

# **GUIDANCE NOTE OF THE SECRETARY-GENERAL**

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## Reparations for Conflict-Related Sexual Violence

## SUMMARY

This Note aims to provide policy and operational guidance for United Nations engagement in the area of reparations for victims of conflict-related sexual violence. It is intended to complement other relevant UN tools and Guidance Notes.

### A. Guiding Principles for Operational Engagement

1. Adequate reparation for victims of conflict-related sexual violence entails a combination of different forms of reparations
2. Judicial and/or administrative reparations should be available to victims of conflict-related sexual violence as part of their right to obtain prompt, adequate and effective remedies
3. Individual and collective reparations should complement and reinforce each other
4. Reparations should strive to be transformative, including in design, implementation and impact
5. Development cooperation should support States' obligation to ensure access to reparations
6. Meaningful participation and consultation of victims in the mapping, design, implementation, monitoring and evaluation of reparations should be ensured
7. Urgent interim reparations to address immediate needs and avoid irreparable harm should be made available
8. Adequate procedural rules for proceedings involving sexual violence and reparations should be in place

### B. Operational Guidance on the Consideration of Different Forms of Reparation

The General Assembly adopted *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law* describe different forms of reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The underlying rationale for reparation may affect the specific way a reparations program is designed in regards to allocation of material and symbolic reparations on an individual and collective basis. Consultations with victims are particularly important in order to hear their views on the specific nature of reparation.

## INTRODUCTION

This Note aims to provide policy and operational guidance for United Nations engagement in the area of reparations for victims of conflict-related sexual violence, including activities to advocate for and/or support the design, implementation, monitoring and evaluation of reparation programmes and initiatives directed at victims of conflict-related sexual violence. The Note is intended to complement other relevant UN tools<sup>1</sup> and Guidance Notes, in particular the Notes on the UN approach to rule of law assistance<sup>2</sup> and to transitional justice.<sup>3</sup>

Some of the principles outlined in this note are also applicable to UN engagement with regard to reparations for victims of sexual and gender based violence outside a conflict or post-conflict situation, as well as to victims of other violations of international human rights law and international humanitarian law. The focus on sexual violence in this note is intended to recognize the need for approaches to reparation that are specifically tailored to the consequences, sensitivity and stigmas attached to these harms in societies globally, and to the specific needs of sexual and gender-based violence survivors.

## DEFINITIONS

The Note uses the definition of conflict-related sexual violence developed in the UN Analytical and Conceptual Framing of Conflict-Related Sexual Violence.<sup>4</sup>

According to this definition, conflict-related sexual violence refers to incidents or patterns of sexual violence against women, men, girls or boys occurring in a conflict or post-conflict setting that have direct or indirect links with the conflict itself or that occur in other situations of concern such as in the context of political repression.<sup>5</sup>

Conflict-related sexual violence takes multiple forms such as, inter alia, rape, forced pregnancy, forced sterilization, forced abortion, forced prostitution, sexual exploitation,

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<sup>1</sup> See in particular OHCHR rule of law tools for post-conflict states on Truth Commissions, HR/PUB/06/01; Prosecution Initiatives, HR/PUB/06/04; Vetting: An Operational Framework, HR/PUB/06/05; Reparations Programmes, HR/PUB/08/01; Maximizing the Legacy of Hybrid Courts, HR/PUB/08/02; Amnesties, HR/PUB/09/01; and National Consultations on Transitional Justice, HR/PUB/09/02. See also UN Women, “A Window of Opportunity: Making Transitional Justice Work for Women” (2012).

<sup>2</sup> Guidance Note of the Secretary-General, United Nations Approach to Rule of Law Assistance, April 2008.

<sup>3</sup> Guidance Note of the Secretary-General, United Nations Approach to Transitional Justice, March 2010. See also UN DPA Guidance for Mediators: Addressing Conflict-Related Sexual Violence in Ceasefire and Peace Agreements, 2012.

<sup>4</sup> Analytical and Conceptual Framing of Conflict-related Sexual Violence, June 2011.

<sup>5</sup> Ibid, p. 3. Following the World Health Organization (WHO) definition, the Analytical and Conceptual Framing defines sexual violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.” For a more general statement of principles applicable to victims, see also Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, A/RES/40/34.

trafficking, sexual enslavement, forced circumcision, castration, forced nudity or any other form of sexual violence of comparable gravity. Depending on the circumstances, it could constitute a war crime, a crime against humanity, genocide, torture or other gross violations of human rights.

Women and girls are affected by conflict-related sexual violence in greater number than men and boys. However, men and boys<sup>6</sup> are also victims of conflict-related sexual violence. In addition, pre-existing patterns of violence and discrimination can increase the vulnerability to conflict-related sexual violence. It is recognized that all victims may experience serious suffering and lasting mental and physical harm accentuated by related stigma.<sup>7</sup> This has an impact on their lives, families and communities.

Victims<sup>8</sup> of conflict-related sexual violence include persons who, individually or collectively, suffered such violence but also family members, such as children or partners, and children born as a result of pregnancy from rape. Persons who depend on the victim of sexual violence and others may also be victims as a consequence of the harm inflicted through the violation. Victims may also include persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

## LEGAL FRAMEWORK

The right to an effective remedy is enshrined in international human rights law and humanitarian law as established in various international and regional instruments<sup>9</sup> and

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<sup>6</sup> Most recently, the International Commissions of Inquiry for Libya and Syria have both reported that they had evidence of the use of sexual violence in those conflicts against men in detention centers (see, e.g. A/HRC/22/59, paras. 104-111; A/HRC/21/50, paras. 96-102; A/HRC/19/68, paras. 65-70).

<sup>7</sup> See, e.g., ICTY, *Prosecutor v. Dragoljub Kunarac et al.*, IT-96-23 & IT-96-23/1-A, Appeals Chamber Judgment, 12 June 2002, paras. 150-1; ICTY, *Prosecutor v. Mucic et al. ("Celebici Camp")*, IT-96-21-T, Trial Judgment, 16 November 1998, para. 495; IACmHR, *Mejía v Perú*, 1 March 1996, para. XX; IACtHR, *Fernandez Ortega et al. v Mexico*, Preliminary Objections, Merits, Reparations and Costs, Judgment of 30 August 2010, Series C No. 215 para. 124 (emphasis added). See also IACtHR, *Rosendo Cantú Et Al v Mexico*, Judgment (Preliminary Objections, Merits, Reparations and Costs) of 31 August 2010, Series C, No. 216 para. 112. See further CAT, *V.L. v. Switzerland*, CAT/C/37/D/262/2005 (2007), para. 8.10.

<sup>8</sup> See 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 [hereinafter "Basic Principles and Guidelines on the Right to a Remedy and Reparation"], A/RES/60/147, principles 8 and 9.

<sup>9</sup> In particular, provisions on a right to a remedy for victims of violations of international human rights law are found in article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 39 of the Convention on the Rights of the Child, article 24 of the International Convention for the Protection of All Persons from Enforced Disappearances. Regional instruments also include relevant provisions, such as article 7 of the African Charter on Human and Peoples' Rights, article 25 of the American Convention on Human Rights, and article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The obligation to make reparation in case of violations of international humanitarian law is reflected in article 3 of the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), and 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) of 8 June 1977, which are only applicable in international armed

elaborated upon in subsequent jurisprudence.<sup>10</sup> Furthermore, in 2005, the UN General Assembly adopted the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law*.<sup>11</sup>

Reparations should be provided by a State for acts or omissions that can be attributed to it and that violate its obligations under international human rights law or international humanitarian law, or a person, a legal person, or other entity found liable for violations of international humanitarian law and making reparation. In the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations, States should endeavour to establish programmes for reparations and assistance to victims.<sup>12</sup> The beneficiaries of reparations may be the injured individuals or a State on behalf of the injured individuals.

All victims, including those of conflict-related sexual violence, shall be treated with humanity and respect for their dignity and human rights, always avoiding further harm and trauma. Their right to a remedy and reparation should be fulfilled without discrimination on the basis of sex, gender identity, ethnicity, race, age, political affiliation, class, marital status, sexual orientation, nationality, religion and disability, or any other status and taking into account the definitions and guiding principles set out in this note.

Documents such as the Nairobi Declaration on Women's and Girls' Rights to a Remedy and Reparation advocate for gender-sensitive reparations<sup>13</sup> which take into account pre-existing gender relations and power imbalances to ensure a fair assessment of the harm

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conflict but the obligation reflected therein can now be considered as part of customary international law applicable to non-international armed conflict. Article 75 of the Rome Statute for the International Criminal Court also incorporates the right to reparation of victims of crimes under the jurisdiction of the Court. Reparation for breaches of international obligations can also be made by a State to another State, an international organization to a State, or an international organization to another. See Part Two of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts, A/56/10 (2001) and Part Three of the Draft Articles on the Responsibility of International Organizations, A/66/10 (2011).

<sup>10</sup> The Human Rights Committee, in its General comment No. 31, states: "Article 2, paragraph 3, requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged. In addition to the explicit reparation required by articles 9, paragraph 5, and 14, paragraph 6, the Committee considers that the Covenant generally entails appropriate compensation. The Committee notes that, where appropriate, reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations." See also Committee against Torture, General comment No. 3. For a case of State-to-State reparation for violations of international human rights law and international humanitarian law, see, for example, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* (Merits) [2005] ICJ Rep 116.

<sup>11</sup> A/RES/60/147.

<sup>12</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, *supra*, n.8, principles 15 and 16.

<sup>13</sup> See also Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Rashida Manjoo, A/HRC/14/22; Principles on Housing and Property Restitution for Refugees and Displaced Persons, E/CN.4/Sub.2/2005/17.

inflicted upon women and men, equal access to -and benefits from- reparation programmes for both women and men. Decisions on and the delivery of reparations should similarly not reinforce pre-existing patterns of gender-based discrimination, but rather strive to transform them.

## **A. GUIDING PRINCIPLES FOR OPERATIONAL ENGAGEMENT**

Victims of conflict-related sexual violence face considerable obstacles in obtaining access to an effective remedy, including reparations. The devastating physical and psychological impact of sexual violence, compounded by the stigma attached to it, often prevents survivors from seeking or obtaining redress, including for fear of being ostracized by families and communities as a result of disclosing the facts, or of being further victimized by insensitive authorities or institutions. In a context where women suffer from structural discrimination and have no access to education and productive resources, loss of family support can result in destitution. Homophobia and the concept of emasculation or feminization of victims can result in stigma and discrimination against men and boys who are survivors of sexual violence.

Ensuring that reparations are just and adequate requires a full understanding of the gendered-nature and consequences of the harm suffered for both males and females. In addition, consideration of gender inequalities in operationalizing reparations should be undertaken to ensure reparations provisions do not exclude, marginalize, or penalize women or men.<sup>14</sup> Gender-based discrimination can be compounded by discrimination on other grounds, including actual or perceived gender-identity, ethnicity, race, age, political affiliation, class, caste, marital status, sexual orientation, nationality, religion, disability or other status, placing certain groups of individuals at particular disadvantage.

In any initiative designed to fulfil the victims of sexual violence right to reparations, it is vital that appropriate attention be paid to any on-going protection concerns for victims and to ensuring that initiatives themselves “do no harm.” The core principles of respectful engagement with victims, including respect for confidentiality, must be promoted by the UN throughout this work.

The following principles provide guidance to ensure that the work of the United Nations in support of State’s initiatives to design and implement reparations, duly addresses these specific considerations.

### **1. Adequate reparation for victims of conflict-related sexual violence entails a combination of different forms of reparations**

International law establishes different forms of reparation to redress gross violations of human rights law and serious violations of humanitarian law such as restitution,

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<sup>14</sup> For example, in Guatemala, men were not eligible for reparations as victims of sexual violence, as rape was defined as perpetrated by a man against a woman (see Paz y Paz Bailey, “Guatemala: Gender and Reparations for Human Rights Violations”, p. 106/107).

compensation, satisfaction, rehabilitation and guarantees of non-repetition.<sup>15</sup> A key element of reparation is that it should be proportional to the gravity of the violations and the harm suffered. The UN should promote comprehensive programmes which may also include all or some variation of individual, collective, symbolic, and material reparations as well as priority access to services. Given the seriousness of the harms inflicted on victims of conflict-related sexual violence, the combination and interplay of different forms of reparation is necessary. Reparations have the potential to be transformative and to assist in overcoming structures of inequality and discrimination.

A State should also be aware that it can bring claims by proxy against another State, if its nationals and residents were injured by that other State. For this purpose, States can establish channels whereby victims of violations of international human rights law and international humanitarian law can easily access the relevant government office that deals with claims against another State.

## **2. Judicial and/or administrative reparations should be available to victims of conflict-related sexual violence as part of their right to obtain prompt, adequate and effective remedies**

The UN should promote the design of a comprehensive public policy and framework on reparations to address conflict-related sexual violence, including the establishment of judicial remedies and administrative reparation programmes.

An administrative reparations programme is an out-of-court process used by States to provide reparation to massive numbers of victims of gross violations of international human rights law and/or serious violations of international humanitarian law. In such programmes, States identify the violations and the victims to be redressed and provide them with reparation through an established procedure. Reparation can also be ordered by national or international courts against a State or against the perpetrator of the crime, as applicable.

When gross violations of human rights and/or serious violations of international humanitarian law, including conflict-related sexual violence, take place on a large scale, administrative reparations programmes have the potential of being more inclusive and accessible than courts. These programmes are in fact capable of reaching a larger number of victims and are more victim-friendly as their procedures are more flexible, and evidentiary standards and costs are considerably lower. They imply recognition of the harm suffered, without subordinating it to the judicial establishment of the responsibility of the perpetrator. Nevertheless, administrative reparations programmes should not preclude victims of conflict-related sexual violence from obtaining reparations through courts; all victims should have access to effective judicial remedies which include adequate, prompt and full reparation for the harm suffered. Domestic or international courts should take into account and complement reparations awarded by administrative reparations programmes when deciding on redress for victims of conflict-related sexual violence.

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<sup>15</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, supra, n. 8, principle 18.



Ensuring effective access to judicial remedies may require assistance and support to complainants as well as the removal of barriers to access to justice, including discriminatory barriers particularly affecting women.<sup>16</sup> Effective judicial remedies also require that decisions of judicial bodies are executed without unreasonable delay.<sup>17</sup>

The UN cannot endorse peace agreements which preclude either access to judicial remedies or administrative reparations programmes for victims of conflict-related sexual violence and other gross violations of international human rights law, as well as serious violations of international humanitarian law.

### **3. Individual and collective reparations should complement and reinforce each other**

Reparations can be distributed both individually and collectively. Collective reparations can complement individual reparations. However, they tend to serve different purposes. As such, collective reparations are not a substitute for individual reparations.<sup>18</sup>

There is no definition of collective reparations under international law. Nevertheless, the term has been used to refer to reparations provided to: (a) a group of people who suffered harm as a result of violations of international human rights law and international humanitarian law (such as victims of conflict-related sexual violence); (b) the particular community where a group of people described in (a) resides (such as a massacre taking place in a specific village); or (c) a group of people described in (a) who are connected by cultural and ancestral bonds (like an indigenous community).<sup>19</sup> It has also been used to refer to (d) the particular benefit given to the group who suffered harm (like the construction or re-construction of infrastructure or income generating projects).

Collective reparations could help to prevent stigma given that they do not require naming individual victims and the violations suffered. Individual victims should, however, directly benefit from collective reparations and not feel excluded or marginalized, or even further stigmatized by these measures. Measures such as building infrastructure for entire communities and naming them after victims may for example expose survivors. Equally, collective reparations may end-up benefitting more men than women, if they for example result into greater access to economic resources for the family or the community, where women traditionally do not control or have little access to such resources. However, there may be instances when collective measures that honour survivors of sexual violence may both diminish stigmatization within a community as well as encourage victims to speak openly about their experiences.

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<sup>16</sup> See Committee Against Torture, General Comment No. 3, paras. 29-42.

<sup>17</sup> See ECtHR, *Burdov v. Russia* (No. 2), App. no. 33509/04, 15 January 2009.

<sup>18</sup> See Committee against Torture, General comment No. 3, stating that “[Culturally sensitive] collective [reparation] measures do not exclude the individual right to redress” (para. 32).

<sup>19</sup> International Center for Transitional Justice, *The Rabat Report: Concept and Challenges of Collective Reparations*, 2009, p. 10.



In crafting collective reparations, adequate consultation should take place with victims of sexual violence in safe spaces and, if necessary, with the presence of persons who would help victims to speak out. Furthermore, women's groups, defenders of the rights of minority and marginalized groups, and other civil society organizations working on conflict-related sexual violence and reparations should be informed, if they can, as intermediaries, have a positive impact in discussions about collective reparations.<sup>20</sup> The UN is often uniquely placed to facilitate inclusive approaches with wide stakeholder participation. Courts or administrative bodies deciding on reparations with a collective dimension should take steps to understand the cultural and social context of victims of conflict-related sexual violence, the harm suffered and their needs as well as the obstacles they could face when such reparations are awarded. In circumstances when collective reparations are intended to target a wider group of beneficiaries such as communities particularly affected by conflict, those conducting consultations should ensure that the views of victims of sexual violence are represented, while taking into account considerations of privacy and confidentiality.

Reparations for conflict-related sexual violence could also include important symbolic measures such as public statements in recognition that violations took place and require remedies, or official apologies by political leaders for implication of State actors in the violations. To avoid potential ostracization of victims, these acts could have collective character rather than singling out individual victims.

#### **4. Reparations should strive to be transformative, including in design, implementation and impact**

Sexual violence often results from and perpetuates patterns of pre-existing structural subordination and discrimination for both men and women. For women, it is often rooted in beliefs about women's subordination and male sexual entitlement, combined with the disregard for the equal enjoyment of human rights by women. Sexual violence against men is also rooted in stereotypes about masculinity and constructions of gender and sexual identity around power and domination. These inequalities can also aggravate the consequences of the crime. **Reparations should strive to have a transformative effect on these inequalities, rather than reinstate or reinforce the structural conditions within society that uphold such practices and beliefs and that inform the perpetration of sexual violence.<sup>21</sup> Reparations have the potential to trigger important changes even if they alone cannot transform the root causes of conflict-related sexual violence or the structural conditions that made such violence possible.**

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<sup>20</sup> See S/RES/1960 (2010).

<sup>21</sup> Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Rashida Manjoo, A/HRC/14/22, para. 31; Inter-American Court on Human Rights, *Cotton Field v. Mexico*, Preliminary exceptions, merits, reparations and legal costs, 16 November 2009, para. 450; Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation, Principle 3.H; and International Criminal Court *Prosecutor v. Thomas Lubanga Dyilo*: Decision establishing the principles and procedures to be applied to reparations, ICC-01/04-01/06-2904, Trial Chamber I, 7 August 2012, para. 222 (currently on appeal).

Designing reparations, including the appropriate combination of different forms of reparations, should be guided by their potential to be transformative.<sup>22</sup> In certain settings, women-centred economic compensation or access to productive resources or credit may help enhance women's economic empowerment and autonomy and therefore be transformative. Guarantees of non-repetition also have an important potential for being transformative, in that they imply the need for structural and institutional reforms.

Sierra Leone's Truth and Reconciliation Commission recommended reparations that were comprehensive in nature and have the potential to be transformative in women's and children's lives. The recommendations included: free healthcare including mental healthcare, educational support to children of victims, skills training, micro-credit and micro projects for individual and collective groups of beneficiaries, community reparations, symbolic reparations, provision of housing and pensions, and urgent interim reparations for specific categories of individual beneficiaries, including amputees, war wounded, victims of sexual violence, war widows and children affected directly by the conflict. The recommendations also included a number of gender-specific legal and institutional reforms, including the repeal of all discriminatory legislation, enactment of gender-progressive laws, and ensuring that at least 30% of candidates for public elections are women. In 2010, on International Women's Day, then-President Koroma publicly apologized to the women of Sierra Leone for failing to protect them during the armed conflict and pledged to protect women's rights going forward. As a direct result of the truth commission's recommendations, three women's rights bills were passed by Parliaments addressing key aspects of gender inequality.

The process of obtaining reparations should itself be empowering and transformative. For example, UN's approach to supporting the mapping, design, implementation, monitoring and evaluation of reparations should be victim-centred, so that victims of sexual violence are able to assume a proactive role in obtaining reparations. This has the potential of unsettling patriarchal and sexual hierarchies and customs which need to be anticipated and managed as part of the reparations process.

## **5. Development cooperation should support States' obligation to ensure access to reparations**

While reparations and development constitute two distinct and separate rights, creating linkages with development actors and programmes could be beneficial for delivering sustainable and transformative reparations, in particular in a country affected by massive violations of international human rights law and international humanitarian law, and widespread poverty. Both reparations and development aim at societal transformation governed by the respect for the rule of law and protection of human rights. Development programmes and reparations programmes can have positive effects on each other. For example, a focus on developing infrastructure and services that the beneficiaries of reparations are likely to use can maximize the impact of reparations. Reparations may also affect development, for example, by addressing the consequences of gender-based violence, and reparations programmes may empower women who, in turn, can participate

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<sup>22</sup> ICC, Trust Fund for Victims, Observations on Reparations in Response to the Scheduling Order of 14 March 2012, *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-2872, 25 April 2012, paras. 49-66.

in development decision-making and benefit more directly from development programmes, including in the fields of labour and education.

An approach to development that aims at enhancing respect for international human rights law and international humanitarian law requires specific attention to the claims of particularly vulnerable rights-holders, including survivors of conflict-related sexual violence.<sup>23</sup> In particular, in building States' capacities to meet their obligations under international human rights law and international humanitarian law, it is critical to look at gaps to deliver on victims' legal rights. For example, donors supporting health initiatives should take into account areas worst affected by conflict-related sexual violence in order to strengthen the capacity of the State to provide, in a timely manner, required medical assistance to survivors.<sup>24</sup> In the context of access to justice, legal aid services should be provided to victims of conflict-related sexual violence.<sup>25</sup>

International cooperation and assistance, including from the UN, should not be a substitute for the role that States must play in reparations. States should acknowledge their responsibility for violations of international human rights law and international humanitarian law and use their financial and institutional capacity in a diligent way to repair the harm suffered by victims. However, where political will exists but capacity is lacking, external actors have a role to play including through assistance for the design of reparations programmes and their implementation based on best practices from other contexts. For example, in Ghana reparations were funded in part by that country's access to Heavily Indebted Poor Countries funds. In Sierra Leone, reparations for sexual violence survivors have been funded by the UN Peacebuilding Fund as well as the UN Trust Fund to End Violence against Women administered by UN Women, with staff salaries and overheads provided by national authorities. Debt swaps or debt forgiveness which integrates conditions regarding reparations, and specifically reparations for particular groups such as sexual violence survivors, could be also potentially pursued. International technical assistance, from the UN and others, can also help to build civil society capacity to act as an intermediary and to build State capacity to consult effectively.

## **6. Meaningful participation and consultation of victims in the mapping, design, implementation, monitoring and evaluation of reparations should be supported**

The UN should advocate for and support participation of and consultations, with victims in order to ensure that reparations have the intended impact, are perceived as such, and that there is ownership of the process. This is also important to ensure that reparations are accessible and that they do not exclude or marginalize any group of victims.

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<sup>23</sup> See The UN Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming (the Common Understanding) adopted by the United Nations Development Group (UNDG) in 2003. See more at: <http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies#sthash.s7IS6Itg.dpuf>

<sup>24</sup> UN Women and UNDP, *Reparations, Development and Gender* (Kampala, 2010).

<sup>25</sup> See UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, A/RES/67/187, principle 4.

Ensuring accessibility further requires adequately identifying the legal, cultural, economic and other obstacles found by victims, as well as their concerns, including lack of security conditions, lack of economic resources and fear of retaliation or ostracism. Victims of sexual violence may for example be internally displaced persons or refugees and therefore unable to participate or be easily consulted.

Domestic reparations policies and mechanisms should provide for special measures to address these obstacles to encourage and facilitate victims' participation and consultation.

In Timor Leste, the Commission for Reception, Truth and Reconciliation (CAVR) rather than singling out female victims of conflict-related sexual violence, recommended to the State that the categories of single mothers, widows and the children born out of rape were used to provide reparation to victims of conflict-related sexual violence under the assumption that they will be more willing to claim reparations if their harm was treated with some confidentiality.<sup>26</sup>

The provision of adequate information through accessible means to victims in all areas where sexual violence occurred is crucial to ensure meaningful participation and accessibility. Awareness-raising on the right to reparation and outreach are essential to ensure victims of sexual violence are aware of their rights and of the processes taking place to deal with their harm. Outreach should take place in a language and through means that victims, literate or not, can understand and relate to and in a culturally appropriate manner. A mapping of the existing networks and organizations supporting victims is important to support these efforts. Awareness-raising should also, however, manage victims' expectations.

Confidentiality at all stages of the reparation process is essential to encourage victims to come forward, to have faith and engagement in the process, and to protect them from further harm.

Measures must be taken to ensure that victims can participate in the reparation process in ways that are acceptable to their culture and religion. For example women and girls, in some cultural contexts, are not accustomed to speaking publicly. They need an adequate and supportive environment to share their experiences, in full confidentiality if required. Male victims of sexual violence may experience a feeling of emasculation and of lack of sexual identity as a result of sexual violence and therefore may experience serious difficulties to report. Men and women might be more ready to talk about what happened to them to people of the same sex.<sup>27</sup> Professionals interacting with victims must be trained to communicate with victims in a manner, which is appropriate for their culture and other circumstances.

Participation and consultation processes should also be designed taking account of child care obligations and other responsibilities that women have, as well as limitations regarding mobility, including costs associated with it. Decentralizing consultations could

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<sup>26</sup> See Chega Report, Part 11: Recommendations, p. 43.

<sup>27</sup> UNHCR and Refugee Law Project, *Need to Know Guidance 4, Working with Men and Boys Survivors of Sexual and Gender-Based Violence in Forced Displacement*, 2012, p. 8.

help to promote participation because a broader range of victims can be reached. It can also help ensure that there are more representative views on reparations, as the situation may differ considerably for different groups of survivors, depending on location and other factors. However, decentralized consultations in all relevant regions are not always possible. In these circumstances, it is advisable to seek alternative mechanisms to take into account different group's views.

The particular needs and experiences of children should be granted special consideration, as should be additional rights they carry. Participation of child victims needs to be carefully managed, taking into account their age, abilities, intellectual maturity and evolving capacities,<sup>28</sup> and in a manner that does not risk further harm or trauma. Child victims should be allowed to express their views freely in all matters affecting them, including judicial and administrative proceedings. Bearing in mind that girls are one of the groups most adversely affected by conflict-related sexual violence and face discrimination, special care should be taken to ensure that their rights are protected.

Access to adequate psychological support and treatment and to health services is also required to promote free and meaningful participation of survivors in the process and to ensure that it is a beneficial rather than a harmful experience.

## **7. Urgent interim reparations to address immediate needs and avoid irreparable harm should be made available**

Providing comprehensive redress to victims requires time, resources, coordination, expertise and political will. In most experiences to-date, reparations have been provided many years after the conflict or repression giving rise to the violations. For these reasons, the UN should also support efforts to make urgent interim reparations available to respond to the most urgent and immediate harm affecting victims of conflict-related sexual violence. Urgent interim reparations should be distinguished from social or humanitarian assistance measures, as they are based on the recognition of State responsibility and require State and political support.

Victims of conflict-related sexual violence often face serious mental and physical health problems as a consequence of the crimes committed against them, and often do not have access to health services. For example, women and girls as well as men and boys, as applicable, could suffer serious genital, vaginal and/or anal or other bodily injury, serious sexual mutilations, fistulas or uterine prolapse, among other harms, that would seriously affect not only their reproductive systems but also their urinary and digestive systems. Furthermore they may have also contracted serious diseases like HIV/AIDS. They require access to immediate medical treatment and medication and other services.

Urgent interim reparations might be provided in a variety of ways. A truth seeking mechanism, such as a truth commission, might be given authority and funds to administer a programme of interim reparations. Alternatively, a court might order the State to

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<sup>28</sup> Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC resolution 2005/20, principle 8.

provide victims of human rights violations with immediate assistance, for example in the field of health. Or the State might institute an administrative programme to respond to immediate needs of victims.

In Timor Leste CAVR put in place an urgent reparation scheme for those most affected that included victims of conflict-related sexual violence. 712 victims with urgent needs who were then helped to access services, were provided with US\$200 each, and in some cases, were supported to participate in healing workshops and public hearings organized by the Commission. The Commission, in partnership with NGOs, also developed a number of pilot projects on collective measures for urgent reparations in severely affected communities.<sup>29</sup> However, after the work of CAVR finished, nothing has been done to continue providing rehabilitation to victims.

Administrative reparations programmes can also include fistula surgery, access to anti-retroviral drugs, access to safe abortion services, psycho-social support and other related measures. In all circumstances, reparations measures should be adequately designed to respond to the harm suffered by women, girls, men and boys who are the immediate victims and also respond to urgent needs of children born out of rape.<sup>30</sup>

## **8. Adequate procedural rules for proceedings involving sexual violence and reparations should be in place**

**Conflict-related sexual violence may be difficult to prove for various reasons.** It may occur in places that are under the control of perpetrators and where outsiders have limited access, such as clandestine or state detention centres, or in places where there are no witnesses willing or able to testify. There may be no authorities to report the crime to, or hospitals or medical facilities to seek support from. As already noted, sexual violence continues to be heavily under-reported due to social, cultural and practical obstacles. Furthermore, when victims speak out, State authorities may fail to act with due diligence in the investigation of the crime and prosecution of its perpetrators, allowing for important evidence to be lost.

**Given these circumstances, the UN supports the adoption of procedural rules specific to sexual violence in judicial and administrative proceedings in order to protect the interest of the victim, and taking the rights of the accused into account. Important jurisprudence has emerged linking the generalized practice of sexual violence to specific sexual violence cases.<sup>31</sup> Also, there have been efforts to expand the scope of evidence for sexual**

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<sup>29</sup> See Chega Report, Part 10: Acolhimento (Reception) and Victim Support, p. 41.

<sup>30</sup> To date, no comprehensive urgent interim reparation programme to redress victims of serious violations of international human rights law or of humanitarian law, including conflict-related sexual violence, has been set up. Nevertheless, there are some important developments in this direction. For example, in Sierra Leone the urgent reparations scheme established by the State with international support included certain victims of sexual violence, some of which have had access to medical treatment including fistula surgery. See, NaCSA, Annual Report 2009, p. 11; UN Women and UNDP, Reparations, Development and Gender (Kampala, 2010), p. 16; International Centre for Transitional Justice, Sierra Leone: Submission to the Universal Periodic Review of the Human Rights Council 11th Session May 2011, para. 12.

<sup>31</sup> In the case of *Castro Castro Prison v. Peru*, decided by the Inter-American Court on Human Rights in November 2006, the Court considered proven, based partly on the report of the Truth and Reconciliation

violence to include testimonies from other witnesses and scientific experts, such as psychologists and sociologists, which can assist the adjudicator in understanding the victims' behaviours, choices and needs.

Courts hearing reparations claims for sexual violence should be encouraged to consider the adoption of a lower standard of proof than the standard which is required for a criminal conviction. For instance, according to the ICC decision in the Lubanga case, "a balance of probabilities" is sufficient and proportionate to establish the facts that are relevant to an order for reparations when it is directed against the convicted person.<sup>32</sup> Several factors, such as the difficulty victims may face in obtaining evidence in support of their claim due to the destruction or unavailability of evidence, are of significance in determining the appropriate standards of proof in reparations awards.<sup>33</sup> Claims commissions and administrative reparations programmes have gone further, recognizing a wide array of standards of proof, have shifted certain aspects of the burden of proof and/or have adopted presumptions in the consideration of the evidential basis for certain acts, taking into account the difficulty for the victim to access evidence.<sup>34</sup>

Furthermore, the UN supports the adoption of special procedures in relation to collection of evidence from child victims and witnesses.<sup>35</sup> As well as aiming to protect child victims and witnesses from further hardship, child-sensitive procedures need to be used to ensure that their claims for reparations are adequately heard.<sup>36</sup>

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Commission that in Peru there was a generalised and systematic practice of sexual violence during the armed conflict that affected women in particular. Such statement was important for linking the generalised practice to acts of sexual violence at Miguel Castro Castro. Then, the Court using corroborating evidence such as testimonies by the victims, considered proven that women were subjected to sexual violence acts such as forced nudity, rape and vaginal inspection, breaching different provisions of the American Convention and other international treaties.

<sup>32</sup> See *Prosecutor v. Thomas Lubanga Dyilo*: Decision establishing the principles and procedures to be applied to reparations, ICC-01/04-01/06-2904, Trial Chamber I, 7 August 2012, para. 253 (currently on appeal).

<sup>33</sup> *Ibid.*, para. 252.

<sup>34</sup> Several of these techniques are described in H. Niebergall, "Overcoming Evidentiary Weaknesses in Reparation Claims Programmes - The Mass Claims Context", in C. Ferstman, M. Goetz, A. Stephens (eds) *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in the Making* (Martinus Nijhoff, 2009).

<sup>35</sup> The Committee on the Rights of the Child, in its General comment No. 12, stated that "A child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age. Proceedings must be both accessible and child-appropriate. Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of court rooms, clothing of judges and lawyers, sight screens, and separate waiting rooms."

<sup>36</sup> See Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC resolution 2005/20, principles 29 to 31 and 35 to 37.



From northern Uganda to Sierra Leone, from Colombia to the former Yugoslavia, many children have been born to victims of war-time rape. Often stigmatized and excluded by families and communities, they are a living reminder of the wartime violence. They can suffer grave consequences including infanticide, abandonment, trafficking, statelessness, confusion over identity and discrimination in accessing family land and inheritance. In Peru, the Reparations Plan recognized children born of rape as a distinct category of beneficiary, noting they should be entitled to economic compensation up to the age of 18 and should be eligible for preferential access to education services.<sup>37</sup>

Administrative reparations programmes could benefit victims by adopting procedural and evidentiary rules specifically adapted to claims for reparations for crimes of sexual violence.

## **B. OPERATIONAL GUIDANCE ON THE CONSIDERATION OF DIFFERENT FORMS OF REPARATION**

The Basic Principles and Guidelines describe different forms of reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The underlying rationale for reparation may affect the specific way a reparations program is designed in regards to allocation of material and symbolic reparations on an individual and collective basis. Consultations with victims are particularly important in order to hear their views on the specific nature of reparation.

### **Restitution**

Some of the harms suffered by victims of conflict-related sexual violence that could be redressed using restitution<sup>38</sup> are the following: loss of property and/or security of tenure and/or housing, loss of physical health, interruption or cessation of schooling and education, and loss of employment.

Due to stigma and ostracism, often victims of sexual violence lose their property or property tenure, which has a detrimental effect on their life. Adequate and effective reparation may call for their relocation to a place where safety and the possibility to make a living are possible, should other remedial measures not be effective. Consultation of victims in such cases is essential. States should adopt specific measures to facilitate restitution of property and/or housing to victims of conflict-related sexual violence, including special mechanisms to allow child victims to make property claims if they are the sole survivors of a household. Such measures could include prioritizing the processing and consideration of claims of restitution made by such victims; establishing legal mechanisms that would secure their property or tenure of property over challenges by other owners or their own communities; providing them with flexible and prompt procedures to claim restitution, including where not all documents are available; and with access to particular educational and other programmes, if applicable, so they can exploit their land and property productively. In general, only when restitution of housing, land

<sup>37</sup> Programa Integral de Reparaciones en Peru, Ley 28592, Articles 2-6.

<sup>38</sup> Basic Principles and Guidelines on the Rights to a Remedy and Reparation, supra, n. 8, principle 19.

and property is impossible, a payment of compensation should be made to address the harm suffered to the extent which could not be covered by restitution.<sup>39</sup>

The Victims and Land Restitution Law in Colombia (2011) provides for assistance and reparations to victims of internal armed conflict. The modalities of reparations include restitution of land to those who have arbitrarily lost it or have been displaced as a result of the internal armed conflict. The Law's provisions on land restitution include special measures to protect women's rights, such as giving priority to female heads of households in the judicial and administrative processes, providing for specialized attention for women processing requests for restitution and for priority access to other benefits such as credit, education, training and subsidies. When women have a partner, the property titles should register both names as co-owners. When restitution is not possible, women may receive monetary compensation.<sup>40</sup>

Regard should be also given to the fact that due to the unequal social relations prior to the conflict, a sole focus on restitution may mean to continue to work within a framework of gender inequality. Reparations should aim to capitalize on their potential to move societies towards increased gender equality.

## Compensation

Moral and material damage results from conflict-related sexual violence. In trying to compensate<sup>41</sup> such harms, attention must be paid to not reinforce existing stereotypes and cultural norms to the detriment of victims. For this reason, it is important to carefully identify the harm to be remedied through compensation, and to consider the way in which compensation repairs the harm suffered by victims of conflict-related sexual violence.

The form in which compensation is provided should also be carefully considered to enhance its transformative potential. It should prevent stigma, ostracism and discrimination by providing confidentiality to victims. Issues of security should also be considered.

During the payment of compensation to victims of conflict-related sexual violence in Guatemala, confidentiality was breached. The cheques to pay compensation stated that the recipients were victims of sexual violence. This created unnecessary exposure and stigma.<sup>42</sup>

The payment of lump-sum of compensation must take into account obstacles women may face in accessing and keeping money, as well as the likelihood of money being spent

<sup>39</sup> See e.g. Draft Articles on the Responsibility of States for Internationally Wrongful Acts, A/56/10 (2001), article 36; Draft Articles on the Responsibility of International Organizations, A/66/10 (2011), article 36; Principles on Housing and Property Restitution for Refugees and Displaced Persons, E/CN.4/Sub.2/2005/17, principle 2.

<sup>40</sup> Colombian Congress, Law 1448 of 10 June 2011, Victims and Land Restitution Law, Articles 114-118.

<sup>41</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, supra, n. 8, principle 20.

<sup>42</sup> C. Duggan, and R. Jacobson, "Reparations of Sexual and Reproductive Violence: Moving from Codification to Implementation", in R. Rubio-Marín (ed.), *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (CUP, 2009), p. 139.

quickly to meet needs of other members of the family or for reasons not necessarily related to the harm suffered, such as the payment of debts.

In South Africa, reparations took the form of a once-off payment of approximately USD \$4000. However, the policy failed to take into consideration both power differentials within families as well as the historic lack of access to bank accounts among women. Local victims groups reported that the money was often deposited into the accounts of male family member and women were given limited or no control over the resources. In some cases, tensions over how money should be spent in households lent itself to family violence.<sup>43</sup>

On the other hand, a lump-sum payment of compensation may also allow women victims some financial independence in order to begin living elsewhere or away from circumstances that encourage stigmatization, ostracism or dependence on others as a result of the harm they have suffered.

To address these obstacles and concerns, compensation could, for example, take the form of benefits/pensions to be paid directly to the victim of conflict-related sexual violence, under strict confidentiality. Special mechanisms for the payment of compensation to child victims must be considered to ensure that funds are either held in trust for the child until s/he reaches the age of majority, and/or are used in a best interest of the child and can be accounted for by a legal guardian.

Moral damage suffered by victims of conflict-related sexual violence, in particular women and girls, is difficult to quantify and prove in particular in relation to the recognition of the loss of income and income potential. A gender sensitive approach is needed to calculate compensation for such damages, since often traditional women's work is at home looking after family, or working on family land, where they do not receive any income. Sexual violence can have serious consequences for the income potential of the victim who as a result of stigma and ostracism would not have access to the same opportunities she/he would have had if such violence had not taken place. While such loss is harder to prove and assess, all evidence should be taken into account to establish the loss of opportunities and earning to determine the compensation owed.<sup>44</sup>

## Satisfaction

Satisfaction can take various forms<sup>45</sup> but more often it is ordered or recommended in the form of apologies, commemorations and/or the building of monuments. Measures of satisfaction have been rarely used specifically to help repair the harm caused to victims of conflict-related sexual violence. When they have been used, they have often reinforced

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<sup>43</sup> See B. Goldblatt, "Evaluating the Gender Content of Reparations: Lessons from South Africa", in R. Rubio-Marín (ed.), *What Happened to the Women: Gender and Reparations for Human Rights Violations* (Social Science Research Council, 2006).

<sup>44</sup> IACtHR, *Castillo Paez v. Peru*, reparations, 27 November 1998, para. 74; *Bulacio v. Argentina*, judgment, 28 September 2003, para. 84.

<sup>45</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, *supra*, n. 8, principle 22. Draft Articles on the Responsibility of States for Internationally Wrongful Acts, A/56/10 (2001), article 36; Draft Articles on the Responsibility of International Organizations, A/66/10 (2011), article 36.

existing stereotypes. In order to prevent further harm to victims of conflict-related sexual violence, measures of satisfaction must be based on adequate consultations with victims and on an adequate understanding of the cultural setting where reparations are to be provided, and must be consistent with principles of gender equality.

In Mauxiga, a village in Timor-Leste, the Commission for Reception, Truth and Reconciliation (CAVR) successfully encouraged hundreds of women to come forward and testify about systematic sexual abuse. The villagers then chose to organize the commemoration of events in 1983 that saw hundreds of politically motivated killings, thousands of men imprisoned on the island of Atauro, and hundreds of women systematically raped in a school house where they were detained. However, during the commemoration itself, the women who actually brought the whole story of Mauxiga to the CAVR stayed in the background cooking for the event. Later, when names of the “heroes of Mauxiga” were read out, they were all men.<sup>46</sup>

Acknowledging the truth of what happened, for example, when handing down a judgment or in the report of a truth and reconciliation commission, also constitutes a form of satisfaction. Important practice is emerging in this context regarding women and girl victims.

The reports of the Truth and Reconciliation Commissions in Sierra Leone, Timor Leste, Peru and Guatemala, among others, have explicitly acknowledged the serious harm inflicted on women and girls as a result of conflict-related sexual violence. Some of them have even dedicated special sections of their reports to deal with such harm as was the case of CAVR in Timor Leste or of the TRC report in Peru and in Sierra Leone where sexual violence figured prominently in the chapter on women and the conflict.

More in this area needs to be done in relation to conflict-related sexual violence against men and boys, as well as discriminated groups, including on the basis of their perceived or actual sexual orientation and gender identity. The construction of memorials, monuments and the identification of commemoration dates are often used to remember and to pay tribute to victims. Such forms of satisfaction have been rarely used in relation to victims of conflict-related sexual violence. If used, it is important that they do not violate confidentiality by identifying victims’ names.

## **Rehabilitation**

Rehabilitation aims to provide victims with all essential services that are needed to help them to move on and to carry out their life in a dignified way. It should not, as is often misunderstood, be limited to health services<sup>47</sup> and to the person who experienced sexual violence. If appropriate, others, such as family members, should benefit from rehabilitation to maximize the probability of all victims’ recovery.

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<sup>46</sup> International Center for Transitional Justice, Rabat Report Concept and Challenges of Collective Reparations, 2009, p. 53.

<sup>47</sup> See also Basic Principles and Guidelines on the Right to a Remedy and Reparation, supra, n. 8, principle 21.

Rehabilitation is in many cases a necessary condition to repair the harm suffered by victims of sexual violence, to allow them to benefit from other forms of reparations, such as compensation, restitution and satisfaction.<sup>48</sup> At its very minimum, victims of conflict-related sexual violence given the seriousness of the harm suffered, should have access to adequate and timely mental and physical health services.

Well-crafted rehabilitation measures that provide for services (such as health, education or housing) are particularly suited to help fulfil the economic and social rights of victims of conflict-related sexual violence.<sup>49</sup> Reparations programmes and tribunals should explicitly acknowledge that men and boys who suffer conflict-related sexual violence also need rehabilitation and that their rehabilitation, in terms of the quality and quantity of services required, is different to that required by women and girls. For example, the few health services available today for victims of conflict-related sexual violence are tailor-made for women and girls and therefore are not appropriate for men and boys.

Providing rehabilitation for victims of conflict-related sexual violence not only requires a gender sensitive approach but also a culturally sensitive one.<sup>50</sup> For instance, there are different ways to understand trauma as a consequence of conflict-related sexual violence and different ways to treat it. The provision of rehabilitation services should be sensitive to this reality and should always take into account the views of the victim.

Rehabilitation also requires consistency and quality in the delivery of services; furthermore some of them, such as health and education, should be provided by people with expertise in conflict-related sexual violence so that further harm and secondary victimization are prevented. The location of services should respond to the needs of victims and in this respect, should be within physical proximity to those areas where victims reside. The absence or insufficiency of services outside of large city centres may hamper rehabilitation efforts.

### **Guarantees of non-repetition<sup>51</sup>**

Efforts must be made to further define ‘guarantees of non-repetition’ as it relates to conflict-related sexual violence. Guarantees of non-repetition should be designed taking into account the causes of sexual violence with a view to effectively preventing it in the future. In this regard, measures should be identified depending on the particular circumstances of each country and the conflict/post-conflict situation. Truth commissions, among other institutions, are in a unique position to identify root causes of conflict, including conflict-related sexual violence and to make recommendations to tackle them.

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<sup>48</sup> C. Sandoval, “Rehabilitation as a Form of Reparation under International Law” (London, REDRESS, 2009).

<sup>49</sup> United Nations Secretary-General, Guidance Note of the Secretary-General, United Nations Approach to Transitional Justice, March 2010, p. 7.

<sup>50</sup> See Committee Against Torture, General Comment No. 3, para. 32.

<sup>51</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, *supra*, n. 8, principle 23; Draft Articles on the Responsibility of States for Internationally Wrongful Acts, A/56/10 (2001), article 30; Draft Articles on the Responsibility of International Organizations, A/66/10 (2011), article 30.

States should establish a coherent state policy to combat conflict-related sexual violence, including the capacity and resources to effectively prevent, investigate, prosecute and punish such crimes.

Such policy would include the design and implementation of an adequate legal and institutional framework<sup>52</sup> to prevent and address sexual violence against women, girls, men and boys. Among other legislative measures that are needed, legislation is required to provide women and girls, who become pregnant as a result of rape, with the choice of safe and legal abortion.<sup>53</sup> Legislative reform is needed to further women's participation in all areas of post-conflict peace-building and post-conflict governance processes, including through the introduction of temporary special measures. Legal reforms will also be needed in regards to personal status laws, and property and inheritance rights if women are provided with lesser rights than men. Such reform is essential to ensure that those women and girls are able to move forward and reconstruct their lives without facing discrimination.

Reforming and strengthening state institutions as well as creating new ones, if needed, is essential to ensure that the legal framework to combat discrimination and the culture that made conflict-related sexual violence possible is implemented and that victims have remedies that are, in practice, available to protect them.

Training and education are also important to prevent conflict-related sexual violence. While training should include international human rights law and international humanitarian law among other topics, such training should have an approach that is sensitive to gender and other characteristics and status and takes due account of harm suffered by victims of conflict-related sexual violence, of their needs and rights. Such training and education should be imparted not only to police or military personnel but to any person who is in a position to deal with the harm experienced by victims of conflict-related sexual violence, including criminal justice officials, physicians, psychologists, social workers and members of human rights institutions.

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<sup>52</sup> See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, E/CN.4/2005/102/Add.1, principle 36. See also Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, A/RES/65/228, annex.

<sup>53</sup> Committee on the Elimination of Discrimination against Women, *L. C. v. Peru*, Decision CEDAW/C/50/D/22/2009, 4 November 2011.