

**Committee on the Rights of the Child - General Comment No. 27**  
**Children's Rights to Access to Justice and Effective Remedies**  
***Access to reparation for children affected by conflict-related sexual violence***

**Introduction**

1. The Global Survivors Fund (GSF) submits this note as contribution to the Committee on the Rights of the Child's General Comment No. 27 on children's rights to access to justice and effective remedies.
2. GSF was established in 2019 by Denis Mukwege and Nadia Murad, Nobel Peace Prize laureates 2018. Its mission is to enhance access to reparations for survivors of conflict-related sexual violence (CRSV) around the globe. GSF's work is grounded in its unique co-creation model and survivor-centric approach.<sup>1</sup>
3. This note focuses on access to reparation for children affected by CRSV, although some considerations may be relevant to other children. This submission draws on GSF's project work, its Global Reparation Study and additional research.<sup>2</sup>

**Impacts of Conflict-Related Sexual Violence on Children**

*When sexual violence is used in war, it often takes extremely brutal forms, affecting girls and boys, including very young ones. The impact of sexual violence on children is profound, long-lasting, and multidimensional. While children affected face physical, psychological and socioeconomic consequences similar to adults, their age, physical size, developmental stage and social environment lead to additional distinct impacts. Due to societal shame and discriminatory norms, child victims are often stigmatised, ostracised and revictimised by their communities. These children often miss years of school or drop out due to medical and psychological problems, stigmatisation, lack of birth registration, or because they are held in captivity. This leads to extreme poverty and exposes them to other forms of violence.*

*Children born of rape face additional challenges. They are often perceived as 'children of the enemy' and therefore stigmatised, and marginalised. The mother often struggles to bond with her child or may reject her/him due to her trauma, fear of stigma, family or community pressure.*

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<sup>1</sup> GSF, 'Annual Report 2023' (2024), [https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/AR\\_2023\\_ENG\\_web\\_double\\_pages.pdf](https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/AR_2023_ENG_web_double_pages.pdf) and GSF, 'Strategic Plan 2024-2030' (2024), [https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/Strategic\\_plan\\_24-30\\_web\\_DP.pdf](https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/Strategic_plan_24-30_web_DP.pdf).

<sup>2</sup> Global Reparations Studies accessible here: <https://www.globalsurvivorsfund.org/how-we-work/know/>.

## Recommendations

To improve access to reparation for children affected by CRSV, GSF's calls upon the Committee to:

- i. Adopt a broad definition of children "affected" by CRSV.**
- ii. Explicitly recognise children's right to adequate, effective and prompt reparation.**
- iii. Provide an overview of the forms of 'effective remedies' & reparation for children.**
- iv. Increase awareness and commitment to establish comprehensive victim-centred reparation programmes for all children.**
- v. Address legal and bureaucratic barriers.**
- vi. Prioritise administrative reparation over judicial reparation.**
- vii. Address the stigma, discrimination and ostracization faced by children.**
- viii. Put in place practical measures to enable children to access reparation.**
- ix. Address the lack of legal identity and nationality for children born of rape.**
- x. Provide guidance to States to adapt reparation procedures for children.**
- xi. Guarantee the active participation of children at every stage.**

### **I. Definitions and Understandings**

#### ***i. Adopt a broad definition of children "affected" by CRSV***

4. Children affected by CRSV represent a diverse and largely invisible community. The International Criminal Court (ICC) established through its jurisprudence that, given the significant harm they suffer as a direct consequence of sexual violence, children born of rape must be recognised as *direct* victims entitled to reparation<sup>3</sup>. The 2023 ICC Policy on Children further acknowledges that "*children may also be victims of crimes simply because they are members of a group targeted for collective harm. Or [...] be harmed by witnessing crimes committed against others.*"<sup>4</sup> In the Kinshasa Declaration, survivors affirmed that their children, including those who have reached adulthood, should be "*entitled to victim-centred, transformative and gender-responsive reparations in their own right.*"<sup>5</sup>

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<sup>3</sup> ICC, Prosecutor v. Dominic Ongwen, 'Reparations Order', ICC-02/04-01/15 (28 February 2024), para 125, <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18078e195.pdf>.

<sup>4</sup> ICC, 'Office of The Prosecutor Policy on Children' (2023), p. 22, <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>.

<sup>5</sup> Kinshasa Declaration on the Rights to Reparation and Co-creation of Survivors and Victims of Conflict-Related Sexual and Gender-Based Violence'

5. It is therefore essential to adopt a broad definition of children "affected" by CRSV. Survivors themselves<sup>6</sup> suggest referring to the following 4 categories:
  1. Children who were victimised as a child,
  2. Children born of rape,
  3. Children who have witnessed sexual violence,
  4. Children whose caregivers have suffered sexual violence.

## *ii. Explicitly recognise children's right to adequate, effective and prompt reparation*

6. The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation recall that any individual, including children, has a right to adequate, effective and prompt reparation for harms suffered as a result of serious violations of human rights law and international humanitarian law, including CRSV. Reparation includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition<sup>7</sup>. The right to reparation of children was recognised by the Committee in its General Comment No. 5 in line with Article 39 of the Convention.
7. Yet, despite reparation being a right and a priority for children affected by CRSV, most do not receive any form of reparation during their lifetime. GSF therefore calls on the Committee to (i) explicitly recognise children's right to adequate, prompt and effective reparation pursuant to Article 39, (ii) that all children affected by CRSV, as defined above, have a right to reparation and (iii) to encourage States to adopt the same approach.

## *iii. Provide an overview of the forms of 'effective remedies' and reparation for children*

8. Because children suffer distinct harms from adults and have specific needs, reparation programmes must be tailored and responsive to their needs and priorities. GSF identified the following reparation priorities for children affected by CRSV<sup>8</sup>:
  - a) **Access to education:** education-related measures are the most requested form of reparation for children affected by CRSV. Whilst some survivors

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(2022) [https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/GSF\\_Kinshasa\\_Declaration\\_EN\\_Nov2022\\_WEB\\_1.pdf](https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/GSF_Kinshasa_Declaration_EN_Nov2022_WEB_1.pdf).

<sup>6</sup> Ibid.

<sup>7</sup> [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#), incl. Preamble, Art. 3(a); 11(b); 15-22.

<sup>8</sup> GSF, 'Briefing on Reparation for Children Born of Conflict-related sexual violence'.

wished that their children could attend regular schools without being stigmatised, survivors from Colombia and South Sudan<sup>9</sup> suggested the provision of education programmes tailored to meet the unique needs of children born of rape. That said, by singling them out, specialised schools could increase stigmatisation and discrimination against these children. Survivors in the Democratic Republic of the Congo and Nigeria<sup>10</sup> expressed their wish to have all their children included in education programmes, including children not born of rape. This underlines the need to adopt a contextualised approach. Additionally, for children affected by CRSV to re-enter the education system, significant efforts are needed as they have often missed out on years of schooling, including related to mental and physical health, ostracization, and safety concerns.

- b) **Access to medical and psychological support:** children affected by CRSV must have access to adequate and timely mental and physical health services. Once the children reach adulthood, if their traumas have not been addressed, they may continue to suffer from various physical injuries and chronic mental health conditions including depression. These urgent needs were expressed by survivors from Burundi, Cambodia, Colombia, and Nepal for instance.
- c) **Encourage community acceptance and inclusion:** survivors declared that reparation programmes should address discriminatory and stigmatising taboos through awareness-raising activities<sup>11</sup>. Survivors emphasised the need for sustained campaigning efforts to combat stigma. For example, survivors from Timor-Leste have shared that "*small-scale NGO programmes in their communities have made a difference to the social attitudes of stigmatisation and victim-blaming.*"
- d) Other measures requested include **compensation and symbolic measures** acknowledging the harm and reducing the stigma surrounding sexual violence, helping children to reintegrate communities and rebuild their lives<sup>12</sup>.

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<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Kinshasa Declaration.

<sup>12</sup> GSF, 'The Time for Reparations is Now' (2022),

[https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/GSF\\_PSVI\\_The\\_Time\\_of\\_Reparation\\_is\\_Now\\_EN\\_Nov2022\\_WEB\\_1\\_.pdf](https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Reports/GSF_PSVI_The_Time_of_Reparation_is_Now_EN_Nov2022_WEB_1_.pdf).

9. GSF encourages the Committee to provide an overview of the different forms of 'effective remedies' and reparation that are tailored to the needs and priorities of children affected by CRSV violence in line with the above.

## **II. Barriers and enabling factors**

10. Children affected by CRSV face particularly difficult challenges when seeking to access reparation, as the issues arising from being a victim of sexual violence are compounded by the vulnerabilities of being a child.
11. GSF calls the Committee to acknowledge these numerous and far-reaching barriers and to call up States to address them, in particular by:

### ***iv. Increasing awareness and commitment to establish comprehensive victim-centred reparation programmes for all children affected by CRSV***

12. A significant barrier is the lack of acknowledgement by States of children affected by CRSV as victims entitled to reparation. When reparation programmes do exist, some categories of children are left out, their specific rights and needs are almost entirely overlooked, and programmes often fail to include specific forms of reparation tailored to their needs. For example, the Iraq's 2021 Yazidi Female Survivor's Law, providing a reparation framework for the survivors of the violence perpetrated by the Islamic State of Iraq and the Levant, excludes children born of rape<sup>13</sup>. On the other hand, a few countries, such as Columbia<sup>14</sup> have recognised children born of rape as victims and included them in the scope of their reparation programmes<sup>15</sup>, a promising trend.

### ***v. Addressing legal and bureaucratic barriers***

13. Children are often required to navigate convoluted legal and administrative procedures, with burdensome requirements to register as victims and receive reparation. They also face challenges related to costs, lengthy proceedings, and poorly structured, inadequate, and unclear reparation programmes. Moreover, reparation mechanisms may not be child-specific nor child-friendly. They may

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<sup>13</sup> Amnesty, 'Iraq: Yazidi reparations law progress welcome, but more must be done to assist survivors' (2021), <https://www.amnesty.org/en/latest/news/2021/11/iraq-yezidi-reparations-law-progress-welcome-but-more-must-be-done-to-assist-survivors/#:~:text=On%201%20March%202021%2C%20the,before%20the%20age%20of%2018>.

<sup>14</sup> Law 1448, 'Victims and Land Restitution Law' (10 June 2011), art. 181, <https://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Leyes/1680697>.

<sup>15</sup> GSF, 'Briefing on Reparation for Children Born of Conflict-related sexual violence'

even be discriminatory towards children or specific groups of children<sup>16</sup>. Children may also be unaware of their rights and lack essential information in a child-friendly format on how to access reparation.

**vi. *Prioritising administrative reparation over judicial reparation***

14. GSF recommends prioritising administrative reparation programmes, that are not tied to judicial proceedings to benefit larger number of child victims with minimal formality and child-friendly procedures. Reparation that can be solely accessed through courts poses additional challenges for survivors, and in particular for children, as many are prevented from accessing them because they are denied legal capacity, or legal assistance, which can be especially problematic in case of a conflict of interest between the child and his parents or caregiver. This is a significant challenge in the context of CRSV due to stigma and possible rejection of the child by his parents or caregivers.

**vii. *Addressing the stigma, discrimination and ostracisation faced by children***

15. Stigma, discrimination and ostracization faced by children affected by CRSV lead to shame, secrecy and reluctance to seek remedies and reparation. There is often a lack of empathy and understanding in communities about children's trauma and needs, resulting in fears of public exposure.<sup>17</sup> Additionally, insecurity, fear of retaliation and safety concerns, and lack of trust in national authorities, severely hinders their access to reparation. It is therefore crucial to foster an environment of social awareness and destigmatisation, where communities are educated on the rights of child survivors and the importance of reparations in their healing process. Strategies must also be established to enable victims to come forward in a safe and confidential manner.

**viii. *Putting in place practical measures to enable children to access reparation***

16. Before children affected by CRSV can access reparation, several critical steps must be taken to ensure they are physically and emotionally capable of engaging in reparation processes. Urgent medical care is paramount to address the often-devastating physical injuries or health complications, including access to sexual

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<sup>16</sup> Ton Liefwaard, 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda' (2019) 27, International Journal of Children's Rights p. 203.

<sup>17</sup> GSF, 'Briefing on Reparation for Children Born of Conflict-related sexual violence: Exploring survivors' perspectives from the Global Reparations Study' (2024), p. 6-7, [https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Policy\\_Briefs/Briefing\\_on\\_child\\_ren\\_born\\_of\\_CRSV\\_web\\_Final.pdf](https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Policy_Briefs/Briefing_on_child_ren_born_of_CRSV_web_Final.pdf).

and reproductive health services. Alongside this, psychological support must be provided to help children process their trauma. Additional practical enabling measures must also be taken, such as information about services, and transportation allowances, paying special attention to the specific needs of victims with additional vulnerabilities.

**ix. Addressing the lack of legal identity and nationality for children born of rape**

17. For children born of rape, specific additional challenges can arise from a lack of legal identity and nationality, rights often denied to them. Without a legal identity, their access to justice and reparation, as well as to other fundamental rights, including access to education, health, social protection, property, or inheritance, is severely hindered.<sup>18</sup>

**III. Proceedings**

**x. Provide guidance to States to adapt reparation procedures for children affected by CRSV**

18. For children to effectively access reparation, it is critical to establish child-sensitive mechanisms that recognise the specific needs and vulnerabilities of child survivors. This involves ensuring that processes are:

- a. child-sensitive and compliant with the best interests of the child.
- b. gender-sensitive and age-appropriate, as children's needs evolve significantly depending on their gender, age and abilities. For children nearing adulthood, for example, accelerated schooling or advanced technical training are often more appropriate<sup>19</sup>.
- c. accessible and confidential.
- d. implemented in a trauma-informed manner, with specialised support services such as trauma-informed counselling.
- e. not leading to further discrimination, stigmatisation or ostracisation. The emotional well-being, safety and security of children must be safeguarded at all times, including by implementing preventive measures to reduce the

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<sup>18</sup> GSF, 'Expert Roundtable on Children Born of Conflict-related Sexual Violence: Outcome Report' (2023), [https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Policy\\_Briefs/Outcome\\_report\\_roundtable\\_children\\_born\\_of\\_CRSV\\_March24\\_web.pdf](https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Policy_Briefs/Outcome_report_roundtable_children_born_of_CRSV_March24_web.pdf). For further details on this issue please refer to the joint submission "Access to justice and effective remedies for children whose identity rights have been contravened (Arts. 7-8 CRC)" (2024), which was also submitted for this call.

<sup>19</sup> Mazurana, D., & Carlson, K., 'Reparations as a Means for Recognizing and Addressing Crimes and Grave Rights Violations against Girls and Boys during Situations of Armed Conflict and under Authoritarian and Dictatorial Regimes', in Ruth Rubio-Marín (ed) *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations* (CUP 2009), p. 212.

risk of further harm or re-victimisation. Singling out certain victims as entitled to special measures can lead to further stigmatisation and discrimination if they are not designed and implemented sensibly.

***xi. Guarantee the active participation of children in every stage of the reparation process***

19. In line with Article 12 of the CRC, children should be enabled to participate in the design and implementation of reparation programmes. The set of requirements defined by the Committee must be respected to guarantee children's effective, ethical and meaningful participation. In particular, the process should be transparent and informative, voluntary, respectful, relevant, child-friendly, inclusive, supported by training, safe, sensitive to risk and accountable.

20. GSF remains at the disposal of the Committee to provide further research and information.