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Intersectional Discrimination and Institutional Violence in Cases of Sexual Violence Against Indigenous Women: A Comparative Human Rights Analysis of IACHR Case 11.565 and Camila v. Peru (CRC)

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Abstract

This article examines how sexual violence against Indigenous women and girls is compounded by intersectional discrimination and secondary victimisation within state institutions. It conducts a structured, focused cross-regime comparative jurisprudential analysis of Inter-American Commission on Human Rights (IACHR) Case 11.565 (González Pérez et al. v. Mexico) and the UN Committee on the Rights of the Child (CRC) Views in Camila v. Peru. The cases are purposively paired because they share a common legal phenomenon—sexual violence against Indigenous survivors followed by rights-relevant institutional responses—while differing in age, immediate perpetrator, institutional pathway and international regime. The study combines doctrinal analysis with a normatively traceable benchmark framework derived from the American Convention on Human Rights, the Convention of Belém do Pará, CEDAW, the Convention on the Rights of the Child, ILO Convention No. 169, UNDRIP and international investigation standards. Six domains are assessed categorically: language and cultural accessibility; secondary victimisation and survivor-centred treatment; investigation and evidentiary practice; health and informed consent; protection from reprisals and displacement-related harms; and reparations and guarantees of non-repetition. The comparison identifies recurring failures in linguistic access, institutional treatment, protection and implementation of structural remedies. It argues that intersectionality is constitutive of the legal harm, not merely contextual, and that it modifies the content of due diligence by requiring enhanced, intercultural and child-sensitive institutional safeguards. The framework does not quantify harm or rank violations; it makes the legal and institutional basis of the comparison transparent and offers actionable benchmarks for institutional design, litigation and monitoring.



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1. Introduction

Sexual violence against Indigenous women and girls is not only an extreme form of gender-based violence, but it is also a recurring site where multiple systems of domination—patriarchy, racism, colonial legacies, poverty, and territorial marginalisation—converge and

become institutionalised (Cruz Ángeles 2022). Survivors often face a dual harm: the initial violence and the subsequent treatment they receive from state institutions. This second layer of harm is frequently expressed through disbelief, stigmatisation, linguistic exclusion, culturally unsafe procedures, coercive medical or police practices, and the fragmentation of responsibilities across agencies (Cruz Ángeles 2022, p. 27; Ronconi 2025, p. 7). In such contexts, the state's response can function as a continuation of violence rather than as protection—turning legal and administrative processes into mechanisms of secondary victimisation (Ronconi 2025, pp. 6–7).

International human-rights law has progressively recognised that states have heightened duties to prevent, investigate, punish and redress sexual violence with due diligence and without discrimination. Yet formal recognition does not by itself resolve how legal systems should respond when gender, Indigenous identity, age, poverty, rurality and language interact. The core gap is therefore both doctrinal and operational: intersectionality must be translated from a critical account of overlapping structures of subordination into concrete standards governing investigation, participation, health care, protection and remedies (Crenshaw 1989, 1991; Barrère Unzueta and Morondo Taramundi 2011; CEDAW Committee 2010, para. 18; CEDAW Committee 2022).

Because sexual violence frequently targets Indigenous girls at the intersection of gender, ethnicity, poverty, age and territorial marginalisation, children's rights jurisprudence is indispensable to the normative architecture of due diligence, access to justice and reparation (CRC 2023, para. 8.18; Ronconi 2025, p. 7). This article addresses that problem through a structured, focused comparison of two emblematic decisions issued in distinct but complementary regimes: IACHR Case 11.565 (González Pérez et al. v. Mexico) and the CRC Views in Camila v. Peru (CRC 2023; IACHR 2001). The comparison is not a Mexico-versus-Peru assessment. Rather, it examines whether recurrent mechanisms of institutional exclusion can be identified across different victim profiles, institutional pathways, historical periods and international legal regimes.

The central claim is that intersectional discrimination is not merely background context. It is constitutive of the legal harm because it shapes exposure to violence, the credibility afforded to survivors, access to information and services, the risk of secondary victimisation and the practical effectiveness of remedies. When a survivor is Indigenous—and may also be poor, rural, linguistically marginalised and a child or adolescent—the content of due diligence changes: the state must remove barriers that its own institutions can predictably reproduce and must provide enhanced, intercultural and, where relevant, child-sensitive safeguards (CEDAW Committee 2010, para. 18; 2022; CRC 2023, para. 8.18).

Methodologically, the article uses a structured, focused cross-regime comparative jurisprudential design. The same analytically relevant questions are asked of each decision so that within-case doctrinal analysis can support transparent cross-case comparison (George and Bennett 2005). The two cases are purposively selected around a shared rights problem—sexual violence against Indigenous survivors followed by state institutional responses—but deliberately vary by age, immediate perpetrator, institutional pathway and international regime. This controlled contrast follows the logic of theory-informed case selection in comparative legal research and avoids treating the cases as representative national samples (Hirschl 2005).

The analysis pursues three aims. First, it clarifies how intersectional discrimination is constructed in legal doctrine and how that construction modifies the content of due diligence and access to justice. Second, it identifies recurrent mechanisms of secondary victimisation and institutional violence across security, health, prosecution, adjudication and protection pathways. Third, it translates exact international obligations into normatively traceable benchmarks and applies a categorical assessment framework that distinguishes non-compliance, partial or

mixed compliance, clear compliance and insufficient record evidence. The framework does not quantify harm, rank violations or produce aggregate scores.

The article contributes to scholarship and practice in four ways. It offers: (i) a doctrinal account of the movement from intersectionality as critical theory to intersectional discrimination as a legal standard; (ii) a structured comparison across the Inter-American and UN children's rights systems that explains, rather than assumes, the basis for pairing the cases; (iii) a transparent derivation of six operational benchmark domains from exact treaty provisions, authoritative interpretive guidance and recurrent institutional failure mechanisms; and (iv) a practical framework for institutional design, litigation and monitoring in settings where language access, cultural safety, age, territorial inequality and punitive institutional practices are decisive.

The article proceeds as follows. Section 2 explains the comparative design, case-selection logic and four-stage derivation of the benchmark framework. Section 3 develops the analytical and normative framework, moving from intersectionality and substantive equality to enhanced due diligence, access to justice, secondary victimisation, intercultural safeguards and structural remedies. Sections 4 and 5 conduct the within-case analyses using the same categorical questions. Section 6 compares shared and divergent institutional pathways. Section 7 distils the implications, limitations and future research agenda.

2. Methods

2.1. Design and Analytical Strategy

This study uses a structured, focused cross-regime comparative jurisprudential design. Following the logic of structured, focused comparison, the same analytically relevant questions are asked of each case so that within-case doctrinal analysis can support transparent cross-case comparison (George and Bennett 2005). The design also responds to the case-selection problem identified in comparative legal scholarship: the two decisions are not treated as representative of Mexico and Peru, nor as a causal country comparison, but as purposively selected legal cases that permit controlled contrast around a shared rights problem (Hirschl 2005). The unit of analysis is the institutional pathway through which a survivor encounters state authority during or after sexual violence—security, health, prosecution, adjudication and protection—and the central question is whether that pathway enables rights protection or produces secondary victimisation through exclusion, coercion, stereotyping, fragmentation or impunity.

2.2. Case Selection and Comparative Logic

The cases were purposively paired because they share six analytically relevant features: (i) sexual violence against an Indigenous survivor; (ii) a rights-relevant state response after or during the violence; (iii) barriers affecting due diligence, non-discrimination and access to justice; (iv) interaction with multiple institutions; (v) review by an international human-rights body; and (vi) remedial implications extending beyond the initial perpetrator. They also provide deliberate contrasts: adult Indigenous women versus an Indigenous adolescent girl; direct violence by state agents versus initial familial violence followed by institutional harms; a security–justice pathway versus a health–justice pathway; and the Inter-American Commission versus the UN Committee on the Rights of the Child. The 22-year temporal distance is therefore not treated as direct temporal equivalence or a country comparison. It is used to test whether comparable mechanisms of institutional exclusion recur across different regimes and pathways while also observing the evolution of legal standards.

2.3. Benchmark Derivation and Categorical Assessment

The benchmark framework was constructed through a four-stage deductive–inductive procedure designed to make provenance and assessment transparent. First, normative mapping identified exact obligations in the American Convention on Human Rights, the Convention of Belém do Pará, CEDAW, the Convention on the Rights of the Child, ILO Convention No. 169, UNDRIP and the Istanbul Protocol, together with authoritative general recommendations and comments. Table 1 records the legal source, exact provision and derived institutional obligation for each domain.

Table 1. Normative traceability of the six operational benchmark domains.

Domain	Normative Sources and Exact Provisions	Derived Obligation and Observable Benchmark
Language and cultural accessibility	ILO Convention No. 169, art. 12; UNDRIP, art. 13(2)	Ensure that Indigenous survivors can understand and be understood. Provide interpretation/translation from first contact, explain rights accessibly, confirm comprehension and use culturally safe communication.
Secondary victimisation and survivor-centred treatment	Belém do Pará, art. 7(b), (d), (f); CEDAW, arts. 2(c)–(f), 5(a); CEDAW GR Nos. 33 and 35; CRC, arts. 12, 16, 19, 39	Protect dignity, privacy and participation; avoid stereotypes, coercion and retraumatisation. Use trauma- and child-sensitive pathways, limit repetition, protect confidentiality and provide support.
Investigation and evidentiary practice	American Convention, arts. 1(1), 5, 8, 25; Belém do Pará, art. 7(b), (f), (g); Istanbul Protocol	Conduct prompt, impartial and effective investigations capable of accountability. Preserve evidence, use appropriate forensic steps and ensure independence where state agents or institutional interests are implicated.
Health-system obligations and informed consent	CEDAW, art. 12; CRC, arts. 6, 12, 16, 24; CRC GC Nos. 15 and 20; Istanbul Protocol	Provide timely, confidential and non-coercive care with meaningful information and participation. Protect informed consent and prevent punitive conversion of care into control or criminalisation.
Protection from reprisals and displacement-related harms	American Convention, arts. 1(1), 5; Belém do Pará, art. 7(d); CRC, art. 19; UNDRIP, art. 22(2)	Assess foreseeable risk and provide effective protection. Safeguard confidentiality, safe participation and follow-up, and mitigate retaliation, stigma and displacement-related harms.
Reparations and guarantees of non-repetition	American Convention, art. 25; Belém do Pará, art. 7(g); CRC, art. 39; case-specific remedial orders	Provide effective remedy, rehabilitation and structural prevention. Assess reparations, protocols, training, oversight, coordination, data systems and evidence of implementation.

Second, institutional-pathway coding identified recurrent mechanisms of failure documented in the two case records: linguistic exclusion; credibility-undermining and coercive treatment; investigative fragmentation; denial or punitive conversion of health care; exposure to reprisals and displacement-related harms; and gaps between remedial articulation and implementation. Aguilar Alegría (2023), Cruz Ángeles (2022), Ronconi (2025) and related scholarship informed the interpretation of these mechanisms, but no single author or source generated the benchmark domains.

Third, the normative and pathway analyses were synthesised into six common domains applied to both cases: language and cultural accessibility; secondary victimisation and survivor-centred treatment; investigation and evidentiary practice; health-system obligations and informed consent; protection from reprisals and displacement-related harms; and reparations and guarantees of non-repetition. Table 2 specifies the actionable benchmark and observable indicators for each domain.

Table 2. Operational benchmarks for enhanced and intercultural due diligence in cases of sexual violence against Indigenous women and girls.

Domain	Operational Benchmark (Actionable)	Core Indicators (Observable)
Language & cultural accessibility	Ensure interpretation/translation and culturally safe communication from first contact so comprehension and participation are meaningful.	Interpreter/translation available; rights explained in survivor's language; comprehension confirmed; culturally safe protocol documented.
Secondary victimisation and survivor-centred treatment	Implement survivor-centred and child-sensitive pathways that protect dignity, privacy and participation while minimising repetition, coercion and retraumatisation.	Trauma- and child-sensitive protocol; privacy/confidentiality safeguards; limited repeat interviews; psychosocial/legal support offered.
Investigation & evidentiary practice	Conduct prompt, impartial, and effective investigations capable of accountability; preserve evidence; ensure independence when state agents implicated.	Prompt initiation; evidence preservation; forensic/medical steps; independence safeguards; documented milestones/progress.
Health-system obligations & informed consent	Provide timely, confidential, non-coercive care with informed consent; ensure SRH pathways are protected from punitive/criminalising responses.	Timely care; confidentiality; informed consent documented; SRH services accessible; firewall from punitive conversion of care.
Protection from reprisals & displacement harms	Proactively assess risk and provide protection enabling safe reporting and participation; mitigate displacement-related harms.	Risk assessment; protective measures; confidentiality; safe participation; follow-up on threats; displacement mitigation measures.
Reparations & guarantees of non-repetition	Deliver comprehensive reparations plus structural measures (protocols, training, oversight, coordination, data systems) to prevent recurrence.	Reparations package; institutional reforms; training/oversight evidence; coordination mechanisms; data systems; accountability outcomes.

Fourth, each domain was assessed categorically using only record-based evidence and paragraph or page pinpoints. The categories are non-compliance, partial or mixed compliance, clear compliance and insufficient record evidence (Table 3). The framework does not quantify violations, rank harms or create aggregate case scores. The category “insufficient record evidence” is kept separate from “partial or mixed compliance” so that silence or under-specification in an international case record is not converted into a positive inference of compliance.

Table 3. Categorical assessment framework for record-based application of the operational benchmarks.

Category	Meaning	Application Rule
Non-compliance	Required safeguards are absent and/or the record documents practices contrary to the benchmark.	Use only when the record affirmatively demonstrates failure, exclusion, coercion, discrimination or secondary victimisation.
Partial or mixed compliance	Some relevant safeguards or institutional action are documented, but implementation is delayed, fragmented, inconsistent or incomplete.	Do not use as a substitute for missing information; there must be positive evidence of at least some domain-relevant action.
Clear compliance	The record positively documents timely and effective safeguards consistent with the benchmark.	Requires evidence of implementation, not merely formal rules, recommendations or announced reforms.
Insufficient record evidence	The record is too under-specified to support a reliable conclusion about compliance.	Keep analytically separate from partial compliance; silence or missing detail does not justify a positive inference.

3. Analytical and Normative Framework

3.1. Intersectionality: From Critical Theory to Legal Doctrine

Intersectionality emerged as a critique of single-axis approaches that separate race from gender and thereby obscure harms produced through their interaction (Crenshaw 1989, pp. 140–42; 1991, pp. 1242–43). For Indigenous women and girls, the analytical problem is not simply that several disadvantages accumulate. Gender, ethnicity, age, poverty, language, territorial marginalisation and institutional power can combine to produce a qualitatively distinct form of subordination that cannot be understood by examining each ground in isolation. Relational and multiscale scholarship on violence against Indigenous women further shows that intersecting harms are produced across family, community, institutional and territorial levels rather than within a single legal category (Guimont Marceau et al. 2020, p. 7).

Legal scholarship has developed this point in ways directly relevant to anti-discrimination law. Barrère Unzueta and Morondo Taramundi (2011) distinguish structural subordination from a merely episodic model of unequal treatment and show why intersectional discrimination requires attention to relations of power embedded in legal and institutional practice. Deliyanni-Dimitrakou (2013) demonstrates the difficulty of translating multidimensional and multiple discrimination into comparative legal categories, while Lombardo and Verloo (2009) show how institutional compartmentalisation can reproduce single-axis responses. Concrete legal practice further reveals the evidentiary and doctrinal challenges of making intersecting inequalities visible within existing equality frameworks (La Barbera and Cruells López 2019).

International human-rights law has increasingly translated this insight into legal doctrine. CEDAW General Recommendation No. 28 expressly requires states to legally recognise intersecting forms of discrimination and their compounded negative impact on women (CEDAW Committee 2010, para. 18). General Recommendation No. 39 develops this logic specifically for Indigenous women and girls, linking intersecting discrimination to colonial histories, racism, socioeconomic marginalisation, age, disability, rurality and language (CEDAW Committee 2022). In this article, intersectionality is therefore not a descriptive list of vulnerabilities. It is a legal lens that affects the characterisation of the harm, the identification of institutional barriers, the content of due diligence and the design of remedies.

3.2. Intersectional Discrimination and Enhanced Due Diligence

The legal consequence of intersectional harm is not a separate treaty obligation called “intersectionality”; it is a more demanding application of existing duties of equality, protection, investigation and effective remedy. The 1993 Declaration on the Elimination of Violence against Women established an early international baseline requiring states to pursue due diligence in preventing, investigating and punishing violence against women (UNGA 1993). Under the American Convention on Human Rights, the relevant architecture includes the general obligation to respect and ensure rights without discrimination (art. 1(1)), personal integrity (art. 5), judicial guarantees (art. 8), equal protection (art. 24) and judicial protection (art. 25) (OAS 1969). In cases of violence against women, Article 7(b), (d), (f) and (g) of the Convention of Belém do Pará require due diligence to prevent, investigate and punish violence, protective measures, fair and effective procedures and effective access to reparation (OAS 1994). CEDAW Articles 2(c)–(f) and 5(a) add duties to provide legal protection, reform discriminatory laws and practices and address gender stereotypes, while Article 12 is central when institutional harm occurs through health systems (UNGA 1979).

Where the survivor is a girl, the Convention on the Rights of the Child adds non-discrimination (art. 2), best interests (art. 3), life and development (art. 6), the right to be

heard (art. 12), privacy (art. 16), protection from violence (art. 19), health (art. 24), freedom from torture or cruel treatment (art. 37(a)) and recovery and reintegration (art. 39) (UNGA 1989). Read together with CEDAW General Recommendation No. 35 and CRC interpretive guidance, these provisions mean that due diligence must respond to foreseeable barriers created by intersecting status and institutional context (CEDAW Committee 2017; CRC 2013, 2016). Enhanced due diligence is therefore used here to describe the context-sensitive intensity of existing obligations, not to invent a new source of law. Within the Inter-American system, the progression from Velásquez Rodríguez to Cotton Field, Fernández Ortega and Rosendo Cantú further demonstrates how general duties of prevention, investigation and remedy have been specified in contexts of gender violence and violence against Indigenous women (IACtHR 1988, 2009, 2010a, 2010b).

3.3. Access to Justice and Gender-Responsive Adjudication

Access to justice is a substantive right rather than a formal doorway. CEDAW General Recommendation No. 33 requires justice systems to be available, accessible, of good quality, accountable and capable of providing effective remedies, while addressing discriminatory stereotypes and structural barriers (CEDAW Committee 2015). For Indigenous peoples, ILO Convention No. 169, Article 12, requires effective protection of rights and measures to ensure that Indigenous persons can understand and be understood in legal proceedings, including interpretation where necessary (ILO 1989). UNDRIP Article 13(2) similarly requires states to ensure that Indigenous peoples can understand and be understood in political, legal and administrative proceedings, including through interpretation or other appropriate means (UNGA 2007).

A gender-responsive judicial approach also changes how facts are selected, stereotypes are identified, evidence is evaluated and remedies are designed. Work on feminist judging and the incorporation of a gender perspective into adjudication demonstrates that formally neutral procedure can reproduce inequality when it ignores power relations and multiple forms of discrimination (Otazua Zabala and Gutiérrez-Solana Journoud 2021; Hunter 2018). Comparative scholarship further shows that adjudicative institutions shape equality through interpretive choices and the framing of protected groups, even where legal texts remain formally unchanged (de Waele and van der Vleuten 2011). These insights are relevant here because a survivor's access to justice depends not only on whether a complaint can be filed, but on whether institutions can recognise the intersecting structure of the harm.

3.4. Secondary Victimisation and Institutional Violence

This article adopts secondary victimisation as the primary socio-legal term for additional harm generated by institutional responses after the initial violence. It includes disbelief, stereotyping, repeated or coercive questioning, privacy breaches, inaccessible procedures, punitive treatment and failures to coordinate protection. Institutional violence is analytically distinct but related: it refers to recurrent organisational practices and incentive structures through which state institutions predictably produce secondary victimisation, exclusion or impunity. The distinction preserves the survivor-centred concept of secondary victimisation while allowing analysis of the structural mechanisms that reproduce it (Cruz Ángeles 2022, pp. 26–27; Ronconi 2025, pp. 6–7).

The three institutional mechanisms used in the analysis were not introduced as free-standing authorial categories. They were derived from the interaction between the normative framework and recurrent patterns in the records: (i) discriminatory or credibility-undermining treatment, including humiliation, stereotyping and coercive repetition; (ii) procedural exclusion, including linguistic inaccessibility, culturally unsafe processes and barriers to informed participation or consent; and (iii) punitive conversion of

protection or care into control, including criminalisation, retaliation or denial of services and remedies. International guidance on investigation and medico-legal documentation reinforces these mechanisms by identifying foreseeable risks of retraumatisation, communication barriers, confidentiality failures and coercion (OHCHR 2022, pp. 37–39, 70–74).

3.5. Intercultural, Linguistic and Child-Sensitive Safeguards

For Indigenous survivors, intercultural and linguistic safeguards are part of legal compliance, not optional good practice. ILO Convention No. 169, Article 12, and UNDRIP Article 13(2) ground the requirement that Indigenous persons understand and be understood in legal and administrative proceedings (ILO 1989; UNGA 2007). UNDRIP Article 22(2) further requires particular attention to the rights and special needs of Indigenous women and children and measures to protect them against violence and discrimination (UNGA 2007). Operationally, these duties support interpretation and translation from first contact, accessible explanations of rights, culturally safe communication and procedures capable of confirming comprehension rather than presuming it.

Where the survivor is a child or adolescent, safeguards must also be age-sensitive and linked to evolving capacities, privacy, health and participation. CRC Articles 12, 16, 19, 24 and 39, together with General Comments Nos. 15 and 20, require meaningful participation, confidentiality-protective care, protection from violence and support for recovery and reintegration (UNGA 1989; CRC 2013, 2016). In health and medico-legal settings, CEDAW Article 12, CRC health guarantees and the Istanbul Protocol support timely, confidential and non-coercive care, informed participation and safeguards against converting medical contact into punitive control (UNGA 1979, 1989; OHCHR 2022, pp. 37–39). WHO guidance provides additional evidence-based standards for rights-sensitive abortion care in contexts relevant to the Camila record (WHO 2022).

3.6. Remedies and Guarantees of Non-Repetition

Effective remedies must address both individual harm and the institutional conditions that enabled it. American Convention Article 25, Belém do Pará Article 7(g), CEDAW access-to-justice standards and CRC Article 39 support remedies capable of providing redress, rehabilitation and effective protection (OAS 1969, 1994; CEDAW Committee 2015; UNGA 1989). In sexual-violence cases, guarantees of non-repetition may therefore require investigative protocols, language access, specialised training, independent oversight, inter-agency coordination, data systems and measures addressing discriminatory stereotypes and jurisdictional barriers (Cruz Ángeles 2022, pp. 31–33; Ronconi 2025, pp. 8–9; UN Women 2012, pp. 14–20). The broader law of remedies likewise emphasises that effective redress must be connected to victims' rights and institutional transformation rather than symbolic acknowledgment alone (Quispe Remón 2021, p. 310).

Remedies also serve an analytical function. What an international body orders or recommends reveals how it characterises the violation. A remedy package addressing interpretation, confidential participation, health protocols, protection, accountability and institutional reform indicates that the harm is not reducible to an isolated criminal act. It reflects a broader failure of institutional design and implementation.

3.7. Normative Derivation and Traceability of the Operational Benchmarks

The six benchmark domains were derived through the four-stage procedure described in Section 2.3: exact normative mapping; coding of recurrent institutional failure mechanisms; synthesis of law and pathway evidence into common domains; and application of the same categorical questions to each case. This sequence creates a traceable chain from legal source to institutional obligation, from obligation to observable indicator, and from indicator to record-based assessment.

The benchmarks are therefore not presented as measurements of the gravity of the underlying sexual violence, nor are they a direct transcription of [Aguilar Alegría \(2023\)](#) or [Cruz Ángeles \(2022\)](#). Those studies, together with [Ronconi \(2025\)](#) and other scholarship, informed the interpretation of intersectional discrimination and institutional failure. The domains themselves were constructed by triangulating those insights with exact treaty provisions, authoritative interpretive guidance and recurring mechanisms documented in both case records. Table 1 makes that provenance explicit.

3.8. Operational Benchmarks

To move from legal principle to institutional assessment, Table 2 translates the six normatively derived domains into actionable benchmarks and observable indicators. The domains are applied identically to both cases, but their purpose is diagnostic rather than quantitative: they identify whether the record documents safeguards that are consistent with enhanced, intercultural and, where relevant, child-sensitive due diligence.

3.9. Categorical Assessment Framework

For each domain, the case analysis links (i) record-based facts, (ii) the relevant benchmark and legal source, and (iii) a categorical assessment. The framework does not quantify violations, rank harms or generate aggregate case scores. Four categories are used, and each requires an explicit evidentiary basis (Table 3):

Non-compliance. The record affirmatively shows the absence of required safeguards and/or the presence of exclusionary, coercive, discriminatory or secondary-victimising practices inconsistent with the benchmark.

Partial or mixed compliance. The record shows some relevant safeguards or institutional action, but implementation is delayed, fragmented, inconsistent, incomplete or insufficient to meet the benchmark.

Clear compliance. The record positively documents timely and effective safeguards consistent with the benchmark, including implementation rather than merely formal articulation.

Insufficient record evidence. The case record is too under-specified to support a reliable conclusion about compliance. This category is analytically distinct from partial or mixed compliance and prevents silence in the record from being treated as positive evidence.

4. Case 1: IACHR Case 11.565: From Facts to Standards, Secondary Victimisation, and Remedies

4.1. Facts and Procedural Context

IACHR Case 11.565 arises from the detention and sexual violence suffered by Ana, Beatriz, and Celia González Pérez, Tzeltal Indigenous sisters, at the hands of members of the Mexican Federal Army, followed by the state's failure to deliver an effective investigation and reparation. The petition, submitted by CEJIL, alleged Mexico's international responsibility for illegal detention, rape, and torture, as well as for impunity and lack of redress ([IACHR 2001](#), paras. 1–2).

According to the record, on 4 June 1994 the sisters and their mother, Delia Pérez de González, were stopped at a military checkpoint on the road to Ejido Jalisco (Altamirano, Chiapas) at approximately 2:30 p.m., while returning from selling agricultural products ([IACHR 2001](#), paras. 11–13). The Commission notes that, because they were Tzeltal and spoke little Spanish, they were unable to communicate effectively during questioning. The sisters were separated from their mother and taken into a wooden room where the "interrogation" continued ([IACHR 2001](#), paras. 13–15).

The Commission's narrative highlights that the soldiers accused the women of links to the Zapatista Army of National Liberation (Ejército Zapatista de Liberación Nacional,

EZLN) and that the sisters described a prolonged period of abuse during which they were unable to see their mother. They reported entering the room during daylight and emerging around 6:30 p.m., and returning to their community around 7:30 p.m., walking slowly due to the beatings and injuries (IACHR 2001, paras. 11, 15). The case file further reflects the broader social consequences that often follow sexual violence against Indigenous women: reprisals, forced relocation and even name changes, which led petitioners to request confidentiality measures (IACHR 2001, paras. 1–2).

4.2. Standards Articulated by the IACHR

The Commission situates the alleged facts within the American Convention, explicitly linking them to rights including personal liberty and personal integrity, among others. It treats the checkpoint detention as a direct trigger of state responsibility and assesses whether the deprivation of liberty was lawful, necessary, and non-arbitrary—an assessment that cannot be detached from the victims' vulnerability and the linguistic barrier that deprived them of meaningful interaction with military authorities (IACHR 2001, paras. 13, 26).

A particularly significant normative move in the report is its treatment of rape by state agents—especially in custodial or coercive settings—as conduct that falls within the spectrum of torture and cruel, inhuman, or degrading treatment. The Commission grounds this approach in the absolute protection of personal integrity under Article 5 of the American Convention and emphasises that sexual violence by security forces constitutes a grave human-rights violation, engaging Article 5 and related protections of dignity (IACHR 2001, paras. 43–45). By relying on international authority, the IACHR further underscores that rape committed by an agent of the state is especially grave because it exploits the victim's vulnerability under custody and produces enduring physical and psychological harm, and it notes the doctrinal trend toward conceptualising rape as torture when used in detention and interrogation contexts (IACHR 2001, paras. 48–49).

This framing is central to the argument of this article: sexual violence perpetrated by security forces in a coercive context is not a private deviation from official duties; it is a paradigmatic form of state violence. As such, it aggravates responsibility and activates enhanced due diligence, including an obligation to dismantle institutional conditions that enable impunity and secondary victimisation (IACHR 2001, paras. 43–45, 48–49).

4.3. Institutional Failures and Patterns of Secondary Victimisation

Case 11.565 illustrates not only the initial assault but also the institutional dynamics that generate secondary victimisation. The file reflects a pattern familiar in cases involving Indigenous survivors: procedural architecture—language, authority, militarisation and evidentiary practice—operates as a mechanism of exclusion that weakens credibility, fragments accountability and sustains impunity (IACHR 2001, paras. 11–15).

First is linguistic and cultural inaccessibility at the point of coercion. The Commission underscores that the sisters' limited Spanish compromised their ability to understand and respond to questioning. In due diligence terms, this is not incidental; it is a foreseeable barrier that turns "procedure" into coercion and magnifies vulnerability in precisely the setting where the state bears the highest responsibility to protect (IACHR 2001, paras. 13–15).

Second is militarised control and interrogation logics. The checkpoint setting, the political accusations, the separation from a family member, and confinement in an isolated space mark a coercive environment where "security operations" can merge with humiliation and sexual violence. The IACHR's narrative helps expose how militarisation and counterinsurgency frames can function as enabling conditions for gendered violence against Indigenous women—particularly when oversight is weak and accountability pathways are obstructed (IACHR 2001, paras. 11–15).

Third, post-violence impunity and secondary victimisation risks. The record indicates reprisals and displacement after the events. These consequences raise the cost of reporting and sustained participation in proceedings, effectively punishing survivors for seeking justice. This is one way that institutional failure becomes structural: without protection and effective investigation, the survivor's social world becomes another site of harm, reinforcing silence and impunity (IACHR 2001, paras. 1–2).

4.4. Domain-by-Domain Categorical Assessment

4.4.1. Domain 1: Language and Cultural Accessibility

The record indicates that the victims were Tzeltal Indigenous women who spoke little Spanish and could not effectively respond during questioning at the military checkpoint. This linguistic barrier, combined with the coercive setting and separation from their mother, evidences the absence of safeguards required for meaningful participation and comprehension at first contact. Under the benchmark on language and cultural accessibility, the record affirmatively demonstrates failure. Assessment: Non-compliance (IACHR 2001, paras. 13–15).

4.4.2. Domain 2: Secondary Victimisation and Survivor-Centred Treatment

The record describes a custodial context in which the victims were separated from a family member, held for hours and subjected to severe abuse, including sexual violence, under conditions of intimidation and humiliation. Such treatment is incompatible with a survivor-centred, dignity-protective institutional response and constitutes paradigmatic secondary victimisation by state agents. Assessment: Non-compliance (IACHR 2001, paras. 11–15).

4.4.3. Domain 3: Investigation and Evidentiary Practice

A central axis of the petition is the state's failure to provide an effective investigation and accountability for the alleged illegal detention, rape and torture. The Commission's treatment of the case reflects that the alleged violations were not met with prompt, impartial and effective investigative action capable of leading to criminal responsibility and sanctions. Assessment: Non-compliance (IACHR 2001, paras. 1–2, 4).

4.4.4. Domain 4: Health-System Obligations and Informed Consent

The case record foregrounds detention, sexual violence and accountability failures but does not provide a sufficiently detailed and auditable account of survivor-centred health responses, confidentiality protections or informed-consent safeguards. Because the record does not permit a reliable conclusion about whether domain-specific safeguards were implemented, the absence of detail is not treated as evidence of partial compliance. Assessment: Insufficient record evidence (IACHR 2001, paras. 11–15).

4.4.5. Domain 5: Protection from Reprisals and Displacement-Related Harms

The record reflects that the victims faced reprisals within their community, leading to forced relocation and even name changes, and that petitioners requested confidentiality measures in light of these risks. These facts demonstrate foreseeable retaliation and displacement-related harms without evidence of effective state protection enabling safe participation. Assessment: Non-compliance (IACHR 2001, paras. 1–2).

4.4.6. Domain 6: Reparations and Guarantees of Non-Repetition

At the remedial level, the Commission recommends investigation, establishment of criminal responsibility, legal sanctions and adequate reparation—measures aligned with comprehensive remedy and non-repetition. However, the record at this stage does not demonstrate implemented structural reforms, such as protocols, oversight, training or coordination.

The profile therefore contains meaningful remedial articulation but incomplete evidence of implementation. Assessment: Partial or mixed compliance (IACHR 2001, para. 5).

4.5. *Categorical Assessment Snapshot*

Categorical assessment snapshot. Language and cultural accessibility: Non-compliance. Secondary victimisation and survivor-centred treatment: Non-compliance. Investigation and evidentiary practice: Non-compliance. Health-system obligations and informed consent: Insufficient record evidence. Protection from reprisals and displacement-related harms: Non-compliance. Reparations and guarantees of non-repetition: Partial or mixed compliance. The pattern indicates that the principal drivers of institutional harm were linguistic and cultural exclusion under coercive security control, state-agent perpetration and secondary victimisation, and impunity compounded by inadequate protection against reprisals (IACHR 2001, paras. 1–2, 5, 11–15).

4.6. *Remedies and Implications*

At the remedial level, the Commission crystallises core elements of due diligence by recommending that the state investigate the facts, establish criminal responsibility, apply legal sanctions, and adequately repair the victims for the violations committed (IACHR 2001, para. 5).

Due diligence must be enhanced and intercultural. Where victims are Indigenous and language barriers are present, the state must ensure accessibility and safeguards from the very first contact with authorities—especially in security-force contexts, where coercion and abuse are foreseeable and where the power imbalance is extreme. In Case 11.565, the Commission’s factual account explicitly foregrounds the victims’ limited Spanish as a condition that shaped their vulnerability and undermined meaningful interaction with military authorities, reinforcing the need for language-access safeguards as a core component of effective protection and remedy (IACHR 2001, paras. 13–15).

Institutional violence must be treated as legally relevant harm. The report’s recognition of rape by state agents as conduct within the torture and cruel-treatment spectrum supports a broader reading: the institutional chain—security forces, prosecutors, courts and protection systems—is the site where rights are either operationalised or destroyed. When that chain reproduces humiliation, exclusion, secondary victimisation or impunity, it becomes part of the rights analysis and must be addressed through institutional transformation, including investigative protocols, safeguards against secondary victimisation and accountability structures, rather than individual punishment alone (IACHR 2001, paras. 5, 43–45, 48–49).

Case 11.565 demonstrates how sexual violence by state agents and subsequent impunity can operate through coercion, linguistic exclusion, and security-force power. Section 5—Camila v. Peru before the UN CRC—extends the comparative picture by showing how institutional violence and discrimination may also be produced through health and justice systems, particularly when an Indigenous adolescent girl faces coercion, stigma, and criminalisation in the context of sexual and reproductive harm.

5. Case 2: CRC Camila v. Peru: From Facts to Standards, Secondary Victimisation, and Remedies

5.1. *Facts and Procedural Context*

Camila v. Peru concerns a communication examined by the CRC under the Optional Protocol on a communications procedure (communication No. 136/2021) regarding lack of access to therapeutic abortion for a girl sexually assaulted by her father (CRC 2023, para. 1). The Views situate the case within a cluster of Convention rights and treat the

institutional response to child pregnancy—through health and justice pathways—as central to the alleged violations (CRC 2023, paras. 1, 8.2, 8.18).

The record foregrounds the author's intersectional vulnerability. Camila was born in a Quechua-speaking Indigenous community in Huanipaca (Apurímac), a rural mountainous area; she grew up without electricity or running water; her mother is illiterate and has a physical disability; and the family depends on precarious income (CRC 2023, paras. 2.1–2.2). The father began sexually assaulting her when she was 9 years old; in September 2017, at age 13, he raped her and she became pregnant (CRC 2023, para. 2.2).

Subsequent events show how institutional pathways compounded the initial violence through secondary victimisation. On 11 November 2017, Camila's pregnancy was confirmed at Guillermo Díaz de la Vega Hospital and she was found to be 13.6 weeks pregnant; she cried and stated that she did not want to be pregnant or have her father's child, yet she was not informed of her right to a therapeutic abortion (CRC 2023, para. 2.5). She repeated her refusal of the pregnancy during multiple health visits, but staff proceeded with antenatal planning rather than enabling a rights-compliant pathway (CRC 2023, paras. 2.6–2.8). A formal request for termination under the Technical Handbook was submitted, but the hospital did not convene the required panel within the mandated timeframe and no final decision was communicated (CRC 2023, paras. 2.9–2.10, 2.16).

The record also documents coercive pressure and exposure. Health personnel repeatedly visited Camila's home; after she refused examinations, staff returned accompanied by police personnel and prepared documentation requiring her to report to the medical centre, contributing to stigmatisation and school drop-out (CRC 2023, paras. 2.12–2.13). The case then evolved into a punitive justice trajectory: the prosecutor opened an investigation into suspected self-abortion based on Camila's statements that she did not want the pregnancy, pursued intrusive steps (including requests for exhumation and repeated examinations), and Camila was convicted at first instance before being acquitted on appeal (CRC 2023, paras. 2.21, 2.26–2.28).

5.2. Standards Articulated by the CRC

The Committee frames the merits through the Convention's protections and finds violations of Articles 2, 6, 12(1) (read with 6 and 24), 13(1), 16(1), 19, 24, 37(a), and 39 (CRC 2023, para. 8.18). First, the Committee connects access to abortion and information to the child's rights to health, life, development and participation. It recalls that Article 24 includes control over one's body and sexual and reproductive freedom and stresses that states should ensure adolescents' access to safe abortion services where relevant (CRC 2023, para. 8.4). Applying this to Camila's circumstances, it emphasises that health workers never informed her of risks or of therapeutic abortion availability and ignored her repeated requests, forcing her to follow a pre-established birth plan, while the formal request never yielded a final decision—amounting to a de facto denial (CRC 2023, para. 8.6). The Committee concludes that these omissions exposed her to a real, personal, foreseeable risk and triggered an obstetric emergency, disclosing violations of Articles 6 and 24, and that ignoring her repeated requests violated Article 12(1) (CRC 2023, para. 8.7).

Second, the Committee treats the combined effects of forced pregnancy, coercive practices and criminalisation as treatment prohibited under Article 37(a). It identifies serious physical and psychological harm and multi-level secondary victimisation by medical staff, police personnel and judicial personnel, concluding that the acts and omissions constitute prohibited treatment (CRC 2023, paras. 8.11–8.12).

5.3. Institutional Failures and Patterns of Secondary Victimisation

As in Case 11.565, the CRC record shows that the harm is not exhausted by the initial sexual violence. Institutional practice generates secondary victimisation through three recurrent failure clusters.

- (a) Health-system denial and informational deprivation as structural coercion. Repeated refusals of pregnancy were disregarded and Camila was not informed of her right to therapeutic abortion at the hospital, while the administrative record later confirmed failures to comply with the Technical Handbook (CRC 2023, paras. 2.5–2.7, 2.16, 8.6). These omissions are central to the Committee’s findings under Articles 6 and 24 and the procedural right to be heard (CRC 2023, para. 8.7).
- (b) Coercive home visits, stigma and privacy violations. The case documents repeated home visits by health staff, escalation to police-accompanied visits and ensuing community stigmatisation and school drop-out (CRC 2023, paras. 2.12–2.13). The Committee concludes that these visits amounted to arbitrary interference with privacy in violation of Article 16(1) (CRC 2023, para. 8.13).
- (c) Secondary victimisation and punitive governance through judicial pathways. The prosecutorial diversion toward self-abortion and the subsequent prosecution and conviction constituted a punitive institutional response that prolonged and exacerbated suffering (CRC 2023, paras. 2.21, 2.26–2.28, 8.12, 8.17). The Committee finds discrimination on intersecting grounds of age, gender, ethnic origin and social status in violation of Article 2 and notes that secondary victimisation and criminalisation constituted forms of violence, implicating Articles 19 and 39 (CRC 2023, paras. 8.15, 8.17).

5.4. Domain-by-Domain Categorical Assessment

5.4.1. Domain 1: Language and Cultural Accessibility

Camila’s Indigenous identity and Quechua-speaking background are explicit in the record, together with structural barriers associated with rural remoteness (CRC 2023, paras. 2.1, 8.9). However, the Views do not document robust interpretation, translation or culturally safe procedural safeguards across the health and justice pathways. Because the record is under-specified on whether such safeguards existed, no positive or negative compliance inference is drawn from silence. Assessment: Insufficient record evidence (CRC 2023, paras. 2.1, 8.9).

5.4.2. Domain 2: Secondary Victimisation and Survivor-Centred Treatment

The record shows coercive and stigmatising institutional practices, including repeated home visits, police involvement, community exposure and a punitive trajectory culminating in criminal proceedings, which the Committee characterises as multi-level secondary victimisation (CRC 2023, paras. 2.12–2.13, 2.21, 2.26–2.28, 8.12). Assessment: Non-compliance.

5.4.3. Domain 3: Investigation and Evidentiary Practice

Rape proceedings were initiated and evidentiary steps were taken, including statements, medical examination and on-site inspection, culminating in conviction of the perpetrator (CRC 2023, paras. 2.18, 2.25). Yet the record also shows child-insensitive practices, including joint summoning with the accused and lack of protective steps, as well as prosecutorial diversion toward a self-abortion case involving intrusive measures (CRC 2023, paras. 2.18, 2.21). The record therefore documents some accountability action but also serious procedural failures. Assessment: Partial or mixed compliance.

5.4.4. Domain 4: Health-System Obligations and Informed Consent

The Committee finds that health workers and authorities repeatedly ignored Camila's requests, failed to inform her of abortion availability and risks, and allowed the request under the Technical Handbook to remain without a final decision, amounting to de facto denial and triggering an obstetric emergency (CRC 2023, paras. 2.5–2.9, 8.6–8.7). It also identifies inadequate psychological care and accessibility deficits in qualified staff and equipment (CRC 2023, paras. 8.8–8.10). Assessment: Non-compliance.

5.4.5. Domain 5: Protection from Reprisals and Displacement-Related Harms

The record indicates foreseeable stigma and retaliation dynamics, amplified by police-accompanied visits and community pressure, resulting in school drop-out and eventual relocation (CRC 2023, paras. 2.12–2.13, 2.22). The Committee treats the privacy-invading practices as rights-violative (CRC 2023, para. 8.13). Assessment: Non-compliance.

5.4.6. Domain 6: Reparations and Guarantees of Non-Repetition

The Views order individual reparation and extensive guarantees of non-repetition, including compensation, educational and mental-health support, legal reform, access to safe abortion and post-abortion care, amendment of the Technical Handbook, prompt remedies and accountability, training, comprehensive education and an intersectoral mechanism to prevent retraumatisation (CRC 2023, paras. 9(a)–(h), 10). These are substantial articulated obligations, but the record does not establish their implementation. Assessment: Partial or mixed compliance.

5.5. Categorical Assessment Snapshot

Categorical assessment snapshot. Language and cultural accessibility: Insufficient record evidence. Secondary victimisation and survivor-centred treatment: Non-compliance. Investigation and evidentiary practice: Partial or mixed compliance. Health-system obligations and informed consent: Non-compliance. Protection from reprisals and displacement-related harms: Non-compliance. Reparations and guarantees of non-repetition: Partial or mixed compliance. The principal drivers of institutional harm were health-system denial combined with informational deprivation, coercive and stigmatising practices, privacy-invasive interventions and secondary victimisation through punitive justice responses, including criminalisation (CRC 2023, paras. 2.5–2.13, 2.21, 2.26–2.28, 8.6–8.7, 8.12–8.13, 8.15, 9).

5.6. Remedies and Implications

At the remedial level, the Committee's Views operationalise what enhanced due diligence requires when the survivor is an Indigenous adolescent: not only compensation and psychosocial recovery, but also structural reforms aimed at preventing coercive and punitive institutional responses (CRC 2023, para. 9). The Committee orders compensation, support to rebuild life and pursue education, mental-health services and extensive non-repetition measures. For this article, the key implication is that the CRC treats secondary victimisation and criminalisation not as ancillary narrative details but as rights-relevant mechanisms of violence and discrimination that engage the Convention's duties of protection, recovery and reintegration (CRC 2023, paras. 9(a)–(h), 10).

6. Discussion

Read together, IACHR Case 11.565 and Camila v. Peru reveal a shared architecture in which sexual violence against Indigenous women and girls is compounded by intersectional discrimination and secondary victimisation within state institutions (Aguilar Alegría 2023, pp. 211–12; CRC 2023, para. 8.18; IACHR 2001, paras. 1–2). The comparison is analyt-

ically useful precisely because the cases differ in age, immediate perpetrator, institutional pathway, historical period and international regime. Similar institutional mechanisms recur despite those contrasts, strengthening the inference that the problem is not confined to one country or sector but concerns how institutions translate—or fail to translate—due diligence and non-discrimination into practice.

6.1. Shared Patterns Across Regimes

A first shared pattern is procedural exclusion. In Case 11.565, the record affirmatively demonstrates linguistic exclusion at the moment of coercion and is therefore assessed as non-compliance in Domain 1 (IACHR 2001, paras. 13–15). In *Camila v. Peru*, Indigenous language and rural marginalisation are established, but the record is under-specified on interpretation and culturally safe safeguards; the category is therefore insufficient record evidence rather than partial compliance (CRC 2023, paras. 2.1, 8.9). This distinction is methodologically important: absence of documentation cannot be converted into evidence that a safeguard partially existed. Across both cases, however, the normative implication is consistent—meaningful participation requires institutions to guarantee comprehension and cultural accessibility rather than presume them (ILO 1989, art. 12; UNGA 2007, art. 13(2)).

A second shared pattern is secondary victimisation produced by routine institutional practice rather than exceptional misconduct. Both cases are assessed as non-compliance in Domain 2. Militarised detention, coercion and sexual violence by state agents in Case 11.565 and the health–justice trajectory of home pressure, police involvement, stigma and criminalisation in *Camila v. Peru* show different mechanisms through which institutions amplify harm (CRC 2023, para. 8.12; IACHR 2001, paras. 11–15). The convergence supports the distinction developed in Section 3.4: secondary victimisation names the additional harm experienced by survivors, while institutional violence identifies the recurrent organisational practices that produce it.

A third shared pattern concerns protection gaps and weak safeguards against retaliation. Both cases are assessed as non-compliance in Domain 5. In Case 11.565, reprisals, displacement and confidentiality concerns show how inadequate protection raises the cost of reporting and participation (IACHR 2001, paras. 1–2). In *Camila v. Peru*, privacy-invasive practices, community stigma and relocation reveal a comparable failure through a different pathway (CRC 2023, paras. 2.12–2.13, 8.13). The common legal point is that protection is not ancillary to due diligence; under conditions of intersectional vulnerability, it is part of what makes access to justice effective.

6.2. Divergent Institutional Pathways: How Secondary Victimisation Is Produced

The shared patterns coexist with meaningful differences in the institutional routes through which secondary victimisation is produced. These contrasts are the reason for the purposive case pairing rather than a methodological weakness.

Pathway A: Security-force coercion and custodial violence (Case 11.565). The IACHR case is anchored in militarised control—separation, coercive interrogation and sexual violence by state agents—followed by accountability failures. Language and cultural accessibility, secondary victimisation and investigation are all assessed as non-compliance. The institutional chain is structured around security power: the first encounter with state authority is itself the site of violence, and subsequent mechanisms fail to restore legality and dignity through effective investigation and protection (IACHR 2001, paras. 1–2, 11–15, 4).

Pathway B: Health–justice entanglement and punitive governance (*Camila v. Peru*). Here, institutional harm is produced through the interlocking operation of health and justice systems, where informational deprivation, coercion, stigma and criminalisation transform care into control. Investigation is assessed as partial or mixed compliance because

some accountability steps coexisted with child-insensitive and intrusive practices; language access is classified as insufficient record evidence; health and informed consent, secondary victimisation and protection are assessed as non-compliance (CRC 2023, paras. 2.5–2.10, 2.18, 2.21, 8.6–8.7, 8.12–8.13). The contrast demonstrates that similar rights failures can be generated through different institutional architectures.

6.3. *What the Categorical Assessments Demonstrate About Due Diligence*

The categorical assessments clarify that enhanced and intercultural due diligence is not satisfied by the existence of formal rules, investigations or remedial recommendations alone. In both cases, reparations and guarantees of non-repetition are assessed as partial or mixed compliance because international bodies articulate meaningful remedies but the records do not demonstrate full implementation (CRC 2023, paras. 9, 10; IACHR 2001, para. 5). The comparison therefore avoids equating normative articulation with institutional transformation. It also avoids ranking the two cases: the categories show where the record documents safeguards, failures or evidentiary gaps, not which survivor suffered greater harm.

6.4. *Institutional Minimums: Benchmarks as Operational Legal Obligations*

On the basis of Tables 1–3 and the categorical comparison, enhanced and intercultural due diligence entails institutional minimums that are traceable to international law rather than merely aspirational. States must secure language and cultural accessibility from first contact, including interpretation, accessible information and procedures that confirm comprehension (ILO 1989, art. 12; UNGA 2007, art. 13(2)). They must also establish survivor-centred and child-sensitive pathways that protect privacy, dignity and participation and prevent secondary victimisation (CEDAW Committee 2015, 2017; UNGA 1989, arts. 12, 16, 19, 39).

Effective compliance further requires prompt, impartial investigations capable of accountability, with independence safeguards where state agents or institutional interests are implicated (OAS 1969, arts. 1(1), 5, 8, 25; OAS 1994, art. 7(b), (f), (g)). Where sexual violence intersects with pregnancy, coercion or criminalisation, due diligence also requires timely, confidential and non-coercive health care, meaningful information and participation, and safeguards against punitive conversion of care into control (UNGA 1979, art. 12; UNGA 1989, arts. 12, 16, 24; CRC 2013, 2016).

States must additionally protect against foreseeable retaliation and displacement-related harms and must translate remedies into implemented guarantees of non-repetition, including protocols, training, oversight, coordination and data systems (OAS 1994, art. 7(d), (g); UNGA 2007, art. 22(2); CRC 2023, para. 9). These minimums show why intersectionality matters doctrinally: the relevant obligation is not satisfied by formally identical treatment when institutional design predictably excludes survivors because of language, age, Indigenous identity, poverty, rurality or other interacting conditions.

7. Conclusions

This article set out to move beyond abstract invocations of intersectionality, due diligence and non-discrimination by showing how those concepts alter the legal assessment of state institutions when sexual violence targets Indigenous women and girls. The comparison of IACHR Case 11.565 and Camila v. Peru demonstrates that intersectional discrimination is constitutive of the harm rather than merely contextual: it shapes exposure to coercion, access to information, credibility, participation, health care, protection and remedy. The cases also show that secondary victimisation can be produced through different institutional pathways—militarised security power in one case and health-justice

entanglement in the other—while generating recurrent failures in accessibility, treatment, protection and implementation.

The revised analytical framework clarifies that enhanced and intercultural due diligence is a context-sensitive application of existing legal obligations. It is grounded in exact treaty provisions and authoritative interpretive standards and is operationalised through six traceable benchmark domains. The categorical framework deliberately avoids numerical scoring: it does not quantify harm or rank violations, and it distinguishes insufficient record evidence from partial compliance. This methodological distinction is essential because international decisions are often uneven in the level of institutional detail they record.

7.1. Institutional Minimums as Closing Benchmarks

The comparison supports six institutional minimums. First, states must ensure language and cultural accessibility from first contact through interpretation, accessible information and culturally safe procedures. Second, institutions must prevent secondary victimisation through survivor-centred and child-sensitive pathways that protect privacy, dignity and supported participation. Third, investigations must be prompt, impartial and capable of accountability, especially where state agents or institutional interests are implicated. Fourth, health systems must guarantee timely, confidential and non-coercive care, meaningful information and informed participation, with safeguards against punitive conversion of care into control. Fifth, protection must address foreseeable retaliation, stigma and displacement-related harms. Sixth, reparations must include implemented guarantees of non-repetition capable of transforming the institutional practices that reproduced discrimination.

7.2. Implications for Institutional Design, Litigation, and Monitoring

These findings have direct implications for institutional design. In security-force contexts, due diligence requires strict safeguards against coercive detention and interrogation practices, immediate language access, independent oversight and investigative independence where state agents are alleged perpetrators (IACHR 2001, paras. 11–15, 43–45, 48–49). In health-system contexts, due diligence requires confidential and rights-based clinical pathways, age-appropriate and culturally appropriate information, robust consent safeguards and the removal of punitive practices that deter access to care (CRC 2023, paras. 8.6–8.7, 8.12). Across justice systems, due diligence requires specialised and child-sensitive procedures, evidentiary practices free from gendered and ethnoracial stereotypes, and protection mechanisms that prevent retaliation and social punishment (CRC 2023, para. 8.13; IACHR 2001, paras. 1–2).

For litigation and monitoring, Tables 1–3 provide a structured sequence from legal source to institutional obligation, observable benchmark and record-based category. Advocates, courts and oversight bodies can ask: Which exact obligation applies? What safeguard should have existed? What does the record affirmatively show? Does the evidence support non-compliance, partial or mixed compliance, clear compliance or insufficient record evidence? This sequence helps prevent due diligence from being reduced either to abstract principle or to formal procedural steps detached from institutional effectiveness.

7.3. Limitations

This study has limitations. First, it relies on a two-case purposive design intended for analytical transfer rather than statistical representativeness. The cases were selected because they share a common rights problem while varying across victim profile, immediate perpetrator, institutional pathway, historical period and international regime; the findings therefore identify recurring mechanisms but do not establish their prevalence. Second, the categorical assessments are record-based. International decisions may be under-specified

on some safeguards, which is why the framework includes a distinct “Insufficient record evidence” category rather than inferring partial compliance from silence. Third, the analysis focuses on institutional pathways and legal standards and cannot capture survivors’ lived experiences beyond what the public records contain. Fourth, the benchmark framework requires testing across a larger corpus before its broader comparative utility can be established.

7.4. Future Research

Future research should apply the categorical framework to a broader corpus of decisions across the Inter-American system and UN treaty bodies, using structured, focused comparison by institutional sector, survivor profile and remedy type. Empirical work with Indigenous survivors, community advocates and frontline institutions could examine whether the benchmark domains correspond to lived barriers and protective practices. Further doctrinal research should also test how intersectional discrimination is pleaded, proven and remedied across jurisdictions, including whether courts move beyond additive models toward a genuinely structural understanding of intersecting discrimination. Finally, implementation research could assess whether language access, child-sensitive interviewing, confidentiality safeguards, independent investigation and monitored guarantees of non-repetition reduce secondary victimisation and improve accountability over time. As a methodological contribution, the framework can also serve as a transferable template for future comparative human-rights research assessing how international standards are translated into institutional practice across jurisdictions and treaty regimes.

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