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- **The
standard of
due diligence
as a
guarantee of
human rights
protection.**

The Due Diligence Standard as a Violence Prevention and Security Mechanism...

The standard of due diligence can be understood as the duty to prevent, investigate and punish acts of violence against women, but not only in the area of violence against women but also in the area of human rights.

In other words, we would be talking about due diligence in the investigation, prevention and punishment of human rights violations as a guarantee for obtaining justice, and thus for strengthening peace, security and the prevention of violence in armed conflicts.



Human Rights Violations + Violence against Women = Armed Conflict

Well because in armed conflicts, there are a large number of cases of extrajudicial killings, enforced disappearances, torture and other serious human rights violations.

Well because gender-based violence, sexual violence against women has been a legendary weapon, a tactic of war by parties to armed conflicts.



Human Rights Violations + Violence against Women = Armed Conflict

Beijing Platform 1995. Women and girls are particularly affected because of their status in society and their gender. Parties to conflict often rape women with impunity, sometimes using **systematic rape as a tactic of war and terrorism.**

Violations of the human rights of women in situations of armed conflict constitute violations of the **fundamental principles of international human rights and humanitarian law.**



Basis of the duty of care... acts of discrimination against women...

International Conventional Instruments:

****Convention on the Elimination of All Forms of Discrimination against Women 1979. Protocol 1999. CEDAW COMMITTEE.**

Art. 2(e). CEDAW. Take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise...

Art.2. Protocol. Communications may be **submitted by individuals or groups of individuals** within the jurisdiction of the State Party who **claim to be victims of a violation by that State Party of** any of the rights set forth in CEDAW.

General Recommendation 19 of the CEDAW Committee. Effective legal, preventive or protective measures.

Angeles González Carreño vs. Spain. WomenLinkWorldwide.

Shadow Reports.



General Recommendation No. 19 of 1992 of the Committee on the Elimination of Discrimination against Women

- States Parties shall take all necessary legal and other measures to effectively protect women against violence, including, but not limited to:
 - **(i) effective legal measures**, including criminal sanctions, civil remedies and compensation to protect them against all forms of violence, including violence and abuse in the family, sexual violence and harassment in the workplace;
 - **(ii) preventive measures**, including information and education programmes to change attitudes regarding the role and status of men and women;
 - **(iii) protective measures**, including shelter, counselling, rehabilitation and support services for women who are victims of violence or at risk of violence.



Other General Recommendations

- **General Comment No. 24 of the Committee on the Rights of the Child 2019 on children's rights in the juvenile justice system.**
- **Recommendations of the 2002 Optional Protocol on the involvement of children in armed conflict.**
- **The Committee on the Elimination of Discrimination against Women's 2017 General Recommendation 35** on gender-based violence against women states that the **obligation of due diligence underpins the** Convention as a whole and, accordingly, States Parties will be held accountable for their failure to take all appropriate measures to prevent, investigate, prosecute, punish and provide **redress for acts or omissions by State and non-State actors** that result in gender-based violence against women.



Non-conventional International instruments: Duty of care

- In the 1993 Declaration on the Elimination of Violence against Women, it establishes the duty of due diligence of States to use all appropriate means to eliminate violence against women, whether the acts are perpetrated by the State or by private persons.

The United Nations Commission on Human Rights (now Human Rights Council 2006) followed up on the 1993 UN Declaration by appointing on March 4, 1994, a UN Special Rapporteur on violence against women, including its causes and consequences. The first Rapporteur will be Radhika Coomaraswamy until July 2003 and will be followed by Yakin Erturk who will leave in July 2009, [Rashida Manjoo](#) until July 2015 and, since August 2015, [Dubravka Šimonović](#).





**Consejo Económico
y Social**

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COMISIÓN DE DERECHOS HUMANOS
58º período de sesiones
Tema 12 a) del programa provisional

**INTEGRACIÓN DE LOS DERECHOS HUMANOS DE LA MUJER
Y LA PERSPECTIVA DE GÉNERO**

VIOLENCIA CONTRA LA MUJER

**Informe de la Relatora Especial sobre la violencia contra la mujer, sus causas
y consecuencias, Sra. Radhika Coomaraswamy, presentado de conformidad
con la resolución 2001/49 de la Comisión de Derechos Humanos**

Adición

Misión a Colombia (1º a 7 de noviembre de 2001)*

* El resumen del informe de la misión se distribuye en todos los idiomas oficiales. El informe figura en el anexo al resumen y se distribuye únicamente en el idioma en el que ha sido presentado y en español.

GE.02-11320 (S) 110402 140402

UN Commission on Human Rights Resolution 2003/45

- “The duty of governments not to use violence against women, to exercise due diligence to prevent, investigate and, in accordance with national law, punish acts of violence against women and to take appropriate and effective measures in respect of acts of violence against women, whether **perpetrated by the state, by private persons or by armed groups or warring factions**, and to provide victims with access to fair and effective means of redress and specialised assistance, including medical assistance.”
- **Connecting Due Diligence with Armed Conflict.**



2006 Convention on the Rights of Persons with Disabilities.

Art. 11. Situations of risk and humanitarian emergencies

- **States Parties shall adopt**, in accordance with the responsibilities that under international law, and specifically international humanitarian law and international human rights law, **all the necessary measures to ensure safety and protection of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and natural disasters.**



International Instruments of Regional-European Level

Council of Europe Convention on preventing and combating violence against women and domestic violence (2011 Istanbul Convention).

Preamble:

Recognising the continuing violations of human rights in situations of armed conflict affecting the civilian population, and women in particular, in the form of widespread or systematic rape and sexual violence and the potential increase in gender-based violence both pre- and post-conflict...



International Instruments of Regional-European Level

Article 5 - State obligations and due diligence

1. Parties **shall refrain from committing any act of violence against women and** shall ensure that State authorities, officials, agents and institutions, as well as other actors acting on behalf of the State, conduct themselves in accordance with this obligation. **(Negative obligation)**

2. Parties shall take the necessary legislative and other measures to exercise **due diligence to prevent, investigate, punish and provide compensation for** acts of violence committed by non-State actors that fall within the scope of this Convention. **(Positive obligation)**



International Instruments of Regional-European Level

2011 Istanbul Convention.

European Treaty - International Penal Instrument - Mini-Criminal Code to combat violence against women. To cover all manifestations of gender-based violence against women.

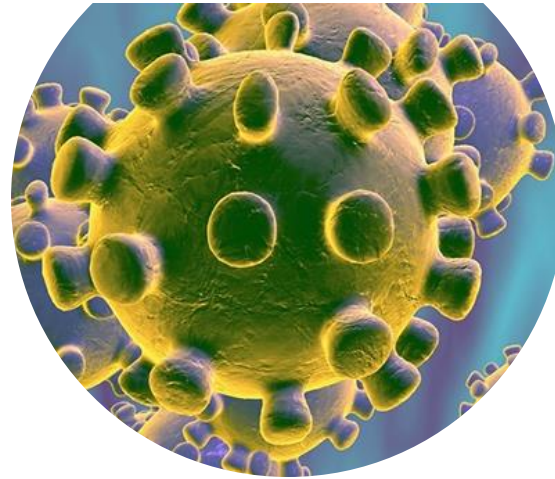
Psychological violence/harassment/physical violence/sexual violence including rape/forced marriages/female genital mutilation/female genital mutilation/forced abortion and forced sterilisation/sexual harassment.

Art.12. Art. 16. Preventive measures.

Art. 15. Training measures. Art.13. Awareness-raising measures.



Declaration of the Committee of the Parties to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) on the implementation of the Convention during the COVID-19 pandemic. April 2020.



- **Art. 12. Art. 16. Preventive measures.**
- **Art. 15. Training measures.**
- **Art.13. Sensitisation measures.**



“Women with disabilities, women in prostitution, elderly women, migrant and asylum-seeking women”. 2020 Strasbourg Declaration.

Does not include domestic and care workers.



Other Regional Mechanisms

The 1994 Inter-American Convention on the Prevention, Eradication and Punishment of Violence against Women.

Art. 7. Act with due diligence to prevent, investigate and punish violence against women.

The Judgment of the Inter-American Court of Human Rights in the case of González and others (Campo Algodonero) versus Mexico of

Nov 16, 2009. Feminicides.



Conclusions

There is a duty of care for States and the international community that are obliged under universal and regional international instruments to investigate, punish and prevent HR violations, sexual and gender-based violence in armed conflicts, disasters and humanitarian emergencies.

ODS 16. To promote peaceful and inclusive societies for sustainable development, to facilitate access to justice for all and build effective, inclusive and accountable institutions at all levels.

