

Limitations and Opportunities of Reparations for Women’s Empowerment

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Reparations play a unique role within the transitional justice framework in providing justice for victims. Through both material and symbolic measures, the harms inflicted on victims can be recognized and to some extent repaired. Reparations focus more directly on victims and their needs than any other accountability mechanism. In many cases, reparations may be the only form of justice victims receive, particularly for those in society, such as women, who are often marginalized within formal justice or truth-seeking measures.

Unfortunately, very few reparations programs to date have taken women victims into account in design and implementation. This failure not only affects the participation of women victims in these programs, but also runs the risk of reinforcing gender inequalities within societies. Reparations are often viewed as a way to help restore victims to being equal rights holders; however, women often do not hold the same rights as men during peacetime. In fact, these inequities contribute to women’s vulnerability to certain forms of violence during conflict, and in turn, this violence exacerbates women’s vulnerabilities in the post-conflict period.

The Sierra Leone Truth and Reconciliation Commission documents this continuum of violence in its final report. Women in Sierra Leone, who under customary law were viewed as property to be inherited, were abducted and forced to serve as sexual slaves, wives, and laborers by armed groups during the war. The commission argued that the status of women before the conflict contributed to the way in which armed groups targeted women. After the conflict ended, communities often ostracized these victims because they had been sexually abused. The stigmatization these women faced limited their chances of marrying or returning to their families, and therefore severely hindered their economic security. Furthering the vulnerability of women, violence from the conflict had bled into the post-conflict period with high rates of rape and domestic abuse being reported.

To provide women with reparations that do not challenge these conditions merely returns them to a situation in which they once again face discrimination and violence. Reparations programs provide an opportunity, albeit a modest one, to help rebuild women’s lives. In 2007, the mobilization of women’s groups to examine how reparations policies could be more responsive to victims of gender-based violence, led to the “Nairobi Declaration on Women’s and Girl’s Right to a Remedy and Reparation.” The declaration 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 girl’s lives.”

TABLE OF CONTENTS

Opportunities for Addressing Gender Inequalities	2
Challenges to Addressing Gender Inequalities	3
Resources	4

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About the Author

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The dilemma for policymakers and civil society activists is how to craft reparations programs in a way that provides redress for victims while helping to transform inequalities and create a more just society. Reparations programs often take place in resource-limited environments and are surrounded by enormous expectations on the part of victims. Placing another goal on their agenda can be seen as inviting failure. However, reparations programs also provide an opportunity to transform a society that should not be missed. While the role reparations can play in such change may be small, to not undertake such an effort will likely ensure that gender inequalities will continue to be replicated within these programs.

The following are some examples of the opportunities and challenges of addressing gender inequalities and empowering women through reparations programs. While not exhaustive, this list demonstrates some of the issues with which those working with reparations programs may grapple.

Opportunities for Addressing Gender Inequalities

- **Prioritize those most vulnerable**
In determining which victims should receive reparations, prioritizing vulnerability and severity of continued suffering provides a way to advance justice for women. Recognizing the limited resources available for the program, Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR) proposed that widows, single mothers, and survivors of sexual violence be prioritized to receive reparations, including skills training and income-generating activities. The commission wanted to ensure that the victims who faced the largest obstacles in rebuilding their lives received benefits, and that those benefits contributed to their livelihood.
- **Empower women through reparations process**
The reparations process itself should seek to empower women victims by considering their autonomy and participation in decision making. In some collective reparations programs, communities have been able to decide what form of reparations they would like the government to provide. In Peru, women were often sidelined from this process, as men were the ones who held formal power within the communities. The result was that infrastructure that would drastically improve women's lives, such as schools and hospitals, was not necessarily prioritized. One way to negotiate this power imbalance is to require that the decision-making process for proposals for community reparations be gender balanced.
- **Challenge discriminatory practices**
In some cases, reparations programs can directly challenge the practices in societies that limit women's empowerment. In Morocco, previous reparations benefits were based on traditional laws of inheritance that prioritized eldest sons over wives. In an effort to not replicate these gender hierarchies, the Equity and Reconciliation Commission proposed that a more equitable share of reparations be given to spouses of those who had died or been disappeared.
- **Educate communities about sexual violence**
As stated above, the impact of sexual violence is not limited to the act itself but also includes harms that flow from it such as community ostracism. Creating education campaigns for the general population, or for specific communities particularly affected by sexual violence, is a way to address these harms and challenge ongoing impunity for such violations. As part of its commitment to preventing violence from reoccurring, CAVR recommended a special education program that would highlight the link between past abuses and ongoing violations against women.

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Challenges to Addressing Gender Inequalities

- **Risk of reinforcing inequalities**

If reparations programs fail to take into account the structural inequalities that helped enable gender-based violence to occur during the conflict, they run the risk of reinforcing these practices in the post-conflict setting. Some reparations programs have focused on property restitution; however, in countries where women cannot own land, such a focus has resulted in the exclusion of women victims from the reparations process. This is particularly important in conflict settings where female-headed households have multiplied and women’s livelihoods have already been severely diminished.
- **Balancing a tension between affirming women’s realities and affirming discriminatory practices**

Attempting to craft a reparations policy that adequately calculates the opportunities that a survivor of sexual violence has lost can run the risk of affirming women’s roles in society that can be disempowering. In many societies, women are largely valued for their ability to have children and take care of their family. In such settings, the combined effects of stigmatization, loss of reproductive health, and the obligation to bring up children resulting from rape impacts a victim’s value to her family and thus limits her opportunities to be productive in society. If victims of sexual violence are not viewed as having missed out on productive opportunities, then they likely will not receive the material restitution they need and deserve. However, acknowledging the reality of a woman’s value in society in order to adequately provide redress for the violation committed against her runs the risk of reinforcing the idea that a woman’s worth is directly linked to her sexuality and ability to reproduce. This dilemma is one that reparations programs must grapple with and seek the input of women’s groups and victims’ organizations.
- **Getting victims of sexual violence to come forward**

Due to the stigma and shame associated with the violation, survivors of sexual violence often do not want their communities, and sometimes even their families, to know about their experience. Registering victims of sexual violence in a way that protects their privacy and makes them feel comfortable is a serious challenge for reparations programs. In Timor-Leste, CAVR recommended that victims of different types of violations could be eligible for the same benefits, reducing the chances that victims of sexual violence would be identified based upon the benefit they received. While this idea goes a long way in protecting a victim’s privacy, there are still many logistical challenges that reparations programs must grapple with in reaching victims of sexual violence and creating an environment in which they feel comfortable sharing the details of their experience.
- **Securing access to reparations**

Even if a reparations program secures the participation of victims of sexual violence and is able to challenge gender inequalities through its implementation, it still can face the obstacle of how to ensure that women can access the actual benefits. Women often face numerous challenges in accessing reparations, such as illiteracy, lack of transportation, absence of bank accounts, and inability to spend time accessing programs because of responsibility at home. Those designing reparations programs must anticipate these obstacles and find creative ways to navigate around them.

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