December 2025

The Draft Crimes Against Humanity Convention

Proposals to Center Victims and Survivors

OVERVIEW

In negotiating the Crimes Against Humanity Convention, states must take a survivor-centric approach.[1] Centering survivors is essential to minimize and repair the harms caused by crimes against humanity, treat survivors with dignity and respect, and facilitate the healing process and the restoration of their autonomy and rights.

Access to a remedy and reparation is a right, not a privilege,[2] and each victim and survivor[3] must be able to make informed decisions about accessing justice, including protection, support, remedies and reparations. This is especially important for those who may face ongoing marginalization or risks, such as survivors of sexual violence and other gendered harms or groups facing intersectional discrimination.

PROPOSALS

Proposal 1: Meaningful Victim Participation

As some of the main stakeholders to this treaty, victims and survivors have the right to be involved in decision-making around it.[4] States should ensure that victims and survivors can meaningfully engage in the treaty-making process from the outset by:

- Providing information about the process, what it aims to achieve, and how they can contribute to it in an inclusive and easily understandable manner;
- Consulting with victims and survivors on their priorities and engagement preferences;
- Supporting victims and survivors to be meaningfully involved, including in leadership roles, in all stages of the treaty process, including to influence the development of national positions and the international preparatory and negotiation phases;[5]
- Providing victims and survivors with adequate funding, technical, and legal assistance to participate in the treaty-making process, including to enable victims to lead outreach to and engagement with other victims and survivors in the process;
- Conducting outreach to diverse victim and survivor groups and ensuring that they are meaningfully engaged and their input is considered; outreach should particularly engage with victims facing discrimination or who are located in remote or marginalized regions, including child victims.

There are numerous additional ways in which the text of the Draft Articles could be made more victim and survivor-centric. These should be identified in consultation with victim and survivor groups, but could include:

- Articulating states' obligations to ensure the right of victims, survivors, and their families to access information on violations, avenues for redress, and reparations mechanisms;
- Requiring states to examine complaints promptly and impartially in line with international law, to initiate investigations when there are reasonable grounds to believe that acts constituting crimes against humanity have been or are being committed, and to effectively protect victims and witnesses against further violations or retaliation.[6]

States and all stakeholders will also need to consider ways to ensure participation is inclusive, safe, non-discriminatory, genuine, effective, and meaningful. Participation of potentially very large and geographically wide groups of victims and survivors could present challenges, but these can be mitigated. For example, states could consider individual and/or collective participation and whether consensually designated persons or organizations could act as representatives of victims and survivors. States could consider collaborating with community groups and local organizations that work closely with victims to disseminate information about the draft treaty and to solicit input from victims and survivors.

Proposal 2: Include a broad and unambiguous definition of 'victim'

The current Draft Articles lack a definition of 'victim.' To ensure that no victims or survivors are excluded by overly restrictive approaches to defining victims, the future Convention should adopt a minimum standard to include at least all persons who suffer harm from acts that constitute crimes against humanity in line with international standards.[7] Linking the definition of 'victim' to the harm suffered would, for example, ensure that children born out of sexual violence are recognized as direct victims.[8] This would also recognize that such crimes can impact not only individuals but also those who have witnessed the crimes, their families, and the wider community, including for example surviving dependent children of victims who are killed, thereby better enabling adequate redress for victims and survivors and providing legal and normative clarity.

One **possible approach** is to:

> define victims as "All persons who have suffered harm directly or indirectly as a result of the commission of any crime [against humanity], or who suffered harm in the course of intervening to assist victims, prevent the commission of crimes, or who were otherwise impacted by these crimes' commission;" and that "[v]ictims may include organizations or institutions that have sustained direct harm [as a result of a crime against humanity]."[9]

Proposal 3: Strengthen reparations provisions

The right of victims and survivors of international human rights and humanitarian violations, including crimes against humanity, to an effective remedy and reparation is well-established in international law and jurisprudence.[10] Victims and survivors of crimes are specifically entitled to reparations that are "prompt, full and effective," but these rights are not currently articulated in the Draft Articles.[11] This is particularly important as in many contexts, victims and survivors have found that reparation measures have been ineffective in addressing the harm they have suffered. For example, reparations that are time-limited and focused on the immediate medical and mental health needs of survivors often neglect the long-term impact of the violence on survivors' livelihoods, relationships, family ties, and cultural status. Insufficient or ineffective reparations can even inflict additional harms, such as requiring victims to publicly identify themselves without adequate protections or delivering reparations to a limited group of victims while excluding many others, which can create community tension and increases the risk of conflict. Effective reparations also include measures aimed at non-repetition, including legal, social, and economic reforms to address the structural factors and underlying discrimination and inequality that caused or significantly contributed to crimes against humanity.

Moreover, the existing language should be clarified to ensure that reparations are accessible to victims and survivors who do not pursue legal proceedings. While some victims and survivors are able and willing to engage in judicial legal proceedings, others cannot or do not want to do so, or do not see it as a priority.[12] Administrative or other reparation programs should be established by States to complement reparations awarded through criminal proceedings.[13]

Finally, reparations should not be restricted to "material and moral damages." Framing reparations as "damages" risks limiting reparations to financial compensation.[14] Comprehensive reparations should also include rehabilitation,

satisfaction measures such as public apologies, health care, community repair initiatives, reforms to guarantee non-repetition, or other measures.

Accordingly, states should expand the reparations provisions in Draft Article 12(3) as follows:

> "Each State shall take the necessary measures to ensure in its legal system that the victims of a crime against humanity, committed through acts attributable to the State under international law or committed in any territory under its jurisdiction, have the right to obtain **prompt, full, and effective** reparation, **including through administrative or other reparation programs**, for ~~material and moral damages~~ **any physical, mental, moral, material, legal or other harm**…"

For more information, please refer to the full legal brief and also the policy submission, *Victims' and Survivors' Rights in a Convention on the Prevention and Punishment of Crimes against Humanity*.[15]

---

1 This factsheet summarizes the legal brief, *The Draft Crimes Against Humanity Convention Must Center Victims and Survivors* (2023). The full proposal is available here.

2 The UN 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 highlights the importance of a "victim-oriented perspective" while UNSC resolution 2467 recognizes "the need for a survivor-centered approach in preventing and responding to sexual violence in conflict and post-conflict situations." U.N. GEN. ASSEMBLY, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, G.A. Res. 60/147, pmbl. (Dec. 16, 2005); U.N. SEC. COUNCIL, S.C. Res. 2467, pmbl., U.N. Doc. S/RES/2467 (Apr. 23, 2019); *see* also COMM. ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, General Recommendation No. 35 on Gender-Based Violence Against Women, ¶ 28, U.N. Doc. CEDAW/C/GC/35 (2017), recommending that "States parties take the following measures in the areas of prevention, protection, prosecution and punishment, redress, data collection and monitoring and international cooperation in order to accelerate elimination of gender-based violence against women. All measures should be implemented with an approach centered around the victim/survivor, acknowledging women as right holders and promoting their agency and autonomy, including the evolving capacity of girls, from childhood to adolescence. In addition, the measures should be designed and implemented with the participation of women, taking into account the particular situation of women affected by intersecting forms of discrimination."

3 The term "victim" is customarily used to describe people whose human rights have been violated and recognizes that, unfortunately, not all victims survive. The term "survivor" focuses on the strength, agency and resilience of people who have experienced crimes against humanity and is often the preferred term for survivors of gender-based violence and gender justice activists. We use both in this brief, as does, for example, the UN 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 in its preamble. While the terminology used in this brief is related to the rights that an affected person has, it is without prejudice to how any individual person identifies and is not meant to overrule a person's own experience of how they identify themselves. G.A. Res. 60/147, pmbl. (Dec. 16, 2005).

4 U.N. GEN. ASSEMBLY, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, ¶ 6(c), G.A. Res. 40/34 (Nov. 29, 1985); HUMAN RIGHTS COMM., General Comment No. 25: The Right to Participate in Public Affairs, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996); *see* also OFF. OF THE U.N. HIGH COMM'R FOR HUM. RTS., *Guidelines on the Effective Implementation of the Right to Participate in Public Affairs* (June 2018), https://www.ohchr.org/en/documents/tools-and-resources/guidelines-effective-implementation-right-participate-public-affairs.

5 For instance, *see* AM. BRANCH OF THE INT'L LAW ASS'N (ABILA), Civil Society Participation, ABILA Study Group on Crimes Against Humanity (Oct. 2025), https://www.ila-americanbranch.org/wp-content/uploads/2025/10/ABILA-CAH-Civil-Society-Participation-Final-with-cover-v2.pdf.

6 For instance, *see* GENEVA ACAD. OF INT'L HUMANITARIAN LAW & HUM. RTS. & INT'L COMM. OF THE RED CROSS, *Guidelines on Investigating Violations of International Humanitarian Law: Law, Policy, and Good Practice* (Sept. 2019), https://www.icrc.org/sites/default/files/document/file_list/guidelines_on_investigating_violations_of_ihl_final.pdf.

7 *See* e.g., INT'L LAW COMM'N, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries*, at 103–04 (2019); INT'L CRIM. CT., *Rules of Procedure and Evidence*, Rule 85; *International Convention for the Protection of All Persons from Enforced Disappearance* art. 24(1), Dec. 20, 2006, 2716 U.N.T.S. 3; *Convention on Cluster Munitions* art. 2(1), May 30, 2008, 2688 U.N.T.S. 39; COMM. AGAINST TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT, General Comment No. 3, U.N. Doc. CAT/C/GC/3 (2012); AFR. COMM'N ON HUM. & PEOPLES' RTS., General Comment No. 4 (2017); *Convention for the Protection of Human Rights and Fundamental Freedoms* (European Convention on Human Rights), Nov. 4, 1950, 213 U.N.T.S. 221.

8 *Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Reparations Order, ¶¶ 122–28 (Int'l Crim. Ct. Mar. 8, 2021), https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_01889.PDF; (underlining that children born of conflict-related sexual violence are to be considered as direct victims due to the significant harm they endured as a direct consequence of the sexual violence. Moreover, they can also be recognized as indirect victims, given the transgenerational harm they have endured due to the profound impact of conflict-related sexual violence on their mothers); *Prosecutor v. Ongwen*, Case No. ICC-02/04-01/15, Reparations Order, ¶ 125 (Int'l Crim. Ct. Feb. 28, 2024), https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18078e195.pdf.

9 Adapted from INT'L CRIM. CT., *Rules of Procedure and Evidence*, r. 85. Notably, this definition is also included almost verbatim in the Mutual Legal Assistance Convention adopted in May 2023. *Ljubljana–The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes Against Humanity, War Crimes and Other International Crimes* art. 81(1)(a), May 2023, https://www.gov.si/assets/ministrstva/MZEZ/projekti/MLA-pobuda/The-Ljubljana-The-Hague-MLA-Convention-English-v5.pdf; *see* especially Article 81(1)(a): "*Victims' means natural persons who have suffered harm as a result of the commission of any crime to which this Convention applies.*"

10 *Universal Declaration of Human Rights* art. 8, G.A. Res. 217 (III) A (Dec. 10, 1948); *International Covenant on Civil and Political Rights* art. 2, Dec. 16, 1966, 999 U.N.T.S. 171; *International Convention on the Elimination of All Forms of Racial Discrimination* art. 6, Dec. 21, 1965, 660 U.N.T.S.

195; *International Convention for the Protection of All Persons from Enforced Disappearance* art. 24; *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* art. 14, Dec. 10, 1984, 1465 U.N.T.S. 85; *Convention (IV) Respecting the Laws and Customs of War on Land* art. 3, Oct. 18, 1907; INT'L COMM. OF THE RED CROSS, *Customary International Humanitarian Law* r. 150 (2005); *Rome Statute of the International Criminal Court* art. 75, July 17, 1998, 2187 U.N.T.S. 90; *Ljubljana–The Hague Convention* art. 83.

11 *See* AMNESTY INT'L, *General Recommendations to States for a Convention on Prevention and Punishment of Crimes Against Humanity*, IOR 40/6497/2023, at 19 (Mar. 2023); G.A. Res. 60/147, ¶¶ I(1)–(2), XI (Dec. 16, 2005).

12 For example, in relation to victims of conflict-related sexual violence, the Global Survivors Fund has noted that "*[l]egal proceedings are complex and costly…take years to complete*," and participation in these proceedings is "*difficult*" for survivors of sexual and gender-based violence (SGBV). GLOBAL SURVIVORS FUND, *UNGA Preliminary Findings of the Global Reparations Study: Executive Summary*, at 11 (2021), https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2021/09/report/global-reparations-study-executive-summary-report-of-preliminary-findings/20210927GSFReport_UNGA_Preliminary_Findings.pdf. The study also notes that "*court orders [for reparations] following conviction tend only to relate to an infinitely small proportion of survivors, are limited in value, and are very rarely enforced.*" *Id.* at 10.

13 *See* AMNESTY INT'L, *General Recommendations to States for a Convention on Prevention and Punishment of Crimes Against Humanity*, IOR 40/6497/2023, at 20 (Mar. 2023).

14 In the U.N. Basic Principles, material and moral damage are referenced specifically in relation to compensation only, meaning only one form of reparation. G.A. Res. 60/147, pmbl. (Dec. 16, 2005).

15 REDRESS, TRIAL INT'L, INT'L FED'N FOR HUM. RTS. (FIDH) & GLOBAL SURVIVORS FUND, *Victims' and Survivors' Rights in a Convention on the Prevention and Punishment of Crimes Against Humanity* (Mar. 2024), https://redress.org/storage/2024/03/Victims-Rights-in-a-Convention-on-the-Prevention-and-Punishment-of-Crimes-Against-Humanity-2.pdf.