**Reparations for Children affected by Conflict-Related Sexual Violence**

# Introduction

The Global Survivors Fund (GSF) submits this note as contribution to the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material for a report on “Reparation for child victims and survivors of sale and sexual exploitation” to be presented during the 52nd session of the Human Rights Council in March 2023. This submission draws on GSF’s project work and its Global Reparation Study.[[1]](#footnote-2)

Due to GSF’s area of expertise, this note focuses on children affected by conflict-related sexual violence (CRSV), although some considerations may be relevant to other children within the scope of the Special Rapporteur’s mandate. The note focuses on the following topics:

1. Needs and priorities for reparations for CRSV survivors
2. The legal framework and duty bearers
3. The role of civil society: co-creation and a multistakeholder approach to reparations

Some of the key messages from our work on the topic include the following:

* Education is one priority form of reparation for many survivors of CRSV.
* It is important that reparation measures do not create further discrimination or ostracization for certain categories of children.
* CRSV creates its own unique challenges, and reparation measures will need to be adapted to the specific form of gross human rights violation:
	+ Certain physical and psychosocial impacts of the violence are different because they are children,
	+ Their needs will be entirely dependent on their age and the type of violence they have suffered.
* Gathering children’s voices on reparations in an ethical way which safeguards their best interests is possible. When doing so is a challenge, however, alternatives based on GSF’s experience include:
	+ Communicating through caregivers,
	+ Discussing with service providers,
	+ Discussing with survivors who are now adults.

# Needs and priorities for reparations for children affected by CRSV

## Who are children affected by conflict-related sexual violence?

Children affected by CRSV include:

* CRSV victims. When sexual violence is used in war, it often takes extremely brutal forms, affecting girls and boys of very young ages, sexual slavery, gang rape, and sexual violence committed in front of family members,
* Children born of rape,
* Children who have witnessed sexual violence against their caretakers and other relatives,
* Children whose parents have suffered sexual violence.

CRSV therefore affects entire families and communities. Individuals who have suffered direct or indirect harms as a result of serious violations of international human rights law or international humanitarian law have a right to reparation for this harm.[[2]](#footnote-3) Conflict-related sexual violence constitutes a serious violation of international human rights and humanitarian law, as well as in some cases a crime under international criminal law. Survivors of CRSV therefore have a right to reparation for these harms. Nevertheless, survivors often face particularly difficult challenges in seeking to access reparation. The nature of the violence, often tied into unequal gender norms and oppressive structures, can mean that survivors are stigmatised, ostracised, and left behind in judicial proceedings. Furthermore, the fact that domestic reparations are often provided through courts means that many survivors are prevented from accessing them, especially children and other vulnerable groups. Reparations should therefore not solely be tied to judicial proceedings but addressed through administrative reparation programmes to potentially benefit larger number of victims with minimal formality and child-friendly procedures.

## What are survivors’ priorities for reparations?

There are specific challenges linked to sexual violence which can hinder children and/or their families in rebuilding their lives. These can include mental or physical trauma (such as the impacts of fistula, forced pregnancies, fertility problem, or sexually transmitted diseases), economic hardship following on from the impacts of the violence, ostracization and shame within communities due to the nature of the violence, and in some contexts displacement due to the general conflict and specific acts of violence.[[3]](#footnote-4) For children born of war, specific additional challenges can arise, such as not having official documentation necessary to be registered in schools or health centres.[[4]](#footnote-5)

In most cases, child survivors of serious violations will suffer harms that will last a lifetime, and full restoration of the years of education, skills, and livelihood opportunities will be impossible.[[5]](#footnote-6) Other reparation measures therefore need to be considered in a child-sensitive manner, including by shaping reparations policies and practices around the best interests of the child. Reparations need to be age-appropriate, as children’s needs range significantly depending on their age and ability.[[6]](#footnote-7) For children nearing adulthood, for example, it may be appropriate to consider access to measures preparing them for adulthood including “accelerated schooling or assistance with advanced technical training or university education.”[[7]](#footnote-8) It is also the case that reparation programmes must “consider how to assist those who were victimised as children but are now adults.”[[8]](#footnote-9)

In GSF’s experience, the reparation priorities for children affected by CRSV include:[[9]](#footnote-10)

* access to education (in different forms depending on the age and circumstances of the victims),
* livelihood support for families so that children don’t need to work,
* medical and psychological care,
* symbolic measures can also go a long way in acknowledging the harm and reducing the stigma surrounding sexual violence, helping survivors to reintegrate communities and rebuild their lives.

In interviews conducted for GSF’s Global Reparations Study, education-related measures were the most requested form of reparation for children affected by CRSV. Survivors clearly see education for their children as a way out of the situations of poverty and destitution in which some of them find themselves, and generally as a way of improving their socio-economic status.[[10]](#footnote-11) Nevertheless, for survivors affected by CRSV to re-enter the education system, significant efforts are needed to overcome the many obstacles because they have often missed out on years of schooling, but also related to mental and physical health, ostracization, loss of economic power, and safety. Reparations programmes for children therefore need to be able to address the multiple factors at play to provide children with the care and support they need to access meaningful reparations.

While many survivors of CRSV want reparations specifically designed for them, singling out victims or groups of victims as entitled to special measures can lead to further stigmatisation and discrimination of these victims if they are not designed and implemented sensibly.[[11]](#footnote-12) They can also result in backlash in the community against child survivors.[[12]](#footnote-13) Furthermore, it is clear from GSF’s work that survivors themselves want all their children, or siblings, to be included in reparative measures aimed at them. There is a possible difficulty to separate child victims of sexual violence from other children, and in many contexts families specified that they did not wish child victims of CRSV (e.g. children born of sexual violence) to be singled out for reparative measures. For example, mothers in South Sudan feared that just providing reparations to the children born of war and not their siblings could lead to further discrimination or stigmatisation of these children due to their perceived prioritisation or special treatment by their other siblings. This sentiment was also reiterated by survivors from the Gambia and Central African Republic who feared reparations for some children would create further tension at home and lead to further discrimination.[[13]](#footnote-14)

# The legal framework and duty bearers

Individuals or collectives have the right to reparation for harms that have been caused to them as a result of serious violations of international human rights law or international humanitarian law. The right to reparation consists of measures that duty-bearers, namely States and other perpetrators (including armed groups), are legally obligated to provide in response to violations or crimes directly committed by them, that were committed with their authorisation or knowledge, or that they failed to prevent. Reparations seek to acknowledge and address the different harms caused to victims and to ensure non-recurrence. Different forms of reparations exist under international law, such as restitution, compensation, satisfaction, rehabilitation, and guarantees of non-repetition. Reparations can be individual or collective, material or symbolic.

Despite the strong normative framework for **reparations** for serious violations of international human rights law and humanitarian law at the international level, specificities for children are almost non-existent and implementation of such norms is weak. Duty-bearers, namely States and other perpetrators (armed groups, other non-state actors, or individual perpetrators of international crimes), are legally obligated to provide reparations in response to violations or crimes directly committed by them. Nevertheless, full reparations can take many years to materialise, if they ever do, and survivors urgently need different forms of reparation to rebuild their lives and an acknowledgment of the harm they have suffered.

While advocating for duty bearers to fulfil their obligation to provide full reparation or urgent interim reparations,[[14]](#footnote-15) GSF also provides “**interim reparative measures**” to survivors, including children. Such measures aim to bridge the gap in implementation by acknowledging the harm done to survivors and seeking to provide rehabilitation, compensation, and some form of satisfaction allowing survivors to rebuild their lives and avoid some of the irreparable harm associated with the lack of timely reparation.

Such interim reparative measures are not “reparations” in the legal sense because they are not provided by the duty-bearers. Nevertheless, these measures have the potential to transform survivors' lives, in dignity. These measures also aim pave the way for future reparations and to have a catalyst effect: by engaging relevant government actors in the process, these projects can demonstrate to duty-bearers that reparations are feasible, affordable, and have a life-changing impact on survivors’ lives, thus motivating governments to scale up this work by putting in place a nationwide domestic reparations programme.

GSF always combines interim reparative measures with advocacy, and technical support if required, for States to take responsibility and engage in the process. This is intended to catalyse State action on reparation, and to advance the reparations agenda without diluting the international standard of victims’ right to effective and comprehensive reparations and the State’s duty to provide for them. Interim reparative measures can lay the foundations for reparations to be implemented according to international legal obligations, by establishing the modalities and framework for such a process.

# The role of civil society: Co-creation and a multistakeholder approach to reparations

Victims’ networks and civil society play a crucial role in advancing reparations on the international agenda. First of all, they are able to build up networks of trust with and among survivors, which is crucial for their meaningful participation in the processes. Second, their voices are crucial in advocacy at the domestic and international level, to bring the right to reparation to the forefront of international attention. Third, as mentioned above with regards to interim reparative measures, civil society and the international community can help bridge the gaps between implementation by duty-bearers and access to urgent and lifechanging reparative measures for survivors.

The role of civil society who have close links with communities and have earned the trust of survivors over many years is particularly important in the context of working with children. In many victims’ lives, the State has been completely absent, or responsible for the violence, and is mistrusted. Often, civil society organisations have filled this gap and over the years developed a deep understanding and trust with survivor constituencies. Reparation programmes therefore need to be designed, implemented, monitored and evaluated not only with survivors but also with the involvement of civil society organisations who work with them and have gained their trust. They have an important role to play, for instance in identification and registration processes and to ensure confidentiality,[[15]](#footnote-16) They can also play a crucial role in combating stigmatisation of survivors and gaining acceptance in their communities, something that is particularly prevalent for children born of war and other children affected by conflict-related sexual violence.

GSF operates according to the principle of co-creation, namely that all projects are constructed so that survivors participate at every stage, including design, implementation, monitoring and evaluation. Survivors also define the tailored individual and collective interim reparative measures and are members of project bodies. GSF’s multistakeholder approach also means that all interim reparative measures projects are overseen by a steering committee composed of survivors, relevant experts (including psychologists, lawyers and other professionals), and representatives from partner organisations, civil society, international organisations and national and local authorities where possible. All these stakeholders weigh in on the design, implementation, monitoring and evaluation of the project.[[16]](#footnote-17)

Co-creation with survivors and involvement of civil society organisations is not only a moral obligation or buy-in strategy but an operational necessity to ensure the feasibility and effectiveness of reparation. Legal and policy frameworks pertaining to reparation should explicitly recognise this principle, set out how States and the international community will work hand-in-hand with survivors, define the role of civil society organisations and provide for relevant mechanisms and systems in that respect. In the context of children, co-creation means finding ways of hearing children’s voices and including their right to participate in proceedings, while adhering to the principle of Do No Harm. The challenges in directly addressing child survivors and gathering their preferences for reparations in an ethical and safeguarded manner may explain the little information existing in this regard.[[17]](#footnote-18) Further policies and best practices need to be developed. In GSF's work, community workers and social workers play a crucial role in designing and implementing reparations programmes, especially in the case of children. They work alongside survivors to determine how reparations will work for their individual needs, are able to consider what the best interests of the child means in their specific circumstances (for example whether the most appropriate form of reparation would be financial compensation, and whether this should go directly to the child, a legal guardian, or another trusted person).

# About GSF

The [Global Survivors Fund](https://www.globalsurvivorsfund.org/) is a global initiative to make reparations accessible for survivors of conflict-related sexual violence. It was launched in October 2019 by Dr Denis Mukwege and Nadia Murad, Nobel Peace Prize laureates. Its mission is to enhance access to reparations and other forms of redress for survivors of conflict-related sexual violence across the globe. GSF directly addresses a gap long identified by survivors, by gathering stakeholders in an innovative, public-private partnership to support the right to reparations. All its work is carried out according to three core pillars: Act, Advocate, and Guide.

**Act**: GSF acts to provide interim reparative measures to survivors of conflict-related sexual violence. It supports survivors and civil society organisations in designing community-based projects, which provide individual or collective reparative measures. These can take the form of financial compensation, livelihoods, coverage of education costs, medical bills and other needs as determined by survivors. Projects can also include symbolic measures such as commemoration initiatives.

**Advocate**: GSF advocates that relevant stakeholders, in particular states as duty-bearers, but also the international community take their responsibility to design and implement national reparations programmes. Advocacy takes place both at the international and national level, including through support to civil society.

**Guide**: GSF provides expertise and technical support to states to develop and implement effective, gender-sensitive national reparations programmes, collecting and disseminating good practice in the field of reparations.

GSF takes a survivor-centred, localised, collaborative and approach. Projects are co-created with survivors in designing the projects. All relevant stakeholders are engaged in the monitoring and implementation of projects – this includes survivors, civil society, and where possible, the UN and governments. While the Global Survivors Fund sets the broad criteria, a localised approach is always adopted, following survivors’ guidance in suggesting solutions to challenges.

This note was drafted by Claire Simmons, with support from Esther Dingemans and Danaé van der Straten Ponthoz (November 2022).

1. See https://www.globalsurvivorsfund.org/projects. [↑](#footnote-ref-2)
2. 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, A/RES/60/147 (2006), Principle VII; International Commission of Jurists, “The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioner’s Guide” (2018), pp. 32-51. [↑](#footnote-ref-3)
3. Sapiezynska, E., “Weapon of War: Sexual Violence Against Children in Conflict”, Save The Children (2021), p. 17. [↑](#footnote-ref-4)
4. Findings from GSF’s Global Reparations Study in Bosnia & Herzegovina, and IRM project work in Iraq and CAR. [↑](#footnote-ref-5)
5. 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 Rubio-Marín, R., (ed) *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*, CUP (2009), p. 212. [↑](#footnote-ref-6)
6. Mazurana & Carlson (n 5) p. 186. [↑](#footnote-ref-7)
7. Mazurana & Carlson (n 5) p. 186. [↑](#footnote-ref-8)
8. Miano, S. M., “Toward a Child-Oriented Approach to Reparations: Reflecting on the Rights and Needs of Child Victims of Armed Conflict”, PRAXIS: The Fletcher Journal of Human Security Vol XXVIII (2013) p. 34; Aptel, C. & Ladisch, V., “Through a New Lens: A Child-Sensitive Approach to Transitional Justice,” International Center for Transitional Justice (2011), p. 28. [↑](#footnote-ref-9)
9. Individual country reports can be downloaded at: <https://www.globalsurvivorsfund.org/guide>. See also Global Survivors Fund, “The Time for Reparations is Now” (November 2022), [↑](#footnote-ref-10)
10. See GSF’s Global Reparations Study reports on Nepal, Cambodia, South Sudan, Uganda, Syria. [↑](#footnote-ref-11)
11. Capone, F., *Reparations for Children Victims of Armed Conflict: state of the Field and Current Challenges*, Cambridge University Press (2018), pp. 3-4; International Law Association Committee on Compensation for Victims of War, “Background Report” (17 March 2004) para 6; Zegveld, L. “Remedies for Victims of Violations of International Humanitarian Law”, International Review of the Red Cross (2003), pp. 501-502; Ramírez-Barat, C. & Duthie, R., “Education and Transitional Justice: Opportunities and Challenges for Peacebuilding”, ICTJ/UNICEF (2015), p. 32. [↑](#footnote-ref-12)
12. Mazurana & Carlson (n 5) p. 202. [↑](#footnote-ref-13)
13. Findings from GSF’s Global Reparations Study in The Gambia and South Sudan, available at: <https://www.globalsurvivorsfund.org/guide> as well as IRM project work in Central African Republic and Nigeria. [↑](#footnote-ref-14)
14. For clarification of the term “interim reparations”, see OHCHR, “Guidance Note of the Secretary General: Reparations for Conflict-Related Sexual Violence”, ST/SG(02)/R425 (June 2014), p. 12. [↑](#footnote-ref-15)
15. Global Survivors Fund, “The Time for Reparations is Now” (November 2022), p. 8. [↑](#footnote-ref-16)
16. For details and some examples, see Global Survivors Fund, *Annual Report 2021,* p. 7, available at https://www.globalsurvivorsfund.org/s/GSF\_Annual\_Report\_2021\_LR.pdf. [↑](#footnote-ref-17)
17. Miano (n 8) p. 38. [↑](#footnote-ref-18)