



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

TREATY BODIES

JURISPRUDENCE

HIGHLIGHTS

Petitions and Urgent Actions Section

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Mexico)**

PUAS/2023/02

CRC 92nd session jurisprudence highlights

INTERNATIONAL RESTITUTION OF A CHILD FROM CHILE TO SWITZERLAND

Communication No. 129/2020 C.A.K.O. v. Chile

Facts

The communication was submitted by a child's mother who took him on vacation to her native Chile and did not return to Switzerland, their place of habitual residence. She alleged that returning the child to Switzerland would cause him irreparable harm as he would be exposed to a risk of being sexually abused by his father.

Committee's decision

The Committee recalled that, to be in accordance with the Convention of the Rights of the Child, cases involving the international abduction of children under the Hague Abduction Convention need to comply with two aspects. Firstly, national courts must effectively assess the factors that may constitute an exception to the duty to immediately return the child to their place of habitual residence and must be sufficiently reasoned. Secondly, those factors must be evaluated in the light of the best interests of the child, which is a task that generally pertains to national courts.

In the particular case, the Committee considered that the communication was insufficiently substantiated for the purposes of admissibility. It observed that the author's communication relied on a set of factual assumptions that were against what domestic courts, which had evaluated all the available facts and evidence, had established. Contrary to what the author alleged, the domestic courts determined that she did not have the right to unilaterally decide on her son's place of residence before taking him to Chile; that the allegations of sexual assault were unproven and that, in any event, the Swiss authorities were ready to take necessary protective measures after the restitution; and that she would not be separated from the child upon his restitution to Switzerland. The Committee considered that the author did not

sufficiently demonstrate that national courts had failed to take due account of the child's best interests. It considered that the courts explained in detail why the exceptions to the duty to return were inapplicable in the light of the specific circumstances of the case, and that they determined that the protective measures prepared in advance of the restitution constituted sufficient guarantees for the child's safety upon return.

The Committee therefore declared the communication inadmissible under article 7 (f) of the Optional Protocol.

DEPORTATION TO GEORGIA WITH A RISK OF LACK OF ACCESS TO MENTAL HEALTH TREATMENT

Communication No. 110/2020 K.K. v. Switzerland

Facts

The communication was submitted by a Georgian child whose asylum request -along with her family's request- had been denied by the Swiss authorities. She alleged that in case of removal to Georgia, she would not have access to adequate treatment for her mental health condition.

Committee's decision

The Committee recalled that the principle of non-refoulement does not confer a right to remain in a country solely on the basis of a difference in health services that may exist between the State of origin and the State of asylum, or to continue medical treatment in the State of asylum, unless such treatment is essential for the life and proper development of the child and would not be available or accessible in the State of return. On the basis of the information in the case file, the Committee noted that national courts had assessed the medical reports regarding the author's mental health, but concluded that the required psychiatric treatment was available and accessible in Georgia. These courts also considered the consequences of the author's removal on her social and personal environment but noted that, according to medical reports, these could be treated in a stable environment, which could be created by the parents. The Committee considered that, in view of the information on file, it could not conclude that

this evaluation was manifestly arbitrary or that the child's best interests were not a primary consideration. Thus, it found that her removal to Georgia would not result in obstacles to gaining access to the treatment she needed and would not constitute a violation by the State party of her rights under articles 24 (1) and 37 (a) of the Convention.

DEPORTATION TO AUSTRIA WITH A RISK OF DETERIORATION OF THE FAMILY'S MENTAL HEALTH

Communication No. 101/2020, Z.T. et al. v. Switzerland

Facts

The communication was submitted by the mother of three children, failed asylum seekers, who were subject to a removal order to Austria. She alleged that their removal would violate her children's rights under the Convention because, as children already traumatized by the domestic violence she suffered at the hands of their father in Austria, they would be retraumatized and at risk of a deterioration in their mental health.

Committee's decision

The Committee recalled that it is for the national authorities to examine the facts and evidence and to interpret and enforce domestic law, unless their assessment has been clearly arbitrary or amounts to a denial of justice. The Committee considered that the domestic authorities had taken into account all the medical reports submitted by the author and concluded that (a) the family's medical treatment would not be interrupted in case of removal because Austria had care and support structures similar to those in Switzerland, meaning that the family would be able to continue receiving the necessary medical and social care; (b) the family's doctors would be able to help them to prepare for their transfer to Austria and to overcome any stress or anxiety that they may experience; and that (c) Austria could examine any new allegations made by the author in the context of an asylum application and could also provide adequate protection to the family if the author's ex-husband were to make threats.

The Committee also recalled that the principle of non-refoulement does not confer a right to remain in a country solely on the basis of a difference in health services that may exist between the State of origin and the State of asylum, or to continue

medical treatment in the State of asylum, unless such treatment is essential for the life and proper development of the child and would not be available or accessible in the State of return. In the present case, the Committee noted that the information in the case file did not indicate that the medical treatment needed for the children's development and recovery would not be available, accessible or adequate in Austria.

The Committee therefore considered that it could not conclude from the information in the case file that the Swiss authorities' assessment was clearly arbitrary or amounted to a denial of justice, or that the best interests of the author's children were not a primary consideration in the assessment. The Committee concluded that the family's removal to Austria would not constitute a violation of their rights under articles 3 and 37 (a) of the Convention.

DETERMINATION OF THE AGE OF A MIGRANT CHILD AND LACK OF ACCESS TO THE CHILD PROTECTION SYSTEM

Communication No. 130/2020, S.E.M.A. v. France

Facts

The communication was submitted by a 17-year-old Pakistani unaccompanied child who claimed that, by failing to recognize him as a child despite having identity documents attesting his age, France violated his rights under the Convention and failed to protect him despite his situation of abandonment and extreme vulnerability.

Committee's decision

The Committee recalled that the determination of the age of a young person who claims to be a minor is of fundamental importance, as the enjoyment of the rights set out in the Convention flows from that determination. The best interests of the child should be a primary consideration throughout the age determination process.

The Committee considered that the age determination procedure undergone by the author, who claimed to be a child and provided evidence (identity documents) to support that claim, was not accompanied by the safeguards needed to protect his rights under the Convention. The Committee particularly took into consideration: (a) the initial summary assessment used to determine the

author's age; (b) the failure to appoint a representative and to provide the author with interpretation into his native language during the administrative procedure; and (c) the fact that the State party deemed the documentation he presented to have no probative value without even undertaking a proper examination of the information contained therein and, in the event of uncertainty, requesting confirmation of its validity by the consular authorities of Pakistan in France (which was not done until the Court of Appeal handed down its decision one and a half years after the author's arrival in France, at which point he had already reached the age of majority). The Committee, concluded that the best interests of the child had not been a primary consideration in the age determination procedure undergone by the author, in violation of articles 3 and 12 of the Convention, The Committee also concluded that the State party violated the child rights under article 8 of the Convention as it did not recognize his date of birth.

The Committee also recalled that States parties are obliged to ensure the protection of every migrant child deprived of his or her family environment by guaranteeing, *inter alia*, access to social services, education and adequate housing, and that during the age determination procedure young migrants who claim to be children should be given the benefit of the doubt and treated as such. The Committee noted that the child was in a street situation from the time of his arrival in France on 25 August 2019 until 31 December 2021, the day of his eighteenth birthday, and that he was not given temporary emergency accommodation, as required by law, or any measures of protection or support. The Committee therefore, concluded that the State party had failed to protect the author as a child in violation of articles 20 (1) and 37 (a) of the Convention.

Remedies

The State party was requested, *inter alia*, to:

- to provide the author with effective reparation for the violations suffered including by giving him the opportunity to regularize his administrative status in the State party and to benefit from the protection provided for under domestic law, taking due account of the fact that he was an unaccompanied child upon his arrival in France;

- Ensure that any procedure for determining the age of young persons claiming to be minors is in conformity with the Convention and, in particular, that: (i) documents submitted are taken into account and their authenticity is recognized when they have been issued, or their validity has been confirmed, by States or their embassies; (ii) the young persons concerned are assigned a qualified legal representative or other representatives without delay and free of charge; and (iii) initial assessments are conducted in a manner consistent with the Convention and with the Committee's general comment No. 6 (2005) and joint general comment No. 23 (2017);
- Ensure that the age determination procedure is carried out expeditiously and adopt measures of protection for young persons claiming to be minors from the moment they enter the territory of the State party and throughout the procedure, treating them as children and recognizing all their rights under the Convention.

CRPD 28th session jurisprudence highlights

WITHDRAWAL OF TUBE FEEDING AND HYDRATION AND CARE FOR A PERSON IN A MINIMALLY CONSCIOUS OR VEGETATIVE STATE

Communication No. 59/2019, V.L. v. France

Facts

The communication was submitted by the parents and siblings of V.L., who was hospitalized and fed and hydrated through a gastrostomy tube since 2008, when an accident rendered him tetraplegic and caused him to be in a minimally conscious or vegetative state. The authors claimed that the decision to cease the life support and the conditions of his hospitalization amounted to breaches of his rights under the Convention.

Committee's decision

The Committee noted that V.L. had not been able to consent to the submission of the communication on his behalf. The Committee therefore examined

whether the communication expressed V.L.’s wishes and preferences. The Committee noted that the communication was closely linked to the issue of the withdrawal of his nutrition and hydration. The Committee noted that in the domestic proceedings, the Council of State had examined V.L.’s wishes extensively, including his repeated statements to his wife that he wished not to be kept alive artificially if he were to find himself in a highly dependent state. The Committee thus noted that the domestic courts concluded that V.L. would not have wished to be in the condition in which he was being sustained. The Committee was therefore not convinced that the communication represented the assumed wishes of V.L. Accordingly, the Committee concluded that the authors lacked standing to act on behalf of V.L. and declared the communication inadmissible under article 1 of the Optional Protocol.

DISAPPEARANCE AND INCOMMUNICADO DETENTION OF PERSONS WITH PSYCHOSOCIAL DISABILITIES

Communications Nos. 67/2019 & 68/2019, Mangisto and al-Sayed v. State of Palestine

Facts

The communication was submitted by family members of two persons with psychosocial disabilities who had crossed into the Gaza Strip in 2014 and 2015. The authors claimed that the alleged victims were subjected to enforced disappearance.

Committee’s decision

On the admissibility of the communication, the Committee considered, among other things, the issue of jurisdiction. The Committee found that according to the jurisprudence of the Treaty Bodies and the regional human rights courts, even in the absence of effective control by a State over parts of its territory, it still has a positive obligation to take the diplomatic, economic, judicial or other measures that are in its power to take and are in accordance with international law to secure to the residents in such a territory the rights guaranteed to them. The Committee therefore considered that despite limitations in the State party’s ability to exercise its authority in the Gaza Strip, the alleged victims were within its jurisdiction within the meaning of article 1 of the Optional Protocol.

On the merits, the Committee considered whether the State party had discharged its positive obligations to take appropriate and sufficient measures that were within its power to take it in order to secure the alleged victims’ rights as guaranteed by the Convention. The Committee noted that the State party had not provided any specific information on any such measure it had taken, or attempted to take, including to inquire into the fate and whereabouts of the alleged victims or the conditions of detention, including by attempting to engage the *de facto* authorities in the Gaza Strip; to facilitate and secure their release and safe return to their families; to guarantee their placement under the protection of the law; to ensure that they have access to adequate health care, taking into account their psychosocial disabilities and particularly vulnerable situation; and to enable them to be in contact with their families, relatives and representatives. The Committee concluded that the failure by the State party to take, or attempt to take, any such measure amounted to a violation of the victims’ rights under articles 10, 14, 15 and 25, read alone and in conjunction with article 11 of the Convention.

Remedies

The State party was requested, *inter alia*, to:

- provide the authors with an effective remedy, including compensation for any legal costs incurred in filing the communications;
- take all diplomatic, economic, judicial or other measures available in accordance with international law to : (a) conduct a prompt investigation that is effective and thorough, impartial and independent, and transparent into the circumstances of the alleged disappearances and arbitrary detention of the victims, with a view to establishing the truth and securing their safe return to their families; (b) provide the authors with detailed information on the outcome of the investigation; and (c) guarantee the victims’ safety and access to medical care, including in relation to their disability, as well as contact with their families and representatives;
- Ensure that claims of disappearances are promptly investigated in order to establish the fate and whereabouts of the alleged victims and ensuring their release.

LACK OF ACCESSIBILITY AND REASONABLE ACCOMODATION TO GUARANTEE THE RIGHT TO INCLUSIVE TERTIARY EDUCATION FOR A WOMAN WITH AN INTELLECTUAL DISABILITY

Communication No. 70/2019, García Vara v. Mexico

Facts

The communication was submitted by Selene Militza García Vara, a Mexican national with an intellectual disability who was refused admission to the Bachelor of Visual Arts at the Morelense Centre for the Arts. She claimed that the failure to provide her reasonable accommodation during the selection procedure and the authorities' failure to take measures to realize her right to tertiary education on an equal basis with others breached her rights under the Convention.

Committee's decision

The Committee considered that the State party had not demonstrated that it had taken the legislative, administrative, and other measures, including policies on reasonable accommodations and the training of staff at tertiary education institutions, to ensure the accessibility of inclusive tertiary education for the author. The Committee considered that requirements concerning the knowledge and skills needed to gain admission to tertiary education must consider the specific needs of candidates with disabilities. The Committee noted that, although the Morelense Centre for the Arts was aware of the author's intellectual disability it did not initiate a dialogue with her when she applied for the Bachelor of Visual Arts to determine what reasonable accommodations she needed to participate in the assessments, such as granting her extra time and providing her with the support of a specialized professional to ensure that she correctly understood test expectations. The Committee therefore considered that the Centre did not ensure the author's participation on an equal basis with other candidates who did not have disabilities, resulting in her exclusion from tertiary education. The Committee concluded that the State party had violated articles 5 and 24, read alone and in conjunction with articles 4 and 9 of the Convention. It also concluded that the State party had violated article 24 read alone and in conjunction with articles 4 and 8 of the Convention

by failing to fulfil its obligation to combat stereotypes, prejudices and harmful practices regarding persons with intellectual disabilities in the sphere of education.

Remedies

The State party was requested, *inter alia*, to:

- reimburse any legal costs the author had incurred and provide appropriate compensation for the harm suffered, considering the loss of employment opportunities stemming from her being denied her right to tertiary education;
- should it remain the author's wish, guarantee her right to tertiary education by ensuring the accessibility of the admission process at an educational institution of her choosing, including through the provision of any necessary reasonable accommodation;
- establish, in law and policy, an inclusive education system at all levels, including support measures, the provision of reasonable accommodation, adequate funding and training for educational staff;
- establish complaints mechanisms and legal remedies that are independent, effective, accessible, transparent, safe and applicable to cases of violations of the right to education;
- take measures to raise awareness and challenge stereotypes, prejudices and harmful practices relating to persons with disabilities, targeting in particular practices affecting women and girls with disabilities, persons with intellectual disabilities and persons with intensive support requirements.

CESCR 73rd session jurisprudence highlights

EVICTION OF MIGRANT FAMILY WITHOUT ALTERNATIVE HOUSING

Communication No. 134/2019, Infante Díaz v Spain

Facts

The communication was submitted by a Venezuelan national, who together with her son, occupied an apartment belonging to a bank in Spain since December 2015. Their situation of economic vulnerability was confirmed by the Social Services. An eviction order was issued against them and suspended several times.

Committee's decision

The Committee noted that, since the author's situation in Spain was irregular, she could not apply for social housing or access the employment market. The Committee noted that the irregular situation of the author and her son on the territory of the State party should not in itself exclude them from the public services on housing.

The Committee noted that the author had announced her situation of socio-economic vulnerability to social services, although two years after illegally occupying the apartment, and that she had also made this situation known to the judge that issued the eviction order. It further noted that the author could not apply for social housing given her irregular situation, which was not disputed by the State party. In light of this, the Committee concluded that the eviction order issued against the author and her son in the absence of alternative housing violated their rights to adequate housing under article 11, paragraph 1, of the Covenant.

Remedies

The State party was requested to:

- provide the author and her son with an effective reparation, including a financial compensation for the violations, and

- assess their state of necessity with a view to grant them alternative housing.

CED 24th session jurisprudence highlights

ENFORCED DISAPPEARANCE OF AN UNDERAGE MALE

Communication No. 4/2021, Mendoza Berrospe y Berrospe Medina v Mexico

Facts

The communication was submitted by the mother of Yonathan Mendoza Berrospe, who was removed from his home by armed men in police uniforms in December 2013, in Veracruz, Mexico, when he was 17 years old. Witnesses of the disappearance saw many vehicles which allegedly belonged to federal and state forces. His family attended different detention centres to request information about his detention, but the authorities denied having detained him or knowing his fate and whereabouts. His fate and whereabouts are still unknown today and no one has been held accountable for the disappearance.

Committee's decision

The Committee considered that, since there was sufficient evidence of the involvement of State agents, the State party had the burden of proving, through an investigation carried out with due diligence, that the disappearance was not caused by the direct participation of State agents or by people acting with the authorisation or acquiescence of the State. In the absence of such an investigation, the Committee concluded that the victim was subjected to an enforced disappearance.

The Committee noted that most investigative measures carried out by the State party took place after 2019, namely, six years after the disappearance. It also noted that most search actions mentioned by the State party were carried out after 2021, namely, eight years after the disappearance. The Committee thus found that the State authorities did not proceed without delay to conduct an exhaustive and impartial investigation, nor did it adopt all the

appropriate measures to search for and locate the victim, in violation of articles 12 and 24 (3) of the Convention.

The Committee also found that given that the fate and whereabouts of Mr. Mendoza Berrospe are still unknown, and that the victims have not received any reparations, the State party has violated their right to know the truth and to reparation under article 24 of the Convention.

Remedies

The State party was requested to:

- ensure a diligent and exhaustive search and investigation into the enforced disappearance, which seriously considers the hypothesis of the involvement of agents of the police forces of the State of Veracruz, and investigates the respective chains of command, ensuring in particular the full coordination of all the authorities involved and an adequate differential approach.
- prosecute, try and punish the perpetrators and those responsible for the violations committed, including the respective chains of command;
- provide victims with prompt, fair and adequate reparation and compensation;
- take all necessary measures to give effect to the guarantees of non-repetition, in the terms set out by the Committee in its report on its visit to the State party under article 33 of the Convention.

CEDAW 83rd session jurisprudence highlights

SEXUAL VIOLENCE AGAINST A GIRL WHO SUBSEQUENTLY WENT MISSING

Communication No. 153/2020, Sandra Luz Román Jaimes v. Mexico

Facts

The communication was submitted by a Mexican mother on behalf of her disappeared daughter, Ivette Melissa Flores Román. She claimed that the authorities in the State of Guerrero, Mexico, failed to act immediately and diligently in the search for her daughter. She also claimed violations of the due to: the

decision not to investigate the events as acts of gender-based violence; the stereotyping that affected how the investigation was approached; the absence of provisions in criminal law guaranteeing the gender-responsive investigation of acts of organized crime and (d) the systematic failures and ineffectiveness of the investigation into her daughter's disappearance.

After giving birth at the age of 16, the author's daughter moved into her partner's family's home, where she was subjected to domestic violence and other forms of ill-treatment. She separated from her partner and returned to school. During this period, she received death threats, calls and visits to her home from her former partner and his brothers. The author's daughter never dared to report about the domestic violence or these acts of violence, as her former partner's father worked as an investigative police officer with the Guerrero Office of the Attorney General. On 24 October 2012, armed men entered into the author's home looking specifically for her daughter. They kidnapped the author's daughter alongside her daughter in-law. The author's daughter in-law was released 4 days later, but the author's daughter remains disappeared.

Committee's decision

The Committee recognized the particular harm that disappeared women suffer (e.g. disproportionately subjected to sexual violence), based on its jurisprudence on gender-based violence as a form of discrimination against women under article 1 of the Convention. The Committee found a violation of article 2 for lack of due diligence in preventing and investigating such gender-based violence.

The Committee found that the Special Prosecutor on Violence Against Women's decision not to further investigate disregards the definition of gender-based violence against women under the Convention, failed to consider the history of domestic violence and other forms of gender-based violence against women experienced by Ms. Flores Román, as well as the general context of disappearances of women in the State party. The Committee reiterated that all entities responsible for searching for women victims of enforced disappearances have an obligation to conduct searches with a gender perspective. It found a

violation of articles 1, 2 (b)–(f), 5 (a) and 15 (1) of the Convention.

The Committee also referred to standards of the Committee on Enforced Disappearance, whilst considering that information in the case file (Amparo judgements, police reports, national human rights commission report) suggested the State’s responsibility in the enforced disappearance. It referred to the Guiding principles for the search for disappeared persons of CED requiring authorities to “carry out an immediate search, without delay and with a gender perspective, ensuring that all stages of the search are conducted with a gender perspective by staff, including female staff, who have received proper training”.

Remedies

The State party was requested to:

- to develop a coordinated strategy for the search of the author’s daughter and the investigation into her enforced disappearance, which includes a gender perspective and which takes into account the context.
- to eradicate all structural causes of impunity and practices that hinder access to justice
- to ensure that all entities responsible for searching for disappeared persons and conducting investigations, at the local, State or federal level, conduct searches with a gender perspective.

CEDAW 84th session jurisprudence highlights

DISCRIMINATION AGAINST WOMEN SURVIVORS OF SEXUAL SLAVERY DURING WORLD WAR II

Communication No. 155/2020, Natalia M. Alonzo et al v Philippines

Facts

The communication was submitted by 24 Filipina nationals, all members of the Malaya Lolos (“Free Grandmothers”), a non-profit organisation established to provide support to the survivors of sexual slavery perpetrated by the Imperial Japanese Army in the Philippines during the Second World War. The authors,

commonly known as “comfort women”, claimed that the Philippines’ failure to support their cause had essentially resulted in ongoing discrimination against them. In 1944, the authors were subjected to the war-time sexual slavery system established by the Japanese Imperial Army in occupied territories. They have since then endured long-term pervasive physical, psychological, social and economic consequences, including physical injuries, post-traumatic stress, permanent damage to reproductive capacity and harm to their social relationships in their community, marriage and work.

Committee’s decision

The Committee took note that the Philippines had waived its right to compensation by signing the Treaty of Peace with Japan of 1951 and that its refusal to bring the claims of the Malaya Lolos in any international court or tribunal does not amount to a continuous form of violation and discrimination against the authors. The Committee, however, also noted the authors’ submission that they have been subjected to continuous discrimination by the State party in violation of their rights under the Convention. In this regard, it noted that the main Philippine government body charged with monitoring compliance with international obligations affecting women, the Philippine Commission on Women, has not addressed comprehensively the institutionalized system of wartime sexual slavery, its consequences for victims/survivors or their protection needs. In contrast, Filipino war veterans, who are predominantly male, benefit from State-sanctioned special and esteemed treatment, including educational benefits, health-care benefits, old age, disability and death pensions and burial assistance. The Committee took note of the authors’ assertion that it is discriminatory that no corresponding dignified treatment, recognition, benefits or services or any form of support are provided for the Malaya Lolos. The Committee noted the authors’ argument that the continuing discrimination against them is also reflected in the State party’s neglect of the Bahay na Pula (Red House), which should have been preserved to memorialize the suffering inflicted there and struggle for justice of the women and girls survivors of the war-time sexual slavery system. The Committee observed that in the context of women’s access to justice, States parties should ensure that

remedies are adequate, effective, promptly attributed, holistic and proportional to the gravity of the harm suffered.

Remedies

The State party was requested to:

- ensure that the authors receive from the State party full reparation, including recognition and redress, an official apology and material and moral damages, for the continuous discrimination that they suffered and restitution, rehabilitation and satisfaction, including the restoration of their dignity and reputation, which includes financial reparation proportionate to the physical, psychological and material damage suffered by them and to the gravity of the violations of their rights;
- establish an effective, nationwide reparation scheme to provide all forms of redress to victims of war crimes, including sexual violence, with equal access for men who are war veterans and women who are survivors of wartime sexual slavery to recognition, social benefits and other support measures to which they are entitled;
- ensure that the authorities remove restrictive and discriminatory provisions from legislation and policies relating to redress for civilian victims of war, including survivors of wartime sexual violence and slavery;
- establish a State-sanctioned fund to provide compensation and other forms of reparation to women who are victims of war crimes, in particular the institutionalized system of wartime sexual slavery, to ensure the restoration of their dignity, value and personal liberty;
- create a memorial to preserve the site of *Bahay na Pula* (Red House) or establish another space to commemorate the suffering inflicted to the victims/survivors of wartime sexual slavery and to honour their struggle for justice;
- mainstream in the curricula of all academic institutions, including secondary university education, the history of Philippian women victims/survivors of wartime sexual slavery, as remembrance is critical to a sensitive understanding of the history of human rights violations endured by these women, to emphasize the importance of advancing human rights, and to avoid recurrence.

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