



# Right to Education

## Legal factsheet | Gender-based violence against women and girls

The Committee on the Elimination of Discrimination against Women (the Committee) defines gender-based violence against women as ‘violence that is directed against a woman because she is a woman or that affects women disproportionately’ ([General Recommendation 19](#), para. 6). Such violence takes multiple forms, including: ‘acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty’ ([General Recommendation 35](#), para. 14).

The Committee considers gender-based violence against women to be a form of discrimination, under Article 1 of the [Convention on the Elimination of All Forms of Discrimination against Women](#) (1979, CEDAW) that affects the enjoyment of a number of human rights, including, but not limited to, the:

- right to life
- right not to be subject to torture or to cruel, inhuman, or degrading treatment or punishment
- right to equal protection according to humanitarian norms in time of international or internal armed conflict
- right to liberty and security of person
- right to equal protection under the law
- right to equality in the family
- right to the highest standard attainable of physical and mental health
- right to just and favourable conditions of work

The Committee’s legal interpretation of gender-based violence against women as a human rights issue and violation, found primarily in General Recommendations 19 and 35, is considered authoritative and has been adopted by various human rights committees, UN bodies, and in various treaties, including one of the most recent treaties on women’s rights, the Council of Europe’s [Convention on Preventing and Combating Violence against Women](#)

[and Domestic Violence](#) (2011, Istanbul Convention) which defines violence against women as:

*a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life (Article 3).*

[Gender-based violence against girls](#), for instance, rape, domestic violence, sexual harassment and assault, and [harmful practices](#) such as child marriage (see above) and [female genital mutilation](#) can keep girls out of school temporarily or indefinitely. [Evidence collected by the World Bank Group](#) (2015, p. 1) shows that in Nicaragua, ‘63% of the children of abused women had to repeat a school year and dropped out of school on average four years earlier than others.’ And in Zambia, ‘girls who experienced sexual violence were found to have more difficulty concentrating on their studies, some students transferred to another school to escape harassment, and others dropped out of school because of pregnancy.’

### School-related gender-based violence



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Gender-based violence against women and girls often occurs in schools, known as ‘school-related gender-based violence’, which [Unesco defines](#) as: ‘acts or threats of sexual, physical or psychological violence occurring in and around schools, perpetrated as a result of gender norms and stereotypes, and enforced by unequal power dynamics’ (2016, p. 13).

School-related gender-based violence can often lead to girls under-performing and/or dropping out of school altogether.

School-related gender-based violence commonly affects girls on the journey to and from school, where there is little or no supervision, for example, [in Japan female students have reported being sexually assaulted on public transportation](#). The World Bank Group [report](#) that parental fears for the safety of girls in traveling to school impact female enrolment rates in Africa, South Asia, and the Middle East.

School-related gender-based violence also occurs on school premises making the school environment unsafe and not conducive for learning. It can be perpetrated by both male teachers and male students. A 2010 survey in the Côte d'Ivoire found that [47% of teachers](#) reported initiating sexual relations with students. In Kenya, after a confidential helpline was set-up, [over 1000 teachers were dismissed for abusing girls](#), mostly in poor, rural areas. Examples of SRGBV also includes [bullying by fellow students](#). SRGBV is not confined to primary and secondary education. At universities and colleges around the world, female students are victims of physical and sexual violence including rape, bullying, and harassment. [End Violence Against Women](#) report that 1 in 7 female students in the UK experience serious physical or sexual assault during their time as a student.

SRGBV also includes [attacks on girls for accessing education](#), motivated by 'fears surrounding the potential role of education as a catalyst for social, cultural, economic and political transformation' (OHCHR, 2015, p. 4). Prominent examples include the [abduction of nearly 300 schoolgirls in April 2014 by Boko Haram in northeast Nigeria](#) and the [2012 shooting of education activist Malala Yousafzai by members of the Taliban in Pakistan](#) (p. 3).

For further reading, see Unesco and UN Women (2016) [Global guidance on school-related gender-based violence](#). See also Global Education Monitoring Report's blog *Teachers are central to any effective response to school-related gender-based violence* ([part 1](#) and [part 2](#)).

### **What international law says about gender-based violence against women and girls**

International human rights law prohibits gender-based violence against women and girls in all settings, including in education. This includes acts or omissions by state actors and bodies, such as public authorities and officials, as well as by non-state actors, for example, partners, family members, teachers, etc. States have specific responsibilities under human rights law dependent on the perpetrator which are well explained in paragraphs 21-6 of CEDAW [General Recommendation 35](#).

The Committee, as noted above, defines gender-based violence against women and girls as a form of discrimination, prohibited under Article 1 of CEDAW. Further, states have immediate obligations under Article 2 to eliminate such discrimination. This includes creating the legal, policy, and administrative conditions necessary to eliminate the practice, for example, by adopting legislation to protect women and girls, providing access to justice for women and girls, and ensuring that public authorities do not engage in discriminatory practices. In addition, states have obligations to take positive measures to ensure equality between the sexes, found mostly in Articles 3-5 but also under substantive provisions of CEDAW. This is important because gender-based violence against women and girls takes place in the context of economic, social, cultural, political, and power inequality between the genders. Without positive measures to bring about *de facto* equality, it is unlikely that

gender-based violence against women and girls, and indeed all the other barriers highlighted on this page, will ever be eliminated.

In addition the Committee on the Elimination of Discrimination against Women's General Recommendations 19 and 35 provide guidance to states on their obligations regarding the elimination of gender-based violence against women and girls. [General recommendation 31](#) (which is a joint recommendation with the Committee on the Rights of the Child) also has important information on harmful practices.

The [Convention on the Rights of the Child](#) (1989, CRC) has many provisions relevant to gender-based violence against girls, the most relevant being:

Article 19 (1) which requires States parties to 'take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.' Subparagraph (2) lays out the specific measures referred to in (1).

Article 24 on the right to highest attainable standard of health, includes a subparagraph (3) requiring states to 'take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.'

Article 28 (2) which requires that states 'take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.'

Article 34 on the protection of children from all forms of sexual exploitation and sexual abuse.

Article 35 on the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36 on the protection of the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

In its General Comment No. 1 on the Aims of Education, the Committee on the Rights of the Child has stated: 'a school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29(1)' (para. 8).

The [Convention on the Rights of Persons with Disabilities](#) (2007, CRPD) has a provision on freedom from exploitation, violence, and abuse which deals comprehensively with gender-based violence against women and girls with disabilities (Article 16).

### **What regional law says about gender-based violence against women and girls**

Regional human rights law is particularly strong on gender-based violence against women. There are two regional legally-binding treaties specifically addressing gender-based violence against women.

The [Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women](#) (1994, Convention of Belém do Pará) defines violence against women (Articles 1-2), the human rights protections of women in relation to violence against women (Articles 3-6), and states duties to prevent, punish, and eradicate violence against women (Articles 7-9). Article 8 (b) (c) (e) include state obligations to undertake progressively specific measures to:

*b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;*

*c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;*

*e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;*

The [Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (2011, Istanbul Convention) is comprehensive in its scope and applies at the European level. Chapter 1 includes the purpose of the convention, definitions, scope, equality and non-discrimination, and general obligations. Chapter 2 is on integrated policies and data collection. Chapter 3 is on prevention, which includes states obligations, awareness raising, and education. On education, Article 14 of the Istanbul Convention reads:

*1. Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.*

*2 Parties shall take the necessary steps to promote the principles referred to in paragraph 1 in informal educational facilities, as well as in sports, cultural and leisure facilities and the media.*

Chapter 4 is on protection and support for victims of gender-based violence against women. Chapter 5 deals with substantive law issues, for example, access to justice, compensation, rape, forced marriage, stalking, sexual harassment, female genital mutilation, honour crimes, etc. Chapter 6 is on investigation, prosecution, procedural law, and protective measures. Chapter 7 is on gender-based violence against women and girls in respects to migration and asylum. Chapter 8 is on international cooperation.

In Africa, the [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#) (2003) which is the only human rights treaty dedicated specifically to women's human rights, has a number of relevant provisions:

Article 2 includes states obligations regarding the elimination of discrimination, including taking 'legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women'.

Article 3 on the right to dignity requires that states 'adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.'

Article 4 on the rights to life, integrity, and security of the person provides:

*2. States Parties shall take appropriate and effective measures to:*

*a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;*

*b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;*

*c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;*

*d) actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;*

*e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;*

*f) establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;*

Article 5 calls for the elimination of harmful practices, including female genital mutilation.

Article 6 is on marriage, and includes the obligation to set the minimum age of marriage to 18 for both genders. See section on child marriage for further information.

Article 11 on the protection of women in armed conflicts includes a specific provision protecting asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation.

Article 12 on the right to education and training includes obligations to:

*(1) (c) protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;*

*(1) (d) provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;*

The [African Youth Charter](#) (2006) includes in its right to education provision, that education be directed to the 'development of life skills to function effectively in society and include issues such as...cultural practices that are harmful to the health of young girls and women as part of the education curricula' (Article 13 (3) (f)).

Article 20 (1) (a) requires the elimination of all traditional practices that undermine the physical integrity and dignity of women.

Article 23 (l) requires states to 'Enact and enforce legislation that protect girls and young women from all forms of violence, genital mutilation, incest, rape, sexual abuse, sexual exploitation, trafficking, prostitution and pornography'. Article 23 (m) requires the development of 'programmes of action that provide legal, physical and psychological support to girls and young women who have been subjected to violence and abuse such that they can fully re-integrate into social and economic life'.

Article 25 requires the elimination of harmful social and cultural practices.

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Right Education Initiative (2017) *Legal factsheet: Gender-based violence against women and girls*.

For further information on the right to education of women and girls, see:

[www.right-to-education.org/issue-page/marginalised-groups/girls-women](http://www.right-to-education.org/issue-page/marginalised-groups/girls-women)