

ADDITIONAL COMMENTS FROM AMNESTY INTERNATIONAL ON THE DRAFT GENERAL COMMENT ON CHILDREN'S RIGHTS TO ACCESS TO JUSTICE AND TO AN EFFECTIVE REMEDY (GC. 27)

Amnesty International submitted these observations in response to the call for submissions on the draft of general comment No. 27 on children's right to access to justice and to an effective remedy.

1. **Paragraph 34**

Fear of reprisals and distrust towards the system may serve as obstacles to accessing justice. Children may face sanctions or community exclusion for seeking remedies... States should ensure the availability of independent and impartial mechanisms that are trusted by the public, especially by children.

Comments: General Comment No. 27 provides a broader framework for State responsibility in preventing recurrence through sanctions and systemic changes, but it still lacks clear guidelines and does not adequately address how States should prevent and respond to reprisals against children seeking justice.

2. **Paragraph 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.

Comments: Many children submitted requests to the court to allow representatives from human rights organizations to conduct trial observations, believing that having independent observers in the courtroom would be in their best interests due to the sensitive nature of protest-related cases. The current draft of General Comment No. 27 does not highlight the role of civil society organizations in court observation.

3. **Paragraph 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 that are child-centred, inclusive and staffed by professionals trained in trauma-informed care and protection for children affected by armed conflict. In some cases, children affiliated with parties to the conflict may also be accused of committing crimes. They should be treated as victims first and foremost and should not be excluded from justice processes. 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.

Comment: General Comment No. 27 should explicitly recognize children accused of crimes while affiliated with a party to the conflict as primarily victims and should emphasize the importance of ensuring they are not excluded from justice processes.

4. **Paragraph 51**

Reparation includes restitution, compensation, recovery and reintegration, satisfaction and guarantees of non-repetition of rights violations. 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 be gender and disability-sensitive, and 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....

Comment: General Comment No. 27 should explicitly recognize the importance of developing reparations that are sensitive to both gender and disability, as children in these groups may suffer disproportionate or distinct forms of harm.

5. **Paragraph 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...

Comment: General Comment No. 27 should recognize that active participation in a reparations programme could further stigmatize child victims and should explicitly call on states to adopt measures to minimize these impacts.

6. **Paragraph 69**

In many societies, social norms condone violence against children and discourage them from speaking out or seeking help... As a result, their claims are often dismissed or ignored. States are encouraged to challenge such norms by reaffirming children as rights holders, promoting respect for their views, and ensuring their right to access justice and effective remedies.

Comments: According to consultation in December 2024, participants reported facing discrimination and stigmatization within the judicial system due to their political opinions and human rights activism. They also noted that officials, including juvenile detention staff, made derogatory remarks and looked down on them. Participants felt that their views were often dismissed or inadequately represented. However, the current draft of General Comment No. 27 does not sufficiently address bias based on political opinion directly.

7. **Paragraph 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.

Comments: In consultations held in December 2024, youth reported that Thailand's 2003 Child Protection Act have been used to justify arbitrary detention of children who peacefully express political views or participate in protests, under the pretext of crime prevention. This raises serious concerns about the misuse of legal frameworks and the potential infringement of

children's rights including the rights of freedom of expression, peaceful assembly, and the right to access justice.

The General Comment should clearly affirm that legal provisions must never be used to repress civic participation and that States must take concrete measures to uphold children's rights including those of child human rights defenders. Additionally, States parties should be required to undertake regular, independent, and ensure children participation in the reviews of their legal frameworks to ensure that both implementation of such laws remain fully consistent with the principles and obligations of the Convention.

8. Paragraph 77

Independent human rights institutions, including ombudspersons, play a key role in monitoring the implementation of children's right to access to justice... The Committee encourages them to regularly review remedial mechanisms, promote child rights standards in their operations, and support children in accessing their procedures in line with their mandate.

Comments: During the consultation in December 2024, participants raised concerns that the Children and Youth Council, a youth-led organization set up under Thailand's 2007 Child and Youth Development Promotion Act, lacked independence. To address such issues, the General Comment should include a sentence clarifying that when States establish or support children- or youth-led mechanisms, these bodies must be structurally and operationally independent from government control or undue influence. This ensures that children can exercise their rights to participation and association meaningfully and without interference.