framework lacks consistency in successfully addressing issues faced by girls. While certain girls’ rights are consistently acknowledged over a period of time in different documents,

other rights are repeated only occasionally. For example, a girls’ explicit right to decide over her own body and whom to marry, own property, and/or inherit, is not consistently recognised throughout international law as compared to her right to education and to be free from violence. Girls’ reproductive and sexual rights are especially highly sensitive issues, and therefore controversial and political, as compared to girls’ right to education. However, not consistently using progressive already agreed language—and therefore opening up negotiations to bargaining tactics—results in the rollback of girls’ rights.

### **Reservations in international law**

An analysis of the reservations to CEDAW, CRC, the Sustainable Development Goals (SDGs), ICPD Programme of Action, and the Beijing Declaration and Platform of Action reveals a significant overlap in reservations made by States, allowing them to waive their obligations under certain provisions of their choice. The vast majority of reservations are made to articles that focus on sexual and reproductive health and rights. This is followed closely by related areas such as equality in marriage and the family, amongst others. As a result of the gender-neutral approach taken in the CRC, reservations to the convention centre largely on

<sup>1</sup> For an in-depth discussion of this issue, see L. Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriage*, ILSA Journal of International and Comparative Law Vol. 5 No. 123 (1998), p. 137.

<sup>2</sup> Plan International UK, *The State of Girls’ Rights in the UK* (2016), p. 146.



freedom of thought, conscience and religion and adoption. Across all documents types, States predominantly cite national policy and legislation and cultural and religious reasons as justifications for their reservations.

While CEDAW has been ratified by 189 States, it is the human rights convention with the largest number of reservations with 48 reserving States.<sup>3</sup> The vast majority of reservations are to Article 2 on measures to eliminate discrimination against women, and Article 16, which sets out that women and girls have the same rights as men and boys in family life and marriage and stipulates that child marriage has no legal effect. The vast majority of reservations, though not all, are made by Muslim States citing Sharia. They demonstrate States' unwillingness to tackle discrimination, and reluctance to priorities girls' rights over essentialist views of culture and religion.

Similarly, the vast majority of reservations to the SDGs, ICPD and Beijing are related to SRHR. For the most part, States with reservations to the SDGs tend to have reservations on abortion, 'gender', 'the family' and comprehensive sexuality education – demonstrating a generally conservative stance to girls' rights. Cultural and religious reason are often cited as justifications for reserving, as well as traditional views of the family unit and parental rights and responsibilities. Some regional trends can also be observed. For instance, many Latin American and Caribbean States making reservations to the SDGs on abortion and reserving on 'the family' in statements to the ICPD.

In regards to the CRC, 40 of the 196 States party to the convention have made reservations. While the lack of a gender lens makes it difficult to ascertain which reservations are motivated by gender discriminatory attitudes

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<sup>3</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&clang=en) [Accessed 29 September 2017].

and practices, some observations were made in regards to the provisions with the highest number of reservations. Article 14 on freedom of thought, conscience and religion has 15 reservations. As UN Special Rapporteur Bielefeldt has suggested, this trend may be attributed to the fact that if girls can exercise their right to freedom of thought, conscience and religion, they can be empowered to question discriminatory or patriarchal norms that exist in different religions and beliefs. Eight States also have reservations related to adoption or alternative care, the majority of which are Muslim countries. Article 21 of the CRC is an effort to prevent unethical adoption practices, which often target vulnerable mothers, including poor, indigenous, and/or rural women and girls.

## Recommendations

Despite milestone agreements and promises to tackle gender equality, millions of girls worldwide still cannot claim their rights as set out in international law. The current interpretation and application of international human rights instruments is simply not enough to protect the girl child from discrimination and marginalisation, or help her flourish.

Empowering the girl child, therefore, requires a more holistic and bold approach, as well as complimentary action between the children's rights and women's rights agendas. To this end, Plan International has suggested a number of recommendations in the final chapter of this report. However, it would particularly like to highlight the following that it considers key to ensuring that girls' lived realities are acknowledged in international law:

**The current interpretation and application of international human rights instruments is simply not enough to protect the girl child from marginalization, or to help her thrive.**

- **First and foremost, States should accept and promote the girls' rights discourse by differentiating girls' human rights from women's or children's rights.** They should refrain from adopting age- or gender-neutral approaches and adopt policies and legislation targeting girls and their particular marginalisation and discrimination. They should better articulate girls' specific needs when developing new international norms, and consider the girl child's intersecting identities and cultural context, as it often results in intersectional marginalisation.
- **Second, States should appoint a Special Rapporteur on the Rights of the Girl Child.** The appointment of a Special Rapporteur for the girl child would bring girls from the margins to the centre of the international agenda. A Special Rapporteur could identify how the intersection between gender and age impacts girls, and raise awareness on the topic. The expert could harmonise international commitments to better reflect girls' realities, while also strengthening the interpretation and application of international law for the benefit of girls.
- **Third, the CEDAW and CRC Committees should develop a joint General Comment/Recommendation that clearly outlines the human rights of girls.** Bearing in mind the multiple discrimination faced by girls, the two Committees should increase their direct interaction with one another to ensure that both mechanisms more specifically and adequately address the girl child. The Committees should also develop a joint General Comment/Recommendation to specify the human rights of girls and ways to address them through the interpretation of CEDAW and CRC obligations, in order to fill the current lacuna in international law.
- **Fourth, States should stop politicising issues relating to the girl child** and consistently use the strongest, most progressive (those most favourable to the advancement of girls' rights) agreed language available.
- **Fifth, States should listen to girls to better reflect girls' realities in international norms.** The international community must start from the position that girls understand best what is happening in their own lives and enable meaningful participation of girls.

# RESEARCH SCOPE AND METHODOLOGY

In order to identify girls' specific rights and determine how and in which contexts girls' rights are being addressed in international law, Plan International reviewed 1,300 documents from a variety of sources of international law—including legally binding and non-binding instruments, international and regional conventions, as well as negotiated and non-negotiated international soft law—covering a total period of 87 years from 1930 to 2017.<sup>4</sup> Mapping the full text of documents in a database enabled us to navigate the magnitude of information, and to extract any information of interest. For the purposes of conducting this research, we searched for any references to 'girl', their 'rights', 'vulnerabilities' and 'needs'. We developed accompanying key words that widen the search to recognise UN language—for example, we included in our search to identify girls' rights 'equal access to'.

In selecting documents for review, we prioritised legally binding international and regional human rights treaties, and complemented them with a broad selection of gender- and child-focused international soft law sources. Aside from focusing on the key issues surrounding the girl child, we included documents that relate to Plan International's Learn, Lead, Decide, and Thrive priority areas in order to unpack the civil and political, as well as economic, social, and cultural rights situation of girls. Finally, to account for girls' intersectional marginalisation, we included texts that touch upon groups of people that are perceived as needing particular attention, for example indigenous peoples, migrants and refugees—which naturally include girls. For an overview of the types of documents reviewed and some of their thematic examples, please see the table below.

**Table 1: Overview of type of reviewed documents**

LEGALLY BINDING DOCUMENTS		
Type of document	# documents	Examples of documents reviewed <sup>5</sup>
International Conventions	22	CRC, CEDAW, UDHR, ICCPR, ICESCR, CRPD, CAT, CERD, ICED, Geneva Conventions, Rome Statute, ATT, etc.
Regional Conventions	23	Istanbul Convention, ACRWC, Convention of Belem do Para, SAARC Convention Preventing and Combating Trafficking in Women and Children for Prostitution, etc.
UN Security Council Resolutions	27	'Women, Peace and Security', 'Children in Armed Conflict', 'Sexual Violence in Armed Conflict', 'Protection of Civilians'

<sup>4</sup> Documents published until April 2017 have been considered for the purpose of this report.

<sup>5</sup> For a full list of documents reviewed, please refer to Annex I.

ILO Fundamental Conventions	7	Forced Labour Convention, Equal Remuneration Convention, Discrimination Convention, etc.
<b>Total legally binding documents reviewed: 79</b>		

### INTERNATIONAL SOFT LAW (NON-BINDING): NEGOTIATED DOCUMENTS

General Assembly Resolutions	280	'The Girl Child', 'The Rights of the Child', 'Human Rights and Extreme Poverty', etc.
Human Rights Council Resolutions	256	'The Right to Education', 'Elimination of Discrimination against Women', 'Youth and Human Rights', etc.
CSW Agreed Conclusions	33	The Girl Child, Human Rights of Women, Women and the Economy, Women and Health, etc.
CSW Resolutions	72	'Forced Marriage of the Girl Child', 'Women's Economic Empowerment', 'Ending Female Genital Mutilation', etc.
International Agreements and Declarations	16	Political Declaration on HIV/AIDS, Vienna Declaration on Crime and Justice, SDGs, etc.
ExCom Conclusions	113	Refugee Children, Refugee Women, Refugee Protection and Sexual Violence, Internally Displaced Persons, etc.
Commission on Population and Development Resolutions	5	'Adolescents and Youth', 'Fertility, Reproductive Health and Development', etc.

### INTERNATIONAL SOFT LAW (NON-BINDING): NON-NEGOTIATED DOCUMENTS

General Comments/Recommendations	155	CESCR's GC on Right to Sexual and Reproductive Health, CRPD's GC on Women and Girls with Disabilities, etc.
Special Procedures Reports	297	UNSR on Freedom of Opinion and Expression, UNSR on Human Rights to Water and Sanitation, Independent Expert on Albinism, etc.

**Total international soft law documents reviewed: 1,227**

**GRAND TOTAL OF DOCUMENTS REVIEWED: 1,306**

Jurisprudence and conventions or resolutions that exceeded the scope of our research, or that were simply not relevant for the focus of our research (e.g. review of UN Special Rapporteur reports on use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination), were not considered. Additionally, for the purposes of this report, we did not consider international standards not currently in effect, and therefore have excluded for example the Geneva Declaration on the Rights of the Child and the resolutions of the Commission on Human Rights from further examination. However, we did consider a number of

secondary sources to support and strengthen our interpretation of the international legal framework, including reviewing journal articles and UN agency reports. We acknowledge that further research unpacking the needs, vulnerability, and capacity of girls, as well as a review of international jurisprudence, could further advance the girls' rights discourse.

On a final note, as this study's purpose was to highlight instances where girls were mentioned in international law, it may inadvertently portray a prominence of girls' rights. However, in reality, the girl child's presence in international law overall is slim. Out of 71,023 paragraphs, only 5,638—meaning 7.9%—explicitly mention the terms 'girl' and 'female child'. In contrast, 'women' and 'woman' were mentioned in 15,554 paragraphs (21.9%), and 'child' 15,648 times (22%).

# CHAPTER ONE

## GIRLS' RIGHTS IN LEGALLY BINDING INTERNATIONAL INSTRUMENTS

### a. International human rights treaties

International human rights law safeguards the rights of *all human beings*, including girls. Girls do enjoy further protection on the basis of their sex and status as minors by the mutually reinforcing women's and children's rights conventions. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), together with their Optional Protocols, therefore constitute an important contribution to the legal framework for the specific protection and promotion of the human rights of the girl child.

**The Convention on the Rights of the Child does not explicitly mention girls.**

The nearly universally ratified Convention on the Rights of the Child, however, does not explicitly mention girls, but guarantees the rights of all children without discrimination in any form.<sup>6</sup> It obliges States parties to ensure that each child—boy or girl—within their jurisdiction has all the rights recognised by the Convention. However, its failure to account for the intersecting identity of girls results in not adequately protecting and promoting the rights of girls.<sup>7</sup> While the CRC was designed to be gender neutral, scholars have argued that the interpretation given to the CRC is biased and predominantly in favour of boys, while disregarding girls' rights. For example, violations that primarily affect boys (i.e. child soldiers) are covered under Article 38 while the same consideration is not given to violations predominantly affecting girls, such as child marriage.<sup>8</sup> It also has been noted that during the drafting process, harmful traditional practices, such as son preference and female

infanticide, were not discussed.<sup>9</sup> Additionally, while the need to guarantee the equal rights of girls was strongly emphasised during the first draft, the finally adopted version of the Convention does not.<sup>10</sup> This oversight regarding inclusion of rights particular to girls, signifies a lack of familiarity, appreciation and sensitivity to the

<sup>6</sup> While the CRC does not mention girls in its text, Article 2 obliges States Parties to respect the rights of each child, irrespective of age or sex (among others). The Committee on the Rights of the Child that monitors the implementation of the Convention by State Parties does consider the issue of discrimination against girls more specifically in its Concluding Observations. In its reporting guidelines, the Committee asks States Parties for information on measures to combat gender-based discrimination (CRC/C/58/Rev.3, para. 24). The Committee's General Comments also touch upon girls' specific needs, and are analysed later in this report.

<sup>7</sup> L. Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriage*, ILSA Journal of International and Comparative Law Vol. 5 No. 123 (1998), p. 124.

<sup>8</sup> For an in-depth discussion of this issue, see L. Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriage*, ILSA Journal of International and Comparative Law Vol. 5 No. 123 (1998), p. 137.

<sup>9</sup> See N. Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, International Journal of Children's Rights 17 (2009), p. 357. However, it has to be noted that the CRC and CEDAW Committees have jointly developed a General Comment/Recommendation on Harmful Practices—which is discussed later in this report.

<sup>10</sup> See Office of the High Commissioner for Human Rights, *Legislative History of the Rights of the Child Vol. I & II* (2007).



wide spectrum of human rights violations suffered by girls.<sup>11</sup> Scholars have also argued that the CRC's 'best interest of the child' principle is highly prone to gender bias. One of the key concerns for girls is that the best interest principle can cloak prejudicial attitudes within public institutions and other decision-making bodies.<sup>12</sup> Because of its subjective nature, sexist attitudes may inform the concept of 'best interest' and endangers girls' full exercise of the rights contained in the CRC. What is supposed to be a core protection for children, is therefore less effective for girls than hoped.

The Convention on the Elimination of All Forms of Discrimination Against Women—often referred to the 'International Bill of Rights for Women'—ensures the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights. Although CEDAW theoretically applies to all women, girls seldom feature within it as rights-bearing individuals: it only refers to girls once in the context of education and female student drop-out rates (Art. 10 (f)). It additionally provides that child marriage shall have no legal effect (Article 16 (2)), though girls as a category remain largely invisible.<sup>13</sup> Meanwhile—as will be further explored later on—CEDAW has the highest rate of reservations than any other human rights treaty, many of them relating to core Articles 2 and 16. This weakens its essential human rights guarantees and places girls at greater risk of marginalisation.<sup>14</sup>

Scholars have also observed that CEDAW provisions that refer to parent-child relations echo a framework of owner-property. For example, Article 9 of the Convention which is aimed at protecting women's right to nationality states that: "*States Parties shall grant women equal rights with men with respect to the nationality*

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<sup>11</sup> L. Askari, *Girls' Rights Under International Law: An Argument for Establishing Gender Equality as Jus Cogens*, Southern California Review of Law and Women's Studies Vol. 8 No. 3 (1998), p. 4.

<sup>12</sup> N. Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, International Journal of Children's Rights 17 (2009), p. 357-8.

<sup>13</sup> *Id.*, p. 355.

<sup>14</sup> L. Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriage*, ILSA Journal of International and Comparative Law Vol. 5 No. 123 (1998), p. 134.

of their children” (Article 9 (2)). In a similar vein, Article 5 asserts the common responsibility of men and women in the upbringing and development of ‘their children’. Likewise, Article 16 deals with the right of women to achieve equality in matters relating to marriage and family relations including matters relating to ‘their children’ such as “*the same rights and responsibilities with regard to guardianship, wardship, trusteeship, and adoption of children*”. They argue that this ideology deepens the divisions between girls and adult women, and compromises the purpose of ensuring that girls are elevated to the status of equal rights-holders.<sup>15</sup>

Apart from these two key conventions for the girl child, Article 6 (1) of the Convention on the Rights of Persons with Disabilities (CRPD) recognises that women and girls with disabilities are at greater risk of violence (preamble) and are subject to multiple forms of discrimination.<sup>16</sup> Furthermore, the Optional Protocols of the CRC recognise the additional vulnerability owing to a child’s gender. Other than these explicit references to girls, core international conventions often do not differentiate between age or sex, and tend to refer to children more generally, if at all. For example, the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICMW) refers only to ‘each child’ or ‘every child’, and does not explicitly mention ‘girls’. The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides protection to young persons from economic and social exploitation, while the Fourth Geneva Convention includes measures relating to child welfare, birth registration, education, recreation, and more. The other Geneva Conventions (I-III), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT), and the Convention on the Elimination of All Forms of Racial Discrimination (CERD) do not refer to girls or children at all.

Somewhat more surprisingly though, the Arms Trade Treaty (ATT) and Rome Statute each include references to gender-based violence. Recognising the pandemic nature of gender-based violence affecting 35% of women worldwide,<sup>17</sup> Article 42 (9) of the Rome Statute calls for the prosecutor to “*appoint special advisers with legal expertise on specific issues, including, but not limited to, sexual and gender violence and violence against children*”. ATT’s Article 7 (4) on the export of arms specifically calls upon States to take into consideration the risk of conventional arms “*being used to commit or facilitate serious acts of gender- based violence or serious acts of violence against women and children*”.

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<sup>15</sup> See N. Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, International Journal of Children’s Rights 17 (2009), p. 356.

<sup>16</sup> General Comment No. 3 of the CRPD Committee on ‘Women and Girls with Disabilities’ interestingly notes that this article of the Convention explicitly mentioning ‘girls’ “*worked hard for its inclusion in the treaty text.*” The General Comment further notes that Article 6 is of great importance as it “*serves as an interpretation tool to approach the responsibilities of States parties across the Convention, to promote, protect and fulfil the human rights of women and girls with disabilities.*” CRPD Committee, General Comment No. 3 (CRPD/C/GC/3), para. 7.

<sup>17</sup> See World Health Organization, *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence* (2013), p. 2.

Table 2: Overview of types of references to girls in international conventions

INTERNATIONAL HUMAN RIGHTS TREATIES <sup>18</sup>						
Legal instrument	Year	Girls	Women & girls	Boys & girls	Children	Gender
UDHR	1948				✓	
Geneva Convention I	1949					
Geneva Convention II	1949					
Geneva Convention III	1949					
Geneva Convention IV	1949				✓	
Refugee Convention	1951					
Convention on the Reduction of Statelessness	1961				✓	
CERD	1965					
ICCPR	1966				✓	
ICESCR	1966				✓	
CEDAW	1979		✓		✓	
Hague Convention on the Civil Aspects of International Child Abduction	1980				✓	
CAT	1984					
ICCPR-OPII	1989					
CRC	1989				✓	
ICMW	1990				✓	
Rome Statute	1998				✓	✓
CRC OP-AC	2000				✓	✓
CRC OP-SC	2000	✓			✓	✓
ICED	2006				✓	
CRPD	2006		✓		✓	
Arms Trade Treaty	2013				✓	✓

<sup>18</sup> For an overview listing all references to 'girls', 'women and girls', 'boys and girls', 'children', and 'gender' in international conventions, please refer to Annex II.

## b. Regional human rights treaties

In general, regional conventions include few more references to girls as compared to international conventions, however, they do widen the context in which girls are referenced. Apart from education and violence, girls are also mentioned in the context of property rights, employment, political participation, (sexual and reproductive) health, and more. The African Youth Charter in particular, makes many references to girls and young women, most often in the context of education and employment, but also regarding property rights, leisure, health services and participation, etc. The African Charter on Democracy, Elections, and Governance further discusses gender parity in representation at all levels (Art. 29 (3), but also urges States to provide free and compulsory education to all, especially girls (Art. 43 (1)).

The African counterpart of the CRC, the African Charter on the Rights and Welfare of the Child, also includes a specific provision on girls in the context of education, calling upon governments “*to take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community*” (Part 1, Chap. 1, Art. 11). The Charter also contains a general non-discrimination article and, as can be expected, includes many more references to children in general.

The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa includes a catch-all definition to understand that “*women means persons of female gender, including girls*”. Yet, it recognises the vulnerability of girls in the context of recruitment of children as soldiers, all forms of abuse in the school setting, retention in school, and the exploitation of children. Additionally, the Protocol recognises the need “*to integrate a gender perspective in policy decisions, legislation, development plans, programmes and activities and in all other spheres of life*” (Art. 2 (1) (c), and the need for law enforcement organs at all levels to be “*equipped to effectively interpret and enforce gender equality rights*” (Art. 8 (d)). The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, however, just includes one ‘catch-all’ provision for all references to women in the Convention to include girls (Art. 1 (p)). When subsequently women are referenced, it is often in the context of violence (Art. 7 (5), sexual and reproductive health (Art. 9 (2) (d)), and legal identity (Art. 13 (4)).

In the Americas, the American Convention on Human Rights and its Additional Protocol do not mention ‘girls’, but include articles on the rights of ‘every child’ or ‘minors’, including with regards to protection and the right to free and compulsory education. All other Inter-American Conventions reviewed solely refer to children in general, while the American women’s rights convention, ‘Convention of Belem Do Para’, demonstrates a lack of consideration of age-specific barriers and the specific situation of the girl child.

Both the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, as well as the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare, do not specifically acknowledge the precarious situation of the girl child, although the latter regional human rights treaty does include a provision for States Parties to “*always consider gender justice and equality as key aspirations for children, the realization of which, collectively by the governments, would enhance the progress of South Asia*” (Art. III (7)).

While the European Social Charter refers to the right to protection of persons under the 16 or 18 years of age in the context of employment, the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) explicitly mentions “*human rights of women and girls*” and recognises that women and girls face higher risks of gender-based violence than men. Finally, the Council of Europe Convention on Actions against Trafficking in Human Beings stresses the need for preventive measures, including educational programmes for boys and girls during their schooling to highlight the unacceptable nature of discrimination based on sex (Art. 6 (d)). The Convention mentions gender equality on a number of occasions and dedicates Art. 17 to the subject. It further highlights the need to use gender mainstreaming and a child-sensitive approach when developing, implementing and assessing policies and programmes to prevent trafficking (Art. 5 (3)).

Table 3: Overview of types of references to girls in regional human rights treaties

REGIONAL HUMAN RIGHTS TREATIES <sup>19</sup>						
Legal instrument	Year	Girls	Women & girls	Boys & girls	Children	Gender
<b>Africa</b>						
OUA Convention Governing the Specific Aspects of Refugee Problems in Africa	1969					
African Charter on Human and Peoples' Rights	1981				✓	
African Charter on the Rights and Welfare of the Child	1990	✓			✓	
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	2003	✓	✓		✓	✓
African Youth Charter	2006	✓	✓	✓	✓	
African Charter on Democracy Elections and Governance	2007	✓			✓	✓
AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa	2009		✓		✓	✓
<b>Americas</b>						
Inter-American Convention on the Granting of Political Rights to Women	1948					
Inter-American Convention on the Granting of Civil Rights to Women	1948					
American Convention on Human Rights	1969				✓	
Additional Protocol to the American Convention on Human Rights	1988				✓	

<sup>19</sup> For an overview listing all references to 'girls', 'women and girls', 'boys and girls', 'children', and 'gender' in regional conventions, please refer to Annex III.

Legal instrument	Year	Girls	Women & girls	Boys & girls	Children	Gender
Inter-American Convention on the Prevention Punishment and Eradication of Violence against Women	1994					
Inter-American Convention on International Traffic in Minors	1994				✓	
Inter-American Convention against all forms of discrimination and intolerance	2013					
<b>Asia-Pacific</b>						
SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution	2002				✓	
SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia	2002				✓	✓
<b>Europe</b>						
Convention for the Protection of Human Rights and Fundamental Freedoms	1950					
Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms	1952					
Protocol No. 2 to the European Convention for the Protection of Human Rights and Fundamental Freedoms	1963					
European Social Charter (revised)	1996			✓	✓	
Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms	2000					
Council of Europe Convention on Actions against Trafficking in Human Beings	2005			✓	✓	✓
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse	2007				✓	

Legal instrument	Year	Girls	Women & girls	Boys & girls	Children	Gender
Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)	2011	✓	✓		✓	✓

### c. ILO fundamental conventions

The International Labour Organization's (ILO) Governing Body has identified eight conventions as fundamental, covering subjects related to freedom of association, forced labour, discrimination and child labour. While the Worst Forms of Child Labour Convention addresses children's rights in general, only the Protocol of 2014 to the Forced Labour Convention mentions girls specifically. Moreover, the former discusses States' obligations to prevent and eliminate child labour and thus implicitly includes the obligation to ensure children's right to be protected from child labour. When highlighting the importance of education in eliminating child labour, the Convention requires that States take into account the special situation of girls. The Preamble of the Protocol solely recognises that forced and compulsory labour constitute a violation of "*the human rights and dignity of millions of women and men, girls and boys*".

### d. UN Security Council resolutions

For the purpose of this research a total of 24 UN Security Council (UNSC) resolutions on 'Women, Peace and Security' (WPS), 'Children in Armed Conflict', 'Protection of Civilians in Armed Conflict' and 'Sexual Violence in Armed Conflict' covering a time period from 1999 to 2015 have been reviewed. With the exception of the resolution on 'Children in Armed Conflict' in 2012 (S/RES/2068), all resolutions were adopted by consensus.<sup>20</sup> While resolutions on children in armed conflict, protection of civilians, and sexual violence mention girls as a stand-alone group, none of the resolutions on WPS make explicit reference to girls alone.

#### ***Rights of (women and) girls***

Due to the nature of the UN Security Council's mandate and the theme of the resolutions, it is not surprising that all language on girls' rights is related to conflict or post-conflict situations. With the exception of one reference to the special rights of children, including those of the girl child, UNSC resolutions on the protection of civilians do not address the rights of women and girls.<sup>21</sup> Resolutions on WPS and children in armed conflict refer more broadly to the rights of women and girls or the rights of children, while occasionally putting an emphasis on girls.

While several resolutions merely call for the protection of the rights of women and girls, there are some specific references to women's and girls' rights related to conflict prevention and disarmament, demobilisation and reintegration (DDR) policies and programmes as well as regarding peace negotiations and the implementation of peace agreements.<sup>22</sup> Interestingly, WPS resolution 1325 calls for the protection of the human rights of women and girls as they relate to the constitution, the electoral system, the police as well as the judiciary in the context of peace negotiations and peace agreements.<sup>23</sup> Furthermore, the resolution recognises that

<sup>20</sup> Azerbaijan, China, Pakistan, and the Russian Federation abstained in the voting on this resolution.

<sup>21</sup> See UNSC Resolution 1265 'Protection of Civilians in Armed Conflict' (1999), PP11. The paragraph reads: "*Underlining the special rights and needs of children in situations of armed conflict, including those of the girl child*".

<sup>22</sup> See UNSC Resolution 1325 'Women and Peace and Security' (2000), PP6 and OP9; UNSC Resolution 1379 'Children in Armed Conflict' (2001), OP8c; and UNSC Resolution 1889 'Women and Peace and Security' (2009), OP2.

<sup>23</sup> See UNSC Resolution 1325 'Women and Peace and Security' (2000), OP8c.

terrorism and violent extremism have a different impact on women's and girls' rights, thus highlighting in particular the contexts of health, education and participation in public life. It also expresses deep concern that women and girls are being directly targeted by terrorists with sexual and gender-based violence used as a strategic objective and ideology.<sup>24</sup>

### ***Needs and vulnerabilities of (women and) girls***

Similar to the recognition of rights of (women and) girls, UNSC resolutions on WPS and children in armed conflict widely recognise the particular vulnerabilities and special needs of women and girls in conflict or post-conflict situations.<sup>25</sup> Apart from more general references to the needs of women and girls, resolutions highlight the special needs of (women and) girls in the following contexts: (i) delivery of humanitarian assistance,<sup>26</sup> (ii) refugee camps and resettlements,<sup>27</sup> (iii) mine clearing and mine awareness programmes,<sup>28</sup> (iv) repatriation, resettlement, rehabilitation and post-conflict construction,<sup>29</sup> and (v) post-conflict situations.

Addressed more specifically are the special needs of women and girls associated with armed forces and armed groups,<sup>30</sup> as well as girls' specific needs and capacities, especially in the context of education in order to prevent re-recruitment.<sup>31</sup> Additionally, references to women and girls' needs in the context of post-conflict situations often relate to ensuring their (physical) security, mobility, education, economic and income generating activities and opportunities,<sup>32</sup> access to basic services and health services (including reproductive and mental health), ways to ensure their livelihoods, land and property rights, participation in decision-making<sup>33</sup> and post-conflict planning.<sup>34</sup>

### **e. Conclusion**

Despite its limitations and inadequacy in addressing girl's intersecting identities, the mutually reinforcing nature of the women's and children's rights conventions form the corner stone of girls' rights. And yet, girls largely remain invisible in both these conventions. The CRC applies a gender-neutral approach and does not include any specific reference to girls, while CEDAW only includes one specific mention. Due to the universal and indivisible nature of human rights, all other human rights treaties—regional and international—offer further protections to the girl child and some specifically acknowledge girls' particular needs and vulnerabilities. For example, the CRPD recognises that both women and girls with disabilities are at greater risk of violence (preamble) and are subject to multiple forms of discrimination (CRPD Art. 6 (1)). Additionally, ILO's Worst Forms of Child Labour Convention from 1999 specifically acknowledges the special situation of girls when taking into account the importance of education in eliminating child labour (Art. 7 (2) (e)).

<sup>24</sup> See UNSC Resolution 2242 'Women and Peace and Security' (2015), PP14.

<sup>25</sup> See for example Resolution 1379 'Protection of children in situations of armed conflict' (2001), OP8c, OP11d and Resolution 1325 'Women and peace and security' (2000), OP14.

<sup>26</sup> See UNSC Resolution 1261 'Children in Armed Conflict' (1999), OP10.

<sup>27</sup> See UNSC Resolution 1325 'Women and Peace and Security' (2000), OP12.

<sup>28</sup> *Id.*, PP7.

<sup>29</sup> *Id.*, OP8a.

<sup>30</sup> See UNSC Resolution 1889 'Women and Peace and Security' (2009), OP13.

<sup>31</sup> See UNSC Resolution 1460 'Children in Armed Conflict' (2003), OP13.

<sup>32</sup> See UNSC Resolution 2242 'Women and Peace and Security' (2015), OP15. The paragraph recognises that conflict and post-conflict environments have a *specific impact* on women's and girls' security, mobility, education, economic activity and opportunities, which allows the conclusion that women and girls face specific challenges in relation to these issues.

<sup>33</sup> See UNSC Resolution 1889 'Women and Peace and Security' (2009), OP10.

<sup>34</sup> *Id.*, PP9.

Table 4: Overview of all international and regional conventions explicitly referencing ‘girls’

REFERENCES TO GIRLS IN INTERNATIONAL/REGIONAL CONVENTIONS				
Convention	Year	International / Regional	Reference	Context
CEDAW	1979	International	Art. 10 (f)	Retention of girls in schools
African Charter on the Rights and Welfare of the Child	1990	Regional	Part 1, Chapter 1, Art. 3	Equal access to education
European Social Charter	1996	Regional	Art. 10	Vocational training
Worst Forms of Child Labour Conventions	1999	International	Art. 7 (2) (e)	Forced or compulsory labour
CRC Optional Protocol on the Sale of Children	2000	International	Preamble, para. 5	Sexual exploitation
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	2003	Regional	Arts. 11 (4), 12 (1) (c), 12 (2) (c), 13 (g)	Taking part in hostilities; abuse; enrolment and retention of girls in schools; equal opportunities in work; exploitation
Council of Europe Convention on Action against Trafficking in Human Beings	2005	Regional	Art. 6 (d)	Gender-transformative education
African Youth Charter	2006	Regional	Arts. 9 (2), 11 (2) (c), 12 (1) (f), 13, 15 (4) (b), 22 (1) (a), 23	Obstacles of participating in society; property rights; equal opportunities; retention of pregnant school-going girls; post-primary education scholarships; job creation; discrimination; economic exploitation; equal access to employment, health care services, and education; to participate in decision-making and leisure activities; maternity leave; violence (and more)
Convention on the Rights of Persons with Disabilities	2006	International	Preamble para. Q, Arts. 6 (1), 28 (2) (b)	Violence, multiple discrimination, social protection
African Charter on Democracy Elections and Governance	2007	Regional	Art. 41 (1)	Free and compulsory education

AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa	2009	Regional	Arts. 7, 9, 13	Violence, child soldiers, legal identity
Istanbul Convention	2011	Regional	Preamble, para. 11	Gender-based violence
ILO Protocol of 2014 to the Forced Labour Convention	2014	International	Preamble, para. 2	Forced or compulsory labour and impact on education

Apart from CEDAW and its specific focus on women and girls, it was only in the late 90's that references to girls started to appear in the international framework. Girls are predominantly referred to in contexts of violence, education, and discrimination. Regional conventions do widen the contexts in which girls are referenced and include additional references to property rights, employment, health care, sexual and reproductive health, and more. Core international conventions, however, frequently fail to differentiate between age and gender. Girls often become invisible; their rights, and the particular challenges they face, concealed under the ageless category of 'women', or the gender-neutral category of 'children', 'adolescents', or 'youth'.<sup>35</sup> Additionally, different factors including vague treaty terminology,<sup>36</sup> treaty reservations,<sup>37</sup> and some States' refusal to ratify, render international conventions and their protections for the girl child less effective than hoped.<sup>38</sup> The failure to address girl-specific issues essentially creates a lacuna in the body of international human rights law.<sup>39</sup>

<sup>35</sup> Plan International UK, *The State of Girls' Rights in the UK* (2016), p. 146.

<sup>36</sup> Askari argues that linguistic flaws are some of the shortcomings from which international law suffers, rendering its protection for girls tentative. For example, CEDAW Article 16 (2) fails to prescribe a minimum age at which a girl can be married—weakening its effectiveness. The failure to set a minimum age at marriage under its provision banning child marriage allows signatories to CEDAW to easily avoid obligations under Article 16. L. Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriages*, ILSA Journal of International and Comparative Law Vol. 5 No. 123 (1998), p. 133.

<sup>37</sup> For a review of reservations impacting girls' rights, see chapter III.

<sup>38</sup> L. Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriages*, ILSA Journal of International and Comparative Law Vol. 5 No. 123 (1998), p. 124.

<sup>39</sup> As also argued by N. Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, International Journal of Children's Rights 17 (2009), p. 356.

**Table 5: Total number of references to girls' rights in legally binding international law, categorized by context**

<b>NUMBER OF REFERENCES IN INTERNATIONAL LAW BY CONTEXT</b>	
<b>Number</b>	<b>Context</b>
15	Violence and abuse
11	Education
6	Discrimination / equal opportunities and participation
4	Employment
2	Decision making and fulfilling civic duties
2	Sport, cultural and recreational activities
1	Health care
1	Legal identity
1	Property rights
1	Social protection
1	Sexual and reproductive health

Finally, UN Security Council resolutions provide specific protections to the rights and special needs of girls affected by conflict, for example, with regard to incorporating the rights of girls when developing prevention, disarmament, demobilisation and reintegration policies and programs. Furthermore, UNSC resolutions often call upon States to adopt a gender perspective when negotiating and implementing peace agreements, while specifically protecting the human rights of women and girls in the constitution, the electoral system, the police and judiciary.

# CHAPTER TWO

## GIRLS' RIGHTS IN INTERNATIONAL SOFT LAW

International soft law are quasi-legal instruments that do not have any legally binding force, yet are authoritative standards, strengthen commitment to agreements, reaffirm international norms, and establish a legal foundation for subsequent treaties. In total, 1,227 sources of international soft law are reviewed: 280 UN General Assembly (UNGA) resolutions, 256 Human Rights Council (HRC) resolutions, 105 agreed conclusions and resolutions of the Commission on the Status of Women (CSW), 113 conclusions of the UNHCR's Executive Committee (ExCom) 155 General Comments/Recommendations of the UN Treaty Bodies, 297 Special Procedures (SP) reports, five ICPD resolutions, and 16 international agreements and outcome documents, such as the 2030 Agenda for Sustainable Development.

### a. General Assembly resolutions

In total, 280 UN General Assembly resolutions from between 1992 and 2016 have been reviewed for the purpose of this report.<sup>40</sup> Some girl-specific resolutions, such as the resolutions on child, early and forced marriage or female genital mutilation, are relatively new. Many other resolutions have been considered on an annual or biannual basis since the mid-1990s, including the resolutions on the girl child, the rights of the child, and trafficking in women and girls—amongst others. Generally, language used in these resolutions refers to the rights of girls (and women) in one of the following ways:

- The text describes obstacles or barriers to girls' enjoyment of rights;
- The text clearly spells out violations of (women's and) girls' rights;
- The text refers to the rights of girls (and women) who face intersectional marginalisation, such as women and girls with disabilities;
- The text mentions a specific right of girls (and women), such as the right to education; or
- The text implicitly refers to rights of girls (and women) by recognising the need to ensure their equal access to, for example, education.

Apart from explicitly recognising the human rights of girls and women, many resolutions also acknowledge that girls (and women) have specific needs, for instance due to their gender, age, or intersecting identity. However, in most cases, these needs are not further specified. Moreover, UNGA resolutions widely acknowledge that girls (and women) are especially vulnerable to or disproportionately affected by certain phenomena or violations of rights, including due to multiple and intersecting forms of discrimination or a specific context they find themselves in.

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<sup>40</sup> This number does not include conventions, international agreements or outcome documents of international conferences that are technically resolutions adopted by the UNGA, but that are covered under different subsections of the report for the purpose of differentiating between various document types.

Language used in resolutions has developed slowly. Its paragraphs either have remained unaltered or have only seen slight changes over the years, including to reflect new terminologies.<sup>41</sup> Some strong language has completely disappeared over time, while a number of paragraphs saw significant positive change due to added clarifications or precise additions that strengthened existing language.

Most noteworthy is that the elimination of discrimination against girls and investment in the realisation of the right of girls is often aimed at empowering the adult woman and her full enjoyment of human rights and fundamental freedoms, rather than the fulfilment of the rights of the girl child and her empowerment during childhood and adolescence.

### **Rights of girls**

In resolutions on the girl child, States commit “to take all necessary measures and to institute legal reforms to ensure the full and equal enjoyment by the girl child of all human rights and fundamental freedoms and to take effective action against violations of those rights and freedoms”.<sup>42</sup> Surprisingly, this general call for the realisation of the rights of girls has not been reaffirmed in resolutions after 2005. States, however, have continuously committed to promote the respect for the human rights of the girl child and to raise awareness of girls’ rights, particularly among children.<sup>43</sup>

Apart from general references acknowledging the human rights of girls, UNGA resolutions refer to the rights of girls in the context of education, employment, water, sanitation, hygiene, and health—including sexual and reproductive health. For example, UNGA resolutions on the girl child articulate the right of girls to the highest attainable standard of physical and mental health, including sexual and reproductive health,<sup>44</sup> and urge States to ensure girls have “access to clean water, including safe drinking water, sanitation, hygiene and feminine hygiene products as well as private toilet facilities, including feminine hygiene product disposal facilities”.<sup>45</sup> In 2015, States committed to “ensure equal access for girls to all levels of education, including (...) [by] improving the safety of girls on the way to and from school, taking steps to ensure that all schools are accessible, safe, secure and free from violence and providing separate and adequate sanitation facilities that provide privacy and dignity”.<sup>46</sup>

UNGA resolutions have also recognised rights of certain groups of girls, including adolescent girls and girls affected by conflict. For example, regarding the disarmament of children used in armed conflict and “their rehabilitation, physical and psychological recovery and reintegration into society”, States are urged to “take into account the rights and specific needs and capacities of girls”.<sup>47</sup> Similarly, the 2003 resolution on the girl child emphasises the importance of considering “the rights, special needs and particular vulnerability of the girl

<sup>41</sup> For instance, the term ‘war-affected girls’ was used in resolutions on the girl child until 2003 and has been replaced by ‘girls affected by armed conflicts’ since 2005.

<sup>42</sup> See UNGA Resolution, ‘The Girl Child’ (2003), A/RES/58/156, OP 3; UNGA Resolution, ‘The Girl Child’ (2002), A/RES/57/189, OP 3; UNGA Resolution, ‘The Girl Child’ (2001), A/RES/56/139, OP 7; UNGA Resolution, ‘The Girl Child’ (2000), A/RES/55/78, OP 7; UNGA Resolution, ‘The Girl Child’ (1999), A/RES/54/148, OP 2.

<sup>43</sup> See UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, OP 29; UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, OP 36; UNGA Resolution, ‘The Girl Child’ (2011), A/RES/66/140, OP 37; UNGA, ‘The girl child’ (2009), A/RES/64/145, OP 31; UNGA, ‘The girl child’ (2007), A/RES/62/140, OP 22; UNGA, ‘The Girl Child’ (2005), A/RES/60/141, OP 18; UNGA Resolution, ‘The Girl Child’ (2003), A/RES/58/156, OP 13; UNGA Resolution, ‘The Girl Child’ (2002), A/RES/57/189, OP 13; UNGA Resolution, ‘The Girl Child’ (2001), A/RES/56/139, OP 16; UNGA Resolution, ‘The Girl Child’ (2000), A/RES/55/78, OP 16.

<sup>44</sup> See UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, OP 10; UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, OP 36; UNGA Resolution, ‘The Girl Child’ (2009), A/RES/64/145, OP 13.

<sup>45</sup> See UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, OP 7.

<sup>46</sup> See UNGA Resolution, ‘The Rights of the Child’ (2015), A/RES/70/137, OP 49e. See also: UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, OP 4; and UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, OP 5.

<sup>47</sup> See UNGA Resolution, ‘The Rights of the Child’ (2013), A/RES/68/147, OP 63b; UNGA Resolution, ‘The Rights of the Child’ (2008), A/RES/63/241, OP 55c; UNGA Resolution, ‘The Rights of the Child’ (2007), A/RES/62/141, OP 41b; UNGA Resolution, ‘The Rights of the Child’ (2005), A/RES/60/231, OP 33b; UNGA Resolution, ‘The Rights of the Child’ (2006), A/RES/61/146, OP 48b; and UNGA, ‘The Rights of the Child’ (2004), A/RES/59/261, OP 48b.

*child during conflicts and in post-conflict situations*".<sup>48</sup> In the preceding years, the paragraph did not mention 'rights', but only 'specific needs and particular vulnerability'.<sup>49</sup> Resolutions on the girl child from the late-1990s call upon States to pay attention to the "*rights and needs of adolescent girls*", which require special action for their protection from sexual and economic exploitation and abuse, harmful practices, teenage pregnancy and vulnerability to sexually transmitted diseases and HIV/AIDS and for the development of life skills and self-esteem.<sup>50</sup> Since 2007, resolutions on the girl child have consistently highlighted the particular vulnerability of a large number of girls due to their intersecting identities going beyond their status as a female child—referring to orphans, children living on the street, internally displaced and refugee children, children affected by trafficking and sexual and economic exploitation, children living with or affected by HIV and AIDS, and children who are incarcerated or who live without parental support. In order to address the situation of these girls, States are urged to provide "*appropriate counselling and psychosocial support, and ensuring their safety, enrolment in school and access to shelter, good nutrition and health and social services*".<sup>51</sup>

Resolutions further identify discrimination and gender inequality as barriers to girls' enjoyment of rights. Since 2007, the resolutions on the girl child consider the need to "*achieve gender equality and a just and equitable world for girls*" as crucial for the advancement of girls' rights.<sup>52</sup> It further recognises that discrimination against girls results in less access for girls to quality education, nutrition and health-care services as well as in "*girls enjoying fewer of their rights, benefits and opportunities of childhood and adolescence than boys*".<sup>53</sup> Resolutions on 'Policies and Programmes Involving Youth' urge States to tackle gender stereotypes that "*perpetuate discrimination and violence against girls and young women and the stereotypical roles of men and women that are preclusive of social development*".<sup>54</sup> However, this paragraph refrains from mentioning the negative impact of stereotypical roles on girls (and boys), despite States' reaffirmation of commitment to the human rights of women and girls. Yet, in the same 2011 and 2013 resolutions specificity was added, demanding States to ensure the "*full participation of young women in all spheres of political, economic, social and cultural life, as equal partners, and improv[ing] their access to all resources needed for the full exercise of all their human rights and fundamental freedoms*" as well as ensuring "*equal access to full and productive employment and decent work and strengthening their economic independence*".<sup>55</sup> However, the 2015 resolution did not reiterate this language.<sup>56</sup>

### **Rights of women and girls**

Most resolutions have not referred to girls as a stand-alone group, but corral girls together with women. They have regularly reaffirmed that the CRC, CEDAW and all other relevant conventions and optional protocols thereto are an important contribution to the legal framework for the promotion and protection of women's and

<sup>48</sup> See UNGA Resolution, 'The Rights of the Child' (2003), A/RES/58/157, OP 47.

<sup>49</sup> See UNGA Resolution, 'The Rights of the Child' (2002), A/RES/57/190, OP V.18; and UNGA Resolution, 'The Rights of the Child' (2000), A/RES/55/79, OP V.17.

<sup>50</sup> See UNGA Resolution, 'The Girl Child' (1998), A/RES/53/127, OP 6d; UNGA Resolution, 'The Girl Child' (1997), A/RES/52/106, OP 4d; and UNGA Resolution, 'The Girl Child' (1996), A/RES/51/76, OP 3c.

<sup>51</sup> See UNGA Resolution, 'The Girl Child' (2015), A/RES/70/138, OP 24; UNGA Resolution, 'The Girl Child' (2013), A/RES/68/146, OP 29; UNGA Resolution, 'The Girl Child' (2011), A/RES/66/140, OP 30; UNGA Resolution, 'The Girl Child' (2009), A/RES/64/145, OP 25; and UNGA Resolution, 'The Girl Child' (2007), A/RES/62/140, OP 17.

<sup>52</sup> See UNGA Resolution, 'The Girl Child' (2015), A/RES/70/138, PP 15; UNGA Resolution, 'The Girl Child' (2013), A/RES/68/146, PP 23; UNGA Resolution, 'The Girl Child' (2011), A/RES/66/140, PP 12; UNGA Resolution, 'The Girl Child' (2009), A/RES/64/145, PP 13; UNGA Resolution, 'The Girl Child' (2007), A/RES/62/140, PP 11.

<sup>53</sup> See UNGA Resolution, 'The Girl Child' (2015), A/RES/70/138, PP 18; UNGA Resolution, 'The Girl Child' (2013), A/RES/68/146, PP 27; UNGA Resolution, 'The Girl Child' (2011), A/RES/66/140, PP 17; UNGA Resolution, 'The Girl Child' (2009), A/RES/64/145, PP 17; UNGA Resolution, 'The Girl Child' (2007), A/RES/62/140, PP 13; UNGA Resolution, 'The Girl Child' (2005), A/RES/60/141, PP 10; UNGA Resolution, 'The Girl Child' (2003), A/RES/58/156, PP 12; UNGA Resolution, 'The Girl Child' (2002), A/RES/57/189, PP 13; UNGA Resolution, 'The Girl Child' (2001), A/RES/56/139, PP 3; and UNGA Resolution, 'The Girl Child' (2000), A/RES/55/78, PP 3. See also: UNGA Resolution, 'Supporting Efforts to End Obstetric Fistula' (2010), A/RES/65/188, PP 10.

<sup>54</sup> See UNGA Resolution, 'Policies and Programmes Involving Youth' (2013), A/RES/68/130, OP 5.

<sup>55</sup> *Ibid.*

<sup>56</sup> See UNGA Resolution, 'Policies and Programmes Involving Youth' (2015), A/RES/70/127, OP 11.

girls' rights.<sup>57</sup> However, the term 'all other relevant conventions' has only been included in the 2016 FGM resolution. Additionally, the CRPD is not explicitly mentioned at all, despite its article on women with disabilities that also touches upon girls (Article 6).<sup>58</sup> In resolutions on 'Women in Development', States further recognise the importance of a "*national and international environment that promotes, for women and girls, inter alia, justice, gender equality, equity, civil and political participation and civil, political, economic, social and cultural rights and fundamental freedoms*".<sup>59</sup>

Furthermore, resolutions recognise the specific rights of women and girls, including in the context of education, health (including sexual and reproductive health), inheritance and property, political participation, rest and leisure, economic resources, food, and social protection. Resolutions addressing the issue of obstetric fistula, for example, urge States to ensure women's and girls' right to quality education, while demanding increased efforts to improve and expand women's and girls' "*education at all levels, including at the secondary and higher levels, including age-appropriate sex education, as well as vocational education and technical training*".<sup>60</sup> The explicit reference to 'age-appropriate sex education' in this paragraph has been included since 2012, and is one example of how language gains specificity over time.<sup>61</sup>

In relation to child, early and forced marriage, States have committed to place "*enhanced emphasis on free and quality primary and secondary education, including catch-up and literacy education for those who have not received formal education or have left school early*" in order to ensure the protection and promotion of women's and girls' equal right to education.<sup>62</sup> In the same context, States are urged to facilitate girls' development of livelihood opportunities by providing them with access to "*technical and vocational education and training and life skills education, including financial literacy*".<sup>63</sup> Touching upon the threats to the health of women and girls as a result of child, early and forced marriage, States have recognised that girls and women at risk of or affected by these marriages "*must have equal access to affordable quality services such as education, counselling, shelter and other social services, psychological, sexual and reproductive health-care services, medical care and legal assistance*".<sup>64</sup> In order to address drivers of child, early and forced marriage, such as poverty and lack of economic opportunities, States are urged to ensure women's and girls' inheritance and property rights as well as their equal access to "*social protection, direct financial services, support and microcredit*".<sup>65</sup> Interestingly, the same paragraph later only refers to "*women's equal access to full and productive employment and decent work, as well as equal political participation and rights to inherit, own and control land and productive measures*" without addressing the situation of girls.<sup>66</sup>

Similarly, in referring to measures to eliminate all forms for violence against women, and ensure the empowerment of women, and women's full and equal participation in society and decision-making processes, States have committed to guarantee "*women's full and equal rights to own and have access to and control*

<sup>57</sup> See UNGA Resolution, 'Intensifying Global Efforts for the Elimination of Female Genital Mutilation' (2016), A/RES/71/168, PP 3; UNGA Resolution, 'Intensifying Global Efforts for the Elimination of Female Genital Mutilation' (2014), A/RES/69/150, PP 2; and UNGA Resolution, 'Intensifying Global Efforts for the Elimination of Female Genital Mutilation' (2012), A/RES/67/146, PP 2.

<sup>58</sup> See Convention on the Rights of Persons with Disabilities (CRPD), Article 6.

<sup>59</sup> See UNGA Resolution, 'Women in Development' (2015), A/RES/70/219, PP 31. See also: UNGA Resolution, 'Women in Development' (2013), A/RES/68/227, PP 17.

<sup>60</sup> See UNGA Resolution, 'Intensification of Efforts to End Obstetric Fistula' (2016), A/RES/71/169, OP 6. See also: UNGA Resolution, 'Intensification of Efforts to End Obstetric Fistula' (2014), A/RES/69/148, OP 4; and UNGA Resolution, 'Supporting Efforts to End Obstetric Fistula' (2012), A/RES/67/147, OP 4.

<sup>61</sup> Compare UNGA Resolutions, 'Supporting Efforts to End Obstetric Fistula' 2007, 2008, and 2010, OP5.

<sup>62</sup> See UNGA Resolution, 'Child, early and forced marriage' (2016), A/RES/71/175, OP 8; and UNGA Resolution, 'Child, Early and Forced Marriage' (2014), A/RES/69/156, OP 4.

<sup>63</sup> See UNGA Resolution, 'Child, Early and Forced Marriage' (2016), A/RES/71/175, OP 10.

<sup>64</sup> See UNGA Resolution, 'Intensification of Efforts to Prevent and Eliminate all Forms of Violence Against Women and Girls: Domestic Violence' (2016), A/RES/71/170, PP 24. See also: UNGA Resolution, 'Child, Early and Forced Marriage' (2014), A/RES/69/156, PP 15.

<sup>65</sup> See UNGA Resolution, 'Child, Early and Forced Marriage' (2016), A/RES/71/175, OP 10.

<sup>66</sup> *Ibid.*

over land and other property”, as well as “women’s and girls’ inheritance rights”.<sup>67</sup> The recognition of the latter has only been included in the VAWG 2016 resolution, while previous resolutions solely mention women’s “full and equal rights to own and have access to land and other property”.<sup>68</sup>

With the objective of achieving full human potential and sustainable development, the 2015 ‘Women in development’ resolution, urges States to ensure women’s and girls’ “equal access to economic resources and political participation, as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels”.<sup>69</sup> In the context of the well-being of youth, girls and young women’s right to rest and leisure is particularly emphasised.<sup>70</sup> States are also urged to ensure the “full and equal realization of the right to food” to address de jure and de facto gender inequality and discrimination against women, that can contribute to malnutrition of women and girls.<sup>71</sup>

Resolutions on obstetric fistula recognise the right of women and girls to enjoy the highest attainable standard of health (including sexual and reproductive health), as well as reproductive rights. They call upon States to ensure universal access to health systems and services as well as “access to high-quality appropriate prenatal and delivery care for the prevention of obstetric fistula and the reduction of health inequities, as well as postnatal care for the detection and early management of fistula cases”.<sup>72</sup> However, the explicit reference to ‘reproductive rights’ as well as ‘high-quality appropriate prenatal and delivery care’ was only added in 2012.<sup>73</sup>

Paradoxically, in a number of instances resolutions address a situation that affects women and girls, but only recognise the rights of *women*. They call upon States to ensure only *women’s* access to basic services, employment, resources and participation, but exclude girls. The 2015 resolution on rural women and girls, for example, makes a number of recommendations to improve the situation of rural women and girls. However, despite its thematic focus on women *and* girls, only women’s rights are acknowledged. States commit to “ensure and improve equal access for rural **women** to decent work in agricultural and non-agricultural sectors, supporting and promoting opportunities in small enterprises, sustainable social enterprises and cooperatives and improving working conditions” [emphasis added].<sup>74</sup> The text further recognises rural **women’s** “full and equal rights to own and lease land and other property, including through the equal rights to economic resources, access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinancing.” States are also called upon to give *women* “the same right as men to credit, capital, appropriate technologies and access

<sup>67</sup> See UNGA Resolution, ‘Intensification of Efforts to Prevent and Eliminate all Forms of Violence against Women and Girls: Domestic Violence’ (2016), A/RES/71/170, OP 15d.

<sup>68</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women and Girls’ (2014), A/RES/69/147, OP 20t. See also: UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2012), A/RES/67/144, OP 18q; UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2010), A/RES/65/187, OP 16k; UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2008), A/RES/63/155, OP 16j; and UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2006), A/RES/61/143, OP 8e.

<sup>69</sup> See UNGA Resolution, ‘Women in Development’ (2015), A/RES/70/219, PP 7.

<sup>70</sup> UNGA Resolution, ‘Policies and Programmes Involving Youth’ (2009), A/RES/64/130, OP 12.

<sup>71</sup> See UNGA Resolution, ‘The Right to Food’ (2016), A/RES/71/191, OP 7. See also: UNGA Resolution, ‘Right to Food’ (2015), A/RES/70/154, OP 7; UNGA Resolution, ‘Right to Food’ (2014), A/RES/69/177, OP 7; UNGA Resolution, ‘Right to Food’ (2013), A/RES/68/177, OP 7; UNGA Resolution, ‘Right to Food’ (2012), A/RES/67/174, OP 7; UNGA Resolution, ‘Right to Food’ (2011), A/RES/66/158, OP 6; UNGA Resolution, ‘Right to Food’ (2010), A/RES/65/220, OP 5; UNGA Resolution, ‘Right to Food’ (2009), A/RES/64/159, OP 5; UNGA Resolution, ‘Right to Food’ (2008), A/RES/63/187, OP 5; UNGA Resolution, ‘Right to Food’ (2007), A/RES/62/164, OP 5; UNGA Resolution, ‘Right to Food’ (2006), A/RES/61/163, OP 5; UNGA Resolution, ‘Right to Food’ (2005), A/RES/60/165, OP 5; and UNGA Resolution, ‘Right to Food’ (2004), A/RES/59/202, OP 7.

<sup>72</sup> See UNGA Resolution, ‘Intensification of Efforts to End Obstetric Fistula’ (2016), A/RES/71/169, OP 4; UNGA Resolution, ‘Intensification of Efforts to End obstetric Fistula’ (2014), A/RES/69/148, OP 3; and UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2012), A/RES/67/147, OP 3.

<sup>73</sup> Compare UNGA Resolution, ‘Supporting Efforts to End Obstetric fistula’ (2010), A/RES/65/188, OP 4; and UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2008), A/RES/63/158, OP 4; and UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2007), A/RES/62/138, OP 4.

<sup>74</sup> See UNGA Resolution, ‘Improvement of the Situation of Women and Girls in Rural Areas’ (2015), A/RES/70/132, OP 2q.



to markets and information” while also ensuring “their equal access to justice and legal support”.<sup>75</sup> Girls may be excluded in these references because explicitly awarding girls with a right to ‘full employment and decent work’ may inadvertently lead to the championing of child labour. Additionally, the political and economic empowerment of girls may expose tensions with minimum ages of legal capacity.

Similarly, in the context of violence against women and girls, resolutions tend to refer to women’s rights only and set forth measures to be taken by States to address the situation of women, but not of girls. Recommendations do not include an age-dimension despite the recognition that women and girls are affected by all forms of violence. Regarding the measures aimed at eliminating violence against women and girls, resolutions refer to the empowerment of women, women’s “full representation and full and equal participation at all levels of decision-making”, women’s “full economic autonomy” and women’s “equal access to the labour market”.<sup>76</sup> Highlighting the need to end impunity and exercise due diligence regarding violence against women and girls, as well as gender-related killings of women and girls, States are called upon to ensure women’s equal protection under the law and equal access to justice.<sup>77</sup> There is no recognition of additional barriers girls may face in accessing justice, nor do the resolutions demand States to take specific measures tailored towards the situation of the girl child in order to ensure her equal protection. With regard to the health consequences

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<sup>75</sup> See UNGA Resolution, ‘Improvement of the Situation of Women and Girls in Rural Areas’ (2015), A/RES/70/132, OP 2z.

<sup>76</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2010), A/RES/65/187, PP 13.

<sup>77</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2008), A/RES/63/155, OP 11; and UNGA Resolution, ‘Taking Action Against Gender-related Killing of Women and Girls’ (2015), A/RES/70/176, OP 7.

of violence against women and girls, States are called upon to promote “*women’s equal access to public health care*”.<sup>78</sup>

While the 2015 resolution on ‘Women in Development’ acknowledges the need to consider the empowerment of women *and* girls in nutrition and other related policies, it sees this empowerment as a contribution to only “*women’s full and equal access to social protection and resources, including income, land, water, finance, education, training, science and technology and health-care services*”.<sup>79</sup> In the context of food security and malnutrition of women and girls, resolutions on the right to food demand that States ensure the full and equal realisation of the right to food as well as women’s “*equal access to resources, including income, land and water and their ownership and agricultural inputs [...] as well as full and equal access to health care, education, science and technology*”.<sup>80</sup> They furthermore underline the “*need to empower women and strengthen their role in decision-making*”.<sup>81</sup> While women’s empowerment and their role in decision-making have only been added since 2013, the situation of girls or their contribution in the context of food security is not addressed at all.<sup>82</sup>

This is a regular trend. Resolutions often exclusively refer to the empowerment of women, without mentioning girls, which is in contradiction to the recognition that women’s empowerment is a means of eliminating violations of the rights of women *and* girls, such as discrimination, violence, or harmful practices. Only resolutions on the girl child adopted before 1998 recognise that “*advancement and empowerment of women throughout their life cycle must begin with the girl child*” –though this language disappears in subsequent resolutions.<sup>83</sup>

### **Barriers to the rights of women and girls**

Resolutions furthermore identify a number of different barriers to the full enjoyment of the rights of women and girls, including poverty, practices and legislation that discriminate against women and girls, gender inequality, discrimination, lack of access to services, as well as a lack of awareness of the rights of women and girls. With regards to the root causes of obstetric fistula, States acknowledge that poverty eradication is critical to realising the rights of women and girls.<sup>84</sup> Similarly, it is recognised that the empowerment of women and girls is crucial for the promotion and protection of their human rights.<sup>85</sup> Calling for the prevention of abuses of women and girls’ human rights, the 2016 resolution on ‘Violence against Women and Girls’ demands States to devote “*particular attention to abolishing practices and legislation that discriminate against women and girls*”.<sup>86</sup> Both

<sup>78</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2010), A/RES/65/187, OP 16q.

<sup>79</sup> See UNGA Resolution, ‘Women in Development’ (2015), A/RES/70/219, PP 29.

<sup>80</sup> See UNGA Resolution, ‘The Right to Food’ (2016), A/RES/71/191, OP 7; UNGA Resolution, ‘Right to Food’ (2015), A/RES/70/154, OP 7; and UNGA Resolution, ‘Right to Food’ (2014), A/RES/69/177, OP 7.

<sup>81</sup> See UNGA Resolution, ‘The Right to Food’ (2016), A/RES/71/191, OP 7, UNGA Resolution, ‘Right to Food’ (2015), A/RES/70/154, OP 7; UNGA Resolution, ‘Right to Food’ (2014), A/RES/69/177, OP 7; and UNGA Resolution, ‘Right to Food’ (2013), A/RES/68/177, OP 7.

<sup>82</sup> See UNGA Resolution, ‘The Right to Food’ (2016), A/RES/71/191, OP 7. See also: UNGA Resolution, ‘Right to Food’ (2015), A/RES/70/154, OP 7; UNGA Resolution, ‘Right to Food’ (2014), A/RES/69/177, OP 7; UNGA Resolution, ‘Right to Food’ (2013), A/RES/68/177, OP 7; UNGA Resolution, ‘Right to Food’ (2012), A/RES/67/174, OP 7. See also: UNGA Resolution, ‘Right to food’ (2011), A/RES/66/158, OP 6; UNGA Resolution, ‘Right to Food’ (2010), A/RES/65/220, OP 5; UNGA Resolution, ‘Right to Food’ (2009), A/RES/64/159, OP 5; and UNGA Resolution, ‘Right to Food’ (2008), A/RES/63/187, OP 5; UNGA Resolution, ‘Right to Food’ (2007), A/RES/62/164, OP 5. UNGA Resolution, ‘Right to Food’ (2006), A/RES/61/163, OP 5; and UNGA Resolution, ‘Right to Food’ (2005), A/RES/60/165, OP 5; and UNGA Resolution, ‘Right to Food’ (2004), A/RES/59/202, OP 7.

<sup>83</sup> See UNGA Resolution, ‘The Girl Child’ (1998), A/RES/53/127, OP 6d; UNGA Resolution, ‘The Girl Child’ (1997), A/RES/52/106, OP 4d; and UNGA Resolution, ‘The Girl Child’ (1996), A/RES/51/76, OP 3c.

<sup>84</sup> See UNGA Resolution, ‘Intensification of Efforts to End Obstetric Fistula’ (2016), A/RES/71/169, OP 2. See also: UNGA Resolution, ‘Intensification of Efforts to End Obstetric Fistula’ (2014), A/RES/69/148, OP 1; UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2012), A/RES/67/147, OP 1; UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2010), A/RES/65/188, OP 1; UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2008), A/RES/63/158, OP 1; and UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2007), A/RES/62/138, OP 1.

<sup>85</sup> See UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2016), A/RES/71/168, OP 1. See also: UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2014), A/RES/69/150, OP 1; and UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2012), A/RES/67/146, OP 1.

<sup>86</sup> See UNGA Resolution, ‘Intensification of Efforts to Prevent and Eliminate all forms of Violence Against Women and Girls: Domestic Violence’ (2016), A/RES/71/170, OP 14b.

the resolutions on the girl child and obstetric fistula recognise the direct negative implications of discrimination against girls and the violation of the rights of girls to access quality education, nutrition (including food allocation), and physical and mental health-care services.<sup>87</sup> The 2015 resolution on ‘The Human Rights to Safe Drinking Water and Sanitation’ acknowledges the negative impact of the “*lack of access to adequate water and sanitation services, including for menstrual hygiene management, especially in schools*” and “*widespread stigma associated with menstruation*” on women’s and girls’ enjoyment of human rights, including the right to education.<sup>88</sup> In resolutions on ‘Traditional or Customary Practices Affecting the Health of Women and Girls’, States commit to promoting “*awareness of the human rights of women and girls and of how harmful traditional or customary practices violate those rights*”.<sup>89</sup>

As the above example already outlines, UNGA resolutions also touch upon various violations of the human rights of women and girls directly, such as violence (including sexual violence<sup>90</sup> and domestic violence<sup>91</sup>), female genital mutilation, child and forced marriage, as well as trafficking (including sexual trafficking<sup>92</sup>). Resolutions addressing the issue of violence against women adopted since 2010 explicitly recognise that “*all forms of violence against women seriously violate and impair or nullify the enjoyment by women and girls of all human rights and fundamental freedoms*”.<sup>93</sup> Preceding resolutions only referred to the “*enjoyment by women*”.<sup>94</sup> Only the most recent resolution further acknowledges that violence constitutes a significant obstacles to women’s and girls’ “*full, equal and effective participation in society, the economy and political decision-making*”<sup>95</sup>, while resolutions adopted before 2016 merely recognise impediments to the “*ability of women to make use of their capabilities*”<sup>96</sup> or to “*women’s full, equal and effective participation in society, the economy and political decision-making*”.<sup>97</sup> They remain silent about the impact of violence on girls’ full potential.

In the 2011 resolution on the girl child, States only acknowledge that “*child and forced marriages violate and impair the full enjoyment of the human rights of women and girls*”, without mentioning ‘early marriages’.<sup>98</sup> Concerning female genital mutilation, the 2016 FGM resolution recognises that FGM constitutes “*an act of*

<sup>87</sup> See UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, PP 18; UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, PP 27; UNGA Resolution, ‘The Girl Child’ (2011), A/RES/66/140, PP 17; UNGA Resolution, ‘The Girl Child’ (2009), A/RES/64/145, PP 17; UNGA Resolution, ‘The Girl Child’ (2007), A/RES/62/140, PP 13; UNGA Resolution, ‘The Girl Child’ (2005), A/RES/60/141, PP 10; UNGA Resolution, ‘The Girl Child’ (2003), A/RES/58/156, PP 12; UNGA Resolution, ‘The Girl Child’ (2002), A/RES/57/189, PP 13; UNGA Resolution, ‘The Girl Child’ (2001), A/RES/56/139, PP 3; and UNGA Resolution, ‘The Girl Child’ (2000), A/RES/55/78, PP 3. *For similar language* see also: UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2010), A/RES/65/188, PP 10; and UNGA Resolution, ‘Supporting Efforts to End Obstetric Fistula’ (2008), A/RES/63/158, PP 10.

<sup>88</sup> See UNGA Resolution, ‘The Human Rights to Safe Drinking Water and Sanitation’ (2015), A/RES/70/169, PP 14.

<sup>89</sup> See UNGA Resolution, ‘Traditional or Customary Practices Affecting the Health of Women and Girls’ (1999), A/RES/54/133, OP 3j. See also: UNGA Resolution, ‘Traditional or Customary Practices Affecting the Health of Women and Girls’ (1998), A/RES/53/117, OP 3f; and UNGA Resolution, ‘Traditional or Customary Practices Affecting the Health of Women and Girls’ (1997), A/RES/52/99, OP 2e.

<sup>90</sup> See UNGA Resolution, ‘Traffic in Women and Girls’ (1997), A/RES/52/98, PP 9; UNGA Resolution, ‘Traffic in Women and Girls’ (1996), A/RES/51/66, PP 7; and UNGA Resolution, ‘Traffic in Women and Girls’ (1995), A/RES/50/167, PP 10.

<sup>91</sup> See UNGA Resolution, ‘Improvement of the Situation of Women in Rural Areas’ (2003), A/RES/58/146, OP 3f. See also: UNGA Resolution, ‘Improvement of the Situation of Women in Rural Areas’ (2001), A/RES/56/129, OP 6h.

<sup>92</sup> See UNGA Resolution, ‘Traffic in Women and Girls’ (1997), A/RES/52/98, PP 9; UNGA Resolution, ‘Traffic in Women and Girls’ (1996), A/RES/51/66, PP 7; and UNGA Resolution, ‘Traffic in Women and Girls’ (1995), A/RES/50/167, PP 10.

<sup>93</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2014), A/RES/69/147, PP 21; UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2012), A/RES/67/144, PP 14. UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2010), A/RES/65/187, PP 11. See also: UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2009), A/RES/64/137, PP 10; UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2007), 62/133, PP 6.

<sup>94</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2008), A/RES/63/155, PP 8; UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2006), A/RES/61/143, PP 7.

<sup>95</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women and Girls: Domestic Violence’ (2016), A/RES/71/170, PP 11.

<sup>96</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2010), A/RES/65/187, PP 11; UNGA Resolution, ‘Intensification of Efforts to Eliminate All Forms of Violence Against Women’ (2008), A/RES/63/155, PP 8; and UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2006), A/RES/61/143, PP 7.

<sup>97</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2014), A/RES/69/147, PP 21; and UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2012), A/RES/67/144.

<sup>98</sup> See UNGA Resolution, ‘The Girl Child’ (2011), A/RES/66/140, PP 18.

violence that impairs the human rights of women and girls”.<sup>99</sup> Preceding resolutions merely recognise that FGM ‘impairs’ (2014) or has a ‘negative impact’ on the human rights of women and girls (2012).<sup>100</sup> The lack of a clear recognition that FGM constitutes a ‘violation’ of human rights in these resolutions is particularly remarkable as States already declared in the 2009 resolution on the girl child that “*female genital mutilation violates and impairs the full enjoyment of the human rights of women and girls*” [emphasis added].<sup>101</sup>

### **Women and girls with intersecting identities**

UNGA resolutions refer to the rights of different groups of women and girls, including women and girl victims of trafficking and rape, migrant women and girls (including domestic workers), women and girls at risk of or affected by child, early and forced marriage, women and girls with disabilities in rural areas, and adolescent girls. When addressing the situation of women and girls in rural areas, resolutions place particular emphasis on the rights of women and girls with disabilities, and call upon States to ensure “*access on an equal basis to productive employment and decent work, economic and financial resources and disability-sensitive infrastructure and services, in particular in relation to health and education*”.<sup>102</sup> In resolutions on ‘Women in Development’, States are urged to protect the rights of migrant women and girls, including in relation to working hours, working conditions and wages, while promoting access to health-care services and social and economic benefits.<sup>103</sup> In the context of health, resolutions on the girl child call on States to ensure adolescents’ access to “*primary health care with an integrated HIV response*”.<sup>104</sup> Related to the issue of sexual violence in conflict situations, States have committed to ensure that “*rape victims, particularly women and girls, have equal protection under the law and equal access to justice*”.<sup>105</sup> Similarly, the resolution underscores the need to ensure that the treatment of victims of trafficking in women and girls fully respects their human rights, while being gender- and age-sensitive.<sup>106</sup> The explicit mentioning of an age dimension is particularly noteworthy as in most cases, texts addressing women and girls do not include an age perspective.

The 2006 resolution on the ‘Elimination of Violence against Women’ acknowledged the need to address discriminatory practices and social norms in order to tackle structural causes of and prevent violence against women and recognised the need to give women with intersecting identities special attention. While the paragraph does consider age as a factor leading to intersecting marginalisation, it does not mention girls, but only refers to adult women, including indigenous women, women with disabilities, and stateless women.<sup>107</sup>

## **b. Human Rights Council resolutions**

Around 250 Human Rights Council (HRC) resolutions adopted between 2006 and 2017 have been considered for this report.<sup>108</sup> Unlike the UNGA, the HRC has not yet considered a specific resolution on the ‘girl child’.

<sup>99</sup> See UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2016), A/RES/71/168, PP 9.

<sup>100</sup> See UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2014), A/RES/69/150, PP 7; UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2012), A/RES/67/146, PP 7.

<sup>101</sup> See UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, PP 30. See also: UNGA Resolution, ‘The Girl Child’ (2011), A/RES/66/140, PP 22; and UNGA Resolution, ‘The Girl Child’ (2009), A/RES/64/145, PP 18.

<sup>102</sup> See UNGA Resolution, ‘Improvement of the Situation of Women and Girls in Rural Areas’ (2015), A/RES/70/132, OP 2m. See also: UNGA Resolution, ‘Improvement of the Situation of Women in Rural Areas’ (2013), A/RES/68/139, OP 2m; UNGA Resolution, ‘Improvement of the Situation of Women in Rural Areas’ (2011), A/RES/66/129, OP 2k; and UNGA Resolution, ‘Improvement of the Situation of Women in Rural Areas’ (2009), A/RES/64/140, OP 2j.

<sup>103</sup> See UNGA Resolution, ‘Women in Development’ (2015), A/RES/70/219, OP 25. See also: UNGA Resolution, ‘Women in Development’ (2013), A/RES/68/227, OP 21.

<sup>104</sup> See UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, OP 10; UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, OP 36; and UNGA Resolution, ‘The Girl Child’ (2009), A/RES/64/145, OP 13.

<sup>105</sup> See UNGA Resolution, ‘Eliminating Rape and Other Forms of Sexual Violence in all their Manifestations, Including in Conflict and Related Situations’ (2007), A/RES/62/134, OP 1b.

<sup>106</sup> See UNGA Resolution, ‘Trafficking in Women and Girls’ (2016), A/RES/71/167, OP 38.

<sup>107</sup> See UNGA Resolution, ‘Intensification of Efforts to Eliminate all Forms of Violence Against Women’ (2006), A/RES/61/143, OP 8f.

<sup>108</sup> Please note that at the time of writing not all final versions of resolutions adopted at HRC sessions in March, June, and September 2017 were available and could therefore not be considered for the purpose of this report.

However, ‘omnibus’ resolutions on the ‘Rights of the Child’ have included a separate subsection on girls,<sup>109</sup> while regular ‘Rights of the Child’ resolutions have a broader thematic focus. For the first time in 2016, three HRC resolutions mentioned ‘girl’ in the title.<sup>110</sup> The resolution on ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women’ with that year’s thematic focus on ‘Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls’ is an annual resolution adopted since 2008.<sup>111</sup> Like the UNGA, the HRC considers a number of resolutions with the same title or on the same topic annually or biannually. According to the Universal Rights Group (URG), “on average, somewhere between 45-50% of resolutions adopted in a given year had ‘sister’ resolutions on the same topic (and with exactly the same title) adopted the previous year, demonstrating a high degree of repetition in the [Human Rights] Council’s output”.<sup>112</sup>

There are a number of similarities between language adopted by the UNGA and the HRC concerning the way resolutions address issues pertaining to ‘girls’ or ‘girls’ rights’. Like UNGA resolutions, HRC resolutions often mention women and girls together or acknowledge the particular vulnerability of girls (and women) due to their intersecting identities, which demands special attention to their situation. Explicit references to the rights of girls as a stand-alone group are rare. Resolutions frequently address the ‘specific needs’ of girls (and women),

**Resolutions frequently address the ‘specific needs’ of girls (and women), however often without providing further details on what constitutes as such needs.**

however often without providing further details on what such needs constitute. Both UNGA and HRC resolutions point to the ICPD Programme of Action and the Beijing Platform for Action, as well as the outcome documents of the review conferences, as references for the recognition of rights related to sexual and reproductive health. It is further noteworthy, that the analysis of both UNGA and HRC resolutions revealed significant overlap in the paragraphs used. This is in line with the findings of URG that “56% of all human rights resolutions adopted by the [UN]GA’s Third Committee between 2012-2013 had a *prima facie* [Human

*Rights] Council equivalents, and 40% of them had some degree of substantive overlap in their content, with a significant number repeating whole sections of Council resolutions word for word”.<sup>113</sup> Lastly, in a number of instances the HRC recognises the importance of addressing violations of women’s and girls’ rights, however, when setting forth measures to be taken by States, the text is silent about the situation of girls, and only refers to women and their empowerment, political participation, or access to economic resources or services.*

### **Rights of girls**

HRC resolutions refer to the rights of girls as a stand-alone group mainly in the context of education, as well as with regard to measures States should take to promote and protect the rights of girls more generally, including those pertaining to discrimination, violence and exploitation, participation and access to basic services. Resolutions further recognise the rights of girls facing intersecting marginalisation, as well as the

<sup>109</sup> The omnibus resolutions were adopted in 2008 (A/HRC/RES/7/29) and 2012 (A/HRC/RES/19/37).

<sup>110</sup> ‘Addressing the Impact of Multiple and Intersecting Forms of Discrimination and Violence in the Context of Racism, Racial Discrimination, Xenophobia and Related Intolerance on the Full Enjoyment of All Human Rights by Women and Girls (A/HRC/RES/32/17); ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls’ (A/HRC/RES/32/19); and ‘Realizing the Equal Enjoyment of the Right to Education by Every Girl’ (A/HRC/RES/32/20).

<sup>111</sup> The mainstreaming of ‘girls’ throughout the resolution, including the title, can be explained by direct advocacy addressing the core group of States tabling the resolution. While a mere addition of the term ‘girl’ to all references to women cannot be seen as the ultimate goal, it is nevertheless remarkable that ‘girls’ were mentioned almost twice as many times as in preceding resolutions (2016: 82 times; 2015: 42 times; 2014: 40 times).

<sup>112</sup> See Universal Human Rights Group, *Ensuring Relevant, Driving Impact: The Evolution and Future Direction of the UN Human Rights Council’s Resolution System* (2015), Policy Report, pp. 3; 31-32. Available at: <http://www.universal-rights.org/urg-policy-reports/ensuring-relevance-driving-impact-the-evolution-and-future-direction-of-the-un-human-rights-councils-resolution-system/> [Accessed 29 September 2017].

<sup>113</sup> *Ibid.*

need to pay particular attention to gender-specific obstacles to the enjoyment of rights by girls.

Unsurprisingly, the resolution on 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' extensively addresses girls' right to education and identifies a comprehensive list of necessary steps towards its realisation. It urges States to address school dropout rates among girls,<sup>114</sup> to remove obstacles that impede girls' access to education, such as harmful practices, early pregnancy and financial barriers,<sup>115</sup> and to eliminate "gender-based stereotypes from all educational processes, practices and teaching materials".<sup>116</sup> It furthermore acknowledges the need to ensure a school environment free from violence,<sup>117</sup> including safe transportation services,<sup>118</sup> as well as with "full access to separate, adequate and safe water and sanitation services, properly equipped with hygiene kits".<sup>119</sup> Interestingly, the resolution neither repeats language on the 'safety of girls at and on the way to and from school'<sup>120</sup> nor on 'menstrual hygiene'<sup>121</sup> used in previous UNGA and HRC resolutions. Addressing the situation of girls who face intersecting marginalisation, including girls with disabilities, indigenous girls, girls in emergency situations, girls living in rural areas or girls belonging to minority groups, the resolution also demands States to provide them with equal access to education and to prevent the dropout of girls for economic reasons.<sup>122</sup> Furthermore, the resolution articulates the acquisition of "basic skills to participate effectively in society, including financial literacy" as a key learning objective for girls who complete primary and secondary education.<sup>123</sup> Similarly, States are urged to ensure quality education, as well as human rights education, in order "to allow the fullest development of [girls'] abilities and enable [them] to be a proactive actor[s] in society".<sup>124</sup> The resolution on the 'Elimination of Discrimination Against Women' of 2015 also touches upon the right to education as a means to empowerment and to ensuring equality and non-discrimination, while demanding States to provide equal access to quality education for girls and to "eliminate gender disparities in enrolment, gender-based bias and stereotypes in education systems, curricula and materials".<sup>125</sup>

Similar to UNGA resolutions, text adopted by the HRC likewise acknowledges that girls, among other groups of children, often face additional barriers to the enjoyment of their rights. With regard to the right to education, States commit to make "primary education available, free and compulsory for all children, by ensuring that all children, **particularly girls** [...] have access to good quality education [emphasis added]".<sup>126</sup> Recognising the importance of public investment in the education sector, the resolution on 'The Right to Education' demands States to take into account the situation of girls, marginalised children and persons with disabilities when expanding educational opportunities.<sup>127</sup> Furthermore, resolutions on 'The Right to Education' (2014 and 2015) as well as the 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' recognise the negative

<sup>114</sup> See HRC Resolution, 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' (2016), A/HRC/RES/32/20, OP 2c.

<sup>115</sup> *Id.*, OP 2a.

<sup>116</sup> *Id.*, OP 2k.

<sup>117</sup> *Id.*, OP 2b.

<sup>118</sup> *Id.*, OP 2e.

<sup>119</sup> *Id.*, OP 2i.

<sup>120</sup> See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Violence Against Women as a Barrier to Women's Political and Economic Empowerment' (2014), A/HRC/RES/26/15, OP 6l; HRC Resolution, 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage' (2015), A/HRC/RES/29/8, OP 14; UNGA Resolution, 'The Girl Child' (2015), A/RES/70/138, OP 4; UNGA Resolution, 'Intensification of Efforts to Eliminate All Forms of Violence Against Women and Girls' (2014), A/RES/69/147, OP 20o; and UNGA Resolution, 'The Girl Child' (2013), A/RES/68/146, OP 5. See also language adopted after the 32<sup>nd</sup> HRC session: UNGA Resolution, 'Child, Early and Forced Marriage' (2016), A/RES/71/175, OP 9.

<sup>121</sup> See UNGA Resolution, 'The Human Rights to Safe Drinking Water and Sanitation' (2015), A/RES/70/169, PP 14; and HRC Resolution, 'The Human Right to Safe Drinking Water and Sanitation' (2014), A/HRC/RES/27/7, PP 14. After the adoption of the resolution on the 'Realizing the Equal Enjoyment of the Right to Education by Every Girl', the 2016 HRC resolution on 'The Human Right to Safe Drinking Water and Sanitation' (A/HRC/RES/33/10, PP 13) and the 2016 UNGA resolution on 'Child, Early and Forced Marriage' (A/RES/71/175, OP 9) reiterated the language on menstrual hygiene comprised in the resolutions mentioned above.

<sup>122</sup> See HRC Resolution, 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' (2016), A/HRC/RES/32/20, OP 2f, 2g, and 2m.

<sup>123</sup> *Id.*, OP 2j.

<sup>124</sup> *Id.*, OP 2h.

<sup>125</sup> See HRC Resolution, 'Elimination of Discrimination Against Women' (2015), A/HRC/RES/29/4, OP 7.

<sup>126</sup> See HRC Resolution, 'Rights of the Child: Omnibus Resolution' (2008), A/HRC/RES/7/29, OP 23a. See also: HRC Resolution, 'Rights of the Child: A Holistic Approach to the Protection and Promotion of the Rights of Children Working and/or Living on the Street' (2011), A/HRC/RES/16/12, OP 3c.

<sup>127</sup> See HRC Resolution, 'The Right to Education' (2015), A/HRC/RES/29/7, OP 2b.

impact of (terrorist) attacks on the enjoyment of the right to education, in particular by (women and) girls.<sup>128</sup>

The 2012 omnibus resolution on the ‘Rights of the Child’ do solely broadly refers to the ‘human rights of the girl child’ while calling upon States to take a number of measures towards their promotion and protection. These measures should address all forms of discrimination against women and girls as well as “*stereotyped gender roles and other prejudices based on the idea of the inferiority or the superiority of either of the sexes*”<sup>129</sup> and protect girls from all forms of violence and exploitation. Moreover, the resolution requests States to tackle the root causes of these violations, as well as to develop support services for girl victims<sup>130</sup> and to promote “*gender equality and equal access to basic social services, such as education, nutrition, birth registration, health care, including sexual and reproductive health in line with the International Conference on Population and Development, vaccinations and protection from diseases representing the major causes of mortality*”.<sup>131</sup> It is noteworthy that the paragraph only refers to the ICDP Programme of Action, but not the Beijing Platform for Action. Most resolutions mention both documents as a basis when referring to sexual and reproductive health.<sup>132</sup> While the paragraph repeats large parts of the language used in UNGA resolutions on the girl child, it interestingly lacks a reference to the mainstreaming of a gender-perspective in development policies and programmes (as included in UNGA resolutions since 2005).<sup>133</sup> Similarly, like the 2012 omnibus resolution, the 2008 resolution on the ‘Rights of the Child’ refers to girls’ rights in a generic manner by calling upon States “*to ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms*” and to take into account the “*special situation of girls*”.<sup>134</sup>

HRC resolutions further recognise that girls may face particular vulnerabilities due to their intersecting identities. The 2008 omnibus resolution on the ‘Rights of the Child’, for example, calls upon States “*to pay special attention to the protection, welfare and rights of girls affected by armed conflict*”.<sup>135</sup> In the context of migration, the HRC urged States to protect the rights of children, while placing a special emphasis on the need to include a gender perspective in policies and programmes to ensure better protection of girls from “*dangers and abuse*”.<sup>136</sup>

### **Rights of women and girls**

HRC resolutions refer to women’s and girls’ rights—both in generic terms, as well as acknowledging specific rights of women and girls, including in the context of inheritance and property, violence, discrimination, harmful practices (including female genital mutilation and child, early and forced marriage), education, health (including sexual and reproductive health, and maternal mortality), participation in economic, political and social life, food, and freedom of opinion and expression.

The 2016 resolution on ‘Addressing the Impact of Multiple and Intersecting Forms of Discrimination and

<sup>128</sup> See HRC Resolution, ‘The Right to Education: Follow-up to Human Rights Council Resolution 8/4’ (2014), A/HRC/RES/26/17, OP 6. For paragraphs with references to ‘women and girls’ compare HRC Resolution, ‘The Right to Education’ (2015), A/HRC/RES/29/7, OP 7; and HRC Resolution, ‘Realizing the Equal Enjoyment of the Right to Education by Every Girl’ (2016), A/HRC/RES/32/20, PP 11.

<sup>129</sup> See HRC Resolution, ‘Rights of the Child: Omnibus Resolution’ (2012), A/HRC/RES/19/37, OP 17a.

<sup>130</sup> *Id.*, OP 17b.

<sup>131</sup> *Id.*, OP 17c.

<sup>132</sup> Compare UNGA Resolution, ‘Child, Early and Forced Marriage’ (2016), A/RES/71/175, OP 13; UNGA Resolution, ‘Intensifying Global Efforts for the Elimination of Female Genital Mutilation’ (2016), A/RES/71/168, OP 1; UNGA Resolution, ‘Intensification of Efforts to End Obstetric Fistula’ (2016), A/RES/71/169, OP 4; and UNGA Resolution, ‘Intensification of Efforts to Prevent and Eliminate All Forms of Violence Against Women and Girls: Domestic Violence’ (2016), A/RES/71/170, OP 14f.

<sup>133</sup> Compare UNGA Resolution, ‘The Girl Child’ (2011), A/RES/66/140, OP 16; UNGA Resolution, ‘The Girl Child’ (2009), A/RES/64/145, OP 14; UNGA Resolution, ‘The Girl Child’ (2007), A/RES/62/140, OP 12; and UNGA Resolution, ‘The Girl Child’ (2005), A/RES/60/141, OP 8. UNGA resolutions on the girl child adopted in 2013 and 2015 further included references to water and sanitation in the context of providing access to basic social services. See UNGA Resolution, ‘The Girl Child’ (2015), A/RES/70/138, OP 11; and UNGA Resolution, ‘The Girl Child’ (2013), A/RES/68/146, OP 13.

<sup>134</sup> See HRC Resolution, ‘Rights of the Child: Omnibus Resolution’ (2008), A/HRC/RES/7/29, OP 24a.

<sup>135</sup> *Id.*, OP 44.

<sup>136</sup> See HRC Resolution, ‘The Human Rights of Migrants: Migration and the Human Rights of the Child’ (2009), A/HRC/RES/12/6, OP 3e.

Violence in the Context of Racism, Racial Discrimination, Xenophobia and Related Intolerance on the Full Enjoyment of All Human Rights by Women and Girls', reaffirms States' recognition that *"the human rights of women and girls are an inalienable, integral and indivisible part of universal human rights"*.<sup>137</sup> With regard to tackling discrimination, States committed to *"promote the rights of women and girls and to support their empowerment"* by adopting gender-responsive policies, as well as by combatting poverty and social exclusion to remove structural barriers to their participation in economic and social life.<sup>138</sup> Moreover, the resolution on 'Elimination of Female Genital Mutilation' notes that violations of the rights of women and girls have a negative impact on their *"full and effective participation in the economic, political, social and cultural development of their country"*.<sup>139</sup> States further recognise that the failure to prevent maternal mortality and morbidity constitutes a significant barrier to the enjoyment of human rights by women and girls as well as their *"ability to reach their full potential"*.<sup>140</sup> More accurately, resolutions should refer to 'maternal morbidity' only, since the failure to prevent 'maternal mortality' results in the death of women and girls. In 2013, the HRC declared that child, early and forced marriages *"violate and impair the full enjoyment of human rights of women and girls"*.<sup>141</sup>

Resolutions on 'Accelerating Efforts to Eliminate All Forms of Violence Against Women' and 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage' do recognise women's and girls' inheritance (and property) rights as a means to (economic) empowerment.<sup>142</sup> However, similar to resolutions adopted by the UNGA, HRC resolutions often refrain from mentioning girls, and only singles out women when referring to political and economic empowerment and equal rights or access to economic resources, employment, or justice. For example, in identifying measures to be taken to prevent and eliminate violence against women and girls, States emphasised the need to empower **women** and to ensure **women's** *"full and equal participation in society and in decision-making processes"*, while remaining silent about the situation of girls.<sup>143</sup> Similarly, States committed to ensuring **women's** *"full and equal access to quality education, including comprehensive sexuality education, and training"*.<sup>144</sup> In order to promote women's (economic) autonomy, resolutions demand States to guarantee **women's** *"full and equal rights to own and have access to and control over land and other property"*, as well as their full and equal access to financial resources and decent work.<sup>145</sup> Interestingly, only

<sup>137</sup> See HRC Resolution, 'Addressing the Impact of Multiple and Intersecting Forms of Discrimination and Violence in the Context of Racism, Racial Discrimination, Xenophobia and Related Intolerance on the Full Enjoyment of All Human Rights by Women and Girls' (2016), A/HRC/RES/32/17, PP 5.

<sup>138</sup> See HRC Resolution, 'Elimination of Discrimination Against Women' (2015), A/HRC/RES/29/4, OP 9; HRC Resolution, 'Elimination of Discrimination Against Women' (2014), A/HRC/RES/26/5, OP 4; and HRC Resolution, 'Elimination of Discrimination Against Women' (2013), A/HRC/RES/23/7, OP 8.

<sup>139</sup> See HRC Resolution, 'Elimination of Female Genital Mutilation' (2016), A/HRC/RES/32/21, PP 12.

<sup>140</sup> See HRC Resolution, 'Preventable Maternal Mortality and Morbidity and Human Rights' (2016), A/HRC/RES/33/18, PP 23; and HRC Resolution, 'Preventable Maternal Mortality and Morbidity and Human Rights' (2014), A/HRC/RES/27/11, PP 5.

<sup>141</sup> See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Rape and Other Forms of Sexual Violence' (2013), A/HRC/RES/23/25, PP 11. Compare UNGA Resolution, 'Child, Early and Forced Marriage' (2016), A/RES/71/175, PP 10; and UNGA Resolution, 'Child, Early and Forced Marriage' (2014), A/RES/69/156, PP 7.

<sup>142</sup> See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls' (2016), A/HRC/RES/32/19, OP 7c; and HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence' (2015), A/HRC/RES/29/14, OP 8h; HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Violence Against Women as a Barrier to Women's Political and Economic Empowerment' (2014), A/HRC/RES/26/15, OP 6e; and HRC Resolution, 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage' (2015), A/HRC/RES/29/8, OP 17.

<sup>143</sup> See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls' (2016), A/HRC/RES/32/19, OP 7c; and HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence' (2015), A/HRC/RES/29/14, OP 8h. See also: HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence' (2015), A/HRC/RES/29/14, PP 11.

<sup>144</sup> See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls' (2016), A/HRC/RES/32/19, OP 7c; and See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence' (2015), A/HRC/RES/29/14, OP 8h.

<sup>145</sup> See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls' (2016), A/HRC/RES/32/19, OP 7c; and HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence' (2015), A/HRC/RES/29/14, OP 8h. *For similar language compare also:* See HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence' (2015), A/HRC/RES/29/14, OP 8h; And HRC Resolution, 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage' (2015), A/HRC/RES/29/8, OP 17.

the 2014 resolution on ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women’ urges States to guarantee women’s **and girls’** “full and equal access to and control over assets and natural and other productive resources, including their rights to own and lease land and other property”.<sup>146</sup> However, it only recognises the rights of **women** “[...] to credit, capital, finance, financial assets, science and technology, vocational training, information and communications technologies and markets” and calls upon States to ensure **women’s** “equal access to justice and legal assistance”.<sup>147</sup> In the context of addressing poverty and limited economic opportunities for women and girls as drivers of child, early and forced marriage, States committed to ensure women’s and girls’ “equal access to social protection, including direct financial support and microcredit for girls, families and guardians”.<sup>148</sup>

Resolutions on ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women’ in 2010 and 2011 highlight the importance of promoting all of women and girls’ human rights, while only emphasising that “women should be empowered to protect themselves against violence”.<sup>149</sup> Touching upon measures to be taken to eliminate discrimination against women and to promote gender equality, the 2011 resolution refrains from incorporating an age-perspective to take into account the situation of girls, but simply refers to women’s “full autonomy, including with regard to land, property, marriage and divorce, child custody and inheritance”.<sup>150</sup> Similarly, States committed to guarantee women’s “equal access to literacy, education, skills training and employment opportunities, political participation and representation, credit, agricultural extension, adequate housing, just and favourable conditions of work and business and leadership skills training”.<sup>151</sup> Concerning the prevention of violence against women, States underscored the key role of the “realization of all human rights of women and girls”, including with regard to education, health, work, participation, nationality, housing and social security.<sup>152</sup> However, the text only recognises the “different treatment of women before the law” as impeding the enjoyment of these rights, without acknowledging the specific situation girls might face.<sup>153</sup> When addressing the issue of violence, States emphasised the need to empower women to enable them to protect themselves against violence, without mentioning girls. Since 2015, resolutions on ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women’ have recognised the primary responsibility of States to protect and promote the human rights of women and girls and called upon States to take measures to prevent and to protect women and girls from all forms of violence, including by abolishing discriminatory practices and legislation.<sup>154</sup>

With regard to health care, States expressed their concern that the right to the enjoyment of the highest attainable standard of physical mental health remains unfulfilled for a large number of women and girls.<sup>155</sup> In response, States committed to ensure women’s and girls’ access to high-quality health care and services. However, when urging States to remove all barriers that impede the right to the enjoyment of the highest attainable standard of physical and mental health, the same paragraph only refers to women.<sup>156</sup>

<sup>146</sup> See HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Violence Against Women as a Barrier to Women’s Political and Economic Empowerment’ (2014), A/HRC/RES/26/15, OP 6e.

<sup>147</sup> *Ibid.*

<sup>148</sup> See HRC Resolution, ‘Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage’ (2015), A/HRC/RES/29/8, OP 17.

<sup>149</sup> See HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Ensuring Due Diligence in Protection’ (2011), A/HRC/RES/17/11, OP 4; and HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Ensuring Due Diligence in Prevention’ (2010), A/HRC/RES/14/12, OP 13.

<sup>150</sup> See HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Ensuring Due Diligence in Protection’ (2011), A/HRC/RES/17/11, OP 4.

<sup>151</sup> *Ibid.*

<sup>152</sup> *Id.*, PP 8.

<sup>153</sup> *Ibid.*

<sup>154</sup> See HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls’ (2016), A/HRC/RES/32/19, OP 3; and HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Eliminating Domestic Violence’ (2015), A/HRC/RES/29/14, OP 6, 8b. See also:

<sup>155</sup> See HRC Resolution, ‘Preventable Maternal Mortality and Morbidity and Human Rights’ (2016), A/HRC/RES/33/18, PP 19.

<sup>156</sup> See HRC Resolution, ‘Elimination of Discrimination Against Women’ (2016), A/HRC/RES/32/4, OP 4.

Furthermore, HRC resolutions recognise women's and girls' right to the enjoyment of the highest attainable standard of physical and mental health, including sexual and reproductive health. Addressing the latter, it is remarkable that the 2015 resolution on 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage', explicitly refers to 'girls' when recognising women's and girls' "*right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health*".<sup>157</sup> In all other documents, including UNGA resolutions, the Beijing Platform for Action, CSW Agreed Conclusions and resolutions, as well as CPD resolutions, this right is only recognised for 'women',<sup>158</sup> 'all women',<sup>159</sup> 'women and men',<sup>160</sup> 'all couples and individuals',<sup>161</sup> 'women, men and youth',<sup>162</sup> or 'adolescent and youth'.<sup>163</sup> However, in no instance are girls explicitly mentioned.<sup>164</sup> Addressing the issue of maternal mortality and morbidity, States committed to ensure "*universal access to quality maternity, sexual and reproductive health-care services*", including by providing "*the necessary information and services in relation to the right to the highest attainable standard of physical and mental health, including the sexual and reproductive health of women and girls*".<sup>165</sup>

HRC resolutions further refer to women's and girls' right to education in a number of different contexts. Recognising that the realisation of the right to education contributes to the empowerment of women and girls, States acknowledge women's and girls' "*right to participate in public affairs, and to participate fully in the making of decisions that shape society*".<sup>166</sup> Similarly, States stress the need to eliminate laws, policies, customs and traditions that restrain women's and girls' equal access to full and effective participation in development processes and economic and social life.<sup>167</sup> The resolution on the 'Right to Food' recognises the crucial role of the rights of women and girls to education and social protection. However, unlike women, girls are not considered with regard to participation in decision-making and access to resources as means towards the

<sup>157</sup> See HRC Resolution, 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage' (2015), A/HRC/RES/29/8, OP 12.

<sup>158</sup> See CPD Resolution, 'Health, Morbidity, Mortality and Development' (2010), OP 12; CPD Resolution, 'Fertility, Reproductive Health and Development' (2011), OP 6; CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, including the Millennium Development Goals' (2009), OP 7, 17, 18; CSW Agreed Conclusion, 'Women's Economic Empowerment in the Changing World of Work', (2017), 40x; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2016), OP 9; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2014), OP 24; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2011), OP 19; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2010), OP 19; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2009), OP 20; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2008), OP 19; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2007), OP 18; CSW Resolution, 'Women, the Girl Child and HIV/AIDS' (2006), OP 18; CSW Agreed Conclusion, 'Women, the Girl Child and Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome' (2001), 1c; Beijing Declaration and Platform for Action (1995), para. 96; HRC Resolution, 'Elimination of Discrimination Against Women' (2016), A/HRC/RES/32/4, PP 10; HRC Resolution, 'Preventable Maternal Mortality and Morbidity and Human Rights' (2016), A/HRC/33/18, PP 3; HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Preventing and Responding to Rape and Other Forms of Sexual Violence' (2013), A/HRC/RES/23/25, OP 6; HRC Resolution, 'Accelerating Efforts to Eliminate All Forms of Violence Against Women: Ensuring Due Diligence in Prevention' (2010), A/HRC/RES/14/12, OP 13; HRC Resolution, 'The Protection of Human Rights in the Context of Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS)' (2009), A/HRC/RES/12/27, OP 6; UNGA Resolution, 'Declaration of Commitment on HIV/AIDS' (2001), A/RES/S-26/2, 59; UNGA Resolution, 'Further actions and initiatives to implement the Beijing Declaration and Platform for Action' (2000), A/RES/S-23/3, 44; and UNGA Resolution, 'Further actions and initiatives to implement the Beijing Declaration and Platform for Action' (2000), A/RES/S-23/3, para. 72k.

<sup>159</sup> See CSW Agreed Conclusion, 'Elimination and Prevention of All Forms of Violence Against Women and Girls' (2013), para. 34nn; and UNGA Resolution, 'Child, Early and Forced Marriage' (2014), A/RES/69/156, OP 5.

<sup>160</sup> See CPD Resolution, 'Health, Morbidity, Mortality and Development' (2010), PP 12; and CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, including the Millennium Development Goals' (2009), PP 6.

<sup>161</sup> See CPD Resolution, 'Adolescents and Youth' (2012), PP 15; CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, including the Millennium Development Goals' (2009), PP 17; and Beijing Declaration and Platform for Action (1995), para. 95.

<sup>162</sup> See UNGA Resolution, 'Rio+20 – Conference on Sustainable Development: The Future We Want' (2012), para. 146.

<sup>163</sup> See CPD Resolution, 'Adolescents and Youth' (2012), OP 7.

<sup>164</sup> The only exception is the 2016 UNGA resolution on 'Child, Early and Forced Marriage', that awards "*women and girls who have been subjected to child, early and forced marriage [emphasis added]*" with the "*right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence*". See UNGA Resolution, 'Child, Early and Forced Marriage' (2016), A/RES/71/175, OP 13.

<sup>165</sup> See HRC Resolution, 'Preventable Maternal Mortality and Morbidity and Human Rights' (2016), A/HRC/RES/33/18, OP 1; and HRC Resolution, 'Preventable Maternal Mortality and Morbidity and Human Rights' (2014), A/HRC/RES/27/11, OP 1.

<sup>166</sup> See HRC Resolution, 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' (2016), A/HRC/RES/32/20, PP 15.

<sup>167</sup> See HRC Resolution, 'Elimination of Discrimination Against Women' (2014), A/HRC/RES/26/5, PP 7. See also: HRC Resolution, 'Elimination of Discrimination Against Women' (2013), A/HRC/RES/23/7, PP 7.



advancement of agricultural development and food security.<sup>168</sup> With regard to violence, States identified the “*threat or risk of being exposed to violence*” as an impediment to women’s and girls’ enjoyment of the right to education.<sup>169</sup> Resolutions on ‘The Human Rights to Safe Drinking Water and Sanitation’ highlight the negative impact of stigma associated with menstruation—reinforced by a lack of access to water and sanitation services, including for menstrual hygiene—on the rights of women and girls to education and health.<sup>170</sup> Recognising education as “*one of the most effective ways to prevent and end child, early and forced marriage*”, States committed to promote and protect the rights of women and girls to education, placing emphasis on “*quality education, including human rights education and training, and catch-up and literacy education*”.<sup>171</sup>

The resolutions on the ‘Right to Food’ use almost the exact same language as their counterpart resolutions adopted by the UNGA.<sup>172</sup> Addressing malnutrition of women and girls, States committed to ensure the “*equal realization of the right to food*”, as well as women’s and girls’ “*equal access to social protection and resources, including income, land and water, and their ownership, and full and equal access to health care, education,*

<sup>168</sup> See HRC Resolution, ‘The Right to Food’ (2017), A/HRC/RES/34/12, OP 7; and HRC Resolution, ‘The Right to Food’ (2016), A/HRC/RES/31/10, OP 7.

<sup>169</sup> See HRC Resolution, ‘Accelerating Efforts to Eliminate All Forms of Violence Against Women: Ensuring Due Diligence in Prevention’ (2010), A/HRC/RES/14/12, PP 10.

<sup>170</sup> See HRC Resolution, ‘The Human Rights to Safe Drinking Water and Sanitation’ (2016), A/HRC/RES/33/10, PP 13. See also: See HRC Resolution, ‘The Human Right to Safe Drinking Water and Sanitation’ (2014), A/HRC/RES/27/7, PP 14.

<sup>171</sup> See HRC Resolution, ‘Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage’ (2015), A/HRC/RES/29/8, OP 11.

<sup>172</sup> Compare for example UNGA Resolution, ‘The Right to Food’ (2016), A/RES/71/191, OP 7.

*science and technology*".<sup>173</sup> However, until 2014, the paragraph did not explicitly mention 'girls', but only urged States to ensure that women have equal access to the resources and services listed above.<sup>174</sup>

The onetime resolution on 'The Role of Freedom of Opinion and Expression in Women's Empowerment', adopted in 2013, refers to women's and girls' right to freedom of opinion and expression and calls upon States to protect women and girls who are exercising this right from discrimination, including in relation to employment, education, housing and the justice system.<sup>175</sup> Furthermore, it urges States to provide women and girls with "access to effective remedies for violations of their right to freedom of expression".<sup>176</sup> Lastly, States recognised that "discrimination, intimidation, harassment and violence, including in public spaces" has a negative effect on women's and girls' enjoyment of the right to freedom of opinion and expression, and impedes their "full participation in economic, social, cultural and political affairs".<sup>177</sup> The resolution, however, does not address particular barriers to the enjoyment of the right to freedom of expression by girls, nor does it touch upon measures to empower girls to claim this right.

Lastly, HRC resolutions recognise the increased vulnerability of women and girls to human rights violations in different contexts. Without explicitly mentioning girls, the resolution on 'Protecting Human Rights Defenders, whether Individuals, Groups or Organs of Society, Addressing Economic, Social and Cultural Rights' acknowledges that "women human rights defenders of all ages" face discrimination and violence and calls upon States to take action to protect "the rights of women human rights defenders".<sup>178</sup> In the context of migration, States committed to prevent violations of the rights of migrants, and emphasised the need to pay special attention to women and girls due to their vulnerability to violence.<sup>179</sup>

### c. International agreements and declarations

In total, 15 international agreements and declarations have been reviewed for the purpose of this report.<sup>180</sup> While three refrain from mentioning the term 'girl' at all,<sup>181</sup> all other documents refer to girls either by recognising their rights explicitly or by acknowledging barriers and obstacles to the enjoyment of their rights. However, in most instances girls are grouped together with women or implicitly referred to under the terms 'adolescents', 'children' or 'all women'.

#### **World Conference on the Human Rights – Vienna Declaration and Programme of Action, June 1993**

The 1993 World Conference on Human Rights and the adoption of the Vienna Declaration and Programme of Action (VDPA) as the main outcome of the conference marked a turning point in the global recognition of women's and girls' rights as human rights. The VDPA states that "*the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights*".<sup>182</sup> Furthermore, it calls upon States and the international community "to intensify their efforts for the protection and promotion of human

<sup>173</sup> See HRC Resolution, 'The Right to Food' (2017), A/HRC/RES/34/12, OP 8; and HRC Resolution, 'The Right to Food' (2016), A/HRC/RES/31/10, OP 8; and HRC Resolution, 'The Right to Food' (2015), A/HRC/RES/28/10, OP 7.

<sup>174</sup> See HRC Resolution, 'The Right to Food' (2014), A/HRC/RES/25/14, OP 7; HRC Resolution, 'The Right to Food' (2013), A/HRC/RES/22/9, OP 6; HRC Resolution, 'The Right to Food' (2012), A/HRC/RES/19/7, OP 7; HRC Resolution, 'The Right to Food' (2011), A/HRC/RES/16/27, OP 6; HRC Resolution, 'The Right to Food' (2010), A/HRC/RES/13/4, OP 6; and HRC Resolution, 'The Right to Food' (2009), A/HRC/RES/10/12, OP 5.

<sup>175</sup> See HRC Resolution, 'The Role of Freedom of Opinion and Expression in Women's Empowerment' (2013), A/HRC/RES/23/2, OP 3(b).

<sup>176</sup> *Id.*, OP 3(e).

<sup>177</sup> *Id.*, OP 2.

<sup>178</sup> See HRC Resolution, 'Protecting Human Rights Defenders, whether Individuals, Groups or Organs of Society, Addressing Economic, Social and Cultural Rights' (2016), A/HRC/RES/31/32, OP 9.

<sup>179</sup> See HRC Resolution, 'Human Rights of Migrants' (2013), A/HRC/RES/23/20, OP 4b.

<sup>180</sup> For a full list of international agreements and declarations considered for the purpose of this report see Annex I.

<sup>181</sup> The Declaration of Commitment on HIV/Aids, the United Nations Declaration on the Rights of Indigenous Peoples, and the Vienna Declaration on Crime and Justice. Please note that the Declaration on the Elimination of Violence against Women does not mention the term 'girl' either, however, it refers to 'female children' and is therefore not counted among the four documents without references to 'girl'.

<sup>182</sup> See Vienna Declaration and Platform for Action (1993), para. 18.

*rights of women and the girl child*".<sup>183</sup> In a separate section on the rights of the child, the VDPA explicitly recognises girls' vulnerability to discrimination and harmful practices by stipulating that States should "*repeal existing laws and regulations and remove customs and practices which discriminate against and cause harm to the girl child*".<sup>184</sup> The VDPA identifies violence against women—without mentioning girls, however—as a key concern, calling for the elimination of gender-based violence.<sup>185</sup> The particular emphasis on gender-based violence can be considered an important step in the integration of the topic as a key concern in the international human rights framework in the years following the conference.

### ***Declaration on the Elimination of Violence against Women, December 1993***

With the adoption of the Declaration on the Elimination of Violence against Women, States affirmed "*that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms*".<sup>186</sup> The declaration furthermore recognised that 'female children' are particularly vulnerable to violence and that "*sexual abuse of female children*" and "*female genital mutilation*" are forms of violence against women (Article 2a).<sup>187</sup>

### ***International Conference on Population and Development (ICPD) – Programme of Action, 1994***

In the year after the adoption of the VDPA, the Programme of Action (PoA) by the International Conference on Population and Development (ICPD) represented another milestone for women's rights. While the only reference to the rights of girls is made together with 'women', Principle four of the PoA reiterates the VDPA's recognition that "*[t]he human rights of women and the girl child are an inalienable, integral and indivisible part of universal human rights*".<sup>188</sup> The PoA also dedicates a separate section under "Gender equality, equity and the empowerment of women" to girls specifically. This section sets forth objectives and actions to be taken by governments to address key concerns pertaining to the girl child. Discrimination is identified as one of those key concerns. Interestingly, however, the focus lies on the negative impact on the adult women's life, rather than the girl child herself as the elimination of discrimination against girls is considered the '*first step*' towards the realisation of women's full potential and participation as equal partners in societies.<sup>189</sup> It is further recognised that discrimination results in limited access of girls to food, education, and health care and calls for investment in girls as critical to eradicating discrimination on the basis of sex.<sup>190</sup> Listing areas for government action, the section on the girl child also addresses harmful practices, in particular child marriage and female genital mutilation, as well as infanticide, prenatal sex selection, trafficking in girls and the use of girls in prostitution and pornography.<sup>191</sup>

Other sections of the PoA similarly recognise specific vulnerabilities of girls (and women) and the gender-specific challenges they face, calling upon States to pay particular attention to their situation. In the context of education, the PoA calls for increased efforts to realise women's and girls' rights to education and underscores the gender discrepancy in the enrolment rates in primary education, leaving less girls with access to education than boys. It also addresses the need to ensure the retention of girls in school, equal educational opportunities for boys and girls, as well as access to secondary and higher levels of education, and vocational and technical training for girls and women.<sup>192</sup> Regarding violence, exploitation and abuse of women, adolescents and

<sup>183</sup> *Ibid.*

<sup>184</sup> *Id.*, para. 18 and 49.

<sup>185</sup> *Id.*, para. 18.

<sup>186</sup> See UNGA, Declaration on the Elimination of Violence against Women (1993), A/RES/48/104, PP 5.

<sup>187</sup> *Id.*, PP 7.

<sup>188</sup> See ICPD, Programme of Action (1994), Principle 4.

<sup>189</sup> *Id.*, para. 4.15.

<sup>190</sup> *Ibid.*

<sup>191</sup> See ICPD, Programme of Action (1994), paras. 4.21-4.23.

<sup>192</sup> *Id.*, paras. 3.18, 4.18, 4.2, 6.8 and 11.8.

children, the PoA calls for special attention to protecting the rights and safety of schoolgirls, amongst others.<sup>193</sup> Similarly, the PoA demands States to take women and girls specifically into account when addressing prevention and treatment of sexually transmitted diseases, including HIV/AIDS, as well as in efforts to fight malnutrition of children.<sup>194</sup> Furthermore, women's and girls' particular vulnerability to harmful practices, including child marriage and female genital mutilation is recognised.<sup>195</sup> In the context of equal treatment of boys and girls, including in the family, the PoA calls for equitable inheritance rights.<sup>196</sup> The PoA recognised that girls and young women have "*special nutritional, general and reproductive health, education and social needs*"<sup>197</sup> and when calling for the elimination of gender bias and stereotypes, it highlights that the 'specific needs of the girl child' have to be taken into account when changing school curricula and facilities.<sup>198</sup> However, there is no further specification about either of the 'needs' mentioned above.

Additionally, the PoA was a major milestone for the articulation of sexual and reproductive health and rights. It recognises the risks adolescents and young women are facing in the context of early marriage, early childbearing and early motherhood, including the negative impact on their health, education, and employment opportunities. In this context, the PoA calls upon States to provide adolescents with "*information and services [...] to help them understand their sexuality and protect them from unwanted pregnancies, sexually transmitted diseases and subsequent risk of infertility*".<sup>199</sup> Referring to reproductive health and family planning, States are urged to pay attention to the "*educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality*".<sup>200</sup> Defining reproductive rights and reproductive health, the PoA recognises the basic right of "*all couples and individuals*" with the "*[...] to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health*", as well as "*the right to make decisions concerning reproduction free of discrimination, coercion and violence*".<sup>201</sup> However, the language used is gender-neutral and does not address any specificities pertaining to either women, girls, men or boys. Drawing from its definition of reproductive health<sup>202</sup>, the PoA acknowledges the right of men and women to information on and access to methods of family planning or regulation of fertility as well as the right to access to health-care services related to pregnancy and childbirth. However, the lack of an age dimension in this context, means it does not acknowledge both girls' and boys' clear entitlement to this right. Moreover, girls are neither mentioned in the context of 'women's ability to control their own fertility' nor in relation to 'full and equal participation of women in civil, cultural, economic, political and social life'.<sup>203</sup>

#### **Fourth World Conference on Women (FWCW) – Beijing Declaration and Platform for Action, 1995**

Adopted in 1995, the Beijing Declaration and Platform for Action (BDPA) builds upon previous world conferences on women, the ICPD Programme of Action and the VDPA and continues to highlight the precarious situation of the girl child. The BDPA focuses on 12 areas related to the implementation of women's rights, with one of the areas covering strategic objectives and actions concerning the girl child specifically.<sup>204</sup> Reiterating language previously used in the VDPA as well as PoA of the ICPD, States reasserted their

<sup>193</sup> *Id.*, para. 4.9.

<sup>194</sup> *Id.*, para. 7.29 and 8.17.

<sup>195</sup> *Id.*, para. 7.40.

<sup>196</sup> *Id.*, para. 4.17.

<sup>197</sup> *Id.*, para. 4.2.

<sup>198</sup> *Id.*, para. 4.19.

<sup>199</sup> *Id.*, paras. 7.41 and 7.42.

<sup>200</sup> *Id.*, para. 3.18.

<sup>201</sup> *Id.*, Principle 8 and para. 7.3.

<sup>202</sup> "*Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so.*" See ICPD, Programme of Action (1994), para. 7.2.

<sup>203</sup> See ICPD, Programme of Action (1994), Principle 4.

<sup>204</sup> See Beijing Declaration and Platform for Action (1995), Chapter IV, L.

commitment to promote and protect all rights of women and girls, while reaffirming that human rights of women and the girl child are an inalienable, integral and indivisible part of all human rights and fundamental freedoms.<sup>205</sup>

Unlike the PoA, the BDPA's strategic objectives and actions mention girls' rights independently from women's rights. States are inter alia urged to guarantee the "*equal right to succession and to inherit, regardless of the sex of the child*" and to protect and promote the rights of the girl child.<sup>206</sup> The BDPA lists early marriage, pregnancy and child-bearing, as well as harmful practices as severe risks to girls' health, while acknowledging that adolescent girls often face barriers in the access to health and nutrition services, counselling and sexual and reproductive health information and services.<sup>207</sup> Apart from stand-alone references to girls' rights, the BDPA makes explicit references to rights of women *and* girls under the different thematic areas, including in the context of freedom of conscience and religion, trafficking and situations of armed conflict.<sup>208</sup> It further recognises that "*a young woman's right to privacy, confidentiality, respect and informed consent*" is often not considered.<sup>209</sup> Interestingly, the BDPA acknowledges that adolescent girls are "*biologically and psychologically more vulnerable than boys to sexual abuse, violence and prostitution, and to the consequences of unprotected and premature sexual relations*".<sup>210</sup> Reiterating language used in the PoA, the BDPA also recognises that early marriage and early motherhood can have a negative impact on young women's educational and employment opportunities, as well as a long-term, adverse impact on the quality of their lives.<sup>211</sup> In the same context, the BDPA makes an implicit reference to a women's right to reproductive self-determination by recognising that "*young men are often not educated to respect women's self-determination and to share responsibility with women in matters of sexuality and reproduction*".<sup>212</sup>

With regard to sexual and reproductive health and rights, the BDPA reiterates most of the language used in the PoA of the ICPD,<sup>213</sup> including the following rights – however, in no instance does it recognise the rights of girls in this regard:

- The right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so;
- The right to attain the highest standard of sexual and reproductive health;
- The right to make decisions concerning reproduction free of discrimination, coercion and violence;
- The right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law; and
- The right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.<sup>214</sup>

While the BDPA observes that many women *and* girls have limited power over their sexual and reproductive rights, it only explicitly recognises that the "*human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health,*

<sup>205</sup> *Id.*, paras. 2, 9-10, 31, 213.

<sup>206</sup> *Id.*, paras. 274d, L3.

<sup>207</sup> *Id.*, para. 93.

<sup>208</sup> *Id.*, paras. 80f, 83n, 87c, 106n, 130b, 135.

<sup>209</sup> *Id.*, para. 93.

<sup>210</sup> *Ibid.*

<sup>211</sup> *Ibid.*

<sup>212</sup> *Ibid.*

<sup>213</sup> See Beijing Declaration and Platform for Action (1995), paras. 94-95; 223 and ICPD, Programme of Action (1994), Principle 8, paras. 7.2-7.3.

<sup>214</sup> See Beijing Declaration and Platform for Action (1995), paras. 94-96.

*free of coercion, discrimination and violence*” [emphasis added].<sup>215</sup> Furthermore, there are a number of implicit references to girls’ rights, such as the “*right of all women to control all aspects of their health, in particular their own fertility*” which is considered basic to their empowerment or the right of women to the enjoyment of the highest standard of health which “*must be secured through the whole life cycle*” [emphasis added].<sup>216</sup>

Apart from references to rights of women and girls, the BDPA recognises several needs of (women and) girls, such as in the context of gender-sensitive curricula and teaching materials, education and training, and physical and mental health, including for young, expectant and nursing mothers.<sup>217</sup>

### ***Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action, 2000***

The outcome of the twenty-third special session of the General Assembly entitled ‘Women 2000: Gender Equality, Development and Peace for the Twenty-First Century’ reviewed the implementation of the twelve critical areas of concern of the Beijing Platform for Action and reiterated many of the obstacles to the enjoyment of all human rights and fundamental freedoms of women and girls identified therein.<sup>218</sup> The Beijing+5 outcome places emphasis on girls’ rights, needs, and particular vulnerabilities in a number of contexts, including education, health (including sexual and reproductive health), as well as violence and discrimination, including trafficking and harmful practices.

The Beijing+5 outcome also reflects the specific situation of certain groups of (women and) girls. The text refers to the needs of women and girls in humanitarian emergencies and in conflict and post-conflict situations, and acknowledges that girls are also affected by armed conflict and can be subjected to abduction or recruitment, including as combatants, sexual slaves, or providers of domestic services.<sup>219</sup> However, the Beijing+5 outcome continues to solely refer to the violation of *women’s* rights in armed conflict, the achievements made in addressing violence against *women* in situations of conflict, *women’s* role in peacebuilding, peacemaking and conflict resolution as well as the needs of displaced *women*. Similarly, it recognises that concerted efforts are needed to ensure equal access to appropriate and adequate food and nutrition, clean water, safe sanitation, shelter, education, social and health services, including reproductive care and maternity care for refugee and displaced women—without ever mentioning girls.

Additionally, Beijing+5 urged States to ensure the protection of children, in particular girls, in hostilities and to take into account girls’ specific experiences and needs in rehabilitation and reintegration mechanisms.<sup>220</sup> The outcome recognises that women and girls with disabilities face particular vulnerabilities and are marginalised in society and calls on States to address their specific needs and guarantee their equal access to education, including technical and vocational training and rehabilitation programmes, health care, and services and employment opportunities. Interestingly, the document only calls for the elimination of inequalities between men and women, but not between boys and girls in this context.<sup>221</sup>

Furthermore, while the Beijing+5 outcome calls for the elimination of inequalities between women and men, and girls and boys and their equal rights, responsibilities, opportunities and possibilities, it continues to only refer to women’s needs, interests, concerns, experiences, and priorities in the same paragraph.<sup>222</sup> The text

<sup>215</sup> *Id.*, para. 95.

<sup>216</sup> *Id.*, paras. 17, 89 and 92.

<sup>217</sup> *Id.*, paras. 74, 81c, 83n, 86a, 106l, 106a, 281h.

<sup>218</sup> Hereafter referred to as Beijing+5 outcome.

<sup>219</sup> See UNGA, Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (2000), A/RES/S-23/3, paras. 15 and 19.

<sup>220</sup> See UNGA, Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (2000), A/RES/S-23/3, para. 99f.

<sup>221</sup> See UNGA, Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (2000), A/RES/S-23/3, paras. 63 and 83d.

<sup>222</sup> *Id.*, para. 52.

recognises the specific situation of adolescents, including adolescent girls, by recognising the necessity of paying increased attention to their needs and providing them with education, information, and services to address their sexual and reproductive health, while taking into account their right to privacy, confidentiality, respect, and informed consent.<sup>223</sup> Moreover, the resolution calls for programmes addressing the situation of adolescents aimed at building girls' self-esteem and to counsel adolescents on avoiding unwanted and early pregnancies.<sup>224</sup> Reiterating language on sexual and reproductive health adopted by the ICPD in 1994, and reaffirmed at the FWCW, the Beijing+5 outcome calls for increased attention to the educational and service needs of adolescents, to enable them to deal with their sexuality in a positive and responsible way.<sup>225</sup> Like the PoA and the BDPA, it recognises that women and girls have limited power over their sexual and reproductive lives and that adolescents are particularly vulnerable.<sup>226</sup> References to adolescents, however, are gender-neutral and do not touch upon the specific needs, challenges, or vulnerabilities of adolescents girls or boys. In the context of health, the follow-up to the BDPA demands States to take various measures to ensure that all women have full and equal access to comprehensive, high-quality, and affordable health care, information, education and services throughout their life-cycle.<sup>227</sup>

In addition, the text recognises the fact that increased efforts are needed to ensure women's and girls' right to the enjoyment of the highest attainable standard of physical and mental health, and that women and girls are considered as being particularly vulnerable to sexually transmitted diseases, including HIV/AIDS and other sexual and reproductive health problems. However, in the majority of cases, the text does not differentiate between women and girls, but simply refers to barriers to the right to health faced by women, women's health needs, or women's access to health care and education and women's specific mental and occupation health programmes.<sup>228</sup>

Beijing+5 highlights gender disparities in access to education, in particular secondary and tertiary education, as one of the main obstacle to the realisation of the rights of girls. Consequently, the follow-up to the BDPA calls upon States to step up efforts to provide equal access to education, including vocational training, science and technology for girls.<sup>229</sup> In the separate section on the girl child, the Beijing+5 outcome acknowledges achievements in the area of education, including for pregnant adolescents and young mothers. Moreover, it recognises positive developments since the adoption of the BDPA in 1995 including increased attention to the health of girls, including sexual and reproductive health of adolescent as well as the introduction of legislation addressing female genital mutilation, sexual abuse, trafficking and exploitation.<sup>230</sup> However, it acknowledges that a number of obstacles to girls' full enjoyment of their human rights and their full potential remain. Poverty, discrimination, harmful practices, violence, exploitation, child labour (including domestic work), inadequate nutrition, lack of access to education and health-care services (including sexual and reproductive health services and information, as well as unwanted pregnancy), are mentioned in that regard. Beijing+5 observed that inadequate awareness of the specific situation girls face in different contexts contributes to the "*lack of opportunities and possibilities for girls to become confident and self-reliant and independent adults*".<sup>231</sup> The most acknowledged achievements included increased awareness of or attention to, among others, mortality rates among women and girls, sexual and reproductive health and reproductive rights of women, family planning and contraceptive methods, as well as sexually transmitted infections, including HIV/AIDS.

<sup>223</sup> *Id.*, paras. 43 and 79f.

<sup>224</sup> *Id.*, para. 79b.

<sup>225</sup> *Id.*, paras. 33 and 72j.

<sup>226</sup> *Id.*, para. 72j.

<sup>227</sup> *Id.*, paras. 12 and 72g.

<sup>228</sup> *Id.*, paras. 12, 32, 72g.

<sup>229</sup> *Id.*, paras. 10, 32, 55, 67a and 72h.

<sup>230</sup> See UNGA, Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (2000), A/RES/S-23/3, para. 32.

<sup>231</sup> See UNGA, Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (2000), A/RES/S-23/3, para. 33.

### **Vienna Declaration on Crime and Justice, 2000**

The Vienna Declaration on Crime and Justice does not mention ‘girls’, but only recognises the special needs of women as criminal justice practitioners, victims, prisoners and offenders.<sup>232</sup> While States committed to increase collaboration to combat trafficking in women and children, as well as the smuggling of migrants, there is no acknowledgement of girls’ specific vulnerabilities in the context of criminal justice systems.<sup>233</sup>

### **United Nations Declaration on the Rights of Indigenous Peoples, 2007**

Adopted by vote, the UN Declaration on the Rights of Indigenous Peoples does not mention ‘girls’ at all. However, it calls for particular attention to be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities, and demands States to take measures to ensure indigenous women and children are protected from all forms of violence and discrimination.<sup>234</sup> Girls’ specific vulnerabilities and needs as female children or young women are not acknowledged.

### **Rio+20 – Conference on Sustainable Development: The Future We Want, 2012**

The outcome document of the Rio+20 Conference on Sustainable Development addresses several gender-specific issues related to the enjoyment of human rights and development. Mentioning girls specifically, States committed “to promote the equal access of women and girls to education, basic services, economic opportunities and health-care services”.<sup>235</sup> However, in most other instances, only the rights of women are recognised, and the barriers they face in the enjoyment of rights, such as regarding: sexual and reproductive health (including universal access to safe, effective, affordable and acceptable modern methods of family planning), equal access to justice and legal support, equal rights, access and opportunities for participation and leadership in economy, society and political decision-making, as well as equal rights to economic resources, including access to ownership and control over land and other forms of property, credit, inheritance, natural resources and appropriate new technology.<sup>236</sup> Additionally—unlike women—girls are not recognised as drivers of sustainable development, nor is girls’ empowerment highlighted in that regard. In the context of maternal and child mortality, States committed to step up efforts to improve the health of women, youth and children. However, the outcome document only recognises the right of women, men and youth to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, without addressing girls’ specific obstacles to access sexual and reproductive health and rights.<sup>237</sup>

### **The 2030 Agenda for Sustainable Development, 2015**

The United Nations Millennium Declaration and the Millennium Development Goals (MDGs) mentioned girls only in the context of education. While Goals 2 (‘Achieve Universal Primary Education’) called upon States to ensure that “boys and girls alike, will be able to complete a full course of primary schooling” (target 3), Goal 3 (‘Promote Gender Equality and Empower Women’) addressed gender disparities in education, and included an indicator on the ratio of girls to boys in primary, secondary, and tertiary education.<sup>238</sup>

The 2030 Agenda for Sustainable Development contains more references to girls. However, they are exclusively mentioned together with women or boys. In the Preamble and Declaration, States clearly set forth

<sup>232</sup> See UNGA, Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-First Century (2001), A/RES/55/59, OP 12.

<sup>233</sup> *Id.*, OP 14.

<sup>234</sup> See UNGA, United Nations Declaration on the Rights of Indigenous Peoples (2007), A/RES/61/295, Article 21 (2), Article 22 (1) and (2).

<sup>235</sup> See UNGA, The Future We Want (2012), A/RES/66/288, para. 241

<sup>236</sup> *Id.*, paras. 31, 146, 240 and 241.

<sup>237</sup> See UNGA, The Future We Want (2012), A/RES/66/288, para. 146.

<sup>238</sup> See <https://mdgs.un.org/unsd/mdg/Host.aspx?Content=Indicators/OfficialList.htm> [Accessed 29 September 2017].



their commitment to achieve “gender equality and the empowerment of women and girls”.<sup>239</sup> They pledge to remove “all legal, social and economic barriers to [women’s and girls’] empowerment”.<sup>240</sup> It is furthermore highlighted that “[w]omen and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels”.<sup>241</sup> Lastly, States commit to eliminate all forms of discrimination and violence against women and girls (as also reflected in target 5.1<sup>242</sup> and 5.2<sup>243</sup>) and stress the importance of “the systematic mainstreaming of a gender perspective in the implementation of the Agenda”.<sup>244</sup>

Moreover, the Sustainable Development Goals (SDGs) acknowledges girls’ specific needs. They refer to girls in the context of education (Goal 4), gender equality (Goal 5), water and sanitation (Goal 6) and malnutrition (Goal 1). However, only Goals 1 and 6 touch upon specific needs of girls (and women). Under Goal 1 (‘No Poverty’), the 2030 Agenda includes a target that highlights the specific nutritional needs of adolescent girls,

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<sup>239</sup> See UNGA, Transforming Our World: the 2030 Agenda for Sustainable Development (2015), A/RES/70/1, Preamble, para. 3 and Declaration para. 3. Compare also target 5.c, which reads: “Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.”

<sup>240</sup> *Id.*, Declaration, para. 8.

<sup>241</sup> *Id.*, Declaration, para. 20.

<sup>242</sup> “End all forms of discrimination against all women and girls everywhere.” See UNGA, Transforming Our World: the 2030 Agenda for Sustainable Development (2015), A/RES/70/1, target 5.1.

<sup>243</sup> “Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.” See UNGA, Transforming Our World: the 2030 Agenda for Sustainable Development (2015), A/RES/70/1, target 5.2.

<sup>244</sup> See UNGA, Transforming Our World: the 2030 Agenda for Sustainable Development (2015), A/RES/70/1, Declaration, para. 20.

as well as pregnant and lactating women, supporting its aim to end malnutrition by 2030.<sup>245</sup> With a view to ensuring “*availability and sustainable management of water and sanitation for all*” as per Goal 6, States committed to pay special attention to the needs of women and girls in achieving access to adequate and equitable sanitation and hygiene.<sup>246</sup>

### ***Third International Conference on Financing for Development: Addis Ababa Action Agenda, 2015***

The Addis Ababa Action Agenda urged States to ensure equal access for women and girls to science, technology, engineering and mathematics (STEM) education as well as technical, vocational and tertiary education and training (TVET), and to encourage their participation therein.<sup>247</sup> Additionally, it acknowledges women’s and girls’ right to “*equal political and economic decision-making and resource allocation*” and States committed to remove “*any barriers that prevent women from being full participants in the economy*”.<sup>248</sup> Finally, the outcome document reaffirms that the full realisation of women’s and girls’ rights is essential to achieving sustained, inclusive and equitable economic growth and sustainable development.<sup>249</sup>

### ***New York Declaration for Refugees and Migrants, 2016***

With the New York Declaration for Refugees and Migrants, States affirmed their commitment to respect and protect the human rights of women and girls.<sup>250</sup> The Declaration is conscious that girls, boys, women and men have different needs, vulnerabilities and capacities that need to be considered when responding to large movements of refugees and migrants.<sup>251</sup> Moreover, it places additional emphasis on the situation of migrant women and girls by recognising that they face particular vulnerabilities requiring measures to address sexual and gender-based violence and trafficking, as well as multiple and intersecting forms of discrimination.<sup>252</sup> Furthermore, the Declaration highlights the importance of women’s and girls’ access to essential health-care, including sexual and reproductive health-care services.<sup>253</sup> Interestingly, in its annex, the New York Declaration calls upon States to “[t]ake account of the rights, specific needs, contributions and voices of women and girl refugees”.<sup>254</sup>

### ***Political Declarations on HIV and AIDS, 2001 – 2016***

Recurring political declarations on HIV and AIDS widely recognise that women and girls face particular vulnerabilities in the context of HIV/AIDS. Referring to HIV prevention measures, the political declarations of 2006, 2011, and 2016 recognise girls’ greater vulnerability to HIV/AIDS and call for the promotion and protection of the rights of the girl child and for specific attention to be paid to girls affected by and vulnerable to HIV in the provision of care and support programmes.<sup>255</sup> Similarly, States committed to ensure that national responses to HIV and AIDS take into account the specific needs of women and girls in 2011.<sup>256</sup>

The 2016 Political Declaration on HIV and AIDS addresses women’s and girls’ particular situation in a number of instances, especially in the subsection on ‘*Pursuing transformative AIDS responses to contribute to gender equality and the empowerment of all women and girls*’. Generally, the Declaration recognises that women and

<sup>245</sup> *Id.*, target 2.2.

<sup>246</sup> *Id.*, target 6.2.

<sup>247</sup> See UNGA, Addis Ababa Action Agenda (2015), A/RES/69/313, para. 119.

<sup>248</sup> *Id.*, para. 41.

<sup>249</sup> *Id.*, para. 6.

<sup>250</sup> See UNGA, New York Declaration for Refugees and Migrants (2016), A/RES/71/1, para. 31.

<sup>251</sup> *Ibid.*

<sup>252</sup> See UNGA, New York Declaration for Refugees and Migrants (2016), A/RES/71/1, paras. 31 and 60.

<sup>253</sup> *Id.*, paras. 31 and 83.

<sup>254</sup> *Id.*, Annex I, para. 5b.

<sup>255</sup> See UNGA, Political Declaration on HIV and AIDS: Intensifying our Efforts to Eliminate HIV and AIDS (2011), A/RES/65/277, para. 82 and UNGA, Political Declaration on HIV/AIDS (2006), A/RES/60/262, para. 15.

<sup>256</sup> See Political Declaration on HIV and AIDS: Intensifying our Efforts to Eliminate HIV and AIDS (2011), para. 81.

girls are particularly affected by the HIV epidemic, including by co-infections and co-morbidities.<sup>257</sup> Moreover, it addresses women's and girls' disproportionate share of unpaid care and domestic work related to taking care of people living with HIV, which has a negative impact on the enjoyment of their human rights.<sup>258</sup> Calling for the protection of the rights of children in child-headed households, the Declaration is conscious of the need to pay attention to girls specifically in this context, however, it does not provide further details on how girls heading households are affected differently than boys.<sup>259</sup> Furthermore, the Declaration lays out several gender-related obstacles that prevent women and girls from being able to protect themselves from HIV, including unequal power relations between women and men and boys and girls, and unequal legal, economic and social status, insufficient access to health-care services, including sexual and reproductive health, and all forms of discrimination and violence.<sup>260</sup>

Making the link between gender equality, the empowerment of women and girls, and poverty eradication, the Declaration reaffirms that the promotion and protection of, and respect for, women's human rights—without mentioning girls—should be mainstreamed in policies and programmes aimed at the eradication of poverty in order to address women's unequal socioeconomic status that renders them more vulnerable to HIV and AIDS.<sup>261</sup> The Declaration underscores that the lack of protection and promotion of the human rights of women and girls, including their sexual and reproductive health and reproductive rights as well as the right to the highest attainable standard of physical and mental health, increase their vulnerability and aggravates the impact of the epidemic.<sup>262</sup> As a means of protecting women and girls from HIV infection, States committed to ensure access to health-care services, including sexual and reproductive health as well as access to comprehensive information and education.<sup>263</sup>

However, the 2016 Declaration only calls upon States to ensure “*that women can exercise their rights to have control over, and decide freely and responsibly on matters related to their sexuality, including their sexual and reproductive health*” [emphasis added].<sup>264</sup> The Declaration also reaffirms States commitment to eradicate all forms of violence against women and girls, including harmful practices and harmful social norms that perpetuate the unequal status of women and girls and thus increase their vulnerability to HIV.<sup>265</sup> In order to address the health consequences of violence against women and girls, States recognise the need to provide gender-sensitive and accessible health-care services, such as emergency contraception and safe abortions.<sup>266</sup> Moreover, the Declaration calls for universal access to quality, affordable and comprehensive sexual and reproductive health-care and HIV service, information and commodities, including prevention commodities for women and girls specifically, such as female condoms and other forms of modern contraceptives.<sup>267</sup>

Specifically addressing adolescent girls' and young women's risk of HIV infection, the 2016 Declaration calls upon States to ensure the provision of quality information and education, mentoring, social protection and services as well as girls' access to secondary and tertiary education and vocational training.<sup>268</sup> With a view to enabling adolescent girls and boys to protect themselves from HIV infection, States committed to provide them with “*scientifically accurate, age appropriate comprehensive education [...]*” on sexual and reproductive

<sup>257</sup> See Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight Against HIV and to Ending the AIDS Epidemic by 2030 (2016), A/RES/70/266, paras. 15, 18, 42.

<sup>258</sup> *Id.*, paras. 41 and 61(e).

<sup>259</sup> *Id.*, para. 40.

<sup>260</sup> *Id.*, paras. 41 and 42.

<sup>261</sup> *Id.*, para. 61(a).

<sup>262</sup> *Id.*, para. 61(b).

<sup>263</sup> See Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight Against HIV and to Ending the AIDS Epidemic by 2030 (2016), A/RES/70/266, para. 61(c) and (d).

<sup>264</sup> *Id.*, para. 61(c).

<sup>265</sup> *Id.*, para. 61(h) and (i).

<sup>266</sup> See Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight Against HIV and to Ending the AIDS Epidemic by 2030 (2016), A/RES/70/266, para. 61(j).

<sup>267</sup> *Id.*, para. 61(l).

<sup>268</sup> *Id.*, para. 61(m).

health.<sup>269</sup> However, education and information has to be “*relevant to cultural context*” as well as consistent with adolescents’ “*evolving capacities*”.<sup>270</sup> Finally, concerning child protection mechanisms, the Declaration states that girls, as a particularly vulnerable group, should receive special attention in the provision of “*access to HIV-sensitive social protection, including cash transfers and equal access to housing, and support programmes, equal access to early child development services, trauma and psychosocial support and education*”.<sup>271</sup>

#### d. Commission on the Status of Women

The United Nations’ Commission on the Status of Women (CSW) is the main global policy-making body exclusively dedicated to the promotion of gender equality and the empowerment of women, and instrumental in promoting women’s rights and shaping global standards on gender equality and empowerment of women. Its annually adopted agreed conclusions and resolutions therefore unsurprisingly also include multiple references to girls’ rights. Having reviewed 105 documents, CSW specifically refers to girls’ rights in the following contexts:

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<sup>269</sup> *Id.*, para. 62(c).

<sup>270</sup> *Ibid.*

<sup>271</sup> *Id.*, para. 62(i).

Table 6: References to girls' rights in CSW

GIRLS' RIGHTS IN CSW	
•	Right to be protected from all forms of discrimination, stigma, abuse, and neglect;
•	Right to be free and protected from violence, including from harmful customary or traditional practices that are violations of girls' rights;
•	Right to freely consent to marriage;
•	Right to (quality) formal and non-formal education, skills development, vocational training; <ul style="list-style-type: none"> <li>- Equal access to education, in particular in rural and remote areas;</li> <li>- Equal access to lifelong learning;</li> </ul>
•	Right to employment opportunities; <ul style="list-style-type: none"> <li>- Equal access to career development, training, scholarships, and fellowships;</li> </ul>
•	Right to inheritance and property; <ul style="list-style-type: none"> <li>- Equal access to and control over assets and natural and other productive resources, including full and equal rights to own and lease land and other property;</li> </ul>
•	Right to be heard/right to freely express herself/right to participate;
•	Right to adequate standard of living, including food security and nutrition, safe drinking water and sanitation, energy and fuel resources and housing; <ul style="list-style-type: none"> <li>- Equal access to social protection;</li> <li>- Equal access to social services;</li> </ul>
•	Right to highest attainable standard of physical and mental health, including sexual and reproductive health care services; <ul style="list-style-type: none"> <li>- Access to sex education;</li> <li>- Equal access to promotive, preventive, curative, rehabilitative, and palliative basic health care services;</li> <li>- Equal access to HIV/AIDS treatment;</li> <li>- Equal access to safe, affordable, effective and quality medicines and vaccines;</li> </ul>
•	Equal access to justice and holding perpetrators to account for human rights violations;
•	Right to development;
•	Right to access information;
•	Equal access to information and communications technologies (ICTs); <ul style="list-style-type: none"> <li>- Equal access to markets, networking and increased opportunities.</li> </ul>

Despite this recognition and reaffirmation of girls' human rights, CSW's primary focus remains 'women'. For example, while the Commission has multiple times recognised that gender discrimination (as potentially intensified by other forms of discrimination) fails to meet the needs of women and girls, it has only called upon States to secure or address the violations of the human rights of women—mainly in contexts of political and

economic rights, such as political participation, property and inheritance rights, but also SRHR. However, in other years, CSW also acknowledges rights of girls regarding these topics and is thus rather inconsistent.

### **CSW Agreed Conclusions**

Agreed Conclusions are the principal output of CSW. They contain an analysis of the annual priority theme and a set of concrete recommendations for governments, intergovernmental bodies, civil society actors, and other relevant stakeholders, to be implemented at the international, national, regional, and local levels. The majority of references to girls' rights—as differentiated from women—can be found in its conclusions from 1998, 2001, and 2007.

In 1998, the Commission prioritised the girl child as its annual theme, and invited the treaty monitoring bodies to pay special attention to the rights of the girl child while assessing State reports<sup>272</sup> and governments to encourage girls and other individuals and communities to play a key role in reporting violations of rights of girls in armed conflict.<sup>273</sup> It further called upon States to improve the health care for adolescent girls,<sup>274</sup> and acknowledged the special needs of girls in difficult circumstances, such as migrant girls, refugee and displaced girls, girls from ethnic minorities, indigenous girls, orphaned girls, abused girls, girls affected by violence, girls employed as domestic workers and those performing excessive domestic chores in their own households, girls with disabilities and other girls with special needs.<sup>275</sup> It also urged governments to involve girls in decision-making processes.<sup>276</sup>

CSW's Agreed Conclusions in 2001 focused on 'Women, the girl child and HIV/AIDS' and reaffirmed the human rights of girls and women to equal access to education, skill training, and employment opportunities as a means to reduce their vulnerabilities to sexually transmitted diseases/HIV.<sup>277</sup> It also called upon governments to specifically tailor life-skill based education programmes to the needs of women and girls, as adapted to their social cultural context and the specific needs in their life cycle.<sup>278</sup> Other references to girls acknowledge the special needs of girls infected with, or affected by HIV/AIDS; such as girls orphaned by AIDS, who may easily become victims of sexual exploitation.<sup>279</sup>

More recently in 2007, the Commission chose again to prioritise 'The Elimination of all Forms of Discrimination and Violence against the Girl Child' as its annual theme and its Agreed Conclusions contained a comprehensive analysis detailing the girl child's precarious situation and highlighting several specific rights of girls. For example, it refers to girls' right to participate, freely express herself, and to be heard, and for States to empower girls to exercise this right.<sup>280</sup> It also referred to the right of girls to the enjoyment of the highest attainable standards of health.<sup>281</sup> The Commission furthermore recognised that the "*prevailing negative sociocultural attitudes and gender stereotypes contribute to the de facto and de jure discrimination against the girl child and violations of the rights of the girl child*",<sup>282</sup> and urged governments to promote and protect the rights of girls and increase commitment to appropriate responses to rights violations.<sup>283</sup> The Agreed Conclusions also stipulate that the "*rights of the girl child are fully integrated into all peace and non-violence education, (...) which should be provided from the primary level on as a means of instructing girls and boys in*

<sup>272</sup> See CSW Agreed Conclusions, 'The Girl Child' (1998), para. h.

<sup>273</sup> *Id.*, para. b.

<sup>274</sup> *Id.*, para. f.

<sup>275</sup> *Id.*, paras. d, g & h.

<sup>276</sup> *Id.*, para. i.

<sup>277</sup> See CSW Agreed Conclusions, 'Women, the Girl Child and Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome' (2001), para. 1g.

<sup>278</sup> *Id.*, para. 2b.

<sup>279</sup> *Id.*, para. 3e.

<sup>280</sup> See CSW Agreed Conclusions, 'Elimination of All Forms of Discrimination and Violence Against the Girl Child' (2007), para. 14.14.1.

<sup>281</sup> *Id.*, para. 14.4.a.

<sup>282</sup> *Id.*, para. 12.

<sup>283</sup> *Id.*, para. 14.13.c.

*the prevention, resolution, and management of conflicts at the interpersonal, community, national, and international levels.*<sup>284</sup>

The 2007 outcome document further takes into account the special needs of girls, specifically referring to the need to pay particular attention to adequate food and nutrition, eating disorders, and sexual and reproductive health—including measures to prevent mother-to-child transmission of HIV.<sup>285</sup> The special needs of girls with intersecting identities, such as refugee girls, migrant girls, girls affected by armed conflict, natural disasters, or post-conflict situations, are also acknowledged. It further calls on States to identify and address the needs of girls heading households for protection and access to financial resources, health care, and for opportunities to continue their education.<sup>286</sup> Interestingly, States are also called upon to “*increase men’s responsibility for home-based care in order to address the disproportionate burden borne by women and girls in caring for the chronically ill*”.<sup>287</sup> States are also encouraged to promote and support girls’ access to ICT in order to reduce the digital and information divide;<sup>288</sup> to involve girls in decision-making processes and to include them as full and active partners in identifying their own needs;<sup>289</sup> and ensure that girls have equal access to education, and vocational and technical training.<sup>290</sup> Finally, the Commission urges governments to “*ensure that men and women, and boys and girls are educated on girls’ rights (...) by integrating girls’ rights into appropriate curricula at all levels*”.<sup>291</sup>

**It is important to integrate girls’ rights and gender equality in to curricula at all levels, ensuring the involvement of men and boys.**

In proceeding years, CSW has continued to reaffirm girls’ human rights. Its Agreed Conclusions from 2014 details the following list of girls’ rights which must be realised: “*girls’ civil, political, economic, social and cultural rights, including the right to development, and ensure women’s and girls’ inheritance and property rights, equal access to education, equal access to justice, social protection and an adequate standard of living, including food security and nutrition, safe drinking water and sanitation, energy and fuel resources and housing, as well as women’s and adolescent girls’ access to health, including sexual and reproductive health-care services, and women’s equal access to full and productive employment and decent work, women’s full participation and integration in the formal economy, equal pay for equal work or work of equal value, and equal sharing of unpaid work.*”<sup>292</sup> However, as it seems to be common in soft law, policy makers seem to struggle to explicitly (and consistently) support girls’ political and economic empowerment, including property and inheritance rights. This may be due to the fact that explicitly awarding girls with a right to ‘full employment and decent work’ may inadvertently lead to the championing of child labour. Additionally, the political and economic empowerment of girls may expose tensions with minimum ages of legal capacity. However, recent language in the 2017 Agreed Conclusions seems to circumvent such concerns and may act as an example: “*Enact legislation and undertake reforms to realize the equal rights of women and men, and where applicable girls and boys, to access economic and productive resources, including access to, ownership of and control over land, property and inheritance rights, natural resources, appropriate new technology and financial services, including credit, banking and microfinance, as well as equal access to justice and legal assistance in this regard, and ensure women’s legal capacity and equal rights with men to conclude contracts.*”<sup>293</sup> By including boys and girls in this paragraph, it is clear that if appropriate it could also apply to them—rather than to exclude them completely. Sometimes,

<sup>284</sup> See CSW Agreed Conclusions, ‘Elimination of All Forms of Discrimination and Violence Against the Girl Child’ (2007), para. 14.2.k.

<sup>285</sup> *Id.*, para. 14.13.c.

<sup>286</sup> *Id.*, para. 14.5.e.

<sup>287</sup> *Ibid.*

<sup>288</sup> *Id.*, para. 14.2.m.

<sup>289</sup> *Id.*, para. 14.14.b.

<sup>290</sup> *Id.*, para. 14.2.c.

<sup>291</sup> *Id.*, para. 14.3.c.

<sup>292</sup> See CSW Agreed Conclusions, ‘Challenges and Achievements in the Implementation of the Millennium Development Goals for Women and Girls’ (2014), 42k.

<sup>293</sup> See CSW Agreed Conclusions, ‘Women’s Economic Empowerment in the Changing World of Work’ (2017), E/CN.6/2017/L.5, 40(d).

however, girls' inheritance and property rights,<sup>294</sup> or their right to equal access to career development,<sup>295</sup> are mentioned explicitly.

### CSW Resolutions

CSW resolutions acknowledge the specific vulnerabilities of girls in the context of harmful traditional practices such as FGM and forced marriage, and subsequently spell girls' rights to education, nutrition, the highest attainable standard of physical and mental health care—including sexual and reproductive health—and to be protected from violence.<sup>296</sup> Girls also have the right to express themselves and participate in all matters affecting them.<sup>297</sup> States should further ensure girls' right to education by supporting girls who have been orphaned by the HIV/AIDS epidemic, and subsequently serve as the head of the household, to continue attending school.<sup>298</sup>

CSW resolutions also include many references to both women and girls. For example, they recognise women's and girls' right to equitable access to HIV/AIDS treatment,<sup>299</sup> and CSE,<sup>300</sup> and vocational and technical education.<sup>301</sup> Additionally, they have the right to life skills training and employment opportunities,<sup>302</sup> and States are obligated to equip them with training and entrepreneurship skills.<sup>303</sup> They also have the right to freely consent to marriage, to decide freely and responsibly the number and spacing of children, and to have access to information and the means to do so.<sup>304</sup> Furthermore, women and girls have the right to be free from sexual violence, including trafficking.<sup>305</sup> States should also ensure women and girls' rights in disaster relief, recovery, rehabilitation and reconstruction efforts.<sup>306</sup>

The special needs of girls are acknowledged in the context of FGM,<sup>307</sup> with one addition that chronic poverty is identified as the single biggest obstacle in meeting the needs of girls.<sup>308</sup> There are many additional broader references to the specific needs of both women and girls (including indigenous, pregnant and lactating girls and women,) especially in the contexts of (mental) health, HIV/AIDS, post-disaster relief, recovery, rehabilitation and reconstruction, migration, maternal mortality and morbidity, and harmful traditional practices. The resolutions have also observed that women and girls are adversely impacted by climate change and are at a higher risk of violence and therefore have a greater need for physical security.

The positive progression of language in the 'Women, the girl child and HIV and AIDS' resolution is particularly worth highlighting. Over the years, the operational paragraphs on women and girls' right to protect themselves from HIV infection has started to include strong language on strengthening their economic independence and diminishing their financial vulnerability in order to reduce their risk of exposure to HIV, through reference to

<sup>294</sup> For example, "Guarantee women's and girls' inheritance rights and their full and equal access to and control over assets and natural and other productive resources, including full and equal rights to own and lease land and other property", see CSW Agreed Conclusions, 'Challenges and Achievements in the Implementation of the Millennium Development Goals for Women and Girls' (2014), para. 42(aa).

<sup>295</sup> For example, "(...) ensure also that girls who are employed have equal access to decent work, equal payment and remuneration and are protection from economic exploitation", see CSW Agreed Conclusions, 'Elimination of All Forms of Discrimination and Violence Against the Girl Child' (2007), para. 14.6.a, or "(...) ensuring that women and girls have equal access to career development, training, scholarships and fellowships, and adopting positive action to build women's and girls' leadership skills and influence", see CSW Agreed Conclusions, 'Women's Empowerment and the Link to Sustainable Development' (2016), para. 23(p).

<sup>296</sup> See CSW Resolution, 'Forced Marriage of the Girl Child' (2007), PP9.

<sup>297</sup> *Id.*, OP1d.

<sup>298</sup> See CSW Resolution, 'Women, the Girl Child and HIV and AIDS' (2014), OP13.

<sup>299</sup> See CSW Resolution, 'Women, the Girl Child and HIV and AIDS' (2008), OP16.

<sup>300</sup> See CSW Resolution 'Eliminating Maternal Mortality and Morbidity Through the Empowerment of Women' (2012), PP24.

<sup>301</sup> *Id.*, OP8.

<sup>302</sup> See CSW Resolution, 'Women, the Girl Child and HIV and AIDS (1999, 2000), OP2.

<sup>303</sup> See CSW Resolution, 'Economic Advancement for Women (2005), OP4.

<sup>304</sup> See CSW Resolution, 'Eliminating Maternal Mortality and Morbidity Through the Empowerment of Women' (2012), OP20.

<sup>305</sup> See CSW Resolution, 'Traffic in Women and Girls' (1995/1997), PP5/PP7.

<sup>306</sup> See CSW Resolution, 'Integrating a Gender Perspective in Post-disaster Relief, Recovery, Rehabilitation, and Reconstruction Efforts' (2005), OP11.

<sup>307</sup> See CSW Resolution, 'Ending Female Genital Mutilation' (2007, 2008, 2010), OP16, OP17, OP18.

<sup>308</sup> See CSW Resolution, 'Forced Marriage of the Girl Child' (2007), OP5.

their right to identity documentation, property, inheritance, equal economic opportunities and decent work, as well as other political, civil, social and cultural empowerment of women and girls.<sup>309</sup>

### e. General Comments/Recommendations

All 155 General Comments (GCs) and General Recommendations (GRs) adopted by the Human Rights Treaty Bodies (HRTB)<sup>310</sup> have been reviewed for the purpose of the report.<sup>311</sup> Though not legally binding, General Comments/Recommendations are authoritative interpretations of treaty provisions and provide guidance for the practical implementation of human rights. While some Committees have adopted more than a dozen GCs or GRs (such as the CEDAW, CERD, CESCR, CRC, and Human Rights Committees), others have only published a few interpretations of the provisions of their respective treaty (such as the CAT, CMW, and CRPD Committees).<sup>312</sup> Early GCs and GRs had a very limited scope, though the interpretations became increasingly more detailed and longer over the years.

It is noteworthy that a large number of GCs or GRs do not mention girls at all. Interestingly, a fifth of all CRC GCs (four out of 20) and almost a third of CEDAW GRs (11 out of 34) do not include a single reference to girls. Of the treaty bodies without a child or gender focus, only two out of 35 GCs (6%) of the Human Rights Committee, six out of 23 GCs of the CESCR Committee (26%), and three out of 35 GRs (9%) of the CERD Committee, mention girls explicitly.

**Table 7: Explicit mentions of 'girl' in treaty bodies General Comments/General Recommendations**

<b>GIRLS IN GENERAL COMMENTS AND GENERAL RECOMMENDATIONS</b>		
<b>Committee</b>	<b>Number GCs/GRs explicitly mentioning 'girl'</b>	<b>Total Number of GCs/GRs</b>
CAT Committee	2	2
CED Committee	0	0
CEDAW Committee	23	34
CERD Committee	3	35
CESCR Committee	6	23
CMW Committee	1	2
CRC Committee	16	20
CRPD Committee	3	4
Human Rights Committee	2	35

<sup>309</sup> See CSW Resolution, 'Women, the Girl Child and HIV and AIDS' (1999-2016).

<sup>310</sup> In total, there are ten treaty bodies, including the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>311</sup> While the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) and the Committee on the Elimination of Racial Discrimination (CERD Committee) adopt 'General Recommendations', all other treaty bodies issue 'General Comments'.

<sup>312</sup> Please note that at the time of writing the Committee on Enforced Disappearances (CED Committee) had not yet adopted a General Comment.

## CRC

Overall, the CRC Committee has adopted a largely gender-neutral approach to the interpretation of the provisions of the CRC—continuing the approach adopted in the drafting of the Convention itself. This is evident from the fact that a fifth of all GCs do not mention ‘girls’ at all. However, recently adopted GCs tend to systematically include a gender-perspective in the discussion around States’ obligations. Yet, even in cases when girls’ specific vulnerability and dual marginalisation as a female child is recognised, GCs fall short in elaborating on the specific impact of gender discrimination on the enjoyment of rights by girls. Similarly, concrete measures to be taken by States to protect and promote the rights of girls and tackle underlying causes of barriers to the full and equal realisation of their rights are rarely articulated.

For example, the GC on ‘HIV/AIDS and the Rights of the Children’, adopts gender-neutral language and does not take into account the gender dimension to the situation of “*children who are infected or directly affected by HIV/AIDS*” or who “*experience discrimination on the basis of both their social and economic marginalization and their, or their parents’, HIV status*”. While acknowledging that these children are at high risk of sexual and economic exploitation, including in prostitution, the GC does not touch upon the specific vulnerabilities of girls (and boys).<sup>313</sup>

In the GC on the ‘Aims of Education’, the CRC Committee makes only one explicit reference to girls. Addressing the issue of discrimination in the context of education, it recognises that gender discrimination can be exacerbated by “[*curricula that are*] *inconsistent with the principles of gender equality, by arrangements which limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls’ participation*”.<sup>314</sup>

With regard to unaccompanied and separated children outside their country of origin, the CRC Committee does take a gender-perspective into account when addressing the obligations of States to ensure access to education “*during all phases of the displacement cycle*” and calling upon States to ensure that “*separated and unaccompanied girls shall have equal access to formal and informal education, including vocational training at all levels*”.<sup>315</sup> Furthermore, the GC acknowledges the gender-based dimension of violence.<sup>316</sup>

The GC on ‘Implementing Child Rights in Early Childhood’ contains several references to girls as an especially vulnerable group. The Committee specifies the obligation of States to ensure children’s right to non-discrimination by stating that “*particular groups of young children must not be discriminated against*”.<sup>317</sup> The CRC Committee identifies girls as one of those groups, who may be “*victims of selective abortion, genital mutilation, neglect and infanticide, including through inadequate feeding in infancy*” and due to excessive family responsibilities “*may be [...] deprived of opportunities to participate in early childhood and primary education*”.<sup>318</sup> Moreover, the CRC Committee notes that the right to play can be restricted by excessive domestic chores, which is especially affects girls. However, the Committee does not address the underlying causes of girls’ disproportionate burden of domestic work, including the stereotypical roles of girls and boys in the family environment.<sup>319</sup> Concerning the right to education, including early childhood education, the CRC Committee acknowledges the need to pay particular attention to the situation of girls. It reiterates the obligation of States to ensure girls’ participation in education “*without discrimination of any kind*” as per Article 2 of the Convention, and recognise the particular difficulties faced by girls from communities affected by HIV/AIDS in

<sup>313</sup> See CRC General Comment, ‘HIV/AIDS and the Rights of the Children’ (2003), CRC/GC/2003/3, para. 36.

<sup>314</sup> See CRC General Comment, ‘Aims of Education’ (2006), CRC/GC/2001/1, para. 10.

<sup>315</sup> See CRC General Comment, ‘Treatment of Unaccompanied and Separated Children Outside Their Country of Origin’ (2005), CRC/GC/2005/6, para. 41.

<sup>316</sup> *Id.*, para. 47.

<sup>317</sup> See CRC General Comment, ‘Implementing Child Rights in Early Childhood’ (2006), CRC/C/GC/7/REV.1, para. 11b (i).

<sup>318</sup> *Ibid.*

<sup>319</sup> *Id.*, para. 34.

staying in school.<sup>320</sup> Referring to States' obligation to protect children from sexual abuse and exploitation, the CRC Committee notes the gender dimension to these violations of rights and highlights the particular vulnerability of girls, including girls employed as domestic workers.<sup>321</sup>

In the GC on 'The Rights of Children with Disabilities', the CRC Committee for the first time adopts an analysis of intersectional discrimination faced by disabled children—noting that girls with disabilities are “*even more vulnerable to discrimination due to gender discrimination*”.<sup>322</sup> The CRC Committee further recognises the particular vulnerability of girls with disabilities to be subjected to forced sterilisation, which is a considered a violation of the right to physical integrity.<sup>323</sup>

With regard to children's right to the highest attainable standards of physical and mental health, the CRC Committee recognises that “*preventable maternal mortality and morbidity constitute grave violations of the human rights of women and girls and pose serious threats to their [...] right to health*”.<sup>324</sup> However, the CRC Committee fails to acknowledge that preventable maternal mortality violates women's and girls' right to life. In addition, the CRC Committee addresses the impact of gender-based discrimination, including gender-based norms and values, on the right to health of boys and girls. It recognises the different needs of boys and girls, however without further specifying what these needs are.<sup>325</sup>

In the 2003 GC on 'Adolescent Health and Development in the Context of the Convention of the Rights of the Child', the CRC Committee specified States' obligations in the context of the right to access to information as well as the right to the enjoyment of the highest attainable standard of health. It stipulates that States should “*provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases*”.<sup>326</sup> The CRC Committee is conscious of the gender dimension in this context and that information has to be “*adequate and sensitive to the specific rights of adolescent girls and boys*”.<sup>327</sup> Moreover, it notes the right of all adolescent girls and boys “*to access adequate information essential for their health and development and their ability to participate meaningfully in society*”.<sup>328</sup> Reflecting upon Article 4 of the Convention,<sup>329</sup> the CRC Committee recognises the need to provide adolescents with “*easy access to individual complaint systems as well as judicial and appropriate non-judicial redress mechanisms that guarantee fair and due process*”, while calling for special attention to their right to privacy.<sup>330</sup> However, there is a lack of recognition that gender discrimination may constitute an additional barrier hindering (adolescent) girls' access to these mechanisms.

The GC on 'The Implementation of the Rights of the Child During Adolescence', notes that the rights of adolescents to rest, leisure, play, recreational activities, cultural life, and the arts is widely neglected, particularly for girls. Without making specific reference to girls, the GC further states that the enjoyment of the rights to rest, leisure, play, recreational activities, cultural life, and the arts is “*fundamental to the rights to*

<sup>320</sup> See CRC General Comment, 'Implementing Child Rights in Early Childhood' (2006), CRC/C/GC/7/REV.1, para. 28.

<sup>321</sup> *Id.*, para. 36g.

<sup>322</sup> See Nura Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, *International Journal of Children's Rights* 17 (2009), p. 369. See also CRC General Comment, 'The Rights of Children with Disabilities' (2007), CRC/C/GC/9, paras. 8 and 10.

<sup>323</sup> See CRC General Comment, 'The Rights of Children with Disabilities' (2007), CRC/C/GC/9, para. 60.

<sup>324</sup> See CRC General Comment, 'The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health' (2013), CRC/C/GC/15, para. 51.

<sup>325</sup> *Id.*, para. 9.

<sup>326</sup> See CRC General Comment, 'Adolescent Health and Development in the Context of the Convention of the Rights of the Child' (2003), CRC/GC/2003/4, para. 28.

<sup>327</sup> *Ibid.*

<sup>328</sup> *Id.*, para. 26.

<sup>329</sup> “*States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention [...]*”

<sup>330</sup> See CRC General Comment, 'Adolescent Health and Development in the Context of the Convention of the Rights of the Child' (2003), CRC/GC/2003/4, para. 9.

*human dignity, optimum development, freedom of expression, participation and privacy*".<sup>331</sup> Elaborating on the rights of adolescents to freedom of association and peaceful assembly, the GC points to the particular vulnerability of female adolescent human rights defenders calling upon States to protect them from "*gender-specific treats and violence*".<sup>332</sup> While the CRC Committee states that "[a]dolescence itself can be a source of discrimination"<sup>333</sup>, it also addresses intersecting forms of discrimination faced by adolescents, including those belonging to minority and indigenous communities, and urges States to pay particular attention to the rights of adolescent girls in that regard.<sup>334</sup> The GC is conscious of the fact that gender stereotypes and norms, including patriarchal gender norms, lead to discrimination against girls and calls on States to take "[e]xplicit measures to guarantee the rights of girls on an equal basis with boys".<sup>335</sup> In the context of States' obligation to protect children from hazardous work, the GC includes a gender-perspective by calling for the special attention to "*girls involved in domestic labour*".<sup>336</sup> Regarding reproductive risks faced by adolescent girls, the CRC Committee interprets unequal access to sexual and reproductive health information, commodities, and services as discrimination. It thus urges States to adopt "*comprehensive gender and sexuality-sensitive sexual and reproductive health policies for adolescents*".<sup>337</sup>

Other GCs similarly recognise girls' particular vulnerability or point to the effects of gender discrimination on the equal enjoyment of rights by girls. In its GC on 'Indigenous Children and their Rights under the Convention', the CRC Committee takes a gender-sensitive approach by recognising the dual discrimination faced by female indigenous children and urging States to ensure that girls enjoy their rights on an equal basis with boys.<sup>338</sup> Lastly, the GC on 'The Right of the Child to Be Heard' acknowledges that girls face additional barriers to their enjoyment of the right to be heard due to their gender and urges States to address gender stereotypes and patriarchal values.<sup>339</sup> The GC on 'State Obligations Regarding the Impact of the Business Sector on Children's Rights' addresses the negative impact of domestic and childcare obligations, disproportionately falling on girls, in cases where "*employment practices require adults to work long hours*" impacting girls' enjoyment of the right to education and to play.<sup>340</sup>

The joint General Comment/General Recommendation of the CRC and CEDAW Committees on "Harmful Practices" call for the protection of the rights of girls and women seeking justice for violations as a result of harmful practices.<sup>341</sup> With regard to education, the joint GC/GR points to the "*right of adolescent girls to continue their studies, during and after pregnancy*".<sup>342</sup> It further acknowledges that the completion of education empowers women and girls to claim their right to be free from violence. Similarly, the CRC Committees point to States' obligation to the "*universal right to high-quality education*" and requests States to eliminate gender disparities in education, including by "*making schools and their surroundings safe, girl-friendly and conducive to their optimal performance*".<sup>343</sup> Moreover, the joint GC/GR recognises that child marriage is limiting the enjoyment of the right to freedom of movement, as well as contributing to higher rates of school dropout, particularly among girls, and to an increased risk of domestic violence.<sup>344</sup> Interestingly, the CRC and CEDAW Committees do not mention girls when recommending States to address the "*unique health-care needs of*

<sup>331</sup> See CRC General Comment, 'The Implementation of the Rights of the Child During Adolescence' (2016), CRC/C/GC/20, para. 75.

<sup>332</sup> *Id.*, para. 45.

<sup>333</sup> *Id.*, para. 21.

<sup>334</sup> *Id.*, para. 36.

<sup>335</sup> *Id.* 20, para. 28.

<sup>336</sup> *Id.*, para. 86.

<sup>337</sup> *Id.*, para. 59.

<sup>338</sup> See CRC General Comment, 'Indigenous Children and Their Rights under the Convention' (2009), CRC/C/GC/11, para. 29.

<sup>339</sup> See CRC General Comment, 'The Right of the Child to be Heard' (2009), CRC/C/GC/12, para. 77.

<sup>340</sup> See CRC General Comment, 'State Obligations Regarding the Impact of the Business Sector on Children's Rights' (2013), CRC/C/GC/16, para. 19.

<sup>341</sup> See CRC General Comment, 'Harmful Practices (joint General Recommendation with CEDAW)' (2014), CEDAW/C/GC/31-CRC/C/GC/18, para. 85.

<sup>342</sup> *Id.*, para. 63.

<sup>343</sup> *Id.*, para. 62.

<sup>344</sup> *Id.*, para. 22.

*children and women who have undergone female genital mutilation*".<sup>345</sup> Referring to scenarios that amount to forced marriages, including when "*guardians have the legal authority to consent to marriage of girls in accordance with customary or statutory law*", the CRC and CEDAW Committees point to girls' right to freely enter into marriage.<sup>346</sup>

## **CEDAW**

Almost a third of CEDAW's General Recommendations (11 out of 34<sup>347</sup>) do not include a single reference to girls. Most surprisingly, the GR on 'Female Circumcision' (1990) is one of them. A number of GRs focus on a specific group of women or women living in a particular context, including rural women (2016), women in conflict prevention, conflict and post-conflict situations (2013), older women (2010), women migrant workers (2008), unpaid women workers in rural and urban family enterprises (1992), and disabled women (1991). Others address a particular article of the Convention, such as the GRs addressing health, violence against women, or access to justice.

In the GR on 'Rights of Rural Women', the CEDAW Committee consistently included girls in its analysis of gender discrimination. Concerning rights of rural women and girls to water and sanitation it is conscious of the fact that the realisation of these rights are crucial for the enjoyment of other rights, including the rights to health, food, education, and participation.<sup>348</sup> In the context of the right to education, the CEDAW Committee adopted a gender- and age-sensitive approach and addressed the specific situation of rural girls, including by identifying a number of obstacles they may face to the realisation of that right, as well as measures to be taken by States to remove these barriers. It, for example, calls upon States to ensure girls' retention in school during pregnancy and their return to school after childbirth,<sup>349</sup> and recognises unpaid care work as a barrier to girls' school attendance. The CEDAW Committee further requires States to protect girls from "*labour exploitation, child and/or forced marriage and gender-based violence, including sexual violence and abuse*"<sup>350</sup> and calls for the elimination of negative attitudes towards girls' education.<sup>351</sup> The GR also touches upon gender-stereotypical fields of study when calling upon States to encourage girls to opt for "*non-traditional fields of study and careers, such as mathematics, informatics, natural and agricultural sciences and technology*".<sup>352</sup> The Committee recognises that "*discriminatory sex-based and gender-based, ethnic and other stereotypes*" negatively affect the educational opportunities of rural women and girls.<sup>353</sup> Lastly, States are urged to ensure that schools in rural areas are equipped with "*adequate water and separate, safe, sheltered latrines for girls*".<sup>354</sup>

Surprisingly, however, the GR only mentions women's "*equal access to technical and vocational education and skills training*", and does not explicitly recognise this right of rural girls.<sup>355</sup> Concerning the right of rural women and girls to adequate health care, the GR calls for "*gender-responsive and culturally responsive training of community health workers and traditional birth attendants*",<sup>356</sup> including education on the sexual and reproductive health and rights of both women and men. However, it does not require States to pay particular attention to age-related barriers to the enjoyment of the right to health, nor does it mention girls and boys in

<sup>345</sup> See CRC General Comment, 'Harmful Practices (joint General Recommendation with CEDAW)' (2014), CEDAW/C/GC/31-CRC/C/GC/18, para. 73d.

<sup>346</sup> *Id.*, para. 21.

<sup>347</sup> This number includes the joint General Recommendation/General Comment on 'Harmful Practices' adopted together with the CEDAW Committee in 2014 (CEDAW/C/GC/31-CRC/C/GC/18).

<sup>348</sup> See CEDAW General Recommendation, 'Rights of Rural Women' (2016), CEDAW/C/GC/34, para. 81.

<sup>349</sup> *Id.*, para. 43g.

<sup>350</sup> *Id.*, para. 43d.

<sup>351</sup> *Id.*, para. 43c.

<sup>352</sup> *Id.*, para. 43f.

<sup>353</sup> *Id.*, para. 43b.

<sup>354</sup> *Id.*, para. 43h.

<sup>355</sup> *Id.*, para. 43j.

<sup>356</sup> *Id.*, para. 39h.

the context of sexual and reproductive health and rights.<sup>357</sup> Similarly, the CEDAW Committee only recognises “*obstacles to rural women's access to health care, including to sexual and reproductive health services*”, calling for their removal—however, again without referring to girls.<sup>358</sup> Addressing States’ obligations to prevent and eliminate all forms of violence against rural women and girls, the CEDAW Committee, calls upon States to raise awareness about the rights of rural women and girls with the objective to eliminate “*discriminatory social attitudes and practices, in particular those that condone gender-based violence*”.<sup>359</sup> In addition, the GR reflects upon harmful practices, including child, early and forced marriage. However, it fails to clearly recognise them as violations of the rights of rural women and girls. The CEDAW Committee merely stated that they “*negatively affect the health, well-being and dignity of rural women and girls*”.<sup>360</sup> In the same context, the CEDAW Committee requests States to eliminate stereotypes that “*compromise the equal rights of rural women to land, water and other natural resources*”; however, it does not recognise girls’ rights to these resources.<sup>361</sup>

Addressing the situation of women in conflict-affected areas, the CEDAW Committee recognises that “*women and girls are at a greater risk of unplanned pregnancy, severe sexual and reproductive injuries and contracting sexually transmitted infections, including HIV and AIDS, as a result of conflict-related sexual violence*”.<sup>362</sup> However, when emphasising the restrictions related to mobility and freedom of movement, as well as the access to health services, the GC does not mention girls, but exclusively refers to women.<sup>363</sup> The CEDAW Committee further calls for the protection of internally displaced women and girls, including from gender-based violence and child, early, forced marriage, and demands States to ensure their “*equal access to services and health care and full participation in the distribution of supplies, as well as in the development and implementation of assistance programmes*”.<sup>364</sup> Without addressing the specific situation of girls, the CEDAW Committee calls for increased cooperation among States in order to “*protect the rights of trafficked women and girls*”.<sup>365</sup> Similarly, in the context of displacement, the CEDAW Committee demands States to take preventive measures to ensure the “*protection of the human rights of displaced women and girls*”, including by providing them with access to basic services during the different stages of displacement.<sup>366</sup> With regard to conflict situations, it recognises the equal rights of conflict-affected women and girls “*to obtain documents necessary for the exercise of their legal rights*”, as well as “*the right to have such documentation issued in their own names*”.<sup>367</sup>

The GR on the ‘Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women’, calls upon States to ensure women’s and girls’ “*equal access to identity documentation, including proof of nationality*”.<sup>368</sup> Considering the situation of stateless women and girls, the GR recognises that they are often “*deprived of their right to vote or stand for public office and may be denied access to public benefits*” which impedes their access to rights associated with the status as a national, including the rights to education, health care, property, or employment.<sup>369</sup> The GR points to the multiple forms of discrimination suffered by stateless women and girls and refers to the obligation of States to prevent and reduce statelessness to ensure

<sup>357</sup> See CEDAW General Recommendation, ‘Rights of Rural Women’ (2016), CEDAW/C/GC/34, para. 39h.

<sup>358</sup> *Id.*, para. 39c.

<sup>359</sup> *Id.*, para. 25a.

<sup>360</sup> *Id.*, para. 23.

<sup>361</sup> *Ibid.*

<sup>362</sup> See CEDAW General Recommendation, ‘Women in Conflict Prevention, Conflict and Post-Conflict Situations’ (2013), CEDAW/C/GC/30, para. 50.

<sup>363</sup> *Ibid.*

<sup>364</sup> *Id.*, para. 57d.

<sup>365</sup> *Id.*, para. 41d.

<sup>366</sup> *Id.*, para. 57a.

<sup>367</sup> *Id.*, para. 61c.

<sup>368</sup> See CEDAW General Recommendation, ‘Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women’ (2014), CEDAW/C/GC/32, para. 63l.

<sup>369</sup> *Id.*, CEDAW/C/GC/32, para. 53.

the realisation of women's and girls' nationality rights.<sup>370</sup>

In the GR on 'Women's Access to Justice', the CEDAW Committee states that all references to women should be understood to also include girls, unless otherwise specified. Consequently, the interpretation of the provisions of the Convention in that context largely applies an age-neutral approach.<sup>371</sup> The GR, however, does refer to girls explicitly in the context of ensuring their access to *"independent, safe, effective, accessible and child-sensitive complaint and reporting mechanisms"*.<sup>372</sup>

The GR on 'Women and Health' calls upon States to pay particular attention to the *"health needs and rights of women belonging to vulnerable and disadvantaged groups"*, including girls. However, it does not recognise that girls belonging to vulnerable disadvantage groups, such as migrant women or refugee and displaced women could face intersectional marginalisation due to their age.<sup>373</sup> The GC acknowledges the particular vulnerability of girls to sexual abuse or female genital mutilation as a result of gender-discrimination.<sup>374</sup> Moreover, in the context of HIV/AIDS and other sexually transmitted diseases, the CEDAW Committee explicitly refers to the rights of women and adolescent girls to sexual health, including the right to sexual health information, education and services, as well as the rights of adolescent girls and boys to sexual and reproductive health education and to privacy. The GC recognise that harmful practices put women and girls at greater risk of contracting these diseases. Interestingly, when pointing to prostitution as an aggravating vulnerability to HIV/AIDS, only women are mentioned.<sup>375</sup>

In its 2010 GR on "Core Obligations of States Parties under Article 2", the CEDAW Committee recognises States' particular obligation to *"promote the equal rights of girls since girls are part of the larger community of women and are more vulnerable to discrimination in such areas as access to basic education, trafficking, maltreatment, exploitation and violence"*. Moreover, it acknowledges that discrimination in these situations is exacerbated when the victims are adolescents and stipulates that States must pay particular attention to the specific needs of (adolescent) girls, including by *"providing education on sexual and reproductive health and carrying out programmes that are aimed at the prevention of HIV/AIDS, sexual exploitation and teenage pregnancy"*.<sup>376</sup>

## CESCR

In its GCs, the CESCR Committee mainly reflects on the rights of girls in relation to education and health, including sexual and reproductive health. Only six out of 23 GCs mention girls at all, two in each case focus on the issues of education,<sup>377</sup> health/sexual and reproductive health,<sup>378</sup> and non-discrimination in economic, social and cultural rights.<sup>379</sup>

Concerning education, the CESCR Committee provides an interpretation of the interlinkages between the provisions under Article 13 (the right of everyone to education) and Article 3 (the equal right of men and women to the enjoyment of all economic, social and cultural rights). It calls upon States to take action to *"ensure the*

<sup>370</sup> See CEDAW General Recommendation, 'Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women' (2014), CEDAW/C/GC/32, para. 51.

<sup>371</sup> See CEDAW General Recommendation, 'Women's Access to Justice' (2015), CEDAW/C/GC/33, para. 1.

<sup>372</sup> *Id.*, para. 25b.

<sup>373</sup> See CEDAW General Recommendation, 'Women and Health' (1999), para. 6.

<sup>374</sup> *Id.*, para. 12b.

<sup>375</sup> *Id.*, para. 18.

<sup>376</sup> See CEDAW General Recommendation, 'Core Obligations of States Parties Under Article 2' (2010), CEDAW/C/GC/28, para. 21.

<sup>377</sup> Compare 'Plans of Action for Primary Education (Art. 14)' (1999), E/C.12/1999/4; and 'The Right to Education (Art. 13)' (1999), E/C.12/1999/10.

<sup>378</sup> Compare 'The Right to Sexual and Reproductive Health (Art. 12)' (2016), E/C.12/GC/22; and 'The Right to the Highest Attainable Standard of Health (Art. 12)' (2000), E/C.12/2000/4.

<sup>379</sup> Compare 'Non-Discrimination in Economic, Social and Cultural Rights (Art. 2, para. 2)' (2009), E/C.12/GC/20; 'The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights; (2005), E/C.12/2005/4.

same admission criteria for boys and girls at all levels of education”.<sup>380</sup> Furthermore, it identifies gender-discrimination and the preferential treatment of boys as a barrier to girls’ equal right to education and urges States to ensure children’s safety on the way to and from school, highlighting the particular vulnerability of girls.<sup>381</sup> In the GC on ‘The Right to Education’, the CESCR Committee unpacks “essential features” of the right to education, namely ‘availability’, ‘accessibility’, ‘acceptability’ and ‘adaptability’. Providing an example for ‘accessibility’, the GC highlights States’ obligation to “protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school”.<sup>382</sup> However, the text falls short of addressing the underlying causes of barriers to girls’ access to education in this context, including the low value attached to girls’ education due to gender stereotypes and norms.<sup>383</sup>

In its most recent GC on ‘The Right to Sexual and Reproductive Health’, the CESCR Committee acknowledges the negative impact of “legal, procedural, practical and social barriers” on the access to sexual and reproductive health facilities, services and goods. Elaborating on social barriers more specifically, it draws attention to “norms or beliefs that inhibit individuals of different ages and genders, women, girls and adolescents from autonomously exercising their right to sexual and reproductive health”.<sup>384</sup> In addition, the CESCR Committee identifies groups of persons that experience multiple and intersecting forms of discrimination in the context of sexual and reproductive health. While it noted that the list provides is non-exhaustive, and does include adolescents, it is still remarkable that neither girls nor children are explicitly mentioned.<sup>385</sup> Even more so, as the CESCR Committee highlights that for women and girls in particular the realisation of the right to sexual and reproductive health often remains unfulfilled.<sup>386</sup> Moreover, with regard to conflict situations, the CESCR Committee acknowledges that women and girls are “disproportionately exposed to a high risk of violation of their rights, including through systematic rape, sexual slavery, forced pregnancy and forced sterilization”.<sup>387</sup> While the GC incorporates a gender perspective in its interpretation of provisions related to sexual and reproductive health, and urges States to “guarantee women and girls access to safe abortion services and quality post-abortion care”, it does not refer to girls consistently. It merely calls on States to remove all barriers to women’s access to comprehensive sexual and reproductive health services, goods, education, and information and refers to the obligation of States “to respect the **right of women** to make autonomous decisions about their sexual and reproductive health [emphasis added]”.<sup>388</sup>

With regard to the Covenant’s provision addressing infant mortality and the healthy development of infants and children (Article 12.2), the CESCR Committee refers to the right to the enjoyment of the highest standard of health of children as set forth in the CRC. It concludes that in line with the principle of non-discrimination, Article 12(2) of the ICESCR requires that girls and boys have “equal access to adequate nutrition, safe environments, and physical as well as mental health services”.<sup>389</sup> The GC implicitly takes account of the gender-specific barriers and risks faced by girls and recognises the need to address harmful practices that have a disproportionately negative effect on the health of girls, including early marriage, female genital mutilation, as well as preferential feeding and care of boys.<sup>390</sup>

<sup>380</sup> See CESCR General Comment, ‘The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights’ (2005), E/C.12/2005/4, para. 30.

<sup>381</sup> *Ibid.*

<sup>382</sup> See CESCR General Comment, ‘The Right to Education (Art. 13)’ (1999), E/C.12/1999/10, para. 50.

<sup>383</sup> *Ibid.*

<sup>384</sup> See CESCR General Comment, ‘The Right to Sexual and Reproductive Health (Art. 12)’ (2016), E/C.12/GC/22, para. 2.

<sup>385</sup> *Id.*, para. 28.

<sup>386</sup> *Id.*, para. 2.

<sup>387</sup> *Id.*, para. 30.

<sup>388</sup> *Id.*, para. 28.

<sup>389</sup> Compare CRC, Article 24.

<sup>390</sup> See CESCR General Comment, ‘The Right to the Highest Attainable Standard of Health (Art. 12)’ (2000), E/C.12/2000/4, para. 22.

## CRPD

In the GC on 'Women with Disabilities', the CRPD Committee applied a largely age-neutral approach to the interpretation of the provisions of the Convention, by stating that references to 'women with disabilities' comprises of all women, girls, and adolescents with disabilities.<sup>391</sup> While recognising that discrimination against women and girls with disabilities can take different forms, the CRPD Committee does not emphasise the additional discrimination girls may face based on their age.<sup>392</sup> The CRPD Committee identifies multiple and intersecting forms of discrimination against women and girls with disabilities, particularly with regard to *"equal access to education, access to economic opportunities, access to social interaction, access to justice and equal recognition before the law, the ability to participate politically, and the ability to exercise control over their own lives across a range of contexts"*.<sup>393</sup>

In the GC on 'The Right to Inclusive Education', the CRPD Committee acknowledges that *"[i]ntersectional discrimination and exclusion pose significant barriers to the realization of [this] right"* and calls on States to ensure that the *"right to education is not impeded by gender and/or disability discrimination, stigma or prejudice"*.<sup>394</sup> It further recognises the need to tackle gender norms, *"that perpetuate patriarchal and paternalistic societal frameworks"*.<sup>395</sup> However, it does not point to age-specific vulnerabilities of girls with disabilities as a result of discrimination.<sup>396</sup> Conscious of the fact that women and girls with disabilities are at greater risk of sexual violence in situations of conflict and humanitarian emergencies, particularly in the context of education, the CRPD Committee requests States to ensure access of women and girls in these situations to *"learning environments [that] are safe and accessible"*.<sup>397</sup> Like the CESCR Committee in its GC on 'The Right to Education', the CRPD Committee expands on States' obligations to respect, protect and fulfil all features of the right to inclusive education. It uses almost the exact same wording as the CESCR Committee, when stating that the obligation to protect requires action to *"prevent third parties from interfering with the enjoyment of the right, for example, parents refusing to send girls with disabilities to school"*.<sup>398</sup>

## CCPR

The Human Rights Committee's GCs largely refrain from addressing the rights of children. The vast majority of references to children are gender-neutral, with the term 'girl' mentioned explicitly in only three instances in merely two out of thirty-five GCs adopted over a period of more than 30 years.<sup>399</sup>

The Human Rights Committee recognises that States must fulfil their obligation to protect children (as per Article 24) equally for boys and girls. It implicitly acknowledges the particular vulnerability of girls in relation to education, feeding and health care by calling upon States to take action to ensure the equal treatment of girls in such a context and to collect (sex-) disaggregated data to this end. The GC also touches upon the underlying causes of obstacles to the full enjoyment of rights by girls, when demanding States to take action towards the elimination of *"all cultural or religious practices which jeopardize the freedom and well-being of female children"*.<sup>400</sup> The Human Rights Committee's position, however, lacks a clear recognition that 'cultural and

<sup>391</sup> See CRPD General Comment, 'Women and Girls with Disabilities' (2016), CRPD/C/GC/3, para. 4a.

<sup>392</sup> *Id.*, para. 12 and 17.

<sup>393</sup> *Id.*, para. 2.

<sup>394</sup> See CRPD General Comment, 'The Right to Inclusive Education' (2016), CRPD/C/GC/4, para. 44.

<sup>395</sup> *Ibid.*

<sup>396</sup> *Ibid.*

<sup>397</sup> *Id.*, para. 14.

<sup>398</sup> See CRPD General Comment, 'The Right to Inclusive Education' (2016), CRPD/C/GC/4, para. 38. Compare See CESCR General Comment, 'The Right to Education (Art. 13)' (1999), E/C.12/1999/10, para. 50.

<sup>399</sup> Compare 'Article 9: Liberty and security of person' (2014), CCPR/C/GC/35; and 'Article 3: The Equality of Rights between Men and Women - replaces GC No. 4' (2000), CCPR/C/21/Rev.1/Add.10.

<sup>400</sup> See CCPR General Comment, 'Article 3: The Equality of Rights between Men and Women - replaces GC No. 4' (2000), CCPR/C/21/Rev.1/Add.10, para. 28.

religious practices' often amount to serious violations of the rights of girls.

When referring to the protection of women from “*practices that violate their right to life*”, the GC on ‘The Equality of Rights between Men and Women’ mentions female infanticide as one example of these practices.<sup>401</sup> Paradoxically, the Human Rights Committee did not include a reference to girls, although it is clearly the infant girl child that needs to be protected from female infanticide in order to guarantee her right to life.

### **CERD**

Only three out of thirty-five GRs adopted by the CERD Committee mention the term ‘girl’. Overall, GRs that explicitly refer to girls, recognise their particular vulnerability due to intersectional discrimination in the context of education. The GR on ‘Discrimination against Roma’ (2000) and the GR on ‘Article 1, paragraph 1, of the Convention’ (2002) do acknowledge that girls are particularly affected by school-dropout and marginalisation.<sup>402</sup> The GR on ‘Racial Discrimination Against People of African Descent’ merely includes a vague reference to the “*special rights of the girl child and the rights of boys in vulnerable situations*” without providing any further details.<sup>403</sup>

### **CAT**

The CAT Committee implicitly refers to the rights of women and girls in the context of gender-based violence. Concerning the right to access to due process and impartial judiciary, the Committee highlights that in order to determine the right to redress of victims of gender-based violence, all proceedings “*must afford equal weight to the testimony of women and girls*”. However, when referring to judicial and non-judicial proceedings, the Committee only calls for the application of “*gender-sensitive procedures*” to avoid “*re-victimization and stigmatization of victims of torture or ill-treatment*”. It does not address the specific vulnerability of child victims. Similarly, with regard to complaints mechanisms and investigations, the CAT Committee urges States to take account of gender-specific barriers victims may face when seeking and obtaining redress. Paradoxically, victims of female genital mutilation are mentioned in the same context, but there is no recognition of the age-specific barriers to girls’ access to redress.<sup>404</sup>

### **CMW**

The Committee on Migrant Workers has adopted two General Comments: ‘Migrant Domestic Workers’ (2011) and ‘Rights of Migrant Workers in an Irregular Situation and Members of Their Families’ (2013). Both GCs do incorporate a gender-perspective in the interpretation of the Convention’s articles; however, they do not systematically address the multiple and intersecting forms of discrimination faced by girls or their specific vulnerability due to both their age *and* gender.

In its GC on ‘Migrant Domestic Workers’, the CMW Committee recognises that most domestic workers are women and girls. Furthermore, it acknowledges that women and girls are at risk of being subjected to physical and sexual abuse.<sup>405</sup> While the GC requests States to apply a gender perspective when addressing the situation of domestic workers, as well as to “*develop remedies to the gender-based discrimination [women and girls] face throughout the migration process*”,<sup>406</sup> there is no particular focus on the multiple and intersecting forms of discrimination faced by girl domestic migrant workers, due to their age. The use of age-neutral

<sup>401</sup> See CCPR General Comment, ‘Article 3: The Equality of Rights between Men and Women - replaces GC No. 4’ (2000), CCPR/C/21/Rev.1/Add.10, para. 10.

<sup>402</sup> See CERD General Recommendation, ‘Discrimination against Roma’ (2000), para. 17 and 22; and CERD General Recommendation, ‘Article 1 paragraph 1, of the Convention (Descent)’ (2000), para. (ss).

<sup>403</sup> See CERD General Recommendation, ‘Racial Discrimination Against People of African Descent’ (2011), CERD/C/GC/34, para. 26.

<sup>404</sup> See CAT General Comment, ‘Implementation of Article 14 by States Parties’ (2012), CAT/C/GC/3, para. 33.

<sup>405</sup> See CMW General Comment, ‘Migrant Domestic Workers’ (2011), CMW/C/GC/1, para. 10.

<sup>406</sup> See CMW General Comment, ‘Migrant Domestic Workers’ (2011), CMW/C/GC/1, para. 60.

language continues when the CMW Committee refers to the additional risks faced by women migrant domestic workers due to their gender, including gender-based violence, without mentioning girls.<sup>407</sup> In addition, it acknowledges that domestic workers, and in particular migrant domestic workers, “*are often excluded from rights under national law related to social security*”. The CMW Committee notes that the vulnerability of migrant domestic workers increases if they do not have access to “*social security benefits and [...] gender-sensitive health care coverage*”.<sup>408</sup> Similarly, the GC is conscious of the gender-dimension with regard to accessing health care, but does not apply an age-perspective to take into account the specific situation of girl migrant domestic workers.

The GC on the ‘Rights of Migrant Workers in an Irregular Situation and Members of Their Families’ recognises that migrant girls suffer from multiple forms of discrimination. The CMW Committee explicitly highlights the discrimination against migrant children in the context of education; however it does not address the gender-specific barriers girls may face in the access to education.<sup>409</sup> Elaborating on the rights of detained migrant workers (Article 17), it requires States to ensure that “*detention centre personnel are trained in human rights, cultural sensitivity, and age and gender considerations*”, which can be considered as an implicit acknowledgement of the gender- and age-specific needs of women and girls.<sup>410</sup> More clearly, the GC addresses the special situation of women migrant workers in detention, by demanding States to ensure “*separate facilities for men and women*”, “*the provision of gender-specific health care services*”, and to consider the “*specific needs of pregnant women, breastfeeding mothers and mothers with young children*”.<sup>411</sup> However, the GR does not consider an age-dimension in this context and hence there is no particular recognition of the situation of girl migrant workers in detention.

#### f. Reports by Special Procedures and Special Representatives of the Secretary General

In total 297 reports by Special Procedures (SPs) of the HRC,<sup>412</sup> the SRSG on Children and Armed Conflict (SRSG CAAC), and the SRSG on Violence Against Children (SRSG VAC) have been considered for the purpose of this report. They include reports presented to the HRC as well as to the UNGA since 2010.<sup>413</sup> Out of the 44 thematic SP mandates, none include girls in their title, though 23 were selected for this research due their focus on children, women, marginalised groups or basic rights, such as education, health, water and sanitation, food, torture, slavery, freedom of opinion and expression, among others.<sup>414</sup> However, only 18 of these 23 mandates made noteworthy references to girls and are further analysed in this chapter.<sup>415</sup>

Out of the 222 reports by SPs without specific child or gender focused mandates, 15 reports by 12 different mandate holders dedicated annual reports to child- or gender-specific issues specifically:

<sup>407</sup> See CMW General Comment, ‘Migrant Domestic Workers’ (2011), CMW/C/GC/1, para. 7.

<sup>408</sup> *Id.*, para. 24.

<sup>409</sup> See CMW General Comment, ‘Rights of Migrant Workers in an Irregular Situation and Members of Their Families’ (2013), CMW/C/GC/2, para. 76.

<sup>410</sup> *Id.*, para. 39.

<sup>411</sup> See CMW General Comment, ‘Rights of Migrant Workers in an Irregular Situation and Members of Their Families’ (2013), CMW/C/GC/2, para. 45.

<sup>412</sup> The SP of the HRC are independent human rights experts with mandates to report and advice on human rights from a thematic or country-specific perspective. For more information see: <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx> [Accessed 29 September 2017].

<sup>413</sup> Please note that the Working Group on the Issue of Discrimination against Women in Law and Practice as well as the Special Rapporteur on Contemporary Forms of Slavery, including its Causes and Consequences do not report to the UNGA. Please also note that not all reports published in 2017 were considered as their final versions were not available at the time of writing.

<sup>414</sup> For a full list of all SP mandates considered please consult Annex I.

<sup>415</sup> Mandates that did not substantially address issues pertaining to girls are the SR on Albinism, the SR on Freedom of Opinion and Expression, the SR on Freedom of Peaceful Assembly and of Association, the SR on Privacy, and the WG on African Descent. The SR on Human Rights Defenders does not mention girls explicitly in any of the 15 reports published since 2010.

Table 8: Special Procedure annual reports dedicated to child- or gender-specific issues

<b>SPECIAL PROCEDURE REPORTS DEDICATED TO CHILDREN OR GENDER</b>			
<b>Special Procedure mandate</b>	<b>Thematic Focus of Annual Report</b>	<b>Year</b>	<b>Document Code</b>
Special Rapporteur on the Right to Food	Integrating a Gender Perspective in the Right to Food	2016	A/HRC/31/51
	Women's Rights and the Right to Food	2013	A/HRC/22/50
Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression	The Right of the Child to Freedom of Expression	2014	A/69/335
Special Rapporteur on the Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health	Early Childhood and the Right to Health	2015	A/70/213
Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context	Women and their Right to Adequate Housing	2012	A/HRC/19/53
Special Rapporteur on the Situation of Human Rights Defenders	Women Human Rights Defenders and those Working on Women's Rights or Gender Issues	2011	A/HRC/16/44

Special Procedure mandate	Thematic Focus of Annual Report	Year	Document Code
Special Rapporteur on the Rights of Indigenous Peoples	Rights of Indigenous Women and Girls	2015	A/HRC/30/41
	Violence Against Indigenous Women and Girls – Report on Progress in the Study of the Rights of Indigenous Peoples in Relation to Extractive Industries	2012	A/HRC/21/47
Special Rapporteur on the Rights of Internally Displaced Persons	Internally Displaced Women	2013	A/HRC/23/44
Special Rapporteur on the Human Rights of Migrants	Irregular migration and criminalisation of migrants, protection of children in the migration process and the right to housing and health of migrants	2011	A/HRC/17/33
Special Rapporteur on Extreme Poverty and Human Rights	Unpaid care work and women's human rights	2013	A/68/293
Special Rapporteur on Contemporary Forms of Slavery, including its Causes and Consequences	Child Slavery in the Artisanal Mining and Quarrying Sector	2011	A/HRC/18/30
Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Gender Perspectives on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment	2016	A/HRC/31/57
	Children Deprived of Their Liberty from the Perspective of the Prohibition of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	2015	A/HRC/28/68
Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation	Gender Equality in the Realisation of the Human Rights to Water and Sanitation	2016	A/HRC/33/49

Unlike resolutions adopted by the CPD, CSW, HRC, UNGA or ExCom Conclusions, reports by SPs and SRSGs are not negotiated by States, but reflect the views and priorities of the independent experts appointed by the HRC or the UNGA. However, SP reports can be considered a source of soft law, since they contribute to the clarification of obligations assumed by States under the different human rights treaties and are in most cases endorsed by States when presented at the HRC or UNGA.<sup>416</sup>

Due to the nature of SP reports, which are large in scope and entail more descriptive language than, for instance resolutions, paragraphs that explicitly refer to rights or that comprise recommendations to States have been prioritised for this analysis. Generally, the analysis revealed that reports by the different mandate holders tend to mention girls' particular vulnerability in a given context, rather than spelling out their rights. Even those mandate holders who mention girls often fail to do it in a systematic manner and generally mention them together with women—neglecting the age dimension.

### ***Special Rapporteur on the Rights of Persons with Disabilities (2014)*<sup>417</sup>**

Though a relatively new mandate, the Special Rapporteur on Rights of Persons with Disabilities has noted in her working methods that she “*aims to pay special attention to gender sensitivity*” and consider the “*multifaceted discrimination and marginalization and the compounded violations of human rights that women and girls with disabilities face in most societies, as well as other persons or groups who may experience discrimination due to their sex or disability*”.<sup>418</sup> However, the SR does not seem to consider girls separately from women. This is exemplified in her 2016 report to the HRC, in which the SR notes that “*women and girls with disabilities have historically encountered many barriers to participation in public decision-making, due to power imbalances and multiple forms of discrimination*”, which requires special attention to guaranteeing women's and girls' right to participate actively and directly in all decision-making processes affecting their lives.<sup>419</sup> In this context the SR recommends States to “[*e*]ngage with women and girls with disabilities and secure their direct participation in all processes of public decision-making, and guarantee that such participation and consultation is conducted in a safe environment, particularly in processes relating to the development of legislative or policy measures regarding violence and sexual abuse”.<sup>420</sup> While States should ensure “*that all participatory mechanisms and bodies take into account both disability- and gender-related factors and the complex interrelationships between them*”, additional obstacles girls might face due to their age, are not specifically addressed.<sup>421</sup>

In her first report in 2015, the Special Rapporteur recognises that “*women and girls with disabilities face many difficulties in accessing adequate housing, health care, education, vocational training and employment, and are more likely to be institutionalized and experience poverty*”.<sup>422</sup> Accordingly, she calls upon States to take steps to eliminate the barriers that prevent them from accessing social protection programmes and ensure that social protection systems take into account both disability-related and gender-related factors in the design and implementation of such programmes.<sup>423</sup>

### ***Working Group (WG) on the Issue of Discrimination against Women in Law and Practice (2010)***

The WG on Discrimination against Women does consistently address issues pertaining to girls in its reports to

<sup>416</sup> See D. Shelton, *Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System* (2003), Oxford University Press, pp. 449-452.

<sup>417</sup> Please note that the year indicated in parentheses for the different SP mandates refers to the year when the respective mandate was established by the HRC (mandates established after 2005), the CHR (mandates established until 2005) or the UNGA (for the SRSG mandates).

<sup>418</sup> See SR on Disability, Report to the HRC (2015), A/HRC/28/58, para. 19d.

<sup>419</sup> *Id.*, para. 72.

<sup>420</sup> *Id.*, para. 100d.

<sup>421</sup> *Id.*, para. 58.

<sup>422</sup> *Id.*, para. 38.

<sup>423</sup> *Id.*, para. 39.

the HRC. However, an age-dimension is not always mainstreamed throughout the reports, and girls are generally mentioned together with women. Reflecting upon indigenous women (and girls), the 2010 report only sporadically highlights girls, such as when referring to the overrepresentation of indigenous girls among pregnant teenagers.<sup>424</sup> In the same context, discussing the health consequences of intersecting forms of discrimination, the WG only refers to women and violations related to their sexual and reproductive rights. Moreover, the reports solely point to the violations of indigenous women's rights to reproductive health in the context of the denial of the rights of indigenous peoples to self-determination and cultural autonomy.<sup>425</sup> In its report focusing on discrimination against women in economic and social life, the WG explicitly addresses the social and cultural barriers that impede girls' access to education.<sup>426</sup>

In its 2016 report, the WG adopts a mainly age-neutral approach when elaborating on *“political contestation around rights to reproductive and sexual health”*.<sup>427</sup> While the report emphasises that health policy should not be influenced by *“instrumentalisation and politicisation”*, the WG only demands the consideration of *women's* health needs as well as the *“high price”* women pay in terms of their health and lives as a result of a politicised debate on sexual and reproductive health.<sup>428</sup> This is particularly noteworthy, as the international legal framework refrains from considering children, and in particular girls, as sexual beings, and neglects to consider issues related to children's sexual and reproductive health, including their access to comprehensive sexuality education, or girls' access to safe abortion services.<sup>429</sup> At best, language used on sexual and reproductive health and rights in international soft law refers to adolescents, but in only very few cases explicitly mentions girls or boys. The report calls for a strong commitment to *“women's sexual and reproductive rights in international and national law, policies and programmes”*, while subsequently highlighting its importance for the achievement of gender equality, as well as the realisation of *“women's and girl's right to health and well-being [emphasis added]”*.<sup>430</sup>

**The international legal framework refrains from considering children, and in particular girls, as sexual beings, and neglects to consider issues related to children's sexual and reproductive health, including their access to comprehensive sexuality education, or girls' access to safe abortion services.**

In 2015, the WG does explicitly mention girls in the description of its report's focus on discrimination against women and girls in cultural and family life. However, the report's main focus tends to be on women's rights concerns and only refers to girls explicitly on a number of occasions. For example, when pointing to the cultural construction of gender, the report recognises that it *“makes women's subjection to gender-based discrimination and violence appear to be inherent and immutable”* without mentioning girls.<sup>431</sup> The report sets forth a number of recommendations concerning women's and girls' de jure and de facto right to equality in family diversity.<sup>432</sup> It highlights States' obligation to eliminate *“forms of marriage that restrict/and or deny women and girls' rights,*

<sup>424</sup> See WG on Discrimination Against Women, Report to the HRC, (2016), A/HRC/32/44, para. 54.

<sup>425</sup> *Ibid.*

<sup>426</sup> *Id.*, para. 35.

<sup>427</sup> *Id.*, para. 24.

<sup>428</sup> *Ibid.*

<sup>429</sup> Some conservative groups consider the promotion of sexual and reproductive health and rights as a threat referring to a radical sexual rights agenda, which promotes abortion, and *“controversial”* terms such as 'sexual orientation' and 'gender identity' as well as *“explicit and harmful sexuality education for children”*. See S. Slater, *An Analysis of the UN 2030 Development Agenda: The Hidden Threats to Life, Family, and Children* (2017), pp. 1-4 and 15-23.

<sup>430</sup> See WG on Discrimination Against Women, Report to the HRC (2016), A/HRC/32/44, para. 24.

<sup>431</sup> See WG on Discrimination Against Women, Report to the HRC (2015), A/HRC/29/40, para. 71.

<sup>432</sup> Interestingly, the recommendations are clustered under the main call upon States to *“[g]uarantee women's de jure and de facto right to equality in family diversity”*. Girls are only added subsequently. See WG on Discrimination Against Women, Report to the HRC (2015), A/HRC/29/40, para. 73c (i). See also: WG on Discrimination Against Women, Report to the HRC (2015), A/HRC/29/40, para. 28, 31, 65, and 70.

*well-being and dignity*”,<sup>433</sup> and calls upon States to guarantee access to remedies and redress while ensuring respect for the rights of women and girls living in early and/or forced marriage, polygamous marriage and temporary marriage, including the right to remarry.<sup>434</sup> Moreover, the WG stipulates that States should protect women and girls who are victims of domestic violence, including rape and incest, such as through the provision of protection orders and shelters.<sup>435</sup> While most of the recommendations do include girls, they are not referred to in a consistent manner. For examples it urges States to take action to “*protect women from exploitation and discrimination in diverse families*”.<sup>436</sup> Concerning inheritance and property rights, the WG calls on States to ensure that women and girls have the equal “*right to at least half of the family property and inheritance in the case of divorce or widowhood*”. Subsequently, the report only highlights that States should pay special attention to pressure on *women* by her family or community to issue a waiver of her inheritance and property rights, without considering that girls might be even more likely to experience that pressure including due to their age and limited ability to claim their rights.<sup>437</sup> Overall, the WG requests States to guarantee women’s and girls’ “*rights to subsistence, property, including land and inheritance, to a place of residence, to custody of children and to remarry*”.<sup>438</sup>

The WG’s reports addressing discrimination against women with regard to health and safety recognise that with regard to women’s and girls’ health and safety, equality has to be understood as taking into account the “*specific biological needs, throughout their life cycle*”, while providing differential services, treatment and medicines accordingly.<sup>439</sup> However, the report does not further elaborate on these needs. The report also only refers to women in some instances, including regarding discrimination in the context of sexual and reproductive health rights. Moreover, the WG calls upon States to address “*social, religious and cultural factors that disregard the dignity of girls and women*”, in order to guarantee *women’s* right to equality in health and safety.<sup>440</sup> Nonetheless, the report recognises that violations of women’s and girls’ right to health and safety as a result of discrimination, “*denies their right to human dignity*”.<sup>441</sup>

Similarly, in the context of menstruation, the WG does not consistently refer to girls. It emphasises that stigma and shame around menstruation severely impact women’s and girls’ life and their right to education and employment. However, it subsequently only refers to women when noting that “[c]characterising women’s menstrual pain as “*neurotic*” tends to make *women* reluctant to seek help, which can delay diagnosis of, for example, the severely disabling disease of endometriosis [emphasis added]”.<sup>442</sup>

Discussing the impact of conservative religious extremism, the WG only highlights its impact on “*women’s rights, including their right to health and economic activity*”.<sup>443</sup> While it does touch upon modesty codes that “*subjugate women and girls in the name of religion*”, when referring to sanctions for “*crimes committed against patriarchy, such as adultery*”, the emphasis is placed on women.<sup>444</sup>

With regard to gender-stereotypes, the WG notes that they are often justified by invoking cultural norms or religious beliefs. Interestingly, when discussing “*sexist stereotypes present in the media, on the Internet, in audiovisual productions and in video games*”, the WG only refers to their contribution to the perpetuation of a culture of discrimination and violence against women, without mentioning girls.<sup>445</sup> This is particularly

<sup>433</sup> See WG on Discrimination Against Women, Report to the HRC (2015), A/HRC/29/40, para. 73c (ii).

<sup>434</sup> *Id.*, para. 73c (iii).

<sup>435</sup> *Id.*, para. 73c (vi).

<sup>436</sup> *Id.*, 73c (i).

<sup>437</sup> *Id.*, 73d (iii).

<sup>438</sup> *Id.*, para. 26.

<sup>439</sup> See WG on Discrimination Against Women, Report to the HRC (2016), A/HRC/32/44, para. 98.

<sup>440</sup> *Id.*, para. 27.

<sup>441</sup> *Id.*, para. 98.

<sup>442</sup> *Id.*, para. 70.

<sup>443</sup> See WG on Discrimination Against Women, Report to the HRC (2015), A/HRC/29/40, para. 19.

<sup>444</sup> See *Idem*.

<sup>445</sup> *Id.*, para. 20.

noteworthy since sexist stereotypes are considered as severely impacting the development of gender stereotypes and among children.

### ***Special Rapporteur on the Right to Education (1998)***

Generally, States' obligation to ensure girls' equal right to education at all levels, and the higher school dropout rates among girls, are recurring issues addressed by the SR in his reports. The expert furthermore discusses violence against women and girls, the low value assigned to girls' education by parents, as well religious extremism opposing girls' education as threats to the full enjoyment of the right to education by girls.<sup>446</sup> With regard to privatisation in education, the SR acknowledges the negative impact on girls' right to education, as families often prioritise the education of boys over girls.<sup>447</sup>

Moreover, in the 2010 report to the UNGA, the SR emphasised the importance of the right to sexual education for the empowerment of women and girls as well as for their enjoyment of all human rights, including the right to health.<sup>448</sup> The expert further claimed that the realisation of the right to sexual education is "*one of the best tools for dealing with the consequences of the system of patriarchal domination by changing social and cultural patterns of behaviour that affect men and women and tend to perpetuate discrimination and violence against women*".<sup>449</sup> However the report does not consistently refer to girls when addressing issues that affect both women and girls. For example in the context of violence against women, the expert merely acknowledge that "*the empowerment of women, of which sexual education forms an essential part, is a powerful defence against violation of the human rights of girls and adolescent women*".<sup>450</sup> Moreover, the report highlights that comprehensive sexual education is fundamental to the prevention of HIV/AIDS and sexually transmitted diseases, and recognises that women and girls face a greater risk due to their vulnerability to gender-based violence.<sup>451</sup>

Reflecting on the need to apply a rights-based approach to women's and girls' right to education, the SR emphasises the importance of eliminating multiple forms of discrimination and from the importance of understanding the realisation of the right education for women and girls as beneficial to their children or to society, and as a "*human rights imperative*".<sup>452</sup>

In the 2010 report to the HRC focusing on the right to education of migrants, refugees and asylum-seekers, the SR points to the additional gender-specific marginalisation faced by women and girls with regard to education systems and opportunities. The SR identifies "*early and pregnancy, cultural expectations requiring girls and women to attend to childcare and household duties, and insecurity when travelling to school*" as aggravating factors that negatively impact the enjoyment of the right to education by women and girls in migration and displacement contexts.<sup>453</sup>

### ***Special Rapporteur on the Right to Food (2000)***

In the 2016 report to the HRC focusing on barriers to the fulfilment of women's and girls' right to food, the SR emphasised that women and girls suffer from discrimination in relation to the right to food throughout their life-cycle, including when they receive less food due to a lower social status.<sup>454</sup> The SR concludes that gender-based discrimination in this context constitutes a violation of the right to food of women and girls. However,

<sup>446</sup> See SR on Education, Report to the HRC (2013), A/HRC/23/35, para. 56.

<sup>447</sup> See SR on Education, Report to the HRC (2015), A/HRC/29/30, para. 57.

<sup>448</sup> See SR on Education, Report to the UNGA (2010), A/65/162, para. 30 and 77.

<sup>449</sup> *Id.*, para. 77.

<sup>450</sup> *Id.*, para. 60.

<sup>451</sup> *Id.*, para. 14.

<sup>452</sup> See SR on Education, Report to the UNGA (2013), A/68/294, para. 65.

<sup>453</sup> See SR on Education, Report to the HRC (2010), A/HRC/14/25, para. 34.

<sup>454</sup> See SR on Food, Report to the HRC (2016), A/HRC/31/51, para. 12.

the expert only refers to the empowerment of women, without mentioning girls, as one of the means of the realisation of the right to food for women and girls.<sup>455</sup> Furthermore, the SR recognises that due to tradition or as a result of child, early and forced marriage or adolescent pregnancy, girls and young women are deprived of their rights, including their right to adequate nutrition and education.<sup>456</sup>

Moreover, the SR calls upon States to ensure land rights as well as women's and girls' rights to education and social protection. However, similar to resolutions on the right to food by the HRC and UNGA, the report does not consistently refer to girls in that context, including with regard to access to and control over assets.<sup>457</sup> Moreover, the report recognises that women—without mentioning girls—are disproportionately affected by poverty and hunger and that gender discrimination and violence remain obstacles that “*prevent women from enjoying their economic, social and cultural rights and specifically the right to adequate food and nutrition [emphasis added]*”.<sup>458</sup> The SR emphasises that women's and girls' access to food and food security is undermined by discriminatory laws, social norms, values and practices, and unequal power relations between genders. The expert calls for a gender analysis of food security, while highlighting that this analysis should include other factors that may contribute to marginalisation, including age, social status, race, ethnicity and class.<sup>459</sup>

### ***Special Rapporteur on the Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health (2002)***

The SR on Health addresses the situation of girls in a number of reports. In the 2016 report addressing complementarities between the SDGs and the right to health, the expert emphasises that the right to health requires that essential services are sensitive to the specific needs of women and girls, including those with disabilities and including in relation to their sexual and reproductive health.<sup>460</sup> In the 2016 report focusing on the right of adolescents to the enjoyment of the highest attainable standard of physical and mental health, the SR discusses the issue of abortion and calls upon States to decriminalise abortion, in accordance with international human rights norms and to take action to ensure access to legal and safe abortion services.<sup>461</sup> Moreover, the expert states that legislation criminalising abortion result in an “*infringement of dignity and amount to violations of the obligations of States to guarantee the right to health of adolescent girls*”.<sup>462</sup> The report identifies a number of circumstances in which—at a minimum—States should provide information about and access to abortion services that are of good quality and available without discrimination, including “*when the life or health of the mother is at risk, when the mother is the victim of rape or incest and if there is severe and fatal foetal impairment*”.<sup>463</sup> The SR further points out that regardless of the legal status of abortion, “*post-abortion care must be available and accessible to all adolescent girls*”.<sup>464</sup> In addition, the report notes that apart from criminalising abortion, laws that restrict access to sexual and reproductive information and services are also exposing women and girls to a higher risk of pregnancy-related complications, including maternal mortality.<sup>465</sup>

The 2011 report to the HRC, focuses more explicitly on the interaction between criminal laws and other legal restrictions relating to sexual and reproductive health and the right to health. With regard to abortion, the SR refers to positions of the CEDAW, CRC, CAT and Human Rights Committees, which all have voiced their

<sup>455</sup> See SR on Food, Report to the HRC (2014), A/HRC/25/57, para. 43.

<sup>456</sup> See SR on Food, Report to the HRC (2016), A/HRC/31/51, para. 14.

<sup>457</sup> *Id.*, para. 89.

<sup>458</sup> *Id.*, para. 3.

<sup>459</sup> *Id.*, para. 87.

<sup>460</sup> See SR on Health, Report to the UNGA (2016), A/71/304, para. 79.

<sup>461</sup> See SR on Health, Report to the HRC (2016), A/HRC/32/32, para. 92.

<sup>462</sup> *Ibid.*

<sup>463</sup> *Ibid.*

<sup>464</sup> *Ibid.*

<sup>465</sup> See SR on Health, Report to the UNGA (2016), A/71/304, para. 46.

concerns regarding restrictive abortions laws, claiming that they amount to violations of the right to life, health and information (CEDAW Committee), as well as to violations of a women's right to be free from inhuman and cruel treatment (CAT Committee).<sup>466</sup> Furthermore, the SR draws attention to the way that laws that restrict access to sexual and reproductive health information reinforce stigma among the general public, including teachers or publishers, which in turn may deny women and girls access to sexual and reproductive health materials. The expert concludes that obligations related to the right to health demands States to take action *"to ensure that comprehensive sexual and reproductive health education and information is provided to everyone, especially to women and young girls"*.<sup>467</sup> The explicit mentioning of 'young girls' is particularly noteworthy as international soft law usually refrains from referring to girls in the context of sexual and reproductive health and almost exclusively refers to women or adolescent girls.<sup>468</sup> The SR also stresses that laws demanding the husband's or parental consent before acquiring contraception, *"directly infringe the right of women and girls to make free and informed choices about their sexual and reproductive health"*.<sup>469</sup> However, the report only acknowledges that these laws reflect discriminatory notions of *"women's roles in the family and society"*, without mentioning girls.<sup>470</sup>

Discussing the causal relationship between gender stereotyping, discrimination, and marginalisation of women and girls and their enjoyment of the right to sexual and reproductive health, the SR stresses that criminal laws and legal restrictions *"disempower women, who may be deterred from taking steps to protect their health, in order to avoid liability and out of fear of stigmatization [emphasis added]"*,<sup>471</sup> while remaining silent about the situation of girls. However, the expert mentions girls explicitly when recognising that women and girls face punishment both when abiding by the laws, which can lead to health problems, and when they do not abide, as they face incarceration.<sup>472</sup> When underscoring that due to *"the physiology of human reproduction and the gendered social, legal and economic context in which sexuality, fertility, pregnancy and parenthood occur"*,<sup>473</sup> women are more likely to experience infringement of sexual and reproductive health rights, the report does not explicitly mention girls. Similarly, it only touches upon women's stereotypical roles within the society and family. Concerning sexual and reproductive freedom, the SR equally solely refers to women when stating that societal norms with regard to sexual and reproductive health are often based on the belief that women's sexual identity should be *"curtailed and regulated"*.<sup>474</sup> The lack of attention paid to girls in this context is noteworthy, since girls are generally not considered to be 'sexual beings', which makes their enjoyment of sexual and reproductive health rights even more invisible and neglected.

In the 2016 report on sport and healthy lifestyles and the right to health, the SR points to sex segregation policies and how they lead to rights violations in sports. While elaborating on sex segregation as being justified on the basis of *"safety and fairness, rooted in assumptions of male physical superiority"*, the expert points to legal decisions that have granted girls and women *"the right to compete in male sporting competitions"*.<sup>475</sup>

### ***Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context (2000)***

The SR on Housing mainly addresses issues pertaining to girls in her 2012 report to the HRC, which focuses on women and the right to housing. However, when explicitly referring to 'rights', the report often only mentions women. The SR for example highlights that *"women's rights to adequate housing is often denied or ignored*

<sup>466</sup> See SR on Health, Report to the UNGA (2011), A/66/254, para. 22.

<sup>467</sup> *Ibid.*, para. 64.

<sup>468</sup> *Ibid.*

<sup>469</sup> *Ibid.*, para. 53.

<sup>470</sup> *Ibid.*

<sup>471</sup> *Ibid.*, para. 17.

<sup>472</sup> *Ibid.*

<sup>473</sup> *Ibid.*, para. 16.

<sup>474</sup> *Ibid.*

<sup>475</sup> See SR on Health, Report to the HRC (2016), A/HRC/32/33, para. 53.

*within the broader context of family and marriage law [emphasis added]*.<sup>476</sup> Similarly, the expert recognises that “**women’s lack of autonomy and equality [emphasis added]**” is reinforced when they are excluded from matters of inheritance.<sup>477</sup> The report does, however, acknowledge that both girls and women suffer from inequality with regard to inheritance due to custom and tradition.<sup>478</sup> In the context of Sharia law, the SR again only mentions “**women’s right to equality in matters of inheritance [emphasis added]**” as well as “**women’s rights to acquire, hold, use, administer and dispose of property [emphasis added]**”.<sup>479</sup> The expert explicitly mentions girls when pointing to the lesser share of inheritance to which women and girls are entitled. However, when stressing that customary practices and traditional structures may force women to renounce their share of inheritance in favour of male family members, girls are not mentioned. This is particularly noteworthy, since girls are likely to be even less aware of their rights or equipped to resist social pressures than adult women.<sup>480</sup> Moreover, the SR does not take into account the age dimension with regard to the design of housing laws, policies, and programmes, which should reflect “**women’s needs [emphasis added]**”.<sup>481</sup> In the same context, the SR exclusively stresses that women’s rights to health and water and sanitation need to be ensured.<sup>482</sup> In her recommendations to States, the expert includes girls more consistently. The SR urges States to eliminate discrimination against women and girls in all matters related to inheritance and to make sure that women’s and girls’ basic right to gender equality, including in relation to housing and land, is not infringed or undermined by the application of customary law and practices.<sup>483</sup>

### **Special Rapporteur on the Rights of Indigenous Peoples (2001)**

The SR on Indigenous Peoples mainly refers to the rights of girls and issues pertaining to girls in the reports with a gender focus when discussing the rights of indigenous women and girls (2015) and—among other things—violence against women and girls (2012). While girls are explicitly mentioned in a number of instances, references to girls are not mainstreamed throughout the report.

In the 2015 report to the HRC, the SR points out that insufficient attention has been paid to the intersecting forms of discrimination and vulnerability, which has contributed to “*ongoing widespread impunity in relation to the rights of indigenous women and girls*”.<sup>484</sup> The report also discusses the linkages between women and girls in conflict with the law and prior violations of their human rights. In this context the SR only emphasises that “**women’s access to justice [...] must be considered within criminal justice [emphasis added]**”,<sup>485</sup> without mentioning girls. Moreover, the SR addresses the issue of access to remedies for corporate violations of women’s and girls’ rights and calls on States to avoid legitimising “*voluntary, private forms of remedy that do not provide effective access to justice*”.<sup>486</sup> With regard to the empowerment of indigenous women and girls, the expert further recommends States to build the capacity of female indigenous leaders to become advocates for the rights of women and girls to be free from violence.<sup>487</sup>

More specifically touching upon the issues of violence, the 2012 report to the HRC highlights that in order to combat violence against women and girls, a holistic approach needs to be adopted that takes into account the rights awarded to indigenous peoples in the UN Declaration on the Rights of Indigenous Peoples<sup>488</sup>, particularly regarding autonomy and self-governance (Articles 5 and 18), traditional justice systems (Articles 34 and 35),

<sup>476</sup> See SR on Housing, Report to the HRC (2012), A/HRC/19/53, para. 23.

<sup>477</sup> *Ibid.*

<sup>478</sup> *Ibid.*

<sup>479</sup> *Id.*, para. 26.

<sup>480</sup> *Ibid.*

<sup>481</sup> *Id.*, para. 42.

<sup>482</sup> *Ibid.*

<sup>483</sup> *Id.*, para. 65.

<sup>484</sup> See SR on Indigenous Peoples, Report to the HRC (2015), A/HRC/30/41, para. 8.

<sup>485</sup> *Id.*, para. 41.

<sup>486</sup> *Id.*, para. 78g.

<sup>487</sup> *Ibid.*

<sup>488</sup> Compare UNGA, United Nations Declaration on the Rights of Indigenous Peoples (2007), A/RES/61/295.

access to justice (Article 40), and economic and social conditions (Article 21).<sup>489</sup> Interestingly, however, the UN Declaration on the Rights of Indigenous Peoples itself adopted a largely gender- and age-neutral approach.<sup>490</sup>

### ***Special Rapporteur on the Rights of Internally Displaced Persons (2004)***

The SR on Internally Displaced Persons only refers to the rights of girls explicitly in its 2011 report to the HRC, where the expert recalls the Guiding Principles on Internal Displacement, which urge States to “*provide protection for women and girls, including by safeguarding them from gender-specific violence and by ensuring their rights to equal access to services and participation in assistance programs*”.<sup>491</sup> The reports notes however, that displaced women and girls continue to lack adequate access to rights and services, as well as to “*adequate physical, legal or social protection*”.<sup>492</sup>

In the 2015 report to the UNGA, the SR emphasises that States should pay particular attention to the “*specific protection needs of internally displaced women and girls*”, including with regard to training for policy and other law enforcement bodies.<sup>493</sup> The report, however, does not further specify these needs. It recognises that certain groups are particularly vulnerable in the displacement cycle, highlighting women and girls, children, older persons, and persons with disabilities, among others, and calling for responses to be targeted towards the needs and specific protection concerns of these groups. The report further points out the need to provide women and girls with protection from sexual violence.<sup>494</sup> However, the SR does not take into account that individuals with intersecting identities, for example girls with disabilities, may face even greater vulnerabilities.

The report to the HRC focusing on internally displaced women stresses that internally displaced women and girls are often disproportionately affected by the loss of livelihoods during displacement, including as a result of security concerns or loss of land and livestock. The SR notes that women and girls “*may resort to dangerous coping practices, such as survival sex, to feed their families*”.<sup>495</sup> Furthermore the expert acknowledges that they often drop out of school in order to engage in work to support their family. The report emphasises that internally displaced women and girls are at particular risk of sexual violence, harassment, physical abuse, and exploitation and calls on States to take into account these risks when developing livelihood programmes.<sup>496</sup>

### ***Special Rapporteur on the Human Rights of Migrants (1999)***

In the 2011 report to the UNGA, the SR reflects on challenges in the protection of children in situations of migration, including the lack of age-specific provisions, as well as the lack of distinction between adult and child migrants in migration laws and policies. Moreover, it recognises that girls’ particular vulnerabilities are not adequately addressed in this context.<sup>497</sup> In the 2010 report focusing on the enjoyment of the rights to health and adequate housing by migrants, the SR acknowledges gender-specific challenges faced by migrant women and girls in the context of health. The expert notes that women and girls face a high risk of sex- and gender-based discrimination, including mandatory HIV/AIDS, pregnancy, or other testing without consent, as well as sexual and physical abuse by agents and escorts during transit. Addressing the situation of female migrants in host States, the SR points to their employment in often low-skilled jobs, such as domestic services, that do

<sup>489</sup> See SR on Indigenous Peoples, Report to the HRC (2012), A/HRC/21/47, para. 28 and 29.

<sup>490</sup> Compare Chapter II.c discussing international outcome documents such as the UN Declaration on the Rights of Indigenous Peoples.

<sup>491</sup> See SR on Internally Displaced Persons, Report to the HRC (2011), A/HRC/16/43, para. 67.

<sup>492</sup> *Ibid.*

<sup>493</sup> See SR on Internally Displaced Persons, Report to the UNGA (2015), A/70/334, para. 79.

<sup>494</sup> *Id.*, para. 26.

<sup>495</sup> See SR on Internally Displaced Persons, Report to the HRC (2013), A/HRC/23/44, para. 46.

<sup>496</sup> *Ibid.*

<sup>497</sup> See SR on Migrants, Report to the UNGA (2011), A/66/264, para. 19.



not give them legal status and lead to limited access to health services. The report, however, does not further elaborate on age-specific vulnerabilities faced by girls, including with regard to health.<sup>498</sup>

The SR also stresses that female migrant domestic workers are particularly vulnerable to physical, sexual and psychological abuse and often exposed to health and safety threats. Given their marginalised situation in host countries, the SR draws attention to the “*different and more problematic pregnancy and gynaecological health issues*” migrant women and girls are experiencing.<sup>499</sup> With regard to the protection of children during migration, the report underscores the need to apply a gender perspective and to address migrant girls’ vulnerability to sexual violence and gender-based human rights violations.<sup>500</sup>

### ***Special Rapporteur on Minority Issues (2005)***

The 2012 report to the UNGA stresses the need to pay particular attention to the rights of minority women and girls, in order to address the unique challenges and multiple and intersecting forms of discrimination they face, which undermine their full enjoyment of rights, including in the areas of education. Moreover the SR highlights their high vulnerability to violence, including sexual violence and trafficking.<sup>501</sup>

In the 2014 report to the UNGA focusing on violence and atrocities against minorities, the SR stresses that

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<sup>498</sup> See SR on Migrants, Report to the HRC (2010), A/HRC/14/30, para. 29.

<sup>499</sup> See SR on Migrants, Report to the HRC (2011), A/HRC/17/33, para. 39.

<sup>500</sup> *Id.*, para. 32.

<sup>501</sup> See SR on Minority Issues, Report to the UNGA (2012), A/67/293, para. 23.

multiple and intersecting forms of discrimination render minority women and girls particularly vulnerable to violence, including rape and other forms of sexual violence, torture and killings because of their ethnic or religious identity and their gender.<sup>502</sup> Similarly, the SR's 2016 HRC report acknowledges that minority women (without mentioning girls) are often subjected to kidnapping and forced religious conversion.<sup>503</sup> The SR recognises that efforts to address "*minority rights and the situation of minority women and girls*" must adopt a gender-sensitive approach, however, the additional impact of age-based discrimination that affects the girl child is not considered.<sup>504</sup>

When addressing gender-specific issues in relation to the rights of individuals belonging to minority groups, the report almost exclusively refers to women. The SR acknowledges that women advocating for their rights are often overlooked due to a "*prioritization of the general concerns of the group*" and that "*minority women may hesitate to voice their gender-specific grievances [emphasis added]*".<sup>505</sup> The expert therefore calls on the women's rights movement to pay increased attention to "*minority women's rights [emphasis added]*".<sup>506</sup> While the report addresses the gender-specific barriers to the full enjoyment of human rights by minority women and girls, it fails to take into account an age-perspective to adequately analyse the situation and needs of girls belonging to minority groups.

The 2012 report to the HRC mainly addresses issues pertaining to girls in the context of education. The SR stresses that access to education for minority girls may be impeded by "*highly patriarchal family and community structures where gendered societal roles persist*".<sup>507</sup> Gender discrimination, manifested for example in the prioritisation of boys' education, is acknowledged to further contribute to girls' exclusion from school and to hamper girls' full participation in economic, social, cultural and political life.<sup>508</sup> The SR therefore calls upon States to take action to ensure the equal access to education for women and girls from minority groups, including by addressing factors such as poverty and family responsibilities, as well as "*cultural practices, early marriages and entrenched patriarchal structures and gender roles that, for example, restrict the free movement of girls and women*".<sup>509</sup>

### **Special Rapporteur on Extreme Poverty and Human Rights (1998)**

The SR on Poverty mainly refers to girls' rights in its 2013 report to the UNGA focusing on unpaid care work and poverty. Overall, the SR stresses that unpaid care work can compromise the enjoyment of the right of girls and women to education. Due to gender stereotypical roles in the home and family, the burden of housework and child care disproportionately falls on women and girls. The report acknowledges that this situation often "*deprive[s] women and girls of time, autonomy and choice to exercise [their right to education]*".<sup>510</sup> The expert further points out that even when girls do not drop out of school, their equal chances to achieve education are significantly hampered due to a lack of time for "*studying, networking and socializing at school*".<sup>511</sup> The report concludes that women and girls engaging in unpaid care work can neither fully enjoy their right to education, nor benefit from its positive effects, including empowerment and economic opportunities.<sup>512</sup> Against this backdrop, the SR underscores States' obligation to ensure that "*girls and women can enjoy their right to all types and levels of education on an equal basis with boys and men*".<sup>513</sup> To that end, the expert recommends concrete action to ensure that unpaid care work does not infringe the right to education, including by "*providing*

<sup>502</sup> See SR on Minority Issues, Report to the UNGA (2014), A/69/266, para. 37.

<sup>503</sup> See SR on Minority Issues, Report to the HRC (2016), A/HRC/31/56, para. 69.

<sup>504</sup> *Ibid.*

<sup>505</sup> *Id.*, para. 70.

<sup>506</sup> *Ibid.*

<sup>507</sup> *Id.*, para. 71.

<sup>508</sup> *Ibid.*

<sup>509</sup> See SR on Minority Issues, Report to the HRC (2012), A/HRC/19/56, para. 72.

<sup>510</sup> See SR on Poverty, Report to the UNGA (2013), A/68/293, para. 39.

<sup>511</sup> *Id.*, para. 40.

<sup>512</sup> *Ibid.*

<sup>513</sup> *Id.*, para. 41.

*accessible public services and adequate infrastructure to support the unpaid care work in households and communities and reduce its time burden*".<sup>514</sup> The report, however, does not reflect upon the negative impact of unpaid care work on the girl child's right to rest, leisure, and play as enshrined in Article 31 of the CRC.

In the 2010 report to the UNGA addressing social protection measures, the SR does refer to girls, however in a less consistent way. For example, the report only mentions 'women' when claiming that social protection programmes must take into account "*gender-sensitive social services, including sexual and reproductive health care*", in order to ensure that "**women's rights are fully respected [emphasis added]**".<sup>515</sup> There is no recognition of an age dimension and how girls' specific needs should be reflected in these programmes. However, the SR points to barriers women and girls may face accessing social services, such as long distances, high costs for transportation or the risk of sexual assault on the way. Moreover, is the report acknowledges that a lack of separate sanitation facilities in schools, or harassment by teachers of other students, can reduce girls' school attendance.<sup>516</sup>

In the 2011 HRC report discussing a human-rights based approach to recover from the global economic and financial crises, the SR highlights the need for governments to "*prioritize investment in education and skill development for women and girls*" when taking recovery measures.<sup>517</sup> However, with regard to gender-sensitive budgeting, the report only mentions that States should ensure that "**women benefit equally from public investment [emphasis added]**".<sup>518</sup> Similarly, the expert calls on States to design, implement, monitor, and evaluate measures taken through a "*gender lens*" to ensure that policies "*address asymmetries of power and structural inequalities, and enhance the realization of women's rights [emphasis added]*".<sup>519</sup>

### **Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography (1990)**

Generally, reports by the SR on the Sale of Children tend to refer to the vulnerabilities of girls, rather than explicitly mentioning their rights. One of the few exceptions is the 2013 report to the UNGA, in which the SR stresses that girls and boys face different types of risks with regard to trafficking and that, due to discrimination against girls in accessing social services, their right to education is often compromised, which makes girls more vulnerable. The report furthermore states that "*sexual exploitation of girls has become a weapon of war, making victims subject to stigmatization and marginalization within their own communities*".<sup>520</sup> In relation to the prevention of sale and exploitation of children, the SR recommends that States promote the participation of children, and more specifically raise awareness of the need to tackle discrimination against girls and to promote children's rights to be heard.<sup>521</sup>

The 2015 report to the UNGA reflects on care, recovery, and reintegration programmes for victims of sale, trafficking, and sexual exploitation and calls on States to take into account a gender perspective to adequately cater for the "*different needs and opportunities of boys, girls and lesbian, gay, bisexual, transgender and intersex children*".<sup>522</sup>

Without mentioning girls explicitly, the 2014 report to the HRC nevertheless addresses girls' specific situation, as it notes that "*victims of sexual violence are at high risk of unwanted pregnancy*", which may result in social

<sup>514</sup> See SR on Poverty, Report to the UNGA (2013), A/68/293, para. 41.

<sup>515</sup> See SR on Poverty, Report to the UNGA (2010), A/65/259, para. 65.

<sup>516</sup> *Ibid.*

<sup>517</sup> See SR on Poverty, Report to the HRC (2011), A/HRC/17/34, para. 79.

<sup>518</sup> *Ibid.*

<sup>519</sup> *Ibid.*

<sup>520</sup> See SR on the Sale of Children, Report to the UNGA (2013), A/68/275, para. 30. See also SR on the Sale of Children, Report to the UNGA (2010), A/65/221, para. 55.

<sup>521</sup> See SR on the Sale of Children, Report to the UNGA (2013), A/68/275, para. 92b.

<sup>522</sup> See SR on the Sale of Children, Report to the UNGA (2015), A/70/222, para. 68.

stigma, family rejection, psychological stress, and depression.<sup>523</sup> Moreover, the SR recognises the heightened vulnerability to all forms of violence faced by children who are living and/or working on the street or who belong to gangs. In this context, the 2010 and 2013 reports to the UNGA highlight that girls who are part of gangs are often subjected to violence and sexual exploitation by male gang members.<sup>524</sup>

Moreover, the SR states that early and forced marriage is not considered a form of exploitation, however, the expert stresses that it increases girls' vulnerability to mistreatment and exploitation, often leading them to drop out from school and preventing them *"from acquiring the skills that could make them more independent"*.<sup>525</sup> The report similarly emphasises that in cases where girls flee these marriages, they often lack an education or a source of livelihood, and are separated from their families, which renders them vulnerable to relying on prostitution as a means of survival.<sup>526</sup>

The 2016 report to the UNGA reflects upon multiple and intersecting forms of discrimination, including on the basis of age, gender, ethnicity, or cast, while highlighting that it puts children at greater risk of being sold for forced labour. The SR recognises that *"gender primarily affects the type of exploitation to which children are vulnerable"*.<sup>527</sup> In relation to girls, the expert notes that they are mainly sold for forced labour in domestic work or for servile marriage. In this context, the report points to the common perception that *"girls will be safe and protected and, in the case of domestic work, prepared for married life"*.<sup>528</sup> Moreover, the SR emphasises that children involved in forced labour, and especially girls, are often subjected to sexual violence. With regard to armed conflict, the expert points out that girls often suffer from systematic sexual violence and enslavement.<sup>529</sup>

Addressing the risk factors that increase the vulnerability of children to being sold or trafficked to meet the demand for sex with children, the SR highlights that children facing multiple and intersecting forms of marginalisation, including due to their gender, disability, ethnicity, and socioeconomic status face the highest risk.<sup>530</sup> The 2015 report to the UNGA furthermore points out that *"wide-scale migration of women and girls for domestic and entertainment work"* are among general trends and patterns of the sale, trafficking, and sexual exploitation of children.<sup>531</sup>

Discussing the sexual exploitation of girls specifically, the 2016 report to the HRC stresses that girls constitute the majority of victims and that their exploitation is mainly rooted in gender discrimination. The SR highlights that patriarchal structures that *"promote male sexual domination and do not condemn the commercialization of girls and women are a fundamental underlying level of the demand factor"*.<sup>532</sup> The report further recognises that gender stereotypes imposed by culture place women and girls in *"the role of serving males"*, while negating their ability to make decisions regarding their sexual and reproductive life, which in turn makes them *"prime targets for sexual violence"*.<sup>533</sup> Moreover, the SR underlines that *"the commodification of the female body reinforces the notion of its consumption, which can be extended to girls by offenders"*.<sup>534</sup>

<sup>523</sup> See SR on the Sale of Children, Report to the HRC (2014), A/HRC/25/48, para. 28.

<sup>524</sup> See SR on the Sale of Children, Report to the UNGA (2013), A/68/275, para. 34; and SR on the Sale of Children, Report to the UNGA (2010), A/65/221, para. 85.

<sup>525</sup> See SR on the Sale of Children, Report to the UNGA (2010), A/65/221, para. 54.

<sup>526</sup> *Ibid.*

<sup>527</sup> See SR on the Sale of Children, Report to the UNGA (2016), A/71/261, para. 54.

<sup>528</sup> *Ibid.*

<sup>529</sup> *Ibid.*

<sup>530</sup> See SR on the Sale of Children, Report to the UNGA (2015), A/70/222, para. 29.

<sup>531</sup> *Ibid.*

<sup>532</sup> See SR on the Sale of Children, Report to the HRC (2016), A/HRC/31/58, para. 43.

<sup>533</sup> See SR on the Sale of Children, Report to the HRC (2016), A/HRC/31/58, para. 43. See also SR on the Sale of Children, Report to the UNGA (2015), A/70/222, para. 30.

<sup>534</sup> See SR on the Sale of Children, Report to the HRC (2016), A/HRC/31/58, para. 43.

### **Special Rapporteur on Contemporary Forms of Slavery, including its Causes and Consequences (2007)**

The SR on Slavery addresses issues pertaining to girls in a number of reports. However, the SR rarely refers to specific rights of girls explicitly. The 2012 report to the HRC focusing on servile marriage, stresses that recognising forced and early marriages as slavery-like practices is essential to developing appropriate interventions that take into account the violations experienced by the victims of such marriages.<sup>535</sup> In the same context, the SR points to patriarchal laws and practices that give women and girls less negotiating power with regard to marriage and sexual and reproductive health and rights.<sup>536</sup>

Reflecting on the manifestations and causes of domestic servitude, the 2010 report to the HRC highlights gender discrimination as a key determinant of women's and girls' vulnerability to being subjected to domestic servitude. The SR recognises that since girls are traditionally asked to contribute to the family income, they often drop out rather than carry on at school. Furthermore, the expert underlines that States' failure to provide free and compulsory primary education reinforces families' tendency to favour boys to continue their education. Related to gender-stereotyped roles of women, the SR points out that *"there is a widespread belief that domestic work provides better training for becoming a wife and mother than formal education"*.<sup>537</sup> Moreover, the 2013 report to the HRC discussing challenges in combatting contemporary forms of slavery, recognises that inequality in the access to education, *"makes [women and girls] less attractive in the labour market and fuels the cycle of poverty and vulnerability to slavery"*.<sup>538</sup>

### **Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1985)**

The SR on Torture addresses issues pertaining to girls mainly in the 2015 HRC report focusing on children deprived of liberty, as well as in the 2016 HRC report on approaching torture through a gendered lens. The SR stipulates that children in detention should be provided with a *"programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities"*.<sup>539</sup> The report stresses that girls must receive the same care, protection, assistance and training, as well as equal access to sport and recreation.<sup>540</sup> The SR further emphasises the need to separate boys and girls in detention. While the report does acknowledge that detention centres for children in conflict with the law should provide *"access to sanitary facilities that are hygienic and respect privacy"*, the specific menstrual hygiene needs of girls are not explicitly discussed in this context.<sup>541</sup>

The 2016 report addresses the situation of girls in a number of different contexts, however, it does not explicitly refer to girls in a consistent manner. The SR highlights that *"[d]iscrimination against women, girls, and persons on the basis of sex, gender, real or perceived sexual orientation or gender identity and sex characteristics often underpins their torture and ill-treatment in health-care settings"*.<sup>542</sup> The expert does not mention girls when noting that international human rights law recognises that *"abuse and mistreatment of women seeking reproductive health services cause tremendous and lasting physical and emotional suffering, which is inflicted on the basis of gender [emphasis added]"*.<sup>543</sup> However, the SR recommends that States should address abuse in health-care settings by *"tak[ing] concrete measures to establish legal and policy frameworks that effectively*

<sup>535</sup> See SR on Slavery, Report to the HRC (2012), A/HRC/21/41, para. 19.

<sup>536</sup> *Id.*, para. 44.

<sup>537</sup> See SR on Slavery, Report to the HRC (2010), A/HRC/15/20, para. 65.

<sup>538</sup> See SR on Slavery, Report to the HRC (2013), A/HRC/24/43, para. 9.

<sup>539</sup> See SR on Torture, Report to the HRC (2015), A/HRC/28/68, para. 78.

<sup>540</sup> *Ibid.*

<sup>541</sup> *Id.*, para. 76.

<sup>542</sup> See SR on Torture, Report to the HRC (2016), A/HRC/31/57, para. 42.

<sup>543</sup> *Ibid.*

enable **women and girls** to assert their right to access reproductive health services [emphasis added].<sup>544</sup>

Moreover, in the context of unsafe abortion, the report mainly focuses on women's rights. This is particularly noteworthy, given the high number of unsafe abortions among girls, which contribute to maternal death and long lasting health problems.<sup>545</sup> The report excludes girls when stressing that "*highly restrictive abortion laws that prohibit abortions even in cases of incest, rape or foetal impairment or to safeguard the life or health of the woman violate women's right to be free from torture and ill-treatment [emphasis added]*".<sup>546</sup>

In addition, the SR states that "*forced sterilization is an act of violence and a form of social control, and violates a person's right to be free from torture and ill-treatment*".<sup>547</sup> The report takes into account that other characteristics—including race, nationality, sexual orientation, socioeconomic status, age, disability or HIV status—can increase the risk of women and girls being subjected to torture and other ill-treatment in the context of sterilisation or other procedures such as imposed forms of contraception and abortion.<sup>548</sup>

Reflecting on the issue of harmful practices, the SR stresses that "*female genital mutilation, child and forced marriage and honour-based violence are [...] forms of gender-based violence that constitute ill-treatment and torture*".<sup>549</sup> This is particularly noteworthy, since international soft law has not previously explicitly recognised harmful practices as amounting to torture. The SR further points to harassment, stigmatisation, risk of revictimisation, and retribution of victims of harmful practices that seek justice and emphasises States' obligation to "*ensure that the rights of women and girls are guaranteed and protected at all stages of the legal processes, inter alia through legal aid, support programmes and witness protection*".<sup>550</sup>

### **Special Rapporteur on Trafficking in Persons, especially Women and Children (2004)**

In its 2015 HRC report, the SR addresses the issue of due diligence and trafficking, and stresses that investigations and prosecution must adopt gender-sensitive measures in order to take into account the "*different assistance and protection needs of women and men, girls and boys*" and to eliminate barriers to accessing remedies.<sup>551</sup> The report does not, however, further specify these needs.

The 2016 reports to the UNGA and HRC both address trafficking in persons in conflict and post-conflict situations and underscore that women and girls are at risk of "*trafficking-related exploitation*" in post-conflict situations, including due to their "*relative lack of access to resources, education, personal documentation and protection*".<sup>552</sup> However, neither report touches upon age-specific vulnerabilities of girls. The SR further notes, that trafficking for sexual exploitation, including for forced prostitution as well as other forms of gender-based violence, tend to rise after the conflict formally ends.<sup>553</sup> Moreover, the report underlines that "*the nature and forms of trafficking in persons associated with conflict are highly gendered*".<sup>554</sup> The expert points out that women and girls are most commonly forced into supporting roles, typically face greater risks of sexual assault,

<sup>544</sup> See SR on Torture, Report to the HRC (2016), A/HRC/31/57, paras. 42 and 72a.

<sup>545</sup> According to the WHO, around "3 million unsafe abortions among girls aged 15 to 19 take place each year" and "[t]he major complications that account for nearly 75% of all maternal deaths are severe bleeding (mostly bleeding after childbirth), infections (usually after childbirth), high blood pressure during pregnancy (pre-eclampsia and eclampsia), complications from delivery, and unsafe abortion". See <http://www.who.int/mediacentre/factsheets/fs364/en/> and <http://www.who.int/mediacentre/factsheets/fs348/en/> [Accessed 29 September 2017].

<sup>546</sup> See SR on Torture, Report to the HRC (2016), A/HRC/31/57, para. 43.

<sup>547</sup> *Id.*, para. 45.

<sup>548</sup> *Ibid.*

<sup>549</sup> *Id.*, para. 58.

<sup>550</sup> *Ibid.*

<sup>551</sup> See SR on Trafficking, Report to the UNGA (2015), A/70/260, paras. 33 and 52.

<sup>552</sup> See SR on Trafficking, Report to the UNGA (2016), A/71/303, para. 40.

<sup>553</sup> *Ibid.*

<sup>554</sup> See SR on Trafficking, Report to the UNGA (2016), A/71/303, para. 66. See also SR on Trafficking, Report to the HRC (2015), A/HRC/29/38, para. 15.

and are disproportionately affected by sexual enslavement.<sup>555</sup> Concerning the trafficking of women and girls for sexual exploitation in post-conflict areas, the SR sets forth a number of recommendations to States. The expert, for example, urges States to “[r]ecognize the specific vulnerability of trafficked girls or potential victims of trafficking for sexual and labour exploitation in conflict and post-conflict situations and take measures to reduce their vulnerabilities”.<sup>556</sup> Moreover, States should “prevent and prosecute all forms of trafficking for temporary, forced and/or servile marriages”.<sup>557</sup>

### **Special Rapporteur on Violence Against Women, its Causes and Consequences (1994)**

The SR on Violence Against Women does explicitly refer to girls’ rights in various contexts, however, reports do not consistently address the intersectional marginalisation of girls due their age, nor do they mainstream references to girls when addressing issues affecting both women *and* girls.

The SR states that violence against women impairs and nullifies the rights of women and girls to the enjoyment of the highest attainable standard of physical and mental health. When listing examples of gender-based violence that have severely impacted women’s and girls’ health, the report includes gender-related killings and infanticide, which are violations of the right to life. Reaffirming the CESCR Committee’s interpretation, the SR emphasises that the right to health includes the “right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from non-consensual medical treatment and experimentation”.<sup>558</sup> Interestingly, the SR does not explicitly mention girls when reflecting on forced marriages as a manifestation of violence against women. This is particularly noteworthy given that girls are disproportionately affected by child, early and forced marriages. The SR merely emphasises the violation of “women’s right to voluntary and equal marriage” and notes that kidnapping or physical and sexual violence are means of forcing women into “unwanted and unequal marriages”.<sup>559</sup>

Similarly, when addressing the situation of women and girls with disabilities, the SR only refers to restrictions on “the right of women with disabilities to testify in courts” as an example of how the denial of women’s legal capacity hampers their access to justice, which can cause women to remain in abusive relationships.<sup>560</sup> The report does not take into account the additional age-specific barriers girls with disabilities may experience with regard to access to justice and their enjoyment of the right to be heard in this context. It merely acknowledges that the “inability to see [women and girls] as credible witnesses, perpetuates and reinforces abuse”.<sup>561</sup>

In the 2011 report to the HRC, the SR reflects upon power imbalances and structural inequality between men and women, considering inter-gender inequality as among the root causes of violence against women.<sup>562</sup> The expert further points to multiple forms of discrimination that lead to greater vulnerability of some women and girls to violence and concludes that discrimination and violence against women have to be similarly understood as “a matter of intra-gender inequality among women”.<sup>563</sup>

With regard to the linkages between the right to food and violence, the SR claims that “starvation [...] is a form of violence inflicted on the body – both physically and mentally”. The experts further point to the gender-

<sup>555</sup> See SR on Trafficking, Report to the UNGA (2016), A/71/303, para. 66. See also SR on Trafficking, Report to the HRC (2015), A/HRC/29/38, para. 15.

<sup>556</sup> See SR on Trafficking, Report to the UNGA (2016), A/71/303, para. 71c. See also SR on Trafficking, Report to the HRC (2016), A/HRC/32/41, para. 66c and 68a.

<sup>557</sup> See SR on Trafficking, Report to the UNGA (2016), A/71/303, para. 73c. See SR on Trafficking, Report to the HRC (2016), A/HRC/32/41, para. 68c.

<sup>558</sup> See SR on Violence Against Women, Report to the UNGA (2014), A/69/386, para. 30.

<sup>559</sup> *Id.*, para. 26.

<sup>560</sup> See SR on Violence Against Women, Report to the UNGA (2012), A/67/227, para. 49.

<sup>561</sup> *Ibid.*

<sup>562</sup> See SR on Violence Against Women, Report to the HRC (2011), A/HRC/17/26, para. 16.

<sup>563</sup> *Ibid.*



discrimination in this aspect by stating that women and girls are disproportionately affected by starvation.<sup>564</sup>

Concerning the ability of women and girls to flee violent situations, the SR emphasises the need to enforce women's and girls' right to adequate housing, which encompasses both sufficient and secure housing options. However, the report does not touch upon the specific vulnerability of girls in situations where housing is not available for those seeking to flee the violence. Girls may for example be more reluctant to leave their family environment when they lack knowledge about existing support services.<sup>565</sup>

Reflecting on the right to education in the context of violence, the 2011 report to the HRC recognises that women are particularly affected by the lack of access to educational opportunities and that educated women are better equipped to protect themselves from violence. Interestingly, the expert does not mention girls in that context. However, the report refers to girls when acknowledging that *“women and girls [that] are able to exercise their right to an education and livelihood [...] will enjoy a high level of security in their social lives and financial well-being”*.<sup>566</sup> Moreover, the SR emphasises the importance of women and girls having access to quality education, a gender-sensitive curricula, and being able to enjoy the right to travel safely to and from school, and to be protected from violence in the school setting.<sup>567</sup> Similarly, the 2014 report discusses the negative impact of *“violence, including family violence and abuse, sexual violence at school, early and forced marriage, human trafficking and harmful traditional practices”* on the realisation of the right to education by

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<sup>564</sup> See SR on Violence Against Women, Report to the HRC (2011), A/HRC/17/26, para. 84.

<sup>565</sup> *Id.*, para. 85.

<sup>566</sup> *Id.*, para. 90.

<sup>567</sup> *Id.*, paras. 89 and 91.

women and girls.<sup>568</sup> The SR further acknowledges that sexual harassment in the school environment can result in “*decreased productivity, absenteeism from school, difficulty concentrating, declining academic performance or dropping out from school*”,<sup>569</sup> especially among pregnant girls. With regard to married girls, the SR highlights their higher risk to drop out of school as a result of taking on household responsibilities, including child care.<sup>570</sup>

Reflecting upon the prevention of violence against women and the need to address its underlying causes, the SR emphasises that States should tackle the “*tacit social acceptance surrounding violence against women*” and take measures to promote the empowerment of women and their equal status in society.<sup>571</sup> The report does not mention girls in this context. In the 2010 report to the HRC, the SR touches upon women’s right to reparation. While girls are not mentioned, the expert calls for “*gender-responsive administrative reparations schemes*”.<sup>572</sup> However, it does not address the age dimension to violence against women and girls and girls’ additional barriers to the enjoyment of their right to reparation. Similarly, when discussing the linkages between violence against women and the achievement of equality, development, and peace, girls are only referred to when describing that violence against women and girls is a global phenomenon. The report continues to refer to only women’s low social and economic status as both a cause and consequence of violence.<sup>573</sup> Reflecting on gender-based violence and access to justice, the SR emphasises that stereotyping negatively affects women’s right to a fair and just trial—however, without recognising the same right for girls. More specifically, the expert underscores that the judiciary should refrain from applying standards that are based on “*preconceived notions of what defines a rape victim or a victim of gender-based violence*”.<sup>574</sup>

With regard to the right to freely participate in the cultural life of the community, the 2011 report to the HRC does not consistently refer to girls. While it recognises that women and girls have the “*right to benefit from artistic and literary endeavours and to pursue their interests in science or other forms of creative expression*”, it refers to only women when stating that they have the “*right to enjoy the arts and to share in scientific advancement and its benefits*”.<sup>575</sup> The SR highlights in the same context that the abuse women or girls endure in the name of culture is a perversion of the right to culture as enshrined in international.<sup>576</sup>

### ***Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation (2008)***

Out of the 14 reports by the SR on Water and Sanitation considered for this report, four include a gender dimension and address issues pertaining to girls: the 2016 report to the HRC focusing on gender equality in the realisation of the human rights to water and sanitation,<sup>577</sup> the 2015 report to the UNGA addressing the human rights framework for water, sanitation and hygiene,<sup>578</sup> the 2014 report to the HRC considering common violations of the human rights to water and sanitation,<sup>579</sup> and the 2012 report to the HRC touching upon stigma and its links to water, sanitation and hygiene.<sup>580</sup>

The SR emphasises that gender inequality in accessing water and sanitation has a negative impact on the enjoyment of other human rights, including women and girls’ rights to health, adequate housing, education and food.<sup>581</sup> The SR acknowledges that inadequate facilities for menstrual hygiene management prevent girls from

<sup>568</sup> See SR on Violence Against Women, Report to the UNGA (2014), A/69/386, para. 31.

<sup>569</sup> *Ibid.*

<sup>570</sup> *Ibid.*

<sup>571</sup> See SR on Violence Against Women, Report to the UNGA (2011), A/66/215, para. 74.

<sup>572</sup> See SR on Violence Against Women, Report to the HRC (2010), A/HRC/14/22, para. 84.

<sup>573</sup> See SR on Violence Against Women, Report to the UNGA (2014), A/69/386, para. 38.

<sup>574</sup> See SR on Violence Against Women, Report to the UNGA (2011), A/66/215, para. 61.

<sup>575</sup> See SR on Violence Against Women, Report to the HRC (2011), A/HRC/17/26, para. 92.

<sup>576</sup> *Ibid.*

<sup>577</sup> See SR on Water and Sanitation, Report to the HRC (2016), A/HRC/33/49.

<sup>578</sup> See SR on Water and Sanitation, Report to the UNGA (2015), A/70/203.

<sup>579</sup> See SR on Water and Sanitation, Report to the HRC (2014), A/HRC/27/55.

<sup>580</sup> See SR on Water and Sanitation, Report to the HRC (2012), A/HRC/21/42.

<sup>581</sup> See SR on Water and Sanitation, Report to the HRC (2016), A/HRC/33/49, para. 3.

**Legal guarantees on gender equality and non-discrimination can help to build political legitimacy to back the enforcement of women's and girls' rights to access to water, sanitation and hygiene.**

attending school and create serious health consequences.<sup>582</sup> Furthermore, the expert notes that “[l]egal guarantees on gender equality and non-discrimination can help to build political legitimacy to back the enforcement of women's and girls' rights to access to water, sanitation and hygiene”.<sup>583</sup> Discussing gender inequalities and their effect on the life of women, the SR underscores the importance of addressing women's and girls' needs throughout their whole lifecycle, including by taking into account the specific needs of women and girls

with disabilities or otherwise disadvantaged women and girls.

With regard to menstruation, the SR acknowledges that women and girls' need to have materials to manage their menstruation and claims that the human rights to water and sanitation include “*the right of all to affordable, safe and hygienic menstruation materials, which should be subsidized or provided free of charge when necessary*”.<sup>584</sup> This is especially noteworthy, given that in many countries, menstrual hygiene materials are taxable for higher rates of VAT, while other non-essential or male-oriented hygiene products qualify for lower VAT rates. Elaborating on the different components to menstrual hygiene management, the expert mentions for example women's and adolescent girls' use of “*clean materials to absorb or collect menstrual blood and to change them in privacy*”.<sup>585</sup> Interestingly, the report refers to ‘adolescent girls’, which does not take into account younger girls with possible menstrual hygiene needs. Other components of menstrual hygiene management listed in the report, are the use of soap and water for washing the body, “*access to safe and convenient facilities to dispose menstrual management materials*”, as well as women's and girls' access to “*basic information about the menstrual cycle and how to manage it with dignity and without discomfort or fear*”.<sup>586</sup>

Touching upon the high risk of violence women and girls face when accessing water and sanitation facilities, the SR claims that the failure to provide protection from violence violates women's and girls' right to personal security.<sup>587</sup> The SR further recognises that “*prescriptions for women's and girls' behaviour during menstruation [...] may amount to harmful traditional and cultural practices*” that not only violate the right to sanitation, but women's and girls' human rights more broadly.<sup>588</sup>

With regard to stigma associated with menstruation, the expert discusses a number of negative consequences, such as the “*seclusion of women and girls, reduced mobility, dietary restrictions, and/or women and girls being required to use different water sources or prohibited from preparing food for others during menstruation-practices*”.<sup>589</sup> Referring to Article 17 of the International Covenant on Civil and Political Rights,<sup>590</sup> the SR points to the positive obligation of States to protect privacy against interference and attacks by others and concludes that this provision demonstrates that States' obligations reach into the private sphere. The SR further claims that stigma is not a mere social phenomenon over which States have no influence, but that States are required to address such phenomena and “*to take measures that enable women and girls to manage their menstrual*

<sup>582</sup> See SR on Water and Sanitation, Report to the HRC (2014), A/HRC/27/55, para. 59; and SR on Water and Sanitation, Report to the HRC (2012), A/HRC/21/42, para. 25.

<sup>583</sup> See SR on Water and Sanitation, Report to the HRC (2016), A/HRC/33/49, para. 7.

<sup>584</sup> *Id.*, para. 39.

<sup>585</sup> See SR on Water and Sanitation, Report to the UNGA (2015), A/70/203, para. 20. See also SR on Water and Sanitation, Report to the HRC (2016), A/HRC/33/49, para. 34.

<sup>586</sup> See SR on Water and Sanitation, Report to the UNGA (2015), A/70/203, para. 20.

<sup>587</sup> See SR on Water and Sanitation, Report to the HRC (2014), A/HRC/27/55, para. 64.

<sup>588</sup> *Id.*, para. 65.

<sup>589</sup> See SR on Water and Sanitation, Report to the HRC (2012), A/HRC/21/42, para. 25.

<sup>590</sup> Article 17 of the ICCPR reads “*everyone has the right to the protection of the law against such interference or attacks*”.

*hygiene needs in a manner that protects their privacy and dignity*".<sup>591</sup>

Moreover, the SR draws the attention to the amplifying effect of guaranteeing access to water, sanitation and hygiene, as well as women's empowerment (without mentioning girls, however). He considers the realisation of these rights a starting point to ensure women's and girls' enjoyment of the "*right to have and make choices*", the "*right to have access to opportunities and resources*", and the "*right to control their own lives, both inside and outside the home*".<sup>592</sup> In the same context, the SR refers to gender quality with regard to the rights to water and sanitation as a means to empower *women*, without mentioning girls, as well as to "*help women to overcome poverty and empower their children, families and communities [emphasis added]*".<sup>593</sup>

### **Special Representative of the Secretary-General for Children and Armed Conflict (1996)**

Reports by the SRSG on Children and Armed Conflict (SRSG on CAAC) address a number of issues pertaining to girls, including sexual violence, girls' specific needs during reintegration of children associated with armed groups, and the effect of attacks on schools on girls' right to education.

In its 2012 reports to the HRC and UNGA, the SRSG discusses the linkages between weak family and community protection systems and the vulnerability of children to be recruited by armed groups. While the SRSG notes that in some cases, children join armed groups after being encouraged by their families and/or communities, the expert also underscores that "*abusive family environments can [...] propel children on to the streets, where they are more vulnerable to recruitment, or directly into the ranks of an armed group*".<sup>594</sup> The expert points to evidence that in the case of girls, there is a close link between domestic exploitation, physical and sexual abuse and them running away and joining an armed group.<sup>595</sup>

The SRSG emphasises that girls remain the main victims of sexual violence in armed conflict,<sup>596</sup> and that girl victims of sexual violence, including girls who have been raped or forced to 'marry' combatants, as well as their children born of rape, particularly suffer both physical and psychological consequences.<sup>597</sup> In the 2015 report to the HRC, the SRSG furthermore emphasises that girls are particularly vulnerable to abduction or recruitment by armed groups to be used for sexual purposes.<sup>598</sup> Addressing the issues of impunity for sexual violence, in particular the rape of girls, the SRSG notes that girls' vulnerability is exacerbated by a breakdown of the rule of law. In the same context the expert highlights that with regard to dedicated services for girls, there are "*significant gaps in the form of non-existent, limited or disrupted access to essential services in some situations of armed conflict as a result of a lack of medical workers, supplies and the necessary infrastructure and also due to insecurity and restrictions on movement*".<sup>599</sup> In the 2017 report to the HRC, the SRSG touches upon girls' particular vulnerability to sexual and gender-based violence in situations of displacements. She calls for the recognition of the specific protection challenges as a result of multiple forms of discrimination suffered by girls and urges States to "*ensure that the needs of girls are addressed as part of their response both to refugees and to internally displaced persons*".<sup>600</sup> Moreover, States are requested to prioritise girls who have suffered violations in refugee resettlement programmes.<sup>601</sup>

<sup>591</sup> See SR on Water and Sanitation, Report to the HRC (2012), A/HRC/21/42, para. 57.

<sup>592</sup> See SR on Water and Sanitation, Report to the HRC (2016), A/HRC/33/49, para. 75.

<sup>593</sup> *Ibid.*

<sup>594</sup> See SRSG on CAAC, Report to the UNGA (2012), A/67/256, para. 43.

<sup>595</sup> See SRSG on CAAC, Report to the UNGA (2012), A/67/256, para. 43; and SRSG on CAAC, Report to the HRC (2012), A/HRC/21/38, para. 39.

<sup>596</sup> See SRSG on CAAC, Report to the UNGA (2010), A/65/219, para. 21.

<sup>597</sup> *Id.*, para. 20.

<sup>598</sup> See SRSG on CAAC, Report to the HRC (2015), HRC A/HRC/28/54, para. 35.

<sup>599</sup> See SRSG on CAAC, Report to the HRC (2017), A/HRC/34/44, para. 10.

<sup>600</sup> See SRSG on CAAC, Report to the HRC (2017), A/HRC/34/44, para. 11.

<sup>601</sup> *Ibid.*

Moreover, the SRSG addresses the multiple roles girls can play in situations of armed conflict, including as combatants, wives, and domestic aides—among others.<sup>602</sup> With regard to the reintegration and rehabilitation of children associated with armed groups, the SRSG points to the vulnerability of children and in particular girls that are not considered child combatants by a peace agreement, but that served armed groups in “*so-called support functions*”.<sup>603</sup> She stresses that girls are often less visible and thus frequently neglected in disarmament, demobilisation and reintegration programmes. Even when their role is recognised, societal factors may have an impact and girls are sometimes reluctant to join these programmes because they fear rejection by their families and communities. The SRSG calls for further action in order to raise awareness of the needs of girls in disarmament, demobilisation and reintegration processes as well as of the risks they face after separation from armed groups.<sup>604</sup> In the same context, he recommends that “*peace agreements should acknowledge the special needs of girls and provide for the establishment of rehabilitation programmes, health-care and counselling services*”.<sup>605</sup> In addition, concerning stigmatisation of, and prejudice against, children suspected of collaboration with armed actors, the SRSG calls for particular attention to girls and other vulnerable groups of children.<sup>606</sup>

Reflecting upon traditional justice mechanisms that are commonly used in some countries to resolve disputes and feuds between families and clans and to bring about settlement and reconciliation, the SRSG underscores that the underlying patriarchal structure of these mechanisms do not reflect children’s rights, and in particular girls’ rights and their protection needs.<sup>607</sup>

In most of the reports considered, the SRSG addresses the violation of the right of girls to education including as a result of attacks, or threats of attacks on schools, teachers, or girl pupils.<sup>608</sup> The SRSG further highlights that “*even when schools are operating in situations of armed conflict [...], some parents prevent girls from going to schools due to insecurity, or because the facilities have been used by armed actors*”.<sup>609</sup> Moreover, she highlights that girls are often given additional household responsibilities that prevent them from going to school. Similarly, due to girls’ increased vulnerability to early and forced marriage in situations of conflict, girls are more likely to drop out of school. The SRSG underscores the importance of developing “*protection and education programmes for conflict-affected girls in order to provide them with support and avoid long out-of-school interruptions*”.<sup>610</sup>

### **Special Representative of the Secretary-General for Violence Against Children (2008)**

Annual reports by the SRSG on VAC make very few explicit references to the rights of girls. They rather describe girls’ particular vulnerability, or mention girls together with boys. The SRSG recognises that gender discrimination and stereotyped gender roles, as well as girls’ “*young age and powerlessness*”<sup>611</sup> increase the risk of physical, mental, and sexual violence, including rape, forced marriage and crimes in the name of honour in the home, at school, in the community, institutional care, and in justice institutions.<sup>612</sup> The same 2015 report also recognises that girls are disproportionately affected by child trafficking, and are at risk of being subjected

<sup>602</sup> See SRSG on CAAC, Report to the UNGA (2010), A/65/219, para. 40.

<sup>603</sup> See SRSG on CAAC, Report to the UNGA (2013), A/68/267, para. 86.

<sup>604</sup> See SRSG on CAAC, Report to the HRC (2017), A/HRC/34/44, para. 13.

<sup>605</sup> See SRSG on CAAC, Report to the UNGA (2013), A/68/267, para. 86. See also: SRSG on CAAC, Report to the HRC (2017), A/HRC/34/44, para. 60; SRSG on CAAC, Report to the UNGA (2016), A/71/205, para. 77; and SRSG on CAAC, Report to the UNGA (2015), A/70/162, para. 66.

<sup>606</sup> See SRSG on CAAC, Report to the UNGA (2011), A/66/256, para. 22.

<sup>607</sup> See SRSG on CAAC Report to the HRC (2011), A/HRC/18/38, para. 28.

<sup>608</sup> See SRSG on CAAC, Report to the HRC (2017), A/HRC/34/44, para. 7; SRSG on CAAC Report to the HRC (2015), A/HRC/28/54, para. 31; SRSG on CAAC, Report to the UNGA (2013), A/68/267, para. 14; SRSG on CAAC, Report to the UNGA (2011), A/66/256, para. 35 and 38.

<sup>609</sup> See SRSG on CAAC Report to the HRC (2017), A/HRC/34/44, para. 14.

<sup>610</sup> *Ibid.*

<sup>611</sup> See SRSG on VAC, Report to the HRC (2015), A/HRC/28/55, para. 122.

<sup>612</sup> See SRSG on VAC, Report to the HRC (2015), A/HRC/28/55, paras. 15 and 122.

to female genital mutilation, as well as early and forced marriage, which render them vulnerable to sexual abuse and other forms of violence.<sup>613</sup>

Furthermore, the SRSG stresses that the most vulnerable children, including girls, children with disabilities, children who migrate, children who are confined to institutions, among others, face the greatest risk of violence.<sup>614</sup> However, the report does not address the intersecting identities of girls that face additional marginalisation due to disability, or socioeconomic, or other status. With regard to the different forms of violence girls and boys are predominantly suffering from, the SRSG highlights that *“girls are more likely to endure violence in the private sphere, in particular sexual violence, which is often associated with shame, fear and distrust”*.<sup>615</sup>

Addressing the situation of girls in the criminal justice system, the report describes that girls may fear that their credibility is questioned, or that they are blamed rather than protected as a victim. Especially when reporting cases of sexual violence, girls are at risk of facing intimidation, harassment, or dismissal of their testimony.<sup>616</sup> Girls’ unawareness of their rights is considered another barrier to seeking justice.<sup>617</sup> The expert emphasises the need to establish *“widely available and easily accessible, safe and confidential mechanisms”*, and calls for child- gender-sensitive standards to guarantee girls’ participation in relevant proceedings and to *“safeguard their safety, privacy and dignity at all stages”*.<sup>618</sup> Moreover, in 2014 the SRSG acknowledges that girls are a vulnerable group and that their offending is closely linked to discrimination and deprivation: *“girls living in poverty may be easy targets and manipulated by criminal networks for sexual exploitation and drug dealing”*.<sup>619</sup> Furthermore, girls are for example *“at risk of being arrested for prostitution or rounded up on the assumption that they are sex workers”*.<sup>620</sup>

In the 2016 report to the UNGA, the SRSG reflects on the right to liberty and security and notes that with regard to children on the move, including refugees, asylum seekers, migrants, and victims of trafficking or smuggling, that they are at risk of being placed in detention centres or otherwise confined. Addressing girls specifically, the expert states that *“girls may be deprived of liberty supposedly for their own protection, including when they are at risk of honour crimes, trafficking or other forms of violence and, while detained, exposed to the risk of further abuse and exploitation”*.<sup>621</sup>

Similarly, the 2017 report touches the situation of children on the move and highlights that girls face a particular high risk of abuse and exploitation *“owing to their youth and gender”*.<sup>622</sup> The SRSG notes that girls may be lured by traffickers who falsely promise safety, access to education or a job, or flee sexual abuse or the threat of forced marriage. The report further mentions that girls are also at risk of being sold into marriages by family members, with the intention to avoid the risk of rape or the hope that the girl will acquire the citizenship of the husband.<sup>623</sup>

## g. UNHCR ExCom Conclusions

For the purpose of this project, all 113 ExCom Conclusions adopted by the Executive Committee of the High Commissioner’s Programme (ExCom) since 1975 have been reviewed. Given the nature of the ExCom’s

<sup>613</sup> *Id.*, para. 122.

<sup>614</sup> See SRSG on VAC, Report to the HRC (2015), A/HRC/25/47, para. 22.

<sup>615</sup> See SRSG on VAC, Report to the HRC (2015), A/HRC/28/55, para. 117.

<sup>616</sup> *Id.*, para. 130.

<sup>617</sup> *Id.*, para. 129.

<sup>618</sup> *Id.*, para. 137.

<sup>619</sup> See SRSG on VAC, Report to the HRC (2014), A/HRC/25/47, para. 81.

<sup>620</sup> See SRSG on VAC, Report to the HRC (2014), A/HRC/25/47, para. 81.

<sup>621</sup> See SRSG on VAC, Report to the UNGA (2016), A/71/206, para. 100.

<sup>622</sup> See SRSG on VAC, Report to the HRC (2017), A/HRC/34/45, para. 48.

<sup>623</sup> *Ibid.*

mandate, it is apparent that references to rights and needs of girls in its conclusions are in relation to emergency situations and focus on refugee, asylum seekers, and displaced persons, including internally displaced persons (IDPs).

Between 1985 and 1990 four conclusions with a focus on refugee women have been adopted. However, the next conclusion addressing women and girls at risk was only adopted more than 15 years later in 2006. A similar trend can be seen for conclusions on refugee children, adolescents and youth, with three conclusions adopted between 1987 and 1997, but only one each decade since then.

Generally, ExCom Conclusions mention girls almost exclusively together with women or boys. When discussing particular vulnerabilities of women and girls, ExCom Conclusions rarely consider an age-dimension and fail to reflect the additional risks faced by girls due to their intersectional marginalisation as young women. Interestingly, Conclusion No. 107 (2007) on children at risk, calls for specific attention to be paid to *“cumulative effects of being exposed to several risk factors”*.<sup>624</sup> While different groups of children are identified as particularly vulnerable, including stateless children, survivors of torture, child victims of trafficking, and children in detention, among others, the conclusion does not touch upon the additional marginalisation faced by girls belonging to those groups due their gender. However, it notably recognises that adolescents and *“in particular girl mothers and their children”* are exposed to heightened risk.<sup>625</sup> International soft law generally refers to ‘adolescent mothers’ or ‘young’ mothers, rather than explicitly mentioning girls in this context.

## None of the ExCom conclusions refer to the rights of girls as a stand-alone group.

None of the conclusions refer to the ‘rights of girls’ as a stand-alone group, however, women’s and girls’ rights are addressed in four conclusions, particularly Conclusion No. 105 (2006) on women and girls at risk. It acknowledges that forcibly displaced women and girls face particular protection problems that are distinct from those of men and boys, which – apart from their gender – inter alia stem from their cultural and socio-economic position and legal status. As a consequence, women’s and girls’ rights may be restricted, which calls for *“specific action in favour of women and girls”* with a view to guaranteeing their equal enjoyment of protection and assistance.<sup>626</sup> Due to protection risks in camps, women and girls may be restricted in

their freedom of movement, their capacity to earn a livelihood and be more vulnerable to sexual and gender-based violence, which may ultimately make them *“less able to exercise their rights effectively, [and] to access protection and services”*.<sup>627</sup> With disputes often resolved through informal justice mechanisms, the Conclusion highlights the need to strengthen the legal systems to fully uphold the human rights of women and girls, to guarantee access to justice, to ensure perpetrators of inter alia gender-based violence are held accountable and to provide protection to victims.<sup>628</sup> In addition, women’s and girls’ equal access to land and property is highlighted in the context of their rights to make a free and informed choice to voluntary return.<sup>629</sup> Concerning the empowerment of women and girls, the Conclusion calls on States to enhance access to and control over services and resources as well as to promote their rights and leadership skills.<sup>630</sup> It moreover acknowledges that there is lack of understanding of women’s and girls’ rights and the negative impact of having stereotypical gender roles, including among women and girls themselves. It calls for measures to raise awareness on their

<sup>624</sup> See Conclusion No. 105 ‘Conclusion on Children at Risk’ (2007), OP(c)ii.

<sup>625</sup> *Ibid.*

<sup>626</sup> See Conclusion No. 105 ‘Conclusion on Women and Girls at Risk’ (2006), PP3.

<sup>627</sup> *Id.*, PP6.

<sup>628</sup> *Id.*, OP(e) and OP(j)v.

<sup>629</sup> *Id.*, OP(p)i.

<sup>630</sup> See Conclusion No. 105 ‘Conclusion on Women and Girls at Risk’ (2006), OP(k)i.

rights, including through the involvement of men and boys.<sup>631</sup>

An earlier conclusion of 1990 makes implicit reference to the rights of refugee women and girls and States' obligation to provide them with access to basic services, such as food, water, sanitation, relief supplies, education and skills training. It also calls on States "to make wage-earning opportunities available to them".<sup>632</sup> In the context of gender-based violence and discrimination, it urges States to protect women's and girls' rights as well as their physical and psychological integrity.<sup>633</sup>

## h. CPD resolutions

In the five Commission on Population and Development (CPD) resolutions from 2009-2014 reviewed for this study, the term 'girls' rights' is exclusively mentioned only together with women's rights. Given the mandate of the CPD,<sup>634</sup> it is no surprise that rights of women and girls are predominantly referred to in relation to population issues, including sexual and reproductive health. The CPD resolutions have also included language on education, and in particular education on human sexuality, with regards to women and girls' rights.

Several resolutions recognise the right of women and girls to education at all levels,<sup>635</sup> their right to good quality education on an equal basis with men and boys,<sup>636</sup> or States' obligation to ensure equal access to successful schooling for girls and women.<sup>637</sup> Moreover, the resolutions mention the need to provide young people and adolescents with access to education on sexual and reproductive health, including evidence-based comprehensive education on human sexuality, as well as education on gender equality and on how to deal positively and responsibly with their sexuality.<sup>638</sup> The resolution on 'Fertility, Reproductive Health and Development' further highlights women and girls' right to access to life skills and sex education based on full and accurate information.<sup>639</sup>

While the most recent resolution reviewed reiterates the obligation of States to promote, respect, and fulfil the *rights of women and girls*, including sexual and reproductive health and reproductive rights,<sup>640</sup> older documents generally only refer to the *right of women* to enjoy the highest attainable standard of health, including sexual and reproductive health, or the *rights of adolescents and youth*, without explicitly mentioning girls.<sup>641</sup> The resolution on 'Adolescents and Youth' recognises the rights of young people to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health.<sup>642</sup> This language has been introduced in the ICPD Programme of Action (1994) and the Beijing Declaration and Platform for Action (1995) and is reiterated in CPD's resolution on 'Health, Morbidity, Mortality and

<sup>631</sup> See Conclusion No. 105 'Conclusion on Women and Girls at Risk' (2006), OP(g), (k)iii and Conclusion No. 85 'Conclusion on International Protection' (1998), OP (j).

<sup>632</sup> See Conclusion No. 64 'Refugee Women and International Protection' (1990), OP (a) ix.

<sup>633</sup> See Conclusion No. 85 'Conclusion on International Protection' (1998), OP (j).

<sup>634</sup> See <http://www.un.org/en/development/desa/population/commission/index.shtml> [Accessed on 29 September 2017].

<sup>635</sup> CPD Resolution, 'Fertility, Reproductive Health and Development' (2011), OP 6; CPD Resolution, 'Health, Morbidity, Mortality and Development' (2010), OP 12; and CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, Including the Millennium Development Goals' (2009), OP 7.

<sup>636</sup> CPD Resolution, 'Adolescents and Youth' (2012), OP 21.

<sup>637</sup> *Id.*, PP 10.

<sup>638</sup> CPD Resolution, 'Assessment of the Status of Implementation of the Programme of Action of the International Conference on Population and Development' (2014), OP 11; CPD Resolution, 'Adolescents and Youth' (2012), OP 26; CPD Resolution, 'Fertility, Reproductive Health and Development' (2011), OP 2 and PP 17; CPD Resolution, 'Health, Morbidity, Mortality and Development' (2010), OP 12; and CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, including the Millennium Development Goals' (2009), OP7.

<sup>639</sup> CPD Resolution, 'Fertility, Reproductive Health and Development' (2011), PP 17.

<sup>640</sup> CPD Resolution, 'Assessment of the Status of Implementation of the Programme of Action of the International Conference on Population and Development' (2014), OP 11.

<sup>641</sup> CPD Resolution, 'Fertility, Reproductive Health and Development' (2011), OP 3.

<sup>642</sup> CPD Resolution, 'Adolescents and Youth' (2012), OP 7.

Development'.<sup>643</sup> However, none of these documents include an age dimension with regard to this right, and just refer to 'women and men' or 'all couples and individuals' more broadly.<sup>644</sup> In the context of humanitarian assistance and HIV prevention, only women are mentioned with regard to sexual and reproductive rights or the right to have control over and decide freely and responsibly on matters related to their sexuality.<sup>645</sup>

Similar to the ICPD Programme of Action and the BDPA, the 2009 CPD resolution acknowledges that women and girls have specific health needs and priorities; however, they are not further defined. The same resolution reiterates language used in the PoA and in the BDPA that calls for the promotion of mutually respectful and equitable gender relations and increased attention to the educational and service needs of adolescents with a view to enabling them to deal positively with their sexuality.<sup>646</sup>

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<sup>643</sup> CPD Resolution, 'Health, morbidity, mortality and development' (2010), PP 12 and OP 12.

<sup>644</sup> CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, Including the Millennium Development Goals' (2000), PP 17.

<sup>645</sup> CPD Resolution, 'Fertility, Reproductive Health and Development' (2011), OP 30; CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, Including the Millennium Development Goals' (2009), OP 18 and OP 27.

<sup>646</sup> CPD Resolution, 'Adolescents and Youth' (2012), PP 10.

<sup>646</sup> CPD Resolution, 'The Contribution of the Programme of Action of the International Conference on Population and Development to the Internationally Agreed Development Goals, Including the Millennium Development Goals' (2009), PP 17.

# CHAPTER THREE

## RESERVATIONS IN INTERNATIONAL LAW

Reservations to international treaties allow States parties to express their desire not to be bound by the reserved provision of the treaty.<sup>647</sup> Allowing States to make reservations therefore encourages ratification, but can also weaken the norms in the treaty.<sup>648</sup> As a result, it is important to take reservations into account when analysing the status of girls at the international level, since looking at States' individual reservations can help determine their interpretation of girls' rights.

Having analysed the reservations to the CEDAW and CRC Conventions, as well as the SDGs, ICPD Programme of Action, and the Beijing Declaration and Platform of Action, a number of trends and general observations can be made.<sup>649</sup> In general, States refer to national policy and legislation and cultural and religious reasons to justify their reservations. Furthermore, some States have general reservations to both conventions; many Muslim States<sup>650</sup> cite Islam or Sharia to justify reservations to the provisions of the CRC related to adoption; and many of the reservations to the conventions are also reflected in the reservations to the SDGs, ICPD and Beijing. Argentina, for example, interprets life to begin at conception in both its declaration to the CRC and its reservations to ICPD and Beijing. The most frequent reservations are generally related to:

- Sexual and reproductive health and rights
- Equality in marriage and the family
- Nationality rights
- Freedom of thought, conscience and religion
- Adoption
- Children deprived of liberty

It is also worth noting that a number of States have made general reservations to the CEDAW and CRC conventions. For example, Iran “*reserves the right not to apply any provisions or [A]rticles of the [CRC] that are incompatible with Islamic Laws and the international legislation in effect*”.<sup>651</sup> These types of general reservations are arguably contrary to the object and purpose of the treaty in question, and hence should not take effect.<sup>652</sup> However in reality, such reservations demonstrate a lack of will to uphold human rights obligations and undermines the universality of human rights.

<sup>647</sup> Vienna Convention on the Law of Treaties (1969), para. 2(1)(d).

<sup>648</sup> Rebecca J. Cook, *Reservations to the Convention on the Elimination of All Forms of Discrimination against Women*, VJIL (1990), p. 643.

<sup>649</sup> For an overview of reservations made to these documents, please see Annex IV.

<sup>650</sup> For convenience, ‘Muslim States’ means Member States of the Organisation of Islamic Cooperation.

<sup>651</sup> See <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&msgid=IV-11&chapter=4&clang=en#EndDec> [Accessed 29 September 2017].

<sup>652</sup> According to the Vienna Convention on the Law of Treaties (1969), reservations to treaties are permissible as long as one or more States parties either implicitly or explicitly accept (i.e. not all States object). However, if the reservation is contrary to the “object and purpose” of the treaty in question, the reservation should have no legal effect. See the Vienna Convention on the Law of Treaties Articles 19 and 20, and for full legal analysis see Ryan Goodman, *Human Rights Treaties, Invalid Reservations, and State Consent*, AJIL (2002), available at [http://www.law.harvard.edu/faculty/rgoodman/pdfs/GoodmanHuman\\_RightsTreaties\\_Invalid\\_Reservations.pdf](http://www.law.harvard.edu/faculty/rgoodman/pdfs/GoodmanHuman_RightsTreaties_Invalid_Reservations.pdf) [Accessed 29 September 2017].

## a. Reservations to CEDAW

While CEDAW has been ratified by 189 States, it is the human rights convention with the largest number of reservations with 48 States still having reservations.<sup>653</sup> This signals that States parties to the Convention have varying levels of commitment to the principles of CEDAW and struggle to agree on gender equality and discrimination against women and girls (although CEDAW only explicitly mentions girls in one article, the Convention applies to women and girls of all ages). The table below gives an overview of the substantive articles<sup>654</sup> that have most reservations (to either part, or the entire article).<sup>655</sup>

**Table 9: Substantive Articles of CEDAW with the most reservations**

SUBSTANTIVE ARTICLES OF CEDAW WITH MOST RESERVATIONS			
Article	About	# States reserving <sup>656</sup>	Main reasons for reserving
Art. 2	Obligation to change constitutions, laws, policies, customs and practices	16 States <sup>657</sup>	Majority cite Sharia, or national minorities
Art. 9	Nationality of her children	12 States <sup>658</sup>	Inconsistent with national laws
Art. 15	Freedom of movement/choice of domicile	10 States <sup>659</sup>	Progressive realisation/inconsistent with national laws/incompatible with Sharia
Art. 16	Equality in marriage and family life	22 States <sup>660</sup>	The majority cite Islam/Sharia Law. Some give no explanation, and some specify that the state will not be bound to legalise abortion. <sup>661</sup>

The above articles are core to the Convention. Article 2 sets out measures to be taken to eliminate discrimination against women, including modifying or abolishing existing laws, regulations, customs, and practices which constitute discrimination against women—though 16 States have made reservations to this

<sup>653</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en) [Accessed 29 September 2017].

<sup>654</sup> The CEDAW Convention can be divided into two sections, substantive (Articles 1-16) and procedural (Articles 17-30).

<sup>655</sup> States have also made reservations to Article 5 (abolition/modification of discriminatory customs, traditions, and stereotypes), Article 7 (participation in public life), Article 11 (non-discrimination in employment), and Article 13 (discrimination in areas of social and economic life), but the above Articles are by far the most commonly reserved.

<sup>656</sup> The number of States reserving does **not** include the four States with general reservations/declarations to provisions of the Convention which may be incompatible with Sharia (Brunei Darussalam, Oman, and Saudi Arabia) or their Constitution (Pakistan). It does include declarations that could have the effect of a reservation (e.g. Morocco to Article 2).

<sup>657</sup> Algeria, Bahrain, Bangladesh, Egypt, Lesotho, Lebanon, Morocco, Singapore, and Syria have general reservations to the whole of Article 2. Oman, Pakistan (declaration) and Saudi Arabia have general reservations to the whole Convention. Iran, Micronesia, New Zealand (Cook Islands), and Niger have reservations expressly to Article 2 (f).

<sup>658</sup> UAE has a general reservation to the whole of Article 9, while the Bahamas, Bahrain, Brunei Darussalam, DPRK, Kuwait, Lebanon, Oman, Qatar, Republic of Korea, Saudi Arabia, and Syria have made reservations to Article 9 (2).

<sup>659</sup> Algeria, Bahrain, Malta, Morocco, Niger, Oman, Qatar, Syria, Switzerland and UAE.

<sup>660</sup> 9 States have reservations to the whole of Article 16: Algeria, Bahrain, Egypt, Israel, Maldives, Mauritania, Micronesia, Oman, UAE. Bangladesh, Ireland, Kuwait, Lebanon, Libya, Malta, Monaco, Niger, Qatar, Republic of Korea, Singapore, Switzerland, and Syria have additional reservations to certain provisions under Article 16.

<sup>661</sup> Both Malta and Monaco object to obligations to legalise abortion.

particular obligation.<sup>662</sup> The majority, though not all, are Muslim States. Reservations to this provision demonstrate States' lack of will to tackle discrimination, and their reluctance to prioritise girls' rights over essentialist views of culture and religion. The CEDAW Committee has said that reservations to Article 2 are contrary to the object and purpose of the treaty, as it outlines States' core obligations necessary for the advancement of gender equality.<sup>663</sup>

Article 16 sets out that women and girls have the same rights and responsibilities as men and boys, in family life, in marriage and at its dissolution, regarding property and inheritance and, crucially for girls, in deciding when and if to have children. It also stipulates that child marriage should not take legal effect. All of Article 16 is critical to girls' rights; it is an explicit effort to clarify state obligations to protect the rights of women and girls in the private sphere, i.e. in their family and personal relationships and in the home.<sup>664</sup> Reservations to Article 16 have broad consequences for sexual and reproductive health and rights (including forced sex/rape, early pregnancy, access to contraception and sexual and reproductive health services), child marriage, economic empowerment, and comprehensive sexuality education. Nine States have explicit reservations to the whole Article, and seven additional States have explicit reservations to Article 16 (1)(c), “[*States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:] The same rights and responsibilities during marriage and at its dissolution*”. Given the importance of this Article, the CEDAW Committee has called for States to withdraw their reservations, with some success.<sup>665</sup>

Reservations to Article 9 related to nationality also have a significant effect on girls' rights, as reserving States often have laws that do not allow women and girls to pass nationality on to their children. This could leave children unregistered or stateless.<sup>666</sup> The relatively high number of reservations to Article 15(2) concerning freedom of movement are also mainly made by Muslim States. Freedom of movement is necessary for all matters of public life, and impacts girls' ability to learn and lead.

## CEDAW

- **Defines discrimination against women and girls (Article 1);**
- **Sets out general measures to be taken to advance gender equality (both in law and practice, and in the public and private spheres, Articles 2-5);**
- **Outlines state obligations to respect, protect and fulfil the human rights of women and girls in particular areas (e.g. marriage and family life - thematic Articles 6-16);**
- **Outlines mechanisms for reporting, the mandate of the CEDAW Committee, and the administration of the Convention (Articles 17-30).**

<sup>662</sup> Algeria, Bahrain, Bangladesh, Egypt, Lesotho, Lebanon, Morocco, Singapore, and Syria have general reservations to the whole of Article 2. Oman, Pakistan (declaration) and Saudi Arabia have general reservations to the whole Convention. Iran, Micronesia, New Zealand (Cook Islands), and Niger have reservations expressly to Article 2(f).

<sup>663</sup> See CEDAW Committee, *General Recommendation No.28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women* (2010), CEDAW/C/GC/28.

<sup>664</sup> See CEDAW Committee, General Recommendation No. 21, *Equality in Marriage and Family Relations* (1994), A/49/38.

<sup>665</sup> See CEDAW Committee, General Recommendation No. 21, *Equality in Marriage and Family Relations* (1994), A/49/38, paras. 41-47. Morocco, for example, withdrew reservations to Article 16 in 2011.

<sup>666</sup> See Plan International, *Mother to Child: How Discrimination Prevents Women from Registering the Birth of their Child* (2012).

## b. Reservations to the CRC

The Convention on the Rights of the Child is the most widely ratified human rights convention, with only the U.S. yet to ratify. Of the 196 States party to the Convention, 40 have reservations. Reservations are related to freedom of thought, conscience and religion, children deprived of liberty, and adoption. Given that the CRC differs from CEDAW in that it does not have a gender focus (and in fact does not refer explicitly to girls), it is more difficult to identify the reservations with the most direct link to girls' rights.

States have also made declarations to the CRC. Declarations usually express the State's interpretation of the provision in question. However, depending on the text of the reservation or declaration, it can be difficult to differentiate between the two, and they often have the same effect of allowing States parties to add certain conditions to their ratification. An example of a relevant interpretative declaration to the CRC is that of Argentina: "*Concerning [A]rticle 1 of the Convention, the Argentine Republic declares that the [A]rticle must be interpreted to the effect that a child means every human being from the moment of conception up to the age of eighteen*".<sup>667</sup> This declaration could have an impact on girls' sexual and reproductive health and rights, specifically regarding access to safe abortion<sup>668</sup> (the United Kingdom, however, declared understanding that the Convention is only applicable after a live birth).<sup>669</sup> An example of a declaration with similar effect of a reservation is the one of Singapore: "*The Republic of Singapore considers that [A]rticles 19 and 37 of the Convention do not prohibit [...] (c) the judicious application of corporal punishment in the best interest of the child*", since under Article 19, States are to take all measures to ensure children are protected from all forms of violence. Hence, when analysing a country's human rights obligations under international law, it is important to take into account both reservations and declarations it may have made.

The article of the CRC with the highest number of reservations (15 States reserving) is Article 14 regarding the right to freedom of thought, conscience and religion. The question of compatibility and conflict between freedom of thought, conscience and religion and gender equality is complicated, as religion and beliefs have often been misused to justify violations of girls' and women's rights.<sup>670</sup> However, according to UN Special Rapporteur Bielefeldt, "*Freedom of religion or belief, in conjunction with freedom of expression, helps open up religious traditions to systematic questions and debates*",<sup>671</sup> and if girls can exercise their right to freedom of thought, conscience and religion, they can be empowered to question discriminatory or patriarchal norms that exist in different religions and beliefs.<sup>672</sup> Furthermore, violations of girls' right to freedom of thought, conscience and religion intersect with gender discrimination. For example, girls from religious minorities are abducted and forcibly converted, usually in preparation for child marriage,<sup>673</sup> and Yazidi girls have been abducted and forced into sexual slavery by ISIS, due both to their gender and religion.<sup>674</sup>

Eight States have reservations related to adoption or alternative care, the majority of which are Muslim countries. This Article is an effort to prevent unethical adoption practices, which often target vulnerable mothers, including poor, indigenous, and/or rural women and girls.<sup>675</sup> According to Jordan, adoption is "at

<sup>667</sup> See [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en#EndDec) [Accessed 29 September 2017].

<sup>668</sup> See section on Reservations to the SDGs, ICPD, and Beijing below.

<sup>669</sup> See [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=en#6](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en#6) [Accessed 29 September 2017].

<sup>670</sup> See for example ARROW for change, *Intersections: The Politicisation of Religion and Sexual and Reproductive Health and Rights*, 2017, pp. 41-47.

<sup>671</sup> Interim Report to the GA of the Special Rapporteur on Freedom of Religion or Belief, 2013, A/68/290, paras. 27-31.

<sup>672</sup> *Ibid.*

<sup>673</sup> *Id.*, para. 12.

<sup>674</sup> *'They came to destroy': ISIS crimes against Yazidis*, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (2016), A/HRC/34/CRP.3.

<sup>675</sup> *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* (2016), A/HRC/34/55, para. 30.



*variance with the precepts of the tolerant Islamic Shariah*".<sup>676</sup> Canada also has a reservation to Article 21 on inter-country adoption, referring to aboriginal customs, and Argentina has a reservation to parts of Article 21, citing child protection issues.

A further seven States have reservations to Article 37(c) on the separation of children and adults deprived of liberty.<sup>677</sup> States justify these reservations on grounds of feasibility or practicality, but according to the CRC Committee, "*There is abundant evidence that the placement of children in adult prisons or jails compromises their basic safety, well-being, and their future ability to remain free of crime and to reintegrate*".<sup>678</sup>

There are also seven States with general reservations to the CRC, all citing Islam/Sharia law.<sup>679</sup> Given the various interpretations of Islam, and the differing legal traditions of those States with such general reservations, it is difficult to assess their impact on girls' rights under the CRC. In its last State report, for example, Kuwait did not mention reservations at all, whereas Saudi Arabia and Mauritania had supposedly considered their reservations necessary and expressed wishes to maintain them. However none of these countries clarified which aspects of the Convention were affected.<sup>680</sup> Nonetheless general reservations, as previously mentioned,

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<sup>676</sup> See [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en#EndDec) [Accessed 29 September 2017].

<sup>677</sup> Australia, Canada, Japan, Netherlands, New Zealand, UK have reservations to CRC Article 37(c), Malaysia has a reservation to all of Article 37.

<sup>678</sup> CRC Committee, *General Comment No. 10 Children's Rights in Juvenile Justice* (2007), CRC/C/GC/10, para. 85.

<sup>679</sup> Brunei Darussalam, Iran, Kuwait, Mauritania, Saudi Arabia, Somalia, and Syria.

<sup>680</sup> See State party reports of Kuwait (CRC/C/KWT/2), Saudi Arabia (CRC/C/SAU/3-4), and Mauritania (CRC/C/MRT/3-4).

are contrary to the object and purpose of the treaty and should not take legal effect. Moreover in reality a general reservation demonstrates a lack of willingness to uphold the principles of the treaty.

### c. Reservations to the SDGs, ICPD, and Beijing Platform for Action

States have also made reservations and declarations to the SDGs, ICPD Programme of Action, and Beijing's Declaration and Platform for Action (BDPA).<sup>681</sup> The Vienna Declaration and Programme of Action (VDPA) has only few reservations and even less are directly related to girls' rights—perhaps because there is little reference to SRHR in the final text. However, the VDPA itself does “*encourage States to consider limiting the extent of any reservations they lodge to international human rights instruments, formulate any reservations as precisely and narrowly as possible, ensure that none is incompatible with the object and purpose of the relevant treaty and regularly review any reservations with a view to withdrawing them*”.<sup>682</sup>

Although the SDGs address a number of aspects of sustainable development, over a third of reservations to the SDGs are related to gender equality and SRHR, and many of the reservations reference and reaffirm reservations made to ICPD and Beijing. Furthermore, 14 States,<sup>683</sup> plus Senegal on behalf of the African Group, have reservations to target 5.6, “*Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences*”. The link between the three is important given that ICPD and Beijing form the basis of this target.

The table below outlines the most frequent topics of reservation, all of which have a direct link to girls' rights.

**Table 10: Most frequent topics of reservation in SDGs, ICPD, and Beijing Platform for Action**

MOST FREQUENT TOPICS OF RESERVATION			
Topic of reservation	International agreement	# States reserving	Main reasons for reserving
SRHR <sup>684</sup>	SDGs	15 <sup>685</sup> +AG <sup>686</sup> +GCC <sup>687</sup>	Abortion and/or religious or cultural beliefs and/or national laws.
	Beijing	18 <sup>688</sup>	Abortion and/or religious or cultural beliefs.
	ICPD	19 <sup>689</sup>	Abortion and/or religious or cultural beliefs.

<sup>681</sup> Reservations and declarations to these documents are made by way of statement at time of adoption. It can be difficult to ascertain the difference between declarations and reservations to soft law agreements, but both interpretations and explicit reservations were taken into account.

<sup>682</sup> Vienna Declaration and Programme of Action, para. 5.

<sup>683</sup> Afghanistan, Bahrain, Cameroon, Chad, Ecuador, Ghana, Holy See, Honduras, Kuwait, Libya, Nigeria, Oman, Qatar, Saudi Arabia, United Arab Emirates.

<sup>684</sup> Reservations and declarations regarding sexuality, sexual orientation and gender identity, sexual and reproductive health, reproductive rights, family planning, and abortion.

<sup>685</sup> Afghanistan, Cameroon, Chad, Ecuador, Egypt, Ghana, Holy See, Honduras, Iran, Libya, Mauritania, Nigeria, Qatar, Senegal, and Yemen.

<sup>686</sup> Senegal made reservations on behalf of the African Group, which comprises of 54 Member States. The reservation concerns abortion, SOGI, CSE, etc. See A/69/PV.101.

<sup>687</sup> Qatar made the following reservation on behalf of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, the Kingdom of Saudi Arabia and the United Arab Emirates): “*We also have reservations with regard to all points on reproductive health that might run counter to sharia law*”.

<sup>688</sup> Argentina, Dominican Republic, Egypt, Guatemala, Holy See, Honduras, Iran, Iraq, Kuwait, Libya, Malaysia, Malta, Mauritania, Morocco, Paraguay, Peru, Tunisia, and Venezuela.

<sup>689</sup> Argentina, Brunei Darussalam, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Guatemala, Holy See, Honduras, Iran, Jordan, Libya, Malta, Nicaragua, Paraguay, Peru, UAE, and Yemen.

Topic of reservation	International agreement	# States reserving	Main reasons for reserving
Abortion	SDGs	9 <sup>690</sup> +AG	Vast majority refer to right to life. The African Group is opposed to the establishment of a “ <i>right to abortion</i> ”.
	Beijing	14 <sup>691</sup>	Latin American and Caribbean (LAC) States mainly refer to right to life from conception. Others cite national legislation <sup>692</sup> or Islam/Sharia.
	ICPD	14 <sup>693</sup>	LAC States mainly refer to right to life from conception. Others cite national laws or Islam.
Sexual Orientation	SDGs	5 <sup>694</sup> +AG	All refer to either cultural and religious beliefs or national legislation.
	Beijing	3 <sup>695</sup>	Religious and cultural beliefs, or no reason given.
	ICPD	10 <sup>696</sup>	LAC States and the Holy See refer to ‘core family’.
Definition of ‘gender’	SDGs	8 <sup>697</sup> +AG	Specific reasons not generally given. Some refer to cultural and religious beliefs.
	Beijing	3 <sup>698</sup>	Cultural and religious beliefs.
	ICPD	-	-
Definition of ‘family’ or ‘household’	SDGs	8 <sup>699</sup> +AG	Family as man and woman core unit of society.
	Beijing	7 <sup>700</sup>	Family as man and woman core unit of society.
	ICPD	9 <sup>701</sup>	LAC States and the Holy See refer to ‘core family’.
CSE	SDGs	8 <sup>702</sup> +AG	Vast majority cite rights and responsibilities of parents, some refer to cultural and religious beliefs.
	Beijing	4 <sup>703</sup>	All cite rights and responsibilities of parents. <sup>704</sup>
	ICPD	3 <sup>705</sup>	All cite rights and responsibilities of parents.

<sup>690</sup> Cameroon, Chad, Ecuador, Ghana, Holy See, Honduras, Libya, Mauritania, Senegal (+AG), and Yemen.

<sup>691</sup> Argentina, Dominican Republic, Guatemala, Holy See, Honduras, Iraq, Kuwait, Libya, Malaysia, Malta, Mauritania, Morocco, Peru, and Venezuela.

<sup>692</sup> Malaysia added the disclaimer that abortion is only legal in Malaysia on health grounds, and it appears there is no will to broaden this.

<sup>693</sup> Argentina, Dominican Republic, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Libya, Malta, Nicaragua, Paraguay, Peru, UAE, and Yemen.

<sup>694</sup> Cameroon, Chad, Holy See, Iran, and Senegal (+AG).

<sup>695</sup> Holy See, Malaysia, and Peru.

<sup>696</sup> Argentina, Dominican Republic, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Israel, Nicaragua, and Paraguay.

<sup>697</sup> Cameroon, Chad, Holy See, Iran, Libya, Mauritania, Senegal (+AG), and Yemen.

<sup>698</sup> Guatemala, Holy See, and Paraguay.

<sup>699</sup> Chad, Egypt, Holy See, Iran, Libya, Mauritania, Senegal (+AG), and Yemen.

<sup>700</sup> Argentina, Egypt, Holy See, Honduras, Iran, Malaysia, and Peru.

<sup>701</sup> Argentina, Dominican Republic, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Nicaragua, and Paraguay.

<sup>702</sup> Afghanistan, Chad, Egypt, Holy See, Iran, Libya, Nigeria, Senegal (+AG), and Yemen.

<sup>703</sup> Argentina, Holy See, Iran, and Libya.

<sup>704</sup> The Holy See has a general reservation to Chapter IV, section C.

<sup>705</sup> Guatemala, Holy See, and Iran.

When analysing reservations to the three documents, some observations can be made:

- The SDGs and their targets with the highest number of reservations are those related to SRHR. The majority of reservations to ICPD and Beijing are also SRHR related.
- For the most part, States with reservations to the SDGs tend to have reservations on abortion, ‘gender’, ‘the family’, and CSE—demonstrating a generally conservative stance on girls’ rights.
- In spite of the above, most States are not consistent in their reservations across the three agreements. This could be due to any number of factors, possibly including changes in administration/leadership, advocacy efforts, or global political climate. Further research would be needed to determine factors of causality.
- The definition of ‘gender’ has become increasingly controversial in recent years, as has sexuality education.
- Cultural and religious factors affecting States’ positions are evident, given that many refer to cultural and religious beliefs as reason for reserving, but also traditional views of the family unit and parental rights and responsibilities are often referred to. 15 States cite Islam/Sharia law in reservations related to SRHR in one or more of the three agreements.<sup>706</sup>
- There are some regional trends, e.g. the African Group making reservations to the SDGs as a block, many LAC States reserving on abortion, and many LAC States reserving on ‘the family’ in statements to ICPD.
- Some States have made statements on their overall interpretation of the SDGs, stating that nothing in the 2030 Agenda that conflicts with national laws and/or cultural and religious beliefs will be implemented,<sup>707</sup> and similar statements were made to Beijing and ICPD.<sup>708</sup>

The SDGs cover a broad range of issues, but it is evident that the issues with the most reservations are related to SRHR, and, consequently, girls’ bodily autonomy. Of the reservations identified regarding SRHR, only Ghana, Honduras, and Mauritania have specific reservations regarding abortion and life from conception without having more general reservations on SRHR. The remaining 14+ States take issue with SRHR more generally. Overall, reservations related to abortion are the most ‘stagnant’; but from the table above it is clear that SRHR has remained contentious since ICPD.

Reservations to SRHR more generally include reservations to the concept of reproductive rights, e.g. Qatar on behalf of the Gulf Cooperation Council: “*We also have reservations with regard to all points on reproductive health that might run counter to sharia law*”, but also to sexuality education. With regards to sexuality education, parental responsibility for the education of their children is stressed in States’ reservations to the SDGs, ICPD and Beijing. Evidence demonstrates that CSE programs, if delivered correctly,<sup>709</sup> have a positive impact, including reducing HIV infections, and increasing condom and contraceptive use.<sup>710</sup> Despite this, some governments are reluctant to accept even implicit references to comprehensive sexuality education in

<sup>706</sup> Afghanistan, Brunei Darussalam, Djibouti, Egypt, Iran, Iraq, Jordan, Kuwait, Libya, Mauritania, Morocco, Qatar, Saudi Arabia, UAE, Yemen.

<sup>707</sup> E.g. Egypt: “*My country underscores as well that the provisions of the 2030 Agenda for Sustainable Development must be implemented in a manner consistent with our national legislation and development priorities, as well as cultural and ethical values and religious background, in line with internationally recognized human rights instruments. All terms in the document should be interpreted according to each country’s national laws and policies.*” (A/69/PV.101).

<sup>708</sup> E.g. Guatemala stated that the recommendations from Beijing would be implemented “*in full respect for the diverse religious, ethical and cultural values and philosophical beliefs of our multi-ethnic, multilingual and multicultural people, and in accordance with universally recognized human rights*” (A/CONF.177/20).

<sup>709</sup> Comprehensive sexuality education should be provided in a way that is non-judgmental, non-discriminatory, scientifically accurate, accessible, inclusive, rights-based, gender-transformative and adapted to the evolving capacity of the child, adolescent or young person.

<sup>710</sup> D. Kirby, *Emerging Answers 2007: New Research Findings on Programs to Reduce Teen Pregnancy* (2007).

international human rights agreements. Beyond sexuality education, in reservations to Beijing and ICPD some States stress that sexuality and reproduction is only understood within marriage in their contexts, but this view is not explicit in reservations to the SDGs.

The definition of ‘gender’ was brought up in reservations and declarations to Beijing, but with just three States feeling the need to clarify their position. However, in the SDGs, eight States plus the African Group explicitly defined gender as equated to sex. This is reflective of recent trends at the UN on gender-related issues; according to AWID’s Rights at Risk, “*For many years, [...] the religious right has had ‘gender anxiety.’ [...] The notion of gender ideology is used as a broad-based tool to critique feminists, progressives, and the applicability of human rights standards to all on the basis of non-discrimination*”.<sup>711</sup> This ‘gender anxiety’ is seen in States’ efforts to avoid including the term ‘gender’ in negotiated texts, such as CSW agreed conclusions and HRC resolutions. It is a term increasingly associated with transgender rights and gender identity, but States opposed to its use commonly have essentialist views of masculine and feminine. They are also vocal in the backlash against individual rights, including SRHR and non-discrimination.

The opposition to individual rights is also reflected in statements on ‘the family’. There are a large number of reservations to CEDAW Article 16 which outlines state obligations to protect women’s and girls’ rights in the private sphere, including in the family, and this trend of opposing regulation of the private sphere has continued if not worsened. The traditional family that States refer to (“*founded on the marriage of one man and one woman*”<sup>712</sup>) is discriminatory against families that fall outside of their definition, including single-parent families, child-headed households, and same-sex parent families. It accompanies a tendency to ignore violence in the family, and a reluctance to address harmful gender norms.<sup>713</sup> There is also significant overlap in statements on ‘the family’ and opposition to the inclusion of sexual orientation in SRHR.

#### d. Conclusion

There exists significant overlap in reservations to CEDAW, the SDGs, ICPD and Beijing, while reservations to the CRC relate to different issues due to the Convention’s lack of a gender lens. While CEDAW and CRC created a ‘minimum-standard’ framework for girls’ rights, the resistance from some States is evident through the analysis of their reservations to the two conventions, ICPD, Beijing and the SDGs, and efforts should be made to ensure that religion and culture are not used to justify discrimination and undermine the universality of human rights.

<sup>711</sup> N. Shameem, *Rights at Risk: Observatory on the Universality of Rights Trends Report (2017)*, pp. 73-74.

<sup>712</sup> Iran, reservation to the SDGs. See A/69/PV.101.

<sup>713</sup> For further analysis on these trends, see N. Shameem, *Rights at Risk: Observatory on the Universality of Rights Trends Report (2017)*.

# CHAPTER FOUR

## TRENDS AND GAPS

### a. History of girls' rights

A focus on girls slowly emerged in the 1990s. Looking back, one of the first internationally negotiated declarations and outcome documents specifically recognising the human rights of girls as an “*inalienable, integral and indivisible part of universal human rights*” was the 1993 Vienna Declaration and Programme of Action. One year later, the ICPD Programme of Action reiterated this recognition and dedicated a separate section under gender equality to girls specifically. Another major breakthrough was the Fourth World Conference on Women which resulted in the Beijing Declaration specifically and comprehensively addressing girls' rights for the first time. The Platform for Action's nine strategic objectives relating to the girl child include the elimination of negative cultural attitudes and practices against girls and the promotion and protection of girls' rights. It recognises education, health, economic exploitation, and violence as areas in which the girl child is specifically at risk. The girl child's participation in social, economic, and political life, and the importance of family in improving the status of girls is also recognised. In the years thereafter, the Commission on the Status of Women, as the inter-governmental body in charge of monitoring implementation of the Beijing Platform for Action, has kept the theme of the girl child alive on its agenda, most notably in its Agreed Conclusions in 1998 and 2007.

This rise in prominence might have partly been because of the help of international actors. For example, immediately following the adoption of the (gender-neutral) Convention on the Rights of the Child in 1989, UNICEF's board decided that its strategy and programmes for the ensuing decade would explicitly address the status and needs of the girl child.<sup>714</sup> Other international and regional organisations, as well as governments, prioritised studies and targeted interventions to improve the situation of the girl child and eliminate discrimination and violence. For instance, 1990 was designated the 'Year of the Girl Child' and 1991-2000 the 'Decade of the Girl Child' in South Asia. Also in 1995, the General Assembly adopted its resolution on 'The Girl Child' for the very first time and the CRC Committee dedicated its Day of General Discussion to the girl child—though no General Comment on the topic was developed.

During the last decade, however, progress stagnated and attention diverted from the girl child. Except for the establishment of the International Day of the Girl Child in 2011, gender- and age-neutral approaches have dominated the international agenda due to competing children's and women's rights discourses. For example, when treaty bodies developed new General Comments/Recommendations, they often refrained from including a specific focus on the girl child—including when it was clear that they should have such as in the General Comment on FGM. Resolutions have primarily focused on the impact of gender discrimination on adult women or the infringement of their rights, without adequately setting forward obligations to protect and empower the girl child.

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<sup>714</sup> S. Gooneskere, *The Elimination of All Forms of Discrimination and Violence against the Girl Child*, Background Paper for the Expert Group Meeting (2006), EGM/DVGC/2006/BP.1, para. 7.

# MILESTONES

## IN ACHIEVING GIRLS' RIGHTS

1979

- The UN General Assembly adopts the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** – an international convention to protect the rights of women and girls.
- UNESCO proclaimed 1979 as the International Year of the Child.

1989

- **UN Convention on the Rights of the Child (CRC)** adopted to protect the rights of children.

1990

- The **World Summit for Children** results in a declaration that asserted that *“girls must be given equal treatment and opportunities from the very beginning”*.
- UNICEF’s board recommended that its strategy and programmes for the ensuing decade explicitly address the status and needs of the girl child.<sup>713</sup>
- The United Nations proclaimed **1990 ‘The Year of the Girl Child’** and the South Asian Association for Regional Cooperation (SAARC) the 1990s ‘The Decade of the Girl Child’.
- CEDAW General Recommendation 14 on female circumcision adopted, although it fails to mention ‘girls’ once.

1992

- The CEDAW Committee adopts **General Recommendation No. 19 on gender-based violence**, which was updated in 2017.

1993

- The **Vienna Declaration and Programme of Action** clarifies that *“the human rights of women and of the girl-child are an inalienable, integral, and indivisible part of universal human rights”* and calls upon governments to *“intensify their efforts for the protection and promotion of human rights of women and the girl child.”*

1994

- Adoption of the **ICPD Programme of Action**, which recognized that reproductive health rights, as well as women’s empowerment and gender equality, are cornerstones of population and development.
- Mandate of the **UN Special Rapporteur on Violence against Women** established.

1995

- The CRC Committee holds its Day of General Discussion on the Girl Child.
- The **4th World Conference on Women in Beijing** results in the Beijing Platform for Action, of which the plight of the girl child was a key topic area.
- First resolution on the girl child adopted by the UN General Assembly.

1998

- **CSW’s Agreed Conclusions prioritized the girl child**, which outlined actions and initiatives aimed at, inter alia, the promotion and protection of the human rights of the girl child; education and empowerment of the girl child; improving the health needs of girls, the situation of girls in armed conflict, and combating trafficking and eliminating child labour.

1999

- CEDAW’s General Recommendation No. 24 on women and health emphasizes that **girls constitute a vulnerable and disadvantaged group** that makes them especially susceptible to sexual abuse and, inter alia, disadvantages them in access to information about sexual health.

2000

- **Millennium Development Goals** include the “ratio of girls to boys in primary, secondary, and tertiary education” as a Goal 3 indicator.
- **UN Security Council Resolution 1325 on Women, Peace and Security** adopted, recognizing the impact of conflict on women and girls.

2002

- The twenty-seventh special session of the General Assembly on Children in 2002 recognized that the achievement of development goals for children, particularly girls, was contingent upon, inter alia, women’s empowerment.

2005

- The **2005 World Summit** reaffirms the human rights of girls, and calls for the elimination of discrimination and violence against the girl child and efforts to improve girls’ education, including secondary and higher education, as well as vocational and technical training.

2006

- UN DESA’s Division for the Advancement of Women (DAW) conducts an expert group meeting in preparation of the programme of work of the Commission on the Status of Women 2007 which annual priority focuses on the **elimination of all forms of discrimination and violence against the girl child**. The expert group meeting concluded that girls are at particular risk of marginalization in the international system, and that a rights formulation is instrumental in ending discrimination and violence against them.

2007

- **CSW’s Agreed Conclusions** were again themed around the ‘Elimination of All Forms of Discrimination and Violence Against the Girl Child’.
- The **Special Rapporteur on Slavery** recognizes child, early and forced marriage as slavery-like practices in its report to the HRC.

2008

- In his report to the HRC, the UN Special Rapporteur on Torture explicitly recognized that **FGM can amount to torture**.

2011

- **UN Women established** as a ‘global champion for gender equality’.
- The **Third Optional Protocol to the CRC** establishing an individual communications procedure, allowing children to lodge complaints to the CRC Committee, has been adopted.

2012

- UN General Assembly adopts a **resolution “Intensifying global efforts for the elimination of female genital mutilations”**, demonstrating the political will of the international community to eliminate FGM.
- First celebration of International Day of the Girl, established with a UN resolution in 2011.

2014

- The **CRC and CEDAW Committees release a joint General Recommendation/Comment** on harmful practices.
- UN General Assembly adopts a landmark resolution calling for a **ban on child marriage**.

2015

- **2030 Sustainable Development Agenda adopted** by 193 UN Member States. Goal 5 requires governments worldwide to “achieve gender equality and empower all women and girls” by 2030.

2016

- The **New Urban Agenda**, shaping the future development of cities, was adopted by UN member states and specifically recognized the rights and needs of girls in urban areas.
- In his report to the Human Rights Council, the UN Special Rapporteur on Torture considers harmful practices such as FGM, child and forced marriage and honour-based violence as forms of **gender-based violence that constitute ill-treatment and torture**.

## b. Trends and gaps in girls' rights language development

While girls are much more prominent in international soft law than legally binding instruments, their presence, including their level of detail, is quite inconsistent over the years. Overall, international soft law tends to corral girls together with women or children. While the different UN bodies at certain times all consider documents that address a gender dimension of human rights violations, such as discrimination and violence against women and girls, the fact that girls have only been recently added to their titles demonstrates that gender-related barriers for a long time have mainly been seen as a concern for women's rights.<sup>716</sup>

Interestingly, some resolutions adopted by the UNGA and Commission of Human Rights (CHR), the HRC's predecessor, that had an explicit focus on girls were either no longer considered by States,<sup>717</sup> or in the case of the CHR resolutions on 'Trafficking in women and girls', their focus was broadened to 'women and children'.<sup>718</sup> While it could be argued that the UNGA resolutions on 'Child, Early and Forced Marriage' and 'Intensifying Global Efforts for the Elimination of Female Genital Mutilation' are covering the human rights concerns previously addressed in the resolution on 'Traditional or Customary Practices Affecting the Health of Women and Girls', it is remarkable that it took more than a decade for the widespread phenomena of harmful practices to reappear on the agenda of the UNGA and subsequently the HRC.<sup>719</sup> Nonetheless, the adoption of these resolutions were a significant step for the recognition of girls' rights, since both child, early and forced marriage and female genital mutilation disproportionately affect girls.

In 2007, the HRC adopted a resolution on 'Integrating the Human Rights of Women Throughout the United Nations System', calling for the effective integration of a gender perspective in the UN's work and mechanisms as well as the use of "*gender-inclusive language in the formulation, interpretation and implementation of human rights instruments*".<sup>720</sup> In the last decade, considerations related to the achievement of gender equality and the importance of taking a gender-sensitive approach to human rights, have become increasingly prominent. Recent resolutions adopted by the different bodies, GCs and GRs by the HRTB, ExCom Conclusions, and Special Procedures' reports overall include more gender-sensitive language, contributing to the greater recognition of girl-specific issues. However, the term 'gender' has become increasingly contested in recent years. Partly as a result of advocacy by a number of conservative, anti-LGBTIQ groups that conceive the term 'gender' as the "*Pandora's box of possibilities*" and "*Trojan horse*", promoting the recognition of diverse genders and introducing "*transgender rights and other controversial agendas*".<sup>721</sup>

The biggest overlap with regard to topics addressed by the different international soft law documents that focus on women, children, or girls can be observed around the issues of violence, discrimination, harmful practices, in particular female genital mutilation and child, early, and forced marriage, trafficking, development, and

<sup>715</sup> E.J. Croll, *From the Girl Child to Girls' Rights*, Third World Quarterly Vol. 27 No. 7 (2006), p. 1285.

<sup>716</sup> The UNGA added 'girls' to the title of the following resolutions: 'Intensification of Efforts to Eliminate All Forms of Violence Against Women and Girls' (2014); and 'Improvement of the Situation of Women and Girls in Rural Areas' (2015). The HRC only changed the title of the resolution on 'Accelerating efforts to eliminate all forms of violence against women' in 2016 to include 'girls' in the subtitle of the year's thematic focus on indigenous women and girls ('Preventing and Responding to Violence Against Women and Girls, including Indigenous Women and Girls'). The title of the resolution on 'Elimination of Discrimination Against Women' was only amended to include 'girls' in 2017. *Please note* that this resolution (HRC Resolution, 'Elimination of Discrimination Against Women' (2017), A/HRC/RES/35/18) has not been considered in the analysis of HRC resolutions above, as its official version had not been available on the time of writing.

<sup>717</sup> UNGA resolutions on 'Working Towards the Elimination of Crimes Against Women and Girls Committed in the Name of Honour', A/RES/59/165 (2004); and A/RES/55/66 (2000); and UNGA resolutions on 'Traditional or Customary Practices Affecting the Health of Women and Girls', A/RES/56/128 (2001); A/RES/54/133 (1999); A/RES/53/117 (1998); and A/RES/52/99 (1997).

<sup>718</sup> CHR resolutions on 'Trafficking in Women and Girls' (2004), 'Traffic in Women and Girls' (1997-2002) and HRC resolutions on 'Trafficking in Persons, Especially Women and Children' (2011-2014, and 2016).

<sup>719</sup> The resolutions on 'Child, Early and Forced Marriage' and 'Intensifying Global Efforts for the Elimination of Female Genital Mutilation' were first adopted by the UNGA in 2013 and 2012 respectively. The HRC first considered resolutions on 'Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage' in 2013 and 'Intensifying Global Efforts and Sharing Good Practices to Effectively Eliminate Female Genital Mutilation' in 2014.

<sup>720</sup> See HRC Resolution, 'Integrating the Human Rights of Women Throughout the United Nations System' (2007), A/HRC/RES/6/30, for example OP 1, 4, 6, 9, 15, 19.

<sup>721</sup> See Sharon Slater, *An Analysis of the UN 2030 Development Agenda: The Hidden Threats to Life, Family, and Children* (2017), p. 5.

HIV/AIDS. Documents that focus on specific rights or marginalised groups, but do not specifically consider gender or age, do occasionally address issues pertaining to girls. However, there is no consistency in this approach and language tends to be overall gender- and/or age-neutral. This particularly affects the way girls are discussed, especially when girls' identity is fragmented into the categories of 'women' and 'children', which makes them less visible.

Multiple and intersecting forms of discrimination have always existed, although they have only been broadly acknowledged in recent decades. Age, socioeconomic status, racial or ethnic background, religion, national origin, citizenship, status, health, particularly HIV/AIDS and disability, as well as poverty and sexual orientation, are examples of factors that can exacerbate the nature of discrimination faced by women and girls. Overall, international soft law focusing on women's rights largely lacks age-specific language and does not adequately address the specific situation faced by girls due to their intersecting identities. In documents that mention girls, references are often merely an add-on to the term 'women'. Some GCs /GR state that all references to 'women' generally include girls for the purpose of the text. Even where headings and phrases read 'women and girls', the contents that follow almost exclusively refer to women, and make little reference to linkages between women's and girls' status. The international community's interest in gender inequality is centred on the roles, status and empowerment of adult women.<sup>722</sup> The elimination of gender discrimination against girls is considered the '*first step*' towards the realisation of women's full potential and participation as equal partners in societies. The focus lies on the negative impact of gender discrimination on the adult women, rather than the girl child itself. Similarly, while soft law with a child-focus generally does address the specific vulnerabilities of, or situation faced by, girls, it however often fails to recognise the intersecting marginalisation due to girls' gender *and* other factors such as their race, disability or socioeconomic class or because they are indigenous people, migrants, including migrant workers, (internally) displaced, or refugees.

Rather than highlighting the rights of girls, international soft law often refers to the specific needs of girls (and boys). However, these needs are rarely explained or elaborated on further. In the case of HRC resolutions, this is particularly surprising as the HRC—in 2008—committed to "*effectively integrate the rights of the child in its work and that of its mechanisms in a regular, systematic and transparent manner, **taking into account specific needs of boys and girls [emphasis added]***".<sup>723</sup> Some attempts to clearly articulate the needs of girls have been made with regard to menstrual hygiene and concerning gender-specific barriers to the right to education.<sup>724</sup>

Regarding language related to sexual and reproductive health and rights, as well as comprehensive sexuality education, international soft law refrains from referring to the girl child, and only refers to 'women', 'young women', 'adolescent girl' or 'youth'. This can be explained by the general hesitancy to address these issues beyond the reiteration of language adopted by the ICPD and FWCW, as well as the reluctance to recognise the girl child as a sexual being. Interestingly, while international soft law widely refers to sexual and reproductive health, reproductive *rights*—initially recognised by the ICPD's PoA in 1994 and reaffirmed by the BDPA in 1995 and the outcome of their review conferences in 1999 and 2000—have only been mentioned in UNGA resolutions since 2012. Similarly, the HRC has only mentioned reproductive rights explicitly in a few instances since 2009. Given their specific mandates, it is obvious that the CSW and CPD have referred to reproductive rights more consistently throughout the years.

While it generally recognises that women and girls face a number of barriers to their full and equal enjoyment of rights, international soft law frequently only points to women's economic and political empowerment and

<sup>722</sup> CSW and more recently adopted documents refer to the empowerment of women and girls more consistently.

<sup>723</sup> See HRC Resolution, 'Rights of the Child: Omnibus Resolution' (2008), A/HRC/RES/7/29, OP 6.

<sup>724</sup> Compare HRC Resolution, 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' (2016), A/HRC/RES/32/20; and HRC Resolution, 'Realizing the Equal Enjoyment of the Right to Education by Every Girl' (2017), A/HRC/RES/35/22. Please note that this last resolution has not been considered in the analysis of HRC resolutions above, as its official version had not been available on the time of writing.

their equal access to natural, economic, and financial resources, employment and/or justice as a means of overcoming these barriers. Furthermore, in the context of civil and political rights and equal participation in the civil, cultural, economic, political and social activities, soft law almost exclusively refers to women. It can thus be concluded that girls are not perceived as political beings and there is limited acknowledgement of the correlation between the empowerment of girls to enable them to claim their civil and political rights as adults. Concerning their entitlement to rights, which may depend on the legal age of a person (e.g. the right to be elected or the right to work within the limits of the minimum age for admission to employment), international law regarding political participation as well as accessing employment or training opportunities.

Lastly, international soft law does not consistently spell out how certain phenomena amount to a violation of rights, but merely recognises for example that female genital mutilation has a 'negative impact', 'impairs', 'nullifies' or 'poses a threat' to the enjoyment of rights.

# RECOMMENDATIONS

Although human rights are equal and apply universally, girls are not consistently able to enjoy their rights as established in international agreements. Millions of girls continue to struggle to claim their rights, and States are not providing enough protection. We must continuously question why girls' rights are not being met and ask what more needs to be done. The current interpretation and application of international human rights instruments is simply not enough to protect the girl child from marginalisation, or to help her thrive.

Despite the existence of comprehensive treaties—such as CEDAW and the CRC, both of which afford some degree of protection to girl children—our research shows that international law more often than not neglects to consider girls' particular situation. This neglect is partly because girls are often grouped under general categories such as 'children' or 'women'. Placement under these general categories ensures that girls' rights are only partly addressed. Other factors such as States' refusal to ratify conventions and their lodging of reservations, as well as the ambiguity of language reinforce girls' invisibility in the international system.<sup>725</sup>

**International law more often than not neglects to consider girls' particular situations.**

In order for this to change, a realignment of human rights and political priorities is necessary. Plan International calls upon the international community to single out girls, and to articulate their rights and needs in a way that has never been done before. States should not only accept the girls' rights discourse and recognise the realisation of the rights of girls as an objective in itself, but also attach greater importance to the empowerment of girls throughout their life-cycle—starting during early childhood. States and communities alike should question children's socialisation into gender roles, and raise girls' self-esteem. Together these might comprise the stepping stones necessary to acknowledge a girl's lived reality, but also to rightfully celebrate her diversity, capabilities, and capacities.

<sup>725</sup> L. Askari, *Girls' Rights Under International Law: An Argument for Establishing Gender Equality as Jus Cogens*, Southern California Review of Law and Women's Studies, Vol. 8 No. 3 (1998), p. 1.

**Therefore, we urge the international community to consider the following recommendations:**

## 1. ACCEPT THE GIRLS' RIGHTS DISCOURSE

- **Differentiate girls' human rights from women's rights.**

The current interpretation and application of international law rarely refers to girls as a particular demographic group—instead, girls are all too often grouped together with 'women' in legal texts. Yet, girls—at all stages of their early lives—face distinct obstacles that will only be addressed when their double burden of discrimination on the basis of age and gender is acknowledged.<sup>726</sup> The situation of girls must be intentionally and explicitly addressed in international law—as well as in national or regional legislation, policies, and programmes. Merely adding 'and girls' after each mention of women is not enough; girls require targeted actions to reflect their age- and gender-specific needs. Targeted actions should not stigmatise or isolate the girl child, but compensate for the consequences of gender- and age-based inequality, such as the long-term deprivation of rights to education or health care.<sup>727</sup>

- **Refrain from using gender-neutral language, if in reality girls are differently and disproportionately affected.**

The gender-neutral language of international law in which girls' particular challenges are often concealed under the category of 'children' is detrimental to recognising girls' human rights. Without giving due attention to the way the lives of girls are shaped specifically by gender as well as age, international law in effect discriminates against the girl child. Its insistence of neutrality only works to further entrench inequality by obscuring the unique experience of girls.<sup>728</sup> States, UN Agencies, and civil society alike should therefore refrain from using gender-neutral language, but instead spell out the rights and needs of girls if in reality girls are disproportionately affected.

## 2. TAKE MEASURES TO BRIDGE THE GAP BETWEEN WOMEN'S AND CHILDREN'S RIGHTS THAT CURRENTLY RENDER THE GIRL CHILD INVISIBLE

- **Appoint a Special Rapporteur on the Rights of the Girl Child.**

The appointment of a Special Rapporteur on the rights of the girl child would be vital in bringing girls from the margins to the centre of the international agenda. The current international law framework lacks consistency to successfully address issues faced by girls. A Special Rapporteur would provide a constant voice for the girl child and ensure advocacy of girls' rights across national and cultural borders. A Special Rapporteur could

<sup>726</sup> Plan International, *The State of the World's Girls 2015: The Unfinished Business of Girls' Rights* (2015), pp. 18-19.

<sup>727</sup> Inter-Agency Standing Committee (IASC), *Gender Handbook in Humanitarian Action: Women, Girls, Boys and Men—Different Needs, Equal Opportunities* (2006), p. 3.

<sup>728</sup> N. Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, *International Journal of Children's Rights* 17 (2009), p. 372.

identify how the intersection between gender and age impacts girls, and raise awareness on the topic. The expert could harmonise international commitments to better reflect girls' realities, while also strengthening the interpretation and application of international law for the benefit of girls. Similarly, a Special Rapporteur can stimulate dialogue and cooperation between the women's and children's rights fields, bringing prominence to the rights of girls as a result.<sup>729</sup>

- **Increase interaction between the CRC and CEDAW Committees, and strengthen both its focus on the girl child, including by developing a joint General Comment/Recommendation that clearly outlines the human rights of girls.**

Bearing in mind the multiple discrimination faced by girls, the two Committees should increase direct interaction with one another to ensure that both mechanisms more specifically and adequately address the girl child. Enhanced collaboration is necessary for the effective adoption of both bodies of law and the adequate realisation of girls' rights. The two Committees should also develop a joint General Comment/Recommendation to specify the human rights of girls and ways of realising them through the interpretation of CEDAW and CRC obligations, in order to fill the current lacuna in international law.<sup>730</sup>

- **UN Women and UNICEF should expand their focus on the girl child and differentiate girls from 'women' or 'children' and strengthen inter-agency cooperation to prioritise girls.**

UN Women's current strategy does not differentiate girls from women at all.<sup>731</sup> While UNICEF's new strategy regularly refers to gender equality and gender responsive programming—including in times of crises—it fails to single out girls beyond menstrual hygiene, harmful practices, and sexual and gender-based violence.<sup>732</sup> Expanding the focus, and strengthening inter-agency cooperation, on the girl child should therefore be made a priority.

- **Strengthen the individual complaints procedures under CEDAW and CRC to ensure promotion, respect, fulfilment, and protection of girls' rights.**

The Optional Protocols to CEDAW and CRC provide for a complaints procedure at the international level when domestic remedies have been exhausted. Strengthening the CEDAW and CRC Committee's work under the Optional Protocol would be one important way of ensuring that the rights of girls under the CEDAW and CRC Conventions are respected, promoted, protected, and fulfilled.<sup>733</sup> Jurisprudence from the Committees set legal precedents and can establish strengthened protection for girls—affecting not only change in that country, but enhancing the authoritative interpretation of the Convention for all States Parties. Advocacy for a wider ratification of the two Protocols and raising awareness of the complaints procedure should therefore be prioritised—including in age-appropriate language. This will enhance girls' knowledge of their rights and facilitate their participation in the procedures of these treaty bodies.

<sup>729</sup> See also N. Taefi, *The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalisation of the Girl Child*, *International Journal of Children's Rights* 17 (2009), p. 370.

<sup>730</sup> Experts at the Expert Group Meeting preparing for CSW in 2007 with its annual priority theme focused on the elimination of all forms of discrimination and violence against the girl child also recommended the creation of a joint General Comment/Recommendation by the CEDAW and CRC Committees. See Department of Economic and Social Affairs: Division for the Advancement of Women, *Report of the Expert Group Meeting* (2006), EGM/Girl Child/2006/REPORT, p. 38.

<sup>731</sup> See UN Women, *Strategic Plan 2018-2021* (2017), available at <http://www.unwomen.org/en/executive-board/documents/strategic-plan-2018-2021> [Accessed 29 September 2017].

<sup>732</sup> See UNICEF, *Strategic Plan 2018-2021* (2017), available at [https://www.unicef.org/about/execboard/files/2017-17-Rev1-Strategic\\_Plan\\_2018-2021-ODS-EN.pdf](https://www.unicef.org/about/execboard/files/2017-17-Rev1-Strategic_Plan_2018-2021-ODS-EN.pdf) [Accessed 29 September 2017].

<sup>733</sup> S. Gooneskere, *The Elimination of All Forms of Discrimination and Violence Against the Girl Child*, Background Paper for the Expert Meeting (2006), EGM/DVGC/2006/BP.1, para. 57.

- **Introduce a specific sub-item to the General Assembly and Human Rights Council’s agendas on the human rights of girls, giving them due attention and prominence—but also to encourage and enhance consistency and complementarity between GA and HRC resolutions.**

The methods of work and procedures of the General Assembly and Human Rights Council should devote explicit attention to the human rights of girls, including through a specific sub-item on their agendas.<sup>734</sup> While States should avoid duplication between the work of the GA and HRC, they should seek complementarity and speak with one voice on girls’ rights issues.

- **Strengthen the systematic integration of a gender analysis in all Special Procedures’ mandates, while also drawing out girls specifically.**

While Special Rapporteurs and Representatives do regularly highlight girls in their annual reports, they do so rather inconsistently. If girls were better mainstreamed and more regularly and specifically considered, it would improve their visibility and advance international standard and priority setting. Though Special Procedures are requested to mainstream a gender perspective throughout their work, they should amplify such analyses and better reflect what women, girls, boys and men need—including in times of crisis—in their reports.

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### 3. STRENGTHEN FUTURE INTERNATIONAL NORM-SETTING TO BETTER REFLECT GIRLS’ REALITIES

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- **Stop politicising issues relating to the girl child, and consistently use the strongest and most progressive agreed language available that is favourable to the advancement of girls’ rights.**

The politics involved in drafting, negotiating, and adopting international standards is the main reason that the international framework lacks consistency in successfully addressing issues faced by girls. While certain girls’ rights are consistently acknowledged over a period of time in different documents, other rights are repeated only occasionally. For example, a girls’ explicit right to decide over her own body and whom to marry, own property, and/or inherit, is not consistently recognised throughout international law as compared to her right to education and to be free from violence. Though often premised by the articulation of women and girls’ particular needs in certain settings or situations, international soft law regularly only acknowledges the rights of women.<sup>735</sup> Girls’ reproductive and sexual rights are especially highly sensitive issues, and therefore controversial and political, as compared to for example girls’ right to education. However, not consistently using progressive already agreed language—and therefore opening up negotiations to bargaining tactics—results in the rollback of girls’ rights.

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<sup>734</sup> See Department of Economic and Social Affairs: Division for the Advancement of Women, *Report of the Expert Group Meeting* (2006), EGM/Girl Child/2006/REPORT, p. 39.

<sup>735</sup> For example, CSW “recognizes that conflicts, trafficking in persons, terrorism, violent extremism, natural disasters, humanitarian emergencies and other emergency situations disproportionately affect women and girls. It therefore recognizes that it is essential to ensure that women are empowered to effectively and meaningfully participate in leadership and decision-making processes, that their needs and interests are prioritized in strategies and responses and that the human rights of women and girls are promoted and protected in all development efforts, as well as in conflict, humanitarian emergencies and other emergency situations.” See CSW Agreed Conclusions, ‘Women’s Empowerment and the Link to Sustainable Development’ (2016), para. 12.

- **Better articulate girls' specific needs when developing new international norms.**

Barriers differentially affect girls and boys, and therefore specific provisions must be made.<sup>736</sup> Although international law regularly acknowledges that girls have specific needs or face particular barriers to exercise their rights, such language often remains ambiguous on what these specific needs exactly entail. Going forward, States should better articulate girls' specific needs when developing new international standards in order to guarantee equal access and equal rights for girls.

- **Listen to girls to strengthen international norms.**

Policy makers must start from the position that girls understand best what is happening in their own lives. Combining their first-hand testimony and ideas with relevant expert opinion can create powerful solutions to the problems faced by girls. Investments should be made to enable meaningful participation of girls at the international level.<sup>737</sup> Participation mechanisms must further explicitly acknowledge the great diversity of girls. They must also seek to ensure the participation of the least privileged and girls at highest risk.<sup>738</sup>

- **Consider the girl child's intersecting identities and cultural context when developing international standards, as it often results in intersectional marginalisation.**

Girls are not a homogenous group. They will concurrently experience many intersecting factors of marginalisation, including: age, gender, disability, ethnicity, sexuality, religion, income, and demographics. If the girl child's right to substantive equality is to be fully realised, consideration must be given to her intersecting identity and the cultural context in which she lives.<sup>739</sup> Without considering and specifying her intersecting identities, international instruments fall short of addressing the needs of the girl child.<sup>740</sup>

- **Train negotiators of international standards on girls' rights and needs.**

Gender-sensitisation training programmes create an understanding of the discrimination, violence and other issues girls face. A gender-sensitive approach to law reform, policy-making and programming is critical for the empowerment of girls and realisation of their rights. Better understanding gender and age differences, inequalities, and capacities will improve equality in outcome for girls.

<sup>736</sup> G. Heidemann & K. M. Ferguson, *The Girl Child: A Review of the Empirical Literature*, *Affilia* Vol. 24 No. 2 (2009), p. 166.

<sup>737</sup> Plan International UK, *The State of Girls' Rights in the UK* (2016), p. 15.

<sup>738</sup> Department of Economic and Social Affairs: Division for the Advancement of Women, *Elimination of All Forms of Discrimination and Violence Against the Girl Child*, Report of the Expert Group Meeting (2006), EGM/Girl Child/2006/REPORT, para. 126.

<sup>739</sup> Substantive equality is interpreted as an approach that goes beyond establishing legal equality before the law, as for example by adopting a gender-neutral approach to formulating new laws. To achieve women and girls' de facto equality with men and boys, they should be provided with equality of opportunities, outcomes and results. It is not enough to guarantee treatment of women and girls identical to that of men and boys. Under certain circumstances, non-identical treatment will be required in order to address biological, as well as socially and culturally constructed, differences. Pursuit of substantive equality also calls for an effective strategy aimed at overcoming underrepresentation, and a redistribution of resources and power between women & girls and men & boys. See CEDAW General Recommendation, 'Temporary Special Measures' (2004), CEDAW/C/GC/25, para. 8.

<sup>740</sup> J. Amoah, *The World on Her Shoulders: The Rights of the Girl Child in the Context of Culture & Identity*, *Essex Human Rights Review*, Vol. 4 No. 2 (2007), p. 1.

## 4. ENHANCE STATES' COMPLIANCE WITH INTERNATIONAL STANDARDS AIMING TO ADVANCE GIRLS' RIGHTS

- **Ratify all relevant instruments related to securing political, economic, social, and cultural rights for girls—especially both CEDAW and CRC—and strengthen the implementation of such instruments at national and local levels, while also reporting timely to treaty bodies on the progress of such implementation.**

While CRC and CEDAW are among the human rights conventions most widely ratified, not all States have done so. Lack of political will on the part of governments to adopt and fully implement international human rights conventions jeopardise girls' rights. States should therefore sign, ratify, and implement all relevant international treaties, especially both CEDAW and CRC and their Optional Protocols, so that girls are not denied additional human rights norms included in those treaties.

- **Withdraw all reservations to CEDAW, CRC, the SDGs, ICPD, Beijing and other international agreements providing protections for girls.**

Reservations to international treaties are caveats to the agreements, and allow States Parties to express their desire not to be bound by that particular provision. Allowing States to make reservations therefore encourages ratification, but undermines the effectiveness and universality of human rights, and places girls at greater risk of marginalisation. Regardless of reservations made, States should embrace, implement, and timely report progress on all international obligations, in order not to cherry pick commitments and leave girls behind. States should therefore withdraw its reservations, including those directly limiting girls' rights.

- **Invest in age-, sex- and gender-related disaggregated data to adequately reflect girls' realities in policies.**

In order to respond to the needs of girls, States need regular age-, sex- and gender-related disaggregated data to invest in the right thematic and geographic responses. Currently available data tends to focus on adult women, with few data available on the situation of girls. Some domains such as education are well researched, while others, such as domestic violence and political voice, are particularly challenging to study and are therefore largely unexamined.<sup>741</sup> However, the limited availability of gender- and age-disaggregated data hampers the implementation and fulfilment of girls' rights.

<sup>741</sup> ODI, *Adolescent Girls, Capabilities and Gender Justice: Review of the Literature for East Africa, South Asia and South-East Asia*, Background Note (2013), p. 2.

# IMAGE CREDITS

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## About Plan International

We strive to advance children's rights and equality for girls all over the world. We recognise the power and potential of every single child. But this is often suppressed by poverty, violence, exclusion and discrimination. And it's girls who are most affected. As an independent development and humanitarian organisation, we work alongside children, young people, our supporters and partners to tackle the root causes of the challenges facing girls and all vulnerable children. We support children's rights from birth until they reach adulthood, and enable children to prepare for and respond to crises and adversity. We drive changes in practice and policy at local, national and global levels using our reach, experience and knowledge. For over 75 years we have been building powerful partnerships for children, and we are active in over 70 countries.

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Published in 2017. Text © Plan International. Cover photo: Chonda (15) from Bangladesh wants to finish her studies and become a teacher, but her parents want her to get married. She knows her rights and is working to end child marriage in her community. © Plan International / Erik Thallaug

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