

Irish Centre for Human Rights

— 2026 Summer School on the International Criminal Court

**Reparations
for Victims at the International Criminal Court**

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Issues for discussion

1. Evolution of the notion reparations under international law.
2. Reparations framework & jurisprudence of the ICC.
3. 'Reparative complementarity': the ICC & wider IHRL and transitional justice reparation frameworks.
4. Urgent interim reparations for CRSV survivors: the case-study of Ukraine.

Language & perceptions

- Victims / survivors
- Reparations



ICL's evolving individual lense(s)

“Crimes against International Law are **committed by men***, not by abstract entities, and only by **punishing individuals** who commit such crimes can the provisions of International Law be enforced”

Nuremberg IMT Judgment, 1946

Survivors

- Growing role in the proceedings
- Right to reparations
- Gender-competence
- Child-sensitivity
- Intersectionality



Reparations

- “It is a principle of international law, and even a general conception of law, that **any breach of an engagement involves an obligation to make reparation** [...] Reparation is the indispensable complement of a failure to apply a convention, and there is no necessity for this to be stated in the convention itself”.

Chorzów Factory (Germany v Poland) (Merits, 1927) PCIJ

- “1. The responsible State is under an obligation to make **full reparation** for the injury caused by the internationally wrongful act. 2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.”

ARSIWA, article 31.

‘Individualisation’ of reparations & wider redress

Duty to investigate, prosecute, punish & prevent

1948 Genocide Convention

1949 Geneva Conventions - grave breaches

1984 Convention Against Torture

1998 Rome Statute of the International Criminal Court (ICC)

2006 Enforced Disappearance Convention

Regional instruments (1994 Inter-American Convention on Forced Disappearances of Persons)

Right to Remedy

1948 Universal Declaration of Human Rights (article 8)

1965 International Convention on the Elimination of All Forms of Racial Discrimination (article 6)

1966 International Covenant on Civil and Political Rights (article 2(3))

1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 14)

1990 Convention on the Rights of the Child (article 39)

‘Individualisation’ of reparations & wider redress

2004 Report of the UN Secretary-General, “The rule of law and transitional justice in conflict and post-conflict societies”

2005 UN Guidelines on Remedy and Reparation

2010 Guidance Note of the Secretary-General, “United Nations Approach to Transitional Justice”

2014 Guidance Note of the Secretary-General, “Reparations for Conflict-Related Sexual Violence”

Reports of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence.

Reparations

- Restitution
 - Rehabilitation
 - Satisfaction
 - Compensation
 - Non-repetition.
-
- Individual
 - Collective
 - Combined
-
- Judicial
 - Administrative



ICC reparations framework

ICC Rules of Procedure and Evidence, Rules 85-86, Victims:

- **Natural persons** who have suffered harms resulting from *any crime* within the Court's jurisdiction;
- **Institutions** that have sustained direct harm to their property dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and other objects for humanitarian purposes;

The ICC should consider the needs of all victims and witnesses, especially children, elderly, persons with disability or SGBC survivors.

ICC reparations framework

Rome Statute, Article 75, The ICC:

- Establishes principles on reparation, *including restitution, compensation and rehabilitation*;
- Establishes the scope of damage / loss / injury;
- May (a) make an order directly against a convicted person, specifying appropriate reparations or (b) order that the reparations award be made through the TFV.
- For a reparations order, may invite submissions from the convicted person, victims, other interested persons or interested states.
- States Parties should “give effect” to a reparation decision (i.e. not to impede the reparations payment and related financial steps).
- This provision does not prejudice rights of victims under national or international law.

ICC reparations framework

- **OTP:**
 - Not formally involved in the reparations stage of the proceedings;
 - May be invited to provide submissions.
 - OTP instruments are increasingly more nuanced on reparations (Policy Papers on Victims' Participation (2010), Gender Persecution (2022), Gender-Based Crimes (2023), Children (2023), Slavery Crimes (2024)).
- **VPRS** - Victims Participation and Registration Section of the Registry;
- **TFV** - Trust Fund for Victims established by the ASP.

ICC reparations jurisprudence

- *Lubanga* (DRC, 2015)
 - *Katanga* (DRC, 2018)
 - *Al Mahdi* (Mali, 2017)
 - *Ntaganda* (DRC, 2021)
 - *Ongwen* (Uganda, 2024)
 - *Al Hassan** (Mali, 2026)
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- Surfacing of transgenerational harm
 - Children born out of rape recognised as direct victims
 - Other children of CRSV survivors recognised as indirect victims
 - Harm to cultural heritage & communal / national harm

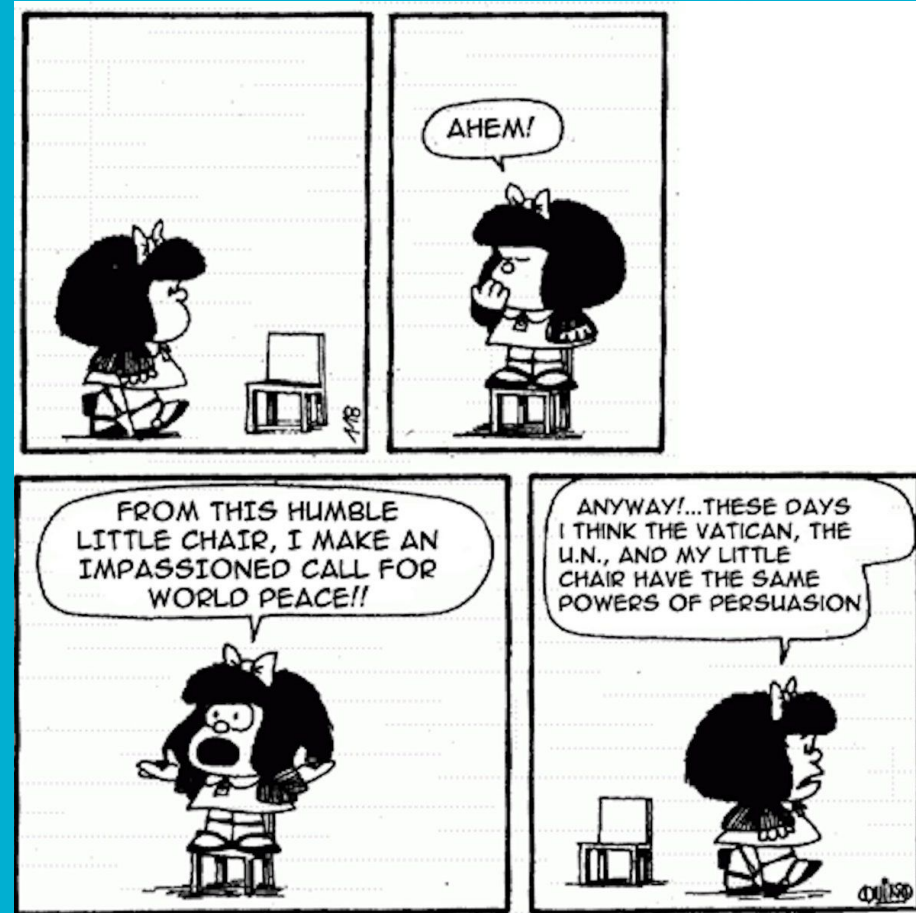
‘Reparative complementarity’

OTP Policy Papers on the Interests of Justice (2007) and Complementarity (2024):

- The OTP “fully endorses the complementary role that can be played by domestic prosecutions, truth seeking, reparations programmes, institutional reform and traditional justice mechanisms in the pursuit of a broader justice”;
- The OTP “will seek to work with those engaged in the variety of justice mechanisms in any given situation, ensuring that all efforts are as complementary as possible in developing a comprehensive approach”.

Taking a stand domestically

- Domestic and regional jurisprudence: *Velasquez Rodríguez v. Honduras*, *Barrios Altos v Peru* (IACtHR)
- 2005 UN Basic Principles on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law - a) domestic action; b) obligations even of non-perpetrator states.
- 2014 Guidance Note of the Secretary-General, “Reparations for Conflict-Related Sexual Violence” - urgent interim reparations.



Pilot urgent interim reparations for CRSV survivors in Ukraine



NOTHING ABOUT US WITHOUT US



Pilot urgent interim reparations for CRSV survivors in Ukraine

Process:

- One-time financial support of 3,000 EUR.
- Direct victims, including children born out of rape, and, where necessary, indirect victims.
- Administrative process.
- Both online and in-person application process.
- Paralegal and psychological support during the application process.
- 1,200+ survivors applied for reparations v. 400+ survivors who pursued criminal proceedings regarding endured CRSV.

Pilot urgent interim reparations for CRSV survivors in Ukraine

Issues:

- A pilot project.
- Limited number available - initial 500 reparation packages, then increased to 1,000.
- Sustainable funding for a permanent urgent interim reparations programme.
- Other survivor groups?
- Correlation with other reparation schemes.

*It is not about survivors' stigma or inability to speak.
It is about about our (lack of) prejudice and (in)ability to listen.*

Patricia Viseur Sellers,

Visiting Fellow, Kellogg College,
University of Oxford;

Former Special Advisor for Slavery Crimes and
Gender-Based Crimes for the ICC OTP



Thank you for your attention!

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