The Center for Reproductive Rights (“the Center”), an international non-governmental legal advocacy organization dedicated to the advancement of reproductive freedom as a fundamental human right, submits this paper to the Special Rapporteur on the Rights of Persons with Disabilities following the mandate’s call for submissions on the right of persons with disabilities and armed conflict.

Sexual and reproductive health and rights (SRHR) are an integral part of the right to health and many other human rights, as recognized by numerous human rights treaties, including the CRPD Convention and by the CRPD Committee’s General Comments. This submission is primarily focused on access to SRH services for women and girls with disabilities and the continuing applicability of international human rights law (IHRL) in context of armed conflict.[[1]](#endnote-1)

**Background**

The routine discrimination and barriers faced by persons with disabilities in the exercise of their human rights is exacerbated in the context of armed conflict, with woman and girls being particularly impacted.[[2]](#endnote-2) As noted by Women Enabled International, ‘*women, girls, and gender non-conforming people with disabilities are disproportionally impacted by conflict and humanitarian emergencies due to multiple and intersecting forms of discrimination that heighten their exclusion and risks*. ‘ [[3]](#endnote-3)Women and girls with disabilities are also particularly vulnerable to sexual and gender-based violence before, during and after conflict. [[4]](#endnote-4)

The breakdown of health systems and disruption of access to health care often hinders access to sexual and reproductive health (SRH) services in humanitarian settings, particularly in armed conflict.[[5]](#endnote-5) With women and girls with disabilities facing heightened barriers to such services.[[6]](#endnote-6) Yet, SRH needs persist and often grow more acute in these contexts, including the need for access to contraceptive information and services, care for sexually transmitted infections (STIs), maternal health care, counseling and services for survivors of sexual and gender-based violence, and safe abortion services.[[7]](#endnote-7) In 2019, UNFPA estimates found that of the 35 million women and girls of reproductive age requiring humanitarian assistance for reasons related to conflict and natural disasters, at least 5 million were pregnant. [[8]](#endnote-8) In addition, 66% of all maternal deaths occur in fragile settings, totaling more than 500 deaths each day. Without access to SRH services, individuals of reproductive age may face significant risks arising from pregnancy, unsafe abortion, STIs, and maternal mortality and morbidity. [[9]](#endnote-9) In addition to population-wide SRH needs in conflict settings, sexual and gender-based violence (SGBV) in humanitarian settings is widespread and implicates a range of SRH consequences, with women with disabilities being particularly vulnerable, [[10]](#endnote-10) as recognized in CEDAW’s General Comment 30 on women and conflict:

*During and after conflict, specific groups of women and girls are at particular risk of violence, especially sexual violence, such as internally displaced and refugee women; women’s human rights defenders; women of diverse caste, ethnic, national or religious identities, or other minorities, who are often attacked as symbolic representatives of their community; widows; and women with disabilities.[[11]](#endnote-11)*

Reflecting the need for SRH care during crisis, the Inter-Agency Working Group for Reproductive Health in Crisis (IAWG) developed the Minimum Initial Service Package (MISP) for Sexual and Reproductive Health, which is a series of crucial, lifesaving minimum activities required to respond to the SRH needs of affected populations at the onset of a humanitarian crisis.[[12]](#endnote-12) Such services include but are not limited to survivors of SGBV; rather the MISP reflects that SRH needs exist across populations affected by conflict, and recognizes the need to address particularly high risk groups that require special attention, including women and adolescents with disabilities.[[13]](#endnote-13) However, the

MISP is often not fully implemented in crisis.[[14]](#endnote-14) Infrastructure breakdowns, legal and practical barriers to abortion and contraception access, and obstacles for adolescents in accessing SRH continue to lead to suffering and poor reproductive health outcomes, implicating human rights.[[15]](#endnote-15) For example, The CEDAW and CRPD Committees have recognized the criminalization of abortion as a barrier to safe services, and have called on States to decriminalize abortion in all circumstances and legalize it in a manner that ‘*fully respects the autonomy of women, including women with disabilities.’*[[16]](#endnote-16)

Due to numerous challenges, such barriers often persist without legal or political consequences, despite international legal obligations to ensure SRH services and in spite of the harm it has on affected people. There is a general absence of accountability, remedy and redress for violations of human rights in humanitarian settings. The lack of accountability is heightened in the context of SRH for several reasons, and in particular for persons with disabilities.[[17]](#endnote-17)

**International Human Rights Law Applies During Armed Conflict**

IHRL is legally applicable in all contexts, including in humanitarian settings and including during armed conflict. This means that there is an obligation under international law to guarantee all persons their full range of human rights irrespective of the circumstances or context. As a result, IHRL can ensure continuity in accountability, even as a context might cycle from fragile to crisis to conflict and back again. Further, IHRL standards apply not only to states but also to non-state actors, including armed non-state actors in certain circumstances, as well as to donor states and other actors.

States have an obligation under IHRL to ensure that their laws, policies, and practices are in compliance with IHRL and should, at a minimum, be guaranteeing the provision of sexual and reproductive health information and services, including abortion, in accordance with IHRL obligations. In addition, under IHRL, retrogressive measures in the enjoyment of the core obligations to ensure economic and social rights, such as the right to SRH, cannot be justified exclusively on the basis of the existence of a crisis or conflict: states have to demonstrate that such retrogression was unavoidable and that all possible measures have been taken, including seeking international cooperation and assistance, to overcome the resource constraints.[[18]](#endnote-18)

In addition, some human rights treaties, such as the Convention on the Rights of Persons with Disabilities[[19]](#endnote-19) and the Convention on the Rights of the Child,[[20]](#endnote-20) contain explicit provisions that include obligations under IHL.[[21]](#endnote-21) Treaty monitoring bodies have also reminded states of their obligations under IHL and have interpreted relevant human rights standards in light of IHL.[[22]](#endnote-22)

***The robust SRHR standards under International Human Rights Law are complementary to and mutually reinforce other bodies of International Law***

The various branches of international law apply concurrently, and their protections are complementary and not mutually exclusive, as has been expressly recognized by international and regional human right bodies and courts.[[23]](#endnote-23) UN treaty monitoring bodies have consistently affirmed that IHRL applies in situations where IHL is also applicable,[[24]](#endnote-24) with the relationship between the two spheres of law being described as “complementary, not mutually exclusive.”[[25]](#endnote-25)

The strong standards for SRHR under IHRL are also important both because of “complementarity” and because that the relevant standards of IHL should be interpreted in a manner consistent with IHRL. [[26]](#endnote-26) The ICRC’s Customary International Humanitarian Law Database, notes that human rights law and the interpretation of human rights bodies can interpret and clarify analogous IHL principles.[[27]](#endnote-27)

**Right to sexual and reproductive health under CRPD and other Human Rights Treaties[[28]](#endnote-28)**

The right to health, including sexual health and reproductive health, is enshrined in several international treaties, including the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of Discrimination against Women (CEDAW). In its General Comment No. 14, the CESCR Committee sets forth four interrelated and essential elements of the right to health, finding that health facilities, goods, and services must be available, accessible, acceptable, and of good quality.[[29]](#endnote-29) In its subsequent General Comment No. 22, the CESCR Committee explicitly applies these principles to the right to sexual and reproductive health.[[30]](#endnote-30) This framework has also been utilized by other treaty monitoring bodies, including the Committee on the Rights of the Child (CRC Committee) and the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee).[[31]](#endnote-31)

As outlined by the CESCR Committee, the right to sexual and reproductive health includes a number of freedoms, including “the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, regarding matters concerning one’s body and sexual and reproductive health.”[[32]](#endnote-32) This right also requires entitlements to, inter alia, “unhindered access to a whole range of health facilities, goods, services and information.”[[33]](#endnote-33) The CRPD and CESCR Committees underscore that women and girls with disabilities have the same right to health as all women and girls, including the right to sexual and reproductive health.[[34]](#endnote-34)

The right to sexual and reproductive health includes sexual and reproductive health care but it also extends beyond to include the underlying determinants of sexual and reproductive health.[[35]](#endnote-35) These include “access to safe and potable water, adequate sanitation, adequate food and nutrition, adequate housing, safe and healthy working conditions and environment, health-related education and information, and effective protection from all forms of violence, torture and discrimination and other human rights violations that have a negative impact on the right to sexual and reproductive health.”[[36]](#endnote-36)

The CRPD recognizes the importance of fulfilling the right to sexual and reproductive health for persons with disabilities, particularly women and girls, and includes the most expansive language on reproductive rights of any UN human rights convention. The reproductive rights specifically enumerated in the CRPD include the rights “to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education,” to retain fertility on an equal basis with others, including for children and adolescents with disabilities, and to health on an equal basis with others, “including in the area of sexual and reproductive health and population-based public health programs.”[[37]](#endnote-37) This mandates own report on the Sexual and reproductive rights of girls and young women with disabilities also serves to expand on the understanding of these rights. [[38]](#endnote-38)

***CEDAW General Recommendation 30 on Women and Conflict***

The CEDAW Committee, in its General Recommendation 30 on women and conflict, provides guidance on obligations under CEDAW in conflict settings, including with regards to women with disabilities,[[39]](#endnote-39) recommending that state parties:

[e]nsure that sexual and reproductive health care includes access to sexual and reproductive health and rights information; psychosocial support; family planning services, including emergency contraception; maternal health services, including antenatal care, skilled delivery services, prevention of vertical transmission and emergency obstetric care; safe abortion services; post-abortion care; prevention and treatment of HIV/AIDS and other sexually transmitted infections, including post-exposure prophylaxis; and care to treat injuries such as fistula arising from sexual violence, complications of delivery or other reproductive health complications, among others.[[40]](#endnote-40)

The CEDAW Committee has called on states to prioritize the provision of SRH services, including safe abortion services, noting with concern the effects of conflict on SRHR and maternal mortality.[[41]](#endnote-41) It has also urged states to ensure access to maternal health services, including antenatal care, skilled delivery services, the prevention of vertical transmission, and emergency obstetric care.[[42]](#endnote-42) In particular, the Committee has noted that “[p]rotecting women’s human rights at all times, advancing substantive gender equality before, during, and after conflict, and ensuring that women’s diverse experiences are fully integrated into all . . . reconstruction processes are important objectives of the Convention.”[[43]](#endnote-43) The Committee urges states, rather than suspending rights protections, to “adopt strategies and take measures addressed to the particular needs of women in . . . states of emergency.”[[44]](#endnote-44)

Realizing SRHR in humanitarian settings requires, *inter alia*:

* Ensuring available, accessible, adequate, and quality services without discrimination.
* Ensuring that those who seek services are able to make informed and autonomous decisions without spousal, parental, or third-party consent.
* Establishing systems for maintaining privacy and confidentiality.
* Access to justice and effective remedies when individual rights are violated. [[45]](#endnote-45)

*The UN Human Rights Council and the UN Security Council*

UN Human Rights Council and UN Security Council Resolutions have also addressed the importance of SRH services in humanitarian settings, including during armed conflict, and including for persons with disabilities.[[46]](#endnote-46)

**Responsibility of Donor States and UN Entities in the Provision of SRH information and services under IHRL[[47]](#endnote-47)**

IHRL provides some general guidance regarding the role of donor states and UN entities in ensuring the right to SRH, which is applicable during both conflict and non-conflict situations. Article 32 of the Convention on the Rights of Persons with Disabilities includes express obligations on states parties in the context of international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities’ [[48]](#endnote-48) CESCR’s General Comment 22 recognizes that international cooperation and assistance are crucial for the realization of the right to SRH.[[49]](#endnote-49) It places an obligation on states unable to realize the right to SHR to seek such cooperation and assistance and notes that states in a position to provide such assistance must respond in accordance with their international commitment.[[50]](#endnote-50) The Committee also notes that

*[d]onor States and international actors have an obligation to comply with human rights standards, which are also applicable to sexual and reproductive health. To this end, international assistance should not impose restrictions on information or services existing in donor States . . . [or] reinforce or condone legal, procedural, practical or social barriers to the full enjoyment of sexual and reproductive health that exist in the recipient countries*.[[51]](#endnote-51)

Further, CESCR notes that “national and donor States must refrain from censoring, withholding, misrepresenting or criminalizing the provision of information on sexual and reproductive health, both to the public and to individuals. Such restrictions impede access to information and services, and can fuel stigma and discrimination.”[[52]](#endnote-52) The Human Rights Committee has noted that “States also have obligations under international law not to aid or assist activities undertaken by other States and non-State actors that violate the right to life.”[[53]](#endnote-53) The CEDAW Committee, in its general recommendation on violence against women, also recognizes that “both international humanitarian law and human rights law have recognised the direct obligations of non-State actors, including as parties to an armed conflict, in specific circumstances. These include the prohibition of torture, which is part of customary international law and has become a peremptory norm (jus cogens).”[[54]](#endnote-54)

Further, CESCR explicitly recognizes the important role that UN entities play in the realization of the right to SRH, and it encourages the UN to cooperate effectively with state parties in collaboration with civil society.[[55]](#endnote-55)

**International Humanitarian Law (IHL): SRHR and non-discrimination**

International humanitarian law only applies during armed conflict.[[56]](#endnote-56) IHL contains important obligations regarding medical treatment as well as the treatment of civilian women, particularly pregnant women[[57]](#endnote-57) and survivors of SGBV.[[58]](#endnote-58) Rule 134 of the Customary IHL Study provides: “The specific protection, health and assistance needs of women affected by armed conflict must be respected.” This rule applies equally in international armed conflicts and non-international armed conflicts and requires “respect for the person and honour of each, prohibiting violence to life, health and physical and mental well-being, prohibiting outrages upon personal dignity, including humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault, and requiring the separation of women and men in detention.” [[59]](#endnote-59) The rule also references IHRL standards to support this approach.[[60]](#endnote-60) The ICRC Commentary notes that this encompasses “medical, psychological and social assistance”, including trauma treatment and counselling.[[61]](#endnote-61) The breadth of this responsibility is also recognised in the Commentary, noting that the special protection and care afforded to women must take into account “the distinct set of needs of and particular physical and psychological risks facing women, including those arising from social structures” and requires “equal respect, protection and care based on all the needs of women.”[[62]](#endnote-62)

International humanitarian law also expressly prohibits sexual violence, which is defined in ICRC Commentary (2016) to include not only rape and enforced prostitution, but also sexual slavery, forced pregnancy, forced sterilization, forced marriage, forced inspections for virginity, sexual exploitation (such as obtaining sexual services in return for food or protection), forced abortions, and sex trafficking.[[63]](#endnote-63) Customary IHL Study Rule 93 on recognizes that “the prohibition of sexual violence is non-discriminatory, i.e., that men and women, as well as adults and children, are equally protected by this prohibition.” [[64]](#endnote-64)

*Non-discrimination*

Under IHL, parties to conflict must treat all civilians and persons who are *hors de combat* without ‘adverse distinction.’[[65]](#endnote-65) This entails taking of all feasible measures to remove and prevent the raising of any barriers that women and girls with disabilities might face in gaining access to services or protection provided under IHL on par with other civilians and persons *hors de combat*.[[66]](#endnote-66)

The ICRC’s 2016 Commentary notes that “sex is traditionally recognized as justifying, and in fact requiring, differential treatment.”[[67]](#endnote-67) It also notes that social roles and stereotypes must be taken into consideration with regard to the prohibition of no adverse distinction:

Grounds for non-adverse distinction could also be found in an awareness of how the social, economic, cultural or political context in a society forms roles or patterns with specific statuses**, needs and capacities that differ among men and women of different ages and backgrounds.** Taking such considerations into account is no violation of the prohibition of adverse distinction, but rather contributes to the realization of humane treatment of all persons protected under common Article 3.[[68]](#endnote-68)

The relevant rule of IHL also establish that the protection of “no adverse distinction” found under IHL should be interpreted consistently with state obligations recognized under the right to non-discrimination in IHRL [[69]](#endnote-69) and as such, would include SRHR. The IHRL guarantee of non-discrimination and intersecting forms of discrimination help in understanding the scope and nature of state obligations to address the specific health needs of women and girls living with disabilities and to address the specific harmful stereotypes faced by women and girls living with disabilities, including in the context of SRHR.[[70]](#endnote-70)

**Conclusion**

The continued applicability of IHRL in humanitarian settings, including armed conflict, means that states are obligated to take positive action to ensure that SRHR are respected, protected, and fulfilled and to do their utmost to mitigate the impacts of conflict on health systems.

We are grateful for this opportunity to input in the SR’s report. Should the mandate need any additional information, please do not hesitate to reach out to Christina Zampas, Associate Director for Global Advocacy at [czampas@reprorights.org](mailto:czampas@reprorights.org).

1. While the issue of disabilities caused by armed conflict is crucial, it is not addressed in this submission. [↑](#endnote-ref-1)
2. [UNFPA-WEI\_Women and Young Persons with Disabilities: Guidelines for Providing Rights-Based Violence and Sexual and Reproductive Health and Rights](https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA-WEI_Guidelines_Disability_GBV_SRHR_FINAL_19-11-18_0.pdf) (2018) , p. 3; [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf); See also, generally, Alice Priddy, Geneva Academy, Academy Briefing No. 14, [*Disability and Armed Conflict*](https://www.geneva-academy.ch/joomlatools-files/docman-files/Academy%20Briefing%2014-interactif.pdf), April 2019 [↑](#endnote-ref-2)
3. [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf). [↑](#endnote-ref-3)
4. [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf). [↑](#endnote-ref-4)
5. Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 30: On women in conflict prevention, conflict and post-conflict situations*, para. 50, U.N. Doc. CEDAW/C/GC/30 (2013) [hereinafter CEDAW Committee, *Gen. Recommendation No. 30*]; United Nations Population Fund (UNFPA), *Humanitarian Emergencies* (2020)*,* <https://www.unfpa.org/emergencies>; U.N. Human Rights Council,*Preventable maternal mortality and morbidity and human rights in humanitarian settings,*(39th Sess., 2018), UN Doc. A/HRC/39/10 (2018); U.N. Human Rights Council, *Follow-up on the application of the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity*, U.N. Doc. A/HRC/39/26, (Jun. 29, 2018) [hereinafter, U.N. HRC, *Guidance on a human rights-based approach*]. [↑](#endnote-ref-5)
6. [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf). [↑](#endnote-ref-6)
7. CEDAW Committee, *Gen. Recommendation No. 30*; United Nations Population Fund (UNFPA), *Humanitarian Emergencies* (2020)*,* <https://www.unfpa.org/emergencies>. [↑](#endnote-ref-7)
8. United Nations Population Fund (UNFPA), *Humanitarian Action 2019 Overview*, (2019) <https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA_HumanitAction_2019_PDF_Online_Version_16_Jan_2019.pdf>. [↑](#endnote-ref-8)
9. *Ibid.* [↑](#endnote-ref-9)
10. [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf); the lack of available data on persons with disabilities is armed conflict is a reflection of the continuum of discrimination faced in usual contexts. [↑](#endnote-ref-10)
11. CEDAW Committee, *Gen. Recommendation No. 30, para 36 ;*  See also [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf)*.* [↑](#endnote-ref-11)
12. Inter-Agency Working Group on Reproductive Health in Crises, *Minimum Initial Service Package (MISP) for SRH in Crisis Situations,* *in* Inter-Agency Field Manual on Reproductive Health in Humanitarian Settings, (2020) <https://iawgfieldmanual.com/manual>. [↑](#endnote-ref-12)
13. See, for example, *Minimum Initial Service Package for Reproductive Health in Crisis Situations: a Distance Learning Module* pages 11 and 96 (2011). [↑](#endnote-ref-13)
14. Inter-Agency Working Group on Reproductive Health in Crises, *Minimum Initial Service Package (MISP) for SRH in Crisis Situations,* *in* Inter-Agency Field Manual on Reproductive Health in Humanitarian Settings, (2020) <https://www.unfpa.org/resources/minimum-initial-service-package-misp-srh-crisis-situations>. [↑](#endnote-ref-14)
15. CEDAW Committee, *Gen. Recommendation No. 30*, paras. 50, 52 (c, d), 54, 57(g), 81(g); Marta Schaaf et al., *Accountability strategies for sexual and reproductive health and reproductive rights in humanitarian settings: a scoping review,* 14 Conflict and Health, (2020) [↑](#endnote-ref-15)
16. *Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities*, Joint statement by the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of All Forms of Discrimination against Women, 29 August 2018, <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx>. [↑](#endnote-ref-16)
17. [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf) [↑](#endnote-ref-17)
18. OHCHR, *Report of the United Nations High Commissioner for Human Rights*, U.N. Doc. E/2015/59 (2015); CESCR, *Gen. Comment No. 14:* *The right to the highest attainable standard of health (Art. 12 of the International Covenant on Economic, Social and Cultural Rights*), para. 32, U.N. Doc. E/C.12/2000/4 (2000) [hereinafter CESCR, *Gen. Comment No. 14*] ; *see also* Committee on Economic, Social and Cultural Rights (CESCR), *Gen. Comment No. 22: On the right to sexual and reproductive health (Art. 12 of the* *International Covenant on Economic, Social and Cultural Rights*), U.N. Doc. E/C.12/GC/22 (2016), para. 37 [hereinafter CESCR, *Gen. Comment No. 22*]. [↑](#endnote-ref-18)
19. CESCR, *Gen. Comment No. 22*, para. 37. Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, art. 11, G.A. Res. A/RES/61/106, U.N. GAOR, 61st Sess., U.N. Doc. A/61/611 (*entered into force* May 3, 2008), Article 11 [hereinafter CRPD]. [↑](#endnote-ref-19)
20. Convention on the Rights of the Child, *adopted* Nov. 20, 1989, arts. 22, 38, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Jan. 3, 1976), arts. 22(1), 38. [hereinafter CRC], [↑](#endnote-ref-20)
21. CRPD, art. 11 [↑](#endnote-ref-21)
22. See, for example, Human Rights Comm., *Gen. Comment No. 36: On the right to life (Art. 6 of the International Covenant on Civil and Political Rights)*, para. 63, U.N. Doc. CCPR/C/GC/36 (2018) para. 65 ; CEDAW Committee, *Gen. Recommendation No. 30*, para 21; CESCR, *Gen. Comment No. 14*, para 34. [↑](#endnote-ref-22)
23. *See, e.g.,* U.N. Office of the High Commissioner for Human Rights (OHCHR), International Legal Protection of Human Rights in Armed Conflict, 22 (2011) https://www.ohchr.org/Documents/Publications/HR\_in\_armed\_conflict.pdf at 11; CEDAW Committee, *Gen. Recommendation No. 30,* paras. 19-24; ICRC, *IHL and human rights law* (2010), <https://www.icrc.org/en/document/ihl-human-rights-law>. [↑](#endnote-ref-23)
24. Human Rights Comm., *Gen. Comment No. 36*, para. 64; Human Rights Comm., *Concluding Observations: United States of America*, para. 10, U.N. Doc. CCPR/C/USA/CO/3/Rev.1 (2006); CEDAW Committee, *Gen. Recommendation No. 30,* paras. 19-24; CESCR, *Gen. Comment No. 12: The Right to Adequate Food (Art. 11 of the* *International Covenant on Economic, Social and Cultural Rights)*,para. 6, U.N. Doc. E/C.12/1999/5 (1999), para 6. [hereinafter CESCR, *Gen. Comment No. 12*]; CESCR, *Poverty and the International Covenant on Economic, Social and Cultural Rights*, para. 18, U.N. Doc. E/C.12/2001/10 (2001) [hereinafter CESCR, *Poverty and ICESCR*]. [↑](#endnote-ref-24)
25. Human Rights Comm., *Gen. Comment No. 31: The Nature of the General Legal Obligation Imposed on States parties to the Covenant*, para. 7, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 11 [hereinafter Human Rights Comm., *Gen. Comment No. 31*]; Human Rights Comm., *Gen. Comment No. 36*, para. 64. [↑](#endnote-ref-25)
26. Human Rights Committee, *Gen. Comment No. 31*, para. 11; Human Rights Committee, *Gen. Comment No. 36,* paras. 64, 65; CEDAW, General Recommendation No. 30 para. 20. [↑](#endnote-ref-26)
27. ICRC, Customary IHL Database, *Fundamental Guarantees*, *supra* note 96; ICRC, Customary IHL Database, *supra* note 95, rule 87. [↑](#endnote-ref-27)
28. For more detailed information, see: [UNFPA-WEI, Women and Young Persons with Disabilities: Guidelines for Providing Rights-Based Violence and Sexual and Reproductive Health and Rights](https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA-WEI_Guidelines_Disability_GBV_SRHR_FINAL_19-11-18_0.pdf) (2018) , p. 3; [Women Enabled International, *Rights of Women and Girls with Disabilities in Conflict and Humanitarian Emergencies*](https://womenenabled.org/pdfs/Women%20Enabled%20International%20-%20Rights%20of%20Women%20and%20Girls%20with%20Disabilities%20in%20Conflict%20and%20Humanitarian%20Emergencies%20-%20English.pdf); Committee on the Rights of Persons with Disabilities, *General Comment 3 on the rights of women and girls with disabilities*, paras 38-46 U.N. Doc CRPD/C/GC/3 (2016) [hereinafter, CRPD *Gen. Comment 3 on the rights of women and girls with disabilities*]; *Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities*, Joint statement by the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of All Forms of Discrimination against Women, 29 August 2018,*available at* <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx>. [↑](#endnote-ref-28)
29. CESCR Committee, *Gen. Comment No. 14*, at para. 12. [↑](#endnote-ref-29)
30. *Id.,* at para. 39. [↑](#endnote-ref-30)
31. *See* Committeeon the Rights of the Child, *General comment No. 15: on the right of the child to the enjoyment of the highest attainable standard of health*, art. 24,(62nd Sess., 2013), U.N. Doc. CRC/C/GC/15 (2013) [hereinafter CRC Committee*, Gen. Comment No. 15*]; CEDAW Committee, *Gen. Recommendation No. 24: Article 12 of the Convention (Women and Health),*U.N. Doc. A/54/38/Rev. 1 (1999) [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*]. [↑](#endnote-ref-31)
32. *See* CESCR Committee, *Gen. Comment No. 22*, at para. 5. [↑](#endnote-ref-32)
33. *Id*. at para. 5. [↑](#endnote-ref-33)
34. *See* CRPD Committee, *General Comment No. 3 (2016) on women and girls with disabilities*, para. 38, U.N. Doc. CRPD/C/GC/3 (2016) [hereinafter CRPD Committee, *Gen. Comment No. 3*]; CESCR Committee, Gen. Comment No. 22, at para. 24. *See also* CESCR Committee, *General Comment No. 5: Persons with Disabilities,* para. 34, U.N. Doc. E/1995/22 (1994). [↑](#endnote-ref-34)
35. [↑](#endnote-ref-35)
36. [↑](#endnote-ref-36)
37. CRPD, art. 23. [↑](#endnote-ref-37)
38. ## UN Special Rapporteur on the rights of persons with disabilities, *Report on sexual and reproductive health and rights of girls and young women with disabilities*, UN Doc. A/72/133 (2017), <https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/ReproductiveHealthRights.aspx>

    [↑](#endnote-ref-38)
39. CEDAW, General Recommendation No. 30, paras 11, 36, 57 (b). [↑](#endnote-ref-39)
40. CEDAW Committee, *Gen. Recommendation No. 30*, para. 52(c) (the CEDAW Committee’s guidance does not condition the provision of safe abortion services to circumstances in which abortion services are legal). [↑](#endnote-ref-40)
41. CEDAW Committee, *Gen. Recommendation No. 30*; CEDAW Committee, *Concluding Observations: Central African Republic*, para. 40(b), U.N. Doc. CEDAW/C/CAF/CO/1-5 (2014); s*ee also* CEDAW Committee, *Concluding Observations: Democratic Republic of the Congo*, paras. 35-36, U.N. Doc. CEDAW/C/COD/CO/5 (2006). [↑](#endnote-ref-41)
42. CEDAW Committee, *Gen. Recommendation No. 30*, para. 52(c). [↑](#endnote-ref-42)
43. *Id*., para. 2. [↑](#endnote-ref-43)
44. CEDAW Committee, *Gen. Recommendation No. 28*, para. 11. [↑](#endnote-ref-44)
45. [↑](#endnote-ref-45)
46. U.N. HRC,*Preventable maternal mortality and morbidity and human rights in humanitarian settings*(39th Sess., 2018), U.N. Doc. A/HRC/39/10 (2018); U.N. Human Rights Council (U.N. HRC), *Follow-up on the application of the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity* (39th Sess., 2018), para. 42, U.N. Doc. A/HRC/39/26 (2018) U.N. SCOR, *Resolution, 2106* U. N. Doc. S/Res/2106 (2013); U.N. SCOR, *Resolution 2122*, U.N. Doc. S/Res/2122 (2013). [↑](#endnote-ref-46)
47. While there are numerous non-state actors involved in the provision of services (including SRH services) in conflict settings, this section focuses solely on donor states and UN entities. *See generally* Andrew Clapham, *Human Rights Obligations for Non-State-Actors: Where Are We Now?,* *in* Doing Peace the Rights Way: Essays in International Law and Relations in Honour of Louise Arbour (Fannie Lafontaine and François Larocque eds. 2019); s*ee also* OHCHR, Guiding Principles on Business and Human Rights (2011) <https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf>. [↑](#endnote-ref-47)
48. CRPD, art. 32 [↑](#endnote-ref-48)
49. CESCR, *Gen. Comment No. 22,* paras. 50-53. [↑](#endnote-ref-49)
50. *Id*., para. 50. [↑](#endnote-ref-50)
51. *Id*., para. 52; see also, Anand Grover, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,* para. 70 (b), U.N. Doc. A/68/297 (2013). [↑](#endnote-ref-51)
52. *Id*., para. 41. [↑](#endnote-ref-52)
53. Human Rights Comm., *Gen. Comment No. 36,* paras. 2, 10, 64. [↑](#endnote-ref-53)
54. [↑](#endnote-ref-54)
55. CESCR, *Gen. Comment No. 22*, para. 53. [↑](#endnote-ref-55)
56. *See, e.g.,* What is International Humanitarian Law?, ICRC Advisory Serv. on Int’l Humanitarian L. (July 2004), [https://www.icrc.org/eng/assets/files/other/what\_is\_ihl.pdf](http://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf).  [↑](#endnote-ref-56)
57. ICRC, Customary IHL Database, *Rule 134,* <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter39_rule134>); International Committee of the Red Cross (ICRC), Commentary on the First Geneva Convention: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 12, paras. 1429-30 (2d ed. 2016), <https://ihl-databases.icrc.org/ihl/full/GCI-commentary>. [↑](#endnote-ref-57)
58. Oxford University Press The 1949 Geneva Conventions, A Commentary p. 7623, para. 26 (Andrew Clapham, Paola Gaeta and Marco Sassoli, eds. 2015). [↑](#endnote-ref-58)
59. ICRC, Customary IHL Database, *Rule 134,* <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter39_rule134> (last visited March 12, 2021). [↑](#endnote-ref-59)
60. *Ibid.* [↑](#endnote-ref-60)
61. International Committee of the Red Cross (ICRC), Commentary on the First Geneva Convention: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 12, paras. 1429-30 (2d ed. 2016), <https://ihl-databases.icrc.org/ihl/full/GCI-commentary>. [↑](#endnote-ref-61)
62. *Ibid.* [↑](#endnote-ref-62)
63. [↑](#endnote-ref-63)
64. [↑](#endnote-ref-64)
65. *See* Common Article 3 to the Geneva Conventions: Geneva Convention I, Art 3; Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, Art. 3, Aug. 12, 1949, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War, Art. 3, Aug. 12, 1949; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Art. 3, Aug. 12, 1949; *See also* Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Art. 27(4), Aug. 12, 1949; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict (Protocol I), Art. 75 (1) June 8, 1977, 1125 U.N.T.S. 3 art 75 (1); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Art. 4 (1), June 12, 1977, 1125 U.N.T.S. 609 . [↑](#endnote-ref-65)
66. *See, e.g.,* International Committee of the Red Cross (ICRC), *Updated Commentary on the First Convention*, paras. 573-578. [↑](#endnote-ref-66)
67. *Id*., art. 3, para. 577. [↑](#endnote-ref-67)
68. *Id*., art. 3, para. 578; s*ee also* Patricia Viseur Sellers, (*Re)Considering* *Gender Jurisprudence*, The Oxford Handbook of Gender and Conflict (2017) (emphasis added) [↑](#endnote-ref-68)
69. ICRC, Customary IHL Database, *Rule 87*, <https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule87> (last visited March 12, 2021). [↑](#endnote-ref-69)
70. CESCR Committee, *Gen. Comment No. 22,* paras. 22-24;UN Special Rapporteur on the rights of persons with disabilities, *Report on sexual and reproductive health and rights of girls and young women with disabilities*, UN Doc. A/72/133 (2017); CRPD *Gen. Comment 3 on the rights of women and girls with disabilities*, paras 38-40, 46. [↑](#endnote-ref-70)