

Why United Nations Gender Justice Mechanisms Fail: Structural and Supervisory Limits in International Law

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Abstract: *This article explains why United Nations gender justice mechanisms fail to secure enforceable remedies despite a dense normative architecture. It argues that the difficulty is structural. First, the consent-based foundation of treaty law and varied domestic incorporation dilute uniform legal force. Second, institutional fragmentation disperses mandates and creates overlapping supervisory registers that complicate doctrinal clarity. Third, supervisory modalities are typically dialogic and hortatory; they generate epistemic authority but rarely determine findings that translate into state responsibility or reparative measures. The article shows how these limits combine to make supervision often illuminating yet remedial of last resort. It then proposes mitigations: harmonise follow-up across treaty bodies, promote universal accession to optional protocols, formalise secretariat-level coordination, sharpen the interpretive force of general recommendations and prioritise domestic uptake through capacity building for legal actors. The conclusion insists that legal form matters as much as normative content for securing gender justice.*

Key words: *Gender justice; United Nations; supervision; state responsibility; institutional fragmentation; remedial mechanisms.*

1. Introduction

The United Nations system presents a dense legal architecture for the promotion of gender equality. The Convention on the Elimination of All Forms of Discrimination against Women establishes an elaborate catalogue of state obligations and creates a standing supervisory organ, while alongside that treaty-based machinery, charter-based bodies and special procedures, together with other treaty committees concerned with adjacent obligations, operate across the intergovernmental structure to monitor and to advise on compliance.⁶⁹ The international architecture thus exhibits high normative density and sustained institutional attention to gender equality.⁷⁰

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⁶⁹ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW); Office of the High Commissioner for Human Rights and Inter-Parliamentary Union, *The CEDAW Handbook* (rev edn, OHCHR/IPU 2019) 27–28.

⁷⁰ See Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press 2000) 213–218; Rebecca J Cook and

Despite this normative and institutional density, substantial and recurring manifestations of gender injustice persist in many jurisdictions. Gender based violence, structural barriers to political and economic participation, discriminatory personal law regimes, and intersectional forms of exclusion continue to impede the equal enjoyment of rights. International supervisory instruments repeatedly identify these deficits in concluding observations, general recommendations, and thematic reports, even where states have undertaken extensive reporting exercises.⁷¹

The puzzle that this article confronts is conceptual and institutional rather than sociological. It asks why the considerable normative commitments and monitoring apparatus of the United Nations system frequently fail to translate into durable legal effect at the level of state behaviour and redress. The enquiry is not an audit of programme performance, nor is it an empirical account of implementation gaps understood primarily as failures of political will. It is a legal interrogation of the mechanism design and supervisory form. The central claim is that the limited effectiveness of United Nations gender justice mechanisms arises in large part from structural features of international law itself: the consent-based foundation of obligation, institutional fragmentation, and supervisory modalities that rarely produce legal closure or responsibility attribution.⁷²

This claim proceeds in two analytical steps. The first identifies the architecture and the recurrent fault lines of the United Nations machinery for gender justice, distinguishing norm creation from supervision and mapping institutional competencies. The second interrogates three categories of legal limitation. The first comprises the familiar but decisive constraint of state consent and the institutional practices - reservations, selective incorporation, and domestic supremacy rules - that dilute

Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press 2010) 35–40.

⁷¹ CEDAW Committee, 'General Recommendation No 35 on Gender-Based Violence against Women, Updating General Recommendation No 19' (26 July 2017) UN Doc CEDAW/C/GC/35 paras 2–6; UN Special Rapporteur on violence against women, its causes and consequences, 'Report' (2019) UN Doc A/74/137 paras 10–18; Fareda Raday, 'Gender and Democratic Citizenship: The Impact of CEDAW' (2012) 10 *International Journal of Constitutional Law* 512; Sandra Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (OUP 2008) 73–79.

⁷² International Law Commission, 'Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries' (2001) II(2) *Yearbook of the ILC* 31; Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (reissue, CUP 2005) 459–466; Philip Alston, 'The Effectiveness of United Nations Human Rights Treaty Bodies' in Philip Alston and James Crawford (eds), *The Future of UN Human Rights Treaty Monitoring* (CUP 2000) 1–12; Doreen Lustig, 'Consent, Compliance and the Limits of International Human Rights Law' (2018) 29 *EJIL* 527, 531–536.

transnational obligation. The second concerns fragmentation and mandate diffusion within the United Nations family, which disperses responsibility and weakens routes to authoritative determination. The third concerns the supervisory forms themselves: reporting, concluding observations, country visits, and thematic recommendations are often dialogic, soft law instruments that generate moral pressure but rarely legal consequences; they therefore fall short of connecting supervisory findings to the doctrine of state responsibility or to enforceable remedies.⁷³

Methodologically, the article uses doctrinal analysis of treaty texts, supervisory jurisprudence, and the law of state responsibility, supplemented where necessary by authoritative institutional reports and leading scholarship. Here, doctrinal analysis refers to analysis of how those established legal materials define obligation, breach, attribution, and remedy. The purpose is conceptual clarification rather than programme design. The article therefore prioritises questions of legal form: what counts as an obligation, which organs possess authoritative competence to assess breach, and how supervisory findings can or cannot be translated into legal remedies. The approach is deliberately restrained. It seeks to show that some familiar critiques of United Nations gender work - insufficient resources, poor implementation at the national level, cultural resistance - are real but secondary to the more fundamental constraints embedded in legal structure and supervisory form.⁷⁴

The contribution to scholarship is twofold. First, by reorienting attention from compliance narratives to questions of legal architecture, the article clarifies why further norm proliferation will often produce diminishing returns unless linked to changes in authoritative and supervisory form. Second, by situating gender justice as a test case, it illuminates more general limits of international legality: the case of gender equality reveals

⁷³ International Law Commission, 'Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law' (Report of the Study Group) UN Doc A/CN.4/L.682 (13 April 2006); Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 arts 19–23; CEDAW Committee, 'General Recommendation No 28 on the Core Obligations of States Parties under Article 2 of the Convention' (16 December 2010) UN Doc CEDAW/C/GC/28 paras 36–39; Philip Alston and Ryan Goodman, *International Human Rights* (OUP 2013) 736–742; Koskeniemi, *From Apology to Utopia* (n 4) 459–466.

⁷⁴ Hilary Charlesworth, Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law' (1991) 85 AJIL 613; James Crawford, *State Responsibility: The General Part* (Cambridge University Press 2013) 55–63; Alston (n 4) 1–12; Hilary Charlesworth, 'Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations' (2005) 18 Harvard Human Rights Journal 1, 5–10.

how the interplay of consent, fragmentation, and weak supervisory closure constrains international law across many substantive fields.

The article has limits. It does not attempt systematic empirical measurement of impact across all states. It does not produce a single blueprint for institutional reform. Rather, it offers a doctrinal diagnosis and a set of calibrated mitigations that preserve legal feasibility and institutional realism.

The remainder of the article proceeds as follows. Part 2 maps the principal United Nations mechanisms for gender justice. Parts 3 and 4 examine foundational structural constraints. Parts 5 and 6 analyse supervisory limitations and their relation to responsibility. Part 7 interrogates the deficit of legal authority in expert bodies. Part 8 offers restrained reflections on mitigation. In concluding the article, part 9 suggests that modest recalibration of existing legal forms can improve practical effect without displacing state sovereignty.

2. The Architecture of United Nations Gender Justice Mechanisms

The United Nations approach to gender equality rests on two distinct but overlapping strands. The first is treaty-based. The Convention on the Elimination of All Forms of Discrimination against Women establishes substantive obligations and a reporting and review mechanism through the Committee on the Elimination of Discrimination against Women.⁷⁵ The Convention frames state duties in general terms and provides a point of reference for subsequent interpretive work by the Committee, which issues general recommendations and concluding observations addressing specific state practice.⁷⁶

The second strand consists of charter-based and intergovernmental mechanisms. The Human Rights Council created the Universal Periodic Review as a universal peer review process that subjects every Member State to regular scrutiny, and it maintains the special procedures that deploy

⁷⁵ CEDAW (n 1) arts 2–3, 11.

⁷⁶ Office of the High Commissioner for Human Rights, ‘Committee on the Elimination of Discrimination against Women’ <<https://www.ohchr.org/en/treaty-bodies/cedaw>> accessed 27 December 2025; CEDAW (n 1) arts 2, 17–22; CEDAW Committee, ‘Rules of Procedure of the Committee on the Elimination of Discrimination against Women’ UN Doc CEDAW/C/OP.8/Rev.1; Rebecca J Cook, ‘State Accountability under the Convention on the Elimination of All Forms of Discrimination against Women’ in Rebecca J Cook (ed), *Human Rights of Women: National and International Perspectives* (University of Pennsylvania Press 1994) 228–236.

independent experts to examine thematic or country-specific situations.⁷⁷ These charter-based instruments occupy a different legal register from treaty supervision. They are not founded on individual treaty consent. Instead, they operate through Council mandate, intergovernmental resolution, and peer pressure.⁷⁸

A further institutional layer comprises entities with a distinct but related role. The entity UN Women was established by the General Assembly to consolidate normative, operational, and system coordination functions within a single entity intended to sharpen United Nations action on gender equality.⁷⁹ The entity does not possess adjudicative competence; it provides normative guidance, technical assistance, and coordination across the system. Its creation responded to a long-standing demand for a more coherent institutional presence for gender equality, yet its functions remain primarily advisory and programmatic.⁸⁰

These components produce a dense institutional ecology. Treaty bodies interpret norms and issue recommendations; the Human Rights Council organises universal and thematic scrutiny; special rapporteurs produce thematic reports, undertake country visits, and issue communications; UN Women supports normative consensus and downstream programming.⁸¹ The resulting plurality contributes to normative elaboration and visibility. At the same time, the plurality generates overlapping mandates, divergent procedures, and distinct institutional cultures.⁸²

⁷⁷ UNGA Res 60/251 (3 April 2006) UN Doc A/RES/60/251; Office of the High Commissioner for Human Rights, 'Basic facts about the UPR' <<https://www.ohchr.org/en/hr-bodies/upr/basic-facts>> accessed 27 December 2025.

⁷⁸ Office of the High Commissioner for Human Rights, 'Special Procedures' <<https://www.ohchr.org/en/hr-bodies/hrc/special-procedures>> accessed 27 December 2025; Office of the High Commissioner for Human Rights, 'Special Rapporteur on violence against women and girls' <<https://www.ohchr.org/en/special-procedures/sr-violence-against-women>> accessed 27 December 2025; UNGA Res 60/251 (n 9) paras 5(e), 7; Human Rights Council Res 5/1 (18 June 2007) UN Doc A/HRC/RES/5/1 paras 1–4, 15–18; Alston and Goodman (n 5) 756–764.

⁷⁹ UNGA Res 64/289 (2 July 2010) UN Doc A/RES/64/289.

⁸⁰ UN Women, 'About UN Women' <<https://www.unwomen.org/en/about-us/about-un-women>> accessed 27 December 2025; UN Women, *Strategic Plan 2022–2025* (2021); UNGA Res 64/289 (n 11) paras 49–56; Charlesworth, 'Not Waving but Drowning' (n 6) 17–20.

⁸¹ See CEDAW Committee, 'Concluding Observations on the eighth and ninth periodic reports of Greece' (20 February 2024) UN Doc CEDAW/C/GRC/CO/8-9.

⁸² See Office of the High Commissioner for Human Rights, 'Concluding Observations of the Committee on the Elimination of Discrimination against Women' <<https://www.ohchr.org/en/documents/concluding-observations>> accessed 27 December 2025.

A crucial distinction emerges between norm creation and norm supervision. Treaty texts, general recommendations, and Security Council instruments can be sources for norm development. Supervision, by contrast, comprises the practices through which institutions assess compliance and urge remedial steps. The CEDAW Committee produces concluding observations addressed to states parties; special rapporteurs issue thematic reports and recommendations; the UPR generates a set of peer recommendations. None of these supervisory outputs is directly enforceable through compulsory international procedures at the United Nations level.⁸³ This feature separates persuasive legal and political pressure from legally binding adjudication.⁸⁴

The juridical position of these mechanisms within the broader international legal order is non-hierarchical. There is no single United Nations organ with general adjudicative authority to convert supervisory findings into enforceable legal remedies against states for breaches of gender equality norms. The international law literature has long recognised the fragmentation of legal regimes and the absence of a neat vertical hierarchy that might impose uniform legal consequences across institutional contexts.⁸⁵ That structural reality helps to explain why supervisory pronouncements frequently remain recommendations rather than determinations of breach carrying concrete remedial effect.⁸⁶

3. Structural Limits I: Consent, Sovereignty, and Diluted Obligation

International law rests, in its treaty dimension, upon the consent of states. Treaties create obligations for those states that have validly consented to be bound.⁸⁷ The Convention on the Elimination of All Forms of Discrimination against Women illustrates this principle. It places a range of positive and negative obligations on States Parties and requires domestic measures to give effect to equality norms.⁸⁸ Yet the consent principle carries consequences for the legal force of those obligations. Where states

⁸³ Office of the High Commissioner for Human Rights, 'The Universal Periodic Review and its procedures' <<https://www.ohchr.org/en/hr-bodies/upr/upr-home>> accessed 27 December 2025.

⁸⁴ M Spohr, 'United Nations Human Rights Council: Between Institution Building and Review of Status' (2010) 12 Max Planck Yearbook of United Nations Law 169; CEDAW Committee (n 8); Human Rights Council Res 5/1 (n 10) paras 15–38; Alston and Goodman (n 5) 736–742, 756–764.

⁸⁵ International Law Commission, 'Fragmentation of International Law' (n 5).

⁸⁶ Martti Koskenniemi, 'Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law' (2006) UN Doc A/CN.4/L.682 paras 8–15, 247–51; Crawford (n 6) 63–66.

⁸⁷ Vienna Convention on the Law of Treaties (n 5) art 34.

⁸⁸ CEDAW (n 1) arts 1–3.

enter instruments subject to reservations, declarations or qualifications, those instruments operate with a degree of contingency; the normative content becomes contingent upon the pattern of consent expressed in ratification instruments.⁸⁹

Reservations to multilateral treaties are governed by the law of treaties. The Vienna Convention on the Law of Treaties sets out the formal rules for formulation and for the effects of reservations.⁹⁰ The International Court of Justice, in its advisory opinion on reservations to the Genocide Convention, articulated a dispositive test: a state that makes a reservation which is incompatible with the object and purpose of the treaty cannot be regarded as a party to the treaty for those who object.⁹¹ The Genocide Opinion thus constrains unbridled reservation practice, yet it does not eradicate the practice. States continue to employ reservations and interpretive declarations in order to reconcile international commitments with domestic constitutional arrangements, religious law or political preferences.⁹²

The CEDAW record is instructive. Several states have ratified CEDAW subject to reservations or interpretive statements that circumscribe the application of particular provisions within domestic law.⁹³ Reservations alter the legal relations between states parties. Under the Vienna Convention framework, a reservation accepted by other parties will modify the treaty for relations between those parties; a reservation objected to may operate as notice that a particular state will not be treated as bound in respect of the reserved provision.⁹⁴ The net effect is legal pluralism within

⁸⁹ For discussion of consent and variation in treaty application see Vienna Convention on the Law of Treaties (n 5) arts 19–23, 2(1)(d), 11–16; CEDAW (n 1) arts 2–5; James Crawford, *Brownlie's Principles of Public International Law* (9th edn, OUP 2019) 371–76.

⁹⁰ Vienna Convention on the Law of Treaties (n 5) arts 19–23; United Nations, *Vienna Convention on the Law of Treaties: Analytical Guide* (UN 2010) ch 4.

⁹¹ *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (Advisory Opinion)* [1951] ICJ Rep 15, 15–16, 23–24.

⁹² See Rebecca J Cook, 'Reservations to the Convention on the Elimination of All Forms of Discrimination Against Women' (1990) 30 *Virginia Journal of International Law* 643, 643–716; *Reservations to the Genocide Convention* (n 23) 24–26; Vienna Convention on the Law of Treaties (n 5) arts 19–23; Mark Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (Martinus Nijhoff 2009) 258–266.

⁹³ Christine Chinkin and Keina Yoshida, *40 Years of the Convention on the Elimination of All Forms of Discrimination against Women* (LSE Centre for Women, Peace and Security 2020) 3–6.

⁹⁴ Vienna Convention on the Law of Treaties (n 5) art 21; *Reservations to the Genocide Convention* (n 23) 23–24.

the treaty fabric: the same treaty may mean different things in relations among different pairs of states.⁹⁵

A second structural constraint concerns domestic incorporation and constitutional supremacy. International treaty obligations do not enjoy uniform direct effect across legal systems. In monist systems, treaties may enjoy direct application; in dualist systems, international treaties require implementing legislation.⁹⁶ The consequence is that identical treaty texts translate into variable domestic legal force. The result is that the global promise of gender equality becomes susceptible to domestic doctrinal choices about the status of international law. That doctrinal variance is amplified where constitutional protections or religious personal law are invoked to limit incorporation.⁹⁷

Related to incorporation is the distinction between programme-oriented obligations and immediately enforceable rights. Some treaty provisions are framed in programmatic language, calling for progressive measures, legislative reform, and resource allocation.⁹⁸ CEDAW contains both immediate and progressive duties. Article 2 requires states to pursue, by all appropriate means, a policy of elimination of discrimination, while other provisions address specific measures such as equal pay and political participation.⁹⁹ Programmatic obligations bind in international law but frequently impose indeterminate duties regarding timing and means. The indeterminacy complicates supervisory assessment and renders less straightforward the attribution of internationally wrongful conduct where domestic implementation is gradual or contested.¹⁰⁰

The interplay of universality and voluntarism creates a structural tension. International law aspires to universal norms; treaty regimes presuppose broad participation for normative authority. Yet the route to that

⁹⁵ CEDAW Committee, 'Statement on Reservations to the Convention on the Elimination of All Forms of Discrimination against Women' in 'Report of the Committee on the Elimination of Discrimination against Women' (1998) UN Doc A/53/38/Rev.1 Part II paras 6–12; Belinda Clark, 'The Vienna Convention Reservations Regime and the Convention on Discrimination Against Women' (1991) 85 *American Journal of International Law* 281, 287–294.

⁹⁶ Anthony Aust, *Modern Treaty Law and Practice* (3rd edn, CUP 2013) 24–27.

⁹⁷ See Fredman, *Human Rights Transformed* (n 3) 112–18; André Nollkaemper, *National Courts and the International Rule of Law* (OUP 2011) 16–23; Crawford, *Brownlie's Principles* (n 21) 52–57.

⁹⁸ CEDAW (n 1) arts 2 and 4(1).

⁹⁹ CEDAW (n 1) art 2; CEDAW Committee, 'General Recommendation No 28' (n 5) para 1.

¹⁰⁰ Dinah Shelton, *Remedies in International Human Rights Law* (OUP 2005) 45–63; CEDAW (n 1) art 2; CEDAW Committee, 'General Recommendation No 28' (n 5) paras 9–18; Alston and Goodman (n 5) 161–166.

participation is voluntary. Yet human rights treaties are not merely reciprocal bargains among states. Their special character lies in the fact that they are directed primarily to the protection of persons and only secondarily to inter-state exchange. The CEDAW regime should therefore be read as carrying a public-order orientation within a consent-based system, even though consent still conditions the acceptance of optional procedures and the reach of supervision. States choose whether to ratify, whether to subject themselves to optional dispute or communications procedures, and whether to accept provisional measures of supervision. Optional protocols illustrate that choice. The CEDAW Optional Protocol, which establishes individual communications and an inquiry procedure, expands remedial avenues but only for those states that opt in by ratifying the protocol.¹⁰¹ The protocol thus represents a bifurcation: it strengthens enforcement for some states while leaving others outside the individual complaints regime.¹⁰²

The consequence of consent-based fragmentation is twofold. First, it permits legal differentiation across states and regions in the force and operation of gender norms. Second, it burdens supervisory organs with complexity. Committees and rapporteurs must interpret obligations against a background of reservations, divergent domestic incorporation rules, and selective acceptance of enforcement mechanisms. That context incentivises soft language and dialogic procedures rather than categorical findings of breach. Supervisory instruments, therefore, tend to emphasise recommendations and technical assistance over determinations that could compel reparative measures.¹⁰³

4. Structural Limits II: Institutional Fragmentation and Mandate Diffusion

Institutional fragmentation and mandate diffusion are central to any account of why United Nations gender justice mechanisms often struggle to secure legal effect. The contemporary United Nations system is not a single, unified legal organ but an ecology of treaty bodies, charter-based organs, special procedures, and operational entities. Each element performs distinct functions and operates under different founding instruments, financing arrangements, and cultures.¹⁰⁴ That plural structure has strengths. It generates specialised expertise, sustained thematic attention, and

¹⁰¹ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (adopted 6 October 1999, entered into force 22 December 2000) 2131 UNTS 83 arts 1–2.

¹⁰² *ibid* arts 1–10; Cook and Cusack (n 2) 45–49.

¹⁰³ See Chinkin (n 25) 20–24; Alston (n 4) 1–12, 21–25; Charlesworth, ‘Not Waving but Drowning’ (n 6) 15–20.

¹⁰⁴ See Gladys Acosta Davey and Keina Yoshida, *The CEDAW Committee and the UN Gender Architecture* (LSE Centre for Women, Peace and Security 2020) 3–5.

multiple forums in which abuses may be documented and criticised. It also produces systemic weaknesses that complicate legal clarity and coordinated supervision.¹⁰⁵

The first problem is multiplicity of competence. Gender equality is monitored by a constellation of actors. The CEDAW Committee interprets treaty obligations and issues concluding observations and general recommendations. The Human Rights Council oversees the Universal Periodic Review and mandates special procedures that address violence against women, trafficking, and other gender related themes. UN Women coordinates normative and operational work across the system while specialised agencies and funds address specific sectoral issues.¹⁰⁶ The result is substantive overlap: several organs may address the same problem from different legal registers, producing a proliferation of findings and recommendations that are not always consistent in legal framing or in suggested remedies.¹⁰⁷

Overlap becomes problematic when it allows states to 'forum shop' or to exploit procedural divergence. Bodies differ in their procedures, threshold for inquiry, and the specificity of their recommendations. For example, the CEDAW Optional Protocol enables individual communications and inquiries of a particular severity, where ratified, whereas the UPR applies to every state through a political peer review process. A state may welcome cooperative engagement through the UPR while resisting binding or quasi-adjudicative scrutiny under a treaty-based complaints mechanism.¹⁰⁸ The practical effect is a patchwork of accountability where the presence or absence of certain procedures materially affects remedial possibilities.¹⁰⁹

A second difficulty stems from the absence of vertical authority. The United Nations lacks a central adjudicative organ with general competence to resolve conflicts between the outputs of diverse mechanisms. There is therefore no routine internal means of reconciling divergent findings or of converting supervisory recommendations into binding remedial

¹⁰⁵ Koskeniemi, 'Fragmentation of International Law' (n 17) paras 8–15, 247–51; Jan Klabbers, *International Law* (3rd edn, CUP 2023) 42–47.

¹⁰⁶ For summaries of these components see Office of the High Commissioner for Human Rights, 'Basic facts about the UPR' (n 9); Office of the High Commissioner for Human Rights, 'Special Procedures' (n 10).

¹⁰⁷ International Law Commission, 'Fragmentation of International Law' (n 5); CEDAW (n 1) arts 17–22; Human Rights Council Res 5/1 (n 10) paras 1–38; UNGA Res 64/289 (n 11) paras 49–56.

¹⁰⁸ See the Optional Protocol to CEDAW (n 33); Davey and Yoshida (n 36) 14–16.

¹⁰⁹ Shelton (n 32) 78–82; Optional Protocol to CEDAW (n 33) arts 1–10; Anne Peters, 'The Security Council's Responsibility to Protect' (2011) 8 *International Organizations Law Review* 15, 24–28; Alston and Goodman (n 5) 750–56.

measures.¹¹⁰ The International Law Commission characterised this problem as a form of fragmentation, emphasising the legal uncertainty that follows when normative regimes overlap without clear rules for priority or integration.¹¹¹ Fragmentation thus undercuts institutional authority: when multiple bodies issue divergent guidance, states can resist enforcement by pointing to procedural plurality rather than to a single, binding legal command.¹¹²

Resource competition and institutional incentives further exacerbate diffusion. Entities operate under distinct budgets, governance arrangements, and performance metrics. UN Women was established to improve system coherence, but its mandate is primarily normative and co-ordinative rather than adjudicative, and its resources are limited relative to the scale of global need.¹¹³ The Joint Inspection Unit and other oversight bodies have repeatedly observed that system-wide coordination remains constrained by siloed funding streams and uneven capacities across specialised agencies.¹¹⁴ The absence of consolidated funding and of a clear accountability line for gender supervision produces incentives for agencies to prioritise visibility or programme delivery rather than to pursue legally framed supervisory escalation that might provoke Member State resistance.¹¹⁵

Mandate fragmentation also affects the content and tenor of supervisory practice. Treaty committees tend to use legal language and to map obligations against treaty texts. Special rapporteurs and the UPR may adopt broader, policy-oriented formulations and may frame recommendations in political or technical terms.¹¹⁶ That stylistic and substantive divergence matters. Legal clarity depends not merely on rhetorical force but on coherent doctrinal framing. When supervisory outputs mix legal obligation, policy advice, and development priorities, they create interpretive

¹¹⁰ For discussion of the lack of an internal UN adjudicative hierarchy, see Jan Klabbers, *An Introduction to International Institutional Law* (CUP 2002) 12–18.

¹¹¹ International Law Commission, ‘Fragmentation of International Law’ (n 17) paras 8–12.

¹¹² *ibid* paras 8–15, 247–51; Martti Koskeniemi, ‘The Fate of Public International Law: Between Technique and Politics’ (2007) 70 *Modern Law Review* 1, 7–10.

¹¹³ UNGA Res 64/289 (n 11); UN Women, ‘About UN Women’ (n 12).

¹¹⁴ Joint Inspection Unit, ‘Review of Management and Administration in the United Nations Entity for Gender Equality and the Empowerment of Women’ (2024) UN Doc JIU/REP/2024/1.

¹¹⁵ UNGA Res 64/289 (n 11) paras 49–56; Joint Inspection Unit, ‘Review of the United Nations System Support for the Implementation of the Sustainable Development Goal on Gender Equality’ (2018) UN Doc JIU/REP/2018/2 paras 18–27, 61–68.

¹¹⁶ Davey and Yoshida (n 36) 6–12; Office of the High Commissioner for Human Rights materials (n 9)–(n 10).

ambiguity about whether a state has breached an international legal duty or whether it faces a programmatic recommendation.¹¹⁷

Coordination efforts have been repeatedly proposed and occasionally implemented, yet they face structural obstacles. The 2010 General Assembly resolution that created UN Women reflects an institutional attempt to consolidate normative leadership on gender equality and to foster coherence in system-wide action.¹¹⁸ The resolution delegated co-ordination responsibilities but avoided any transfer of legal adjudicative authority from treaty bodies or from intergovernmental forums. The longer-running treaty body reform debate makes clear that a more radical corrective has been contemplated. The Office of the High Commissioner for Human Rights' concept paper on a unified standing treaty body proposed significantly deeper consolidation, while later commentary by O'Flaherty and O'Brien showed why such redesign could also sacrifice specialisation and institutional fit. The present argument does not press for full constitutional redesign. It suggests instead that, short of unification, tighter co-ordination and follow-up are the more realistic corrective. In short, coherence initiatives improve visibility and coordination of activities but do not resolve the core legal problem of dispersed supervisory authority.¹¹⁹

5. Supervisory Limits I: Weak Monitoring and Non-Binding Review

Supervision in the United Nations system performs an essentially evaluative function. Treaty committees, special rapporteurs, and the Universal Periodic Review gather information, engage states in dialogue, and issue recommendations intended to prompt remedial steps.¹²⁰ That evaluative function, however, should not be conflated with adjudication. The legal character of the principal supervisory outputs is principally hortatory. Concluding observations, special rapporteur reports, and UPR recommendations request action, identify gaps and set out standards, but they do not themselves operate as binding determinations that oblige a state

¹¹⁷ Philip Alston, 'The Populist Challenge to Human Rights' (2017) 9 *Journal of Human Rights Practice* 1, 9–13; Anne Peters, 'International Law as a Global Public Good' in Eyal Benvenisti and Georg Nolte (eds), *Community Interests Across International Law* (OUP 2018) 17–21.

¹¹⁸ UNGA Res 64/289 (n 11) paras 49–52.

¹¹⁹ See UN Women, *Strategic Plan 2022–2025* (n 12); UNGA Res 64/289 (n 11) paras 49–56; Charlesworth and Chinkin (n 2) 213–216.

¹²⁰ See Office of the High Commissioner for Human Rights, 'Reporting guidelines: Committee on the Elimination of Discrimination against Women' <<https://www.ohchr.org/en/treaty-bodies/cedaw/reporting-guidelines>> accessed 27 December 2025.

to a specific remedial course enforced by a central United Nations adjudicative organ.¹²¹

The CEDAW Committee illustrates this dynamic. The Committee examines periodic state reports and issues concluding observations that identify concerns and recommend measures.¹²² Concluding observations are valuable instruments of interpretation and of public censure. They elaborate on the normative content of treaty obligations and provide detailed guidance on domestic measures that might be adopted.¹²³ Nevertheless, the Committee's pronouncements are recommendations directed to states rather than judicial or quasi-judicial rulings converting supervision into enforceable relief. The Optional Protocol to CEDAW establishes an inquiry procedure and an individual communications mechanism for states that have accepted it, but those procedures are optional and therefore extend enforcement only to a subset of states parties that have separately consented to them.¹²⁴

The Universal Periodic Review is likewise instructive. The UPR subjects every state to peer review and produces a set of recommendations that the state under review may accept or note.¹²⁵ The UPR's universal reach is a notable innovation. Its political strength derives from peer pressure and reputational costs. It does not, however, create binding obligations enforceable through compulsory international procedures. The UPR is a dialogue structured by the Human Rights Council rather than an adjudicative process that establishes a determinate legal finding of breach for state responsibility.¹²⁶

A recurrent feature of supervisory practice is the careful use of language. Committees and special procedures habitually calibrate their wording to secure consensus and to preserve channels of cooperation with states. Conclusions and recommendations, therefore, commonly adopt a tone of constructive engagement. That tone yields important practical benefits: it may increase state receptivity, promote technical cooperation, and reduce the risk of immediate withdrawal from engagement. It also produces a legal consequence. When supervisory organs prioritise consensus and

¹²¹ On distinction between supervision and adjudication, see Shelton (n 32) 45–63; Alston (n 4) 1–12; Alston and Goodman (n 5) 736–742.

¹²² CEDAW (n 1) arts 18–19; Office of the High Commissioner for Human Rights (n 8).

¹²³ See, for example, CEDAW Committee, 'General Recommendation No 35' (n 3) paras 10–14.

¹²⁴ Optional Protocol to CEDAW (n 33) arts 1–3.

¹²⁵ Office of the High Commissioner for Human Rights, 'Basic facts about the UPR' (n 9).

¹²⁶ See Human Rights Council Res 5/1 (n 10) paras 1–38; UPR Info, *The Universal Periodic Review Factsheet* (2012); Edward R McMahon, *The Universal Periodic Review: A Work in Progress* (Friedrich-Ebert-Stiftung 2012) 7–12.

cooperative language, they limit their ability to characterise conduct categorically as an internationally wrongful act. The result is a procedural bias towards exhortation and away from doctrinal closure.¹²⁷

The non-binding character of supervisory outputs produces a gap between monitoring and responsibility. The International Law Commission's Articles on State Responsibility set out the doctrinal conditions under which an internationally wrongful act gives rise to legal responsibility, including the existence of an internationally wrongful omission or action and attribution to the state.¹²⁸ Supervisory conclusions, however, do not function as the authoritative source for the application of those Articles. A finding in a concluding observation that a state's laws are discriminatory is not the same as an authoritative legal determination that the state has committed an internationally wrongful act that attracts reparations or other consequences under the law of state responsibility.¹²⁹ In practice, the determination that a set of facts constitutes a breach of an international obligation commonly requires a judicial or inter-state process that is rarely available to claimants in the gender equality field.¹³⁰

That disjunction is amplified by procedural fragmentation. Different bodies adopt different evidentiary approaches and different remedial vocabularies. The CEDAW Committee may recommend legislative reform; a special rapporteur may urge programmatic measures; the UPR may recommend capacity building.¹³¹ Those recommendations are not, and were not designed to be, directly translatable into determinations of breach by a single adjudicative organ. The multiplicity of supervisory voices thus multiplies the interpretive options available to states resisting legal accountability.¹³²

Practical evidence of these supervisory limits is abundant. States frequently accept recommendations in principle but delay or inadequately implement them. Follow-up procedures exist in many treaty committees, yet they rely on continued state cooperation and on voluntary submission of information

¹²⁷ For discussion of cautious language, see Office of the High Commissioner for Human Rights and Inter-Parliamentary Union, *The CEDAW Handbook* (n 1) 55–60; Alston (n 4) 1–12; Charlesworth, 'Not Waving but Drowning' (n 6) 15–18.

¹²⁸ International Law Commission, 'Draft Articles on State Responsibility' (n 4) arts 1–2.

¹²⁹ See Shelton (n 32) 123–130.

¹³⁰ Shelton (n 41) 78–95; UNGA, 'Report of the International Law Commission on the work of its fifty-third session' (2001) UN Doc A/56/10 ch IV arts 1–3, 12–15; Crawford (n 6) 55–63, 446–452.

¹³¹ CEDAW Committee (n 13); compare UPR outcome reports and Special Rapporteur reports (n 3).

¹³² International Law Commission, 'Fragmentation of International Law' (n 17) paras 8–12.

rather than on compulsory enforcement.¹³³ The CEDAW Committee and other treaty bodies operate follow-up mechanisms to monitor implementation of concluding observations, but they cannot compel compliance.¹³⁴ Where states persistently fail to implement recommendations, supervisory organs may issue stronger language, request technical cooperation or transmit matters to other United Nations mechanisms, yet the escalation path stops short of compulsory remedy or of a routinised referral to an authority with enforcement powers.¹³⁵

The consequences for victims and claimants are significant. Monitoring that exposes violations and issues authoritative-sounding recommendations creates expectations of remedy. When those expectations are not met, confidence in international supervision is eroded and the normative voice of the United Nations risks being reduced to symbolic denunciation. From the perspective of legal theory, supervision without enforceable consequences also weakens the doctrinal linkage between norm and sanction that is vital if international obligations are to possess practical legal effect.¹³⁶

Two further features merit emphasis. First, supervisory weakness is not merely a matter of resource scarcity or institutional will. It follows from the basic constitutional design of the United Nations system and from states' insistence on preserving sovereign prerogatives in relation to binding enforcement. Second, the predominance of dialogic supervision does not imply that supervision is valueless. The production of authoritative interpretation, the publicity that accompanies concluding observations, and the moral pressure exerted by peer reviews can and do produce legal change in domestic arenas. That value, however, differs in kind from the remedial force that would follow from binding adjudicative rulings or from a routinised mechanism linking supervisory findings to state responsibility.¹³⁷

¹³³ Office of the High Commissioner for Human Rights, 'Follow-up to concluding observations' <<https://www.ohchr.org/en/treaty-bodies/cedaw/follow-concluding-observations>> accessed 27 December 2025.

¹³⁴ See CEDAW Committee follow-up procedures (n 8); Optional Protocol (n 33).

¹³⁵ CEDAW Committee, 'Rules of Procedure' (n 8) paras 63–79; Human Rights Council Res 5/1 (n 10) paras 1–38; McMahon (n 58) 18–22.

¹³⁶ For theoretical discussion of supervisory limits and the link between norm and sanction, see Philip Alston, 'Against a World Court for Human Rights' (2014) 28 *Ethics & International Affairs* 197, 201–205; Crawford (n 62) 446–452; Hilary Charlesworth, 'The United Nations, Gender Mainstreaming and International Human Rights Law' (2010) 27 *Netherlands Quarterly of Human Rights* 1, 9–12.

¹³⁷ Alston and Goodman (n 5) 742–748; Peters (n 49) 412–417; CEDAW Committee, 'General Recommendation No 33 on Women's Access to Justice' (3 August 2015) UN

6. Supervisory Limits II: Enforcement Gaps and Responsibility Avoidance

The supervisory architecture of the United Nations system lacks routine means of binding enforcement that convert supervisory findings into enforceable remedies. The law of state responsibility supplies the doctrinal template for when a state incurs international liability for wrongful acts or omissions, yet the routine practices of treaty committees, special procedures and the Universal Periodic Review seldom culminate in determinate findings that a state has committed an internationally wrongful act in the sense required by the International Law Commission.¹³⁸ The disjunction between supervisory output and the doctrine of responsibility is therefore doctrinally significant and practically consequential.¹³⁹

First, supervisory bodies do not possess institutional competence to impose legal sanctions. Treaty committees operate by issuing concluding observations, general recommendations, and views under individual communications procedures where those procedures exist. Special rapporteurs produce thematic reports and communications. The Human Rights Council's UPR generates peer recommendations. None of these outputs has the character of a binding determination that a state has committed an internationally wrongful act and that attracts the remedies specified by the law of state responsibility.¹⁴⁰ The Optional Protocol to CEDAW creates an individual complaints mechanism and an inquiry procedure, yet both instruments are optional and therefore operate only in respect of states that have separately accepted them.¹⁴¹ That optionality limits the reach of remedial mechanisms precisely where the ambitions of the treaty are greatest.¹⁴²

Second, remedial frameworks developed at the universal level remain largely hortatory. The General Assembly Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims offers authoritative guidance on restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition, yet it is not a mandatory instrument that compels states or that creates a mechanism for United Nations

Doc CEDAW/C/GC/33 paras 8–15; Office of the High Commissioner for Human Rights and Inter-Parliamentary Union, *The CEDAW Handbook* (n 59) 27–35.

¹³⁸ International Law Commission, 'Draft Articles on State Responsibility' (n 4) arts 1–2.

¹³⁹ UN Doc A/56/10 (n 62) arts 1–3, 12–15; Crawford (n 6) 55–63, 446–452.

¹⁴⁰ See Shelton (n 32) 45–63.

¹⁴¹ Optional Protocol to CEDAW (n 33) arts 1–3; Office of the High Commissioner for Human Rights, 'Optional Protocol to CEDAW' <<https://www.ohchr.org/en/treaty-bodies/cedaw/optional-protocol-cedaw>> accessed 27 December 2025.

¹⁴² Optional Protocol to CEDAW (n 33) arts 1–10; Alston and Goodman (n 5) 736–742, 756–764.

enforcement.¹⁴³ The Principles elaborate the content of remedy and reparation in cases of gross violations, but they presuppose the existence of a forum competent to determine liability and to order reparative measures. Supervisory organs rarely perform that determinative function.¹⁴⁴

Third, the translation of supervisory findings into legal consequences is further obstructed by procedural thresholds and by the selective nature of remedial avenues. Even where individual communications procedures exist, such procedures face admissibility constraints, limitations on forms of relief, and practical obstacles to implementation of decisions.¹⁴⁵ Experience under the CEDAW Optional Protocol illustrates the point: in *A.T. v. Hungary*, *Vertido v. the Philippines*, and *González Carreño v. Spain*, reported domestic responses existed, but implementation remained uneven and dependent on later domestic or periodic-review processes. Follow-up procedures rely on voluntary state cooperation and on the public pressure generated by reporting rather than on compulsory enforcement.¹⁴⁶

Fourth, institutional reluctance to escalate matters compounds these enforcement limits. Supervisory organs operate within a political environment in which Member States retain primary control of mandates, budgets, and procedural rules. Escalatory measures such as public censure, transmission of findings to other organs, or referral to intergovernmental bodies can be politically costly and may jeopardise state cooperation. As a result, bodies frequently prefer dialogic engagement, technical cooperation, and capacity building to adversarial procedures that might more clearly establish responsibility but that could also provoke institutional gridlock.¹⁴⁷ UN Women and other system-wide actors often emphasise partnership and capacity building in their normative work, reflecting institutional choices about feasible strategies of influence rather than doctrinal imperatives about remedy.¹⁴⁸

¹⁴³ UNGA Res 60/147 (16 December 2005) UN Doc A/RES/60/147.

¹⁴⁴ See Dinah Shelton, *Remedies in International Human Rights Law* (3rd edn, OUP 2015) 35–42, 286–292; UN Audiovisual Library of International Law, ‘Commentary on UN Doc A/RES/60/147’.

¹⁴⁵ See treaty body communications practice and admissibility rules summarised in Claire Callejon, Kamelia Kemileva and Felix Kirchmeier, *Treaty Bodies’ Individual Communication Procedures: Providing Redress and Reparation to Victims of Human Rights Violations* (Geneva Academy 2019) 12–28.

¹⁴⁶ Office of the High Commissioner for Human Rights (n 65); Optional Protocol to CEDAW (n 33) arts 2–4, 7; CEDAW Committee, ‘Rules of Procedure’ (n 8) paras 90–119; Alston and Goodman (n 5) 756–764.

¹⁴⁷ UN Women, *Regular Resources Report 2020: Gender Accountability Framework reports* (2021).

¹⁴⁸ Joint Inspection Unit (n 47) paras 18–27, 61–68; Charlesworth (n 68) 9–12.

Fifth, and relatedly, the fragmentation of remedial instruments produces a distributional problem. Some states accept stronger supervisory procedures and optional protocols, while others decline. The consequence is a bifurcated remedial landscape in which the availability of enforceable remedies depends in part on a state's treaty commitments. For victims, this bifurcation is arbitrary. It permits differential access to individual communications and inquiry mechanisms and leaves many victims without a clear path to an enforceable remedy within the United Nations architecture.¹⁴⁹

Sixth, even when supervisory findings are unequivocal, linking those findings to state responsibility is rarely automatic. The ILC Articles on State Responsibility require a determination that an internationally wrongful act occurred and that it is attributable to the state, and they provide for reparation and other consequences accordingly.¹⁵⁰ Supplanting the Article-based framework requires either an adjudicative decision by a competent tribunal or an inter-state claim that places the matter within a dispute settlement forum. Few gender related grievances proceed along those channels. Inter-state litigation about gender issues is rare, and domestic courts may not be willing or able to treat supervisory findings as decisive legal authority.¹⁵¹ The practical upshot is that supervisory organs frequently expose violations while the conventional legal routes to reparative consequence remain underused.¹⁵²

Seventh, the reluctance to treat many gender justice failures as matters of international responsibility reflects conceptual and political choices about the character of obligations. Some claims about gender injustice implicate systemic discrimination or structural violence that resist neat categorisation as a single internationally wrongful act. Supervisory organs, therefore, frame problems as ongoing policy deficits or as matters for progressive realisation, rather than as discrete internationally wrongful acts that generate immediate reparative obligations. That framing has normative virtues. It recognises the need for sustained structural reform. It has liabilities as well. It curtails the mobilisation of remedial law and reduces

¹⁴⁹ Cook and Cusack (n 2) 45–49; Sandra Fredman, *Comparative Human Rights Law* (OUP 2018) 401–405.

¹⁵⁰ International Law Commission, 'Draft Articles on State Responsibility' (n 4) arts 1–3.

¹⁵¹ Shelton (n 41) 78–95.

¹⁵² UN Doc A/56/10 (n 62) arts 1–3, 12–15, 31–36; Crawford (n 71) 446–452; Shelton (n 76) 286–292.

the prospects for reparations, sanctions, or guarantees of non-repetition that follow from determinate responsibility.¹⁵³

Lastly, these enforcement gaps have distributive and legitimacy consequences. When international supervision routinely issues authoritative-sounding criticisms without routinised pathways to remedial consequences, victims and domestic reformers may experience the international system as symbolic rather than as substantively corrective. That perception weakens the normative authority of United Nations pronouncements and may reduce domestic incentives to implement reform. At the same time, it is important to acknowledge that any move towards stronger supranational enforcement at the global level raises its own political and doctrinal challenges. States jealously guard sovereignty over domestic social policies. Any proposal to expand supranational enforcement must therefore confront problems of legitimacy, feasibility, and political viability.¹⁵⁴

7. The Problem of Authority: Expertise without Legal Force

United Nations gender equality mechanisms commonly exercise what may be described as epistemic authority. They produce expert knowledge about patterns of discrimination, they elaborate interpretive principles, and they offer material, technical, and normative guidance to states and other actors.¹⁵⁵ That epistemic role is indispensable. Expert findings shape domestic litigation, inform legislative reform, and focus international attention on particular harms. The epistemic function, however, is not coterminous with legal authority. Epistemic claims explain what the facts are and what policy measures are desirable. Legal authority decides whether a state has incurred an internationally wrongful act and what legal consequences follow.¹⁵⁶

Epistemic authority rests on specialised competence and reputational credibility. Special rapporteurs, treaty committees, and UN expert panels derive authority from sustained research, field missions, and methodical

¹⁵³ CEDAW Committee, ‘General Recommendation No 28’ (n 31) paras 9–18; Fredman, *Human Rights Transformed* (n 3) 67–73; Upendra Baxi, *The Future of Human Rights* (3rd edn, OUP 2008) 119–124.

¹⁵⁴ Alston (n 68); Peters (n 49); UN system evaluations (n 46).

¹⁵⁵ Max Lesch, ‘Contested Facts: The Politics and Practice of International Fact-Finding Missions’ (2023) 25 *International Studies Review* 4.

¹⁵⁶ Michael Barnett and Martha Finnemore, ‘Standard-Setting in UN System Organizations’ in *The Cambridge Companion to International Organizations Law* (CUP 2022) ch 7.

reporting.¹⁵⁷ That expertise enables persuasive moral and political claims. It does not, however, convert recommendations into binding legal obligations. The normative products of these organs, including concluding observations, thematic reports and UPR recommendations, concluding observations, thematic reports and UPR recommendations, are designed to persuade rather than to adjudicate.¹⁵⁸ This institutional design reflects conscious state choice. States have preserved the distinction between expert evaluation and judicial determination to retain primary control over the existence and enforcement of legal obligations.¹⁵⁹

The distinction has doctrinal consequences. The International Law Commission's Articles on State Responsibility set out the conditions under which an internationally wrongful act generates legal responsibility and reparative duties.¹⁶⁰ Those Articles presuppose a determinative finding that an obligation has been breached and that the conduct is attributable to the state. Supervisory pronouncements rarely perform that determinative function. A concluding observation that identifies discriminatory law or practice is not itself a finding that the state has committed an internationally wrongful act within the meaning of the ILC Articles.¹⁶¹ In consequence, the epistemic findings of UN bodies remain frequently divorced from the formal machinery that produces legal consequences.¹⁶²

Practical examples illustrate the boundary. The CEDAW Committee's concluding observations routinely characterise patterns of violence, discrimination, and impunity.¹⁶³ Those observations carry substantial interpretive weight and sometimes catalyse domestic reform.¹⁶⁴ Yet where states do not accept the CEDAW Optional Protocol, the Committee's capacity to secure legally binding remedies for individuals or to hold states to reparative measures is severely limited.¹⁶⁵ The formal gap between

¹⁵⁷ See Office of the High Commissioner for Human Rights, 'Special Procedures' (n 10); 'Special Rapporteur reports to the Human Rights Council' (*UN Digital Library*, 2024–2025).

¹⁵⁸ See Office of the High Commissioner for Human Rights and Inter-Parliamentary Union, *The CEDAW Handbook* (n 59).

¹⁵⁹ Multilateral Organisation Performance Assessment Network (MOPAN), *Assessment of UN Women* (2021); Alston (n 49); Charlesworth (n 68) 6–9.

¹⁶⁰ International Law Commission, 'Draft Articles on State Responsibility' (n 60) arts 1–3.

¹⁶¹ See International Law Commission commentaries (n 60), (n 71).

¹⁶² UN Doc A/56/10 (n 62) arts 1–3, 12–15; Crawford (n 71) 55–63, 446–452.

¹⁶³ See CEDAW Committee, 'Concluding Observations on the ninth periodic report of Sri Lanka' (28 February 2025) UN Doc CEDAW/C/LKA/CO/9.

¹⁶⁴ See UN Women regional analyses and treaty body archives on domestic uptake of concluding observations.

¹⁶⁵ Optional Protocol to CEDAW (n 33) arts 1–3; Office of the High Commissioner for Human Rights, 'Optional Protocol' (n 73).

interpretive pronouncement and enforceable remedy explains why authoritative sounding recommendations can coexist with persistent on-the-ground violations.¹⁶⁶

Authority deficits are compounded by institutional incentives and political constraints. Agencies such as UN Women were established to coordinate, to develop standards, and to support implementation across the UN system, not to adjudicate disputes or to enforce compliance.¹⁶⁷ System-wide reviews repeatedly show that coordination mandates improve coherence but do not endow coordinating entities with adjudicative power.¹⁶⁸ Treaty committees and special procedures therefore operate in an environment that privileges persuasion, partnership, and technical cooperation as instruments of influence rather than compulsion.¹⁶⁹ That environment encourages careful, often conciliatory language in supervisory outputs, because strong adversarial pronouncements risk producing non-cooperation, mandate restriction, or the withdrawal of state consent.¹⁷⁰

Scholars have therefore emphasised the dual nature of authority: epistemic power may produce moral suasion, yet legal force requires institutional entitlements and procedures that command obedience.¹⁷¹ International organisations exercise authority in multiple modalities; their ability to set standards depends on recognised expertise, while their capacity to impose legal effects depends on the delegation of adjudicative competence, dispute settlement mechanisms, or binding treaty clauses accepted by states.¹⁷² In the gender context, the balance tilts heavily towards expertise and away from binding adjudicative authority. That tilt is not merely a technical defect. It reflects a political settlement in which states accept normative critique while limiting the legal consequences that follow from that critique.¹⁷³

¹⁶⁶ Optional Protocol to CEDAW (n 33) arts 1–7; CEDAW Committee, ‘Rules of Procedure’ (n 8) paras 90–119; Rebecca J Cook, ‘State Accountability under the Convention on the Elimination of All Forms of Discrimination against Women’ (n 8) 42–47.

¹⁶⁷ See UNGA Res 64/289 (n 11); UN Women, *Strategic Plan 2022–2025* (n 12).

¹⁶⁸ Joint Inspection Unit (n 46); MOPAN (n 91).

¹⁶⁹ On institutional preference for persuasion and cooperation, see UN Women (n 79); see also Office of the High Commissioner for Human Rights (n 65).

¹⁷⁰ For analysis of cautious language, see Office of the High Commissioner for Human Rights and Inter-Parliamentary Union, *The CEDAW Handbook* (n 59); UNGA Res 64/289 (n 11) paras 49–56; Joint Inspection Unit (n 47) paras 18–27, 61–68.

¹⁷¹ See PM Haas, ‘Preserving the Epistemic Authority of Science in World Politics’ (2018).

¹⁷² Barnett and Finnemore (n 88).

¹⁷³ Jan Klabbers, *An Introduction to International Organizations Law* (3rd edn, Cambridge University Press 2015) 207–213; Alston (n 49) 10–14; MOPAN (n 91).

The normative implications are sobering. Expertise without legal force can produce virtuous cycles of knowledge and reform, but it can also produce a legitimating veneer if recommendations fail to lead to a remedy.¹⁷⁴ Strengthening epistemic authority, through better fact finding, more rigorous methodologies and improved coordination, better fact-finding, more rigorous methodologies, and improved coordination, remains important. So too is the difficult work of sharpening the legal channels by which supervisory findings can feed into determinations of breach and remedial consequence. The following Part considers mitigation measures that respect state consent and institutional feasibility while attempting to narrow the gap between epistemic judgement and legal accountability.¹⁷⁵

8. Rethinking Mitigation: Legal Structure Rather than Reform Rhetoric

Any credible attempt to mitigate the limits identified in this study must begin with modesty about what the United Nations system can feasibly do without breaching the principle of state consent. The solution is not more rhetoric or a proliferation of new soft norms. The point is not to construct a supranational power of coercion. It is to tighten the legal pathways by which existing supervisory findings can travel towards responsibility and remedy. It is a programme of legal recalibration that narrows the gap between supervisory judgement and remedial consequence by strengthening procedural linkages, clarifying interpretive authority, and improving system co-ordination within the constitutional constraints of international law.¹⁷⁶

First, strengthen and standardise follow-up procedures. Several treaty bodies already use follow-up mechanisms that identify priority recommendations and require a focused state response within a specified timeframe.¹⁷⁷ Systematic expansion and harmonisation of those procedures across treaty bodies would reduce one major source of slippage between concluding observations and domestic implementation. Standardised templates for follow-up reporting, clearer timelines, and public tracking of progress would make supervisory outputs less ephemeral and would increase political and reputational costs of persistent non-implementation.¹⁷⁸ The uneven follow-up visible in A.T., Vertido, and González Carreño reinforces the need for precisely this step.

¹⁷⁴ Lesch (n 87); Barnett and Finnemore (n 88).

¹⁷⁵ Crawford (n 6) 446–452; Shelton (n 76) 286–292; Alston and Goodman (n 5) 756–764.

¹⁷⁶ Crawford, *Brownlie's Principles* (n 21) 371–376; Alston and Goodman (n 5) 756–764; Martti Koskeniemi, 'The Politics of International Law' (1990) 1 EJIL 15–18.

¹⁷⁷ See Office of the High Commissioner for Human Rights (n 65).

¹⁷⁸ Office of the High Commissioner for Human Rights, 'Strengthening the United Nations Human Rights Treaty Body System' (2012) UN Doc A/66/860 paras 48–52; CEDAW

Second, enlarge the remedial reach of existing instruments by promoting universal accession to optional procedures. The CEDAW Optional Protocol, for example, creates individual communications and inquiry procedures that materially strengthen remedial possibilities where states accept them.¹⁷⁹ Encouraging wider ratification of optional protocols, and offering targeted technical support to states to remove constitutional or legislative barriers to ratification, is a feasible, incremental reform that preserves state consent while expanding legal remedies for victims.¹⁸⁰

Third, formalise inter-mechanism coordination. The entity UN Women was established precisely to improve system coherence, yet reviews of management and coordination reveal persistent fragmentation.¹⁸¹ A practicable reform is to create a standing, secretariat-level co-ordination mechanism with a mandate to harmonise recommendations where mandates overlap, to issue consolidated follow-up requirements and to broker technical assistance linked to compliance priorities. Joint workplans, shared databases of follow-up outcomes and pooled funding for priority implementation would reduce duplication and align political incentives across organs.¹⁸² The Joint Inspection Unit and the Multilateral Organisation Performance Assessment Network (MOPAN), an intergovernmental mechanism that produces independent assessments of multilateral organisations, supply empirically grounded recommendations on how such co-ordination might be structured and resourced without usurping treaty bodies' interpretive role.¹⁸³

Fourth, sharpen the interpretive authority of general recommendations and analogous instruments. General recommendations serve as the principal means by which treaty bodies elaborate on the content of treaty obligations.¹⁸⁴ Their persuasive force can be increased by adopting clear methodological statements that explain their legal status, by evidencing

Committee, 'Rules of Procedure' (n 8) paras 63–79; Alston (n 4) 1–12, 21–25; ISHR, 'Treaty Bodies: Follow-up and Grading System' (practice note).

¹⁷⁹ Optional Protocol to CEDAW (n 33) arts 1–3.

¹⁸⁰ *ibid*; Rebecca J Cook, 'Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women' (2000) 94 AJIL 566, 569–573; Fredman, *Comparative Human Rights Law* (n 81) 401–405.

¹⁸¹ UNGA Res 64/289 (n 11).

¹⁸² See UN Women, *Strategic Plan 2022–2025* (n 12); UN, 'Executive Board materials on system co-ordination' <<https://research.un.org/en/docs/unsystem/coord>> (*United Nations*) accessed 27 April 2026.

¹⁸³ Joint Inspection Unit (n 46); MOPAN (n 91).

¹⁸⁴ Andrew Byrnes, 'The Convention on the Elimination of All Forms of Discrimination against Women' (UNSW Law Research Paper No 2012-14, UNSW 2012) 1–15; Machiko Kanetake, 'UN Treaty Bodies before Domestic Courts: The Jurisdictional Logic of "The Domestic"' in Machiko Kanetake and André Nollkaemper (eds), *The Engagement of Domestic Courts with International Law* (OUP 2018) 235–256.

domestic judicial uptake, and by issuing consolidated explanatory notes that map how a given general recommendation bears on treaty provisions. Doing so would help domestic courts and administrative bodies to treat such instruments as authoritative interpretive guides and would therefore shorten the route from international supervision to domestic remedy.¹⁸⁵

Fifth, improve routinised cross-referral to remedial frameworks. Where supervisory organs identify breaches that implicate reparative duties, they should systematically reference the Basic Principles on Remedy and Reparation and, where appropriate, request targeted follow-up that addresses reparations and guarantees of non-repetition.¹⁸⁶ Such referrals would not create novel binding powers, but they would integrate remedial vocabulary into supervisory practice and thus make reparative responses more visible and traceable across the system.¹⁸⁷

Sixth, cultivate domestic uptake strategically. International supervision often achieves effect only when domestic actors translate recommendations into litigation, legislation, or administrative reform. The United Nations and its partners should therefore prioritise capacity building for legal actors, including judges, ombudsmen, and public prosecutors, so that supervisory outputs can be operationalised in national legal systems. Empirical programmes that document successful domestic uses of concluding observations and general recommendations would create exemplars for replication.¹⁸⁸

All of these measures are incremental and politically realistic. They do not require a revolutionary transfer of adjudicative competence from states to international organs. They do, however, recalibrate legal form so that supervisory work is more tightly connected to remedial content. The common aim is to make supervision less a showpiece of international expertise and more a conduit to concrete legal effect. That aim respects state consent while asserting the legal duties that states have already

¹⁸⁵ CEDAW Committee, 'General Recommendation No 28' (n 31) paras 2–8; CEDAW Committee, 'General Recommendation No 33' (n 69) paras 8–15; Fredman (n 29) 73–79; Shelton (n 72) 286–292.

¹⁸⁶ UNGA Res 60/147 (n 75).

¹⁸⁷ Shelton (n 72) ch 2; UNGA Res 60/147 (n 75) paras 15–23, 34–38; Crawford (n 71) 446–452.

¹⁸⁸ CEDAW Committee, 'General Recommendation No 33' (n 69) paras 20–29; Fredman, *Comparative Human Rights Law* (n 81) 401–405; Office of the High Commissioner for Human Rights, *Human Rights and the Rule of Law: Tools for Legal Actors* (OHCHR 2016) 7–15.

accepted. The final Part assesses limits to feasibility and offers a brief normative defence of modest institutional reform of precisely this kind.¹⁸⁹

9. Conclusion

This article began from a simple paradox. The United Nations system sustains a dense normative architecture for gender equality, while many forms of gender injustice persist with alarming continuity. The core argument is that this disjunction is not merely an empirical failure of implementation or of political will. It is a structural outcome of the legal and institutional design of the United Nations order. The principal constraints are threefold. First, the consent-based character of treaty obligation and the variegated domestic incorporation of international norms dilute uniform legal force. Second, institutional fragmentation and mandate diffusion produce overlapping but non-integrated supervisory registers that complicate doctrinal clarity and permit procedural avoidance. Third, supervisory modalities themselves are largely dialogic and hortatory; they generate epistemic authority but rarely produce determinate findings of breach that are linked to reparative consequences under the law of state responsibility. These three limits combine to make United Nations supervision frequently illuminating but often remedial of last resort only.¹⁹⁰

The doctrinal significance of this diagnosis is twofold. On a descriptive level, it explains why norm proliferation has diminishing marginal returns when it is not accompanied by commensurate changes in authoritative and remedial form. A treaty provision that is widely accepted in principle will not, by itself, create a uniform domestic effect where reservations, optional protocols, and divergent incorporation practices persist.¹⁹¹ On an institutional level, the fragmentation identified by the International Law Commission complicates the possibility of a single, authoritative channel for converting supervisory judgment into legal consequence. The result is a system in which supervisory outputs remain multiple, sometimes inconsistent, and rarely transformed into determinate remedies through routinised institutional pathways.¹⁹²

¹⁸⁹ Alston and Goodman (n 5) 756–764; Koskeniemi (n 108) 15–18; Anne Peters, ‘The Merits of Global Constitutionalism’ (2009) 16 *Indiana Journal of Global Legal Studies* 397.

¹⁹⁰ See Office of the High Commissioner for Human Rights (n 8); Alston and Goodman (n 5) 756–764; Crawford, *Brownlie’s Principles* (n 21) 371–379; Koskeniemi (n 121) 4, 15–18.

¹⁹¹ Vienna Convention on the Law of Treaties (n 5); Optional Protocol to CEDAW (n 33).

¹⁹² International Law Commission, ‘Fragmentation of International Law’ (n 17) paras 8–15, 247–251; Vienna Convention on the Law of Treaties (n 5) arts 19–23; Cook (n 24) 662–668.

The practical implication is equally sober. If the objective is not merely to speak with legal force but to secure enforceable remedies for victims, reform must focus on legal form. Incremental measures can narrow the gap between supervision and remedy while respecting state consent. These measures include standardising and strengthening follow-up procedures across treaty bodies, encouraging universal accession to optional remedial protocols, improving inter-mechanism co-ordination under a secretariat-level architecture, and sharpening the interpretive weight of general recommendations so that domestic courts and administrative bodies can more readily give effect to supervisory interpretation.¹⁹³ Such measures recalibrate existing legal instruments rather than seek a politically unrealistic transfer of adjudicative competence to a supranational organ. They are feasible, and they preserve essential elements of state sovereignty while enhancing prospects for legal effect.¹⁹⁴

At the same time, the limits must be acknowledged. Strengthening procedural linkages will not eliminate all implementation gaps. Some forms of structural discrimination require sustained domestic political change and resource allocation. International supervision can catalyse and sustain such change, but it cannot substitute for domestic political mobilisation and judicial willingness to apply international norms.¹⁹⁵ Therefore, there is a complementary obligation for domestic legal actors and civil society to translate international supervision into domestic enforcement.¹⁹⁶

¹⁹³ UNGA Res 60/147 (n 75); UN Women, *Strategic Plan 2022–2025* (n 12).

¹⁹⁴ CEDAW Committee, ‘General Recommendation No 28’ (n 31); Optional Protocol to CEDAW (n 33) arts 1–10; CEDAW Committee, ‘General Recommendation No 33’ (n 69) paras 15–18; Joint Inspection Unit (n 47) paras 61–68; Shelton (n 72) 286–292.

¹⁹⁵ *ibid.*, see (n 78) and (n 109).

¹⁹⁶ CEDAW Committee, ‘General Recommendation No 33’ (n 69) paras 18–23; Shelton (n 72) 316–323; Karen Knop, ‘Here and There: International Law in Domestic Courts’ (2000) 32 *NYU Journal of International Law and Politics* 501, 520–527.