Maat for Peace’ submission on “Reparation for child victims and survivors of sale and sexual exploitation”

**Maat for Peace, Development and Human Rights** welcomes this opportunity to answer the questions raised by the Special Rapporteur on the sale and sexual exploitation of children and to choose “Compensation for Child Victims and Survivors of Sale and Sexual Exploitation” as the subject of the report that the Rapporteur will present to the 52nd session of the Human Rights Council in March 2022. Maat has carefully chosen the questions it answers in this contribution.

**What are the current needs of child victims and survivors to redress and reparation both in conflict and non-conflict settings?**

The report entitled “A Scientific Approach to the Sale and Sexual Exploitation of Children” issued by the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other children sexual abuse material, emphasized the need for access to justice and rehabilitation for children who they are subjected to human trafficking, sexual exploitation, sale for the purpose of marriage and other practices harmful to children, to confirm this and to achieve comprehensive reparation for victims and survivors of children. Maat believes that reparation for the benefit of child victims and survivors, whether in conflict areas or in non-conflict areas, can be achieved through three levels:

**First: Accountability**

According to an independent investigation conducted on some children who were victims of sexual abuse and survivors in conflict areas, the concept of accountability for crimes against children means holding perpetrators accountable for crimes against children and holding institutions accountable, emphasizing guarantees of non-repetition of such crimes and offering apologies for these practices.

However, there are still gaps in the process of addressing child sexual abuse in different regions of the world. These crimes are not recognized in different countries going through stages of conflict or in countries experiencing temporary truce stages, such as Yemen, Libya and Syria, this weakens the possibility of providing compensation for the benefit of victims and child survivors. Even hold the perpetrators of these crimes accountable, which widens the cycle of impunity. Beyond conflict zones, denial and acknowledgment that is not followed by steps to redress for crimes of sexual exploitation against children expand impunity and lack of accountability.

In 2021, for example, the issue of sexual abuse by Catholic priests was raised against about 216,000 children who did not reach their teenage years**[[1]](#footnote-1)**. Despite Pope Francis' call for an investigation into these practices, no investigation has been launched so far, which makes accountability for these crimes elusive. Even more, according to a group of Special Procedures mandate holders, the accountability processes for church children's cases have been restricted in order to prevent the prosecution of perpetrators**[[2]](#footnote-2).**

**Second: Compensation for Victims and Survivors**

Compensation is another mechanism that may contribute to reparation for victims and child survivors of sexual exploitation crimes. Maat believes that the importance of compensation lies in the use of cash money for the benefit of these children or their families. Maat has noted some good experiences in this context. In Ghana for example, the survivor empowerment project started in 2019 in partnership with stakeholders including the National Human Rights Institution (NHRIs) and civil society organizations (CSO). A total of 157 surviving alive and 10 other victims of sexual violence which was perpetrated at the Conakry stadium in Guinea have been identified, the compensation was obtained by the heirs of these victims.

From June to December 2020, survivors, including children, received the first of three cash payments they were entitled to receive it under compensation programs. Some of these survivors used this money to buy a plot of land for farming, a taxi or to build a home for these survivors or victims. Many survivors also allocated part of this temporary compensatory measure to the education of their children, and many survivors decided to invest part of their money in a mechanism known as “tontine”, a mechanism through which survivors accumulate their savings for a specified period and share the profits with other survivors**[[3]](#footnote-3).** Maat sees an urgent need to establish similar mechanisms for compensation among all stakeholders in countries that witnessed atrocities or crimes of sexual exploitation of children.

**Third: Participation**

Participation is often not provided for as a stand-alone item in the process of compensation for children, and children are replaced by other groups that represent them. However, the participation of children is a vital necessity in order to provide adequate reparation for the harm suffered by these children who are victims of sexual violence, human trafficking and other harmful practices. In this context, Article 15 of the Convention on the Rights of the Child stipulates the right of the child to freedom of association**[[4]](#footnote-4).** However, although 196 countries have ratified the Convention on the Rights of the Child until February 2022 as the most ratified convention among the nine core human rights treaties, the provisions of Article 15 of the Convention don’t applied only in a very narrow and limited scope**[[5]](#footnote-5).**

With that being said, excluding children in normal times from sharing their opinions and forming associations has become a norm. Which means that their participation in order to achieve reparation is also in negligible cases. However, Maat has seen some good practices. In Sierra Leone, for example, it established the Children's Forum Network, which is a network originally led by children and makes recommendations to the Truth and Reconciliation Commission of Sierra Leone, which makes the voices of these children recognized. The participation of children is an essential guarantee in order to ensure that the violations they have been exposed to it will not be repeated**[[6]](#footnote-6).**

**What are the gaps and challenges in the scope of International Human Rights Law, International Humanitarian Law (IHL) and the state of implementation to address the needs of child victims and survivors?**

Some instruments of international human rights law deal with the issue of compensation of individuals for violations of human rights. The Universal Declaration of Human Rights (UDHR) includes in Article 8 the right of every individual to obtain effective compensation before the competent national courts. The third paragraph of Article 2 of the International Covenant on Civil and Political Rights also affirms the right to an effective remedy. Similarly, Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 14 of the Convention against Torture, and Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance all contain articles providing for reparations for survivors and victims.

However, even with a large number of states ratifying these conventions and adhering to the principles and provisions of the Universal Declaration of Human Rights, there is no mechanism forcing these states to abide by the principle of reparation for individuals, including children, within their jurisdiction, and states often ignore the recommendations of the United Nations Treaty bodies, including those recommendations calling for reparation and the provision of compensation for the benefit of victims and survivors**[[7]](#footnote-7).**

With regard to international humanitarian law, the main challenge facing child victims and survivors of sexual exploitation is the dwindling of forums and organizations specialized in bringing cases against state officials at the International Criminal Court**[[8]](#footnote-8)**.

Maat notes that often the start of thinking about the issue of compensation and reparation after a long period that may extend for a few years, for example in Iraq, and despite the liberation of Mosul in 2017, the thought of compensating the Yazidi victims did not start until the end of 2019, after Almost two years.

In Ethiopia, despite the start of sexual assaults on girls under the age of 18 since the beginning of the conflict in Ethiopia in November 2020, the issue of compensation for survivors, including children, is still excluded from any discussions about reconciliation or a truce**[[9]](#footnote-9)**.

In addition, some countries refuse to recognize the historical crimes that were committed against specific nationalities in previous decades in their history. Turkey, for example, refuses to recognize the Armenian Genocide in the Ottoman era. Part of this refusal stems from Turkey's unwillingness to pay reparations for Armenians of Turkish origin. Turkey's recognition represents an opportunity for them to file lawsuits before the courts in order to seek compensation for the crimes that happened during this period.

**Who are the** **duty bearers to** **define, implement and provide reparation to child victims and survivors? In what forms should the reparation be provided, and how should they be assessed?**

Having reviewed previous cases about providing compensation to child victims and survivors Maat indicates that governments as well as international and regional organizations, in partnership with national human rights institutions, are the main duty bearers to define, implement and provide reparation to child victims and survivors. Reparations include monetary and non-monetary compensation and are manifested in five forms in accordance with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights law which are: restitution; compensation; rehabilitation; satisfaction; and finally, guarantees of non-repetition.[[10]](#footnote-10)

In order to assess reparations in general, there must be a mechanism for follow-up, monitoring and evaluation of compensation grants provided for victims and child survivors. In order to measure the effectiveness of this mechanism, it must include representatives of civil society, victim groups and national human rights institutions. It is also imperative that this mechanism includes representatives of the children themselves, as has been done in previous similar experiences, such as the case when children participated in truth commissions in South Africa, Sierra Leone and Liberia.[[11]](#footnote-11) These experiences are marred by some challenges and shortcomings that can be built upon in order for children to fully participate in compensation programs, which ultimately helps to redress the harm for these children.

**What role do civil society organizations and victims’ groups play in devising, consulting and developing various reparation measures and programs?**

Maat believes that it is important for other civil society organizations to participate during the reparations process, especially since civil society organizations, including NGOs, are often more familiar with the needs of victims. Maat believes that the interventions of civil society may include different levels for reparations[[12]](#footnote-12) which are as follows:

**First:** **Attempting to influence**, which includes working to influence national justice mechanisms, whether directly or indirectly. This process includes calling for confronting these mechanisms if they do not fulfill their role entrusted to them in order to support effective remedies and reparations for the benefit of children, in addition to a group of other practices such as documentation, pressure, and protest, if necessary, to address redress processes.

**Second: Providing support**, it includes providing technical, financial or other forms of support to national reparations processes, such as assisting the truth commission to reach victims using the networks and links of these organizations in the community. Support can also include following up and expanding the work of institutions, such as advocating for the implementation of the recommendations of truth commissions in different countries and evaluating the implementation of these recommendations.

**Third: Mobilization and Capacity-Building**, this includes working with relevant departments so that they can participate in national processes or in order to enable them to represent themselves in independent initiatives, such as victims' groups. Mobilization and capacity building can include specific measures and programs to educate stakeholders about their rights. Civil society can also play an alternative role, where formal mechanisms are absent or inadequate, such as advocacy and lobbying for victims' and survivors' issues or providing legal aid on behalf of victims.

In this context, the Coalition for Just Reparations in Iraq (C4JR) represents a rich experience in the context of the role played by civil society organizations to ensure that compensation is available to victims and survivors, including children. The Coalition was a link between the Iraqi government and the Iraqi survivors. it has heard the voices of the representatives of the Yazidi society, against whom the most heinous crimes by the terrorist organization ISIS were committed, including the practices of sexual abuse of girls and their families. Trail International, a non-governmental organization that provides legal assistance to victims and survivors, has also led extensive advocacy campaigns for recognition of the status of children born as a result of rape in times of war and conflict.

As a result of these and other efforts of local organizations in Bosnia and Herzegovina, children born as a result of rape in times of war obtained on June 4, 2022, the first law allowing them to be recognized as civilians, in Brčko County, which is one of the three administrative units in the country.[[13]](#footnote-13) However, the law excluded these children from certain benefits such as the right to a scholarship. This was a basic requirement for them.[[14]](#footnote-14)

**How can States and other stakeholders deliver more effectively with respect to amplifying the effective implementation of meaningful reparation to child victims and survivors?**

Maat believes that consultation and adopting a participatory approach with all stakeholders, including national child rights institutions in different countries, is the basis on which the future for effective implementation of meaningful reparations for child victims and survivors is built. Maat also believes that empowering children’s ombudspersons or national councils advocating children’s rights in some countries, who represent the party to which complaints are submitted regarding children in most countries, may act as the coordinating body and provider of this type of compensation, with the participation of organizations concerned with children's rights as well.

The independence of these councils and the non-interference in their work by governments may represent positive experiences in favor of ensuring more compensation for child victims and survivors. The adoption of national legislation is also a good start in favor of implementing compensation programs for victims. In Iraq, for example, in March 2021, the Iraqi parliament passed the Yazidi Survivors Law No. 8 of 2021. The law requires compensation not only for Yazidi women but also for male and female children. The second paragraph of Article 3 of the Law stipulates that it applies to child survivors who were under the age of eighteen at the time of their abduction.

The law aims, according to Article 4, to compensate children financially and morally, secure a stable life for them, rehabilitate and care for these children, and reintegrate them into society. However, the actual application remains linked to the enforcement of these legislations in practice, and the accelerant of granting compensation for all victims and survivors.

**Maat recommends the following**:

* The Member States should pay attention to the implementation of Article 15 of the Convention on the Rights of the Child, which allows children to form associations;
* Accelerating the process of awarding reparations in countries that have already started establishing national reparations programs for child victims and survivors;
* The need to give special importance to children born as a result of rape in times of war and advocate for their recognition in their countries;
* The necessity of urging government agencies to open impartial investigations into the sexual exploitation of children in the context of wars and conflicts;
* The necessity of recognizing the effort represented in the issuance of the Yazidi Survivors Law, while calling for accelerating the pace of granting compensation to all victims and survivors.

1. French Church abuse: 216,000 children were victims of clergy – inquiry, <https://www.bbc.com/news/world-europe-58801183> [↑](#footnote-ref-1)
2. UN experts urge Catholic Church to act against sexual abuse, provide reparations, <https://www.ohchr.org/en/press-releases/2021/06/un-experts-urge-catholic-church-act-against-sexual-abuse-provide-reparations> [↑](#footnote-ref-2)
3. THE GLOBAL FUND FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE - THE GLOBAL SURVIVORS FUND, Page 5, ANNUL Report 2020, <https://bit.ly/3S5xVWb> [↑](#footnote-ref-3)
4. Convention on the Rights of the Child, Article 15, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> [↑](#footnote-ref-4)
5. Report of the Committee on the Rights of the Child, 85th Session, Para 1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/355/04/PDF/G2235504.pdf?OpenElement> [↑](#footnote-ref-5)
6. Children and Transitional Justice, Page 44, <https://www.unicef-irc.org/publications/pdf/tj_publication_eng.pdf> [↑](#footnote-ref-6)
7. A Midlife Crisis for the Treaty-Based Human Rights System? <https://www.un.org/en/chronicle/article/midlife-crisis-treaty-based-human-rights-system> [↑](#footnote-ref-7)
8. Reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law, Page 360, <https://legal.un.org/ilc/reports/2019/english/annex_b.pdf> [↑](#footnote-ref-8)
9. Conflict-related sexual violence: Report of the Secretary-Genera, Para 67, <https://bit.ly/3CAFVbV> [↑](#footnote-ref-9)
10. 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, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation> [↑](#footnote-ref-10)
11. Ibid, Page 22, <https://www.unicef-irc.org/publications/pdf/tj_publication_eng.pdf> [↑](#footnote-ref-11)
12. The Importance of a Participatory Reparations Process and its Relationship to the Principles of Reparation, <https://biblioteca.corteidh.or.cr/tablas/r26685.pdf> [↑](#footnote-ref-12)
13. Children born as a result of wartime rape get their first legal recognition in Bosnia and Herzegovina [↑](#footnote-ref-13)
14. Ibid [↑](#footnote-ref-14)