**Education as Reparation for Conflict-Related Sexual Violence and Other Serious Human Rights Violations**

January 2023

# Introduction

1. The Global Survivors Fund (GSF) submits this note as contribution to the Special Rapporteur on the right to education prior to her first report to the Human Rights Council to be presented in June 2023.[[1]](#footnote-1) This submission draws on GSF’s project work and its Global Reparation Study.[[2]](#footnote-2)
2. This note focuses on Question 9 of the call for contributions, regarding the crucial issues to address to ensure the realisation of the right to education, and focuses on the intersection of the right to education with the right to reparation. Due to GSF’s area of expertise, the note addresses mainly education as a form of reparation for survivors of conflict-related sexual violence (CRSV), although most considerations are relevant for reparation for victims of serious human rights violations more broadly.
3. Some of the key messages from our work on the topic include the following:
* Education is seen as a priority form of reparation for many survivors of CRSV.
* The right to education and the right to reparation are separate human rights to which individuals are entitled. Nevertheless, they can be complementary and mutually reinforcing.
* Education as a form of reparation requires explicit acknowledgement of the harms suffered and that the education measures are shaped to help repair wrongdoing. Such measures must also go beyond what States are already obligated to provide, such as access to free primary education.
* In providing education as a form of reparation, it is not always appropriate to single out survivors of CRSV as this can lead to further stigmatisation and discrimination. Rather, it may be necessary to effect broader changes and support for entire communities, in addition to providing individualised support to survivors.
* Education as a form of reparation can help contribute to broader transitional justice efforts.

# Education and reparation

1. Human rights violations can and often do affect the right to education. Importantly, education can be a crucial part of reparation for such violations. Understanding how the right to education and right to reparation are distinct yet mutually reinforcing rights can help promote the implementation of both.

**How does CRSV affect education?**

Human rights violations and conflict generally impede access to education, but there are distinct and compounding consequences of CRSV which can lead to drop-out and exclusion from schools. Persons affected by CRSV include child and adult survivors, but also children born of war, and children who have witnessed and otherwise been affected by the violence inflicted on their caregiver or other members of their families or communities.

The physical and psychological impacts of CRSV often directly or indirectly lead to school dropout for survivors, including due to fistula, pregnancies, and post-traumatic stress disorders. The vast majority of children of CRSV survivors also drop out of school because their parents are unable to afford school fees, uniforms, school supplies, school kits, exam fees, or transportation, due to the economic hardship that can be brought on by the consequences of the violence. The severe stigmatisation often associated to the sexual violence can lead to bullying and ostracization from communities including from schools, and can also affect the economic and livelihood opportunities of parents which can affect their ability to pay for education. Children born of war can face specific challenges related to their status, and are sometimes specifically prevented from going to school due to immense social stigmatisation, family-based discrimination, and legal and registration obstacles. Instead of studying, many of these children have to work to support their families.

The profound harms caused by CRSV hinder persons affected by CRSV in returning and then staying in school. Nevertheless, CRSV survivors want to get themselves or their children back to school, and can be very successful at doing so when extra tailored support is provided.

## Right to education vs right to reparation

1. Individuals have a right to education but also a right to reparation for harms they have suffered as a result of serious violations of international human rights law or international humanitarian law.[[3]](#footnote-3) 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. The duty to provide reparations lies with the parties responsible for perpetrating the violations and States in which such violations have occurred must provide victims with access to a remedy and reparation for failing to prevent, protect, and promptly and effectively investigate or respond to sexual violence or other serious violations committed by States and non-State actors.
2. In conflict settings, education can play a significant role in human rights violations, as education may be systematically targeted.[[4]](#footnote-4) In such contexts, victims often demand education as a component of reparation for these harms,[[5]](#footnote-5) including due to its important symbolic value.[[6]](#footnote-6) This link between the harm and the desired form of reparation is evident in Nigeria, where GSF and its partners consistently hear from survivors that having access to education is the primary form of reparation sought *because* they were targeted for abduction due to their education, given Boko Haram’s hostility towards secular education. Education can therefore be particularly important as part of reparation,[[7]](#footnote-7) although full restitution is often impossible for grave violations of human rights committed against children which may have led to “years of lost access to education and hence skills and livelihood opportunities.”[[8]](#footnote-8)
3. Even though the two rights can be mutually reinforcing, there are important reasons to maintain a distinction between the right to education and the right to reparation.
4. All persons have the right to education, an empowerment right which can also be the means for realising other human rights.[[9]](#footnote-9) This means that education *as a form of reparation* needs to go “above and beyond what the State is already obligated to provide,”[[10]](#footnote-10) such as access to free primary education.[[11]](#footnote-11) Importantly, this should be done by acknowledging as unjust the harms endured.[[12]](#footnote-12) This explicit acknowledgment must highlight that the measures “are designed and targeted to repair wrongdoing.”[[13]](#footnote-13) In practice, however, governments are often reluctant to provide such an acknowledgement, even when they are willing to provide education assistance measures.[[14]](#footnote-14) In addition to acknowledgment, for education measures to be truly reparative, they must also go the extra mile to rehabilitate and respond to needs that survivors have as a consequences of the harms, to enable children to return to and stay in school and provide women and other adult victims with other adequate education opportunities. Such measures may include providing psychological support, trauma-sensitive teaching, mentoring, and learning, flexibility.
5. Education as a form of reparation can include a variety of measures, including the “(re)building of school infrastructure, the allocation of education resources to conflict-affected areas or the reduction of fees and hidden costs in those areas, and the provision of bilingual and intercultural education.”[[15]](#footnote-15) Official certification of informal learning programmes (such as livelihood training) can also be a form of reparation for survivors who have been excluded from the formal education system and want a form of recognition from the State of their learning. Education measures need to be age appropriate and adapted to the context and circumstances of each individual.[[16]](#footnote-16) For example “in cases where the beneficiary is nearing adulthood, access to accelerated schooling or assistance with advanced technical training or university education (…) is more appropriate than education benefits that cease upon the completion of secondary school.”[[17]](#footnote-17) These measures need to be effective and adapted to the circumstances to “provide the people they are intended to empower with the skills and resources needed to engage in productive and sustainable livelihoods.”[[18]](#footnote-18)
6. Many survivors who participated in GSF’s studies and projects share that they were children at the time they endured CRSV. However, these child-survivors are now adults with their own children and sometimes grandchildren. These survivors gave accounts of their current needs and priorities as adults rather than what they needed at the time of their victimisation as children. This is important to highlight in considering reparation measures for survivors, as the passage of time between the violation and the provision of reparation will greatly affect the appropriate form of reparation. Child survivors will have different needs than adult survivors.

## Education as a priority for survivors

1. In GSF’s experience, survivors of CRSV see education both as a right and as a priority form of (individual or collective) reparation for themselves and their families. In interviews conducted for the Global Reparations Study, education-related measures were the most requested form of reparation for the children of CRSV survivors, and were also requested by children impacted directly or indirectly by CRSV and adults alike. Education-based reparations were requested in the form of access to education (all), vocational trainings (Nepal, Cambodia), universities or access to higher-level education (South Sudan, Cambodia), scholarships or education grants (Cambodia, Syria, Uganda, Nepal), and/ or monetary compensation for school fees and associated costs (Uganda).
2. Education enables survivors to escape the extremely destitute situation and cycles of poverty they find themselves in. Education is not only a right in itself but also represents an indispensable means of realising other human rights. Education empowers economically and socially, reduces the risk of further abuse, and improves survivors’ status in their communities, which often helps their reintegration and recognition. This in turn can contribute to community healing, sustainable reconciliation, and peace. Education also fosters self-esteem, independence, and belonging, effectively combatting some of the deep scars left by sexual violence.
3. 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. Some survivors also explicitly link education to dignity and respect.

*"Survivors consider education for their children as a means of breaking the chains of poverty, stigma, and social rejection. Education is a pathway to empowerment, self-sufficiency, community respect, and dignity." (Uganda Global Reparations Study)*

1. Education as a priority for CRSV survivors has also stood out in GSF’s interim reparative measures (IRM) projects. In Guinea, 80% of the women who received IRM asked for the programmes to pay for their children’s schooling.

In Iraq, when asking survivors what they want as reparation, some immediately said that they just wanted to return to schools. This was especially true for CRSV survivors who were at school before 2014 and now cannot return because of the age difference.

**Interim Reparative Measures**

While advocating for States and other duty bearers to provide reparation to survivors of CRSV according to their international legal obligations, GSF supports civil society in providing **interim reparative measures**. This term refers to measures which aim to bridge the gap between survivors’ right to reparation and the lack of implementation by States, by acknowledging the harm inflicted on survivors and seeking to provide them with rehabilitation, compensation, and some form of satisfaction to allowing them to rebuild their lives and avoid some of the irreparable harms associated with a lack of timely reparation. Such interim reparative measures are not “reparations” in the legal sense because they are not provided by the duty-bearers, but rather implemented by civil society and the international community.

## Focus on survivors?

1. While many survivors of CRSV want reparations specifically designed for them, singling out victims or groups of victims as entitled to special measures (such as education) can lead to further stigmatisation and discrimination of these victims if they are not designed and implemented sensibly.[[19]](#footnote-19) They can also result in backlash in the community against children and other survivors.[[20]](#footnote-20) Furthermore, survivors themselves may want all their children, or siblings, to be included in reparative measures aimed at them.
2. Some parents in GSF’s work have expressed worry that reparative measures targeted specifically at children affected by CRSV could lead to further stigmatisation. They therefore highlighted the need to not neglect other children, and would like to see how IRMs could allow all children to have an equal access to education levels.
3. Furthermore, in many cases, adult survivors asked for reparation measures to include their children or grandchildren, whether or not they had been affected by the CRSV. Mothers who endured CRSV in South Sudan specifically highlighted the importance of reparations for children born of war but also reiterated that reparations should be extended to all their children as all of them have suffered due to their own victimisation. They also feared that just providing reparations to their 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 who feared reparations for some children would create further tension at home and lead to further discrimination.

“*There should not be a limit on the number of children per family who may be eligible for such reparations, as all children may have been affected to the same extent. It would be unfair for parents to have to choose who among their children should receive an education and who would not. Such a limitation may also lead to gender discrimination, as it is likely that sons’ education would be prioritised over that of daughters.*” *(The Gambia Global Reparations Study)*

1. Similarly, in GSF’s IRM project in Nigeria, it is clear that the education efforts cannot be aimed solely at individual victims of CRSV or Boko Haram. Families wish to see all their children and their siblings have equal access to education.
2. In such cases, it may be necessary to effect broader changes and support for entire communities, in addition to providing individualised support to survivors.[[21]](#footnote-21) Individual and collective measures need to coexist and be mutually reinforcing, and context-dependent creative strategies will need to be used.[[22]](#footnote-22) For example, individualised reparations may be provided “within larger community-based reparations programs that seek to benefit broader categories of ‘war-affected [individuals]’ and help ease the stigmatising effects of the abuse on the individual beneficiary. Those individuals deemed most vulnerable, which in a number of countries includes orphans, should be prioritised for preferential treatment and assistance.”[[23]](#footnote-23)

## Education as contributing to transitional justice

1. Education as reparation can have an important role to play in transitional justice, including through its transformative effects in dismantling the structures of inequality that may have led to the conflict and/or violations in the first place,[[24]](#footnote-24) and by supporting guarantees of non-repetition.[[25]](#footnote-25) Education in itself can “play a very important role in overcoming the consequences of oppression and violence and setting conditions for peace and justice” and can “provide resources and opportunities for those marginalised or discriminated against for gender, ethnic, religious, or political reasons, and even to transform the patterns of discrimination, especially with regard to gender hierarchies.”[[26]](#footnote-26) Various transitional justice mechanisms have considered the importance of educative measures in transitional contexts, including in Argentina, Chile, Colombia, Ecuador, Morocco, Paraguay, Peru, South Africa, Timor-Leste, and Sierra Leone.[[27]](#footnote-27)
2. In order for education as reparation to have this preventative and transformative potential, the measures in place need to ensure that they tackle sex, gender, ethnicity, race, class or age discrimination,[[28]](#footnote-28) and the schooling needs to be of sufficient quality.[[29]](#footnote-29) Educational measures also need to be “complemented with broader reform, reconstruction, and responses to problems such as inequality and segregation,”[[30]](#footnote-30) as lasting change “requires intergenerational engagement and commitment of the affected communities.”[[31]](#footnote-31) This is true for reparations programmes more broadly, as “reparations programs that are not linked to additional transitional justice measures, including prosecution, truth-telling and full disclosure, and institutional reform, will be significantly flawed.”[[32]](#footnote-32)
3. Survivors whose education was disrupted by the violence have expressed education as a form of reparation for their children and grandchildren as a way to lift themselves out of poverty and prevent the cycles of violence being repeated in the following generations.

*“Survivors still at school spoke of the need to complete their studies and “go further” to “make them feel like someone who can fight and advocate for their rights”.” (South Sudan Global Reparations Study)*

*“Had I been able to continue my study I could have been financially independent now." (Nepal Global Reparations Study)*

*"I haven't studied and always lived my life in pain. I want my child to get proper education. I am always worried about that" (Nepal Global Reparations Study)*

*“Those who have children especially fear for their children’s future, emphasising that there is no systemic support that would enable them to pay for their children’s education” (**Bosnia and Herzegovina Global Reparations Study)*

*“I think if the children born in captivity are educated, there will be no fight for the land, because if they study, they can buy their own land” (Uganda Global Reparations Study)*

1. For survivors of CRSV and other serious human rights violations, those working with them and policy makers, it can be valuable to recognise the intersection of the right to education and the right to reparation. Further exploring how these rights can mutually reinforce each other can be crucial in ensuring their effective realisation.
1. This note was drafted by Claire Simmons and Danaé van der Straten Ponthoz (January 2023). [↑](#footnote-ref-1)
2. See https://www.globalsurvivorsfund.org/projects. [↑](#footnote-ref-2)
3. 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. 196; Miano, M. S., “Toward a Child-Oriented Approach to Reparations: Reflecting on the Rights and Needs of Child Victims of Armed Conflict”, PRAXIS (2013) p. 28; Capone, F., *Reparations for Children Victims of Armed Conflict: state of the Field and Current Challenges*, Cambridge University Press (2018), p. 16. [↑](#footnote-ref-3)
4. Ramírez-Barat, C. & Duthie, R. (eds) *Transitional Justice and Education: Learning Peace*, ICTJ & UNICEF (2017) p. 14. [↑](#footnote-ref-4)
5. Correa, C., “Education for Overcoming Massive Human Rights Violations”, in Ramírez-Barat, C. & Duthie, R. (eds) *Transitional Justice and Education: Learning Peace*, ICTJ & UNICEF (2017), p. 131. [↑](#footnote-ref-5)
6. Mazurana & Carlson (n 3) p. 209. [↑](#footnote-ref-6)
7. Correa (n 5) p. 131. [↑](#footnote-ref-7)
8. Mazurana & Carlson (n 3) p. 209 & 212. [↑](#footnote-ref-8)
9. International Covenant on Economic, Social and Cultural Rights (1966) 993 UNTS 3, Art 13; ESCR Committee, General Comment 13 (1999), E/C.12/1999/10, para 1. [↑](#footnote-ref-9)
10. Mazurana & Carlson (n 3) p. 196. [↑](#footnote-ref-10)
11. Ramírez-Barat, C. & Duthie, R., “Education and Transitional Justice: Opportunities and Challenges for Peacebuilding”, ICTJ/UNICEF (2015), p. 12. [↑](#footnote-ref-11)
12. Ramírez-Barat & Duthie (2015) (n 11) p. 12. [↑](#footnote-ref-12)
13. Ramírez-Barat & Duthie (2015) (n 11) p. 13. See also Mazurana & Carlson (n 3) p. 204. [↑](#footnote-ref-13)
14. Ramírez-Barat & Duthie (2015) (n 11) p. 30. [↑](#footnote-ref-14)
15. Ramírez-Barat & Duthie (2015) (n 11) p. 13. [↑](#footnote-ref-15)
16. Mazurana & Carlson (n 3) p. 186. [↑](#footnote-ref-16)
17. Mazurana & Carlson (n 3) p. 186. [↑](#footnote-ref-17)
18. Mazurana & Carlson (n 3) p. 198. [↑](#footnote-ref-18)
19. Ramírez-Barat & Duthie (2015) (n 11) p. 32. [↑](#footnote-ref-19)
20. Mazurana & Carlson (n 3) p. 202. [↑](#footnote-ref-20)
21. Ramírez-Barat & Duthie (2015) (n 11) p. 28. [↑](#footnote-ref-21)
22. Mazurana & Carlson (n 3) pp. 202-204. [↑](#footnote-ref-22)
23. Mazurana & Carlson (n 3) p. 202. [↑](#footnote-ref-23)
24. Ramírez-Barat & Duthie (2015) (n 11) p. 11. [↑](#footnote-ref-24)
25. Ramírez-Barat & Duthie (2017) (n 4) p. 16. [↑](#footnote-ref-25)
26. Correa (n 5) p. 131. [↑](#footnote-ref-26)
27. Ramírez-Barat & Duthie (2017) (n 4) p. 138; CMI, “Beyond Words: Latin American Truth Commissions’ Recommendations”, Database available at https://www.cmi.no/projects/1827-latin-american-truth-commissions-recommendations#dataset; Amnesty International, “Peru: The Truth and Reconciliation Commission: A First Step Towards a Country Without Injustice” (2004). [↑](#footnote-ref-27)
28. Mazurana & Carlson (n 3) p. 174. [↑](#footnote-ref-28)
29. Mazurana & Carlson (n 3) p. 197. [↑](#footnote-ref-29)
30. Ramírez-Barat & Duthie (2015) (n 11) p. 34. [↑](#footnote-ref-30)
31. Ramírez-Barat & Duthie (2015) (n 11) p. 34. [↑](#footnote-ref-31)
32. Mazurana & Carlson (n 3) p. 174, citing de Greiff, P., “Justice and Reparations” in de Greiff, P. (ed) *The Handbook of Reparations*, Oxford University Press (2006), p. 451. [↑](#footnote-ref-32)