

KELLI MUDELL AND SIBLEY HAWKINS

GENDER AND TRANSITIONAL JUSTICE

A TRAINING MODULE SERIES

October 2018



Module 3

Reparative Justice

Acknowledgments

These training modules were prepared by Kelli Muddell, Senior Expert and head of ICTJ’s gender justice initiatives, and Sibley Hawkins, program expert at ICTJ, with support from program expert Elena Naughton. The modules also benefitted from content and design support from intern Madeline Wood and consultant Anjali Manivannan. The “Women’s Voices and Participation” film and several slide presentations were prepared by Marta Martínez, consultant for ICTJ. Emily Kenney and Megan Manion from UN Women provided valuable technical input.

These modules were produced with the financial support of the European Union. Their contents are the sole responsibility of ICTJ and do not necessarily reflect the views of UN Women or the European Union.

About ICTJ

The International Center for Transitional Justice works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims’ dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org.

Cover image: In West Papua, Indonesia, indigenous women documented violence and human rights violations occurring between 1963 and 2009, during the period of integration of their region in Indonesia. (ICTJ/Anne Cecile Esteve).

©2018 International Center for Transitional Justice. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution.

Table of Contents

How to Use the Modules

Module 1: Overview

- a. Introduction
- b. What Are the Goals of Transitional Justice?
- c. Evolution of Transitional Justice
- d. What Responses Can Transitional Justice Include?
- e. Defining Gender
- f. The Gender of Violence
- g. Sexual and Gender-based Violence
- h. Gendered Impact of Human Rights Violations
- i. What Is at Risk with a Gender-neutral Approach?
- j. Operationalizing a Gender Approach to Transitional Justice: Guiding Questions
- k. What Is Needed to Ensure a Gender-sensitive Approach Is Sustainable?
- l. Role of Civil Society

Module 2: Truth Seeking

1. Introduction
2. Why Truth?
3. Forms of Truth Seeking
4. Why Gender-sensitive Truth Seeking Matters
5. Relationships Between Truth-seeking Bodies and Women's Groups
6. Design Phase
7. Statement Taking
8. Public Hearings
9. Final Report
10. Outreach

Module 3: Reparative Justice

1. Introduction
2. What Are Reparations?
3. Gender and Reparations: Why Gender Matters
4. The Importance of Definitions
5. Forms of Reparations
6. How Reparations Come About
7. Establishing a Reparations Program and Soliciting Victim Input
8. Victim Registration

9. Who Receives Reparations? Eligibility and Inclusivity
10. Implementing Reparations
11. Achieving Transformative Impact

Module 4: Criminal Justice

1. Introduction
2. Why Prosecutions?
3. Prosecuting SGBV under International Law
4. Mechanisms for Pursuing Accountability for SGBV in Transitional Contexts
5. Evolution of Prosecuting SGBV
6. The Rome Statute and the ICC
7. Establishing Priorities
8. Bias as a Challenge to Prosecuting SGBV
9. Importance of Staffing
10. Procedural Considerations
11. Outreach to Communities
12. Re-conceptualizing Gender within and beyond Criminal Justice

Module 5: Memorialization

1. Introduction
2. Why Memorials?
3. Forms of Memorialization
4. Memorials around the World: Introductory Examples
5. Why Is Memorialization Important for Women?
6. Memorializing Women's and Girls' Experiences
7. Memorials: Truth Seeking, Truth Telling, and Gender
8. Memorials as a Form of Symbolic Reparations
9. Challenges for Successful, Representative Memorialization Processes
10. What Can Be Done to Make Memorials Relevant to and Meaningful for Women and Girl Victims?

Module 6: Women's Voices and Participation in Transitional Justice (Video only)

Appendix: Additional Resources

CONTENT WARNING: This training seminar contains descriptions of crimes against humanity and other grave violations, including sexual violence, that some readers and trainees will find difficult.

How to Use the Modules

a. Objectives and Goals

With the support of UN Women, ICTJ developed a set of multimedia training materials with in-depth information on different phases and dimensions of a gender-sensitive transitional justice process. The intended audience for this project is broad, and thus the materials are designed to be accessible for diverse state and civil society actors. This includes those seeking to increase their knowledge so that they can better train or work with others, such as staff of intergovernmental institutions or national human rights groups. It also includes those who plan to apply the materials more directly, such as people working with or within transitional justice measures.

There are six modules in total, covering the following topics: (1) a conceptual overview of gender and transitional justice, (2) truth seeking, (3) reparative justice, (4) criminal justice, (5) memorialization, and (6) women’s voices and participation in justice processes. While ICTJ recognizes that all transitional justice processes are intertwined and best served by a holistic approach, we also understand that in practice, often only one or two processes have strong momentum at any given time. ICTJ also notes that the universe of what can be considered a transitional justice process extends well beyond the topics included here. Thus, rather than serving as a comprehensive and exhaustive tool kit—which could not possibly be created—these modules and the proposed categorizations are intended to allow users to personalize their own training programs in a way that is as relevant as possible to their context.

The first five modules each consist of an interactive PowerPoint presentation and accompanying speaker notes to assist users in preparing their own training or presentation.

The final module, “Women’s Voices and Participation in Transitional Justice,” takes the form of a short video that tells the story of how women have participated in the transitional justice process and explores how they can participate now. This module is intended to broaden the reach of the training materials, as it is accessible to any audience. It can be used directly with women victims in sensitization workshops or other, similar contexts.

b. Using the Modules

The modules are designed to allow users to personalize and adjust their own trajectory through the materials based on their needs, experiences, and expertise. The concepts mentioned in each slide correspond to a section in the accompanying speaker notes. At the beginning of each section, the main points are summarized in bullet form and then explained in detail. The speaker notes also contain user-friendly additions such as links to key supplementary information and primary resources, as well as country-specific examples. Throughout each module, discussion questions and suggested exercises are contained in blue bordered boxes, to be explored at the user’s discretion.

Users can design the training to fit the needs of the intended audience by skipping certain information, focusing more on supplementary materials, or engaging in dialogue via questions and activities.

It is recommended that the presenter familiarize him- or herself with the slides and the speaker notes in advance to anticipate where the slide breaks occur. Within a section of the speaker notes, there may be multiple corresponding slides.

Accompanying these modules is a document entitled “Additional Resources.” This document can be consulted should the user wish to learn more about a particular topic.



Photo: Colombian women demanding reparations at a demonstration in Puerto de Asis (ICTJ/Camilo Aldana Sanín)

Module 3: Reparative Justice

Gender and Transitional Justice: A Training Module Series

1. Introduction

- Human rights violations affect women and men differently due to economic and social inequalities.
- Reparations processes need to be designed and implemented in a way that considers the gender-specific harms, needs, and priorities of victims.

Reparative justice measures seek to repair, in some way, the harm done to victims as a result of human rights violations committed against them. This means that by their very nature, such measures must be responsive to both the context in question and the lived reality of victims. Gender sensitivity is also an integral part of reparative justice because the consequences of human rights violations in victims' lives are often inextricably linked with victims' gender. Even when women and men suffer the same human rights abuses, the harms associated with these violations, and victims' corresponding needs and priorities, may be different.

In contexts of widespread violations of human rights, women often find themselves in situations of greater vulnerability than men because of the economic and social inequalities they face even during peacetime. Moreover, shame and stigma associated with certain crimes, such as sexual violence, can create obstacles for victims to receive accountability, truth, and redress. This is true for all victims of sexual and gender-based violence, not only women. In fact, male victims may have an even harder time accessing reparations for sexual violence crimes because it is often assumed that women are the only victims.

Because of these dynamics, reparative justice measures must be designed to address the gender-specific harms faced by victims, align with their needs and priorities, and make sense for victims given their day-to-day realities. Reparations should reflect the nature of the violations and the gender-specific consequences that result. Unsurprisingly, past reparations programs have not always done this.

Reparations advocates and policymakers must assess how gender differences and inequalities might affect the design and implementation of a reparations policy and act accordingly. It is important to ask what can be done to ensure that gender is considered at each stage of the reparations process.

For example, programs should be conceptualized, designed, and implemented in a way that vindicates victims' right to redress and ensures that certain victims or categories of violations are not excluded because of criteria that discriminate based on gender or operational practices that alienate marginalized victims, intentionally or not.

There are several challenges to gender-sensitive reparations efforts, including for marginalized groups such as male victims of sexual violence and lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) victims. Strong strategies and a proactive approach to addressing challenges can help reduce the likelihood that some victims are left out.

As with other transitional justice processes, the meaningful participation and consultation of women victims and victims of sexual and gender-based violence in the mapping, design, implementation,

monitoring, and evaluation of reparations measures cannot be stressed enough. Without victims' involvement, it will be impossible to anticipate and overcome gender-specific obstacles, especially those that are context-specific. Because women and groups working on gender issues often face unique barriers to meaningful participation, steps must be taken to encourage their involvement and amplify their contributions.

2. What Are Reparations?

- Reparations are meant to recognize and redress the wrongdoing that occurred and to repair the consequences of the violations to the extent possible.
- States, groups, and individuals have an obligation under international law to provide reparations.
- Although development or humanitarian assistance may offer similar benefits, reparations are distinct.

Reparations can serve multiple purposes. They are meant to acknowledge victims, repair specific harms they have suffered, and affirm victims as rights bearers. Ideally, reparations should challenge the factors that enabled violations to occur in the first place. For women and other groups who may have been particularly marginalized prior to periods of widespread human rights abuses, reparations may also contribute to changing preexisting structural inequalities.

Example: In Morocco, the reparations program proposed by the Equity and Reconciliation Commission (IER) broke with previous compensation schemes, which had all followed Sharia law and therefore did not recognize wives as heads of household. The IER based the reparations program on a more equitable metric that allowed women to receive the greatest amount of compensation when acting as the head of household. This decision contributed to subverting gender inequalities.

Reparations programs for victims of human rights violations are intended to bring justice to the victims. They signal the state’s understanding of its moral and legal obligation to recognize and redress wrongdoing that occurred and to repair the consequences of violations to the extent possible.

Reparations may address both the tangible (material) and intangible (moral) losses suffered by victims, as well as both urgent consequences and longer-term harms experienced over the course of years or even generations. They can provide acknowledgment in material and symbolic forms, and they “may be directed at individuals or at collectives, such as communities, groups, or regions.”¹

The [*Guidance Note of the Secretary-general on Reparations for Conflict-related Sexual Violence*](#) (2014) contains the following guiding principles:

- “Adequate reparation for victims of conflict-related sexual violence entails a combination of different forms of reparations
- Judicial and/or administrative reparations should be available to victims of conflict-related sexual violence as part of their right to obtain prompt, adequate and effective remedies
- Individual and collective reparations should complement and reinforce each other

¹ Lisa Magarrell, “Reparations in Theory and Practice,” International Center for Transitional Justice (2006), 5.

- Reparations should strive to be transformative, including in design, implementation and impact
- Development cooperation should support States' obligation to ensure access to reparations
- Meaningful participation and consultation of victims in the mapping, design, implementation, monitoring and evaluation of reparations should be ensured
- Urgent interim reparations to address immediate needs and avoid irreparable harm should be made available
- Adequate procedural rules for proceedings involving sexual violence and reparations should be in place”²

Different terms are used to describe the range of measures undertaken to provide relief to victims of human rights violations: for example, *reparations*, *redress*, *compensation*, *restitution*, and *remedy*. Individuals may understand these concepts in different ways. The terms may also take on different meanings in different languages and cultures.

In one of the earliest acknowledgments that reparations must be given for violations of international law, the Permanent Court of International Justice stated: “Reparation must, so far as possible, wipe out all the consequences of the illegal act, and reestablish the situation which would have existed if that act had not been committed.”³ However, for victims of human rights violations, *restitutio ad integrum* (restoration to original condition) “may not be possible, sufficient or appropriate.”⁴

While it may be impossible to fully restore victims, states should provide “adequate, effective, and prompt remedies”⁵ for the harm suffered in accordance with applicable standards.

a. Reparations within Transitional Justice

Reparations programs may operate in post-conflict or post-authoritarian societies, either alone or in tandem with other transitional justice measures. Reparations are established in a number of ways. Many have been originally recommended by truth-seeking institutions. Alternatively, civil society organizations or government policymakers may undertake advocacy or push for reparations policies on their own initiative or based on victims' demand.

Once a program is designed or recommended, additional steps are needed so that victims can actually begin receiving reparations. This can happen through a court order or by government decree or legislation (the latter is usually referred to as *administrative reparations*).

² United Nations, “Guidance Note of the Secretary General: Reparations for Conflict-related Sexual Violence” (June 2014).

³ *Chorzow Factory Case Germany v. Poland*, Series A, No. 17, Permanent Court of International Justice, Collection of Judgments No. 13, ¶ 47 (Sept. 13, 1928).

⁴ *Aloeboetoe et al. v. Suriname*, Series C, No. 11, Inter-American Court of Human Rights, Judgment (Reparations and Costs) (Sept. 10, 1993).

⁵ UN General Assembly, 60th Session. *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2006 (New York: Official Record A/RES/60/147), Art. 1.b.

In some cases, similar reparations measures are offered to all victims without distinction. In other circumstances, benefits vary by the type of violation (e.g., enforced disappearance or killing) or the category of victim (e.g., former political prisoners, widows or children of victims, youth until a certain age, or elderly victims). They may also be tailored to a specific harm (e.g., rehabilitation for war wounds).

Reparations require a long-term commitment that necessarily extends beyond the life of any one government, coalition, or political administration. Reparations should also always be only one part of a larger process of change that needs to be defined and moved forward by society as a whole.

b. Legal Basis

Reparations constitute an obligation under international law.⁶ The notion of reparations is tied to issues of responsibility. At the broadest level, reparations are intended as a means of bringing justice to victims. Reparations are a particularly important form of justice because the challenges to accessing criminal justice mechanisms are especially acute in transitioning societies. Formal justice systems may no longer exist, may function inefficiently, or may lack independence.

The legal basis for a right to remedy and reparations is enshrined in the corpus of international human rights instruments. It is widely accepted as a principle of state responsibility under customary international law.⁷

Example: The *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* declares that “where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted.”⁸ It also provides that “when compensation is not fully available from the offender or other sources, States should endeavor to provide financial compensation to: (a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes; (b) The family, in particular dependents of persons who have died or become physically or mentally incapacitated as a result of such victimization.”⁹

Example: The *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* states: “The obligation to respect, ensure respect for and implement international human

⁶ *Chorzow Factory Case Germany v. Poland*, 928] PCIJ Series A, No. 9, Permanent Court of International Justice, Judgment No. 7, ¶ 21 (July 26, 1927).

⁷ See, for instance, Office of the High Commissioner for Human Rights, “Rule-of-Law Tools for Post-conflict States: Reparations Programmes” (2008), 5–6. Also, Article 14 of the Convention against Torture provides that “each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible.” The International Convention on Civil and Political Rights (ICCPR) ensures an “effective remedy” for rights violations including torture; cruel, inhuman, or degrading treatment; arbitrary detention; and enforced disappearance.

⁸ UN General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, Nov. 29, 1985, (New York: Official Record A/RES/40/34), 11.

⁹ *Ibid.* at 12.

rights law and international humanitarian law as provided for under the respective bodies of law, includes, *inter alia*, the duty to:

- (a) Take appropriate legislative and administrative and other appropriate measures to prevent violations;
- (b) Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;
- (c) Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and
- (d) Provide effective remedies to victims, including reparation.”¹⁰

Various international instruments also reference the importance of reparations for women and victims of gender-based violence.

Example: The *Convention on the Elimination of All Forms of Discrimination against Women Committee’s General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations* recognizes that state parties have an obligation to ensure women’s right to a remedy, which encompasses the right to adequate and effective reparations for violations of their rights under the convention. It also recommends that states ensure that reparations are gender-sensitive, promote women’s rights, and include women in the design of programming.

Example: Article 75 of the *Rome Statute of the International Criminal Court* (ICC) reaffirms victims’ right to reparations. It mandates that “the Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.”¹¹

c. Distinction from Other Forms of Assistance

Reparations programs are distinct from development, reconstruction, and victim assistance programs, although the benefits provided within these programs sometimes resemble one another. Reparations programs, however, are a legal entitlement. They signal recognition that a human rights violation occurred and that victims were harmed and are therefore entitled to redress. Victim assistance is commonly concerned with meeting urgent humanitarian needs, whereas development programs focus on reconstruction and recovery efforts that seek to improve the lives of the population more generally.

¹⁰ UN General Assembly, *Basic Principles and Guidelines*.

¹¹ Rome Statute of the International Criminal Court, July 17, 1998, Vol. 2187 U.N.T.S. 3, Art. 75.

Discussion Questions

- What are some potential problems with governments treating humanitarian assistance or development policies as reparations?
- Are there ways governments can pair development assistance with reparations to avoid these problems? If so, how?

3. Gender and Reparations: Why Gender Matters

- Women’s experience of conflict is unique because of their status as women.
- Gender-sensitive reparations programs should strive to be inclusive and consider the full scope of the violations committed and the harms suffered—including both direct and indirect violations and harms—and to provide required redress.

Historically, crimes committed against noncombatants have been deemed trivial and not worthy of attention, especially in contexts of limited resources. Up until the late 1990s, conflict-related sexual violence was often considered a private matter and therefore extraneous to an armed conflict or political opposition to an authoritarian regime.

In addition, when deciding which violations are eligible for reparations, policymakers have historically relied on a particular hierarchy of human rights in which violations of civil and political rights (which often disproportionately affect men) are prioritized over violations of social and economic rights (which often disproportionately affect women).

Example: In Timor-Leste, 102,800 civilians died in 25 years of Indonesian occupation. Of this total, 18,600 were unlawfully killed or disappeared. Many others, however, died of hunger and disease resulting from starvation and displacement. In order to make their recommended reparations program feasible, the Commission for Reception, Truth and Reconciliation (CAVR) “prioritized victims of gross human rights violations thought to have endured the most severe harm, namely: victims of torture, people with mental and physical disabilities, victims of sexual violence, widows and single mothers, children affected by the conflict and communities that suffered large-scale and gross human rights violations, with a relatively high concentration of victims identified above.”¹²

These viewpoints end up affecting women’s access to reparations, even though women suffer a variety of forms of harm during a conflict.

In many instances, women will endure the same violations or experiences as men. More often, however, women’s experiences in war are unique *because of their status as women*. They may be targeted because they are women, become victims of sexual violence, or experience the resulting harms of a violation differently because of their gender and the nature of their role as women in a society. Moreover, women are also likely to face unique obstacles to accessing whatever benefits they are entitled to because they are women.

Some common characteristics that define the experiences of women victims include:

- Increased economic inequality and discrimination, which they already experienced before the conflict or repression. This exacerbates women’s sense of marginalization and their

¹² Galuh Wandita, Karen Campbell-Nelson, and Manuela Leong Pereira, “Learning to Engender Reparations in Timor-Leste: Reaching Out to Female Victims,” in *What Happened to the Women? Gender and Reparations for Human Rights Violations*, ed. Ruth Rubio-Marín (New York: Social Science Research Council, 2006), 309.

- conditions of poverty. For example, widows and wives of the disappeared may have only had access to land through their husbands, who have died or been disappeared.
- Physical health consequences, which for women can entail unwanted pregnancy, sexually transmitted infections such as HIV/AIDS, and reproductive health issues, such as fistula.
 - Mental health issues, such as post-traumatic stress disorder, anxiety, and depression.
 - Distinct social and economic harms arising from stigma around sexual violence, such as the preclusion from employment or marriage.

Reparations should provide specific forms of relief for these particularly gendered types of abuse. Unsurprisingly, however, reparations programs have not always paid adequate attention to gender, either in regard to women’s access to reparations or in the substance of what the reparations entail. Reparations policies and implementation mechanisms must recognize that human rights violations affect victims in different ways and that not all victims share the same needs and perspectives. Differences exist by gender, and also by class, caste, religion, age, ethnicity, location, and other factors.

Example: In its final report, CAVR urged “the government of Timor-Leste to implement a program of reparations for the most vulnerable victims of human rights violations.” It noted:

There are those among us who suffer daily from the consequences of the conflict and whose children will inherit the disadvantages their parents face because of their victimization. They include those who live in extreme poverty, are disabled or are shunned and discriminated. We are all victims but not all victims are equal. We must acknowledge this reality.¹³

In addition, victims and victims’ groups will usually have different perceptions of the harms suffered and may describe and prioritize their needs differently and at different times. Victim priorities are not static; they usually evolve over time.¹⁴

Example: In Argentina, the Mothers of the Plaza De Mayo were divided on the issue of reparations, with some of the founding members rejecting them. Though the reparations were intended as a form of reconciliation, some saw them as a substitute—and an inadequate one—for information on and prosecutions related to the whereabouts of their children. Justice for many was equated with criminal accountability.

Gender-sensitive programs should strive to be inclusive and consider the full scope of the violations committed and the harms suffered. Categories of victims and beneficiaries and benefits should be developed carefully, ensuring that victims will be entitled to meaningful redress.

In addition, reparations programs should take care to ensure that women are not disadvantaged by the roles and responsibilities assigned to them in a society. For example, material reparations are often calculated based on economic loss. This approach can disadvantage women, who frequently work in

¹³ Timor-Leste Commission for Reception, Truth and Reconciliation, *Chegal: The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)*, Vol. IV (October 2005), 2612.

¹⁴ Margaret Urban Walker, “Gender and Violence in Focus,” in *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*, ed. Ruth Rubio-Marín (Cambridge: Cambridge University Press, 2009), 61.

the informal sector. It can also overlook reproductive and caregiving roles, excluding many women survivors of violence from consideration for much-needed reparations.

4. The Importance of Definitions

- Definitions need to be crafted carefully to ensure that certain groups of victims will be eligible for reparations for the violations they have experienced.
- Decisions about the scope of the violations and harms, categories of victims and beneficiaries, and the type and reach of reparations strongly influence whether a program will be gender-sensitive.

Definitions are of crucial importance in reparations programs since they will establish clear categories of people and concrete thresholds of harm or experiences. The primary definition to contend with is that of a victim—without “victim” status, individuals are unlikely to be able to access reparation.

The UN’s *Basic Principles and Guidelines on the Right to a Remedy and Reparation* defines victims as “persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.”¹⁵

The right to reparation can be transmitted to a victim’s heirs by succession. As such, a victim “also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or prevent victimization.”¹⁶

Definitions need to be crafted carefully to ensure that certain groups of victims will be eligible for reparations for the violations they or their relatives experienced. This requires an understanding of both the context and patterns of violations and harm, as well as current best practices and precedents.

Example: Truth commissions have taken different approaches to defining forms of sexual violence that qualify victims for reparations, some problematic and others more inclusive. In Peru, several categories of violations were left out of its definition, including forced abortion, forced cohabitation, forced contraception, sexual slavery, and sexual mutilation. In contrast, the Truth and Reconciliation Commission of Sierra Leone was purposely comprehensive in its definition, which included rape, sexual slavery, mutilation of genital parts or breasts, and forced marriage.

¹⁵ UN General Assembly, *Basic Principles and Guidelines*.

¹⁶ UN General Assembly, *Declaration of Basic Principles of Justice*, 1.

Key areas must be defined early on in a process; they will affect who may be eligible to receive benefits.

Scope of the Crimes/Violations:

The types of sexual and gender-based violence and other violations suffered by women must be considered.

Scope of the Harms:

Harms that directly or indirectly affect women must be considered. Victims' needs must be identified.

Categories of Victims/Beneficiaries:

This includes considering both primary and secondary victims.

Type and Reach of Reparations:

Structural inequalities must be challenged.

Discussion Questions

- In the contexts in which you work, what specific forms of sexual and gender-based violence need to be redressed?
- Separately, what are the types of harms that women have suffered because of conflict or at the hands of repressive governments?

5. Forms of Reparations

- The different forms of material and symbolic reparations that are offered must respond to the violations that occurred, the consequences that were suffered, and the realities of the context, including the level of available funding and capacity.
- Reparations can be provided to individual victims, groups of victims, or communities.
- Reparations may be provided to victims, especially those in urgent need of assistance, on an interim basis. Sometimes interim measures become the only form of reparations ever offered; in other cases, they are the first part of a package of comprehensive benefits that is rolled out over time.

The catchall word *reparations* is used to describe a spectrum of measures that “can serve as a vehicle for acknowledging past violations and state responsibility for harms as well as a public commitment to respond to their enduring impact.”¹⁷ The most common understanding of reparations is that of paying money to victims for the harm they suffered. However, there are many other forms of reparations beyond monetary compensation. Different forms of reparations can range across “[a continuum from the purely symbolic gestures to ones that still send a message but are predominantly defined by their material nature.](#)”¹⁸ The different forms, or combinations of forms, they take depend upon the violations that occurred and the consequences that were suffered. They are also determined by the realities of the context, including the level of available funding and the state’s capacity to implement the program.

¹⁷ Magarrell, “Reparations in Theory and Practice,” 2.

¹⁸ Cristián Correa, Julie Guillerot, and Lisa Magarrell, “Reparations and Victim Participation: A Look at the Truth Commission Experience,” in *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity*, eds. Carla Ferstman, Mariana Goetz, and Alan Stephens (Leiden: Brill Academic Publishers, 2009), 385.

The UN *Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* defines reparations to include the following:

Restitution: Seeks to “restore the victim to the original situation before the...violations...occurred” and includes the restoration of liberty and legal rights, identity, family life, and citizenship; return to one’s place of residence; restoration of employment; and return of property. (Article 19)

Compensation: “Should be provided for any economically assessable damage, as appropriate...such as (a) Physical or mental harm; (b) Lost opportunities, including employment, education and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; (e) Costs required for legal or expert assistance, medicine and medical services, psychological and social services.” (Article 20.b)

Rehabilitation: “Should include medical and psychological care as well as legal and social services.” (Article 21)

Satisfaction: “Should include, where applicable, any or all of the following: (a) Effective measures aimed at the cessation of continuing violations; (b) Verification of the facts and full and public disclosure of the truth...; (c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of the killed, and assistance in the recovery, identification and reburial of the bodies...; (d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victims; (e) Public apology, including acknowledgment of the facts and acceptance of responsibility; (f) Judicial and administrative sanctions against persons liable for the violations; (g) Commemorations and tributes to the victims; (h) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.” (Article 22)

Guarantees of nonrepetition: “Should include...(a) Ensuring effective civilian control of military and security forces; (b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; (c) Strengthening the independence of the judiciary; (d) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders; ... (h) Reviewing and reforming laws contributing to or allowing gross violations of international human rights laws and serious violations of international humanitarian law.” (Article 23)

a. Examples of Material Forms of Reparations

Cash benefits

In South Africa, cash benefits were given to victims. However, because the amounts were relatively small (approximately \$3,000) and mostly symbolic in nature, they often made little impact on the lives of women, who continue to struggle in poverty.

Source: Rashida Manjoo, "Gender Injustice and the Truth and Reconciliation Commission," in *Gendered Peace: Women's Struggles for Post-War Justice and Reconciliation*, ed. Donna Pankhurst (Routledge: New York, 2009): 149-150.

Pensions

In Chile, a monthly reparations pension continues to be paid to direct relatives of victims. In addition to a one-time payment, immediate relatives received a monthly sum equivalent to 70 percent of the national median income at the time. In 2004, pensions were increased by 50 percent, and children of victims who had not received a pension because of their age received a lump sum of \$17,000. The same reform also gave equal status as surviving spouses to mothers and fathers of extramarital children.

Access to health care services

In Chile, the reparations law for relatives of the disappeared and killed conferred the right to free health care services in the national health care system to victims' relatives whose income is below the poverty line.

Bonds

The government of Argentina distributed approximately \$200,000 in reparations to families of the disappeared in the form of bonds as a way to recognize its debt to victims. However, the bonds had a maturity date of 16 years, and an economic crisis in 2002 led the state to default on many bond payments.

Educational benefits

Peru's reparations program included "educational benefits for those individuals whose schooling was interrupted as a result of violence, children of victims, and those forcibly recruited by self-defense committees."

Source: Cristián Correa, "Reparations in Peru: From Recommendations to Implementation," International Center for Transitional Justice (2013), 7.

Access to secret archives about violations

Under the Stasi Records Act in Germany, every individual has the right to view his or her own personal file. Near-relatives of missing or deceased persons also have limited access to the records if they are viewing them for a specific purpose.

Exhumation, identification, and reburial of victims

The Commission for the Historical Clarification in Guatemala deemed that the exhumation and reburial of loved ones should be considered an act of reparation and recommended that the government adopt an "active policy of exhumation." It also recommended that the "process of exhumation be carried out with full respect for the cultural values and dignity of the victims and their families."

Source: Commission for Historical Clarification, "Conclusions and Recommendations," in *Guatemala Memory of Silence: Report of the Commission for Historical Clarification*, (1999), 28.

b. Symbolic Reparations

All reparations, even material forms, should have a symbolic component in that they should acknowledge the wrongdoing that occurred. Reparations may also be purely symbolic, taking the form of memorials, days of commemoration, or apologies, for example. Ideally, symbolic and material reparations are mutually reinforcing.¹⁹

Symbolic reparation can take many forms:

- individualized letters of apology signed by the government’s highest authority (e.g., for Japanese-American internment camp survivors in the United States)
- the issuance of personalized copies of a truth commission’s final report to victims with a letter indicating where their name could be found (e.g., in Chile)
- supporting families to provide proper burial for loved ones (e.g., in Guatemala)
- renaming or repurposing public spaces (e.g., in Timor-Leste)
- building museums and memorials (e.g., in Chile, the Democratic Republic of the Congo, South Africa)

Example: In the Democratic Republic of the Congo, a statue for women victims of war in South Kivu was built by a local priest. It shows a woman seated on the ground, her face raised to the sky, crying out in anguish over the atrocities suffered during the war.²⁰

- [apologies](#) and days of commemoration (e.g., in Sierra Leone)

Example: Sierra Leonean president Ernest Bai Koroma apologized to the women of Sierra Leone for the brutalities they suffered during the armed conflict:

We will never as a nation move forward if we do not apologize to the women of this country for letting them down during the war; we will never as a nation know better days if we do not ask for the forgiveness of our mothers, sisters, partners, and female compatriots for what we let them go through during the war. It is almost a decade now since the war ended, but we must apologize for the wrongs of the war.²¹

¹⁹ International Center for Transitional Justice and Asociación pro Derechos Humanos, “Design Parameters for a Reparations Program in Peru” (Sept. 2002), 6.

²⁰ Office of the High Commissioner for Human Rights, “Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo to the High Commissioner for Human Rights” (March 2011).

²¹ President Ernest Bai Koroma, “Statement on International Women’s Day,” March 27, 2010.

Discussion Question

- Think of a time in your personal or professional life when you have felt wronged. What are the characteristics of an apology that would have felt adequate to have received?

c. Approaches: Individual versus Collective

Reparations may be provided directly to victims or, if they are no longer alive, to their relatives or dependents. Generally, individual measures require the precise identification of the persons who are entitled to the benefits.

Reparations may also provide benefits to groups of victims, communities, and collectives. Those groups may consist, for instance, of individuals who each suffered the same violation, or populations of an area who were affected by a violation or violations (e.g., villages where a massacre occurred, displaced indigenous communities, or those who resisted a repressive regime).²² Collective reparations may be either symbolic or material.

Example: In August 2014, Decree 1480 was adopted in Colombia. The decree established May 25 as the National Day for the Dignity of Women Victims of Sexual Violence Caused by the Internal Armed Conflict as a measure of collective reparations.

Collective reparations often refer to reparations for collective harm, “meaning harm to public goods, that is, damage done to the social tissue and infrastructure system in areas that have been especially affected.”²³ With collective reparations programs, it is of the utmost importance that communities are consulted. Efforts must also be made to ensure a gender balance in these consultations so that women’s needs are not marginalized.

Example: In Peru, insufficient attention was paid to women during the selection process for designing a collective reparations project. Women were underrepresented in interviews with victims and other stakeholders about the project, and as a result, men had the “final say in how project funds were allocated.”²⁴

Example: More positively, in Morocco, there was consensus among victims about the construction of a maternity hospital as a form of reparations, but difficulties arose around where it should be built: “The victims wanted a maternity hospital. From a logistical and

²² International Center for Transitional Justice, “The Rabat Report: The Concept and Challenges of Collective Reparations” (2009), 10.

²³ Ruth Rubio- Marín, “The Gender of Reparations in Transitional Societies,” in *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*, ed. Ruth Rubio-Marín (Cambridge: Cambridge University Press, 2009), 96.

²⁴ International Center for Transitional Justice, “The Rabat Report,” 32. Also see Cristián Correa, “Reparations in Peru: From Recommendations to Implementation,” International Center for Transitional Justice (2013).

technical point of view, it was preferable to set it up in the neighboring village. But the people of Sountate told us, ‘the people in the neighboring village were traitors. They informed on us. If you want to construct a maternity hospital there, then do it, but we forbid you from dedicating it to the victims.[?] In the end, the people of Sountate got their maternity hospital.’²⁵

Authors Naomi Roht-Arriaza and Katharine Orlovsky explain:

Fundamentally, collective reparations consider the individual in the context of societal ties. Use of the term “collective reparations” may refer to reparations to a particular social, ethnic, or geographical group, or simply to a community that suffered harm to its cohesion and social fabric as such and thus is being repaired qua community. This approach, of course, raises the difficulty of assigning victims to groups or communities for reparations purposes, a problem magnified by demographic and social shifts during the course of an armed conflict, especially those caused by widespread displacement and migration.²⁶

A potential downside to a collective approach is that individuals may feel that these reparations measures do not respond to the individual nature of the violations they experienced and the suffering that resulted.

Collective reparations can also sometimes be confused with development policies that communities are entitled to regardless of how they were affected by conflict or authoritarian policies. When collective reparations take the form of basic services, they can lose their reparative nature. Instead, they may appear to be an attempt by the state to package some community benefit as reparations when the benefit or service should be provided to citizens regardless of a violent or repressive past. This can leave some victims feeling dissatisfied and cheated.

Lastly, if perpetrators live in the same community as the victims they harmed, they will also benefit from the collective reparations. Some see this as a positive aspect that can unite communities; others feel it creates resentment among victims who do not feel adequately recognized for their unique suffering.

d. Approaches: Urgent versus Long-Term

Reparations may be provided to victims, especially those in urgent need of assistance, on an interim basis. Sometimes these interim measures become the only form of reparations ever offered; in other cases, they may be the first part of a package of comprehensive benefits that is rolled out over time. Other benefits, such as pensions, may be provided to victims for their lifetime. Sometimes urgent benefits are provided without clear acknowledgment or recognition of the violations that occurred or of victims’ status as victims. In these cases, the benefits lack sufficient reparative outcomes.

²⁵ Pierre Hazan, “Community Reparations in Morocco and the Challenge Facing Outreach Policy,” in *Rule of Law and Transitional Justice: Towards a Triangular Learning. The Case of Colombia*, ed. Anja Mihr (Venice: European Inter-University Centre for Human Rights and Democratisation, 2013), 177.

²⁶ Naomi Roht-Arriaza and Katharine Orlovsky, “A Complementary Relationship: Reparations and Development,” in *Transitional Justice and Development: Making Connections*, eds. Pablo de Greiff and Roger Duthie (New York: Social Science Research Council, 2009), 190.

Example: In South Africa, while the work of the Truth and Reconciliation Commission (TRC) was still ongoing, the Committee for Reparations and Rehabilitation recommended the granting of immediate interim reparations to victims who had “urgent medical, emotional, educational, material and/or symbolic needs.”²⁷ Victims who qualified for interim reparations received referrals to the appropriate services they needed, such as medical assistance. They also received some financial assistance from the government to pay for these services. However, the comprehensive reparations package recommended by the truth commission has never implemented despite continued advocacy by victims’ groups.

Discussion Question

- In many post-conflict settings, the majority of victims live in dire economic situations. What kinds of criteria could a reparations program use to determine who should qualify for urgent assistance?

²⁷ Truth and Reconciliation Commission, “Reparation and Rehabilitation Policy,” in *Report of the Truth and Reconciliation Commission of South Africa*, Vol. 5.5 (2003), 56.

6. How Reparations Come About

- Courts may order reparations in their judgments on individual cases, but this is only ideal when there are small numbers of victims or when violations were predominantly individual in nature.
- Administrative reparations programs can be applied in contexts of widespread violations and can address the individual and collective dimensions of harm in a more comprehensive and holistic way than a court can.
- A truth commission’s findings are a vital source of information when designing the framework of a reparations program.

Redress for harms suffered is ordinarily obtained in court. However, in situations where massive violations have occurred or where courts have limited capacity, reparations programs may be established by legislation or decree. These programs—often called *administrative reparations*—can provide a measure of justice to those who may be unable to access justice in the courts because of factors such as poverty, education, or location. Often, the impetus for implementing an administrative reparations program comes from truth commission findings and recommendations. Where there has been no truth commission, or where its recommendations were inadequate, advocacy by civil society can also build momentum for a reparations program.

a. Court-based Approach

When reparations are designed and issued by courts, they tend to be case-specific and compensate a specific victim or small group of victims for a particular set of harms. Victims can pursue reparations in courts in multiple ways. One way is to pursue administrative rulings with the specific aim of having the court mandate reparations for harms suffered. Reparations may also be provided through criminal proceedings.

Courts can award various forms of reparations, from monetary compensation to collective measures that will benefit a community and have a symbolic effect. There are some examples of courts ordering reparations for gender-based harms.

Example: In *Case of the Plan de Sánchez Massacre v. Guatemala*, the Inter-American Court of Human Rights (IACtHR) ordered mental health services be offered in 13 affected communities around Guatemala.²⁸ The court also ordered the state to formulate plans “to assist the recovery, rehabilitation and full reincorporation into the community of the women who were victims of rape, in conjunction with the women leaders of the community and mental health professionals.”²⁹

The case of *Prosecutor v. Germaine Katanga* at the ICC is an example of reparations being ordered in a criminal proceeding. In this instance, the ICC issued an order awarding individual and collective reparations to victims. Because Katanga was deemed indigent, the Trust Fund for Victims was invited

²⁸ *Case of the Plan de Sánchez Massacre v. Guatemala*, Inter-American Court of Human Rights, Judgment of Nov. 19, 2004 (Reparations) (Nov. 19, 2004).

²⁹ *Ibid.*

to consider using its own resources to fund and implement the award of collective reparations, which it ultimately did.

Court-based mechanisms work best when violations are predominantly individual in nature or when there are only small numbers of victims. In some instances, however, it may be strategically important to file reparations litigation even in contexts of widespread violations. Doing so can build momentum in favor of a broader administrative reparations program. For example, litigation around reparations for forced labor during WWII continued for over five decades before the establishment of the Forced Labor Compensation Program in 2000.³⁰

Example: Canada’s Indian residential schools compensation program arose out of a court-ordered settlement of a class-action lawsuit. It compensated former students of Canada’s Indian residential schools who experienced physical, sexual, or psychological abuse.

Challenges to Providing Reparations for Gender-based Violations through the Court

Generally, few victims have the resources to pursue litigation in court. Others may be barred by statutes of limitations³¹ or other legal challenges to their claim (e.g., lack of evidence or unavailable witnesses).

Moreover, once in court, victims face a high burden of proof, and cross-examination can be a painful and humiliating experience, especially for victims of sexual violence.

Example: The Trial Chamber in the case of *Prosecutor v. Thomas Lubanga Dyilo* issued a decision on the principles and procedures to be applied to reparations in that case. As part of that decision, the court was to formulate and implement reparation awards appropriate for the victims of sexual and gender-based violence. That decision was partially reversed on appeal because Lubanga had not been convicted for acts of sexual violence. The Appeals Chamber concluded that victims who suffered sexual violence would not receive reparations, although the Trust Fund for Victims could include sexual violence victims in the assistance programs it funds separate from reparations.

In addition, due to structural inequalities, women often face more obstacles to asserting their rights in a judicial setting than their male counterparts.

In many contexts, crimes against women are not prioritized by prosecutors or are overlooked entirely. In Peru, the Office of the Ombudsman observed that even where women “had the courage to file a complaint, they have faced inadequate action by the prosecutor’s office due to three main reasons: red tape in the complaint-filing procedures; poor investigation by the prosecutors; and failure to file a formal complaint even when there was sufficient evidence to formally charge the suspects.”³²

³⁰ International Organization for Migration, “German Forced Labour Compensation Programme (GFLCP).”

³¹ Some harms are considered continuous in nature (e.g., forced disappearance) and are not subject to statutes of limitation.

³² Julie Guillerot, “Linking Gender and Reparations in Peru: A Failed Opportunity,” in *What Happened to the Women? Gender and Reparations for Human Rights Violations*, ed. Ruth Rubio-Marín (New York: Social Science Research Council, 2006), 165.

b. Administrative Approach

When massive human rights violations occur, the state may be unable to provide compensation to a large number of victims through courts. In these situations, administrative reparations programs may be implemented as a state policy.

Example: From 1953 to 1965 in West Germany, three laws were enacted to provide reparations for Nazi persecution. Together, these are known as the BEG laws.³³ Israel and Germany also signed a treaty in 1952 that required Germany to pay reparations to Israel and Jewish communities outside Israel represented by the Jewish Claims Conference. When combined, in terms of the number of victims, cost of reparations, and duration of the implementation period, reparations for victims of the Nazi regime represent the largest and most complex set of reparations programs in recent history.

Generally, administrative reparations programs are created by legislation or decree. Often a truth commission precedes such legislation and is able to offer clear and comprehensive recommendations for what a reparations program should entail, based on its vast findings.

Not all reparations efforts stem from a truth commission's recommendations, however. Some countries, such as Brazil and Guatemala, have established stand-alone reparations commissions or procedures.³⁴

Example: In Tunisia, limited reparations were provided to victims of the revolution soon after the revolution was over. They were given compensation and medical care, and some of them received jobs in the public sector. Those measures were implemented before the Truth and Dignity Commission was established and do not replace the country's obligation to implement a full administrative reparations program in the future.

Administrative programs may offer reparative benefits to all victims without distinction. Or, benefits may vary by the type of violation (e.g., enforced disappearance or killing) or the category of victim (e.g., former political prisoners, widows or children of victims, youth until a certain age, or elderly victims). They may also be tailored to a specific harm (e.g., rehabilitation for war wounds).³⁵

Benefits to an Administrative Approach

Administrative programs usually have a broader reach than court-ordered redress, often providing reparations to larger numbers of victims.³⁶ Moreover, administrative reparations programs can consider the context, addressing both individual and collective dimensions of harm in ways that may be more comprehensive and holistic than remedies a court might devise.

³³ See the official German government [website](#) containing the text and regulations on the Bundesentschädigungsgesetz law (in German).

³⁴ Office of the High Commissioner for Human Rights, "Rule-of-Law Tools for Post-conflict States," 12.

³⁵ Magarrell, "Reparations in Theory and Practice," 3.

³⁶ *Ibid.* at 4.

In administrative reparations programs, victims rarely need to meet evidentiary standards established by courts in order to demonstrate the magnitude of the harm suffered. Further, administrative processes can help mitigate some of the challenges victims in remote regions of a country face in accessing courts. Administrative programs often include outreach efforts so that victims in all parts of the country will have a chance to participate and access benefits.

The Role of Truth Commissions in Recommending Reparations Programs

As noted above, the initial framework for a reparations program may be established within the context of a truth commission, usually as defined by the commission’s mandate.

A truth commission’s mandate, often established by an act of legislation or an executive order, defines the scope of the commission’s functions, the type of violations to be covered, the period under investigation, the powers to be employed, and the expected products (reports, recommendations on reparations, etc.).

A truth commission’s findings are therefore vital to the development of any basic framework or proposed scheme for a reparations program. Still, a truth commission report will not provide all the information necessary for defining a reparations program. Often, more work is needed to establish details such as comprehensive demographic information about victims, their families, and communities or the full impact of violations on victims. This may be true even if the truth commission has collected statements, as information needed to provide victims with reparations is often more nuanced than that required for a truth commission report. A separate registration process is therefore usually required.³⁷

Example: The Sierra Leone Truth and Reconciliation Commission issued detailed recommendations for a reparations program. The government of Sierra Leone took on some of these recommendations and issued a limited number of reparations. The National Commission for Social Action (NaCSA)—the official implementing agency responsible for distributing benefits—undertook a victim registration process before it could begin giving them out.

Another reason a separate process is needed specifically for reparations is that many victims, especially women and other marginalized groups, do not engage with truth-seeking processes. This means additional efforts are required to identify the full range of victims entitled to reparations and to understand how they have been harmed. In South Africa, the limited definition of human rights violations meant few women revealed their own experiences before the commission and thus were not listed as victims.

Example: The South African TRC released its final report in 2003. The report recommended that victims be granted reparations encompassing five components: urgent interim reparations, individual reparation grants, symbolic reparations through legal and administrative

³⁷ For more information on registration forms, see Ruben Carranza, Cristián Correa, and Elena Naughton, “[Forms of Justice: A Guide to Designing Reparations Application Forms and Registration Processes for Victims of Human Rights Violations](#),” International Center for Transitional Justice (2017).

measures, community rehabilitation, and institutional reforms. The government of South Africa did issue a modest number of interim reparations early in the TRC's operations. However, these consisted only of a limited number of symbolic reparations and a small amount of monetary compensation to victims identified by the TRC. The financial compensation was so small as to also be largely symbolic. All of the recommendations made in the final report have yet to be implemented.

7. Establishing a Reparations Program and Soliciting Victim Input

- Women victims and gender justice advocates can provide policymakers with the necessary information in order to design gender-sensitive methodology and ensure that the criteria set forth for victims to receive reparations are inclusive of women and victims of gender-based violations.
- Women victims and gender justice advocates should be given the opportunity to provide input on how reparations will be disbursed and to evaluate the program's effectiveness at various stages.

Reparations are most effective when they have real, positive influences on victims' lives, hold relevance for victims, and respond to victims' priorities. Accurate information is essential to the process if reparations are to reflect the diversity and breadth of victims and their beneficiaries. For example, before a reparations program can be created, it is best to know, with a reasonable degree of certainty, "the size of the victim population, the kinds of violations suffered and their immediate consequences."³⁸ A truth commission may provide this information, but violations and certain patterns of consequences and harm that tend to primarily affect women can be overlooked.

Reparations proposals are tailored into formal policy by governmental policymakers. However, victims and their advocates should provide input and policy suggestions about the form reparations should take and which measures to prioritize. In some contexts, victims have participated as members of a formal working group tasked with defining a reparations framework or policy.

Example: In Peru, the Working Group on Reparations included victims' groups and other relevant civil society organizations. The working group advised the country's Truth and Reconciliation Commission (CVR) and its reparations recommendations team.

Political coalitions may form early on in the process of designing a reparations program, and this can influence whether women and gender-based violations are included within the framework. When women victims or gender justice groups participate in the initial design process, it is far more likely that the design framework will employ a gender-sensitive methodology and develop criteria that are inclusive of women and victims of sexual and gender-based violence.

a. Stages of Women's Involvement

Women and victims of sexual and gender-based violence need to have the opportunity to engage actively and effectively as early as possible in the process of defining reparations benefits and criteria in order to ensure that they will have a real impact on victims' lives and meet their expectations to a reasonable degree. As such, women victims and gender justice activists should participate as much as possible at different stages in the process of determining and implementing reparations policies. Stages during which women and victims' groups should provide input include:

³⁸ Correa, Guillerot, and Magarrell, "Reparations and Victim Participation," 3.

- the initial planning and design phase, including when the actual benefits are being conceived and developed;
- the drafting phase of relevant pieces of legislation or policy;
- the implementation phase;
- intermittent evaluations of the program throughout its life span and subsequent revision phases.

Their participation at these stages must be meaningful, and not reduced to mere formality. Their input should be seriously considered and should influence the ultimate outcome in each phase.

The meaningful participation of women victims and their advocates is important because they are the groups most likely to provide accurate information vital for identifying the full range of victims and harms. They will know what questions to ask during the registration process, how to resolve misunderstandings, and how to create effective outreach networks. Victims' advocates can provide demographic information about victims, their families, and communities.

The Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation provides "that the particular circumstances in which women and girls are made victims of crimes and human rights violations in situations of conflict require approaches specifically adapted to their needs, interests and priorities, as defined by them."³⁹ Women victims' groups will be able to help with this since they will have a strong understanding of victims' views and the challenges they face.

Women's groups will also be able to provide helpful information about effective administrative mechanisms to dispense reparations fairly and in a way that is accessible to women. For example, these groups may be able to alert policymakers to potential obstacles that affect access to outreach materials, such as illiteracy rates, or to disparities among victims that may hamper women's ability to meet eligibility requirements or physically access sites of registration and benefits dispersal.

Example: A new center to address domestic violence was created in Hay Mohammadi in Morocco as part of the country's community reparations program. However, women were not a part of the consultation process that led to its creation, and they later expressed a fear of traveling to the center to access services.

³⁹ *Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation* (March 2007), 2.

b. Specific Information to Seek Out from Women’s Groups

Who receives reparations?	}	<ul style="list-style-type: none"> <input type="checkbox"/> What forms of sexual and gender-based violence occurred? <input type="checkbox"/> Who was affected by these violations? <input type="checkbox"/> Should the spouses, children, and parents of victims receive reparations?
What form(s) must reparations take?	}	<ul style="list-style-type: none"> • What harms did victims suffer? What are the consequences of the violations? <input type="checkbox"/> How do victims characterize their needs? What are their priorities for remedy? <input type="checkbox"/> Should reparations be linked to other social benefits?
How will reparations be dispensed?	}	<ul style="list-style-type: none"> • What elements need to be considered and defined for a reparations program to be both effective and just? <input type="checkbox"/> How will victims register for or claim reparations? <input type="checkbox"/> What obstacles will women and victims of sexual and gender-based violence face when attempting to register for and access reparations? <input type="checkbox"/> What services and resources are already available to facilitate the delivery of reparations? <input type="checkbox"/> How can reparations programs be made politically and economically viable in both the short and long term?
Evaluation and revision	}	<ul style="list-style-type: none"> <input type="checkbox"/> Once implementation begins, how will the programs be evaluated? Are the programs functioning as intended? Are women and victims of sexual and gender-based violence able to access benefits? Are there any unforeseen consequences to them doing so? <input type="checkbox"/> Are collective reparations addressing the needs of the community? <input type="checkbox"/> Do adjustments need to be made? If so, what and how?

Activity

Break participants into small groups. Ask each group to choose a country context in which they work or a specific set of victims with whom they work. Have each group discuss the first three sets of questions above. If there are participants from a context where a reparations program has been implemented, gather them in their own group and have them discuss the fourth set of questions.

Gather all the groups together into plenary to share the highlights of their discussion and identify if there are commonalities among the issues they discussed.

8. Victim Registration

- Registration processes are often used to build a database of information about victims who are eligible for reparations.
- Those responsible for designing the registration process must anticipate potential challenges to the participation of women and other marginalized victims.
- Thorough outreach and flexible deadlines for registration can help mitigate the specific obstacles women and victims of sexual violence may face.

In many cases, the agency responsible for implementing reparations will carry out a registration process to build a registry that contains a list of persons eligible to receive reparations and relevant data about victims, their families, and affected communities. This registry or database often becomes the basis for distributing benefits and may itself serve as a form of official acknowledgment for victims. It can also inform the design and implementation of other forms of reparations, including symbolic and collective measures.

Example: In Colombia, a system of participatory mechanisms was created to facilitate victims' input on reparations programs. Gender justice activists used these mechanisms to advocate for a holistic approach to gender. Thanks in part to this activism, as well as the explicit focus on gender in the law that created the reparations program (the Victims and Land Restitution Law), the Colombian Registry of Victims was able to capture a diverse set of victims of sexual violence, including men, women, and LGBTIQ persons.

Registration entails soliciting information from victims, their families, and communities to:

- obtain key demographic information;
- identify and locate groups of victims;
- understand immediate, medium-term, and long-term consequences;
- understand victims' needs and priorities.

Many approaches can be used to obtain information from victims, including:

- victim registration or reparations application forms;
- individual interviews (e.g., in the home, at work, at family association meetings);
- family or group interviews;
- focus group discussions;
- pilot programs.

a. Challenges to Registering Women Victims and Victims of Sexual and Gender-based Violence

Women victims and victims from other marginalized groups, including victims of sexual and gender-based violence (regardless of their gender), may face specific challenges and obstacles to participating in registration processes. These must be anticipated and mitigated so that victims may register without issue and therefore be eligible to receive reparations. One option is to have multiple avenues for

registering victims. Some victims may not do well in focus group discussions, for example, and home visits will be a better option for them. Another way to anticipate challenges is to have the flexibility to provide logistical assistance or special dispensations for certain victims so that they may participate in the registration process.

Additionally, gender norms and patriarchal hierarchies may dictate who is interviewed and in what setting. In processes where interviews are being conducted, male family members may come forward as the principal interviewee, but they may not know or speak about violations committed against women in the family. Furthermore, high rates of illiteracy among women should be accounted for. For example, if women are being asked to fill out surveys, they should be given the option to have assistance in doing so if required.

Example: In Peru, a state agency was responsible for helping victims fill out their application forms and locate the documents needed to establish their eligibility for benefits.

Finally, women's tendency to prioritize speaking about violations committed against family members and about family members' needs may undermine efforts to acquire accurate assessments of their own needs. Questions should be designed to elicit this information and create space for women to talk about themselves.

b. Policies to Counter Challenges

Outreach

Outreach to victims and victims' associations prior to the commencement of registration processes is necessary. This is particularly true for marginalized groups and those residing in hard-to-reach locations. Outreach should extend not only to victims, their families, and local victims' organizations but also to local officials, community leaders, religious authorities, schools, and local political party officials.

Example: In Peru, the registration process in each province was preceded by a large meeting with representatives of different organizations and relevant local authorities. In these meetings, participants were asked to draw a map of the most important areas to be covered and to propose methods for reaching them, including identifying potential informants.

Information-gathering techniques and other outreach efforts that are to be used with victims and potential beneficiaries of a reparations program should be evaluated for potential disparities in responses due to factors related to gender.

Open Lists

Because it will be impossible to fully anticipate and address every challenge that will arise, registration processes must be flexible and allow for some adaptation. Open registration lists are one way to help with this.

Example: South Africa closed its list of reparations beneficiaries at the end of the TRC’s operations, shutting the door on the possibility of women coming forward in the future to give statements. It is not uncommon for women and other victims of sexual and gender-based violence to not come forward immediately, as they are burdened with fear and stigma. In South Africa, many of the women who had come forward had prioritized speaking about the violations against their male loved ones, so they were then unable to come forward at a later stage when they were ready to speak about the violations committed against them.

Example: In Sierra Leone, the victim registration process began in December 2008 and was scheduled to finish on March 31, 2009. This period proved insufficient, though, and a second phase of registrations was opened, which was to end on June 30, 2009. However, this too was deemed inadequate. In response, some victims were allowed to register later, and a restricted open-door policy was created to allow for continued registration long after the official period ended.

Flexibility

Reparations programs must be designed to be flexible. Often, it is only after a period of time registering victims that gaps and discrepancies become clear. Alternatively, societal views may shift over the course of a registration period, thus providing an opening to incorporate victims of sexual and gender-based violence when they were previously left out.

Example: In 2014, the Republic of Kosovo amended its law *On the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims and Their Families* to include sexual violence victims of the war, in large part due to shifting attitudes and norms around gender and sexual violence.⁴⁰ Later, in 2017, the government of Kosovo established a reparations program aimed specifically at survivors of conflict-related sexual violence. Following a verification process, survivors are entitled to receive a monthly pension of 230 euro to compensate for the physical, psychological, economic, and social traumas they endured.⁴¹

Discussion Questions

- Reflecting on the work that you do or the context in which you live, what are some of the concerns people might have about identifying themselves as victims of sexual or gender-based violence?
- What are some ways an institution responsible for reparations could mitigate these concerns?

⁴⁰ Law No. 04/L-172 of the Republic of Kosovo on Amending and Supplementing the Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims, and Their Families, March 20, 2014.

⁴¹ UN Women, “The Conflict Did Not Bring Us Flowers: The Need for Comprehensive Reparations for Survivors of Conflict-related Sexual Violence in Kosovo” (2016).

9. Who Receives Reparations? Eligibility and Inclusivity

- Policymakers must define which international human rights and humanitarian law violations are to be covered under a reparations program.
- Eligibility criteria must not impose unreasonable standards of proof on victims who may be unable to provide excessive forms of evidence.

The criteria established within a reparations program will influence who is able to receive benefits, how much compensation beneficiaries will receive, and what types of services will be made available for whom. As such, the criteria developed must be feasible and fair. Political favoritism, discrimination, and exclusion should be avoided, as should unreasonable standards of proof.

a. Who Is a Victim?

As defined above, the *Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* defines victims as:

persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.⁴²

Reparations mechanisms need to take into account a “relationship of codependency” when working to redress harm.⁴³ Given that women are often dependents of the direct victim, it is important that reparations policies include spouses and that *spouse* is defined broadly. Generally, reparations programs have recognized multiple forms of marital unions, “going beyond legalistic marital definitions to include common-law partners and those united under different rites and traditions.”⁴⁴

Example: In *Aloeboetoe v. Suriname*, the IACtHR defined *successors* broadly so as to encompass traditional Saramaka customs that recognize, for instance, polygamy.⁴⁵

Reparations programs must define eligible classes of victims of human rights and humanitarian law violations. The question of who to include is central to the process. Unless women’s interests and needs are considered adequately by the various institutions and documents (e.g., registration agencies,

⁴² UN General Assembly, *Basic Principles and Guidelines*, Art. 8.

⁴³ Ruth Rubio-Marín, Clara Sandoval, and Catalina Díaz, “Repairing Family Members: Gross Human Rights Violations and Communities of Harm,” in *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*, ed. Ruth Rubio-Marín (Cambridge: Cambridge University Press, 2009), 215.

⁴⁴ *Ibid.* at 231.

⁴⁵ *Ibid.*

truth commission reports) that inform reparations policies, women will likely not receive reparations benefits.

b. Establishing Eligibility Criteria

Eligibility criteria must be directly related to the occurrence of human rights violations in the context in question. Eligibility for specific programs or benefits may be determined in a number of ways, and different approaches have been taken in various contexts using questions designed to elicit the required information.

Policymakers and administrators must have a clear idea about what is required and what is possible, both in terms of the implementation of reparations and the ability of victims and family members to participate. They should consider what documentation and information victims and their families will actually be able to provide. Two questions to consider are:

- Will victims, families, and communities be able to provide the required documentation or information?
- Will victims who are entitled to reparations have the resources to access the registration process?

For instance, victims may be required to establish minimum incarceration periods for former detainees or vulnerability based on need or income levels. Implementing agencies should be ready to assist victims and family members in obtaining the necessary documentation.

The process of qualifying for reparations within the framework of an administrative reparations program should be more flexible than in a judicial proceeding. Different reparations programs have incorporated varying levels of flexibility when it comes to the types of proof that will qualify victims for reparations.

Example: In Colombia, Law 1719 enhanced the status of sexual violence victims so that they would be able to receive reparations, psychosocial support, and free medical care. It expanded the definition of sexual violence and included other forms of sexual violence beyond rape. It explicitly recognizes that sexual violence can constitute a crime against humanity and that there can be no statute of limitations for such crimes. It includes offences that were previously omitted from the penal code, such as enforced sterilization, forced pregnancy, and forced nudity, and adds specific references to aggravating circumstances (e.g., when sexual violence is committed as a form of retaliation against human rights defenders). And, “victims no longer have to prove that ‘physical force’ was used in the crime. Instead, the judge can analyze elements such as the circumstances in which the events occurred or how such harm was a deliberate strategy by an organized group.”⁴⁶ The law was signed by President Juan Manuel Santos on June 18, 2014.

⁴⁶ Isabella Flisi, “Reparations for Wartime Sexual Violence: Colombia’s Ambitious Program,” *PassBlue*, July 18, 2016.

Example: In Sierra Leone, the TRC proposed that victims of sexual violence not have to undergo an earning capacity test, recognizing the intense stigmatization women experience in their own communities and families after experiencing the violence. The final report acknowledged that ostracizing victims of sexual violence would result in many women being unable to sustain themselves, no matter the lasting physical ramifications of the violation.⁴⁷

Reparations policies are sometimes premised on eligibility criteria established by a truth commission. However, previous testimony before a truth commission should not be a prerequisite to qualify as a beneficiary for reparations because truth commission procedures may not have adequately focused on women and other marginalized communities.

Example: The Sierra Leonean TRC proposed that those eligible for reparations were not limited to victims who had made statements or testified before the commission. The TRC recognized that many victims of sexual assault may not have wanted to testify about their experiences in a formal setting but were nonetheless in need of assistance.⁴⁸

⁴⁷ Sierra Leone Truth and Reconciliation Commission, "Reparations," in *Witness to Truth: Final Report of the Sierra Leone Truth and Reconciliation Commission*, Vol. 2 (2004), 250.

⁴⁸ *Ibid.* at 242.

10. Implementing Reparations

- One of the greatest risks to the implementation of a reparations program is financial feasibility.
- Women victims may face specific financial and logistical obstacles to accessing reparations benefits.
- The stigma often associated with sexual and gender-based violence may deter victims from claiming benefits if they cannot do so in a way that maintains their confidentiality.

Reparations programs are often implemented in resource-limited environments. While truth commissions may propose comprehensive reparations packages, it is up to the government to actually implement them. Often, these packages are only partially implemented, if they are at all, because of inadequate resources, lack of political will, and competing national priorities.

a. Risks to Implementation

One of the most common reasons given for non-implementation is financial incapacity. Many countries emerge from conflict or dictatorship with an economy devastated by war, crippled by corruption, or burdened with massive debt. Moreover, decisions about the allocation of resources to finance a reparations program often become highly political.

Reparations may be funded through the imposition of taxes; however, in most transitional justice contexts, the tax base is not broad enough to fund programs in this way. It is helpful to start a process with a basic budgetary assessment of the potential cost of implementing a reparations program. Such an assessment can catalyze debate and allow the government and even civil society to seek supplemental funding from donors or other sources.

Example: In 2006, the United Nations Peacebuilding Commission declared Sierra Leone’s War Victims Trust Fund eligible to receive support from its Peacebuilding Fund, and it disbursed USD 3 million to the Trust Fund in 2008. This support was intended to be the first stage in a five-year strategic plan for funding the War Victims Trust Fund and disbursing reparations to victims. However, this process was ultimately long-delayed. In September 2018, NaCSA announced that it was finally commencing with the disbursement of Rehabilitation Grants to 8,045 war widows and victims of sexual violence. In the interim period, UNIFEM (now UN Women) had provided some support for sexual violence victims.

Example: In South Africa, the TRC’s Reparation and Rehabilitation Committee proposed several funding mechanisms for its proposed reparations program. Among other suggestions were a one-time “wealth tax” on South African businesses, mandatory surcharges on/donations from corporations, retrospective surcharges on past profits, and surcharges on “golden handshakes” granted to senior public servants.⁴⁹ Ultimately, these recommendations were rejected by the government in favor of a voluntary business trust fund. A “President’s

⁴⁹ Christopher J. Colvin, “Overview of the Reparations Program in South Africa,” in *Handbook of Reparations*, ed. Pablo de Greiff (New York: Oxford University Press, 2006), 199.

Fund” also contained enough money to cover the modest financial compensation amount given before the TRC finished its operations and issued its recommendations.

In some instances, governments have funded reparations through a combination of sources.

Example: In Chile, reparations in the form of pensions were funded primarily through the country’s budget, while a portion of the medical services for victims was initially funded through foreign assistance.

Relevant to the funding conversation is the question of who will be responsible for managing, implementing, and disseminating reparations. Most commonly, legislation either establishes a new entity dedicated solely to reparations or assigns the task to an existing government department or state agency. Each route will have its own financial, political, and strategic implications that should be considered and assessed.

b. Obstacles to Access

In many contexts, women face societal and practical obstacles when attempting to access reparation benefits. An awareness of these obstacles is essential when designing an effective reparations program.

Lack of Identity Documents

Identity documents often come up as an important factor during conversations about reparations. The issue is two-pronged.

In some cases, the lack of state-issued identification documents or even “victim identification documents” can hinder victims’ and family members’ ability to easily access benefits, especially when there is high turnover in regional offices and new officials may not have the same relationships with victims as their predecessors had. In Nepal, [women victims have asked the government repeatedly for a formal identification card](#) or other document that would allow them to easily show that they have been approved to receive benefits.

In other contexts, vulnerable groups may have been denied official identification documents as a form of state violence or repression. Political activists, members of marginalized minority groups, and [refugees or those descended from refugees](#) are among those who may have been denied identification. In such cases, receiving proper documents can be a form of reparations in and of itself, particularly when the papers are given with some form of recognition of past harm.

Example: In Myanmar, political prisoners have demanded passports as a form of reparation, since they had previously been barred from obtaining them.

Financial

Women may not have the financial independence from their male relatives needed to access reparations. For example, in South Africa, many rural women who were eligible for urgent reparations

did not have their own bank accounts. Until 1998, they were considered minors under customary law and therefore could not open them. As a result, many women who were eligible to receive cash payments had to sign an affidavit in order to have the money deposited into their husband's account. There was a concern that these women would not be able to exert control over the money, or even access it.

Logistical

Women face a number of logistical barriers because of their status in society. It may be difficult for many women to take time from their family responsibilities in order to access the benefits for which they qualify. Women may not have access to transportation that is affordable and safe. High illiteracy rates and lack of experience engaging with civil servants may also impede their ability to get information about programs that exist and to fill out required paperwork.

Example: CAVR in Timor-Leste, which proposed an extensive reparations program, noted obstacles to women's participation in the truth commission process and designed reparations recommendations to preempt the same obstacles from preventing women's access to benefits. They found that women often did not come to give statements because they needed to stay at home to care for their children. In an effort to increase the likelihood that women would access reparations benefits for themselves, they proposed that services for women victims be delivered in the same place as scholarship benefits for children.

Stigma

Victims of sexual and gender-based violence may not want to seek reparations due to a fear of being ostracized by their families or communities. If possible, a reparations policy should try to ensure that victims of violations that cause stigma are not identifiable through the registration process or the type of benefit they receive.

Example: In Sierra Leone, an effort was made to afford female victims greater privacy when applying for reparations by giving them the opportunity to fill out applications inside the reparations office while others applied outside. However, in practice this made the women more easily identifiable by others as victims of sexual violence. Fortunately, because NaCSA, along with women's groups and international partners, was tracking women's participation in the program, this issue was quickly identified, and the policy was adapted accordingly.

11. Achieving Transformative Impact

- Reparations are uniquely well placed to have a transformative impact on women’s lives.
- Modest reforms within the framework of reparations programs can be a starting point for advancing broader gender justice reform.
- Linkages should be made between “everyday” violence against women and the violence against women that occurs in the context of conflict and repression.

In the aftermath of conflict and mass atrocity, societies have the opportunity to reform institutions and structures that have historically systematically disadvantaged, discriminated against, or marginalized certain groups. Reparations have become one channel for redressing historic injustices or inequities. They can provide an opportunity for women’s rights and gender justice advocates to challenge unequal policies and other structures that limit women’s and others’ full participation in society.

If reparations programs fail to consider the structural inequalities that helped enable gender-based violations during a conflict or period of authoritarian rule, it is very possible that they may actually entrench these inequalities further. For example, women are far less likely than men to hold land titles, and in fact may be legally barred from doing so in some contexts. Formal restitution processes may require victims to show land titles or otherwise prove ownership, thus excluding women from restitution and replicating gender bias in property ownership.

Gender activists have argued that reparations need to go beyond a “do no harm” approach if they are to ensure that history does not repeat itself. As the Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparation states, “Reparations must go above and beyond the immediate reasons and consequences of the crimes and violations; they must aim to address the political and structural inequalities that negatively shape women’s and girls’ lives.”⁵⁰

Following up on this idea, in the foundational book *The Gender of Reparations: Unsettling Sexual Hierarchies while Addressing Human Rights Violations*, Ruth Rubio-Marín argues that “a new space [must be] created that allows for endorsing transformative reparations, which is to say forms of reparations that also aim to unsettle preexisting gender hierarchies that were at the root of women’s subordination and account for many of the reasons, forms, and effects of such violence.”⁵¹

Although reparations can generally bring about only modest reforms, they can nevertheless be used as a starting point to advance broader agendas.

Example: In *Case of González et al. (“Cotton Field”) v. Mexico*, the Inter-American Court of Human Rights ruled that the government of Mexico held responsibility under international law for the disappearance and subsequent deaths of a woman and two girls. The court ruled that Mexico owed reparations to the families of the victims and that the state must take a “transformative and gender-sensitive approach” to implementing them. The judgment “also

⁵⁰ *Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparation* (March 2007), 3.

⁵¹ Ruth Rubio-Marín, “The Gender of Reparations in Transitional Societies,” 70.

underlined the need to address the systemic nature of discrimination, which informed both the violations and the impunity enjoyed by the perpetrators.”⁵²

While the dominant methodologies of human rights work focus on contexts of exceptional violence, attention should also be paid to the continuities between contexts of “ordinary” violence and “extraordinary” violence and the links between norms, discriminatory practices, and prejudices that are effectively normalized, domesticated, and privatized in everyday life and continue or worsen during times of conflict or repression.

Example: In Ghana, market women and their economic livelihoods were targeted through the bombing of markets, the destruction or confiscation of their goods, humiliation through stripping and forced nudity in public, physical violence, sexual harassment, and incarceration. It has been argued that a major factor in the persecution of these women was the mentality that women should remain in the home and be punished for seeking financial independence. The National Reconciliation Commission in Ghana recommended that a local market be reconstructed in the border town of Namoo as a measure of reparation. This is an example of how extraordinary violence can sometimes catalyze support for reforms that also pay attention to harmful ideologies and everyday systems that create the conditions for violence against women.

Discussion Question

- Ask participants if they have any final questions or comments.

⁵² Nahla Valji, “A Window of Opportunity: Making Transitional Justice Work for Women,” UN Women (Oct. 2012), 18–19.

ICTJ

Justice
Truth
Dignity



ICTJ New York
50 Broadway, 23rd Floor
New York, NY 10004
Tel +1 917 637 3800
Fax +1 917 637 3900
www.ictj.org