

**Human Rights Council****Fifty-second session**

27 February–31 March 2023

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****Reparation for child victims and survivors of sale and sexual  
exploitation****Report of the Special Rapporteur on the sale and sexual exploitation of  
children, including child prostitution, child pornography and other  
child sexual abuse material\****Summary*

In the present report, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Mama Fatima Singhateh, provides an overview of the activities undertaken since her previous report and presents a thematic study on reparation for child victims and survivors of sale and sexual exploitation. The thematic study contains an analysis of the overall issue of children's right to reparation and access to justice, current gaps and challenges, and the good practices and experiences of various stakeholders on this issue. The Special Rapporteur formulates a set of recommendations for States and other stakeholders with a view to contributing towards the design and implementation of national and international frameworks on providing reparation to child victims and survivors of sale and sexual exploitation.

\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## **I. Introduction**

1. In the present report, submitted pursuant to Human Rights Council resolutions 7/13 and 43/22, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, presents a thematic study on reparation for child victims and survivors of sale and sexual exploitation. The study contains an analysis of the overall issue of children's right to reparation and access to justice, current gaps and challenges, and the practices and experiences of various stakeholders on this issue.
2. The report also contains information on the activities undertaken by the Special Rapporteur since her previous report.<sup>1</sup>

## **II. Activities of the Special Rapporteur**

### **A. Country visits**

3. The Special Rapporteur conducted official visits to Mauritius from 21 to 30 June 2022,<sup>2</sup> and to the Philippines from 28 November to 8 December 2022.
4. The Special Rapporteur highly appreciates the positive response received from the Government of Uruguay to her request to conduct an official visit, and looks forward to the upcoming visit in May 2023.

### **B. Communications and press releases**

5. During the period under review, the Special Rapporteur, jointly with other mandate holders, transmitted communications to Governments on issues that fell within the scope of her mandate. She issued press statements, jointly with other mandate holders, on thematic issues such as illegal intercountry adoption and on the occasion of events such as World Tourism Day, World Day for the Prevention of and Healing from Child Sexual Exploitation, Abuse and Violence, International Day for the Elimination of Violence against Women, and the anniversary of the adoption of the Universal Declaration of Human Rights.

### **C. General Assembly and other activities**

6. On 1 and 2 September 2022, the Special Rapporteur contributed to a workshop, organized by the Office of the United Nations High Commissioner for Human Rights pursuant to the Human Rights Council resolution 48/6, on the adverse impact of forced marriage on the full and effective enjoyment of all human rights by all women and girls. The Special Rapporteur elaborated on practical measures to address child early and forced marriage in the context of recovery efforts following the coronavirus disease (COVID-19) pandemic.
7. On 7 October 2022, the Special Rapporteur presented to the General Assembly a thematic report on addressing the vulnerabilities of children to sale and sexual exploitation within the framework of the Sustainable Development Goals.<sup>3</sup> She highlighted good practices and recommendations to address that scourge, which was amplified by the vulnerable situation of their families, exposure to an unregulated digital environment and the risks that existed within institutional or alternative care.

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<sup>1</sup> [A/HRC/49/51](#).

<sup>2</sup> [A/HRC/52/31/Add.1](#).

<sup>3</sup> [A/77/140](#).

### III. Thematic study on reparation for child victims and survivors of sale and sexual exploitation

#### A. Introduction and scope

8. Despite the significant work carried out in the area of victim-centred approaches to reparation and transitional justice, child victims and survivors of sale and sexual exploitation have hardly ever been afforded due reparation for violations committed against them as enshrined under international and regional human rights instruments, nor have they been provided with adequate opportunity to reconcile with their families and communities, nor witnessed adequate reforms to the systems intended to protect them.<sup>4</sup>

9. While it is not fully possible to return victims to their previous condition before the harm was suffered, reparation is nevertheless a crucial component of meaningful remedy and recovery for child victims and survivors of sale and sexual exploitation. In the present thematic study, the Special Rapporteur examines the scope and importance of reparation for children who have been affected by sale, sexual abuse and exploitation in both conflict and non-conflict settings. The Special Rapporteur makes recommendations regarding measures that can be adopted in accordance with international standards, including the means to safeguard reparation that is effective, adequate and prompt to ensure meaningful redress.

10. To inform the preparation of her report and in addition to literature review, the Special Rapporteur issued a call for contributions from States, national human rights institutions, civil society organizations, United Nations agencies, academia and individuals on specific examples of practices related to the scope of the study.<sup>5</sup> The Special Rapporteur wishes to thank all the stakeholders who responded to her call for input for their valuable contributions, which helped to enrich the present report.

#### B. International legal framework

##### 1. Definition and importance of reparation for child victims and survivors

11. Reparative justice measures vary across countries,<sup>6</sup> despite unified commitments under international legal norms and standards. Many States still need to fully operationalize legal and regulatory frameworks,<sup>7</sup> including through the adoption of legislation and the implementation of child-friendly services.

12. A study conducted by the United Nations Children's Fund (UNICEF) and WeProtect Global Alliance indicated that almost 20 per cent of the countries examined (8 of 42) had no effective remedies or reparation for child victims and survivors of sexual exploitation and abuse, and that even in countries where such measures existed, they were not necessarily comprehensive or sufficient.<sup>8</sup>

13. A crucial question is how current provisions in national and international frameworks can better respond to the needs of victims and survivors for reparation. The definition of reparation within the ambit of international law is continuously growing, improving, adapting and adjusting to changing times. In 2005, the General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of

<sup>4</sup> Julia Freedson, *Bridging the Accountability Gap: New Approaches to Addressing Violations against Children in Armed Conflict* (Cambridge, Massachusetts, Conflict Dynamics International, 2011), p. 13.

<sup>5</sup> The submissions received are available at <https://www.ohchr.org/en/calls-for-input/2022/call-input-report-special-rapporteur-sale-and-sexual-exploitation-children>.

<sup>6</sup> Submissions from Burundi, Chile, Ecuador, El Salvador, Kuwait, Luxembourg, Nepal, Poland and the Russian Federation.

<sup>7</sup> Submission from ECPAT Indonesia.

<sup>8</sup> UNICEF and WeProtect Global Alliance, "Framing the future: how the Model National Response framework is supporting national efforts to end child sexual exploitation and abuse online", May 2022.

International Human Rights Law and Serious Violations of International Humanitarian Law.<sup>9</sup> Their adoption was a milestone, as they provided greater understanding of the right to reparation, and reference is increasingly being made to them in the jurisprudence of various courts.

14. Reparation measures can include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, which can be symbolic, material, individual or collective in character. Reparation should be proportional to the gravity of the violations and the harm suffered by the child victims and survivors. For instance, reparation can include: punishment of offenders; holding of institutions to account; acknowledgement of abuse; public apologies; assurances of non-recurrence; financial compensation to individuals; support for rehabilitation; aid from victim-compensation programmes administered by the State; restoration of employment; pensions; free or subsidized access to education; access to medical care and to psychological, legal and social services; commemorations of and tributes to the victims; and declarations or judicial decisions restoring the dignity, reputation and rights of victims.

15. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence noted that the difference between mere compensation and reparation was that reparation, in order to be understood as such, must be accompanied by some sort of acknowledgment of responsibility.<sup>10</sup> Any denial of such acknowledgment and failure to take steps to provide redress for offences committed against children expands impunity,<sup>11</sup> and reinforces stigmatization, social exclusion and family breakdowns.<sup>12</sup>

16. According to the Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation (2007), reparation must go above and beyond the immediate reasons and consequences of the crimes and violations, and aim to address the political and structural inequalities that negatively shape women's and girls' lives.<sup>13</sup> A greater understanding of the specific experiences of child victims and survivors, with particular attention to age, gender and cultural contexts, is essential as it can further help inform how best to tailor reparations programmes.<sup>14</sup>

17. The process of obtaining reparation should itself be empowering, transformative, sustainable and victim-centred.<sup>15</sup> The Special Rapporteur on violence against women and girls, its causes and consequences suggested that reparation had transformative potential where it focused on guarantees of non-repetition and underlying structural causes.<sup>16</sup> The consequent healing of wounds and rebuilding of relations can therefore serve both individuals and societal groups.<sup>17</sup>

18. As evidenced by various cases, reparation can allow for the narrowing of the gaps within communities formed by conflict and holds the potential to be an effective policy tool to promote recovery and development.<sup>18</sup>

<sup>9</sup> General Assembly resolution 60/147, annex.

<sup>10</sup> [A/HRC/21/46](#), para. 24.

<sup>11</sup> Submission from Maat for Peace, Development and Human Rights Association.

<sup>12</sup> Global Survivors Fund, "The time for reparation is now: call for action for the 2022 International Ministerial Conference on Preventing Sexual Violence in Conflict Initiative", November 2022.

<sup>13</sup> See [https://www.fidh.org/IMG/pdf/NAIROBI\\_DECLARATIONeng.pdf](https://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf).

<sup>14</sup> Submission from Axana Soltan; and S. Marie Miano, "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. 28, 2013, p. 33.

<sup>15</sup> Submission from Kailash Union; and guidance note of the Secretary-General on reparations for conflict-related sexual violence, June 2014.

<sup>16</sup> [A/HRC/14/22](#).

<sup>17</sup> Dyan Mazurana and Khristopher Carlson, "Children and reparation: past lessons and new directions", Innocenti Working Paper, No. 2010-8 (Florence, UNICEF Office of Research – Innocenti, 2010), p. 2.

<sup>18</sup> See Arlen Guarin, Juliana Londoño-Vélez and Christian Posso, "Reparations as development? Evidence from victims of the Colombian armed conflict", Joint Data Center on Forced Displacement, 17 December 2021.

19. Academic reflections and civil society advocacy have contributed further to placing the question of gender-sensitive reparations on the national and international agenda. The Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-related Sexual Violence (Murad Code) is the best expression of this transnational growing concern to provide women and girls with a survivor-centred response, establishing ethical procedures for investigating, detecting, collecting and recording information from victims and survivors of systematic and conflict-related sexual and gender-based violence.<sup>19</sup>

## 2. International human rights law

20. Those subject to human rights violations have a right to obtain a remedy,<sup>20</sup> and, at the same time, individual perpetrators and States have a duty to satisfy this right.<sup>21</sup>

21. It should be noted that the rights protected under the Convention on the Rights of the Child apply in both conflict and non-conflict settings, as international human rights law and international humanitarian law are mutually reinforcing and extraterritorially cover all people within a State party's jurisdiction.<sup>22</sup>

22. Under article 9 (4) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, States parties are required to ensure that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

23. In addition, under article 39 of the Convention on the Rights of the Child, States parties are required to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration should take place in an environment which fosters the health, self-respect and dignity of the child.

24. In its general comment No. 5 (2003) on general measures of implementation of the Convention, the Committee on the Rights of the Child notes that children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights, meaning that States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These procedures should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. There should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration, as required by article 39.<sup>23</sup>

25. The Committee recommends that States parties: (a) ensure that the relevant services for medical care, social reintegration and physical and psychological recovery of victims are accessible free of charge throughout the country to all children who need them, and that persons providing such services have certified training and the necessary expertise; (b) develop a comprehensive continuum of care and support that includes closely monitored post-trial reintegration services, including for foreign victims who find themselves in the territory of the State party; (c) carefully consider which form of compensation is preferable for each child victim, depending on her or his specific situation, personal opinion and prospects for life; in addition, or as an alternative to cash payments, compensation may be

<sup>19</sup> See <https://www.muradcode.com/murad-code>.

<sup>20</sup> See Universal Declaration of Human Rights, art. 8; International Covenant on Civil and Political Rights, art. 2 (3); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14; International Convention for the Protection of All Persons from Enforced Disappearance, art. 24; and International Convention on the Elimination of All Forms of Racial Discrimination, art. 6.

<sup>21</sup> Francesca Capone, *Reparations for Child Victims of Armed Conflict* (Cambridge, Intersentia, 2017), p. 71.

<sup>22</sup> See Christian Tomuschat, "Human rights and international humanitarian law", *European Journal of International Law*, vol. 21, No. 1 (February 2010), pp. 15–23.

<sup>23</sup> General comment No. 5 (2003), para. 24.

provided in the form of financial or other support for education and/or income-generating activities, which could benefit the victim in the long term.<sup>24</sup>

26. As the Committee notes in its general comment No. 24 (2019) on children's rights in the child justice system, customary justice processes and outcomes should be aligned with constitutional law and with legal and procedural guarantees, and it is important that unfair discrimination does not occur, if children committing similar crimes are being dealt with differently in parallel systems or forums.<sup>25</sup>

27. Furthermore, the Committee notes in its general comment No. 25 (2021) on children's rights in relation to the digital environment that States parties should establish, coordinate and regularly monitor and evaluate frameworks for the referral of cases and the provision of effective support to children who are victims. Frameworks should include measures for the identification of, therapy and follow-up care for, and the social reintegration of, children who are victims. Training on the identification of children who are victims should be included in referral mechanisms, including for digital service providers. Measures within such a framework should be multi-agency and child-friendly, to prevent a child's revictimization and secondary victimization in the context of investigative and judicial processes. That may require specialized protections for confidentiality and to redress harm associated with the digital environment.<sup>26</sup>

28. The Committee has noted that States parties should sign bilateral agreements to collaborate with other countries in order to provide effective legal and other support for the child victims originating in the respective countries.<sup>27</sup> The Committee has recommended that States parties establish a regular and predictable budget process for child recovery, strengthen public sector involvement in the development of services for child victims and monitoring of financial resources, support the activities of civil society organizations and make services and centres for the recovery and reintegration of child victims integral parts of the support structures of the child protection system at the national, provincial and local levels.<sup>28</sup>

29. Moreover, the Committee has recommended that States parties increase in-country expertise to ensure that specialized services, adequate support and age-appropriate information are provided to child victims in a language that they understand.<sup>29</sup> The Committee has stressed that States parties should guarantee that all child victims, including those who are not nationals or residents of the State party in question, have access to adequate procedures to seek, without discrimination, compensation from those legally responsible, in accordance with article 9 (4) of the Optional Protocol, and should consider establishing a victims' compensation fund for those cases where victims cannot obtain compensation from the perpetrator.<sup>30</sup>

30. Among regional human rights instruments, provisions regarding the right to remedy are included in articles 5 (5), 13 and 41 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), , article X of the Inter-American Convention on Forced Disappearance of Persons, article 8 and 9 of the Inter-American Convention to Prevent and Punish Torture, articles 10 and 25 of the American Convention on Human Rights, articles 7 and 21 of the African Charter on Human and Peoples' Rights, articles 6 and 8 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and articles 12 and 23 of the Arab Charter on Human Rights.

31. Under the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), States parties must take all the legislative and preventive measures and establish all the procedures and facilities necessary

<sup>24</sup> [CRC/C/156](#), para. 100.

<sup>25</sup> General comment No. 24 (2019), para. 103.

<sup>26</sup> General comment No. 25 (2021), para. 45.

<sup>27</sup> [CRC/C/OPSC/GAB/CO/1](#), para. 36.

<sup>28</sup> *Ibid.*, para. 40, and [CRC/C/OPSC/SAU/CO/1](#), para. 39.

<sup>29</sup> [CRC/C/OPSC/LUX/CO/1](#), para. 30 (a).

<sup>30</sup> [CRC/C/OPSC/NZL/CO/1](#), para. 49 (d).

to provide assistance to child victims of and to protect children from sexual exploitation and sexual abuse, and to prosecute perpetrators.

32. The Council of Europe has created various standards and guidelines in the field of child-friendly justice, including the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, to enhance children's access to and treatment in justice and to guarantee respect for and the effective implementation of all children's rights at the highest attainable level.<sup>31</sup>

### 3. International humanitarian law

33. Compared to international human rights law, the framework governing reparations for violations of international humanitarian law is much more limited and the provisions are less specific, failing to emphasize victims' rights.<sup>32</sup> According to article 3 of the Hague Convention (IV) respecting the Laws and Customs of War on Land, any belligerent party that violates the provisions of the Regulations annexed to the Convention will, if the case demands, be liable to pay compensation.

34. Similarly, under article 91 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), any party to the conflict that violates the Conventions or the Protocol will, if the case demands, be liable to pay compensation, and is responsible for all acts committed by persons forming part of its armed forces.

35. Claims commissions and special arbitral tribunals have traditionally been a more successful way for individuals to assert their claims for compensation than national courts, although they are limited by their ad hoc nature and the willingness of the States involved.<sup>33</sup>

36. Furthermore, the Security Council identified the following six grave violations against children in situations of armed conflict: recruitment or use of children as soldiers, sexual violence against children, killing and maiming of children, abduction of children, attacks against schools or hospitals, and denial of humanitarian access for children.<sup>34</sup> In 2005, the Security Council established the Working Group on Children and Armed Conflict to review the reports of a newly established monitoring and reporting mechanism on children and armed conflict.<sup>35</sup>

37. In 2018, the Security Council emphasized the responsibility of all States to investigate and prosecute those responsible for genocide, crimes against humanity, war crimes and other egregious crimes perpetrated against children; emphasized that children associated or accused of having committed crimes during armed conflicts should be treated primarily as victims of violations of international law; and encouraged Member States to focus on long-term and sustainable reintegration and rehabilitation opportunities for children affected by armed conflict, including access to health care, psychosocial support and education programmes, as well as raising awareness and working with communities to avoid stigmatization of these children and facilitate their return.<sup>36</sup>

38. Standards and commitments to protect children from hostilities have been further strengthened through Security Council resolutions 2493 (2019) and 2664 (2022), the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), the Safe Schools Declaration and the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers.

<sup>31</sup> See <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045f5a9>.

<sup>32</sup> Capone, *Reparations for Child Victims*, p. 79.

<sup>33</sup> Ibid, p. 80. See also Emanuela-Chiara Gillard, "Reparation for violations of international humanitarian law", *International Review of the Red Cross*, vol. 85, No. 851 (September 2003), pp. 539–541.

<sup>34</sup> See Security Council resolutions 1612 (2005), 1882 (2009), 1998 (2011) and 2225 (2015).

<sup>35</sup> Security Council resolution 1612 (2005), para. 8.

<sup>36</sup> Security Council resolution 2427 (2018), paras. 20, 26 and 31.

39. In 2022, the Paris Principles Steering Group, co-chaired by UNICEF and Save the Children International, published the *Paris Principles Operational Handbook*, which offers guidance to child protection specialists, government officials, policymakers, donors, advocates and communities as they develop strategies and put in place policies and programmes for the prevention, release and reintegration of affected children.

40. Also in 2022, the Lanzarote Committee Secretariat, of the Council of Europe, launched the *Handbook on the Protection of Children against Sexual Exploitation and Sexual Abuse in Crisis and Emergency Situations*, to address the protection of children from sexual abuse in the context of the heightened risk of children affected by migration.

#### 4. International criminal law

41. The body of international criminal law was subject to a higher degree of implementation in the last decade of the twentieth century than previously. The Rome Statute of the International Criminal Court sets out acts against children that constitute grave violations.<sup>37</sup> Under article 68 thereof, the Court is required to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.

42. Article 75 of the Rome Statute empowers the International Criminal Court to establish principles relating to reparations, including restitution, compensation and rehabilitation, to victims of crimes under its jurisdiction.

43. Furthermore, article 79 of the Rome Statute provides for the establishment of a trust fund for the benefit of victims of crimes within the jurisdiction of the International Criminal Court, and of the families of such victims. The Trust Fund for Victims provides for the possibility of victims and their families receiving assistance, namely psychological rehabilitation, physical rehabilitation or material support, through the use of other resources.

44. The Trust Fund for Victims is currently involved in five cases for reparation before the International Criminal Court, namely *The Prosecutor v. Thomas Lubanga Dyilo*,<sup>38</sup> *The Prosecutor v. Germain Katanga*,<sup>39</sup> *The Prosecutor v. Ahmad al-Faqi al-Mahdi*,<sup>40</sup> *The Prosecutor v. Bosco Ntaganda*<sup>41</sup> and *The Prosecutor v. Dominic Ongwen*.<sup>42</sup> The Court has awarded various types of reparation, including housing assistance, psychological counselling to help victims manage post-traumatic stress disorder, socioeconomic support, and individual reparation awards. It is too early to assess the extent to which these awards have protected or promoted children's right to reparations.

45. Moreover, the Economic and Social Council, in its Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, further sheds light on the elements of reparation, noting that child victims – defined as children and adolescents, under the age of 18, who are victims of crime or witnesses to crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders – should, wherever possible, receive reparation in order to achieve full redress, reintegration and recovery.<sup>43</sup>

### C. Gaps and challenges

#### 1. Legislative framework

46. Although international human rights law provides for the right of children to reparation for violations of their rights, many countries are yet to clearly define this right explicitly under their respective national legislative framework.<sup>44</sup> Much work remains to be

<sup>37</sup> See [PCNICC/2000/1/Add.2](#).

<sup>38</sup> No. ICC-01/04-01/06 A7 A8, Judgment, 18 July 2019.

<sup>39</sup> No. ICC-01/04-01/07, Order for Reparations, 24 March 2017.

<sup>40</sup> No. ICC-01/12-01/15 A, Judgment, 8 March 2018.

<sup>41</sup> No. ICC-01/04-02/06, 8 March 2021.

<sup>42</sup> No. ICC-02/04-01/15, Order for Submissions on Reparations, 6 May 2021.

<sup>43</sup> Economic and Social Council resolution 2005/20, annex, paras. 9 (a) and 35.

<sup>44</sup> See States' submissions, and UNICEF and WeProtect Global Alliance, "Framing the future".



done in order that legislative frameworks provide adequate guidance on harm suffered by child victims.

47. In particular, for situations such as cross-border movement of children and the ensuing abuse and exploitation, and even more so in the online context, unique challenges are posed in terms of establishing who is responsible for compensation and proving the harm suffered, and determining the liabilities for the crime of each chain of actors. The element of omission of responsibilities within the chain of violations also needs to be assessed and taken into account.

48. Gaps continue to exist in national laws that do not criminalize or provide for reparation for other violations, such as child marriage below the age of 18, child labour, child abuse and child exploitation, including those that are sexual in nature regardless of the age of the consent. Forms of sexual exploitation that are included are often limited in range.

49. Other barriers hindering child victims and survivors from claiming reparation include unclear legislative definitions on whether it applies to all child victims and survivors, and lack of provisions on the amount of compensation to which they are entitled, thereby leaving the matter broadly to the discretion of judges.<sup>45</sup>

50. Historically, non-State actors, including non-State armed groups, businesses, development projects financed by the World Bank,<sup>46</sup> and multilateral development banks,<sup>47</sup> have fallen short as duty bearers in addressing and facilitating reparation for child victims and survivors of sale and sexual exploitation.

51. Without legislation that defines and incorporates the responsibilities of non-State actors and ensures the necessary use and application of reporting mechanisms and grievance redress mechanisms, the gaps in fulfilling the right of child victims to reparation will persist, because obligations only arise for States to provide reparation when the conduct of non-State armed groups is attributable to the State.

## 2. Procedural safeguards

52. Provisions relating to access to legal aid and support for the proceedings in receiving reparation and the dissemination of child-friendly information in their own language are inadequate. A recent inquiry found that some victims and survivors had not brought civil claims against the institutions in which they were abused because they were unaware that they could do so.<sup>48</sup>

53. Children do not have access to information about where to seek assistance and advice.<sup>49</sup> This problem is more acute for child victims of online exploitation, who face problems beyond access to information because of the nature of these crimes, which include the online production, collection and distribution of child sexual abuse materials, and for child victims of trafficking, as they might not know the identity of the perpetrator.

54. In some legal systems, requirements for separate criminal and civil proceedings can make it challenging for child victims to receive reparation in cases of abuse, violence and exploitation. Cumbersome and lengthy procedures can discourage them from taking procedural steps. In several jurisdictions, much depends on the ability of the offender to pay,<sup>50</sup> which can be inadequate where reparation provisions are not backed by State funds. Another factor is the huge backlog of cases resulting from inadequate resources for timely investigation and prosecution.<sup>51</sup>

<sup>45</sup> Submission from African Child Policy Forum.

<sup>46</sup> See [https://bankinformationcenter.cdn.prismic.io/bankinformationcenter/2db46d66-ea74-443a-aa2d-1b8769a825d2\\_Briefing+Note-World+Bank+Procurement.pdf](https://bankinformationcenter.cdn.prismic.io/bankinformationcenter/2db46d66-ea74-443a-aa2d-1b8769a825d2_Briefing+Note-World+Bank+Procurement.pdf).

<sup>47</sup> Submission from the Care and Protection of Children Learning Network at Columbia University and the Bank Information Center.

<sup>48</sup> United Kingdom of Great Britain and Northern Ireland, Independent Inquiry into Child Sexual Abuse, *Accountability and Reparations: Investigation Report* (London, Stationery Office, 2019), p. 26.

<sup>49</sup> See [A/HRC/16/56](#).

<sup>50</sup> Submission from Azerbaijan.

<sup>51</sup> Submission from Maldives.

55. A study found that in sexual exploitation cases, children are under tremendous pressure to settle out of court with their exploiters rather than seek compensation through State systems, because families have no incentive to engage in slow, time-consuming State processes that do not guarantee an award of compensation when they can accept substantial settlements from defendants up front.<sup>52</sup> Out-of-court settlements may seem attractive as an alternative option to criminal proceedings to children and families where poverty is a significant risk factor, but should be strongly discouraged.

56. It has also been reported that many cases concerning the online sexual exploitation of child victims have been resolved through informal “compromises” whereby perpetrators pay child victims in order to avoid legal action.<sup>53</sup> Again, such out-of-court settlements involving payment to a child victim to avoid criminal prosecution and penalties should be strongly discouraged and opposed by law enforcement, social workers, the judiciary and other relevant officials, not only for the sake of the victim, but also for the sake of future potential victims.<sup>54</sup>

57. Statutes of limitations can be another impediment to access to reparation, as child victims and survivors may not be aware of the importance of reporting within a certain time frame in order to avoid having their claim rejected by the court.<sup>55</sup> The question of timing is therefore important in determining children’s access to reparation. In the context of conflict, most national reparation programmes, for the purpose of convenience, identify those under the age of 18 years as legitimate beneficiaries for reparation, thereby failing to address the traumas experienced by adult victims of violations that occurred when they were children.<sup>56</sup>

58. Victims and survivors should be given the opportunity to come forward and claim reparation when they feel physically and psychologically ready to do so and not be denied access because of narrow applications of the law and strict deadlines.

59. Even where a legal assistance system is in place, not all child victims necessarily qualify for free legal assistance, as eligibility criteria are usually applied whereby victims must have a one-year residential stay permit for the purposes of rehabilitation.<sup>57</sup> In many countries, owing to a lack of child-sensitive policies and regulations, the burden of proof that rests with the child in court proceedings can be a major obstacle, given the limited capacities of the child victims and survivors. It can also be distressing for the victims if defendants question their credibility, or if they are made to present their testimonies in front of the perpetrators.<sup>58</sup>

60. It cannot be overstated that procedural obstacles traditionally faced by child victims and survivors in the judicial setting can lead to further revictimization and expose children to potential reprisal, stigmatization, psychological harm, and community and family ostracism.<sup>59</sup> Depending on the nature of such cases, and especially in the context of mass violations, administrative reparation programmes can alleviate some of the difficulties and costs associated with litigation, the need to gather evidence that may sometimes be unavailable, the pain associated with cross-examination and the lack of trust in the judicial system.<sup>60</sup>

61. The lack of transparency and the lack of data from digital platforms is an ongoing challenge for Governments that are trying to protect their citizens from online harm. To date,

<sup>52</sup> See Foundation ECPAT International, *Barriers to Compensation for Child Victims of Sexual Exploitation: A Discussion Paper Based on a Comparative Legal Study of Selected Countries* (Bangkok, 2017), p. 35.

<sup>53</sup> UNICEF, *Victims Are Not Virtual: Situation Assessment of Online Child Sexual Exploitation in South Asia* (Kathmandu, 2016), p. 34.

<sup>54</sup> UNICEF, *Legislating for the Digital Age: Global Guide on Improving Legislative Frameworks to Protect Children from Online Sexual Exploitation and Abuse* (New York, 2022), p. 150.

<sup>55</sup> United Kingdom, Independent Inquiry into Child Sexual Abuse, *Accountability and Reparations: Investigation Report*, p. 26.

<sup>56</sup> Capone, *Reparations for Child Victims*, p. 239.

<sup>57</sup> Submission from Israel.

<sup>58</sup> United Kingdom, Independent Inquiry into Child Sexual Abuse, *Accountability and Reparations: Investigation Report*, p. 32.

<sup>59</sup> See A/HRC/14/22.

<sup>60</sup> Ibid.

the industry has not fully cooperated with the various stakeholders and has chosen what information to share about the types of harm occurring through its services, platforms and supply chains and the steps that it is taking to address them, and how this information is presented.

### 3. Cross-border collaboration

62. Access to justice can be limited when victims have suffered a crime in another country, or when they are not legal residents of the country in which they are seeking compensation.<sup>61</sup> Many children who are victims across the border find themselves without any identification documents or proof of residence in that country and, as such, can be left without remedies when foreign offenders escape prosecution.<sup>62</sup>

63. Legislation and implementation mechanisms clearly delineating the responsibilities of actors or duty bearers fall short of giving effect to the provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, such as those under article 4 requiring States parties to take the measures necessary to establish extraterritorial jurisdiction, and under article 10 requiring them to strengthen international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation. Studies show that victims have received compensation from a court in their offender's country in only a limited number of cases.<sup>63</sup>

64. State-managed compensation programmes may require that the criminal injuries for which compensation is sought occurred within their borders.<sup>64</sup> This can be particularly challenging for children who have been moved around to various locations, as often occurs in trafficking cases.<sup>65</sup>

### 4. Funds

65. The establishment of victim compensation funds in binding international instruments is recommended. In different legal systems, reparation mechanisms can vary in terms of modalities, whether through a State-managed programme, through a court of law, or through the perpetrator.

66. In many countries, funds are generally not specifically addressed to victims of sexual exploitation, and the eligibility requirements can be difficult to meet for child victims. One study pointed to the fact that the amounts potentially available to victims through State-managed funds were so small that they were one reason that child victims and their families consented to settlements with perpetrators.<sup>66</sup> Given the lack of monitoring and evaluation measures to ensure that funds disbursed as reparation are appropriately utilized, it is difficult to assess whether they are used in the best interests of the child victims and survivors. This aspect bears importance as in some cases, guardians, family or even the entire community may have been a part of the chain of offenders, in which case they would be unsuitable to be entrusted with compensation for the child victim. In the context of conflict, rifts and resentment in a society might be created among adolescents and families if the correct balance is not struck and sensitivities are not taken into account when setting funds for child victims and survivors of abuse, violence and exploitation vis-à-vis child soldiers who then become part of disarmament, demobilization and reintegration programmes.<sup>67</sup> It is therefore important to adequately assess the needs of each group of child victims and survivors in order to ensure that they all, without discrimination, receive reparation.

67. Moreover, the need to respond to violence against children is increasing. Services and measures to prevent, protect and rehabilitate child victims and survivors are chronically underfunded. It is estimated that less than 1 per cent of official development assistance is

<sup>61</sup> UNICEF, *Victims Are Not Virtual*, p. 36.

<sup>62</sup> *Ibid.*, p. 37.

<sup>63</sup> *Ibid.*, p. 39.

<sup>64</sup> *Ibid.*, p. 36.

<sup>65</sup> Submission from Foundation ECPAT International.

<sup>66</sup> *Ibid.*

<sup>67</sup> Capone, *Reparations for Child Victims*, p. 240.

invested in ending violence against children.<sup>68</sup> Similarly, less than 1 per cent of total aid goes to women's and girls' organizations to support efforts to achieve gender equality efforts<sup>69</sup> and to prevent violence against women and girls.<sup>70</sup>

## 5. Stigmatization

68. Many child victims and survivors may choose to avoid going through the legal process to gain access to compensation because they fear risking further stigmatization. Their profound need at this time is to seek validation, recognition and support within the social and cultural contexts in which they reside. Limited knowledge on these peculiarities, and an inadequate, trauma-informed approach in the reparation mechanisms process, can thus be discouraging to those children most in need.<sup>71</sup>

69. Children who are victims and witnesses may suffer additional hardship if mistakenly or deliberately viewed as offenders. This gap is even more acute in relation to victims of sexual violence.<sup>72</sup> As a result, these victims can often be marginalized in reparation discussions and benefits, and a gender-sensitive approach is often not factored into these discussions.

70. When multiple child victims and survivors are connected to a single source or part of a series of perpetrated acts, especially in the context of conflict, systemic issues in judicial processes can multiply the distress caused to some victims and survivors who use the route of criminal or civil claims. Child victims and survivors face difficulties in bringing their case and claim for reparation, owing to unequal access to judicial processes and unequal ability to benefit from them.<sup>73</sup> Child victims and survivors can be subjected to arbitrary "penalizing" based on their ability to find sufficient support, evidence, responsible actors and access to a relevant legal forum to bring a case.

71. Another flaw is failure by States and relevant stakeholders to address the contentious and sensitive issues of children born of sexual violence, men and boys exposed to sexual violence, and survivors belonging to vulnerable groups.<sup>74</sup>

## 6. Capacities

72. Law enforcement officials and professionals working with child victims of sexual exploitation may lack the capacity to deal with the effect of crimes on child victims and survivors, yet they play a pivotal role in enabling and supporting them to obtain reparation.

73. Inadequacy of knowledge and implementation of victims' rights under national and international law, including the right to remedies and compensation from gendered perspectives, remain crucial challenges to overcome. Studies have shown that victims seeking reparation in cases of child sexual abuse and exploitation face significant setbacks in terms of access and implementation.<sup>75</sup>

74. Children may not have the information required to determine whether they qualify for reparation or whether they can have access legal counsel and to the courts to have their views

<sup>68</sup> World Vision International, "Counting pennies 3: assessment of official development assistance to end violence against children", September 2021.

<sup>69</sup> See [S/2020/946](#).

<sup>70</sup> Equality Institute, "Global scoping of advocacy and funding for the prevention of violence against women and girls", April 2019.

<sup>71</sup> See Jo-Anne Wemmers, "Compensating crime victims", Office of the Federal Ombudsman for Victims of Crime of Canada, March 2021.

<sup>72</sup> See Sunneva Gilmore, Julie Guillerot and Clara Sandoval, "Beyond silence and stigma: crafting a gender-sensitive approach for victims of sexual violence in domestic reparation programmes", *Reparations, Responsibility and Victimhood in Transitional Societies*, Queen's University Belfast, March 2020, p. 4.

<sup>73</sup> Pablo de Greiff, "Justice and reparations", in *The Handbook of Reparations*, Pablo de Greiff, ed. (Oxford, Oxford University Press, 2006), p. 458.

<sup>74</sup> Submission from the Jiyan Foundation for Human Rights.

<sup>75</sup> See United Kingdom, Independent Inquiry into Child Sexual Abuse, *Accountability and Reparations: Investigation Report*, and UNICEF, *Victims Are Not Virtual*.

heard and assert their claims.<sup>76</sup> In cases in which they do, some children may be reluctant to file claims owing to their communities' resentment and view that reparation "rewards" children for their time spent with the perpetrators, particularly in the case of former child soldiers.<sup>77</sup>

75. Many countries still lack awareness on the importance of instituting State compensation funds, and the modalities of operating the fund, to cover cases of abuse, violence and exploitation of children, given that the capacity of perpetrators to support the reparation provided to the child victims and survivors can be limited and may differ on case-by-case basis.

76. There is therefore an urgent need to step up efforts to support child-friendly remedies and reparations for victims and survivors, with a view to ensuring their access to justice and aiding their holistic recovery. Such efforts should include ensuring the effective implementation of existing remedy and compensation systems, including through awareness-raising for victims and their families on the existence of the services and how to gain access to them; investing in legal rights awareness for children; and facilitating the expansion of free legal aid for children and building national cadres of specialized lawyers and paralegal services.<sup>78</sup>

77. Regarding child victims and survivors in the context of conflict, prior support and capacity-building for affected individuals and communities may be necessary for their participation in international criminal justice processes. International criminal justice is concerned with victims of mass atrocity crimes, whose needs are profound and whose capacities are limited by the experiences of gross and systematic violence. These needs include individual and communal capacity-building to engage in criminal processes as well as remedy and repair in the aftermath of criminal procedures.<sup>79</sup>

78. As resources deplete, agencies and organizations are faced with the dilemma of discontinuing reintegration programmes if new funding is not made available.<sup>80</sup> The lack of continuous funding from donors, States and the international community in the form of technical assistance and capacity-building threatens to cripple the operationalization of reparation mechanisms and shut down programmes. Furthermore, in order for funds to be more effective, local government units need to be financed directly, and not through the central Government, as representatives of each city are likely to be more aware of the needs of child victims and survivors and of what is happening on the ground within the local community.<sup>81</sup>

## D. Good practices

### 1. Survivor-centred reparation schemes

79. Many States have made important attempts and advances at integrating legislative frameworks concerning reparation into their domestic jurisdiction. The Yazidi Survivors Law, passed by the Council of Representatives of Iraq on 1 March 2021 promises a number of reparation measures, including financial, medical and psychological support, the provision of land, housing and education, and a quota in public sector employment for Yazidi, Turkmen,

<sup>76</sup> Submission from UNICEF.

<sup>77</sup> See Cécile Aptel and Virginie Ladisch, *Through a New Lens: A Child-Sensitive Approach to Transitional Justice* (New York and Brussels, International Center for Transitional Justice, 2011); and Luke Moffett, "Reparations for 'guilty victims': navigating complex identities of victim-perpetrators in reparation mechanisms", *International Journal of Transitional Justice*, vol. 10, No. 1 (March 2016).

<sup>78</sup> UNICEF, *Ending Online Child Sexual Exploitation and Abuse: Lessons Learned and Promising Practices in Low- and Middle-income Countries* (New York, 2021), p. 37.

<sup>79</sup> Anne Dutton and Fionnuala Ní Aoláin, "Between reparations and repair: assessing the work of the ICC Trust Fund for Victims under its assistance mandate", *Chicago Journal of International Law*, vol. 19, No. 2 (February 2018).

<sup>80</sup> Submission from Elizka Relief Foundation.

<sup>81</sup> Ibid.

Christian and Shabak communities against whom acts of genocide and crimes against humanity were perpetrated by Da'esh.<sup>82</sup>

80. Namibia introduced various national agendas policies, childcare protection forums and legislation to ensure psychosocial support and therapy, alternative care options, educational and skills development, access to quality health services, legal services, access to national documents, provision of support services during trials, and continuous needs assessment and protection services for child victims and survivors in non-conflict settings.<sup>83</sup>

81. More than 50 countries signed a declaration at the 2022 “Preventing Sexual Violence in Conflict Initiative” conference, with a view to ending sexual violence in conflict settings by strengthening the global response, preventing conflict-related sexual violence, promoting justice and accountability, and supporting survivors.<sup>84</sup> Moreover, more than 40 countries went further and provided national commitments outlining practical steps that they will take against these crimes.<sup>85</sup> For example, Switzerland, through its new partnership with the Global Survivors Fund, will contribute 675,000 francs to advocacy work for survivor-centred reparations, with a focus on children born of conflict-related sexual violence.<sup>86</sup>

82. However, in order to further strengthen this progress, it is vital for States to adopt an effective and survivor-centred reparation scheme to ensure tangible progress, by clarifying how the legislation will be enforced, ensuring its timely implementation and respecting the recommendations of non-governmental organizations.<sup>87</sup>

## **2. Co-creation model: participation of child victims and survivors in the process of determining harm suffered and reparation due with a view to restoring dignity**

83. In more recent times, there is increased recognition that the rights of the child victims and survivors should play a central role in all response measures, rather than their simply being on the receiving end of charity. From the victim-centred approach, human rights standards apply, and children who have experienced injustice for which the perpetrator is responsible therefore have the right to protection, assistance and reparation.<sup>88</sup> This approach also invokes the principles of confidentiality, safety, respect and non-discrimination,<sup>89</sup> in order to ensure that the victims’ long-term dignity and respect are restored, thereby reducing the risk of further harm and reinforcing their agency and self-determination.

84. Child-centred processes for reparation require the participation of children in the planning, shaping, design, implementation, monitoring and evaluation of reparation programmes and procedures; the investigation of facts and determination of harm, including harm that has a differential impact on vulnerable children; the identification of responsibility and the structural root causes underlying the violation; and the determination of measures of redress aimed at returning the child victims and survivors to where they were before the violation took place.<sup>90</sup>

85. The importance of children’s participation in discussions and processes cannot be understated. Paying attention to age, gender and cultural contexts helps ground more effective,

<sup>82</sup> See Law No. 8 of 2021.

<sup>83</sup> Submission from Namibia.

<sup>84</sup> See <https://www.gov.uk/government/news/countries-agree-concrete-change-to-end-sexual-violence-in-conflict>.

<sup>85</sup> Ibid.

<sup>86</sup> See <https://www.gov.uk/government/publications/conflict-related-sexual-violence-political-declaration-at-the-2022-preventing-sexual-violence-in-conflict-initiative-conference/international-ministerial-conference-on-preventing-sexual-violence-in-conflict-initiative-2022-national-commitments#switzerland>.

<sup>87</sup> See <https://c4jr.org/wp-content/uploads/2021/06/C4JR-Rec-to-CoM-ENG.pdf> and [https://c4jr.org/wp-content/uploads/2021/09/01092021\\_C4JR-Media-Statement-ENGLISH.pdf](https://c4jr.org/wp-content/uploads/2021/09/01092021_C4JR-Media-Statement-ENGLISH.pdf).

<sup>88</sup> United Nations Office on Drugs and Crime (UNODC) and UNICEF, Training Programme on the Treatment of Child Victims and Child Witnesses of Crime for Prosecutors and Judges (Vienna, UNODC, 2015), p. 10.

<sup>89</sup> UNICEF, “Caring for survivors: a principled approach”, module. Available at <https://www.unicef.org/eca/media/15831/file/Module%202.pdf>.

<sup>90</sup> [A/HRC/14/22](https://www.unicef.org/eca/media/15831/file/Module%202.pdf).

transformative and sustainable responses. The agency of the child should be respected within the procedures, as rights holders whose interests and wishes should be accounted for across the normative framework and institutional machineries. This in itself may be an important form of reparation. Without such participation from child victims and survivors on a wide range of issues, initiatives are less likely to reflect their experiences, concerns, priorities and needs.

86. In this regard, UNICEF launched a 10-year agenda in 2021 entitled “Reimagine Justice for Children”. It calls for investments in legal rights awareness for children in justice and welfare systems; the recognition of a child’s legal standing and right to be heard in relevant judicial and administrative proceedings; access to free legal aid, representation and services; integration of social work and child specialization into the justice sector; and support for strategic litigation on justice for children.<sup>91</sup>

87. Furthermore, the truth and reconciliation process in Sierra Leone has offered important lessons linking child protection with child participation, through creative partnerships established between children’s networks, experts on child protection and children’s rights and members of the Truth and Reconciliation Commission. This process has been described as an important landmark for children’s rights and has established innovative procedures for children’s protection and participation in truth-telling and reintegration processes following the country’s long conflict. This engagement allowed children to shape the process and adapt it to the local contexts and circumstances.<sup>92</sup>

### 3. Development and implementation of interim relief measures

88. While children may be entitled to remedies or reparations under law and policy, victims and survivors have been left waiting for reparation, and without access to comprehensive services, medical treatment, psychological care and livelihood support, until the conflict ends. The Special Rapporteur encourages the development of transitional processes and the implementation of interim relief measures in such situations.

89. As a result, civil society organizations provide advocacy and other services to meet their needs. There is therefore a need for duty bearers to process claims in a timely manner and develop internal structures to facilitate access to rehabilitation services, land, housing, employment and education and to ensure criminal accountability to deliver on their promises.<sup>93</sup>

90. The Global Survivors Fund was established to enhance access to reparations for survivors of conflict-related sexual violence around the world, to respond to a gap that has been long identified by survivors and civil society.<sup>94</sup> The Fund provides urgent interim reparative measures in situations where States or other parties are unable or unwilling to provide support to ensure transformative and sustainable impact on the lives of victims and survivors, including children. Projects are created by involving survivors of conflict-related sexual and gender-based violence in the project design at every phase through a survivor-centred co-creation model, to ensure contextualization and multi-stakeholder participation. This moves away from a mere consultation process to co-creative involvement with survivors and civil society to ensure feasibility and effectiveness of reparation.

### 4. Enhancement of multi-agency collaboration

91. All stakeholders – children, civil society representatives, first responders, medical and psychosocial providers, humanitarian actors, national human rights institutions, local communities, donors, States and the international community – should be in a position to strengthen redress and reparation for violations committed against children.<sup>95</sup> In order to

<sup>91</sup> Submission from UNICEF.

<sup>92</sup> Sharanjeet Parmar and others, eds., *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Florence, UNICEF Office of Research – Innocenti; Cambridge, Massachusetts, Harvard University Press, 2010), p. 189.

<sup>93</sup> Submission from the Jiyan Foundation for Human Rights.

<sup>94</sup> Submission from the Global Survivors Fund.

<sup>95</sup> Submission from the Cardozo Law Institute in Holocaust and Human Rights.

increase the effectiveness of mechanisms, collaboration between agencies, professionals or services is key to help identify the kinds of assistance that child victims and survivors need.<sup>96</sup> Türkiye, for example, established guidelines for practitioners, law enforcement officials and health and judicial professionals who are in contact with victims, to incorporate basic standards and principles.<sup>97</sup>

92. The WeProtect Global Alliance’s Model National Response framework recommends that States consider embedding social workers within law enforcement units dealing with investigations into child sexual exploitation and abuse in order to ensure that the child’s rights and protection needs are prioritized throughout the process.<sup>98</sup> A number of States have highlighted the need for Governments to develop joint standard operating procedures for the management of child victims and survivors of sale and sexual exploitation, setting out the different roles and responsibilities of various agencies and how they are expected to work together.<sup>99</sup>

##### **5. A child-friendly, multidisciplinary and inter-agency model**

93. Further good practices worthy of note are the recent steps taken by Armenia,<sup>100</sup> Finland,<sup>101</sup> Ireland,<sup>102</sup> Malawi,<sup>103</sup> Slovenia,<sup>104</sup> and Spain<sup>105</sup> to advocate, pilot or implement a one-stop centre or children’s house within their local context.

94. The Council of Europe developed a leaflet entitled “Protection against sexual exploitation and abuse: child-friendly, multidisciplinary and inter-agency response inspired by the Barnahus model”, to explain the Barnahus model, the key common criteria of Barnahus, and the enabling factors necessary for establishing and operating Barnahus or similar multidisciplinary and inter-agency services.<sup>106</sup>

95. In sum, the Barnahus model is a child-friendly, multidisciplinary and inter-agency model that brings together child welfare, criminal, medical, therapeutic and legal services under one roof to coordinate a child-centred response, develop an appropriate governance framework for an inter-agency service to help reduce retraumatization for child sexual abuse victims and survivors by preventing the repetition of their experiences.

##### **6. Age-appropriate and gender- and local-context-sensitive repairation measures**

96. To date, some States have put in place special safeguards and taken affirmative action to ensure safe and sensitivity-based proceedings, such as establishing child-friendly courts dealing with cases of gender-based violence<sup>107</sup> and special child interview rooms,<sup>108</sup> equipped with appropriate tools<sup>109</sup> and trained staff, taking a multidisciplinary approach.<sup>110</sup> Others have recognized the importance of setting up a residential care institution for boys who are victims of trafficking in persons.<sup>111</sup>

97. Intervention programmes with a holistic focus have shown more positive outcomes in terms of child reintegration, such as those including family and gender-focused counselling

<sup>96</sup> Submission from Belarus.

<sup>97</sup> Submission from Türkiye.

<sup>98</sup> WeProtect Global Alliance, “Preventing and tackling child sexual exploitation and abuse (CSEA): A Model National Response”, November 2016, p. 18.

<sup>99</sup> Submissions from Armenia, Belarus and Ireland; and UNICEF, *Legislating for the Digital Age*, p. 147.

<sup>100</sup> Submission from Armenia.

<sup>101</sup> See <https://www.coe.int/en/web/children/finland-barnahus>.

<sup>102</sup> Submission from Ireland.

<sup>103</sup> Submission from Malawi.

<sup>104</sup> Submission from Slovenia.

<sup>105</sup> See <https://www.coe.int/en/web/children/barnahus-spain>.

<sup>106</sup> See <https://rm.coe.int/barnahus-leaflet-en/16809e55f4>.

<sup>107</sup> Submission from UNICEF.

<sup>108</sup> Submission in Armenia.

<sup>109</sup> Submission from Türkiye.

<sup>110</sup> Submission from Lithuania.

<sup>111</sup> Submission from Mauritius.



and training, and assistance on health, education, referral to resources, and livelihood.<sup>112</sup> Participation of the children, including those with specific vulnerabilities, in the reparation planning should be encouraged during the case management processes handled by the social worker. Based upon the identification of the needs of the child, reparation programmes can take an integrated and interactive approach, emphasizing relationship-building between the vulnerable child and the family and community during the process of transformation.

## **7. Immediate delivery of compensation**

98. The right to receive compensation is typically determined by law for the moral, physical, mental, emotional, sexual and material harm suffered as a result of a violation. The Criminal Procedure Code of Lithuania ensures that victims, including children, regardless of the crime committed against them, are awarded both pecuniary and non-pecuniary damages. Under article 118, if the accused or persons materially responsible for the accused's actions do not have the funds to pay compensation for damage, in the cases and procedures provided for by law, compensation for the damage may be paid from funds allocated by the State.<sup>113</sup>

99. In Israel, the State immediately compensates the victim, regardless of whether the offender pays any money.<sup>114</sup> To further enhance such measures, States are encouraged to ensure that victims of all forms of violations involving sale and sexual exploitation of children are provided with some form for reparation, in order to adapt to changing times and leave no child behind. States are also encouraged to remove strict eligibility criteria for compensation in relation to transnational cases, in order to provide a framework for cases of victims living abroad.

## **8. Mobile courts and child-focused mechanisms in vulnerable areas**

100. In some areas, community life is largely governed by informal justice systems that apply customary law that are not always child-friendly or focused on the best interests of the child.<sup>115</sup> In many countries, reaching rural communities and ensuring that existing measures are accessible can be difficult. To help overcome this problem, Malawi set up courts in remote areas to adjudicate legal disputes between parties and to carry out the administration of justice in civil or criminal cases.<sup>116</sup>

101. Mauritius established community child watch committees in risk areas to act as a surveillance mechanism to identify children who are vulnerable to violence and most at risk and to report any suspected case related to children to the Ministry of Gender Equality and Family Welfare for appropriate action.<sup>117</sup>

## **9. Role of information and communications technology in supporting reparation through targeted detection and mandatory reporting**

102. Romania has established an intersectoral county team to prevent and combat violence against children in each county and each district of Bucharest, through a decision of the individual councils. Its main role is to implement preventive activities and offer technical assistance to professionals working directly with victims to address vulnerabilities in institutional, family and online settings.<sup>118</sup>

103. In Australia, the eSafety Commissioner, the world's first government regulator committed to protecting online users, has the power to issue transparency notices to technology firms and online service providers to provide detailed information within 28 days on the steps that they are taking to meet basic online safety expectations.<sup>119</sup> Failure to report

<sup>112</sup> See Gundelina Velazco, *Toward a Gender-responsive, Participatory Community-based Child Protection System: Lessons from Victim-survivors and Service Providers of a Safe Home and a Community in the Philippines* (Lincoln, University of Nebraska – Lincoln, 2021).

<sup>113</sup> Submission from Lithuania.

<sup>114</sup> Submission from Israel.

<sup>115</sup> Submission from African Child Policy Forum.

<sup>116</sup> Submission from Malawi.

<sup>117</sup> Submission from Mauritius.

<sup>118</sup> Submission from Romania.

<sup>119</sup> Section 56 (2) of the Online Safety Act 2021.

may result in heavy fines. The eSafety Commissioner has also released guidance on the legislation to help the technology industry comply with these notices. A recent report on transparency, entitled *Basic Online Safety Expectations: Summary of Industry Responses to the First Mandatory Transparency Notices*, found that some of the world's biggest technology firms were not doing enough to tackle child sexual exploitation on their platforms and did not proactively screen for child abuse material in their storage and cloud services.<sup>120</sup>

104. The Internet Watch Foundation's virtual currency alerts provide real-time notification for cryptocurrency companies when a currency is being used to buy child sexual abuse imagery. Foundation ECPAT International, in collaboration with UNICEF and the International Criminal Police Organization (INTERPOL), conducted research into online child sexual exploitation and abuse of children in 13 countries and held survivor-centred conversations with children on their experiences, which has provided tailored road maps for countries to strengthen their prevention and response systems.<sup>121</sup>

105. Other noteworthy initiatives include the formation of the Tech Coalition, an alliance of global technology companies that work together to prevent, detect, report and end online child sexual exploitation and abuse.<sup>122</sup> An engineering and data science team has been established at Thorn, a technology company, which is also focused solely on developing new technologies to combat online child sexual abuse to accelerate victim identification, equip platforms and empower the public.<sup>123</sup>

#### IV. Conclusions and recommendations

106. **While some progress has been made to deliver reparation to child victims and survivors across a handful of States through the adoption of legislation, political declarations and commitments, these efforts need to be universalized in accordance with the international legal instruments and normative standards. Introducing and strengthening specific legislation in the national context on reparation for child victims and survivors would be the crucial first step. The delivery of reparation pursuant to court decisions and the programmes being discharged in collaboration with development partners need to be adequately assessed, with impact analysis, to inform future plans, policies and projects. To date, no reparation endeavour has provided a full, comprehensive programme considering all categories of child exploitation, violence and abuse, placing children at risk of secondary victimization. When attempts are made at reparation, they are rarely effective in reaching the most marginalized groups of children, who are most often outside or in the fringes of the formal machinery of the State in terms of their identity recognition, and are thus at risk of being excluded from legal protection.**

107. **Raising awareness of the rights of children to reparation and eliminating impediments in criminal and civil proceedings would be key steps in moving forward with reforms. Partnership with civil society is an emerging and promising domain as a means of co-creating delivery of reparation, through such measures as joint funding, implementation mechanisms and operationalization with the participation of child victims and survivors. Child victims and survivors can benefit greatly from the development and prompt implementation of urgent interim reparative measures.**

108. **Development partners and the private sector can crucially support reparation with capacity-building roles and the mobilization of information and communications technology to detect and rescue online child victims and survivors. It would be significant at this point to enhance multi-agency collaboration, develop and implement**

<sup>120</sup> See <https://www.esafety.gov.au/sites/default/files/2022-12/BOSE%20transparency%20report%20Dec%202022.pdf>.

<sup>121</sup> See <https://ecpat.org/disrupting-harm/>.

<sup>122</sup> See <https://www.technologycoalition.org/>.

<sup>123</sup> See <https://www.thorn.org/spotlight/>. See also [https://safer.io/?\\_\\_hstc=208625165.e81f5e2e63b5b6f0608564438838b08d.1672054738232.1672054738232.1672054738232.1&\\_\\_hssc=208625165.9.1672054738232&\\_\\_hsfp=3962034166](https://safer.io/?__hstc=208625165.e81f5e2e63b5b6f0608564438838b08d.1672054738232.1672054738232.1672054738232.1&__hssc=208625165.9.1672054738232&__hsfp=3962034166) and <https://nofiltr.org/>.

age-appropriate and gender- and culturally-sensitive reparation measures. Special measures also have to be developed to support the most vulnerable children in obtaining access justice that is child-focused in rural and marginalized areas.

109. Ensuring justice for child victims and survivors is the responsibility and obligation of States, civil society, the private sector, communities and all individuals at both the national and the international levels. Towards this end, the Special Rapporteur recommends that States and other stakeholders:

(a) Introduce comprehensive legislation on reparation for child victims and survivors of sale and sexual exploitation, with accountability measures, including with political commitment at the highest level where needed, to ensure that the offences covered in the Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography are included in national legislation; and avoid any continuous delay in establishing the necessary reparative and redress mechanisms;

(b) Prepare guidance through legislation on reporting obligations, the nature of the harm suffered by child victims, the responsibility of actors attributable for the harm, and how each element of the harm incurred can be addressed by reparation; and specify and outline the process for determining the liabilities and responsibilities of non-State actors in the legislation;

(c) Develop survivor-centred co-creation processes to ensure that the views of child victims and survivors are heard and that their participation is amplified in the process of reparation programmes and procedures, including in their design, implementation, monitoring and evaluation;

(d) Acknowledge and recognize child victims and survivors and protect the confidentiality, privacy and personal information of children who are or have been involved in administrative or judicial proceedings; and eliminate impediments such as statutes of limitation, discourage out-of-court settlements and provide legal support to victims in the course of judicial proceedings;

(e) Provide and finance urgent interim reparation, including free medical care and psychological, educational, financial, legal and housing support, including other forms of assistance and reparation as applicable, to all child victims and survivors, without discrimination on the basis of race, gender, ethnicity, nationality, Indigenous or social origin, disability or the situational status of their families;

(f) Undertake research into the specific needs of the various groups in vulnerable areas for the purposes of effective reparation, and devise affirmative action to correspondingly support them, including action by humanitarian actors in the process of rescue, access to justice with special measures such as mobile courts, and other child-focused mechanisms in order to facilitate the delivery of reparation;

(g) Adopt clear and comprehensive policies and action plans that guarantee the non-recurrence of violations in cases where child victims and survivors are affected as a part of series of crimes and events, in order to facilitate and tailor diverse forms of reparation;

(h) Provide adequate budgetary allocations and time frames for, and introduce frameworks for the monitoring and evaluation of, the implementation and enforcement of reparation-related legislation, policies and programmes, to enable continuous reform in future interventions on reparation for child victims and survivors of sale and sexual exploitation;

(i) Disseminate information with a child-centred, trauma-informed, gender- and culturally-sensitive perspective, adapted to the child's age and maturity and in child-friendly language, to inform them about their right to reparation and the reporting mechanisms, services and remedies available; and also provide such information to parents, caregivers and professionals working with and for children;

(j) Develop an appropriate governance framework for a child-friendly, multidisciplinary and inter-agency model that brings together child welfare, criminal, medical, therapeutic and legal services under one roof to coordinate a child-centred response, in order to prevent further victimization and repetition of their experiences;

(k) Ensure that eligibility criteria for any reparation mechanisms and programmes include all forms of sale and sexual exploitation of child victims and survivors, avoid strict requirements such as time limitations and citizenship or residency within the State where the violation occurred or where the liable party lives, and do not prevent children from gaining access to redress and remedies, whether provided by the State or by other means;

(l) Establish national reparation programmes that institute funds, as needed, that are adequate to cover situations in which the parties liable for the harm suffered are unable or unwilling to meet their obligations; and increase the capacity of funds and of social workers commensurate with the needs of child victims and survivors;

(m) Provide education, awareness-raising and capacity-building programmes, in local and rural communities in collaboration with community and faith-based leaders, to develop and support access for child victims and survivors to reparative measures; intensify awareness regarding prevention and the elimination of stigmas, to ensure meaningful outlets for children and communities; and make such activities part of public health policies and programmes, including through educational institutions;

(n) Provide comprehensive training to social workers, teachers and health professionals working with children on the use of information and communications technology, in order to positively employ its potential to reach child victims and survivors and inform them about their rights;

(o) Increase international, regional, bilateral, transnational, business and multi-agency collaboration and cooperation, including in the exercise of extraterritorial jurisdiction to ensure that no child victim or survivor is left without reparation; and undertake mandatory data collection, information-sharing and cross-border rescue and repatriation to ensure avenues of justice for child victims and survivors of sale and sexual exploitation;

(p) Ensure that service providers, companies and agencies have oversight powers relevant to children's rights, such as those relating to data protection and consumer rights, the investigation of complaints and mandatory reporting to relevant authorities, to support efforts to provide reparation for the sale and sexual exploitation of children;

(q) Conduct outreach through diplomatic relations with States and the international community regarding fragile and inter-State situations in order to encourage the assumption and acknowledgement of responsibilities for the harm caused to child victims and survivors, and to initiate mechanisms for providing reparation in accordance with international human rights standards and norms;

(r) Strengthen the identification of victims, including through mutual legal assistance, international cooperation and INTERPOL, to detect, block, remove, report and identify offenders, including through the use of image-analysis systems, in order to guide the rescue and reparation of child victims and survivors;

(s) Collaborate, taking an inclusive approach, with international and regional bodies, civil society, experts, non-governmental organizations, community actors, including faith-based leaders, and other relevant stakeholders on the establishment and implementation of reparation programmes;

(t) Increase the long-term, regular and predictable funding and support capacities of civil society organizations and child rights defenders; and enable and provide safe spaces for child victims and survivors to share their experiences and participate in meaningful and sustainable reparation processes.