GLOBAL SURVIVORS FUND
FOR AND WITH SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE

Special Rapporteur on truth, justice and reparation

Documentation of serious human rights violations in the context of transitional justice processes

Documenting Harms and Creating Victims' Registries to Promote Justice and Reparation

January 2025

Introduction

1. The Global Survivors Fund (GSF) submits this note as contribution to the Special Rapporteur on truth, justice and reparation's thematic report on "Documentation of serious human rights violations in the context of transitional justice processes", responding in particular to question 5.

2. GSF was established in 2019 by Denis Mukwege and Nadia Murad, Nobel Peace Prize Laureates 2018. Its mission is to enhance access to reparation for survivors of conflict-related sexual violence (CRSV) around the globe and ensure they have access to comprehensive reparative measures addressing their urgent needs in the meantime. GSF is dedicated to ensuring that reparation is pursued, designed, and implemented with survivors, that the measures are comprehensive, sustainably funded, inclusive of all age groups and gender, and that CRSV survivors access them urgently. GSF's work is grounded in its unique co-creation model and survivor-centric approach[1].

3. This note focuses on the importance of documenting harms and establishing victims' registries to realise survivors' right to a remedy and reparation as enshrined in international law. This submission draws on GSF's project work, Global Reparation Study, additional research and best practice worldwide.[2]

4. GSF's four key messages are the following:

(i) Documentation efforts should not only focus on establishing elements of crimes and the responsibility of perpetrators but also on documenting harms and identifying victims. Reparations should not be an afterthought. Thorough documentation of harms is essential not only for sentencing purposes, but also for reparation purposes.

[1] See Strategic Plan 2024-2030 accessible here.
[2] Global Reparation Study accessible here.

(ii) Documentation efforts should systematically include the creation of victims' registries for victims' right to reparation to become a reality.

(iii) Survivor-centred approaches supporting co-creation and full, effective, and meaningful victim participation should be strengthened in reparation and other pillars of transitional justice. Victims of conflict-related sexual violence and other serious human rights violations must be involved at every step of truth, justice, reparation, memorialisation and guarantees of non-recurrence initiatives and processes. Full, effective and meaningful participation can have reparative value and provide a form of satisfaction.

(iv) Documentation of harms and the creation of victims' registries should take place before, during and after transitional justice processes. Urgent interim reparation and reparative measures to address victims' urgent needs avoid harms to compound and can be provided even whilst conflict is ongoing.

Recommendations

The Global Survivors Fund makes four main calls to action to strengthen documentation of serious human rights violations in the context of transitional justice processes.

Document harms and identify victims

5. In the aftermath of serious human rights violations, the focus is rarely on the victims and the harms they have suffered. Documentation efforts often prioritise evidence gathering for criminal accountability purposes, thus focusing on establishing elements of crimes, identifying perpetrators and how they could be held responsible. Whilst truth-seeking efforts do not focus on perpetrators but on generally establishing the truth, they too do not prioritise the documentation of individual harms and victims.

6. Reparation is a right and priority for CRSV survivors and other victims of serious human rights violations[3]. Reparation should therefore not be an afterthought, but constitute the main objective of any documentation effort from the outset.

7. Practitioners should systematically document the physical, mental, social, economic and transgenerational impact of sexual and other forms of violence on the victim and his/her family, community, culture and environment including consequences leading to other human rights violations. Indeed, impact evidence can not only help establish elements of crimes or violations with a gravity threshold, but it is also necessary for sentencing and essential for reparation purposes[4].

8. All too often, courts are not presented with comprehensive impact evidence. Missing impact evidence prevents judges to deliver adequate, effective and comprehensive reparation orders, tailored to the particular needs of victims and proportionate to the gravity of the harms suffered. Whether reparations are judicial or administrative, a

[3] Global Survivors Fund, The Time for Reparation is Now, November 2022, p. 2.

[4] Sara Ferro Ribeiro and Danaé van der Straten Ponthoz, *International Protocol on the Documentation and Investigation for Sexual Violence in Conflic*t, March 2017, p. 176.

thorough documentation of the harms suffered, and identification of victims is a pre-condition for their right to reparation to become a reality.

Create victims' registries to promote justice and reparation

9. GSF calls on all documentation efforts to systematically include the creation of victims' registries which are flexible and reach out widely as early as possible in a conflict.[5] Victims' registries ensure that the identities and experiences of survivors are not lost to history, preserving the truth and setting the foundations to fulfil victims' right to reparation. They help provide acknowledgement, satisfaction and memory.[6] They also enable justice by identifying patterns of violations, targeted groups and harms. Establishing a victims' registry early in a conflict allows the collection of reliable data in real time,[7] whilst information is still fresh, saving time and resources in the long run.

10. Victims' registries are essential to adequately estimate the potential universe of victims, cost of redressing harms and facilitate urgent reparation or reparative measures for victims in dire need. They could be created at various levels, moments in time and according to different modalities, including (i) as part of a domestic reparation programme; (ii) at the national level in the absence of transitional justice; (iii) as part of judicial mechanisms; (iv) as part of international commissions of inquiries, investigative mechanisms or stand alone international registries of damages like the one established for Ukraine.

11. Civil society organisations and victims' associations can play a key role in mapping, identifying as well as registering victims as they are closer to communities and trusted. They can help victims of sexual violence and other violations come forward without exposing them, offer safe spaces and provide referral pathways. Whilst they should avoid contaminating evidence by creating multiple potentially conflicting statements,[8] duplicating efforts by mandated bodies and creating survivor fatigue, they can help document main harms and signpost victims.

Strengthen survivor-centred approaches and processes supporting co-creation and full, effective, and meaningful victim participation

12. GSF calls on national and international actors to strengthen survivor-centred approaches and processes supporting co-creation and full, effective, and meaningful victim participation at all stages of the transitional justice process. Survivors, as rights-holders, should not only be consulted but instead be considered as co-creators of all policies and laws that affect them. [9]

[5] See A/HRC/42/45, para. 47ss and 129.
[6] A/HRC/42/45, para. 47.
[7] The Registry of Damages for Ukraine was set up whilst the conflict is still ongoing providing acknowledgement to victims, though raising expectations that may prove difficult to fulfil.
[8] See A/79/181, para. 80 (k).
[9] A/79/181, para. 80 (b); Kinshasa Declaration on the Rights to Reparation and Co-creation of Survivors and Victims of Conflict-Related Sexual and Gender-Based Violence (2022).

13. GSF defines co-creation as a set of processes whereby survivors have an effective influence on decision making, playing an active role in conceptualising, designing, implementing, monitoring, and evaluating reparation and other measures. Co-creation goes beyond participation through consultations or the provision of mere information to survivors or victims.[10]

14. Co-creation and other forms of meaningful participation of victims in the design, implementation and monitoring of reparation programmes and victims' registries is essential to acknowledge victims, and further recognises their agency throughout these processes.[11] Full, effective, and meaningful participation in reparation and transitional justice processes has reparative value.

Expand documentation efforts to support reparation before, during and after transitional justice

15. The documentation of harms and setting up of victims' registries should start as soon as possible even before any transitional justice process has started, to facilitate urgent interim reparation and lay down foundations for full reparation and future transitional justice.

16. In the situation of Darfur, although the establishment of a Compensation Commission was recommended by the Commission of Inquiry in 2005, [12] victims have not yet received any reparation. Cooperation with humanitarian actors and other first responders can play a key role in facilitating justice and reparation in the future and ensure they deliver aid and services with a more rights-based approach, providing acknowledgment to victims.

17. They can contribute to documenting physical, mental, social, and economic harms and impacts of sexual violence, including transgenerational and cultural harm, which are critical for reparation purposes.[13] They must put in place camouflaging strategies including special safety and confidentiality measures to prevent the social exposure of victims of sexual violence and avoid inflicting further harm on them.

18. GSF remains at the disposal of the Special Rapporteur to provide further research and information.

[10] See Kinshasa Declaration on the Rights to Reparation and Co-creation, November 2022, accessible here.
[11] Ashraph et al., *Ongwen Amicus Brief*, Case of Prosecutor v Dominic Ongwen, Paragraph 21
[12] Report of the UN International Commission on Darfur, 25 January 2005, para. 591ss.
[13] Sara Ferro Ribeiro and Danaé van der Straten Ponthoz, *International Protocol on the Documentation and Investigation for Sexual Violence in Conflic*t, March 2017, pg. 176