SUBMISSION TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Call for Inputs: Promotion and Protection of the Human Rights of Women and Children in Conflict and Post-Conflict Situations, Pursuant to Human Rights Council Resolution 60/19

Submitted by Bernard Duhaime, UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence

Introduction

The mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence is submitting this input with a view to informing the upcoming report of the High Commissioner on best practices and main challenges in the promotion and protection of the human rights of women and children in conflict and post-conflict situations.[1]

The following elements draw on the mandate's recent engagement with States, civil society, survivor-activists, and practitioners through thematic reporting, country missions, and expert consultations, including the report of the former Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence on the gender perspective in transitional justice processes (A/75/174), as well as an expert roundtable with practitioners, survivor-activists, and youth leaders, organised by the Global Survivors Fund in December 2025, which aimed at examining the participation of children affected by conflict-related sexual violence in reparation processes.. Rather than cataloguing examples in isolation, this submission, which advances a connected argument: that the gap between international commitments on victims' rights and their lived reality is, above all, a gap in design; and that closing it requires treating the meaningful participation of victims not as an aspirational add-on, but as the structuring principle of accountable reparation processes.

I. Normative and Institutional Framework: Existing Obligations and the Participation Gap

Women and children affected by conflict-related violence are simultaneously rights-holders under international human rights law and beneficiaries of protection under international humanitarian law; the two frameworks are complementary, not competing. The normative foundation for their participation in reparation processes is already in place. Binding obligations under the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol,[2] the Convention on the Rights of the Child and its Optional Protocols[3] are complemented by operational standards and interpretive guidance in the UN Guidelines on Justice in Matters

[1] Human Rights Council, Resolution on the Promotion and Protection of the Human Rights of Women and Children in Conflict and Post-Conflict Situations, A/HRC/RES/60/19 (October 2025)

[2] Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979; See also Security Council resolution 1325 (2000) and its subsequent resolutions 1820 (2008), 1888 (2009), 1889 (2009) and 1960 (2010).

[3] Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) ("CRC"), art 12; Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, opened for signature 25 May 2000, 2173 UNTS 222 (entered into force 12 February 2002); Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, opened for signature 25 May 2000, 2171 UNTS 227 (entered into force 18 January 2002).

involving Child Victims and Witnesses of Crime,[4] the Paris Principles on children associated with armed forces and armed groups,[5] and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation,[6] each of which elaborates on States' obligations to ensure that victims, especially child victims, can safely and meaningfully access justice, truth, and redress.

The central challenge is implementation failure. Human Rights Council resolution 60/19 reaffirms the right of victims to effective remedies and reparation, calling upon States to make available adequate, effective, prompt, and appropriate remedies that translate into restitution, rehabilitation, and guarantees of non-repetition.[7] That language is emphatic; the reality for victims affected by conflict-related violence consistently falls short of it. Women and children continue to encounter procedural barriers that reflect the design of adult-oriented justice systems, evidentiary standards that fail to account for trauma-affected memory, outreach mechanisms that insufficiently reach displaced or marginalized groups, reparation programs that provide for adult-headed households without disaggregating children's own claims, and institutional processes that treat victims' account as merely corroborative instead of independently actionable.

Lastly, addressing and preventing gender-based abuses requires that due consideration be given to the complexity and intersectionality of the experiences not only of women and children, but also of lesbian, gay, bisexual and transgender persons who face gender-based violence and exclusion. This approach should take into consideration experiences unique to the intersection of gender and age with social and economic status, race, indigenous identity, migratory status etc.

II. Participation as a Design Imperative, Not a Procedural Gesture

The most persistent failure in accountability and reparation processes affecting women and children is the conflation of formal access with meaningful participation. Asking a victim to give testimony is not participation if there is no psychosocial support, no safeguard against re-traumatization, and no clear pathway from that testimony to a concrete outcome. The mandate has observed, across country engagement and consultations with practitioners, that participation is frequently reduced to a single, high-stakes disclosure event rather than integrated into process design from the outset.

Flexible timelines adapted to trauma recovery, peer-support networks and peer-led accompaniment throughout proceedings, community-based outreach that prioritizes safety and informed consent, and accountability mechanisms that report back to participants on what their contributions produced.[8] Where these conditions have been met, notably in certain administrative reparation programs in Latin America that have incorporated child-sensitive procedures and community-based participation models,[9] the result has been both more accurate documentation of harm and greater legitimacy for the process among affected communities.

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[4] UN Economic and Social Council, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, ECOSOC Res 2005/20, UN Doc E/RES/2005/20 (22 July 2005).

[5]UNICEF, Principles and Guidelines on Children Associated with Armed Forces or Armed Groups ("Paris Principles") (February 2007).

[6] UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, GA Res 60/147, UN Doc A/RES/60/147 (16 December 2005).

[7] HRC Res 60/19 (n 1), operative paras 3, 5 (reaffirming the right of victims to effective remedies and reparation and calling upon States to make available adequate, effective, prompt and appropriate remedies translating into restitution, rehabilitation and guarantees of non-repetition).

[8] Ibid, paras 40–47, 132–34.

[9] See, by way of illustration, Colombia, Law 1448 of 2011 (n 15) (incorporating child-sensitive and community-based participation components in its administrative reparation framework); Peru, Ley No 28592 (n 16) (including community consultation mechanisms and education-based reparation). The design features of both programs reflect the operational standards in ECOSOC Guidelines (n 3), Guidelines 8–14 (on the right to protection, special preventive

The mandate's engagement confirms a further dimension: participation must be transgenerational in ambition. Children who participate in reparation processes are shaping the normative and institutional record that will define what accountability means for future generations. Transitional justice mechanisms that treat youth primarily as trauma victims instead of as agents with an interest in long-term institutional design systematically underinvest in the prevention dimension of their mandate. This is both a methodological deficiency and a guarantees-of-non-recurrence failure.

III. Accountability, Ending Impunity, and Gender- and Child-Responsive Investigation

Conflict-related sexual violence against women and children continue to remain among the most underreported and underprosecuted categories of grave violation, according to civil society organizations. Structural barriers include the stigma associated with sexual violence in many post-conflict communities; the displacement of potential witnesses and affected families; the destruction of documentary evidence during conflict; and the incapacity or unwillingness of both civilian and military domestic justice institutions to conduct gender- and child-responsive investigations.

The mandate has consistently underscored that transitional justice mechanisms cannot substitute for criminal accountability, but that in practice they frequently operate in parallel with or in the absence of functioning prosecutorial systems. Several hybrid mechanisms and international courts have developed gender- and child-sensitive evidentiary and procedural approaches. A sustained investment in training of investigators, prosecutors, and judges; legal reform to remove statutes of limitation that expire before child victims reach adulthood; and structural independence for accountability bodies from political actors who may have interests in limiting the scope of accountability, continue to be necessary.

An accountability gap that warrants particular attention in the High Commissioner's report is the treatment of children born of conflict-related sexual violence. These children face compounded harm: they carry the stigma associated with their circumstances of birth, frequently lack legal identity documents, and are often excluded from reparation programs that focus exclusively on the primary survivor of sexual violence.[10] In the *Ntaganda* reparations proceedings before the ICC, Trial Chamber VI determined that children born of rape and sexual slavery are direct victims of those crimes and eligible for reparations. A significant doctrinal development that domestic programs have not replicated.[11] Colombia's Victims and Land Restitution Law formally recognizes children born of sexual violence as victims of the conflict, yet the SRSG on Sexual Violence in Conflict confirmed in 2021 that not a single such child had at that date received reparations.[12] Designing accountability and reparation frameworks that recognize their distinct legal status and harm profile is a concrete, actionable step States can take.

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measures, and the right to participate in the justice process). On participation producing more legitimate and accurate documentation outcomes, see generally ICTJ, From Principles to Practice (n 15); ICTJ, Reparations in Peru (n 16).

[10] ICC, The Prosecutor v Bosco Ntaganda, Reparations Order, ICC-01/04-02/06-2659 (8 March 2021), paras 120-123 (designating children born of rape and sexual slavery as direct victims of those crimes and eligible for reparations, and directing that priority be given to this category as among the most vulnerable). The total reparations award was subsequently assessed at USD 31,300,000: Trial Chamber II, Addendum to Reparations Order (14 July 2023).

[11] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC), Remarks at CSW69 Side-Event: The Forgotten Victims: Addressing CRSV and Children Born of Wartime Rape (13 March 2025) (noting that in the Democratic Republic of Congo, Iraq, and many other countries, a child cannot be registered without the father's name, leaving children born of conflict-related sexual violence at risk of statelessness).

[12] SRSG-SVC, Remarks at Launch of the Call to Action to Ensure the Rights and Well-Being of Children Born of Sexual Violence in Conflict (22 November 2021): stating that even in Colombia, the only country with a law formally recognizing children born of sexual violence as official victims of the conflict, in practice not a single such child had received reparations as of that date. See also UN Security Council, Report of the Secretary-General on Conflict-Related Sexual Violence, UN Doc S/2022/77 (31 January 2022), para 8 (warning that failure to close the protection gap will deprive survivors and generations of children born of conflict-related rape of the dividends of peace).

IV. Gender- and Age-Responsive Reparation: Lessons and Remaining Gaps

Cases of exclusions to reparations for gender-related reasons have received increasing attention of late and, because they have been the subject increasing attention of late and indeed, they have been the subjectof significant normative progress and of some improvements in practice. Yet, and some positive practices at the domestic level, in far too few instances have individuals received reparation for serious gender-related violations through programmes with an inherent gender-sensitivity aspect. The experience of Timor-Leste shows instructive elements in how to prioritize implementation in a gender-sensitive way that includes victims of torture, persons with physical or mental disabilities, victims of sexual violence, children, widows and single mothers.[13]

Reparation for children affected by conflict-related sexual violence requires forms of redress that are qualitatively different from those applicable to adults. Compensation alone does not address the disruption of educational trajectories, the loss of developmental opportunities, or the psychosocial sequelae that manifest differently at different stages of childhood and adolescence. Effective reparation programs integrate: educational rehabilitation grants that are individually managed and not subsumed into household compensation; long-term psychosocial support delivered through community-based structures rather than centralized facilities inaccessible to displaced populations; symbolic reparations, including truth-telling and memorialization, that acknowledge children's specific experiences; and guarantees of non-repetition with a structural focus on the institutions and norms that enabled the original violations.[14]

The mandate's review of practice across multiple contexts confirms that the disaggregation of children's claims within larger reparation programs is a consistent gap. Where reparation is paid to a surviving parent or household head without a child-specific component, children's individual experiences of harm go unacknowledged and resources do not reliably reach them. Colombia's Victims and Land Restitution Law provides a partial model: child victims' monetary reparations are held in trust until majority, an important protection against diversion, though the trust-fund mechanism does not itself resolve the problem of children who are household heads, who are in institutional care, or who are separated from their families.[15] Peru's Comprehensive Reparations Plan similarly provides partial recognition through its education, health, and compensation components, but has been criticized for a lack of gender sensitivity and for failing to reach children whose harm profile does not match the plan's original victim-category assumptions.[16]

V. Toward a Transforming Transitional Justice

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13 See the report of Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence on gender perspectives in transitional justice processes. A/75/174, paras. 27-48

14 GA Res 60/147 (n 5), Principles 19-23 (setting out five forms of reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition; rehabilitation is defined to include medical, psychological, legal and social services, as well as measures to restore dignity and reputation).

15 Colombia, Victims and Land Restitution Law, Law 1448 of 2011, Diario Oficial 48096 (10 June 2011), arts 3, 13 (defining victims broadly to include those who suffered harm from violations of international humanitarian law, and mandating a "differential approach" recognizing particular characteristics including age and gender). On the trust-fund mechanism for child victims, see A Guarin, J Londono-Velez and C Posso, "Reparations for Victims: Lessons from Colombia" (2023) 113 AEA Papers and Proceedings 342; International Center for Transitional Justice (ICTJ), From Principles to Practice: Challenges of Implementing Reparations for Massive Violations in Colombia (2015) 12-14 (documenting gaps in reaching children in institutional care or those heading households).

16 Peru, Ley que crea el Plan Integral de Reparaciones, Ley No 28592 (July 2005) (establishing the Comprehensive Reparations Plan (PIR) in implementation of recommendations of the Peruvian Truth and Reconciliation Commission (CVR), Final Report (2003)). For analysis of implementation gaps including for sexual violence survivors, see ICTJ, Reparations in Peru: From Recommendations to Implementation (2013) (documenting delays, policy changes, and the programme's lack of gender sensitivity and failure to address embedded power structures that enabled sexual violence); Reparations, Responsibility and Victimhood in Transitional Societies Project, "Peru" (Queen's University Belfast, 2020).

The mandate's work on the gender perspective in transitional justice processes found that gender-based violations are not isolated acts but stem from pre-existing structural inequalities, discrimination, and power imbalances. Transitional justice must therefore go beyond individual accountability to address systemic and societal factors. This includes: gender-sensitive institutional reform; inclusive reparations; recognition of diverse victim experiences; and intersectional approaches.[17]

The mandate's engagement with denial, negationism, and emerging technologies in transitional justice (themes that will be addressed in two reports presented to the HRC and the GA in September and October 2026, respectively) also surfaces what is more broadly apparent from practice, which is that transitional justice frameworks have been designed predominantly around the generation that survived a defined period of atrocity, and have invested comparatively little in thinking about what justice means for children who were born during conflict, who grew up in its aftermath, or who inherit its structural consequences. This is a design flaw with practical consequences for the durability of peace.

Children and young people who carry historical traumas, experience structural forms of exclusion rooted in conflict-era violations, and will determine whether post-conflict institutions command legitimacy should be at the center of transitional justice design, as principal stakeholders in the question of what guarantees of non-recurrence actually require.[18] Community educators, peer-support leaders, and youth activists have demonstrated across many post-conflict contexts that prevention is a practice, not a declaration; their integration into national action plans and transitional justice strategies is correspondingly essential.

The mandate notes, in this connection, that the design of accountability and reparation processes is itself a dimension of justice, requiring that it's asked who is recognized as a victim, whose harm is documented, who can safely speak, and who can influence outcomes all determine whether the promise of acknowledgment and non-repetition is honored or performative. Women and children affected by conflict-related sexual violence who are absent from these processes are structurally excluded by the assumptions embedded in process design. Correcting this requires deliberate, resourced, and accountable effort from States and international actors alike.

VI. Elements for the High Commissioner's Report: Specific Recommendations

Drawing on the foregoing, the mandate offers the following elements for the High Commissioner's consideration:

- **Legal framework:** The High Commissioner's report should reaffirm that women's and children's participation in accountability, truth-seeking, and reparation processes is an obligation grounded in international human rights law. States should be called upon to undertake legislative review to ensure domestic reparation frameworks disaggregate women's and children's claims and establish gender- and child-specific eligibility criteria.
- **Investigative capacity:** States should invest in sustained training for investigators and prosecutors in gender- and child-sensitive, trauma-informed interview methodologies; reform statutes of limitation to ensure they do not expire before child victims reach adulthood; and ensure structural independence of accountability bodies from political interference.

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[17] A/75/174

[18] CRC (n 2), art 12; Committee on the Rights of the Child, General Comment No 12 (n 8), paras 8, 135-136 (describing participation as one of the four general principles of the Convention and underscoring that states must presume a child's capacity to form views rather than requiring the child to demonstrate capacity first).

- **Reparation design:** Reparation programs should incorporate individualized components rather than subsume victims' claims within household reparations; reach children who are in institutional care, separated from family, or themselves heading households; and provide long-term psychosocial support through community-based structures accessible to displaced populations.
- **Children born of conflict-related sexual violence:** The report should address the specific legal status, harm profile, and reparation needs of children born of conflict-related sexual violence,[19] including through measures to ensure legal identity documentation and explicit inclusion in reparation program eligibility criteria, consistent with the approach taken in the *Ntaganda* reparations proceedings before the ICC.
- **Safeguarded participation:** All mechanisms soliciting women's and children's accounts must provide informed consent protocols adapted to evolving capacity, psychosocial support before, during, and after participation, feedback loops that report to participants on the outcomes of their contributions, and clear referral pathways to services when harm is disclosed in the course of a process.[20]
- **Transformative perspectives:** States and international actors should integrate survivor-led initiatives into national action plans and transitional justice strategies as substantive actors, and should develop monitoring frameworks capable of tracking the long-term impact of accountability and reparation processes on subsequent generations.[21]
- **Operational guidance:** OHCHR should support the participation of civil society actors active in this field, and promote resources that encourage women's and children's participation in transitional justice processes.

The mandate welcomes the opportunity to elaborate on any of these elements in the interactive dialogue before the Human Rights Council at its sixty-third session and remains available to provide further input to the High Commissioner's report in the course of its preparation.

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[19] SRSG-SVC, Remarks at Launch of the Call to Action (n 12). See also J Neenan, Closing the Protection Gap for Children Born of War: Addressing Stigmatisation and the Intergenerational Impact of Sexual Violence in Conflict (LSE Women, Peace and Security, 2018) (documenting contested legal identities in Rwanda and Uganda and the structural link between undocumented status and statelessness or poverty).

[20] ECOSOC Guidelines (n 3), Guideline 8 (right to be protected from discrimination); Guideline 9 (right to be protected from hardship, including availability of psychosocial support before, during and after participation and feedback on outcomes); GA Res 60/147 (n 5), Principle 12(c) (right to access to justice includes provision of legal aid, psychological and social services to victims).

[21] GA Res 60/147 (n 5), Principles 22(b)-(f) (guarantees of non-repetition include civilian control of military forces, strengthening of the independence of the judiciary and justice institutions, reform of laws and institutions perpetuating violations, promotion of human rights mechanisms, and social empowerment programmes); HRC Res 60/19 (n 1), preamble (affirming that guarantees of non-repetition require addressing root causes of violations against women and children in conflict).