**Submission by Protect Education in Insecurity and Conflict:**

 **The right to education and persons with disabilities in times of insecurity and conflict**

The impact of insecurity and armed conflict is particularly grave on people with disabilities. The report of the expert of the Secretary-General, Graça Machel, ‘*Impact of armed conflict on children’* noted that ‘[m]illions of children are killed by armed conflict, but three times as many are seriously injured or permanently disabled by it’.[[1]](#footnote-1)

The United Special Rapporteur on the right to education noted also that ‘[p]eople with disabilities, of either sex and of all ages, and in most parts of the world suffer from a pervasive and disproportionate denial of their right to education’ and ‘[i]n emergencies, however, particularly during conflicts and the post-conflict period, their right to receive special support and care is not always recognized by communities or States’.[[2]](#footnote-2)

In 2012, Dame Rosalyn Higgins DBE QC wrote that ‘scholarly literature is exceedingly sparse as regards education, especially when the focus is protection of the right in times of insecurity and armed conflict’[[3]](#footnote-3) and in 2013, a report of the Geneva Academy of International Humanitarian Law and Human Rights recorded ‘scant attention’ paid by UN human rights monitoring mechanisms to ‘the right to education of persons with disabilities in the context of armed conflict’.[[4]](#footnote-4)

Finally, the British Institute of International and Comparative Law has recently argued that ‘[m]ore attention should be placed on the potential transformative component of reparations, in particular to address structural inequalities which may render some categories of victims as the on-going targets of education-related violations’ of international law.[[5]](#footnote-5)

It is with the above in mind that Protect Education in Insecurity and Conflict (PEIC) submits this paper to inform the report of the OHCHR on the right to education for persons with disabilities. The research institutions referenced within the paper, the British Institute of International and Comparative Law and the Geneva Academy of International Humanitarian Law and Human Rights, and also PEIC would be happy to provide further information to OHCHR if sought.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Submission \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Protect Education in Insecurity and Conflict (PEIC) is a programme of the Education Above All Foundation, an independent organization chaired by Her Highness Sheikha Moza Bint Nasser of Qatar, UNESCO Special Envoy for Basic and Higher Education. A policy, research, and advocacy organization, PEIC is concerned with the protection of education during insecurity and armed conflict. PEIC’s Legal Programme contributes to such protection through the strategic use of international and national law. Its legal research papers are authored by academics and/or practicing lawyers. They are aimed at a varied audience, including international and national lawyers; non-legally trained education experts and policy-makers within governments; political, social, and cultural bodies; and civil society.

This submission draws, by way of extract, from PEIC’s legal research series comprising three reports:

* *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook* (available at [www.educationaboveall.org](http://www.educationaboveall.org) and [www.biicl.org/org/research/education](http://www.biicl.org/org/research/education) )[[6]](#footnote-6)
* *United Nations Human Rights Mechanisms and the Right to Education in Insecurity and Armed Conflict* (to be published in October 2013)[[7]](#footnote-7)
* *Education and the Law of Reparations in Insecurity and Armed Conflict* (to be published in October 2013)[[8]](#footnote-8)

The extracts combine objective and fully evidenced background information, legal analysis, examples of good practice and recommendations regarding the right to education for persons with disabilities in times of insecurity and conflict. PEIC hopes that OHCHR will draw from these in preparation of its report pursuant to resolution 22/3.

**1. Protecting Education in Insecurity and Armed Conflict: An International Law Handbook**

***The material below comprises relevant extracts drawn from the above research paper.***

p. 15 … International Human Rights Law (IHRL) applies at all times. While primarily applied in peace-time, IHRL also applies to situation of insecurity and armed conflict. *Note: the publication references and discusses the right to education for persons with disability frequently: such references are not repeated within this submission.*

p. 148/150 …International Humanitarian Law (IHL) provides special protection to the sick and wounded in both international and non-international armed conflict.[[9]](#footnote-9) This forms part of customary international law,[[10]](#footnote-10) and includes the protection of persons with disabilities in need of medical attention.[[11]](#footnote-11) Thus, where students and education staff are sick, wounded or in need of medical attention, whether or not this is the result of a disability, they benefit from this special protection. Further, medical personnel,[[12]](#footnote-12) who may also be teachers in teaching hospitals or stationed in educational facilities, benefit from special status under IHL.[[13]](#footnote-13)

Parties to a conflict are obliged to respect and protect the sick, wounded and infirm, and the medical personnel who treat them in all circumstances. This means that parties are under both negative obligations not to attack the wounded, sick or medical personnel, and also positive obligations to ensure their protection, to minimize the effect on them of hostilities,[[14]](#footnote-14) and to treat them without discrimination.[[15]](#footnote-15) This protection applies in both international and non-international armed conflict.[[16]](#footnote-16)

Unlike IHRL,[[17]](#footnote-17) IHL does not make specific reference to people with disabilities outside the general provisions protecting the “sick and wounded”.[[18]](#footnote-18) It is not clear, therefore, the extent to which “disability”, as opposed to the need for medical treatment as a result of a disability, is its own grounds for special protection under IHL.

**Anti-discrimination in IHL:** IHL focuses predominantly on the physical protection of vulnerable groups and does not address issues such as the implementation of broader non-discrimination measures and policies including issues relating to ensuring equal access to education. This is because IHL is an area of law that aims to mitigate the consequences of armed conflict on the civilian population and, therefore, focuses only on these effects and not broader issues.

Despite the absence of express rules dealing with anti-discrimination in IHL, the aims and purposes of anti-discrimination law are not inconsistent with the objective of IHL: to ensure humanity and dignity of victims of armed conflict. In fact, IHRL continues to apply during conflicts[[19]](#footnote-19) and its comprehensive anti-discrimination provisions may be a useful framework for addressing broader issues, including equal access to education, in conflict situations where IHL does not address such issues. Further, the comprehensive gender and disability discrimination rules set out in many IHRL instruments can be useful tools to inform and develop the content of the principle of no adverse distinction in both IHL[[20]](#footnote-20) and International Criminal Law.

p. 189 …States must … take all measures necessary for students and education staff with disabilities to access and enjoy educational facilities, on an equal basis with others. As human rights are applicable at all times, States must protect the rights of persons with disabilities with regard to educational facilities even during insecurity and armed conflict.

p. 263 … Persons with disabilities are also more vulnerable to human rights violations in situations of insecurity and armed conflict. Moreover, these situations are also often the cause of disabilities, both physical and mental. In order to ensure that persons with disabilities benefit from the same educational opportunities as others, the Convention on the Rights of Persons with Disabilities provides specific protection and seeks to ensure that the needs of persons with disabilities are met in both insecurity and armed conflict. While all the rules of IHL apply without adverse distinction (which may include disability), and set out special protection for the sick and wounded and those in need of medical care, they do not specifically address the needs of people with disability. Improved recognition of the vulnerability and needs of people with disability is needed in IHL.

**2. United Nations Human Rights Mechanisms and the Right to Education in Insecurity and Armed Conflict**

***The material below comprises relevant extracts drawn from the above research paper. As its publication date is October 2013, page numbers are as yet unavailable.***

**…**Far greater attention needs to be paid to the impact of disability on access to education in situations of insecurity and armed conflict.

Challenges posed by insecurity and armed conflict on the right of persons with disabilities to education are particularly serious and complex. In 1994, the Committee on Economic, Social and Cultural Rights in its general comment No. 5 on persons with disabilities stated that ‘’[t]he effects of disability-based discrimination have been particularly severe in the fields of education, employment, housing, transport, cultural life, and access to public places and services’.[[21]](#footnote-21)

The impact of insecurity and armed conflict is particularly grave on people with disabilities. Graça Machel’s report ‘Impact of armed conflict on children’ noted that ‘[m]illions of children are killed by armed conflict, but three times as many are seriously injured or permanently disabled by it’.[[22]](#footnote-22) The report also noted that armed conflicts and political violence are ‘the leading causes of injury, impairment and physical disability’.[[23]](#footnote-23) Destruction of health and other vital infrastructure caused by armed conflict further aggravates the care and support for children with disabilities.

According to the UN Special Rapporteur on the right to education, in times of emergency, the levels of inequality and discrimination increase for marginalized groups including persons with disabilities.[[24]](#footnote-24) He also noted that ‘[p]eople with disabilities, of either sex and of all ages, and in most parts of the world suffer from a pervasive and disproportionate denial of their right to education’ and ‘[i]n emergencies, however, particularly during conflicts and the post-conflict period, their right to receive special support and care is not always recognized by communities or States’.[[25]](#footnote-25)

No relevant information on disabilities in armed conflict was found within the work of the CRPD Committee or the UN Special Rapporteur on persons with disabilities. This is explained by the fact that the states parties under review were not experiencing a situation of armed conflict or insecurity. Under the Convention on the Rights of the Child, states are requested to report taking into account the CRC Committee’s general comment on the rights of children with disabilities.[[26]](#footnote-26)

In this context, other monitoring mechanisms have dealt with disability in situations of armed violence. For instance, on Pakistan, the CRC Committee, concerned about the vulnerability of displaced children to malnutrition, disease, and harsh weather threatening their health and survival, recommended with the assistance of the United Nations and NGOs, to

Ensure that displaced children are provided with shelter, nutrition, sanitation, health care and education, as well as with physical and psychological recovery, and pay special attention to particularly vulnerable groups, especially unaccompanied and separated children, children with disabilities, and children suffering from malnutrition and diseases.[[27]](#footnote-27)

Similarly, on Sri Lanka, the CRC Committee expressed deep concern over the poor living conditions of children, including unaccompanied children and children with disabilities, who have been kept for months in IDP camps.[[28]](#footnote-28) On Afghanistan, it recommended that the state party ‘[a]llocate increased resources to the education sector in order to expand, build and reconstruct adequate school facilities throughout the State party, and create a truly inclusive educational system welcoming children with disabilities as well as children from all minorities’[[29]](#footnote-29) The CEDAW Committee has also raised the issue of disability requesting information on the measures taken by the state party ‘to improve particularly the enrolment and literacy rates of girls and young women, including women and girls with disabilities, internally displaced women and girls’.[[30]](#footnote-30)

States have frequently raised the right to education of persons with disabilities in the context of the Universal Periodic Review focusing mainly on improving access to education and prevention of their dropouts from education systems.[[31]](#footnote-31)

The Working Group on Children and Armed Conflict, having examined the first report of the Secretary-General on children and armed conflict in Iraq for the period from 2008 to 2010, has called for ‘an end to recruitment and use of children by armed groups, and in particular called for an immediate stop to use of children with mental disabilities as suicide bombers’.[[32]](#footnote-32) The Chair of the Working Group subsequently issued a statement ‘[c]ondemning in the strongest possible terms the practice of armed groups, such as Al-Qaida, of recruiting and using children, including those with mental disabilities, as suicide bombers, and calling for the immediate disbandment of its so-called youth wing “Birds of Paradise”’.[[33]](#footnote-33)

Beyond these scant references, however, the right to education of persons with disabilities in the context of armed conflict has not received sufficient attention. … Accordingly, recourse should be made to the individual complaints mechanism of relevant treaty bodies, in particular the one established under the 2006 Convention on the Rights of Persons with Disabilities. In addition, organizations could usefully advocate for a General Comment or Statement on the protection of education for those with disabilities by, among others, the Committee on the Rights of Persons with Disabilities.

**3. Education and the Law of Reparations in Insecurity and Armed Conflict**

***The material below comprises relevant extracts drawn from the above research paper. As its publication date is October 2013 page numbers are as yet unavailable.***

… [w]henever possible, reparation should restore a victim to the position he or she would be in, if the violation did not occur. However, it should never restore a victim to a prior situation, which amounted to a human rights violation.[[34]](#footnote-34) In addition, reparations may also have a *transformative* role andimprove a prior situation.[[35]](#footnote-35) For example, the Committee Against Torture mentions that

[F]or restitution to be effective, efforts should be made to address structural causes to the violation, including any kind of discrimination related to, for example, gender, sexual orientation, disability, political or other opinion, ethnicity, age and religion, and all other grounds of discrimination.[[36]](#footnote-36)

The aim of transformative reparations is to address and correct the root causes behind the violations. Therefore, transformative forms of reparations are particularly relevant for violations which occurred in situations of insecurity and armed conflict because these contexts are fertile grounds for International Human Rights Law and International Humanitarian Law violations. In areas prone to violence, certain categories of individuals generally already suffer from structural inequality because they are socially and economically disadvantaged; these may include children, women, ***persons with*** ***disabilities,*** IDPs or refugees, or persons stemming from minority groups. As a result of structural inequality, these persons may not be able to enjoy their right to education. Therefore, when these individuals suffer from violations …, restoring these victims to the position they would be in (had an unlawful act not been committed) may not only be unsatisfactory but also reinforce the pre-existing inequality.

The concept of transformative reparations has been applied, to a limited extent, in a number of national reparations programmes, which are presented in Section 3.[[37]](#footnote-37) With regard to international courts and tribunals, the concept of transformative reparation has not (yet) been adopted, with the exception of the Inter American Court of Human Rights (IACtHR).

When determining the most appropriate forms of reparation to be awarded, the IACtHR emphasises any particular vulnerability (or existing structural inequality) associated with the victims as a result of their position in society. For example, in *Rosendo Cantú et al v Mexico*, it observed that

it does not lose sight that Rosendo Cantú is an Indigenous woman, a girl child at the time the violations occurred, and whose situation of particular vulnerability will be taken into account in the reparations awarded in this judgment.[[38]](#footnote-38)

The IACtHR then built on the acknowledgment of pre-existing structural inequality to develop its transformative approach to reparations. In *González et al v Mexico*,[[39]](#footnote-39) which concerned crimes of sexual violence perpetrated against women in a particular region in Mexico, it stated that

Bearing in mind the context of structural discrimination in which the facts of this case occurred … the reparations must be designed to change this situation, so that their effect is not only of restitution, but also of *rectification*. In this regard, re-establishment of the same structural context of violence and discrimination is not acceptable. [[40]](#footnote-40)

This was the first time an international court or tribunal had departed from the notion of reparation set out by the PCIJ in *Factory at* *Chorzów*.

There are two elements to this transformative approach to reparations which mark a potentially significant shift. The IACtHR first suggests that victims must not be placed in the position they would have been in (had the unlawful act not occurred) where this would serve to reinforce or perpetuate discrimination. This means that those victims who suffered from pre-existing structural inequality must be provided with reparations that rectify the pre-existing circumstance. The IACtHR indicates that reparations ought to be designed “to identify and eliminate the factors that cause discrimination”.

The purpose of reparation is then broader than merely addressing the consequences of the wrongful act. This understanding of reparation blurs the distinction between reparation and development, which also seeks to address structural social and economic inequality, a process where the provision of education often plays an important role.[[41]](#footnote-41) The blurring of these two notions may be particular problematic with regard to the allocation (and prioritization) of resources, as discussed in Section 4.

In addition to the issues associated with resources, the identification of structural inequalities and the role of those awarding reparations in determining how to address those inequalities are also problematic. The ways structural inequalities should be addressed are complex political questions, which courts and administrative reparations decision-makers are often not in a good position to answer.

In addition to the IACtHR, the International Criminal Court has also referred to transformative reparation in its decision on reparations in the *Lubanga* case, stressing that “reparations need to address any underlying injustices and in their implementation the Court should avoid replicating discriminatory practices or structures that predated the commission of the crimes”.[[42]](#footnote-42) The Trust Fund for Victims (TFV) noted that the transformative quality of reparation may empower victims and that transformative reparation may serve as an opportunity to overcome structural conditions of inequality and exclusion.[[43]](#footnote-43) Following in the footsteps of the IACtHR, which applied the concept of transformative reparations to address human rights violations committed against women, the TFV also linked this concept to gender-based violence as it “generally feeds into patterns of pre-existing and often cross-cutting structural subordination and systemic marginalization”.[[44]](#footnote-44)

… **Transformative Potential of Reparations**

More attention should be placed on the potential transformative component of reparations, in particular to address structural inequalities which may render some categories of victims as the on-going targets of education-related violations. When determining the more appropriate forms of reparation to be awarded, the actors invested with this task should take into account any particular vulnerability (or existing structural inequality) associated with the victims as a result of their position in society.

… Concerning people with disabilities, there are common barriers that limit their access to justice and, therefore, reparations.[[45]](#footnote-45) People with disabilities have expressed their concern about the fact that reparation processes do not properly reach and include them. In Liberia for example, persons with disabilities have explicitly asked for individual reparation including a monthly compensation and the establishment of academic and vocational schools to assist those with disability caused by conflict.[[46]](#footnote-46) In Sierra Leone, it has been reported that over half of all disabled respondents cannot read, write or count. Equally striking, 12% of respondents with severe or very severe disabilities did not believe that education was useful (compared to less than 3.4% of non-disabled respondents) and more than double the number of non-disabled people (22.9%) thought that education would improve their chances of getting a job compared to persons with disabilities (10.5%).[[47]](#footnote-47) This highlights once again their particular vulnerability, which creates a number of additional challenges in resorting to reparations mechanisms.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_PEIC Request \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**With the above research findings in mind, PEIC would be grateful if the OHCHR would consider addressing specifically within its deliberations and subsequent report:**

* the right to education of persons with disabilities in times of insecurity and conflict
* the clarity and adequacy – or otherwise - of the relevant international legal framework
* the failure of UN human rights mechanisms to pay adequate attention to the right to education of persons with disabilities in times of insecurity and conflict
* the right to, and form of, reparation for persons with disabilities for education related violations of law in times of conflict and their potential transformative impact
* the role of, and strengthening, the international community and civil society at all levels, in their protection of the right to education for persons with disabilities in times of insecurity and conflict.
1. Report of the expert of the Secretary-General, Ms Graça Machel, submitted pursuant to General Assembly resolution 48/157, UN doc. A/51/306, 26 August 1996, §145. [↑](#footnote-ref-1)
2. Report of the Special Rapporteur on the right to education, Vernor Muñoz, ‘Right to Education in Emergency Situations’, UN doc. A/HRC/8/10, 20 May 2008, §99. [↑](#footnote-ref-2)
3. *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook* p. xviiiavailableat [www.educationaboveall.org](http://www.educationaboveall.org) and [www.biicl.org/org/research/education](http://www.biicl.org/org/research/education). [↑](#footnote-ref-3)
4. *United Nations Human Rights Mechanisms and the Right to Education in Insecurity and Armed Conflict* (to be published in October 2013). [↑](#footnote-ref-4)
5. *Education and the Law of Reparations in Insecurity and Armed Conflict* (to be published in October 2013). [↑](#footnote-ref-5)
6. *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook* provides a detailed analysis of the international legal framework (international human rights, criminal and humanitarian law) pertinent to the protection of education in times of insecurity and armed conflict. In so doing it begins to address the exceedingly sparse scholarly literature as regards education at such times.

It is the result of a one-year research project commissioned by PEIC and carried out by Kristin Hausler, Nicole Urban and Robert McCorquodale of the British Institute of International and Comparative Law. The research was overseen by an advisory board of legal experts and subject to a multi-disciplinary peer review. Accompanying the publication is a summary document intended as a complement to the legal analysis and guide future work in this area.   [↑](#footnote-ref-6)
7. *United Nations Human Rights Mechanisms and the Right to Education in Insecurity and Armed Conflict* seeks to respond to the acute need to identify trends in the practice, and contribution, of United Nations human rights mechanisms to the protection of education in times of insecurity and conflict.

It is the result of a one-year research project commissioned by PEIC and carried out by Takhmina Karimova, Gilles Giacca, and Stuart Casey-Maslen, researchers at the Geneva Academy of International Humanitarian Law and Human Rights (Geneva Academy). The research was overseen by a Legal Advisory Committee and subject to multi-disciplinary peer review. Accompanying the publication is a summary policy document intended to guide future work in this area. [↑](#footnote-ref-7)
8. *Education and the Law of Reparations in Insecurity and Armed Conflict* addresses the lack of attention paid to reparations for violations of international law during times of insecurity and armed conflict that affect education.

It is the result of a one-year project commissioned by PEIC and carried out by Francesca Capone, Kristin Hausler, Duncan Fairgrieve and Conor McCarthy, researchers at the British Institute of International and Comparative Law. The research is based on scholarly analysis as applied to practical situations and was reviewed by an advisory board of experts in the field of reparations. Accompanying the publication is a summary intended as a complement to the legal analysis and to guide future work in this area. [↑](#footnote-ref-8)
9. See, for example, the Second Geneva Convention; Art.8 Additional Protocol I; Art.7 Additional Protocol II. [↑](#footnote-ref-9)
10. ICRC CIHL Study, Rule 110, available at *[www.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule110](file:///C%3A%5C%5Ck.hausler%5C%5CLocal%20Settings%5C%5CApplication%20Data%5C%5CMicrosoft%5C%5CWord%5C%5Cwww.icrc.org%5C%5Ccustomary-ihl%5C%5Ceng%5C%5Cdocs%5C%5Cv1_rul_rule110)*. [↑](#footnote-ref-10)
11. Art.8 Additional Protocol I. ICRC CIHL Study, Rule 138, available at *[www.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule138](http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule138)*. It is not clear, however, the extent to which persons with disabilities not in need of medical attention benefit from special protection. [↑](#footnote-ref-11)
12. Note that religious personnel benefit from similar protection see for example ICRC CIHL Study, Rule 27, available at [*www.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule27*](http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule27). [↑](#footnote-ref-12)
13. Art.27 Hague Regulations; Art.19 First Geneva Convention; Art.18 Fourth Geneva Convention; Art.21 Additional Protoco1; Art.11 Additional Protocol II; ICRC CIHL Study, Rule 25, available at [*www.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule25*](http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule25)*.* [↑](#footnote-ref-13)
14. Arts 16 and 17 Fourth Geneva Convention. [↑](#footnote-ref-14)
15. Art.12(2) First Geneva Convention; Art.12 (2) Second Geneva Convention, Art.10(2) Additional Protocol I and Art.7 Additional Protocol II. For further discussion regarding this protection, see D Fleck (ed.) *The Handbook of International Humanitarian Law*, 2nd edn(Oxford: OUP, 2009), in particular ch.6, 329–332. [↑](#footnote-ref-15)
16. ICRC CIHL Study, Rule 110, *[www.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule110](http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule110).*

See also Art.7 Additional Protocol II. [↑](#footnote-ref-16)
17. IHRL not only contains extensive provisions relating to disability discrimination, Art.11 of the Convention on the Rights of Persons with Disabilities requires that state parties “take all necessary measures” to ensure the protection and safety of persons with disabilities in armed conflict and other emergency situations. [↑](#footnote-ref-17)
18. Although some provisions of IHL are broad enough to require the needs of children with disability to be taken into account: Art.77 Additional Protocol I and Art.4(3) Additional Protocol II. See the discussion of these provisions in Chapters 3 and 4, above. [↑](#footnote-ref-18)
19. Subject to the issues of derogations and extra-territorial application outlined in Chapter 2 of the Report. [↑](#footnote-ref-19)
20. This requirement, it has been argued, is broad enough to take into consideration, and prohibit, both direct and indirect discrimination in the implementation of IHL provisions. IHRL is a useful tool to understanding the content and application of this rule. See L Doswald-Beck, *Human Rights in Times of Conflict and Terrorism* (Oxford: OUP, 2011). [↑](#footnote-ref-20)
21. ESCR Committee, General Comment No. 5 on Persons with disabilities, UN doc. 9 December 1994, §15. [↑](#footnote-ref-21)
22. Report of the expert of the Secretary-General, Ms Graça Machel, submitted pursuant to General Assembly resolution 48/157, UN doc. A/51/306, 26 August 1996, §145. [↑](#footnote-ref-22)
23. *Ibid*. [↑](#footnote-ref-23)
24. Report of the Special Rapporteur on the right to education, Vernor Muñoz, ‘Right to Education in Emergency Situations’, UN doc. A/HRC/8/10, 20 May 2008, §88. [↑](#footnote-ref-24)
25. Ibid., §99. [↑](#footnote-ref-25)
26. CRC Committee, General Comment No 9 (2006), The rights of children with disabilities, UN doc. CRC/C/GC/9, 27 February 2007. [↑](#footnote-ref-26)
27. #####  CRC Committee, ‘Concluding Observations: Pakistan’, UN doc. CRC/C/PAK/CO/4 15 October 2009, §84.

 [↑](#footnote-ref-27)
28. #####  CRC Committee, ‘Concluding Observations: Sri Lanka’, UN doc. CRC/C/LKA/CO/3-4, §64.

 [↑](#footnote-ref-28)
29. #####  CRC Committee, ‘Concluding Observations: Afghanistan’, UN doc. CRC/C/AFG/CO/1, §61.

 [↑](#footnote-ref-29)
30. CEDAW Committee, List of Issues: Chad, UN doc. CEDAW/C/TCD/Q/4, 30 March 2010, §23. [↑](#footnote-ref-30)
31. UPR, Report of the Working Group on the Universal Periodic Review: Eritrea, UN doc. A/HRC/13/2, 4 January 2010; Report of the Working Group on the Universal Periodic Review: Tajikistan, UN doc. A/HRC/19/3, 12 December 2011; Report of the Working Group on the Universal Periodic Review: Haiti, UN doc. A/HRC/19/19, 8 December 2011; Report of the Working Group on the Universal Periodic Review: Russian Federation, UN doc. A/HRC/11/19, 5 October 2009. [↑](#footnote-ref-31)
32. UN SC Working Group on Children and Armed Conflict, Conclusions on children and armed conflict in Iraq, UN doc. S/AC.51/2011/6, 3 October 2011, §6. [↑](#footnote-ref-32)
33. Public statement issued by the Chair of the Working Group, *ibid*., §12. [↑](#footnote-ref-33)
34. See supra 2.3.1. [↑](#footnote-ref-34)
35. See R Yepes, ‘Between Corrective and Distributive Justice: Reparations of Gross Human Rights Violations in Times of Transition’ (2010) at 19, available at:

[www.uu.nl/university/research/EN/international\_collaboration/latinamerica/Documents/OratieRodrigoUprimny.pdf](http://www.uu.nl/university/research/EN/international_collaboration/latinamerica/Documents/OratieRodrigoUprimny.pdf) [↑](#footnote-ref-35)
36. Committee against Torture, General Comment No 3 on the Implementation of Art 14 by State Parties (13 Dec 2012) at para 8. [↑](#footnote-ref-36)
37. See M P Saffon and R Uprimny ‘Distributive Justice and the Restitution of Dispossessed Land in Colombia’, in Morten Bergsmo *et al* (eds), *Distributive Justice in Transitions* (Torkel Opsahl Academic EPublisher, Oslo, 2010) at 403. [↑](#footnote-ref-37)
38. *Rosendo Cantú et al v Mexico* (Judgment of 31 Aug 2010) IACtHR Ser C No 216, at para 206. [↑](#footnote-ref-38)
39. *González et al (“Cotton Field”) v Mexico*, Merits, Reparations and Costs (Judgment of 16 Nov 2009) IACtHR Ser C No 205. [↑](#footnote-ref-39)
40. Ibid, para 450 ss. [↑](#footnote-ref-40)
41. According to Art 8 of the UN Declaration on the Right to Development, adopted by General Assembly resolution 41/128 of 4 Dec 1986, “states should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process.” [↑](#footnote-ref-41)
42. *Lubanga*, ‘Decision establishing the principles and procedures to be applied to reparations’, 7 Aug 2012, at para 192. [↑](#footnote-ref-42)
43. See *Lubanga*, ‘Public Redacted Version of ICC-01/04-01/06-2803-Conf-Exp-Trust Fund for Victims’ First Report on Reparations’, 1 Sep 2011, at paras 72-77. [↑](#footnote-ref-43)
44. Ibid. [↑](#footnote-ref-44)
45. See for example, Australian Human Rights Commission, ‘Access to Justice in the Criminal Justice System for people with Disabilities’ (Issues Paper, Apr 2013) at 5, where it states that “negative attitudes and assumptions about people with disability often resulting in people with disability being viewed as unreliable, not credible or not capable of giving evidence, making legal decisions or participating in legal proceedings.” It is available at: <http://www.humanrights.gov.au/sites/default/files/document/publication/Access%20to%20Justice%20in%20the%20Criminal%20Justice%20System%20for%20People%20With%20Disability%20-%20Issues%20Paper%20April%202013.pdf> [↑](#footnote-ref-45)
46. Information on the situation of Liberian persons with disabilities is available at: <http://newliberian.com/?p=882> [↑](#footnote-ref-46)
47. M Kett, ‘Skills development for youth living with disabilities in four developing countries’ (Background paper prepared for the Education for All Global Monitoring Report, 2012) at 10, available at: <http://unesdoc.unesco.org/images/0021/002178/217882e.pdf> [↑](#footnote-ref-47)