

Committee on the Rights of the Child

**Draft general comment No. 27 (202x) on children's right to
access to justice and to an effective remedy**

I. Introduction

1. Despite the near universal ratification of the Convention on the Rights of the Child and the transformative changes it has prompted, millions of children across the world have their rights violated every day without proper access to any kind of remedy. Children often experience denial of access to health, education and social protection, and they also experience violence, abuse, exploitation, discrimination and exclusion. The multiplicity of crises affecting the world – armed conflicts, natural disasters, climate change, displacement, poverty, inequalities and many more – disproportionately affect children.
2. In children’s words, their experience of justice usually starts with a realization that injustice occurred and the observation that something “unfair” happened. Children consulted for the present general comment indicated that access to justice means being able to refer a problem to someone, who will listen, treat the matter impartially and provide relief, which redresses wrongs and prevents future harm. Fairness to children is about how the matter is dealt with as much as the outcome.
3. Feeling and living the transformational significance of being a rights holder remains out of reach, as an abstract and remote prospect, for many children around the world. Children seldom come forward and seek redress for violations of their rights, and even fewer obtain an effective remedy. The reasons are many and often rooted in deeply entrenched beliefs, perceptions and social norms, with the experiences of children often perceived of lesser value than those of adults, their rights often considered less essential and violations of these rights often seen as futile. Many children do not think of speaking up for fear of reprisal and exclusion, and children in disadvantaged situations are less likely to seek and obtain a remedy.
4. Children may face barriers to access to justice and to an effective remedy due to the lack of knowledge of their rights, of the options available for redress and of how to reach them; the inherent adversities in a justice system designed for adults, including legal age restrictions, use of difficult language and lack of adapted procedures; their dependency on adults for support; and the financial constraints.
5. In this context, in order for children’s rights to have meaning, it is essential for access to justice and an effective remedy to be available to redress violations of the full range of economic, social, cultural, civil and political rights as set forth in the Convention and its Optional Protocols.¹
6. Recalling the universality, indivisibility, interdependence and inalienability of children’s rights, the Committee affirms that children’s right to access to justice and to an effective remedy is an integral part of the primary obligations of States parties to the Convention, which must take all measures to ensure that the rights of children are respected, protected and fulfilled and that these rights are not violated.

II. Objectives

7. The present general comment aims to provide a comprehensive understanding of children’s right to access to justice and to an effective remedy. Specifically, it seeks to:
 - (a) Clarify the obligations of States parties under the Convention and provide authoritative guidance to States parties and other actors on legislative and other appropriate measures to ensure access to justice and an effective remedy for children;
 - (b) Emphasize the importance of access to justice and an effective remedy in respecting, protecting and fulfilling children’s rights;
 - (c) Reaffirm children’s right to access to justice and to an effective remedy as an obligation of States parties under the Convention, inherent to the recognition of the child as a subject of rights, regardless of the child’s age and capacities.

¹ General comment No. 5 (2003), paras. 6, 24 and 25.

8. The present general comment should be read in conjunction with other general comments of the Committee, in particular general comment No. 24 (2019) on children's rights in the child justice system, which remains the main guidance on the rights of children alleged as, accused of or recognized as having infringed criminal law.

III. Terminology and scope

9. For the purposes of the present general comment, access to justice refers to the ability for children to obtain a just and timely remedy for violations of children's rights, through avenues adapted to children. A remedy refers to both: (a) a process under which claims of children's rights violations are heard and decided by competent bodies; and (b) the outcome of the process and the redress provided, including reparations and the cessation of the violation. Access to justice is a primary gateway to the exercise of the right to an effective remedy, which are foundational principles of a democratic society grounded in the rule of law in which all individuals, in particular children, are equal before the law and have the means to ensure that their rights are respected and to obtain redress when they are not.

10. The right to an effective remedy, in particular, could be understood as:

(a) A substantive right, integral to the recognition of children as full rights holders and the duty of States to respect, protect and fulfil children's rights, which should lead to actual redress;

(b) A procedural right, by which claims of children's rights violations are addressed through child rights-based procedures that recognize children's evolving capacities and the need for support in the exercise of their rights;

(c) An enabling right, through which all of the rights contained in the Convention can be claimed and redressed.

11. Children's right to access to justice and to an effective remedy can be guaranteed through judicial and non-judicial pathways. While non-judicial avenues could be more accessible to children, the ultimate responsibility to respect, protect and fulfil children's right to access to justice and to an effective remedy lies with the State, in a manner that enables children to access the formal judicial system at any time, including when other mechanisms have not provided relief. The State's role includes the monitoring and oversight of non-judicial mechanisms to ensure that they abide by child rights standards.

12. Judicial and non-judicial pathways and mechanisms may include:

(a) Judicial mechanisms, such as administrative, civil, criminal or constitutional courts;

(b) Customary, tribal, Indigenous, religious or informal community-based justice systems;

(c) Independent institutions, such as national human rights institutions and children's ombudspersons, commissioners or similar independent bodies with a mandate that includes children's rights;

(d) Alternative dispute resolution mechanisms, such as mediation or arbitration;

(e) Internal complaint mechanisms within the public administration, including ministries, government agencies, public services and social service providers, such as schools, hospitals, child care institutions or child justice institutions;

(f) Business sector grievance mechanisms;

(g) Truth and reconciliation commissions, other transitional justice mechanisms and specialized commissions or bodies with the mandate to review and address systematic child rights violations focusing on specific contexts, groups or periods;

(h) International and regional mechanisms, such as courts, commissions, or communications or complaint procedures by treaty bodies and other bodies, in particular the Optional Protocol to the Convention on a communications procedure;

- (i) Other relevant remedial mechanisms.

IV. General principles and foundational elements

13. Children have the right to access to justice and to an effective remedy, which is implicit in the Convention, including under article 4 in relation to the obligation to undertake all appropriate measures for the implementation of the rights recognized in the Convention. The right is also underlined throughout the Convention and its Optional Protocols, for example, by article 8 (2) in relation to assistance and protection in cases of illegal deprivation of identity, by article 19 in relation to judicial involvement in cases of child maltreatment, by article 39 in relation to recovery and reintegration of child victims and by articles 7–10 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography and the preamble and articles 6 (1) and 7 (e) of the Optional Protocol to the Convention on a communications procedure.

14. Recalling article 41 of the Convention in relation to provisions of domestic and international law that are more conducive to the realization of the rights of the child, the Committee draws attention to the recognition of the right to access to justice and to an effective remedy in other international human rights instruments.² The Committee also recalls the recognition of the right of equal access to justice for all by the General Assembly.³

15. Ensuring children’s right to access to justice and to an effective remedy rests on the following general principles and foundational elements:

(a) Non-discrimination: In line with article 2 of the Convention, all children within the State’s jurisdiction have the right to access to justice and to an effective remedy without discrimination. No child should be excluded, in law or in practice, from the possibility to claim their rights before a judicial or non-judicial mechanism, including asylum-seeking, refugee, migrant and stateless children. All children should be treated with impartiality. Specific measures should be taken for remedial mechanisms to be genuinely accessible and effective for children with various needs, characteristics, situations and status, taking into account intersectionality;

(b) Best interests of the child: In line with article 3 (1) of the Convention, the best interests of the child should guide the design and implementation of the procedures of judicial and non-judicial mechanisms, and it should inform the outcome of the process. The child’s best interests shall be taken as a primary consideration in all actions concerning them, vis-à-vis the interests of other parties, regardless of their position of power or authority, and it is important for mechanisms to demonstrate that they have effectively considered the best interests of the child in their procedures and decisions, whether of a procedural or substantive nature, in cases involving children.⁴ In consideration of their best interests, child victims of rights violations, including sexual exploitation and abuse, trafficking and other forms of violence, should be regarded as victims and not be prosecuted when reporting such violations, due to their status or by being accused of being themselves involved in criminal acts;

(c) Right to life, survival and development: In line with article 6 of the Convention, processes and outcomes should not be harmful and detrimental to the child’s life and development, should take into account any support the child may need throughout the process and its aftermath and should include relevant safeguards for the child’s safety,

² See, for example the Universal Declaration of Human Rights, art. 8; the International Convention on the Elimination of All Forms of Racial Discrimination, arts. 6, 11 (3) and 15; the International Covenant on Civil and Political Rights, arts. 2 (3), 9 (5) and 14 (6); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 13 and 14; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 15, 16, 18 (6), 22, 71 and 83; the International Convention for the Protection of All Persons from Enforced Disappearance, arts. 3, 8 (2), 20 (2), 22 (a), 23 (3) and 24; and the Convention on the Rights of Persons with Disabilities, arts. 13 (1), 16 and 27.

³ See, for example General Assembly resolution 78/227.

⁴ General comment No. 14 (2013), paras. 25–30.

including to address the risk of reprisals. An effective remedy should take into account any short, medium and long-term impact on the child's life and development;

(d) Right to be heard: In line with article 12 of the Convention, children's views must be heard for all matters affecting them, either directly or indirectly, such as when their rights may be affected by a decision that concerns third parties, particularly in the context of the family environment. This includes giving due consideration to children's views on whether to seek a remedy, including when claims are made by parents or legal guardians on their behalf, recognizing that a child may not wish to proceed at any point in time. It may also involve hearing the child's views on their preferred avenue in seeking justice. The Committee recalls that there should be a presumption that a child has the capacity to form and express views, and that these views should be given due weight in accordance with the child's age and maturity. This can be considered with respect:⁵

(i) To the child as an individual;

(ii) To children as a group, including specific groups of children in a disadvantaged situation or with a specific interest, for the design, implementation and evaluation of interventions and mechanisms for access to justice, and for the determination of the forms of collective redress, especially collective reparation measures.

(e) Respect for the evolving capacities of the child: Evolving capacities should be recognized in legislation, particularly regarding legal standing, and remedial mechanisms should be adapted to various ages and capacities. The evolving capacities of children should be seen as a positive and enabling process, rather than used as a justification for practices that restrict children's autonomy and self-expression.⁶ It entails acknowledging that children's views and expectations may change as their capacities and situations evolve;

(f) Due process and respect for the rule of law: The rule of law is a principle of governance whereby all actors, including the State, are held accountable to laws that are equally enforced and adjudicated in a manner consistent with international human rights norms and standards.⁷ States should ensure access to fair, transparent, competent and impartial remedial mechanisms for children, whose decisions are predictable and based on clear sources of law that are applied equally and fairly, including when these mechanisms are not structurally independent from the entities over which they have jurisdiction. Due process guarantees do not preclude adequate adjustments to compensate for the power differential between children and other parties, in line with international standards. Measures that restrict children's freedoms and liberties, such as counter-terrorism measures, should not hamper children's right to access to justice and to an effective remedy, including for child human rights defenders.

V. Child rights-based approach to children's right to access to justice and to an effective remedy

16. A child rights-based approach to children's right to access to justice and to an effective remedy would entail: (a) the creation of conditions for children as rights holders to be empowered to claim their rights; and (b) the development of the capacity of duty-bearers to meet their obligations by ensuring the availability, accessibility and effectiveness of remedies. At all stages of the process, children must be respected as individual rights holders with agency, and any interaction with the child should be respectful, empowering, non-stigmatizing and non-diminishing, regardless of the child's age, background and situation. While States are the primary duty-bearers, all actors playing a role in supporting children in the exercise of their rights, or whose actions may affect children's rights, including those engaged as human rights defenders, have a responsibility to ensure and facilitate paths for redress.

⁵ General comment No. 12 (2009), paras. 14 and 20.

⁶ General comment No. 7 (2005), para. 17. See also Statement of the Committee on the Rights of the Child on article 5 of the Convention (2023).

⁷ S/2004/616, para. 6.

17. A child-rights based approach in this context means the existence of a range of remedial mechanisms that are available, accessible and adapted to children, and that achieve effective redress. Children's rights, needs and interests should be at the core of both the processes and outcomes for each of these mechanisms, regardless of their degree of formalism.

A. Availability

18. The availability of an effective remedy refers to the existence of remedial mechanisms with the mandate, competency and capacity to address child rights violations. This includes:

- (a) The widest possible jurisdiction in terms of:
 - (i) Rights concerned (subject matter): Access to justice and an effective remedy should be available for all rights under the Convention. Certain violations, due to their gravity, such as sexual abuse, should normally only be handled by the judicial system;
 - (ii) Persons (personal jurisdiction): Access to justice and an effective remedy should be available to all children within the State's jurisdiction, as defined by international and domestic law. This may include the State's nationals abroad. No child within the State's jurisdiction should be excluded from accessing justice, in particular due to their residency, their nationality status, including statelessness, or their lack of birth registration or documentation. In case of uncertainty regarding a child's age, the benefit of the doubt should be given to the individual, and support should be provided on the basis of a presumption of minority;
 - (iii) Individual and collective rights violations: Access to justice and an effective remedy should be available for both individual and collective rights violations and violations affecting a large number of children, including through collective complaints, such as class action suits;⁸
 - (iv) Territorial jurisdiction: States should establish and recognize extraterritorial jurisdiction for certain child rights violations, such as article 4 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography. This includes access to judicial and non-judicial mechanisms to provide an effective remedy for violations of children's rights by business enterprises, including as a result of their extraterritorial activities, and for children outside their territory affected by established or foreseeable transboundary harm resulting from States' acts or omissions occurring within their territories, such as environmental impacts.⁹ States may recognize universal jurisdiction for the gravest child rights violations, such as war crimes, crimes against humanity and genocide;
 - (v) Time: States are encouraged to consider waiving or extending statutes of limitations for rights violations suffered during childhood, in particular for criminal offences. For some crimes, such as sexual abuse in the circle of trust, there may be multiple reasons why children face difficulties in disclosure over an extended period of time, such as fear or an affection for a family member. Limitation periods established by law, including for civil and administrative claims, should consider the child's evolving capacities, the impact that crimes experienced in childhood can have on the ability and willingness to file a complaint and seek redress well into adulthood and the possible ongoing damage in adulthood.

(b) The availability of an effective remedy for a child rights violation and for claims of imminent or foreseeable harms, for example linked to business activities,¹⁰ in order to halt ongoing and future damage, such as in the digital environment,¹¹ or when time is of

⁸ General comment No. 26 (2023), para. 85; general comment No. 25 (2021), para. 44; and general comment No. 16 (2013), para. 68.

⁹ General comment No. 26 (2023), paras. 84 and 88; and general comment No. 16 (2013), paras. 43 and 44.

¹⁰ General comment No. 26 (2023), paras. 84 and 88.

¹¹ General comment No. 25 (2021), para. 46.

the essence, such as in cases involving deportation faced by children in situations of migration, medical treatment, effective access to safe abortion services for adolescent girls and access to education;

(c) The recognition that access to justice is not conditioned on a claim being made by a child or on behalf of the child. Where victims are not readily identifiable or unaware of their victim status, including in the digital environment, States are encouraged to take the necessary steps to identify them and provide avenues for redress, with due regard to their safety, informed consent and respect for privacy. Mechanisms should have the competency to investigate child rights violations on their own initiative within the scope of their mandate;¹²

(d) The continued availability of an effective remedy in cases of a state of emergency even if the functioning of remedial mechanisms may have been adjusted or restricted under the circumstances.

19. Public entities whose mandate and action could have an impact on children's rights should establish complaint mechanisms and make these available to children. This includes complaint mechanisms within the public administration, namely ministries, government agencies, public services and social service providers, such as schools, hospitals, care institutions and closed settings, including institutions and detention centres where children are deprived of their liberty. Methods for reporting child rights violations may include hotlines, complaint boxes, e-mail addresses, online forms, buttons on websites and phone applications, as well as in-person services, outreach interventions, remote centres and one-stop centres.

20. Depending on the types of cases, States are encouraged to develop and strengthen child-centred alternative dispute resolution mechanisms, as well as restorative justice mechanisms, in and alongside the judicial system, that are free of charge, that involve limited formalism and that may be more accessible to and potentially result in more appropriate settlements for children than more formal avenues.

21. Complaint mechanisms of independent human rights institutions may provide accessible remedies for child rights violations. While their decisions are often not enforceable, these mechanisms generally are less formal than courts, involve limited costs and formalities, and are directly accessible to children without a representative or a lawyer. The Committee recalls that every State needs an independent human rights institution with the responsibility for promoting and protecting children's rights and reaffirms the importance for national human rights institutions to have the power to consider individual complaints and petitions and carry out investigations, in particular for those submitted on behalf of or directly by children.¹³

22. The business sector should establish grievance mechanisms able to receive, evaluate and address operations-related grievances from affected communities at the level of the company or project, such as internet service providers, social media platforms, website owners, pharmaceutical companies and other business enterprises that may impact the lives and rights of children.

23. The Committee recognizes that customary justice constitutes a primary avenue for access to justice for many people around the world, including Indigenous peoples, which can provide a remedy that people may favour, even in the presence of a formal judicial option. Customary systems are frequently community-based, operate in local languages and dialects, may provide a timely outcome and may involve more affordable costs. They are anchored in local understandings of social norms and justice, and their actors are members of the community, including recognized spiritual and religious leaders. However, it is essential that these mechanisms be aligned with legal and procedural guarantees grounded in children's rights, while acknowledging that children may not feel comfortable to speak up in this system. States should ensure that these systems do not violate children's rights and should provide for a clear articulation of customary justice systems with formal judicial systems, in

¹² See, for example general comment No. 2 (2002), para. 19 (a).

¹³ *Ibid.*, paras. 7 and 13.

particular in the context of legal pluralism. Children should always have the possibility to opt out from customary processes and resort to the formal judicial system.

24. International and regional mechanisms can play an important, complementary role in addressing violations of children's rights, including the most serious crimes against children, and in addressing situations such as impunity and ineffective national remedies. These mechanisms may be of a judicial, quasi-judicial or non-judicial nature, and supporting children to access these mechanisms can help to pursue accountability and remedies, including for the gathering and preservation of evidence and the recognition of violations.

B. Accessibility

25. Ensuring the accessibility of remedial mechanisms for all children and the adults supporting them necessitates the identification, recognition and lifting of existing barriers. Barriers are multiple, evolve over time and circumstances, and often intersect, calling for a constant review and reassessment of interventions needed.

26. Obstacles in accessing justice are compounded for certain groups of children who are already in a situation of vulnerability and power imbalance and who face discrimination, including intersecting forms of discrimination. In line with article 2 of the Convention, States should take specific, targeted measures to ensure that every child in the State's jurisdiction has access to justice and an effective remedy when their rights are not respected, including through remedial mechanisms that accommodate the specific needs of children in disadvantaged situations, so that they are able to make a claim and participate in the process on an equal footing with others.

27. States should be mindful that remedial mechanisms may reproduce the dynamics that contribute to marginalizing certain groups of children and that fail to offer equality in redress. The claims of certain groups of children may not be taken seriously, may result in decisions that dismiss the importance of their case and may more likely result in reprisals. Remedial mechanisms should ensure that their impartiality is not compromised by biased assumptions, prejudice and stereotypes against certain groups of children, such as girls, children with disabilities, children belonging to minority and Indigenous groups, lesbian, gay, bisexual, transgender and intersex children, children in situations of migration, undocumented and stateless children and children in street situations. Mechanisms should make proactive efforts to build trust among these groups.

28. States should take a gender-transformative approach, including by recognizing the gendered nature of certain rights violations and properly investigating related claims.¹⁴ This approach should seek to redress gender inequalities and remove the distinct structural barriers that girls face in accessing justice, including discrimination in laws, inequalities in access to education and other services, lower literacy, hindered access to reporting mechanisms, limited access to online devices, restrictions to freedom of movement, lack of financial autonomy, victim shaming and other biases, expectations of subjection and additional difficulties faced in situations such as armed conflict and adolescent pregnancy. Mechanisms should treat the claims made by girls in an equal manner as other children, sensitive to their specific experiences, and address any discrimination in access on the basis of gender, for example, by refraining from imposing any requirement for approval by a male family member, especially for claims related to sexual and reproductive health and rights.

29. Children's lack of legal standing brings limitations to their ability to claim their rights before courts. In most countries, children are not considered legally competent to bring a complaint in court and will need to rely on adults, usually a parent or legal guardian, to act on their behalf. While parents or legal guardians will in many cases be present and supportive, there may be situations in which they do not agree with or are not in a position to play this role, or they are in a conflict of interests with the child, including when they may be responsible for the violation of children's rights. In these cases of unwillingness or incompetence of the parent or legal guardian or in the presence of conflicts of interests, the

¹⁴ See, for example Committee on the Elimination of Discrimination against Women, general recommendation No. 33 (2015), para. 24.

court may decide to appoint an appropriate person to act as a guardian, curator or tutor for the purposes of litigation, in the child's interest. Provisions should be made to ensure that the parent, legal guardian or court-appointed guardian acts in the child's interests at all times during the litigation process.

30. The Committee underlines the importance of the availability of judicial and non-judicial mechanisms that children can access directly and without parental consent, in consideration of the maturity and best interests of the child. The Committee recalls that for States parties to the Optional Protocol to the Convention on a communications procedure, children can directly submit a communication on their own to the Committee when the conditions are met.

31. Financial and other costs are a major barrier to accessing justice. Most often, children do not have access to financial resources on their own, and caregivers may not be able to bear the costs involved. Indirect costs should be considered for the provision of adequate support, including costs related to transportation and the time required at the expense of other activities, such as income-generating activities, child and family care and schooling. Prohibitive costs involved in litigation against companies are a particular challenge. States are encouraged to lift financial obstacles to the extent possible, such as by ensuring the availability of free legal aid and free paralegal and social support to all children without discrimination and with limited eligibility criteria. States are also encouraged to limit the financial risk to children who bring cases, especially when in the public interest, such as through protection from adverse cost orders.¹⁵ To this end, States can seek support from bar associations, legal clinics and organizations, paralegals and other civil society actors in the important role they play in providing free legal assistance and advice for children to understand and claim their rights.

32. States should address practical barriers, including distance, physical accessibility and language, considering that children may not be able to move independently and that certain groups of children may have specific accessibility and other needs. The principle of proximity implies that access points to remedial mechanisms, when possible, should be located close to the children's environment and within children's reach, while taking into account children's different needs and circumstances, including for children living in remote and rural areas, children in closed facilities and displaced children in refugee camps and temporary shelters. Examples may include mobile and community-based mechanisms, along with their support structures, such as mobile legal aid units and legal assistance points situated in the communities.

33. Digital technologies may enhance the accessibility of remedial mechanisms and may facilitate children's direct engagement with these mechanisms, but they also pose numerous challenges. They may help overcome practical issues for children in remote areas or with limited freedom of movement, and they may facilitate outreach efforts by actors that support children, including lawyers and civil society organizations. For children directly involved in proceedings, remote online participation may be less stressful and may limit harmful or unpleasant exposure by keeping a physical distance. However, the use of the Internet requires access to a connection, a device and relevant skills, including digital literacy, that are unevenly available across socio-economic groups, genders and geographic areas. Online participation in proceedings may limit proper access to needed assistance, including interactions with lawyers and other forms of support. Communication between the remedial mechanism and the child through a device may be affected by misperceptions and misinterpretations, including due to the lack of the full range of non-verbal cues. There are also concerns about safety, potential exposure to risks and privacy and confidentiality issues, including in relation to the collection and recording of children's data, potential breaches in data security and the inability to concretely verify the presence of other individuals in the room. States are encouraged to support further research on the use of online and digital technologies and develop evidence-based guidance for professionals using such tools with children.

¹⁵ General comment No. 26 (2023), para. 86.

34. Fear of reprisals and distrust towards the system may also serve as obstacles to accessing justice. Children may be exposed to sanctions or reprisals for seeking a remedy, which can act as a powerful deterrent, in particular when reporting violations occurring in the environment in which they live. Access to justice may also lead to exposure in the media or on online platforms to various forms of pressure and to exclusion from the community. Poor governance, the lack of respect for the rule of law, the lack of impartiality and the impact of corruption, as well as the lack of confidence in adults in general, may also contribute to distrust towards the remedy available to children. States should ensure the availability of independent and impartial remedial mechanisms that are trusted by the population, in particular by children.

C. Adaptation to children’s rights and needs

1. Timeliness

35. The sense of time is not the same for children and adults. Delays in addressing rights violations and denial of entitlements impair children’s development and opportunities, with potential lifelong consequences. Providing redress within a reasonable time is integral to an effective remedy.¹⁶ The notion of “reasonable time” should be construed in light of the potential effect of the violation, its ongoing nature and its possible repetition, as well as the child’s age and circumstances. Speedy proceedings are encouraged, provided this does not unduly restrict due process guarantees.¹⁷ Children should be informed of the prospective timeframe for a decision, accompanied by an explanation of the reasons and the progress made.

2. Privacy and confidentiality

36. All remedial mechanisms, together with the other actors involved, including the media, should protect the child’s privacy, keep the child’s identity and identifying information confidential, avoid undue exposure of the case and put in place safeguards for data protection. However, in cases where children request publicity, especially in strategic litigation, the principle of confidentiality could be waived based on a best interests assessment, including consideration of the child’s views and possible risks.

3. Child-sensitive communication and interactions, including access to information

37. Children have the right to access to information, including information in a manner they understand regarding their rights, the mechanisms available to them, the process, their role, the role of others and the possible outcomes. The development of information videos, booklets and other materials and the use of miniature replica of courtrooms and other remedial settings are valuable tools that can help children and their caregivers to comprehend the process. Legal counselling can be more accessible when integrated into a continuum of services provided to children and families in their communities, in particular through one-stop centres that provide a range of legal, social and other services. Any interaction between the remedial mechanism and children should be conducted by appropriately trained professionals.

38. Interpreters play an important role in supporting children who use different languages and might be the only channel through which children can communicate, including sign language. Cultural mediators can also contribute to fostering children’s trust in the system and building a relationship in particular with children in situations of migration or children belonging to minority and Indigenous groups. However, there is a need to be mindful of possible mistrust between children and interpreters or mediators, which may arise due to reasons such as cultural dynamics.

¹⁶ *N.B.F. v Spain* (CRC/C/79/D/11/2017), para. 11.3.

¹⁷ General comment No. 23 (2017), para. 15.

4. Multidisciplinary, coordinated and holistic support

39. Irrespective of the presence of the parents or legal guardians, child victims and witnesses of crime should have access to a person who can assist and accompany the child throughout the process, including in a manner that prevents re-victimization or secondary victimization. Remedial mechanisms should inform the child and the parents or legal guardians of this possibility and designate an appropriate support person with the child's consent.

40. As is the case in criminal proceedings, the appointment of a lawyer in civil, administrative and other proceedings is key to conveying children's views and representing the child's personal interests, and States are encouraged to adopt relevant measures in this respect. Examples include proceedings related to child custody and support during parental divorce, care and protection, and asylum and residency. Children, as defenders of their own rights, should also be able to access legal assistance to initiate cases themselves, when appropriate. Children's lawyers should be appropriately trained and competent to interact with children.

41. Multidisciplinary, coordinated and holistic support should be made available during the investigation of cases for child victims and witnesses and in the exercise of their right to access to justice and to an effective remedy. In many cases, the intervention of the social sector, or coordination with that sector, is necessary to provide appropriate support to victims of violations. In this respect, remedial mechanisms integrating a range of services under one roof can provide an appropriate, child-centred approach, to enable children to access the support needed for the realization of their full range of rights.

5. Adjusted and tailored procedures

42. Remedial mechanisms are generally designed by and for adults, and they often inadequately address children's rights, needs and capacities. Proceedings may trigger secondary victimization of the child, for example, as a result of multiple and intimidating interrogations and questioning. States are encouraged to adopt comprehensive child protection and safeguarding measures applicable in all procedures, as well as quality standards and child rights-based standard operating procedures for remedial mechanisms.

43. In criminal proceedings where children are involved as victims and witnesses, a child-centred approach further plays a critical role in facilitating the collection and preservation of evidence as well as enhancing quality, reliability and evidentiary validity of testimonies, which can also inform appropriate mental health interventions. Eliciting the narratives of child victims and witnesses by trained interviewers applying evidence-based interview protocols, in a manner that avoids repetitive interviews and ensures cross-sectoral coordination, may facilitate positive outcomes for child victims and witnesses and increases the likelihood of adequate sanctions for the perpetrators and redress for the victims, in line with due process guarantees. The audio-visual recordings of the child's interview during the pre-trial stage should be accepted as evidence in court proceedings, and children should have the option to give their court statements during the pre-trial stage in a manner that ensures child safeguarding, guarantees due process and avoids undue delay.

44. When interviewing and engaging with children, remedial mechanisms should ensure the use of techniques that are non-traumatizing, non-inquisitorial and non-adversarial, and that are designed as a dialogue with the child rather than an interrogation. Various evidence-based interview protocols have been developed to guide the forensic interviewing of child victims and witnesses, with a view to collecting evidence while avoiding secondary victimization of the child and the contamination of the child's narrative. Interviewing techniques based on understandings of child development, including memory, suggestibility, non-leading and open-ended questions and age-appropriate language, are necessary to strengthen the credibility of the child's disclosure. Moreover, an understanding of children's different perceptions of time and the importance of culturally-sensitive approaches are pivotal in non-criminal and non-judicial processes as well. States are encouraged to establish a diverse and representative workforce in remedial mechanisms.

45. Procedures must involve hearing the child and giving due weight to the child's views, in line with article 12 of the Convention. This requirement equally applies to customary

justice processes and alternative dispute resolution mechanisms that may have a less developed practice of hearing children than more formal avenues. Children should be consulted at every step of the process in an appropriate manner, bearing in mind their best interests and possible risks for re-traumatization. Mechanisms should enable children to express their views and concerns freely and in their own manner, including the manner in which they prefer to provide testimony, as well as to express their feelings about the conclusion of the process. Due weight should be given to the child's views, and reasons should be explained to the child if their views cannot be accommodated.

6. Adapted environment

46. Child-welcoming spaces should be made available through child-appropriate design that considers the purpose of their use, for example, by avoiding adversarial seating arrangements and supporting sensitivity with regard to age, gender and cultural diversity. Child-welcoming environments can support children's ability to share information by reducing their level of anxiety, thus facilitating disclosures, sharing of views or articulation of experiences. Individual assessments should be conducted to identify the child's specific needs during the process and beyond and to support the best interests determination. The individual assessment should include considerations of the implication of the violation on the full scope of the child's rights, their individual circumstances, their protection needs and the possible conflicts of interests within the child's immediate environment, and it should inform the design and implementation of tailored measures to facilitate the exercise by the child of their right to access to justice and to an effective remedy, as well as the full realization of their rights, during and after the process.

47. Children with disabilities should have access to procedural and age-appropriate accommodations,¹⁸ which should not be limited by the concept of disproportionate burden¹⁹ and which take into account all types of disabilities, such as children with physical and sensory impairments and children with intellectual and/or psychosocial disabilities. Accommodations include physical adaptations, in terms of location, accessibility and suitability of spaces; relevant communications approaches, in terms of format, language and formulation, planning for additional time, periodic breaks, use of assistive technology or devices, including communication aids, and support from trained intermediaries with the child's consent; the presence of a support person, such as a family member or other trusted adult from the child's environment; and reasonable adjustments regarding grounds for nullifying procedures and receiving evidence.

48. Children living in settings from which they cannot leave at will, such as residential care institutions, psychiatric institutions or detention centres, commonly face additional, distinct obstacles in accessing remedial mechanisms, including as a result of the restrictions imposed on their movement, their dependence on the adults running the facility and the power imbalance. States should ensure that all children deprived of liberty have full and unimpeded access to legal, paralegal and social support services and to an independent remedial mechanism in conditions of confidentiality, taking into account their dependency on the institution they live in, their isolation and lack of contact with trusted adults and reporting mechanisms and the possible intersection with other factors of vulnerability. Regular, unannounced visits by an independent monitoring mechanism are important, including direct and unsupervised interactions with children, gathering of evidence and handling or reporting of rights violations that are identified. Procedures should be in place for children to be able to challenge the legality and conditions of their deprivation of liberty before an independent body.

49. Children in situations of armed conflict face distinct challenges, such as dysfunctional institutions and systems, restrictions placed on access to justice and due process of law and the complexities in the applicable legal frameworks. Children in this context need access to a safe and trusting environment, with confidential reporting and remedial mechanisms adapted to this situation, supported by robust witness protection programs and by processes

¹⁸ Convention on the Rights of Persons with Disabilities, art. 13.

¹⁹ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018), paras. 25 and 51.

that are child-centred, inclusive and staffed by professionals trained in trauma-informed care and protection for children affected by armed conflict. Regarding children's involvement in justice mechanisms in this context and other relevant situations, the Policy on Children by the Office of the Prosecutor at the International Criminal Court could serve as a tool for relevant guidance.

D. Effectiveness in achieving redress

50. The right to an effective remedy involves redress of the harm done through reparation. Reparation refers to measures to redress violations of children's rights by providing a range of material and symbolic benefits to victims or their families, as well as the affected communities. Reparation should be adequate, effective and prompt, and it should be proportional to the gravity of the violations committed and the harm suffered.

51. Reparation includes restitution, compensation, recovery and reintegration, satisfaction and guarantees of non-repetition of rights violations.²⁰ When determining the level or form of reparation, mechanisms should take into account that children can be more vulnerable to the effects of violations of their rights than adults and that the effects can be irreversible, can result in lifelong damage and in some cases, can result in intergenerational harm. They should also take into account the evolving nature of children's development and capacities, and reparations should be timely to limit ongoing and future damage to the child or children affected.²¹ Furthermore, reparations should consider the impact of the violation on the child in relation to the child's environment, including parents, siblings and other persons close to the child. Financial forms of reparation alone often do not fully address the harm caused to the child and should be complemented with a comprehensive set of measures.

52. Reparations may be individual or collective in nature. In the case of armed conflict and humanitarian contexts, for example, individual forms of redress can include financial and material compensation, psychological and social support, educational grants, memorialization and recovery and reintegration programmes, while collective reparations may be channelled into sectors like education, health and social protection, as well as towards the restoration of social bonds and the creation of an environment conducive to children's rights.

53. Children and their representatives should be involved in the process of determining the reparations as far as possible, and they should be informed of both the outcome and the process that led to the decision, the elements considered, including children's views, and the reasons for the decision, in an understandable manner and in accordance with the children's evolving capacities and specific needs. Those supporting the child have a role in explaining the decision, including the decision-makers. The Committee encourages innovative efforts by decision-makers to convey their decisions in a child-adapted manner and encourages all actors involved in providing an effective remedy for child rights violations to consider ways to communicate their decisions directly and promptly to children, or through specifically trained professionals, ensuring that they are properly understood by children and their representatives, unless contrary to the children's best interests.

54. A fair process in which those concerned have been heard leads to greater acceptance of and commitment to the outcomes of the decisions made, increases subjectively perceived fairness and upholds children's dignity by acknowledging their rights, wishes, feelings and experiences. Hearing children's views on the type of outcome they seek and taking these views into account when making a decision, especially in determining the nature and forms of redress, can help design an appropriate reparation scheme that addresses long-term needs and concerns, and it can help anticipate possible negative impacts.

1. Restitution

55. Restitution underlines the importance of addressing the violation rather than merely compensating for it. It aims to restore the victim, as much as possible, to the original situation

²⁰ General comment No. 21 (2017), para. 22; and General Assembly resolution 60/147, para. 18.

²¹ General comment No. 16 (2013), para. 31.

before the violation occurred.²² This may include the reinstatement of a child who has, for example, been excluded from a process, from social benefits or from a facility. In many cases, the impact of the rights violation on children may not be fully reversed or cancelled, in particular as it affects the child's development.

2. Compensation

56. Compensation for the harm suffered from violations should be appropriate and proportional to the gravity of the violation and the circumstances of each case. It should address long-term psychological, social and developmental effects resulting from physical or mental harm, lost opportunities, material damages, loss of current and future earnings both for the child if above the minimum age of employment and for their representatives and caregivers, moral and reputational damage, legal costs, and fees for medical, psychological and social rehabilitation services.²³ Schemes should ensure that child victims genuinely benefit from such compensation, regardless of who may receive the compensation on the child's behalf, including through arrangements such as trust funds.

57. The State should be responsible for collecting the funds, including from the proceeds of crime, and for making them available to the child victims without additional legal proceedings, even in cases where the perpetrator of the child rights violation is unwilling or unable to contribute to the reparation. States are encouraged to take all necessary measures to ensure the execution of decisions or judgments, including by identifying and freezing the financial, economic and other assets of the defendants early in the proceedings,²⁴ by creating funds for victims and by having adequate social protection systems in place to address the loss of income resulting from the lack of execution of a judgment.

58. Compensation is commonly used in customary justice systems to solve disputes. Compensation for child rights violations is only acceptable when part of a due process that complies with international standards, that does not discriminate against child victims, that does not further violate their rights and that gives primary consideration to children's views and best interests. Such systems should not be employed to reach a financial settlement with the purpose of avoiding proceedings or in situations that may force a party to make compromises, for instance for crimes of a sexual nature against girls that may be considered as compromising the so-called honour of the family.

3. Recovery and reintegration

59. Victims have a right to timely recovery and reintegration, which helps to limit the long-term damage the violation of rights may cause. It primarily involves the provision of relevant services, including medical care, social reintegration and physical and psychological recovery in line with article 39 of the Convention, but it also involves creating the conditions necessary to enable recovery, such as implementing fast and effective procedures for blocking and removing harmful material online involving children. These services should be accessible to victims as much as possible free of charge and in an integrated manner, providing a comprehensive continuum of care and support, with staff who possess certified training and the necessary expertise.²⁵ Access to justice entails support provided for victims before, during and after the remedial process, especially in light of children's immediate needs, the potential length of proceedings and the role that support can play in enabling children to effectively participate in proceedings. Child victims should enjoy appropriate recovery in accordance with professional assessments without delay and should not need to wait until the perpetrator's guilt has been established by the mechanism.

²² General Assembly resolution 60/147, para. 19.

²³ *Ibid.*, para. 20.

²⁴ CRC/C/156, para. 106.

²⁵ *Ibid.*, para. 100 (a) and (b).

4. Satisfaction

60. Satisfaction refers to the experience and recognition by victims that justice has been achieved through the process, the execution of the decision, the end of the violation and the acknowledgement of the harm or damage suffered.

61. Regardless of whether decisions are enforceable by law, the lack of execution compromises the effectiveness of the remedy and erodes trust in its ability to provide redress. Yet many decisions, including those issued by the formal judicial system or by an international body, like under the Optional Protocol to the Convention on a communications procedure, are not adequately executed. For legally binding decisions, especially by judicial mechanisms, non-compliance is incompatible with the rule of law. States should take the necessary measures to ensure the adequate and timely execution of judgments, including those related to child care, family obligations and maintenance, and protection measures for victims of crimes. When decisions are to be executed against the child's will, due consideration should be given to upholding the child's rights. The possibility for a remedy to issue precautionary and interim measures is a critical condition for the effectiveness of the remedy, when consequences of the contested action could lead to irreparable harm for the child.²⁶

62. For remedial mechanisms issuing non-binding decisions, stakeholders concerned should abide by the decisions, or file an appeal. Businesses and public services, among others, should comply with the decisions made by the complaint mechanisms they have internally established, including disciplinary sanctions. Remedial mechanisms should lay out clear frameworks for the execution of their decisions, including explicit timeframes, disciplinary sanctions for non-compliance and penalty payments.

63. In relation to transnational child rights violations, including violations committed by transnational corporations, cross-border environmental damage, inter-country family or private disputes, such as inter-country adoption or international abduction, and violations in the digital environment, the Committee encourages States to ratify or accede to relevant private international law treaties and to cooperate in the implementation and enforcement of decisions made in another country.

64. In conflict situations and in their aftermath, an effective remedy for children can contribute to healing wrongs, offering opportunities for development and a better future and building sustainable peace. Transitional justice processes are crucial in this respect and should be grounded in a child rights-based approach, ensuring children's meaningful participation.

5. Guarantee of non-repetition

65. Accountability for rights violations entails appropriate sanctions being laid out and effectively enforced against perpetrators, whether they are individuals, private bodies including businesses and non-governmental organizations, public authorities or the State as a whole.

66. Sanctions should be fair and proportional to the violation, without discrimination. Due to biases and prejudices, violations committed against children in marginalized and disadvantaged situations might be punished with leniency, or the decision might not actually be executed, due to the perceived lower value of the victim's experience. States should take measures to identify and address such discriminatory practices. For violations involving damages caused by business sector activities, the fines and levels of compensation should be of an adequate amount, taking into account the business actors' financial interests and cost-benefit determinations, so as to actually deter companies from further violations.

67. States should guarantee the non-recurrence of violations, including through law and policy reform. Litigation is one such option, which can lead to systemic change and improved State compliance with the Convention and other standards by highlighting legal loopholes, challenging practices contrary to children's rights and acting as a deterrent for further

²⁶ *A.B.A. et al v Spain* (CRC/C/91/D/114/2020-CRC/C/91/D/116/2020-CRC/C/91/D/117/2020-CRC/C/91/D/118/2020), paras. 9.2 and 10.11.

violations. In the context of armed conflict, measures may involve truth seeking through national inquiries or commissions, public acknowledgement, reconciliation and memory processes, peace education and accountability for perpetrators, taking into account the intergenerational effect of such crimes.

68. States can also promote non-repetition through child rights education, the establishment of clear codes of conduct in relevant sectors and the availability of remedial mechanisms in case of reprisals against those who report the repeated instances of violations committed by sanctioned perpetrators. The media can also play an important role in political and social mobilization around cases involving children, which can support systemic change, provided the privacy of the children involved is duly respected.

VI. Enabling environment for realizing children's right to access to justice and to an effective remedy

69. In many societies, social norms condone violence against children, often considered a fact of life or a necessary means of discipline. In many cultures, it is unacceptable for a child to complain against an adult or an institution, and children cannot confide outside the family. When they do seek remedy, children might not be taken seriously, might be perceived as unreliable witnesses and might be accused of lying or misrepresenting the truth. As a result, their claims are more likely to be ignored. States are encouraged to identify and address social norms that impede children's right to access to justice and to an effective remedy, in particular by reaffirming children as rights holders, promoting behavioural change and respect for children's views and experiences, and recognizing their right to access to justice and to an effective remedy.

70. In conjunction with a change in social norms, there are a broad range of legislative, administrative and other measures that States should undertake to create an enabling environment to realize children's right to access to justice and to an effective remedy, as outlined in this section.

71. As an important element of the enabling environment, the Committee notes that in line with article 5 of the Convention, parents or legal guardians have a duty to provide direction, guidance and support in the exercise by children of their right to access to justice and to an effective remedy, including by enabling children to claim their rights, or acting on behalf of the child when appropriate. This duty includes explaining the process, discussing the benefits and risks with the child, seeking the child's views and supporting the child at every step, including with appropriate support from the State and other stakeholders.

A. Ratification of human rights instruments and withdrawal of reservations

72. The Committee urges States to ratify or accede to the three Optional Protocols to the Convention and the other relevant international and regional treaties. The Committee underlines in particular the importance of the ratification of or accession to the Optional Protocol to the Convention on a communications procedure for the full recognition and fulfilment of children's right to access to justice and to an effective remedy. States are encouraged to promptly review and consider withdrawing relevant reservations to the Convention and other relevant instruments that may impede access to justice, as they may deprive children from the possibility to access justice for denial of these rights.

B. Legislation

73. The existence of a comprehensive legal framework in line with the Convention is the necessary underpinning for the realization of children's right to access to justice and to an effective remedy. States parties need to ensure that the Convention and its Optional Protocols are given legal effect within their domestic legal systems, and the provisions of the

Convention and its Optional Protocols should prevail where there is a conflict with domestic legislation or common practice.²⁷

74. States should ensure that the right of the child to access to justice and to an effective remedy is explicitly recognized in domestic legislation. State-based remedial mechanisms should be duly regulated and anchored in adequate legislative provisions that guarantee children's access to justice in practice and that respect the due process of law. The rules presiding over all remedial mechanisms should be clear, transparent and predictable, and they should comply with international human rights standards, including for non-State remedial mechanisms in their articulation with State-based mechanisms. States are also encouraged to consider elements such as extraterritoriality and international judicial cooperation in the application of their laws.

C. Allocation of resources

75. States and other actors providing remedial mechanisms should allocate sufficient resources to uphold children's right to access to justice and to an effective remedy. States are encouraged to include adequate allocations in their national budgets for the establishment and functioning of judicial and non-judicial mechanisms, which are close to children, are staffed with a competent and well-remunerated workforce and are supported by a range of legal, social and other services. Where needed, this can take place within the framework of international cooperation.

76. Resources should also be provided for legal aid and support services, as well as for other forms of financial support, in order to make access to justice affordable to all children and families. Dedicated funds for child victims, including for compensation and long-term care, should be included in the national budget.

D. Independent monitoring

77. Independent human rights institutions and similar bodies, such as ombudspersons, can play an important role in monitoring the implementation of children's right to access to justice and to an effective remedy. The Committee encourages independent institutions to conduct regular reviews of remedial mechanisms, including the judicial system, and their handling of children's cases to ensure that the mechanisms are available, accessible and effective. The institutions should also promote the development and implementation of child rights standards for their own operations and should provide support to children in accessing their procedures, in line with their mandate.

E. Cooperation with civil society

78. States should support the important role that civil society organizations, including grassroots and professional organizations, can play in supporting children's right to access to justice and to an effective remedy, including by facilitating their participation in proceedings as relevant, collaborating in the provision of services and providing or facilitating their access to funding. This role may include monitoring and reporting on violations; providing accurate and accessible information, guidance and counselling to children and families; offering legal and paralegal assistance through socio-legal defence centres, legal clinics or mobile services; setting up helplines; and conducting visits to closed facilities or any public or private institutions taking care of children. Such forms of support are generally more effective when they are community-based and when they can be accessed with limited or no conditions. More generally, civil society organizations should have the public space to safely advocate for legal and institutional reforms, promote children's rights and foster behavioural change, contributing to an environment conducive to access to justice for children.

²⁷ General comment No. 5 (2003), paras. 19 and 20.

79. The civil society, lawyers, legal clinics and bar associations play an important role in supporting strategic litigation. Strategic litigation consists of bringing a case to the courtroom with the goal of creating broader changes in society and ensuring the non-repetition of violations. Strategic litigation that directly involve children should uphold children's rights throughout the process, including through the provision of adequate information, obtainment of informed consent, respect for the child's views, safeguarding of their privacy and protection from exploitation, manipulation, harm and secondary victimization.

F. Support services

80. Services are essential in creating an enabling environment to gain access to justice and in providing appropriate support to children in the process. States should build the capacity of service providers to identify potential child rights violations and to inform children on the remedies available to them. Support services should be integrated with, or closely linked to, remedial mechanisms and made accessible to children upon the request of the child or their family, as well as following a needs assessment. A range of multidisciplinary services should be available, including legal, social, psychological and medical services, taking into consideration the multidimensional impact of rights violations on children and their specific needs.

81. States are encouraged to establish adequate standard operating procedures for services linked to access to justice and remedies and to properly regulate their functioning, including by setting quality and professional standards, ethical rules and safeguarding measures. Oversight mechanisms can also play an important role, including monitoring, evaluation and inspections conducted on a regular basis, along with procedures to address the issues identified.

G. Child rights education

82. Fulfilling children's right to access to information by making rights and available remedies known to children is an important prerequisite to access to justice. States should develop and strengthen child rights awareness and education programmes for both children and adults, which may include practical information on the existing remedial mechanisms available to children, the methods to access them and the available support for children, in particular through inclusion in the school curriculum, through communication campaigns and through awareness-raising of professionals in contact with children and their caregivers. Such information should be widely shared in a child-friendly format and in all national languages, as well as in accessible formats and languages spoken by children belonging to minority and Indigenous groups and children in situations of migration. Information should be communicated in a gender and culturally-sensitive manner.

H. Training of professionals

83. States should ensure that all State officials and professionals, including lawyers, who receive and handle claims of child rights violations, receive adequate initial training and systematic pre-service and in-service training on a child rights-based approach to access to justice and to an effective remedy and on how to communicate with children. It is important for remedial mechanisms, including complaint mechanisms in the private sector, independent institutions and customary justice systems, to be managed by competent and specialized professionals and practitioners.

I. Data collection and research

84. States should support evaluation and research on remedies for child rights violations and their effectiveness, and they should collect disaggregated data, including with respect to the nature of the violations, the profiles and circumstances of the children, the types of mechanisms and the outcomes of the process. States, businesses and other actors providing

remedial mechanisms are encouraged to publish periodic reports on the measures taken to promote the effectiveness of the mechanisms for children, along with the impact of these measures. Children's views and experiences of access to justice should be collected and taken into consideration in research, monitoring and evaluation initiatives. Child impact assessments and evaluations should inform any systemic reform in relation to access to justice and to an effective remedy, and they should be used by remedial mechanisms to enhance their functioning.

VII. Dissemination

85. States should ensure that the present general comment is widely disseminated to all relevant stakeholders, in particular the mechanisms, authorities and professionals identified in the previous paragraphs, as well as children, parents and caregivers, all branches of government at the national and local levels, educators, business sectors, the media, civil society and the public at large. The general comment should be made available in multiple formats and languages, including age-appropriate versions.
