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Children Born of Sexual and Gender-Based Violence in Conflict: The International Criminal Court, Ecological Environments and Human Development

Abstract

Children born of sexual and gender-based violence (SGBV) in conflict have slowly gained international attention, even featuring in international criminal justice processes, such as those at the International Criminal Court (ICC). These children suffer unique harms due to the circumstances surrounding their birth, with a burgeoning literature documenting the long-term and multigenerational impact on their development. This article contributes to this existing literature by applying Bronfenbrenner's ecological model of human development to ICC responses to these children, yielding a more nuanced understanding of the ICC as part of the ecological environment in which child development occurs.

Keywords: Children; International Criminal Court; Sexual and Gender-Based Violence; Ecological Models of Human Development

1. Introduction

On 19 June 2018 the International Day on the Elimination of Sexual Violence in Conflict was dedicated to the 'The Plight and Rights of Children Born of War' (United Nations 2018). According to Mochmann, children born of war can be broken down into four categories: (1) children of enemy soldiers; (2) children of occupying soldiers; (3) children of child soldiers; and (4) children of members from peace keeping troops (2007, 2; 2008, 55-6). While these categories generally make no distinction between the consensual or coercive nature of the act that brought about conception, the 19th June focused on children born of sexual and gender-based violence (SGBV), that is, 'persons of any age conceived as a result of violent, coercive, or exploitative sexual relationships in conflict zones' (Carpenter 2010, 3). It is estimated that tens of thousands of such children have been born out of recent conflicts (Grieg 2001; Carpenter 2010; Lee 2017) and that they often suffer an array of physical, economic and psychosocial harms (Carpenter 2007). Yet, the recent call by the UN Secretary-General, António Guterres, to 'amplify' the voices of these children is set against a backdrop in which their very existence has been shrouded in silence (Watson 2007; Seto 2013; Clark 2014; Theidon, 2015). Intensive work by scholars and activists to 'surface' (Carpenter 2000; Mochmann 2017; Lee 2017) children born of SGBV has helped to place these children on the international agenda, with international criminal justice processes established in the aftermath of conflict, such as the permanent International Criminal Court (ICC), even beginning to take notice. Indeed, ensuring attention to children born of SGBV in processes such as these has been identified as one way, amongst others, to help close the 'protection gap' within which these children currently reside (Neenan 2018a).

In this article I investigate the increasing attention to children born of SGBV and situate responses at the ICC within a developmental framework. I draw on Bronfenbrenner's ecological model of human development which considers 'the processes and conditions that govern the lifelong course of human development in the actual environments in which human

beings live' (1977/1994: 1643). Bronfenbrenner conceptualises our ecological environment as a series of nested structures which overlap and interact. The first, the microsystem, refers to the child's immediate surroundings, and includes settings such as the family or school. This is where interpersonal relationships are developed and the child's beliefs and behaviours are initially shaped. The mesosystem, then, comprises the interrelations between the different microsystems in the developing person's life i.e., family and school through the connections between the child's parents and their teachers. If, for example, a child's parents are actively involved in their schooling this can have a positive impact on their development. Where, on the other hand, parents openly criticise or devalue schooling, the child may experience conflicting or negative emotions affecting development. The exosystem, extends the analysis by encompassing the formal and informal social structures that determine how the developing person spends their time i.e., transportation systems, law enforcement practices, mass media or agencies of government. Further to this, Bronfenbrenner identifies macrosystems and chronosystems. The former encompasses the key characteristics of a given culture or subculture i.e., the belief systems and norms. The latter takes account of changes or consistency in the developing person's life over time, for instance, changes to family structure, social or economic changes, or degree predictability/hecticness in everyday life. A central tenant of the ecological model is that child development cannot be understood in isolation from these multiple interlocking spheres (Bronfenbrenner 1994; Glanz and Bishop 2010).

While scholars have applied such models to children in war zones (see e.g., Boothby, Strang and Wessells, 2006) and to children born of war more generally (see e.g. Akesson and Denov 2017) they have not yet explored the extent to which institutions of international criminal justice can be considered part of the ecological environment in which child development occurs. Although a number of judicial bodies have been established since the early 1990s, this article focuses on the ICC due to its legal framework having been commended for its attention to crimes against women and children (Amann 2013; Coomaraswamy 2015; Chappell 2014) and for its ability to not only convict individuals for international crimes but also provide reparations to victims (Article 75, ICC Statue). The possibility of reparations is particularly important in light of the long-term difficulties often experienced by children born of SGBV and the potential impact on their development (Neenan 2018a; Carpenter 2007). Indeed, processes at the ICC could feed into the development of best practices in relation to securing immediate and long-term support for these children, which has been a key recommendation coming out of expert meetings on children born of war (Mochmann and Haavardsson 2012; SINTER University of Cologne and GESIS – Leibniz Institute for the Social Sciences 2016, Expert Meeting). However, while accountability and reparations are important, and they may contribute to child-wellbeing at the micro level, they cannot be guaranteed. Thus, the core argument of this article is that the real impact of the ICC may be at the macro level in terms of its ability to influence perceptions of these children and reduce the narratives that fuel stigmatisation and prevent human flourishing. As such, this article contributes to the growing literature on children born of SGBV by providing a more nuanced understanding of the ICC as part of the ecological environment in which child development occurs.

Although this analysis is limited to children born of SGBV and the ICC, it may also be extended to other institutions of criminal justice or transitional processes developed in the aftermath of conflict, as well as children exposed to these processes more generally. The article will proceed as follows: section 2 will explore the factors contributing to the increasing attention to children born of SGBV; section 3 will explore the emerging visibility of these children at the ICC through an ecological lens; section 4 concludes that although the ICC has yet to successfully convict an individual of SGBV and provide reparations that may include children born of such violence, it nonetheless has the potential to influence the development of these children at the macro level by developing sensitive jurisprudence in this area, challenging rather than reinforcing stigmatising frames. As such, some foundational questions to guide future research are set out.

2. Children Born of SGBV on the Global Stage

Historically crimes of SGBV have been ignored or dismissed as regrettable but unavoidable parts of war (Bensouda 2014, 538; United Nations 1998). The patriarchal lens through which war and conflict has originally been framed privileged male interests at the expense of women's, relegating them to the private or domestic realm and thus not worthy of international attention or international prosecution (Watson 2007; Ni Aolain 2000; Charlesworth, Chinkin and Wright 1999). Beginning in the 1970s, however, feminist academics and activists began to challenge this gender bias (Enloe 1983; Tickner 1992; Pettman 1996) and create an environment where SGBV crimes committed in war could no longer be ignored (Brownmiller 1975; Niarchos 1995). Indeed, SGBV has now firmly made it onto the international agenda, with a number of international criminal tribunals, including the ICC, investigating and prosecuting these crimes (see Halley 2008-09; Bedont, and Hall Martinez 1999), political action being taken by states (Global Summit to End Sexual Violence in Conflict 2014), a series of United Nations Security Council Resolutions being passed (SCR 1820, 1888, 1889, 1960, 2106) and 19th June being designated as the International Day for the Elimination of Sexual Violence.

Yet, a particularly vulnerable and marginalised group (McKay and Mazurana, 2004; Annan et al., 2008; Coulter, 2009) impacted by these crimes who have remained 'forgotten' (Clarke 2014) are the children born as a result (Lee 2017; Seto 2013; Carpenter 2010). Caution should, however, be heeded when speaking of these children primarily in terms of vulnerability and disadvantage, as noted by Mochmann 'many have coped fairly well with their lives' (2017, 340). Nonetheless, global research indicates that they experience common risk factors that require intervention if they are to reach their full potential (Neenan 2018a; Mochmann 2017). For instance, research suggests that responses to rape in some societies can be a source of structural violence, with raped women being labelled 'spoiled goods' and rejected by their families, their livelihoods may be impacted as a result of ostracisation or ill-health brought on by the initial violation (Clark 2014, 158). Where these health, social and economic needs are left unaddressed, they may be 'passed on' to the child born of rape with enduring, intergenerational effects (Neenan 2018a; Denov and Lakor 2017). Negative labels are often attached to these children by their communities, such as, 'children of bad memories' or

‘children of hate’ in Rwanda; ‘children of shame’ in Kosovo; ‘children of the enemy’ in East Timor (Theidon 2015, 193). These labels can have a detrimental impact on a child’s social and behavioural development. Indeed, research has demonstrated that dominant views or stereotypes ‘can influence social interactions in ways that lead to their behavioural confirmation — even to the extent of causing mistaken impressions to become real’ (Sibicky and Dovidio 1986, 148). Although there may be opportunities to change people’s perceptions, children born of SGBV often acquire ‘superimposed identities - inextricably linked to that of the rapist...’ that are difficult to shift (Clark 2014, 147 and 189). Indeed, as Goffman has explained, stigma can work in a dehumanising way, reducing the stigmatised person to a ‘tainted, discounted one’, and on this assumption those around them may ‘exercise a variety of discrimination, through which we effectively, if often, unthinkingly, reduce his life chances’ (Goffman 1963, 5).

The nature of this stigmatisation and its life-long physical and economic effects on children born of SGBV is evidenced in report by the World Health Organisation (WHO) which found that these children ‘may be neglected, stigmatized, ostracized or abandoned. Infanticide may occur’ (2000, 113). Furthermore, these children may suffer from conflicting identities, neither feeling like they belong to the mother’s community due to discrimination or to the father’s community due to the violence that brought about their birth (Seto 2016, 17; Carpenter 2010; Mochmann and Lee 2010, 276). Where the child is unaware of the origins of their birth, due to it having been concealed from the child, or the identity of their father, the child may suffer from a lack of identity and consequently a lack of citizenship (Grieg 2001, 11; Theidon 2015, 196-198). As such, the stigma attached to the conception of these children can constitute a significant obstacle to the realisation of their basic human rights, such as, for example, a child’s right to be free from abuse and their right to preserve their identity (Article 20-29 and 8 UNCRC). Thus, many of the nested systems that make up the ecological environment of these children, from the family to the community to the belief systems surrounding them, can be negative in nature and have severe implications for their overall development and well-being.

While there is now a burgeoning literature (see e.g., Mochmann 2017) and growing research networks (see e.g., CHIBOW; INIRC-CBOW) theorising and documenting the experiences of these children, the international community has been slower to respond. Indeed, attention has been drawn to an ‘accountability’ or ‘protection gap’ in relation to these children (United Nations 2013; Neenan 2018a). Three primary reasons have been advanced to explain this gap. Firstly, difficulties in gaining access to this so called “hidden population” (Mochmann 2017 and 2015) have been identified, with suggestions that these children are difficult to find or do not wish to be found. Secondly, it has been suggested that policy makers have been reluctant to single these children out due to fear that such exposure may result in further stigmatisation (Neenan 2018a; Carpenter 2004-05). Thirdly, addressing the needs of children born of SGBV requires a complex understanding of victimisation and vulnerability that is difficult to articulate within narratives that seek to attribute problems to the ‘deliberate (intentional) actions of identifiable individuals’ (Keck and Sikkink 1998, 2). Indeed, as noted above these children have been constructed as symbols of ‘human wrongs’ (Carpenter 2010, 48) and thus part of the problem as opposed to individuals in need of protection.

Scholars and activists have however persistently challenged these perceived barriers noting, for example, that similar challenges arise in relation to child soldiers (Carpenter 2010), yet these children have gained a privileged place within the international social imaginary (Special Representative of the Secretary-General for Children and Armed Conflict and UNICEF 2014). Now, after a decade of research and advocacy, the international community have finally acknowledged children born of SGBV as worthy of international attention, as evidenced through attention to ‘The Plight and Rights of Children Born of War’ during 2018’s International Day on the Elimination of Sexual Violence in Conflict. This recognition will help to raise awareness and increase the opportunities for comparative research which may help to identify best practice in addressing the needs of this group. As noted by Mochmann (2017, 341), civil society, health personnel, politics and other actors must pay attention to these children, ‘their diversity, but also similarity. Only this way we can provide a sustainable environment of support and trust integrating CBOW into (post-)conflict societies’.

One means of creating a sustainable environment for children born of SGBV may be to include them within international criminal justice processes established in the aftermath of conflict. Indeed, this was one of the recommendations of a 2018 report on closing the protection gap for children born of war (Neenan 2018a), which emphasised the need to acknowledge and repair rights violations against these children; to acknowledge and respect their human rights at all stages of the legal process; take measures to reduce unintended risks of stigmatisation, including at the reparations phase; and strive for the delivery of transformative reparations for these children. While such processes can sometimes seem remote from victims themselves (see e.g., Zacklin 2004), with the ICC for example being geographically removed from the populations affected by the crimes it is prosecuting (Chazal 2016, 100), an ecological approach to children born of SGBV requires ‘a thorough examination of the protective capacities (and deficits) of key people and systems that surround children’ (Boothby 2008, 502). By drawing on two cases before the ICC where children born of SGBV have featured to varying degrees, the follow section will demonstrate how the ICC forms part of these children’s ecological environment and can directly or indirectly impact upon their development.

3. Children Born of SGBV at the ICC

Although historically women and children have been neglected within international criminal justice processes (Coomaraswamy 2015), the ICC marks an important turning point, stating in its preamble that it is ‘mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity’ and determined to create an international criminal court ‘for the sake of present and future generations’ (ICC Statute 2000, Preamble). The resultant statute expressly prohibits a range of child-specific crimes, such as the conscription or enlistment of children under the age of 15 (Art 8 (2)(b)(xxvi) and (e)(vii)), as well as an expansive list of SGBV crimes such as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity (Art 7 (g); Art 8 (2) (b) (xxii) and 8 (2) (e) (vi)). Further to this, the Office of the Prosecutor (OTP) for the ICC published a 2014 ‘Policy Paper on Sexual and Gender-Based Crimes’ and a 2016 ‘Policy Paper on Children’, demonstrating a

commitment to ending impunity for crimes against children and crimes of SGBV. Thus, in general, the ICC, where it is carrying out investigations or prosecutions in a particular jurisdiction, could be viewed as part of a child's exosystem due to its law enforcement role. Further to this, it could also form part of the child's macrosystem as it projects norms in relation to children through its treatment of crimes against them, and it may form part of the child's chronosystem as it may mark a transition from conflict to accountability, although the processes do not always follow a linear path.

Children born of SGBV, however, present a challenge for the ICC as, while rape and other forms of SGBV are crimes, the focus of these crimes, and their punishment, is on the original act rather than the conception or birth of a child as a result. Indeed, although the crime of forced pregnancy might, at first glance, seem to capture this, the core wrong of forced pregnancy is not the perpetrator's involvement in the woman's conception, rather it is the perpetrator 'unlawfully placing the victim in a position in which she cannot choose whether to continue the pregnancy' (ICC-02/04-01/15-422-Red, paragraph 99). Thus, there is no direct crime for which international criminal law could hold an individual to account in respect of these children. Indeed, the precarious status of these children within international criminal law is reflected in the limited attention they received in the policy paper on children: as a footnote in relation to the multi-generational impact of crimes against children i.e., rape of female child soldiers resulting in pregnancy and later in the document in relation to the impact on the education of those children who become pregnant from rape (OTP 2016, footnote 6 and para 87).

One way to overcome this lack of inclusion may be to pursue legal accountability for the original crime committed against the mother. While this approach may not be ideal, as there is a danger that the children become subsumed, and ultimately lost, within the crime committed against the mother (Goodhart 2007; Carpenter 2010), the ICC has the potential to provide fuller attention to these children through its reparations mandate. In this regard, victims are eligible for reparations at the ICC where they have 'suffered harm as a result of the crimes for which the accused is found guilty' (ICC-01/04-01/06-3129-AnxA, para 17). Reparations can be individual and/or collective in nature: individual reparations focus on the specific harm to the individual and may involve restitution and compensation (Rosenfield 2010, 733). Thus, careful treatment of SGBV crimes may provide the necessary frame to give more visibility to children born as a result and to address their needs. In this regard, the ICC, depending on the nature of reparations, has the potential to impact children born of SGBV at the more micro level. The following section explores this potential more fully by drawing on two cases before the ICC where children born of SGBV have featured.

The Case against Jean-Pierre Bemba Gombo at the ICC

On 21 March 2016, Jean-Pierre Bemba Gombo, President and Commander-in-Chief of the *Mouvement de libération du Congo* (MLC), was found guilty before the ICC of three counts of war crimes and two crimes against humanity, including the crime of rape, committed by MLC soldiers in the Central African Republic (CAR) in 2002 to 2003 (ICC-01/0501/08-3343).

While this case marked a historic moment, as it was the first conviction of rape at the ICC, it was subsequently overturned on appeal (ICC-01/05-01/08-3636-Red). As a result, the victims lost their right to reparations. Nonetheless, this case provides interesting insights in relation to the place of children born of SGBV within the ICC framework. In this case, expert testimony delivered by Dr Tabo, head of the Psychiatric department at the Centre National Hospitalier Universitaire de Bangui, identified four women who suffered unwanted pregnancies as a ‘medical consequence’ of rape (ICC-01/05-01/08-T-100-ENG, 27). While Dr Tabo noted that these women may represent only a fraction of those actually affected (ICC-01/05-01/08-T-100-ENG, 29), there is no further mention of the experience of the children themselves and the trial judgment only mentions the issue in a footnote, again in relation to medical consequences for female victims of rape (ICC-01/05-01/08-3343, footnote 1761). During the sentencing hearing, however, one victim testified about her concern for the future of her child born of rape: ‘The three others which I had, I know that their father's families are there, and if something happened to me, those children could go and live with the family of their father. But when it comes to this child, what will her fate be if anything happens to me?’ (ICC-01/05-01/08-T-369-Red-ENG WT, 55). This testimony is representative of the ‘longitudinal and intergenerational’ impact of rape and mass sexual violence (ICC-01/05-01/08-T-368-ENG ET WT, 90), yet it was not explored further in the sentencing judgment. Indeed, mention was only briefly made to the unwanted pregnancies rather than the children who were born (ICC-01/05-01/08-3399, 36).

The Expert Report on Reparations carried out in this case prior to the appeal stands in stark contrast to the judgement and sentencing, drawing attention to the ‘highly vulnerable’ situation of children born of rape (ICC-01/05-01/08-3575-Anx-Corr2-Red, 48-50). Although, as mentioned above, the victims in this case will no longer receive ICC ordered reparations, this report is important in relation to how these children and their specific needs have been framed. Further to this, the Trust fund for Victims (TFV), who work with the ICC to deliver reparations and provide aid to victims of crimes falling within the jurisdiction of the Court, has committed to providing ‘physical and psychological rehabilitation, as well as material support’ to victims in this case, paying particular attention to harms from SGBV (TFV 2018). In this regard, the TFV will take ‘careful note of the extensive evidence of victim suffering established in the context of the Bemba case’ (ibid) which may include the Expert Report. According to the Experts, the number of children born of rape as a result of Bemba’s crimes is unclear due to the ‘opaque silence’ surrounding them (ICC-01/05-01/08-3575-Anx-Corr2-Red, 116). However, it was noted that the children would be about 13 years old now and that some mothers of these children have used their own fathers name to hide the child’s origins in an attempt to avoid stigmatisation (Ibid, 117-118). Indeed, where the identities of these children are known, it has been reported that they have suffered appalling harms in CAR. For instance, they have been referred to as “Bayamulengues” or ‘Bemba’s children’, mocked and discriminated against (Ibid, 117-118). Consequently, they have been denied welfare, a school education and an environment that is conducive to their advancement. Some children have died from neglect while others have died from untreated HIV/AIDS (Ibid, 117).

As such, the Experts recommended, amongst other measures, that persons who were victims of sexual violence who are HIV-positive, as well as children born as a result of this violence

who are HIV-positive, receive lifetime access to anti-retroviral (ARV) medication, similar lifetime access to medication to counter illness linked to HIV or HIV/AIDS, and food assistance for at least 12 months (Ibid, 156-175). They also suggested that collective forms of reparations should be provided such as providing sustainable psychosocial support and mental health care and covering the cost of promoting awareness programs (via radio and printed materials) to address the stigmatization of rape victims and their children. Measures such as these are to be welcomed, as, from an ecological perspective, they can provide the opportunity to ‘heal the individual and enhance his or her sources of resilience’ (McCouch 2009, 200) through attention to their health and psychosocial needs, as well as their mothers. They also challenge the regressive beliefs about these children that exist at the macro level and can contribute to the child’s chronosystem by providing a more stable living environment.

However, had the Experts not drawn attention to these children they would have featured only marginally in the *Bemba* case, and while the TFV has committed to providing support the exact details of this are not yet known. Further to this, Neenan (2018b) has highlighted the potential stigmatising effect of the ICC in terms of the narrative it creates around these children, as demonstrated in the Expert report which categorises them as a ‘serious harm’ (see ICC-01/05-01/08-3575-Anx-Corr2-Red, 102). Thus, while the ICC can impact a child’s macrosystem through ordering reparations that challenge regressive beliefs, the ICC itself, through its level of inclusion and its use of language, can also impact this system. Indeed, ‘what place of priority children and those responsible for their care have in such macrosystems is of special importance in determining how a child and his or her caretakers are treated and interact with each other in different types of settings’ (Bronfenbrenner 1977, 515). If a macrosystem already devalues such children and the ICC uses stigmatising language, reducing them to a ‘consequence’ ICC-01/05-01/08-T-100-ENG, 27) or a ‘serious harm’ (ICC-01/05-01/08-3575-Anx-Corr2-Red, 102) without further sensitive engagement, it may perpetuate these vulnerabilities, ‘exacerbating the war’s scars’ (McCouch 2009, 200) and negatively impact child development.

The Case against Dominic Ongwen at the ICC

Children born of SGBV have featured more prominently in the case against Dominic Ongwen, alleged Former Brigade Commander of the Sinia Brigade of the Lord’s Resistance Army in Uganda, who was charged with forced pregnancy and forced marriage, amongst other crimes, in March 2016 (ICC-02/04-01/15-422-Red). In this case, the OTP submitted DNA evidence at the confirmation of charges stage indicating that Ongwen was the father of eleven children whose mothers alleged that they had been subject to SGBV as ‘overwhelming proof’ of his crimes (604-606). In this regard, children born of SGBV were given visibility early on in the *Ongwen* case through an evidential role.

Invoking children as ‘evidence of atrocity’ (Carpenter 2010, 108) has, however, been criticised for reducing them to symbols of ‘the trauma the nation went through’ (Rehn and Sirleaf 2002, 16) and for potentially exposing them, and the women who are raped, to more danger (McEvou-Levy 157). For instance, there is a risk that perpetrators will kill the women who are raped to

prevent any births or that, upon birth, the children will be killed so as they cannot be used as ‘evidence’ of the perpetrators crimes (Mochmann and Haavardsson 2012; SINTER University of Cologne and GESIS – Leibniz Institute for the Social Sciences 2016, Expert Meeting). While there are indeed concerns over this approach if it marks the beginning and end of our consideration of these children, in *Ongwen* it provided an entry point for a discussion of their specific plight, a discussion that might not have occurred otherwise. This is demonstrated when the Chief Prosecutor, Ms Bensouda, drew attention to ‘a whole category of other victims: the children born in captivity resulting from these forced marriages, who sometimes face hostility and taunts as a result of their parentage’ in her opening statement (ICC-02/04-01/15-T-26-ENG, 35). The language used by Ms Bensouda is significant, as it moves beyond a focus on the mother in the form of unwanted pregnancies to a focus on the difficulties faced by the children themselves, thus rendering them intelligible subjects in the broader narrative of victimisation. Similarly, in the opening statement of the Legal Representative of Victims, reference was made to a ‘whole new generation born and raised in the camps has lost principles for culture and tradition and the way of life of the communities in these areas’ and to the social stigma attached to children born of LRA commanders (ICC-02/04-01/15-T-27-ENG ET WT, 59).

Further to this, women who were forced into marriage with Ongwen have spoken about these children in their testimonies (see for instance, ICC-02/04-01/15-T-16-Red-ENG WT, 37) with one witness asking the court to assist ‘children who are being born in the bush’ by providing ‘land so that when the children come home they can have a future’ (ICC-02/04-01/15-T-140-Red-ENG WT, 32). Expert Testimony was also provided by Professor Musisi, Professor of Psychiatry at Makerere University, Kampala, on the difficulties faced by children born in the bush, including a lack of acceptance by their mothers families; a lack of inheritance or land due to having been born out of wedlock; the double burden stigmatisation of being born out of wedlock and being a ‘so-called rebel child’; lack of ‘culturalisation’ or ‘socialisation’ in traditional Acholi culture or society; and the gendered challenges facing boys who have no land ownership (ICC-02/04-01/15-T-177-ENG ET WT; ICC-02/04-01/15-T-176-ENG ET WT). In this regard, children born of SGBV have been more centrally embedded within the narrative of the conflict as individual victims who have suffered unique harms and require redress.

As demonstrated in the foregoing discussion, the visibility of children born of SGBV has improved somewhat at the ICC. While in *Bemba* the lack of specific attention to children born of SGBV throughout the trial process resulted in the need for intervention by Experts at a late stage in the trial and the reparations process came to an abrupt end as a result of Bemba’s acquittal, the early and ongoing attention to children born of SGBV in *Ongwen* may provide vital insights into how such children find their place within the narratives of international criminal justice. The impact of these narratives should not be underestimated. As noted above, the labels and dominant beliefs regarding these children can impact upon their social, behavioural, physical and economic well-being, with poor development in these areas where negative stereotypes are the norm. As part of a child’s ecological environment, the ICC can

challenge these narratives through its own treatment of children born of SGBV and should thus adopt sensitive and inclusive language.

4. Conclusion

International attention to the plight of children born of SGBV is a crucial step towards acknowledging that intervention is needed if the common risk factors they face are to be addressed. The inclusion of these children within international criminal justice processes, such as those at the ICC, is further acknowledgment that the harms suffered by these children deserve redress. In adopting an ecological framework, this article has provided a new lens from which to explore the real and potential impact of the ICC on the lives of children born of SGBV. Indeed, by drawing on Bronfenbrenner's ecological model of human development it has situated the ICC within the nested structures that make up a child's ecological environment, with the ICC being part of the broader exosystem and the chronosystem of the child, as well as having the ability to impact upon or influence the more immediate environments in the child's microsystem, through reparations for example. However, as has been demonstrated in *Bemba*, reparations at the ICC are dependent upon a successful conviction and thus may never come into fruition.

Thus, while securing accountability and reparation are important, a potential enduring impact of the ICC, regardless of conviction, is its ability to challenge perceptions of children born of SGBV and reduce the narratives that fuel stigmatisation and prevent human flourishing at the macro level. Indeed, the way in which the ICC treats children born of SGBV, the attention it gives them in its investigations and prosecutions and the language used to describe them, can reinforce or transform the way their community and, given the ICC's international nature, the wider international community perceives them. Thus, the categorisation of children born of SGBV as a 'medical consequence' (ICC-01/05-01/08-T-100-ENG, 27), a 'serious harm' (ICC-01/05-01/08-3575-Anx-Corr2-Red, 102) or simply as 'proof' (ICC-02/04-01/15-422-Red 604-606) of rape without further careful engagement contributes to a narrative in which these children are defined by the crime that brought about their conception, which can have a detrimental impact on their development and, at its most extreme, their lives.

However, more research is needed to fully understand the extent to which ICC engagement with children born of SGBV positively or negatively impacts upon their overall development. For instance, while no reparations have been ordered in relation to children born of SGBV, future research might want to explore the approach to reparations taken by the TFV in CAR, who have committed to providing assistance to victims of SGBV, which one would hope would include children born of SGBV in light of the Expert Report in *Bemba*, as well as any other reparations order that might come out of the ICC in relation to these children. Consideration could be given, for example, to whether the reparative measures contribute to an improvement in the physical, social and economic well-being of the child. On a more macro level, research could be conducted to determine the extent to which the language used to describe children born of SGBV within ICC processes resonates on the ground: are local communities aware of framings of children born of SGBV at the ICC and does this influence the way community

members interact with these children or the way these children perceive themselves? Such research would move us forward in the quest to identify the factors that help or hinder the creation of a post-conflict environment that is responsive to the needs to children born of SGBV.

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