

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON TORTURE

Reparation for Survivors of Conflict-Related Sexual Violence

INTRODUCTION

1. This submission is based on REDRESS' direct experience representing survivors of conflict-related sexual violence (CRSV), and our work with partners in different regions to advance international standards, obtain reparation for survivors, hold perpetrators accountable, and address the root causes of CRSV in specific jurisdictions through strategic litigation and legal and policy advocacy.
2. This submission responds to question (I) set out in the UN Special Rapporteur's questionnaire,¹ with a focus on the challenges faced by survivors of CRSV in obtaining reparation. It does not provide an exhaustive account of the challenges faced by CRSV survivors observed in REDRESS' experience; rather it focuses on issues which have arisen in our recent work in specific contexts,² and is structured as follows:
 - a) General Challenges to Reparation.
 - b) Country-specific Challenges to Reparation:
 - i) Sudan: *Safia Ishaq Mohammed Issa v Republic of Sudan*;
 - ii) Kenya: *COVAW, IMLU et al. v Attorney-General of Kenya et al.*;
 - iii) Nepal: *Purna Maya v. Nepal*;
 - iv) Chad: Reparation for victims of Hissène Habré;
 - v) Uganda: ICC Reparation for victims of Dominic Ongwen; and
 - vi) Ukraine: Financing reparation.
 - c) Recommendations.

¹ UN Special Rapporteur on Torture, [Call for input: Identifying, Documenting, Investigating and Prosecuting Crimes of Sexual Torture Committed during War and Armed Conflicts, and Rehabilitation for Victims and Survivors](#).

² Key REDRESS' publications include: [Practice Note: Reparation for Torture Survivors, February 2024; Ruining a Country, Devastating its People Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023](#), September 2023; [The Delivery of Reparation for Ukraine Briefing Paper](#), November 2023. See also: Opinio Juris, [Symposium on Dominic Ongwen Case: Centring Survivors in ICC Reparation Processes – The Case of Dominic Ongwen](#), 10 April 2024. REDRESS is also working on reports and briefing papers on Reparation for CRSV Survivors, the International Criminal Court's Reparation Order for Victims of Dominic Ongwen; and Reparation for Survivors of Human Rights Violations in Ukraine.

GENERAL CHALLENGES TO REPARATION

3. Under international law, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT),³ and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Convention),⁴ survivors of CRSV have a right to prompt, adequate, and effective reparation, including compensation, satisfaction, restitution, rehabilitation, and measures of non-repetition.
4. The traumatic experiences of sexual violence endured by survivors have long-lasting, severe impacts. This includes physical effects, sexual and reproductive complications, mental traumas, stigma, social exclusion, and economic impacts. Therefore, CRSV survivors require immediate intervention, such as interim relief and comprehensive reparation to effectively address the harms they suffered. Reparation is crucial for survivors' process of healing and can have a transformative impact on their lives. Unjustified delays in the delivery of reparation creates different forms of victimisation, such as the perpetuation of trauma, frustration, the normalisation of sexual violence, and impunity.
5. Yet, despite a well-established right to reparation, most survivors of CRSV never receive any form of reparation in practice. Documented cases of CRSV only represent the tip of the iceberg. As of 2021 it was estimated that for every reported case of sexual violence during conflict, 10 to 20 cases remain undocumented and unaddressed.⁵
6. While survivors have different experiences, needs, and perspectives, with varying challenges, through our work with partners, including the Global Survivors Fund (GSF), we have identified overarching legal and non-legal obstacles that hinder survivors from obtaining reparation in practice.⁶ These challenges include:
 - a) *Stigma*. Survivors may be reluctant to seek reparation due to the social stigma associated with sexual violence, which leads to shame and secrecy. There is often a lack of empathy and understanding in communities about CRSV survivors' trauma and needs, resulting in fears of public exposure due to further stigma and potential harm, as well as social exclusion.
 - b) *Contextual challenges*. Survivors may not seek reparation because they often lack the resources to meet their (and their families) essential and urgent needs, such as regular income, housing, psychosocial support, and access to health services. Other issues include structural inequalities, insecurity, fear of retaliation and other safety concerns, lack of trust in national authorities, ongoing armed conflict or instability, and corruption.
 - c) *Legal barriers*. Survivors can face challenges related to legal assistance, costs, lengthy proceedings, and absence of judicial remedies. Existing legal frameworks can fall short of international standards, and often lack a survivor centred-approach

³ [United Nations \(UN\) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(UNCAT\)](#).

⁴ UN Committee on the Elimination of Discrimination against Women (CEDAW), [General Recommendation No. 30](#), 2013.

⁵ UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, [Remarks of SRSG Patten at UNGA 76 side-event "Preventing & Addressing CRSV as a Tool of War", co-hosted by the Office for Global Women's Issues, US Department of State, Search for Common Ground, Georgetown Institute for Women, Peace and Security](#), 29 September 2021.

⁶ REDRESS upcoming publication: Reparation for CRSV Survivors. See also: REDRESS, [Practice Note: Reparation for Torture Survivors](#), February 2024, pp. 37-44.

in its practical implementation. Other legal barriers include amnesties, immunities and statute of limitations in domestic law.

- d) *Bureaucratic challenges.* Especially in administrative reparation programmes, survivors are often required to navigate convoluted legal procedures, with burdensome and exclusionary requirements for official documentation and verification processes to register as victims and receive reparation. Other issues include corrupt practices, non-existent or deficient prioritisation mechanisms for the delivery of reparation to survivors, and lack of adequate training of personnel to address sexual violence.
- e) *Implementation challenges.* Even when reparation measures are granted, for example, by judicial decisions, they are often not implemented, are insufficient, or are implemented long after the events, diminishing their effectiveness. This leaves survivors of CRSV grappling with enduring and often irreparable harm and exclusion. Sometimes, it even aggravates and compounds harm generated by CRSV, re-traumatising survivors. Lack of implementation can be related to inadequate legal and procedural frameworks, lack of political will or coordination amongst State institutions, as well as practical challenges in identifying and registering eligible victims where cases involve a large number of survivors.

COUNTRY-SPECIFIC CHALLENGES TO REPARATION

7. This section includes case studies that demonstrate how challenges faced by survivors of CRSV materialise in practice, in specific contexts.

SUDAN - *Safia Ishaq Mohammed Issa v. Republic of Sudan* (ACHPR)⁷

8. Safia's case is emblematic of the pattern of CRSV perpetrated with impunity by Sudanese security forces, as well as military and intelligence bodies and other armed groups. It illustrates the challenges faced by many survivors of CRSV in Sudan to obtain reparation, such as difficulties in reporting, having their cases investigated by authorities, and national instability and insecurity, not least because of ongoing armed conflict and threats and harassment following reports. The case also shows how the prevailing impunity that exists in Sudan for the commission of CRSV, torture and other grave violations, results in the endemic repetition of such violations.
9. Safia was abducted in February 2011 by Sudanese security officers due to her involvement in non-violent student demonstrations. She was subjected to interrogation, torture, and gang rape by members of the Sudanese National Intelligence and Security Services (NISS).
10. Safia was later released but not without facing threats and intimidation. Although she reported the crimes to national authorities, including the Attorney General and the Sudanese police, Safia was harassed and told not to file a complaint against NISS agents. She provided a statement at the police station and had to undergo a medical examination which resulted in a medical report based on a template known as 'Form 8'. Safia continued to face threats, harassment, and intimidation by authorities in an attempt to preclude and discourage her from proceeding with the case. Due to fear of persecution, she was forced into exile, having been granted asylum in Europe in March 2012. Her lawyer in Sudan also had to flee the country due to similar threats and intimidation.
11. In 2013, Safia, with the assistance of REDRESS and the African Centre for Justice and Peace Studies (ACJPS), filed a complaint to the African Commission of Human and Peoples' Rights (ACHPR) against Sudan for the violations of her human rights. Nearly a decade later, in its 72nd session in July-August 2022, the ACHPR adopted a decision on the merits and REDRESS was formally notified of the decision on 23 August 2023. In its decision, the ACHPR found Sudan responsible for failing to investigate, prosecute, and punish those responsible for the torture, including gang-rape, suffered by Safia.⁸ This is the first time that the ACHPR recognised that sexual violence automatically implies gendered discrimination. The ACHPR also stressed that rape necessarily meets the level of severity to amount to torture under international law.
12. In its decision, the ACHPR ordered Sudan to implement a number of reparation measures, including to pay adequate compensation to Safia, and investigate the case in order to prosecute and punish those responsible for her torture. The ACHPR also ordered measures of non-repetition, including institutional and policy reforms to

⁷ REDRESS maintains a [casework page](#) related to this case.

⁸ ACHPR, [Communication 443/13 - Safia Ishaq Mohammed Issa \(Represented by The Redress Trust\) v. Republic of Sudan](#), August 2022.

document CRSV adequately,⁹ hold perpetrators accountable, and provide support to victims, as well as to identify the root causes and consequences of CRSV with the aim of eradicating it. Reparation programmes with victim participation and access to healthcare were also called for. Other forms of non-repetition measures included the adoption and implementation of anti-torture and custodial safeguards and the training of security personnel on such safeguards.

13. The lack of political will and the ongoing armed conflict in Sudan, which started on 15 April 2023, present major barriers to implementing the ACHPR's decision in the near future. The Sudanese authorities' administrative apparatus in Khartoum is effectively non-functional and those institutions that remain operational from Port Sudan or elsewhere are mostly focused on responding to the armed conflict. The institutions responsible for implementing decisions domestically either do not currently exist or have failed to demonstrate any commitment to justice, accountability, or law and policy reform – particularly since the October 2021 coup. National advocacy pushing the de facto authorities to implement the ACHPR's findings also carries significant risks for the security and integrity of individuals and organisations still physically present in Sudan. This means that despite having been granted reparation for the harms she suffered, at least for the time being, Safia will not receive the reparation she is entitled to.

Beyond Safia's case

14. The renewal of the conflict in Sudan in itself has led to a marked increase in incidences of CRSV. As of late July 2023, 108 cases had been reported to the Combating Violence Against Women Unit (CVAW) in Sudan,¹⁰ but as found by REDRESS, “the actual number of cases is likely to be much higher, with underreporting due to a range of factors, such as shame, social stigma, fear of repercussions, survivors being trapped in areas without functioning medical services, communications outages, or the inability of survivors to access first sexual violence response kits.”¹¹ “According to the CVAW, the cases it has registered likely represent approximately 2% of actual numbers”.¹² These issues are particularly prominent in areas controlled by the paramilitary Rapid Support Forces, such as Gezira State and parts of Darfur and Khartoum. Further, by September 2023, the cases of rape and sexual violence documented by the CVAW of Sudan had risen to 136.¹³
15. The ongoing armed conflict has also exacerbated the impact of legal barriers to reporting and investigating CRSV cases. Survivors are required to complete a Form 8 (the form used to document physical injuries) to file a legal claim with national authorities.¹⁴ Prior to the current conflict, it was difficult for some survivors to obtain a copy of Form 8 – particularly outside of Khartoum as copies are only available at police

⁹ In its decision the ACHPR referred to the case using the term SGBV (sexual and gender-based violence). For consistency this submission adopts the term CRSV throughout.

¹⁰ Dabanga, [Young Misseriya targeted, 12 more rape cases reported in Sudan capital](#), 12 June 2023.

¹¹ REDRESS, [Ruining a Country, Devastating its People, Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023 \(Ruining a Country\)](#), September 2023, pp. 23.

¹² *Ibid*, pp. 23.

¹³ Sudan Tribune, [Wartime rape and sexual violence cases reach 136 in Sudan](#), 24 September 2023.

¹⁴ Global Survivors Fund (GSF), in collaboration with Rights for Peace, Nuba Women for Education and Development Association, and Salmeen Charity, [Sudan Study on the Status of and Opportunities for Reparation for Survivors of Conflict-Related Sexual Violence \(Sudan Study on Reparation\)](#), p. 38, 49, 57.

stations or large hospitals and are provided at the discretion of local authorities. Now, as many police stations and hospitals are not operational or have otherwise been affected by the atrocities, it is even more challenging to obtain a copy of Form 8. Even if a survivor can obtain and complete Form 8, there is a risk that subsequent legal proceedings against the alleged perpetrator are unsuccessful in which case the survivors' completed Form 8 can be used as evidence in adultery charges brought against them. Additionally, Form 8 is not compliant with international standards on documentation of torture and sexual violence, such as the Istanbul Protocol, the Murad Code, and the UK Foreign and Commonwealth Office's International Protocol on the Documentation and Investigation of Sexual Violence in Conflict.¹⁵ While the use of Form 8 is not explicitly mandated in Sudanese law, it remains a significant barrier to survivors of CRSV filing legal cases against perpetrators or receiving medical treatment including abortions.¹⁶ Civil society organisations in Sudan are calling for legal reform to address these and other issues.¹⁷

16. Finally, the domestic legal basis for the prosecution of CRSV offences is problematic. The specific wording used is inconsistent with international standards. As detailed by REDRESS, the definition of rape as a war crime, contained in the Criminal Act 1991, is "vague and fails to properly elaborate on the different forms of coercion/lack of consent as well as the acts of penetration which have been recognised in international jurisprudence."¹⁸ Substantive legal reform to address these issues is unlikely at present given the ongoing armed conflict and lack of a transitional government or legislature, as mentioned above.

Kenya - COVAW, IMLU et al. v Attorney-General of Kenya et al. (High Court of Kenya, Constitutional & Human Rights Division)¹⁹

17. Since 1990, elections in Kenya have been marred by political unrest and violence, including widespread and systematic sexual violence. Although the scale of sexual violence is not fully known, the Kenyan Commission of Inquiry into Post-Election Violence reported that it handled 900 cases of sexual violence committed during that period.²⁰ Further, at least 207 cases of sexual violence occurred during the 2017 elections.²¹ Often, these acts were perpetrated by public security agents with no accountability, perpetuating a cycle of violence and impunity.

¹⁵ UN Office of the High Commissioner (OHCHR), [Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment \(The Istanbul Protocol\)](#), 2022; [The Draft Global Code for Documenting & Investigating Conflict-Related Sexual Violence, \(The Murad Code\)](#), 2020; UK Foreign & Commonwealth Office, [International Protocol on the Documentation and Investigation of Sexual Violence in Conflict \(FCDO International Protocol on CRSV Documentation\)](#), second edition, March 2017. See also: GSF, [Sudan Study on Reparation](#) p. 49.

¹⁶ Abortions are criminalised in Sudan. While an exception is provided by law for pregnancies as a result of rape within a 90-day window, it has been operationalised inconsistently (e.g., some authorities requiring a completed copy of Form 8 before the procedure can take place). Owing to this and other issues, some survivors have attempted self-abortions or travelled to other areas in order to access suitable healthcare. See also: GSF, [Sudan Study on Reparation](#), p. 38, 49, 57.

¹⁷ See for example, Dabanga, [Campaigners call for changes to Sudan rape legislation](#), 5 March 2024.

¹⁸ REDRESS, [Ruining a Country](#), pp. 51.

¹⁹ REDRESS maintains a [casework page](#) related to this case.

²⁰ See GSF, in collaboration with Grace Agenda, Civil Society Organisation Network, [Kenya Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence](#).

²¹ *Ibid.*

18. Contextual barriers have obstructed the implementation of reparation in Kenya, making reparation inaccessible to most survivors of the post-election violence of 2007-2008. Perpetrators of CRSV included members of the Kenya Police Service, Administrative Police and other State security agents, as well as non-State actors, and the police often refused to document cases reported by victims.²² These incidents have not been sufficiently investigated or prosecuted by Kenyan authorities, and access to medical services was sometimes denied by the State-run hospitals. To date, there is no national reparation scheme for those affected by post-election violence in Kenya, and survivors are forced to pursue costly private litigation to seek reparation for the violation of their rights.
19. In this context, in a landmark case filed before the High Court's Constitutional Division in Kenya, six women and two men sought reparation for the sexual violence they suffered during the 2007-2008 electoral and post-electoral period. After over ten years of litigation, on 10 December 2020, the High Court ordered the Kenyan government to pay compensation to four successful survivor petitioners.²³ The sum ordered to each survivor was KES four million (approx. USD 36,781) as general damages for the violation of their constitutional rights. The High Court did not order other measures of reparation such as rehabilitation or satisfaction. A decision is pending on the appeal filed by the other petitioners.
20. Despite this important decision awarding reparation to four survivors, they are yet to receive any reparation in practice. In Kenya, compensation awards ordered by national courts against the State are not immediately enforceable. The implementation process requires survivors to navigate complex legal proceedings in order to receive the compensation awarded. In particular, survivors must obtain a certificate of costs from the High Court, and obtain the approval of other authorities, including the Attorney General and Ministries concerned. This delays the implementation of reparation even more, and incurs further legal costs, including litigation expenses and court fees.
21. More broadly, there seems to be a lack of political will to change the *status quo* and implement compensation awards related to CRSV cases in Kenya. This causes revictimisation, further delays in implementation, and, fundamentally, budget allocations are not being made towards reparation for CRSV survivors, despite the fact that compensation is available via an enforcement of the court's judgement.

Nepal – *Purna Maya v. Nepal* (Human Rights Committee)²⁴

22. In Nepal, CRSV survivors face significant obstacles that prevent them from seeking and obtaining reparation. Social stigma and trauma, coupled with a lack of accessible avenues for claiming reparation and short statute of limitations for CRSV, hinder survivors from reporting their cases to the authorities.²⁵ Specifically, CRSV survivors in Nepal often endure social ostracisation, shame, and exclusion from their communities and families, due to patriarchal social structures and sometimes being labelled as

²² See, for example, REDRESS [casework page](#) related to this case.

²³ High Court of Kenya, [Coalition on Violence Against Women & 11 others v Attorney General of the Republic of Kenya & 5 others; Kenya Human Rights Commission\(Interested Party\); Kenya National Commission on Human Rights & 3 others\(Amicus Curiae\)](#), 10 December 2020.

²⁴ REDRESS maintains a [casework](#) page related to this case.

²⁵ GSF, in collaboration with ICTJ, Nagarik Aawaz, and Conflict Victim Women's National Network (CVWN), [Nepal Study On Opportunities For Reparations For Victims And Survivors Of Conflict-Related Sexual Violence](#), June 2022.

Maoists. Consequently, CRSV survivors hesitate to disclose their experiences, even in private settings to relatives and partners. This fear of further marginalisation causes many CRSV survivors to live in anonymity, and perpetuates a cycle of silence that makes it difficult to speak out. Moreover, the lack of political will to acknowledge instances of CRSV exacerbates the situation, further discouraging survivors from coming forward and seeking reparation.

23. Some of these obstacles are exemplified in the case of Purna Maya (name changed to protect her privacy), a Nepalese woman who was subjected to CRSV during the country's internal armed conflict.²⁶ In 2004, in Dailekh, Purna Maya became a target of constant threats and interrogations by the Nepalese armed forces, who insinuated her association with the Maoist group, and questioned her about her estranged husband whom they were looking for. On 23 November 2004, she was taken from her house and unlawfully detained by the Nepalese armed forces. Purna Maya endured interrogation about her husband's activities, along with insults, beatings, kicks, punches, forced consumption of urine, and repeated rapes by at least four different soldiers. These acts inflicted severe physical, mental, economic, and other harms upon Purna Maya.
24. Despite Purna Maya's efforts to report the case to the authorities and her identification of one of the perpetrators, an investigation was never opened into her case. The perpetrators were never brought to justice, in part due to the short statute of limitations to report rape to the authorities, which in Nepal consists of 35 days. Litigation before the Supreme Court for the registration of the case also failed, leaving Purna Maya with no avenue to seek justice and reparation in Nepal.
25. After taking her case to the UN Human Rights Committee (HRC) with the assistance of REDRESS and Advocacy Forum-Nepal, Purna Maya finally received some form of acknowledgement for the torture she suffered. In its decision, made public in June 2017, the HRC found the State responsible for Purna Maya's arbitrary detention, discrimination, and rape, which was recognised as a form of torture.²⁷ The HRC also acknowledged the widespread and systematic use of sexual violence against women perceived as Maoists or supportive of such groups during the armed conflict in Nepal. It further observed the absence of investigations to establish the truth, the failure to hold the perpetrators accountable, and the lack of reparation provided to Purna Maya, despite her persistent pursuit of justice through various domestic avenues. The HRC held that the statute of limitation was an unreasonable barrier to justice, ruling the 35-day limitation period "flagrantly inconsistent with the gravity and nature of the crime, and that it has a disproportionately negative effect on women, who are predominantly the victims of rape".²⁸
26. The HRC ordered Nepal to conduct a thorough investigation into the facts, and provide the victim with adequate compensation, including reimbursement for medical expenses, along with necessary psychological rehabilitation and medical treatment. As to guarantees of non-repetition, the HRC recommended Nepal to (i) abolish the 35-day statute of limitations for reporting rape; (ii) eliminate obstacles to complaints mechanisms and access to justice for victims of sexual violence, (ii) ensure confidentiality and protection of victims while filling a complaint, (iv) increase the

²⁶ See REDRESS [casework](#) page related to this case.

²⁷ UN Human Rights Committee (HRC), [Case of Purna Maya v. Nepal](#), CCPR/C/119/D/2245/2023, 17 March 2017.

²⁸ *Ibid*, para 5.2.

number of female police officers and prosecutors, (v) establish policies for confidential storage of medical records, (vi) provide interim relief to victims of CRSV, (vii) criminalise torture as a separate offence in domestic laws, and (viii) promote a national dialogue on sexual violence against women and conduct awareness raising campaigns.

27. Despite the comprehensive measures of reparation awarded by the HRC, its implementation is hindered by the lack of political will, lack of clear domestic mechanisms to implement international decisions, and insufficient follow-up mechanisms at the UN level. While the HRC has issued similar decisions in at least three other cases of CRSV in Nepal, none of these cases have been implemented, demonstrating the need for increased and urgent efforts by the State and other relevant stakeholders to recognise and provide reparation to CRSV survivors.²⁹

Chad – Reparation for the victims of Hissène Habré

28. CRSV survivors of crimes committed under the regime of Hissène Habré, the former president of Chad from 1982 to 1990, also struggle to obtain reparation. His regime was known for its violence and repression against political opponents, which led to an armed conflict in Chad. CRSV was widely used against the civilian population.³⁰ There are two main judicial decisions regarding the crimes committed during the Habré regime: one adopted by a Chadian criminal court and the other decided by the Extraordinary African Chambers (EAC) within the Senegalese Judicial System.³¹

The Chadian process

29. In October 2000, ten victims initially filed a submission as civil parties within the criminal proceedings in Chad against identified agents of the Habré regime. The charges included acts of torture – including sexual violence –, murder, and enforced disappearance. As the proceedings progressed, the number of victims involved in the case reached a total of 7,000 individuals, including CRSV survivors. The Chadian Court handed down various sentences to the convicted officials. Seven individuals received life imprisonment, while the others were sentenced to terms ranging from five to 20 years of imprisonment (the judgment did not involve Habré).
30. In the 2015 decision, the Chadian Court ordered that the convicted agents and the State pay compensation to the victims. The total amount awarded was 75 million CFA (\$125 million USD), through the establishment of an Implementation Commission. The Court also ordered the construction of monuments and one museum.
31. Due to the lack of implementation, in November 2017, 7,000 victims took the case to the ACHPR, accusing Chad of failing to comply with the domestic judgment. Victims in this case are represented by their lawyers (Jacqueline Moudeina, Lambi Soulgan, and Kemneloun Djirabé), and assisted by the Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme, REDRESS, Human Rights Watch and Freshfields Bruckhaus Deringer LLP. The case is pending final decision by the ACHPR.

²⁹ HRC, Case of [R.R. et al. v. Nepal](#), CCPR/C/134/D/2906/2016, 14 March 2022; Case of [Devi Maya Nepal v. Nepal](#), CCPR/C/132/D/2615/2015, 24 March 2025; and Case of [Fulmati Nyaya](#), CCPR/C/125/D/2556/2015, 18 March 2019.

³⁰ See GSF, in collaboration with REDRESS, [Chad Study on Opportunities for Reparations for Survivors of Conflict – Related Sexual Violence](#), April 2023, pp.17-20

³¹ REDRESS maintains a [casework page](#) related to this case.

The Extraordinary African Chambers' process

32. The EAC was established to try international crimes committed in Chad within the Senegalese Judicial System. In July 2016 the EAC found Habré liable for crimes against humanity, war crimes, and torture, including sexual offences and convicted him to life imprisonment.
33. This sentence was affirmed by the EAC Appeals Chamber on 27 April 2017, which ordered the payment of 82,290 billion CFA in compensation to the victims. The EAC awarded each victim of sexual violence in the case a sum of 20 million CFA. In this decision, the EAC ordered the African Union (AU) to establish a Trust Fund to deliver the reparation. To date, this Trust Fund is not operational and victims, including CRSV survivors, have not obtained any form of reparation.
34. In 2021, Habré died while serving a life sentence.

Implementation issues

35. The implementation of decisions by both the Chadian Courts and the EAC is hindered by multiple obstacles.
36. Fundamentally, there is a clear lack of political will of the Chadian authorities to establish the Implementation Commission, to identify and seize the assets of the convicted high-level officials, and to pay its 50% share of the order. The State has also not implemented the symbolic reparation measures ordered by the Chadian Court.
37. Similarly, the AU has not adopted any effective measure to operationalise the Trust Fund. Although the institution was formally created in 2016 and its statute published in 2018, the office opened in 2022 in N'Djamena seems to be inactive since its creation. In 2022, the Chadian State has pledged an amount to the EAC-ordered Trust Fund. However, beyond the lack of operationalisation of the Trust Fund, no discussions appear to have taken place between the Chadian government and the AU on using this amount to deliver compensation to victims. As such, political willingness at the AU seems to have wavered.
38. Recently, in 2024, the Chadian Government instead started to disburse payments to victims totalling \$16.5 million (10 billion CFA francs), which represents only 10% of the total amount awarded by the EAC. However, there is no clarity about the operationalisation of such payments, or prioritisation of survivors for such disbursements, among other unclear practicalities. There is an apparent lack of understanding of reparation processes both at the domestic and regional levels.
39. As a consequence of the lack of implementation, there is a general fatigue and frustration by the victims recognised in the judgments which has exacerbated the original violations. Victims of the Habré regime are "in poor health and in desperate need", as noted by civil party representative Jacqueline Moudeina, whilst others are literally dying as they wait for reparation.³² Also, the lack of implementation has compounded transgenerational traumas that have not been addressed by the Government.

³² REDRESS, [Chad: Still No Reparations for Hissene Habre's Victims](#), 26 May 2023.

Uganda - ICC Reparation to victims of Dominic Ongwen³³

40. Survivors of CRSV in Uganda are also yet to receive any form of reparation for the harms suffered during the decades-long conflict in northern Uganda between the Lord's Resistance Army (LRA) and Uganda government forces. While this section focuses on the Reparation Order recently issued by the International Criminal Court (ICC) in the case against Dominic Ongwen,³⁴ it is important to note that many other victims, including CRSV survivors, are still waiting for the Ugandan parliament to enact legislation establishing a mechanism for the implementation of reparation, as determined in the National Transitional Justice Policy adopted in 2019.
41. On 28 February 2024, the ICC ordered reparation to victims of Dominic Ongwen, a former LRA commander found guilty of 61 counts of crimes against humanity and war crimes in northern Uganda between 2002 and 2005. The number of eligible victims in this case, including CRSV survivors, is estimated at 49,772, with a total liability of €52,429,000.³⁵ The measures ordered by the ICC encompass (i) collective, rehabilitative community-based programmes; (ii) an individual symbolic, not compensatory, award of €750 for all eligible victims; and (iii) community-based symbolic or satisfaction measures, such as apologies, memorials, and ceremonies.³⁶
42. This ICC Order sheds light on many issues relevant to survivors' experience in obtaining reparation, such as the practical steps and standards related to identification and registration of victims, prioritisation of victims in dire need, and forms to address the varied types of harms suffered by individual survivors and the survivor community at large. It also invites a reflection on how to ensure the delivery of survivor-centred reparation in practice, with effective survivor participation and co-creation, particularly in cases involving such a large number of victims and highly costed reparation measures.
43. For instance, in this case the ICC decided that community-based reparation measures would be the most appropriate and the only feasible measure for prompt implementation due to the large number of victims. The multi-layered harms suffered by victims, which included long-lasting physical, moral, material, and community harm, also informed the ICC's focus on rehabilitative programmes aimed at restoring survivors' independence, and fostering their inclusion and participation in society. Importantly, the ICC recognised the particular experience of CRSV survivors, who suffered long-lasting impact, and presumed children born of CRSV as direct victims, acknowledging the transgenerational harm they suffered. Finally, anticipating practical obstacles for implementation, the ICC tried to address issues on identification and registration of victims, and developed prioritisation factors to guide implementation in practice.
44. As we move towards implementation of the Order, one of the main obstacles relates to adequate resourcing. Given that Ongwen was declared indigent by the ICC, the large number of victims, alongside the large sum of money required to fulfil the Reparation Order, poses a major challenge for the Trust Fund for Victims (TFV). Significant

³³ For more information see REDRESS, [ICC's Largest Ever Reparation Order Paves the Way for Reparations for Victims of Ongwen's Crimes](#), 28 February 2024.

³⁴ ICC, [The Prosecutor v. Dominic Ongwen Reparations Order](#), 28 February 2024.

³⁵ *Ibid*, para 809.

³⁶ *Ibid*, paras. 663-665.

fundraising will be required to implement this order, not least because the TFV is already managing several large and complex reparation packages.³⁷

45. The TFV will also need to tackle significant obstacles to ensure effective survivor participation and co-creation in the design and implementation of the reparation measures. This will require accessible, tailored, informative, sensitisation and outreach sessions before and during survivors' participation in the process – both during design and implementation phases. Ensuring that survivors clearly understand their right to reparation and are aware of the scope and limitations of the Order is also crucial. Equally important is the need to adequately manage survivors' expectations.
46. Additionally, considering that survivors have diverse experiences and needs, an approach sensitive to gender and other intersectional ties will need to be adopted by the TFV. This is especially important to acknowledge social and cultural issues associated with CRSV, as well as to address the particular vulnerabilities of survivors. Finally, implementation of reparation will need to be attuned to the particular context of northern Uganda, with attention to potential group dynamics.

Ukraine - Financing reparation³⁸

47. Widespread violations of international human rights law and international humanitarian law, including incidents of CRSV, have been reported in the context of the Russia's occupation of Crimea in 2014, the conflict in Eastern Ukraine since 2014, and Russia's full-scale invasion of Ukraine which began on 24 February 2022.
48. There are several existing or planned mechanisms both at international and national levels aimed at delivering reparation to survivors of violations of international human rights and humanitarian law in the context of the conflict in Ukraine. Among these are the Register of Damage for Ukraine, the TFV at the ICC, the GSF, and national administrative mechanisms in Ukraine itself.
49. However, several challenges remain that impede survivors' effective access to reparation.
50. The first consists of the fragmented reparation landscape in relation to Ukraine. Consultations with survivors of CRSV in Ukraine to date demonstrate that victims are not sufficiently informed as to which reparation initiatives are available to them and how they could apply to receive reparation orders.³⁹ There appears to be no clear overarching strategy on the delivery of reparation for survivors, with different initiatives at domestic and international levels, whilst no initiative seems to represent a comprehensive reparation scheme for survivors. In addition, requiring survivors to register claims and apply multiple times via different avenues increases the risk of re-traumatisation.⁴⁰
51. Secondly, survivors may not be able to access the form of reparation that is most appropriate to their needs. The extent to which the reparation initiatives especially at the international level have consulted with survivors is unclear. There are also questions as to whether initiatives, emphasising compensation, correspond to the needs of many

³⁷ ICC, [Report of the Board of Directors of the Trust Fund for Victims to the Assembly of States Parties on the activities of the Trust Fund for the period 1 July 2022 to 30 June 2023](#), 28 July 2023.

³⁸ REDRESS, [The Delivery Of Reparation For Ukraine Briefing Paper](#), November 2023.

³⁹ *Ibid*, pp.17.

⁴⁰ *Ibid*, pp.17.

survivors, including of CRSV, who may prefer measures of rehabilitation or restitution.⁴¹ Moreover, most of the discussions about reparation at the domestic and international level are focused on making Russia responsible for financing reparation, with less focus on equally important issues on how to ensure that reparation measures respond to the actual needs and perspectives of survivors and that its implementation is equally survivor-centred.

52. Finally, these mechanisms must be adequately resourced. Western allies of Ukraine have frozen US\$58⁴² billion worth of assets of Russian individuals and entities and US\$300⁴³ billion of Russian sovereign assets in response to Russia's invasion of Ukraine. If channelled correctly, a proportion of these funds could transform the lives of survivors, including CRSV survivors, in Ukraine. In July 2023, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, specifically recommended that the international community should "consider repurposing frozen assets and fines collected through sanctions against persons involved in human rights violations to repurpose them for reparations of victims".⁴⁴
53. However, there is currently no clear, internationally recognised precedent for confiscating assets of those involved in Russia's violations of international human rights and humanitarian law and redirecting them to survivors. New laws will be needed to establish a clear legal basis for confiscating assets, for example, because their owner is complicit in, or has supported or benefited from serious human rights or humanitarian law violations, while ensuring proportionality and respect for property rights, due process, and the law on sovereign immunity.

⁴¹ *Ibid*, pp.17

⁴² CNN, [US and its allies have frozen more than \\$58 billion from Russian oligarchs](#), 9 March 2024.

⁴³ Reuters, [Russia says seizing its frozen assets would set dangerous precedent](#), 22 April 2024.

⁴⁴ See [Innovative Avenues To Finance Reparation In The UK](#), January 2024, pp.8.

RECOMMENDATIONS

54. The case studies above demonstrate that despite the well-established right to reparation under international law, and the existing guidance by various UN bodies on the topic, increased efforts are necessary to ensure that CRSV survivors receive reparation in practice. In this regard, further concrete guidance by the Special Rapporteur on Torture to address these issues would benefit survivors, States, practitioners, and the society at large. Recommendations to States could cover, for example, the following topics or areas:
- a) Ratification and/or implementation of regional and global treaties and other instruments, including the UNCAT, the CEDAW Convention, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (the Belém do Pará Convention), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), into domestic legal and institutional frameworks;⁴⁵
 - b) Adherence to internationally recognised standards on reparation, including the OHCHR 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, the UN Committee against Torture General Comment No. 3, and the ACHPR General Comment No. 4;⁴⁶
 - c) Legal reforms to ensure the domestic criminalisation of torture as a stand-alone offence, criminalisation of all recognised forms of sexual and gender-based offences, criminalisation of crimes against humanity, war crimes and the crime of genocide, including all underlying offences relating to sexual and gender-based violence;
 - d) Legal reforms to ensure that domestic definitions of rape, and other sexual and gender-based offences align with international standards;
 - e) Cumulative characterisation of CRSV as discrimination, and/or torture or other ill-treatment, as appropriate and depending on all of the circumstances of each case;
 - f) Adoption of concrete measures by States to ensure that CRSV survivors can effectively access complaints mechanisms and claim reparation for the violations of their rights;

⁴⁵ See CEDAW Convention; OAS, [The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women \('the Belém do Pará Convention'\)](#), 1995; AU, [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa \('the Maputo Protocol'\)](#), 2005.

⁴⁶ OHCHR, [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](#), 2005; UN Committee against Torture, [General Comment No. 3 on the Implementation of Article 14 by States Parties](#), 2012; ACHPR, [General Comment No. 4 on the African Charter on Human and Peoples' Rights: the Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Treatment \(Article 5\)](#), 2017.

- g) Ensuring that investigations into CRSV are gender-sensitive, effective, and respond to survivors' varying experiences, harms, and needs, in accordance with international standards;⁴⁷
- h) Adoption of specific measures to provide holistic support to survivors of CRSV, including to respond to particular vulnerabilities and to effectively protect them – as well as witnesses, and survivors' representatives – from further harm or retaliation;
- i) Ensuring holistic and transformative reparation to CRSV survivors;
- j) The delivery, in practice, of prompt, adequate, and effective reparation based on a survivor-centred approach. A survivor-centred approach may include survivor participation and co-creation in reparation design and processes, including in cases involving a large number of victims, and in transitional justice reparation programmes. Recommendations on this topic could consider relevant documents developed by survivor groups, such as the Kinshasa Declaration on the Rights to Reparation and Co-creation of Survivors and Victims of Conflict-Related Sexual and Gender-Based Violence;⁴⁸
- k) Introduction of national mechanisms for the implementation of reparation awarded by international, regional, or domestic courts or human rights bodies;
- l) Ensuring complementarity between internationally and domestically awarded reparation;
- m) Consideration to involving CRSV survivors effectively and safely in discussions on transitional justice;
- n) Inclusion of accountability and reparation for CRSV survivors in post-conflict political agreements, with attention to interim reparation measures for CRSV and other survivors in need; and
- o) Appropriate avenues for and methods of financing reparation for CRSV survivors.

ABOUT US

55. [REDRESS](#) is an international human rights organisation that delivers justice and reparation for survivors of torture, challenges impunity for perpetrators, and advocates for legal and policy reforms to combat torture and provide effective reparations. As part of its Discrimination and Reparation programmes, REDRESS support survivors, including CRSV survivors in their pursuit to justice and reparation. REDRESS has recognised experience on reparation, represents CRSV survivors in different contexts, and have conducted four of the 20 country studies of the Global Survivors Fund on reparation for survivors of CRSV.

⁴⁷ This may include the Istanbul Protocol, the Murad Code, and FCDO International Protocol on CRSV Documentation.

⁴⁸ ACHPR, [Kinshasa Declaration on the Rights to Reparation and Co-creation of Survivors and Victims of Conflict-Related Sexual and Gender-Based Violence](#), 2022.