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REPORT

Reparations as a catalytic power to change victims' and survivors' lives: Perspectives and contributions from the grassroots level

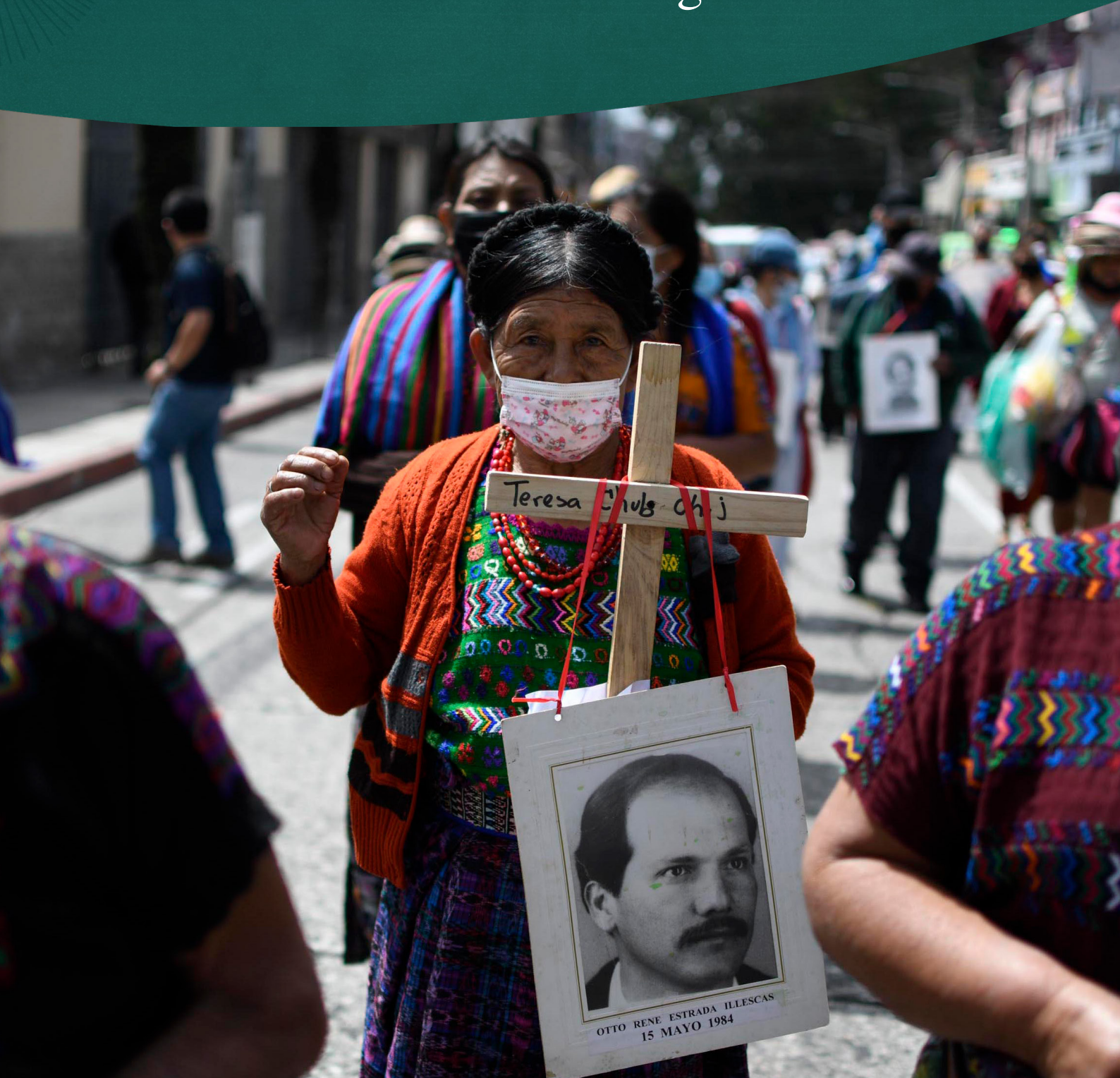


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About

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INOVAS

INOVAS is the International Network of Victims and Survivors of Serious Human Rights Abuses led by victims and survivors. Launched in December 2021, INOVAS aims to provide victims and survivors of serious human rights abuses worldwide with a survivor-led platform that offers a unique, safe and collaborative space to exchange experiences, successful strategies and approaches, provide peer learning, and help victims and survivors feel that they are not alone but rather part of a global community that has a voice.

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Impunity Watch

Impunity Watch (IW) is a non-profit human rights organisation dedicated to ending impunity for severe violations of human rights, especially in countries emerging from a violent past. We analyse, advocate, and partner to help local communities seek accountability for gross human rights abuses and for systemic injustice. In our work, we adopt a bottom-up, participatory, and context-sensitive approach, and support victims and survivors in exercising their rights. Our work is legal, social, and political. IW began its work in 2004 in response to calls from Guatemalan human rights groups for greater support in their struggle for redress after the internal armed conflict of 1960-1996. It was registered as an independent foundation in 2008 in the Netherlands. Today, IW works in a wide range of countries and has offices in Burundi, Guatemala, and The Netherlands.

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Executive summary

Reparations for serious human rights violations are an important instrument to help victims and survivors overcome the effects of conflicts and crimes, to restore their status as equal citizens, their trust in the state, and to recognise the harm suffered. While there have been some positive trends, reparations continue to be an afterthought in many post-conflict situations. In recent decades, policymakers have paid increasing attention to reparations, and more reparations programmes have been implemented by states. Also the United Nations are interested in strengthening their work in relation to reparations. More practical information is needed about how best to go about this. This report, which is developed with the support of the UN Office of the High Commissioner for Human Rights¹ and in close collaboration with the international victims' movement INOVAS, provides lessons learned for international policymakers about how reparations can best help to transform the situation of victims and survivors at the grassroots level. Based on focus groups and interviews with representatives of survivors' organisations around the world, this report calls for **direct, continuous and long-term engagement and equal partnerships between the international community and victims and survivors to push states more strongly on reparations. Grassroots needs, experiences and expectations should be central in any reparation effort.**

International human rights practice suggests that comprehensive reparations should consist of a combination of measures: restitution; compensation; rehabilitation; satisfaction; and guarantees of non-repetition. Although in practice many governments prioritise monetary compensation, for it is easiest to implement and measure, survivors that were interviewed for this study agree on the need for **comprehensiveness**. Although each reparation measure has its own importance, they specifically stress the importance of **recognition** of crimes and the harms suffered as a result. Compensation without recognition does not constitute meaningful reparation. Recognition is also an important step towards combating the stigma that many survivors suffer. This is however a faraway reality in contexts where those responsible for crimes are still in or close to power, or where no transition has taken place yet, such as Syria. **Psychosocial support** is another reparation measure that survivors consider crucial to transform their situation, but which is rarely implemented. Survivors' groups in Colombia and Guatemala have implemented culturally appropriate forms of such support. Unfortunately, this is mostly provided by civil society or survivors' organisations rather than the state.

Different groups of victims have experienced the effects of crimes differently based on their socio-economic, gendered, religious or ethnic background. Responding to these particular situations requires an **intersectional approach**. Most international attention tends to focus on sexual violence against women – although it is also committed against men. Sexual violence causes severe social, physical, emotional and economic effects, and is often largely unaddressed in reparation programmes, as is the case in Nepal and Guatemala. Nevertheless, other gendered impacts of conflict merit attention too, including the situation of widows, children born of sexual violence, displaced persons and family members of those forcibly disappeared. **Women's participation** is an important element to consider in reparation processes, as is the participation of individuals from **minority ethnic or religious groups** and their specific reparation needs. **Age** too marks a difference in reparation needs, as elderly survivors tend to be most concerned with social and economic security needs such as housing and health care, whereas young people are more oriented towards their future development possibilities. Clear communication and continuous outreach about the scope and timing of reparations is essential, to prevent the all-too-common disappointment and frustration that reparations cause.

¹ This paper has been prepared to inform the consideration of a revised guidance note of the Secretary-General on the United Nations Approach to Transitional Justice, as part of a broad exercise. The paper, however, reflects the views of the author and does not necessarily reflect the views of the United Nations, including its funds, programmes and other subsidiary organs, or of the financial donors to the exercise. It should not be considered as a United Nations document and is not an official record of the United Nations. The exercise has received financial support from, inter alia, the Federal Department of Foreign Affairs of Switzerland.

Unfortunately, as this report also shows, states are often reluctant to provide comprehensive reparations, which have more potential to transform survivors' lives. This **lack of political will** is apparent in many different ways: reparations are limited to economic compensation or to a certain group of individuals or crimes, or there is only a short registration time. In other cases, collective reparations dilute the reparatory potential of measures by benefiting communities or society at large instead of victims as such, or reparations are used for political purposes, sometimes making survivors feel instrumentalised and revictimised. In order to provide meaningful reparations that have the potential to make a difference on the ground, the **participation of survivors** in the design, implementation and evaluation of reparation programmes is essential. Nevertheless, in spite of consultation processes in some countries, such as Tunisia and Guatemala, in reality victims and survivors are rarely actively involved in decision making in relation to reparations. As a result, they have **organised themselves to mobilise and demand reparations** through street protests, media strategies, international civil lawsuits and even hunger strikes. The uphill battle for reparations in most contexts shows the importance of solid victim organisation, across regions and generations, and the need for shared goals and a long-term commitment. In this way, victim organisation and the building of coalitions among them can function as a **driver for longer-term social and political change**. As such, it is an important area for international support.

In the absence of state-led reparations, many victims' and survivors' organisations have implemented their **own forms of reparations**. These include peer-support groups, local memory initiatives, and monuments. Some victims' organisations have even broadened their remit to community conflict resolution or development. In these cases, victims' organisations have become real points of reference in their communities. Several organisations however describe the challenge this implies, especially when international funding reduces after time has passed since peace was signed. Many victims' leaders feel a moral obligation towards their members, while struggling to keep their members motivated to keep pushing for reparations.

This report aims to highlight concrete areas of action for the international community. **Long-term financial and political support** to victims' groups should be at the heart of any support, since reparations and other transitional justice mechanisms tend to take many years if not decades to be completed. Supporting survivors in other ways too is of utmost importance, for example through providing information about reparation procedures and legislation; creating platforms for victims to build coalitions; pressuring governments for reparations; and monitoring compliance with reparations commitments. This requires first-hand information about the experiences and needs of victims and survivors, based on **direct and sustained contact** with their movements. In this way, the international community can become a more effective ally for victims and survivors in their struggles for reparation and transformation.

In memory of Anne-Marie Buhoro

Esteemed and loved member of INOVAS and tireless advocate for survivors of sexual violence in the DRC.

Anne-Marie Buhoro was an activist from the DRC's South Kivu province, a region that experienced some of the worst atrocities against girls and women in the country. A victim of sexual violence herself, Anne-Marie felt motivated to work for other victims and survivors like her and to combat the impunity that she saw around her: "Nobody was denouncing these violations because of the fear that was prevailing at that time. I was still angry about the violence that I suffered myself. I wanted to fight against [sexual violence], but also to make the voices of other victims heard at the local level."

In 2010, Buhoro and other women founded the Initiative for Vulnerable Persons and Women in Action for Integrated Development (IPVFAD), which provides support to victims and survivors of sexual violence in the DRC. Anne-Marie wanted to contribute to the protection of women in her region who face multiple human rights violations—not least, the constant risk of sexual violence — which led to her involvement in work aimed at preventing and protecting against sexual and gender-based violence. She worked tirelessly against "the multiple forms of violence faced by women and girls in the eastern DRC, and other crimes that are committed without conscience."



ANNE-MARIE BUHORO, 2021, MINOVA, DRC

The impact of crimes continues long after they are committed. Anne-Marie was motivated by the fact that "the perpetrators circulate freely; the survivors, meanwhile, are afraid to report cases because once they have filed complaints, they are tracked down and made vulnerable by the same perpetrators." She fought to achieve justice for such cases: "When we as victims and survivors fight and lead that fight, it's also a kind of psychological rehabilitation for us. There's a kind of catharsis; it helps us to heal when we are taking the lead in this fight." Anne-Marie played a central role in the establishment of INOVAS and its expansion in DRC, as a step towards making survivors' voices heard globally, and lobby for justice at the international level.

Anne-Marie Buhoro tragically died on 28 January 2022. She was brutally murdered by her husband at their home in Minova, a border-town located between the North and South Kivu Provinces. Her death poignantly shows the persistence of gender-based violence in DRC.

Anne-Marie, 43, was the mother of five children. She will be sorely missed by many, including her family, the communities she worked with, INOVAS and Impunity Watch. Her death represents a great loss for victims and survivors regionally and internationally. We strongly condemn and denounce this crime and demand an urgent and impartial investigation.

Introduction

Serious human rights violations have devastating physical, social, economic or psychological effects for individuals, communities and societies. International practice has long prioritised the pursuit of justice to respond to crimes, later complemented with attention for truth-seeking. Less attention was initially paid to the individuals who directly or indirectly suffered crimes and their socio-economic or emotional recovery. Reparations are a crucial element for that. They are also a mechanism that many victims and survivors² prioritise, precisely because they frequently find themselves in situations of poverty and marginalisation, often reinforced by the violence they suffered. This is why discussions on reparations have recently received more international attention, including from the United Nations.³

The right of victims of gross human rights violations to reparations has been established in international human rights law. Article 2 of the International Covenant on Civil and Political Rights for example calls for an effective remedy for rights violations.⁴ It was included in soft law as early as in the Universal Declaration of Human Rights. The 2005 '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', adopted by the UN General Assembly,⁵ bring together the existing norms and standards. According to these Basic Principles, full and effective reparation includes restitution; compensation; rehabilitation; satisfaction; and guarantees of non-repetition. The combination of these measures is what we refer to in this report as 'comprehensive reparations'. They should combine material, financial and symbolic, as well as individual and collective measures. Beyond alleviating the effects of the harm done, reparations are also meant to restore victims' trust in the state, and include them as equal citizens in society.⁶ Reparations can be meaningful for victims and survivors by improving their socio-economic position and psychosocial well-being and by contributing to the transformation of social relations in countries transitioning to democracy or away from armed conflict.

Reparations can be ordered as a result of judicial processes, but since the early two thousands they are increasingly provided through administrative reparation programmes. These programmes are the main focus of this report. Rather than redressing only those directly involved as victims in judicial proceedings, administrative programmes can reach a much wider group of victims and survivors. Nevertheless, these programmes come with their own challenges, including the difficulty of providing comprehensive reparations to large numbers of victims and survivors, especially in cases of large-scale and long-term human rights violations in countries whose economies struggle to recover from armed conflict. This is why reparations often cause disappointment for victims and survivors, since states promise less than the Basic Principles outline, or because they fail to deliver promised reparations due to political, economic or logistical constraints.⁷ This can make victims and survivors feel fooled and lose trust in the government. In extreme cases, reparations can even constitute a new form of victimisation.⁸

2 We acknowledge the critiques about (and potentially passive understanding) the term 'victim'. Nevertheless, recognising that many individuals prefer to refer to themselves as victims while others prefer 'survivors', we use both the terms.

3 Simon Robins, "An Empirical Approach to Post-Conflict Legitimacy: Victims' Needs and the Everyday," *Journal of Intervention and Statebuilding* 7, no. 1 (2013): 45–64; Simeon Gready, "The Case for Transformative Reparations: In Pursuit of Structural Socio-Economic Reform in Post-Conflict Societies," *Journal of Intervention and Statebuilding* 16, no. 2 (2022): 182–201.

4 General Comment 31 of the Human Rights Committee (HRC) clarifies that article 2 para 3 in fact relates to reparations.

5 United Nations General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation. General Assembly Resolution 60/147 of 16 December 2005," 2005.

6 Pablo De Greiff, "Articulating the Links Between *Transitional Justice and Development: Justice and Social Integration*," in *Transitional Justice and Development. Making Connections*, ed. Pablo De Greiff and Roger Duthie (New York: Social Science Research Council, 2009), 28–75.

7 Lisa J. Laplante, "Just Repair," *Cornell International Law Journal* 48, no. 3 (2015): 513.

8 Mijke De Waardt, "Are Peruvian Victims Being Mocked?: Politicization of Victimhood and Victims' Motivations for Reparations.," *Human Rights Quarterly* 35, no. 4 (2013): 830–49; Sanne Weber, "Trapped between Promise and Reality in Colombia's Victims' Law: Reflections on Reparations, Development and Social Justice," *Bulletin of Latin American Research* 39, no. 1 (2020): 5–21.

In order to prevent such disappointment and make sure that reparations are meaningful both for victims and survivors and for society as a whole, it is crucial to design reparations based on the needs, experiences and expectations of those most affected by human rights violations. Nevertheless, fully comprehensive reparations are not always feasible, and implementing reparations to a large number of victims requires a long-term process. To avoid unrealistic expectations, the state should clearly communicate the scope, timeframe and limitations of reparations. This policy report sheds light on the experiences with reparations of victims and survivors and their communities from the grassroots level, describing which reparation strategies have been successful and why, and what the most common obstacles are. It pays specific attention to the current and especially the potential role of the international community in reparation processes.

The report represents the views of victims and survivors around the world, based on three regional focus group discussions held in September 2021, and a series of seven individual interviews held in December 2021 and January 2022, all held online due to the Covid-19 pandemic. All in all 23 people participated in these discussions, including 12 women and 11 men. They represent experiences from Latin America (Argentina, Colombia and Guatemala), Asia (Nepal, Lebanon, Syria) and Africa (South Africa, Democratic Republic of Congo, Morocco and Tunisia). A number of these participants belong to the international victims' network INOVAS, created to increase victims' participation in international decision-making processes that affect them and to empower victims and survivors in the process. This report was elaborated in close collaboration between INOVAS and Impunity Watch. A list of all victims' and survivors' organisations involved in this research can be found at the end of this policy report.

This report starts by describing a number of best practices in relation to reparations from a grassroots perspective, followed by the main shortcomings and obstacles. It then pays specific attention to the role of victims and survivors in the design and implementation of reparation processes, both in terms of formal participation and in relation to victims' own strategies to mobilise for reparations or implement their own reparation initiatives. The report ends by describing the role that the international community could play to guarantee that reparations are meaningful for victims and survivors, concluding with a series of policy recommendations.

Best practices from a grassroots perspective

It is very clear from our research that survivors prioritise comprehensive reparations. They stress the need to combine different forms of reparation, including but certainly not limited to financial support. They also stress psychosocial support, material reparations in terms of housing, livelihood support and skills training, and rehabilitation services in the form of access to health care and education support for themselves and their children. In terms of financial support, most survivors seem to prioritise longer-term and periodic pensions over one-off lump sums, because a pension enables more financial security in the long run. In Argentina, for example, former detainees receive the equivalent of the salary of a judge, which is not only financially important, but also for the sense of dignity of survivors.⁹ Also in Tunisia it is emphasised that the importance of compensation and material reparations does not lie in the awarded sum itself, but in the recognition of the harm done, and because compensation and material support help victims to live a dignified life. This is essential in the absence of basic social services like health and education support. The importance of dignity is apparent from the name of the proposed Tunisian reparation scheme: 'Dignity Fund'.¹⁰

In spite of the importance of comprehensive reparations, in many contexts reparations are mostly limited to compensation. This is problematic, because compensation loses some of its reparatory potential if it is not accompanied by symbolic or material reparations. In Guatemala, for example, the victims' movement campaigned for compensation cheques to be accompanied by an explanation of why compensation was awarded, i.e. the type of harm that was done. Also in Nepal compensation is not connected to the recognition of crimes and harm. This is also suggested by its name: interim relief rather than reparations.¹¹ Vice versa, recognition and symbolic reparations are not reparatory in the absence of compensation or material reparation. Survivors in Colombia have resisted the attempt by the Victims' Unit to limit reparations to the construction of a monument, if it is not accompanied by economic and psychosocial reparations.¹² A more comprehensive strategy is thus essential to make reparations meaningful for survivors.

Explicit recognition of the harm done and the dignity of victims and survivors is a key priority for many organisations that participated in this research, especially because in many contexts, such as Syria and Tunisia, victims and survivors are stigmatised.¹³ A participant from Tunisia explained: 'if there is no recognition, how can there be reparation?'¹⁴ Recognition should therefore be at the basis of all reparation processes. It can help to overcome stigmatisation by showing that victims and survivors should not be blamed, thus restoring their reputation. This can help survivors to regain their self-esteem and to talk openly about their experiences. Recognition can for example include monuments and memorialisation. The connection to truth-telling is also important.

Psychosocial reparations seem to be among the least provided reparation measures, even though survivors consider them extremely important. Participants emphasised the high level of traumatisation of many survivors, which is frequently compounded by present-day problems as violence and poverty. Untreated mental health needs can eventually cause physical problems and vice versa. Psychosocial accompaniment can be seen as a precondition for victims and survivors to be able to talk about their experiences, and like recognition it should thus be a basic element of reparations. Such support should ideally be provided by

9 Focus group with survivor organisations in Latin America, 13 September 2021.

10 Interview with Al Karama Association, 10 February 2022.

11 Interviews with Victims' Association Asoq'anil from Chimaltenango in Guatemala, 6 January 2022 and with Nepalese human rights lawyer, 30 January 2022; International Center for Transitional Justice, "To Walk Freely with a Wide Heart": A Study of the Needs and Aspirations for Reparative Justice of Victims of Conflict-Related Abuses in Nepal" (New York: International Center for Transitional Justice, 2014).

12 Interview with the Community Council of the Cauca River Basin and the Teta Mazamorrero Micro Basin in Colombia, 6 December 2021.

13 Focus groups with survivor organisations in Africa and Asia, 14 and 15 September 2021.

14 Interview with Al Karama Association, 10 February 2022.



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local mental health workers, who are familiar with the specific culture, language and conflict history, as well as culturally specific understandings of trauma. In Guatemala and Colombia, for example, ‘sanación procesos’ are undertaken. These can consist of a mix of psychological techniques and healing practices based on Indigenous or Afro Colombian cosmologies, including ceremonies, rituals and spiritual practices.¹⁵ Such processes are however mostly implemented by victims’ organisations themselves, rather than by the state. Another obstacle is the taboo that surrounds mental health problems in many contexts. Overcoming such taboos and treating mental health as equally important as physical health is essential. This is an area that the international community could contribute to, while being open to non-Western understandings and responses to trauma.

Participants stressed that reparations should be implemented in combination with other transitional justice (TJ) mechanisms. This is demonstrated by the Moroccan case, where a first round of reparations provided in the late 1990s was heavily criticised for not being accompanied by truth-telling. Later reparations, following the Equity and Reconciliation Commission’s report, were much better received. Consultations took place in this round, and reparations included measures of a collective nature, such as the conversion of former detention centres into community development centres.¹⁶ A similar pattern can be seen in Argentina, where reparations became less controversial and less regarded as a substitute for justice after prosecutions had started.¹⁷ In fact, survivors describe that justice, for example the lawsuits taking place in Argentina and Guatemala, or truth-telling and the location of the bodies of the disappeared, have enormous reparatory potential. Such processes, which are intricately connected to the recognition of the crimes and the harm done, are in some cases considered more important than monetary reparations.

15 M. Brinton Lykes, Alison Crosby, and Sara Beatriz Alvarez, “Redressing Injustice, Reframing Resilience: Mayan Women’s Persistence and Protagonism as Resistance,” in *Resilience, Adaptive Peacebuilding and Transitional Justice: How Societies Recover after Collective Violence*, ed. Janine Natalya Clark and Michael Ungar (Cambridge: Cambridge University Press, 2021), 210–33.

16 Laplante, “Just Repair.”; Susan Slyomovics, “Fatna El Bouih and the Work of Memory, Gender, and Reparation in Morocco,” *Journal of Middle East Women’s Studies* 8, no. 1 (2012): 37–62; Julie Guillerot, “Reflections on the Collective Dimension of Reparations: Where We Are ? Where To Go ?” (Belfast: Queen’s University Belfast, 2022).

17 Nora Sveaass and Anne Margrethe Sønneland, “Dealing With the Past: Survivors’ Perspectives on Economic Reparations in Argentina,” *International Perspectives in Psychology* 4, no. 4 (2015): 223–38.

Finally, participants stress the importance of guarantees of non-repetition as a form of reparation. Tunisian victims, for example, explain their fear of renewed repression by a government that does not want to address the past, whereas also in Nepal lack of security sector reform leads to continued violations, including sexual violence.¹⁸ In many areas of Colombia too, reparations are being implemented in a context of ongoing armed conflict, in spite of a peace agreement.¹⁹ This is clearest in the case of Syria, where reparations are difficult to imagine in the midst of ongoing conflict, with a large number of victims having fled the country. These situations raise the question how reparations can be really reparatory if crimes continue to occur. Syrian survivors, for instance, believe that rather than reparations, victims and survivors need urgent emergency support and relief. Furthermore, guarantees of non-repetition, including legal and security sector reform, are essential for guaranteeing a context without violations, in which reparations can actually have a reparatory potential.

¹⁸ Interviews with Al Karama Association Tunisia, 10 February 2022 and Nepalese human rights lawyer, 30 January 2022.

¹⁹ Interview with the Community Council of the Cauca River Basin and the Teta Mazamorrero Micro Basin, 6 December 2021.

Differential or intersectional focus

A differential or intersectional lens can help to understand the situations of specific groups of victims and survivors, and thus better target reparations for specific groups. One group that was frequently mentioned by the interviewed survivors' organisations was women, and even more so women from minority groups such as Indigenous, Afro Colombian or Dalit women. Women face specific challenges because of the patriarchal norms in many societies, and therefore they have particular needs. In recent years, attention has increasingly been paid to the need for reparations for sexual violence. Sexual violence was not included in the Interim Relief Programme that provided reparations to survivors in Nepal, as the state has not publicly acknowledged this crime, whereas the Guatemalan state has accused victims of sexual violence of lying before the Inter-American Commission of Human Rights.²⁰ Recognition of sexual violence – which is also committed against men – continues to be essential and its effects should be repaired. Reparation measures should consider mental and physical health support, economic strategies but also the often unrecognised children born as a result of sexual violence, who should be recognised as victims in their own right.²¹ For women, especially in places with conservative gender norms, societal taboos make it hard to talk about sexual violence or crimes that are considered of a sexualised nature, such as being stripped naked.²² This requires psychosocial accompaniment and societal sensitisation measures.

Yet sexual violence is not the only gendered impact of conflict. Many direct victims of violence were men, leaving their wives to fend for the survival of their families by themselves. In most countries, women face unequal access to and remuneration on the labour market, leading to greater poverty. Furthermore, in many patriarchal contexts single women encounter discrimination by the state and in communities. In places such as Nepal, widows suffer stigmatisation and maltreatment by their families, and especially the in-laws they tend to live with. Specific measures are needed to address this marginalisation and compensate for the additional hardships faced by women. At the same time, the incredible strength and struggle of many women to survive with their children and undertake efforts to find truth, justice and reparation should be recognised. Public recognition could be a first step to increase women's leadership in victims' and community organisations, which can help to transform gender inequalities. The Conflict-Affected Women's Network in Nepal provides a great example of working with women in communities around the country and across different generations and castes to strengthen their leadership. This can play a role in transforming different structures of inequality.²³ LGBTQI persons form another group targeted in some conflicts, such as the Colombian one. Although their experiences were not specifically raised in the conversations held for this research, it is important for reparations and other TJ processes to consider their particular needs, which are often silenced in patriarchal contexts.²⁴

Survivors may also experience harms in different ways because of class, ethnicity, and age, among other things. Survivors of conflict often belong to marginalised groups in society, such as indigenous peoples in Guatemala and Colombia, Afro Colombian people, or Dalit people in Nepal. This not only means that harms often exacerbate already existing marginalisation, but also that violence might harm and aim to suppress specific cultural traditions and worldviews, such as sowing and harvesting, alimentary practices, spirituality or traditional forms of medicine. Reparations could help to recover some of those damaged or lost cultural practices. In Guatemala, for example, Mayan survivors are re-discovering their spirituality.

20 Interview with Conflict-Affected Women's Network in Nepal, 16 January 2022 and focus group with survivor organisations in Latin America, 13 September 2021.

21 Tatiana Sanchez Parra, "The Hollow Shell: Children Born of War and the Realities of the Armed Conflict in Colombia," *International Journal of Transitional Justice* 12, no. 1 (2018): 45–63.

22 Interviews with Al Karama Association, 10 February 2022.

23 Interview with Conflict-Affected Women's Network in Nepal, 16 January 2022.

24 Pascha Bueno-Hansen, "The Emerging LGBTI Rights Challenge to Transitional Justice in Latin America," *International Journal of Transitional Justice* 12, no. 1 (2018): 126–45. gay, bisexual, transgender and intersex.

They use the above-mentioned ‘sanación’ processes to address culturally specific understandings of trauma as a collective, intergenerational and spiritual phenomenon which not only affects humans but also the territory.²⁵ In Colombia, the Community Council of the Cauca River Basin and the Teta Mazamorrero Micro Basin is developing a ‘quilombo’ with the support of the Victims’ Unit. A quilombo is a culturally specific space to provide victims with ‘sanación’ in a holistic way, based on Afro-Colombian culture and cosmivision. There is currently disagreement over the quilombo staff, as the Victims’ Unit is reluctant to hire local professionals.²⁶ Since relationships of trust are essential for psychosocial support, states should prioritise locally based staff who are familiar with the cultural practices and local history, and consider non-Western, more culturally appropriate forms of psychosocial and other reparations.

Age is another reason why survivors may have different needs, and why their needs may change over time. The Khulumani Support Group in South Africa explains that many elderly victims of apartheid do not believe they will benefit from education support and skills training. They prioritise housing support, as having a decent house would give them stability at old age. In contrast, younger generations would benefit from education scholarships and skills training.²⁷ The Nepalese case shows that scholarships should include secondary costs for schooling too, such as books, uniforms, utensils and travel costs. Without this, education might still be out of reach.²⁸ In many contexts, like Nepal and Guatemala, the generation of direct victims is aging and even dying. Therefore, it is urgent that reparations prioritise them and provide them with care and security in their old age.²⁹

Finally, there are crimes which might require a specific response. One such crime is enforced disappearance. In addition to the psychological impact of long-term uncertainty about the fate of a loved one, enforced disappearance implies specific legal challenges. In Nepal, for example, wives of the enforced disappeared were not able to inherit their husbands’ land, leaving them landless and facing poverty. The only way to claim their husbands’ land is declaring them deceased, which is not only emotionally complicated but also precludes formal search procedures. These women encounter similar issues in relation to their husbands’ finances; they for example need to continue paying their debts.³⁰ An important reparation measure to counter such problems would be a declaration of ‘absence by enforced disappearance’, as was created in Argentina. This allows victims to undertake legal procedures without having to declare their family members dead.³¹

It is clear from these examples that victims and survivors often belong to groups that are marginalised based on their gender, ethnicity, age and class, but also their physical ability, sexuality and other social markers. These axes of oppression and marginalisation make such groups more vulnerable to violence, and makes it easier for states not to address these crimes. States implementing reparations and the international community that supports them, should therefore try to identify, recognise and redress the experiences of marginalised groups, as a step towards overcoming discrimination and marginalisation. Instead of offering a fixed reparation scheme with the same measures for all victims and survivors, states could offer a range of mechanisms so that survivors can choose the measures that are most important for them. Such innovative strategies help to adapt reparations better to the different experiences and needs that arise from different social positions and conflict experiences.³²

25 Lykes, Crosby, and Alvarez, “Redressing Injustice, Reframing Resilience: Mayan Women’s Persistence and Protagonism as Resistance.”

26 Interview with the Community Council of the Cauca River Basin and the Teta Mazamorrero Micro Basin, 6 December 2021.

27 Focus group with survivor organisations in Africa, 14 September 2021 and interview with Khulumani Support Group in South Africa, 1 December 2021.

28 Interview with human rights lawyer in Nepal, 30 January 2022.

29 ICTJ, “To Walk Freely with a Wide Heart’: A Study of the Needs and Aspirations for Reparative Justice of Victims of Conflict- Related Abuses in Nepal.”

30 Ibid.

31 Sveaass and Sønneland, “Dealing With the Past: Survivors’ Perspectives on Economic Reparations in Argentina.”

32 Elena Butti and Brianne McGonigle Leyh, “Intersectionality and Transformative Reparations: The Case of Colombian Marginal Youths,” *International Criminal Law Review* 19, no. 5 (2019): 753–82; Laplante, “Just Repair.”

Obstacles to reparation

Unfortunately, the reality of most reparation programmes is very distant from these ideals. In fact, in some countries, such as Tunisia, Syria and Lebanon, there are no reparations whatsoever as those who committed human rights violations are still in power, directly or indirectly. In the DRC, government-provided reparations are only nascent. The Panzi Foundation led by Nobel Peace Prize winner Dr Denis Mukwege implements an administrative reparations programme, specifically focusing on survivors of sexual violence. Reparations are also provided following lawsuits, including before the International Criminal Court, but these are rarely implemented and only benefit the victims of specific cases rather than the entire victim population. Although the DRC government has recently created the FONAREP (National Fund for Reparations), so far reparations have not been implemented at a national scale.³³



A DISPLACED FAMILY LOOKS THROUGH A WINDOW. THOUSANDS OF DISPLACED VILLAGERS ARRIVED IN THE TOWN OF MINOVA, SOUTH-WEST OF GOMA AFTER FLEEING THE FIGHTING BETWEEN GOVERNMENT FORCES AND REBELS LOYAL TO DISSIDENT GENERAL LAURENT NKUNDA. DECEMBER 18, 2007. MINOVA, GOMA. CREDITS: © LIO-NEL HEALING/AFP VIA GETTY IMAGES.

Political will

The main obstacle to effective, comprehensive and meaningful reparations is political will. The lack of political will manifests itself in several ways, often related to the implementation of reparations in a narrow way. This makes reparations lose their reparatory and transformative potential, as the partial implementation of reparation promises fails to signal the full inclusion of victims as equal rights-bearing citizens. In Guatemala, where the National Reparations Programme (PNR) has all but ceased to function, reparations have gradually been limited to economic compensation. This leaves aside the other four forms of reparation – psychosocial reparation, dignification, cultural and material reparations. A similar tendency can be seen in Nepal. In addition, the process of obtaining reparations often requires navigating a complicated bureaucracy which can be costly and time-consuming. Many survivors eventually settle for compensation, giving up on other forms of reparation. They do so both for being tired after having waited

³³ Interview with Congolese Coalition for Transitional Justice, 21 December 2021.

a long time for at least some form of reparation, and because they face poverty which compensation at least alleviates somewhat.³⁴

Another way in which reparations are narrowed down is by limiting who can receive them. In Nepal, for example, survivors of sexual violence and torture are excluded from reparations, whereas reparations for disappeared and deceased victims go to spouses and children, excluding parents and in-laws, who are dependent on their children especially during older age. This led to many family tensions. In addition, to be eligible for reparations Nepalese victims must indicate whether state or Maoist actors perpetrated the crime, thus excluding many victims who do not possess this knowledge.³⁵ In South Africa, reparations were limited to those victims who came forward to testify before the Truth and Reconciliation Commission (TRC). This approach excludes many individuals who were not aware of the TRC, who were not psychologically able to testify, or who did not manage to come forward in the limited time set out for this. In addition, the limitation of the conception of victims to those who suffered civil and political rights violations excluded victims of socio-economic abuse.³⁶ In spite of victims' demands, the government refuses to amplify these eligibility criteria. As a result, only approximately 17,000 individuals have received reparations, whereas the database of the Khulumani Support Group includes over 100,000 survivors.³⁷ This shows the importance of adopting a broad understanding of who deserve reparations. Ideally, reparations will benefit both direct and indirect victims and the family members who depend on them. Reparation programmes should make considerable efforts to reach all of those potentially eligible through adequate means, for example using locally accessible media such as community radio, and providing information in all local languages.

Collective reparations are considered important, because individual measures such as a compensation cheque by themselves cannot undo historical marginalisation or repair the loss of loved ones. In many cases, violations were clearly collective. In Tunisia, for example, whole neighbourhoods were punished for political activism, and as a result survivors demand so-called territorial reparations.³⁸ Combining development and social services with reparations is the premise of increasing calls for transformative reparations. These go beyond restitution and instead transform survivors' situation of structural marginalisation.³⁹ Nevertheless, survivors' organisations warn against the blurring of divisions between survivors and those who did not directly experience conflict. They see that governments may try to turn reparations obligations into broader development measures.

In Guatemala, the PNR is now allocated to the Ministry of Social Development, making survivors fear that reparations will be diluted into general development measures. These are part of the state's general obligations towards all its citizens, in contrast to reparations. In South Africa a similar tendency can be seen, as proposals are made to use the President's Fund for Reparations for building multipurpose centres for communities. This contradicts victims' desire to receive specific reparation measures instead of generalised development projects.⁴⁰ It is important to maintain this distinction. Collective reparations can include development-oriented services, which may be needed to provide survivors with the dignified life they desire. These should however be combined with symbolic measures such as memory initiatives

34 Focus group with survivor organisations in Latin America, 13 September 2021 and interview with Victims' Association Asoq'anil from Chimaltenango, 6 January 2022.

35 Interviews with Conflict-Affected Women's Network and human rights lawyer in Nepal, 16 and 30 January 2022.

36 Aurélien Pradier, Maxine Rubin, and Hugo van der Merwe, "Between Transitional Justice and Politics: Reparations in South Africa," *South African Journal of International Affairs* 25, no. 3 (2018): 301–21.

37 Interview with Khulumani Support Group, 1 December 2021 and focus group with survivor organisations in Africa, 14 September 2021.

38 Interview with Al Karama Association, 10 February 2022; Simon Robins et al., "Transitional Justice from the Margins: Collective Reparations and Tunisia's Truth and Dignity Commission," *Political Geography* 94, no. 2022 (2022): 1–10.

39 Gready, "The Case for Transformative Reparations: In Pursuit of Structural Socio-Economic Reform in Post-Conflict Societies"; Rodrigo Uprimny Yepes, "Transformative Reparations of Massive Gross Human Rights Violations: Between Corrective and Distributive Justice," *Netherlands Quarterly of Human Rights* 27, no. 4 (2009): 625–247.

40 Interviews with Victims' Association Asoq'anil from Chimaltenango, 6 January 2022 and with Khulumani Support Group, 1 December 2021; Pradier, Rubin, and van der Merwe, "Between Transitional Justice and Politics: Reparations in South Africa".

that recognise that collective reparation measures were provided because of the harm done to a specific group of people.⁴¹ Survivors and their organisations should be leading in deciding on the balance between different measures. The reparations ordered in the Sepur Zarco lawsuit on sexual violence against indigenous women in Guatemala can serve as an example. The Mayan victims themselves articulated their reparation demands. In addition to economic compensation, these included more development-oriented measures such as health and education, land restitution, as well as memory measures and the training of security forces.⁴²

Instrumentalization and revictimization

Reparations can also be misdirected in other ways. The Tunisian government instrumentalised reparations by using them to reward supporters of the 2011 government who had been victimised under the Ben Ali regime. The subsequent government instead provided amnesties to businessmen accused of corruption under the Ben Ali regime. Reparations were thus linked to political power and aimed to benefit only a specific group of individuals, instead of recognising the harm experienced by most victims during the dictatorship, the Arab spring uprising and following revolution.⁴³ Although the government in 2020 eventually accepted the creation of a Dignity Fund to repair survivors, the Fund has not yet been operationalised in spite of numerous promises, and survivors and victims have not received reparations. Instead, the government mocks them by insinuating that all they want is money, thus trivialising the importance of reparations. This is complicated by the economic crisis in Tunisia. In spite of initial optimism about the TJ process, survivors have lost hope for change, justice and reparations.⁴⁴ Also in other contexts, governments have trivialised reparations and mocked victims, calling them greedy or asking widows whether they simply want money to remarry.⁴⁵

Memory is sometimes used as a tool to prevent or undo advances made in reparations. In Colombia, the Duque government (2018-2022) appointed a director and officials favourable to the government in the National Centre for Historical Memory which reconstructs historical memory as part of broader reparation efforts. The new director changed the direction of the Centre, installing a different narrative of the past which denies the role of the state in the conflict. This discourse resembles the times of President Uribe, who denied the existence of an armed conflict, and whose Justice and Peace Law, accompanying the paramilitary demobilisation process, prioritised the memory of the perpetrators over that of the conflict's victims.⁴⁶ The President of the DRC has also publicly stated that he prefers looking towards the future rather than the past. Mass graves are being removed and used as sites for building houses, thus destroying evidence for lawsuits and making it impossible for many survivors to find the remains of their loved ones.⁴⁷ This shows that it is hard to expect meaningful reparations in contexts where there has not been a real change of power, and where the government is reluctant to recognise its role in violence and conflict. To avoid setbacks it is important that reparation policies are state policies, adopted by law, rather than government policies implemented via decrees. For policies that were already adopted by decree, having them turned into law can be a longer-term lobbying goal.

Reparation programmes can have negative consequences for victims, either intended or unintended. They can for example treat survivors in disrespectful ways. Colombian organisations feel revictimized

41 Guillerot, "Reflections on the Collective Dimension of Reparations: Where We Are ? Where To Go ?"

42 Impunity Watch and Alliance to Break the Silence and Impunity (ECAP, MTM, UNAMG) "Changing the Face of Justice: Keys to the Strategic Litigation of the Sepur Zarco Case." (Guatemala City, 2017).

43 Focus group with survivor organisations in Africa, 14 September 2021; Gready, "The Case for Transformative Reparations: In Pursuit of Structural Socio-Economic Reform in Post-Conflict Societies."

44 Interview with Al karama Association, 10 February 2022.

45 Augustine SJ Park and Madalena Santos, "Working Paper: South Africa's Reparations Gap," May (2021): 1–20 and interview with human rights lawyer in Nepal, 30 January 2022.

46 Focus group with survivor organisations in Latin America, 13 September 2021 and personal communication with MOVICE Cauca, 17 November 2021.

47 Interview with Congolese Coalition for Transitional Justice, 21 December 2021.

by the extremely slow implementation of reparations. This is compounded by the unreliability of the Victims' Unit, which frequently cancels meetings with survivors on a last minute basis or fails to reimburse costs made by communities for collective reparations. Similarly, the Khulumani Support Group describes how in South Africa the lack of state response to victims' reparation demands has caused such high levels of rage among victims that it is hard to even discuss the issue. This has created a 'counter-reparative' effect on the trust of survivors in the state.⁴⁸ Reparations can also cause tensions and divisions between survivors, when they are distributed only to a certain group of people, like in South Africa, or when the number of recipients is so large that some people have to wait longer than others, as in Colombia. In Nepal, family members of disappeared victims initially received a lower amount of compensation than families of the deceased. Apart from treating equally horrific crimes in different ways, this led many to register their family members as deceased, thus potentially precluding truth-seeking processes. It was only after intense lobbying that this difference was amended. By then, many people had already registered their family members as deceased rather than disappeared.⁴⁹

In other cases, compensation causes tensions or discontent. In South Africa, the amount of compensation (with an average of R21,700, approximately EUR 1270) was a slap in the face for many survivors. In Argentina, in contrast, some relatives of the disappeared resisted the mere idea of receiving monetary reparations, as it was seen as a form of silencing victims. Those accepting reparations were even portrayed as traitors by one faction of the Madres de la Plaza de Mayo.⁵⁰ This is why careful consultation with victims and survivors and their participation in the process of designing and implementing reparations is essential. Furthermore, clear and transparent communication about the scope and timing of reparations is essential, to avoid the frustration caused by unmet promises or unrealistic expectations.



FAMILIES OF THE MISSING IN NEPAL. © NEFAD

48 Focus groups with survivor organisations in Latin America, 13 September 2021 and with survivor organisations in Africa, 14 September 2021; Augustine SJ Park and Madalena Santos, "Working Paper: South Africa's Reparations Gap," May (2021): 2.

49 Interview with human rights lawyer in Nepal, 30 January 2022.

50 Focus groups with survivor organisations in Latin America, 13 September 2021 and with survivor organisations in Africa, 14 September 2021; Sveaass and Sønneland, "Dealing With the Past: Survivors' Perspectives on Economic Reparations in Argentina."

Victim and survivor participation in reparations

In spite of its importance, our research shows that states rarely implement effective strategies for survivors to participate in reparation processes, or if they do then fail to act on survivors' needs and demands. In Guatemala, survivors' needs were considered in the reparation policy, as a result of strong lobbying efforts. Nevertheless, this comprehensive policy is not being implemented, due to the lack of political will described above. In South Africa, the Khulumani Support Group has participated in workshops with the Department of Justice to develop reparation proposals, but these are not considered by the high-level decision-makers. The same happened in Tunisia. A large-scale consultation process led to a system to allocate compensation amounts based on the specific harms suffered, but still reparations are not implemented, as according to the government the country's economic crisis makes reparations unfeasible. In Nepal, survivor consultation led to a comprehensive TRC bill, which was however changed when it was formally adopted. In Colombia, survivors are actively involved in developing collective reparation plans, which can for example include public and infrastructural services or commemorative activities. Unfortunately, the implementation of those plans tends to be slow or absent, causing disappointment and frustration. In some cases, survivors demand reparations which are beyond the available budget, evidencing the need to place clear boundaries in relation to what can be demanded and expected. Only in Argentina consultation seems to have been successful. There was a call for survivors' organisations and ex-detainees to contribute to the policy design, whereas those deciding on the reparation policies had been victims themselves who had acquired high-level political posts.⁵¹

In some cases, victims feel instrumentalised by the state. In Tunisia and South Africa, the state only seems to pay attention to survivors' needs and making promises of reparation in election time. Once elections are over, reparations are not implemented and the government no longer seems interested in hearing survivors' experiences and needs.⁵² In Guatemala, during Alvaro Colom's government (2008-2012) – which was quite favourable towards victims and human rights – survivors' representatives were invited to work for the PNR as staff and even regional coordinators. Victims' leaders in different departments decided to accept this offer, in order to participate in the reparations process. The experience was disappointing for the interviewed victims' leader. As a regional coordinator he managed to make considerable progress in material reparations, but also witnessed strong corruption which he could not prevent in spite of speaking out about it. He eventually stepped down when the government proposed using reparation ceremonies as campaign events – another clear example of how victims and reparations can be instrumentalised by the state.⁵³

In the absence of states' willingness to engage survivors actively and effectively in the design and implementation of reparations, survivors have applied a range of lobbying strategies. They hold meetings with state officials at the local or national level; they consult their constituencies and provide information and recommendations to truth commissions; they send memorandums and formal requests for information; they hold responsible Ministers to account before Congress and organise massive mobilisations such as street protests and marches to publicly demand their rights. They also use media strategies to make their voices heard and raise support for their cause. This has led to important successes, such as the creation of the PNR in Guatemala – although the actual implementation of reparations has proven disappointing. The National Commission for the Kidnapped and Disappeared in Lebanon is another success – although the Commission has no budget, no headquarters and no resources. In DRC and South Africa, victims' organisations have played a key role in collecting survivors' needs and pushing for

51 Focus group with survivor organisations in Latin America and Africa, 13 and 14 September 2021, interview with human rights lawyer in Nepal, 30 January 2022, interview with Al Karama Association, 10 February 2022; Guillerot, "Reflections on the Collective Dimension of Reparations: Where We Are? Where To Go?".

52 Focus group with survivor organisations in Africa, 14 September 2021 and interview with Khulumani Support Group, 1 December 2021.

53 Interview with Victims' Association Asoq'anil from Chimaltenango, 6 January 2022.



TUNISIANS WAVE NATIONAL FLAGS AND SHOUT SLOGANS TO MARK THE FIFTH ANNIVERSARY OF THE 2011 REVOLUTION. JANUARY 14, 2016. HABIB BOURGUIBA AVENUE IN TUNIS. CREDITS: © FETHI BELAID/AFP VIA GETTY IMAGES.

consultations with the state. Tunisian women survivors even held a sit-in and hunger strike to demand a higher reparation amount from the state – an amount that was accepted, although reparations have still not been implemented.⁵⁴

Victims' organisations also use legal strategies. In 2002, the Khulumani Support Group brought a civil claim for reparations from international companies complicit in apartheid in the United States. Unfortunately, this strategy was not completely successful, since only one company (General Motors) out of the 23 sued international corporations settled out of court for \$1,5 million. This was considered a drop in the ocean compared to the damage done.⁵⁵ Guatemalan organisations have organised hearings before the Inter-American Commission of Human Rights to pressure the state into complying with its reparation obligations. These examples show the inventiveness of survivors' organisations in pushing for reparations in different ways and spaces, and their capacity to become drivers of change. Nevertheless, several organisations mention that it is important to continue monitoring progress. Gains should not be taken for granted, since adopted bills can be amended and formed committees can be left without personnel or budget. Victims require persistence, shared goals and a long-term commitment to make sure that the laws or policies achieved as a result of their lobbying are in fact implemented.⁵⁶ They need sufficient financial, political and logistical capacities to do this, and the international community should be a key ally for this.

Organisations of victims and their communities have also found other ways to promote reparations in the absence of state action, called 'informal repair' by some authors.⁵⁷ These include local historical memory processes, the documentation of cases, construction of monuments and commemorative

54 Interview with Al Karama Association, 10 February 2022.

55 Focus group with survivor organisations in Africa, 14 September 2021.

56 Focus groups with survivor organisations in Africa and Asia, 14 and 15 September 2021,

57 Sunneva Gilmore and Luke Moffett, "Finding a Way to Live with the Past: 'Self-Repair', 'Informal Repair', and Reparations in Transitional Justice," *Journal of Law and Society* 48, no. 3 (2021): 455–80.

gates, survivor-led mutual psychosocial support and ‘sanación’ processes. Also in Syria, where TJ is completely absent, there are some community-led reparations. In several Middle Eastern countries, such as Lebanon and Syria, survivors themselves have created important reparatory initiatives. An example is the Committee of the Families of the Disappeared and Kidnapped in Lebanon, created among victims to seek solidarity, provide mutual support and press the state for finding their loved ones. Such networks can provide victims and survivors with moral recognition of their experience and the harm done, place crimes on the public agenda and generate societal solidarity.⁵⁸ Other research has also showed the intrinsic worth of such survivors’ groups, as they give victims and survivors an opportunity to share experiences and develop critical awareness. This contributes to their self-worth, sense of identity, community and belonging, and empowerment.⁵⁹ Nevertheless, most participants in this research agree that such initiatives, albeit extremely important, should not really be considered reparations, since eventually reparation and the recognition of the harm done should come from the state, and not from victims themselves. In fact, informal community-led reparations can deflect attention away from the lack of state-led reparations.⁶⁰ Rather than a substitute, they should therefore be seen as a catalyst for state-led reparations. These could build on community-led initiatives but should be more comprehensive.

Another common obstacle preventing the effectiveness of survivor-led initiatives is a lack of resources. In fact, poverty prevents many victims from participating in victims’ organisations, since they are often preoccupied with the everyday struggle for survival. This is why several victims’ and survivors’ organisations have expanded their role beyond reparations and other TJ processes towards broader needs that survivors have. The Khulumani Support Group, for example, supports local communities and organisations in finding financial support for livelihood projects, such as bakery and beekeeping projects, which help survivors meet their basic needs while they wait for reparations.⁶¹ Other organisations have expanded their remit too. An Afro-Colombian community council has developed their own support processes to accompany victims in denouncing past and present-day violence. A victims’ organisation in Guatemala has their own teams of community facilitators to provide psychosocial support and conflict resolution in communities, also addressing present-day problems of non-victims, such as poverty and migration.⁶² In the face of a glaring lack of basic state presence and support, victims’ organisations gradually take on broader roles and become real points of reference for survivors and their communities.

The creation of victims’ networks has been a crucial strategy to strengthen victims’ advocacy. The Khulumani support Group in South Africa, the Conflict-Affected Women’s Network in Nepal, the Congolese Coalition for Transitional Justice, the Syrian victims’ organisations that drafted the Truth and Justice Charter, and the Guatemalan National Platform of Victims are examples of victims’ organisations from different regions who have joined forces. Most of these networks have regional focal points who collect survivors’ needs at the grassroots level and transmit these to the central level, and vice versa provide basic information from the national level to grassroots groups. INOVAS itself is an example of an international victims’ network, meant to strengthen the voice and power of victims’ in international advocacy. These networks facilitate collective lobbying for reparations, enabling a stronger and more unified voice and therefore better access to high-level decisionmakers. It should however be mentioned that in many of these networks, leadership has traditionally been occupied by men. Although the interviews for this report demonstrate an awareness of the need to change this, promoting women’s leadership takes time and capacity-building, not only among women but also among men.

58 Focus group with survivor organisations in Asia, 15 September 2021.

59 Philipp Schulz and Fred Ngomokwe, “Resilience, Adaptive Peacebuilding and Transitional Justice in Post-Conflict Uganda: The Participatory Potential of Survivors’ Groups,” in *Resilience, Adaptive Peacebuilding and Transitional Justice: How Societies Recover after Collective Violence*, ed. Janine Natalya Clark and Michael Ungar (Cambridge: Cambridge University Press, 2021), 119–42.

60 Gilmore and Moffett, “Finding a Way to Live with the Past: ‘Self-Repair’, ‘Informal Repair’, and Reparations in Transitional Justice.”

61 Interview with Khulumani Support Group, 1 December 2021.

62 Interviews with the Community Council of the Cauca River Basin and the Teta Mazamorrero Micro Basin and Victims’ Association Asoq’anil from Chimaltenango, 6 December 2021 and 6 January 2022.

Further challenges include keeping survivors motivated to push for their demands for a long period of time, while many of them are aging or dying. Some believe that governments in fact aim to produce this effect, by delaying reparations as a strategy to tire victims out and make them forget about their demands.⁶³ In Tunisia, victims are slowly losing hope, because their intense and successful mobilisation has not yielded any results. They express the need for moral and political support from the international community, to keep applying pressure on the government.⁶⁴ For some groups, it has proven difficult to engage younger generations in their struggle. The Conflict-Affected Women's Network in Nepal is an example of how to overcome this. By making explicit the connection between past and present crimes against women and impunity for these crimes, they have managed to build joint teams of older and younger women.⁶⁵ Finding common goals and a joint strategy is extremely important for the success of these networks, and to prevent divisions that have occurred at times in Nepal and Guatemala.

63 Yvette Selim, *Transitional Justice in Nepal: Interests, Victims and Agency* (Abingdon: Routledge, 2018) and interview with Victims' Association Asoq'anil from Chimaltenango, 6 January 2022.

64 Interview with Al Karama Association, 10 February 2022.

65 Interview with Conflict-Affected Women's Network, 16 January 2022.

Role of the international community

Before explaining the current and potential role of the international community, it is important to clarify who we see as international community. For this paper, we consider the international community as international representations in countries, such as embassies, the United Nations and other multilateral organisations, as well as large international NGOs which can fund, support and influence TJ processes. The international community has had an important impact on reparations, amongst others through funding. In Nepal, the interim relief scheme was in fact funded through a \$50 million World Bank donation. In other countries, development cooperation and UN funding has supported victims' organisations or facilitated platforms for these organisations to come together, learn about TJ and design joint goals and advocacy strategies. This support has enabled the strengthening of victims' organisations in their demands for reparations. Several participants also stress the importance of platforms for international networking and experience sharing among victims' organisations. This not only serves to learn from each other – while recognising the limits of 'exporting' international experiences⁶⁶ - but also as a form of solidarity and mutual support. The experience of INOVAS is a case in point, which could be expanded through greater international support.

Unfortunately, the risk of dependence on international funding is common among victims' organisations around the world,⁶⁷ leading to crises when such funding diminishes. In Guatemala, Nepal and South Africa, international funding has dried up and victims' organisations are struggling to keep operating. When a conflict ends, international support tends to pour in. This international funding helped many victims' organisations to form and professionalise. Nevertheless, the long duration of most TJ processes means that international attention and support gradually turn to more recent peace processes. Survivors' struggles thus tend to last longer than international support, leaving survivors' organisations struggling for funding. This creates difficult situations. In Guatemala, victims' organisation staff members work voluntarily, while Khulumani Support Group staff in South Africa use unreliable public transportation to travel to the often remote areas where survivors live. The leaders of these organisations often feel a moral responsibility towards their constituency, to finish the struggle they started even though they no longer have the resources to do so.⁶⁸ The long duration of most TJ processes is something the international community should consider, since this requires long-term funding strategies and the setting of realistic expectations among the recipients. Otherwise, victims' organisations end up competing amongst each other over the same, limited amount of funding. Eventually this can divide victims' movements. In Nepal, an international actor provoked divisions of victims' organisations by funding a specific line of work over which victims were divided.⁶⁹ International funding can do harm, and responsible donorship requires being very sensitive to local dynamics and needs, and consulting victims' and survivors' organisations.

The distance of the international community to victims' and survivors' organisations is in fact one of the main negative issues identified. Many organisations describe that international actors like embassies or the UN are mainly based in capital cities, and engage with national-level civil society actors. They rarely visit local victims' communities, or if they do so it is in situations of crises, but not on a more constant basis which allows them to understand community needs and dynamics. Instead, several participants believe that the international community uncritically believes and accepts what governments tell them, and therefore fails to adequately press the government to comply with their obligations towards victims. They describe that the

66 Selim, *Transitional Justice in Nepal: Interests, Victims and Agency*.

67 Schulz and Ngomokwe, "Resilience, Adaptive Peacebuilding and Transitional Justice in Post-Conflict Uganda: The Participatory Potential of Survivors' Groups."

68 Interviews with Khulumani Support Group and Victims' Association Asoq'anil from Chimaltenango, 1 December 2021 and 6 January 2022.

69 Interview with human rights lawyer in Nepal, 30 January 2022, informal conversation with international consultant on TJ processes in Nepal, 9 January 2022; Selim; Laplante, "Just Repair."

international community prioritises present-day problems instead of addressing the past, and thus fails to see the connection between past and present crimes and impunity. This shows the general lack of support that many organisations feel from the international community. They expect stronger international pressure on governments to implement reparations, and international monitoring of reparation funds. To increase trust and diminish this gap, the international community should make more efforts to hear survivors' stories directly from them, and have a stronger awareness of the conflict history and dynamics.⁷⁰ This requires having more local and long-term international staff, instead of the high rotation rates among international staff which unfortunately are common.⁷¹

Creating trust also requires establishing more equal relationships between victims and the international community. Several organisations describe dissatisfaction with the way in which victims are often addressed. They perceive a tendency among the international community to teach and lecture victims, using technical, often quite legal jargon, instead of adapting to victims' experiences and worldviews, and really placing victims' and survivors' stories, in their own terms, at the centre. In addition, survivors mention that they are fed up with being treated as poor and helpless individuals who deserve pity, or as beneficiaries rather than active participants in reparation and other TJ processes. In fact, some prefer the term survivors over victims. The international community and other stakeholders must stop treating survivors as vulnerable and powerless, as mere objects of policies and support. Instead they want to be treated as active agents who have a role to play in designing the policies that affect them. This is a precondition for creating the equal and meaningful partnerships that survivors expect. It is also key for recognising survivors and victims as rights-holders and equal citizens, which in turn is an essential element of the transformation that reparations promote.⁷²

Monitoring and evaluating the implementation and impact of reparations is another aspect that the international community can assist with. Measuring impact is a complex and underdeveloped question, especially in relation to reparations. It can be done in different ways: measuring how effective the mechanism in question has been towards achieving its institutional goals; to what extent it has impacted on the lives of survivors and their communities; and what its influence has been on a post-conflict society.⁷³ Many evaluation processes have focused on the first approach, for example by quantitatively measuring numbers of trials or reparations, or numbers of participants.⁷⁴ What is more interesting and meaningful is the impact of reparations on survivors and their communities. For this, it is essential that local victim communities are closely involved in determining the indicators used to measure progress. Indicators should measure those things that would make reparations meaningful for victims. An example is the Everyday Peace Indicators project, which involves the participatory development of indicators, to give a more accurate reflection of people's experiences in the specific locations where the project was applied.⁷⁵ Nevertheless, to enable comparison across contexts and draw broader lessons for the TJ field, there must be sufficient connection between local indicators and the international reparations framework. Managing this balance and transferring lessons learned and best practices across contexts is something that the international community could support.

Being closer to and better informed about survivors' needs could help the international community to apply more pressure on national governments, which is a key demand of survivors' organisations. This

70 Interviews with Victims' Association Asoq'anil from Chimaltenango, 6 January 2022; the Community Council of the Cauca River Basin and the Teta Mazamorrero Micro Basin, 6 December 2021; Conflict-Affected Women's Network, 16 January 2022; Focus group with survivor organisations in Asia, 15 September 2021.

71 Séverine Autesserre, *Peaceland: Conflict Resolution and the Everyday Politics of International Intervention* (Cambridge: Cambridge University Press, 2014).

72 Focus groups with survivor organisations in Latin America and Asia, 13 and 15 September 2021.

73 Hugo van der Merwe, Richard Chelin, and Masana Ndinga-Kanga, "Measuring' Transitional Justice: Impacts and Outcomes," in *Transitional Justice: Theories, Mechanisms and Debates*, ed. Hakeem O. Yusuf and Hugo van der Merwe (London: Routledge, 2022), 281–300.

74 Vasuki Nesiiah, "Transitional Justice Practice: Looking Back, Moving Forward" (Utrecht: Impunity Watch, 2016).

75 Roger Mac Ginty and Pamina Firchow, "Top-Down and Bottom-Up Narratives of Peace and Conflict," *Politics* 36, no. 3 (2016): 308–23.

has been successful in the past. For example, international pressure, including from the International Committee of the Red Cross, was important in convincing the Lebanese government to create the National Commission for the Kidnapped and the Disappeared.⁷⁶ It was also important in guaranteeing victims' consultation for the Nepalese TRC law – although the adopted law was different than the bill proposed after victim consultation.⁷⁷ As TJ processes tend to take a long time to be designed and implemented, including setbacks and reversals as described in this report, continued commitment, support, pressure and monitoring by the international community is essential. This is not only crucial to support victims and survivors, but also to promote the equal participation and leadership of their organisations. Such participation allows for building more inclusive and equal societies which in turn helps to prevent human rights violations and increase security in the future.

⁷⁶ Focus group with survivor organisations in Asia, 15 September 2021.

⁷⁷ Interview with human rights lawyer in Nepal, 30 January 2022.

Recommendations

Based on victims' needs and their expectations of international community support as described in this report, and considering that reparation needs are different across contexts, what follows are some key recommendations to improve international policy in relation to reparations:

1. The international community should press governments on their obligation to provide comprehensive reparations. Although the international community frequently places most emphasis on accountability in a broader sense, reparations are essential for survivors, especially those who find themselves in poverty. Reparations are also a crucial element for redressing past violence and integrating survivors as equal citizens in society. They are therefore not only important for dealing with the past, but also for creating a more inclusive society. International political pressure is needed to make sure that reparations are more comprehensive than just compensation. They should cover a broad range of violations, both of civil and political as well as economic, social and cultural rights.
2. The international community could play an intermediary role between victims and governments to identify victims' needs, assess these against the available resources and institutional capacity, and help to design reparation packages that respond to victims' needs. This could entail a flexible approach in which an array of options is available for victims to choose from. Recognition and psychosocial support are crucial as a basis in any reparation package.
3. To make reparations meaningful for victims and survivors, grassroots victims' organisations should have a central role in the design, implementation and evaluation of reparation programmes. The international community should not only pressure governments to allow victim participation in reparation processes, but also support victims' and survivors' organisations to strengthen their participation in the different aspects of this process. Strengthening coalitions among victims and survivors can help them become drivers for change, not only in relation to victims' rights, but also in terms of the transformation of systemic challenges such as discrimination, militarisation and inequality. Support should include funding but not be limited to this. The international community should also:
 - a. Be more explicit in their support of victims' organisations. Survivors believe the state would consider their voices more if they were backed by the international community. International support, either financial or political, provides an important source of legitimation for survivors, which helps them to continue their demands and mobilisations in long-term struggles for reparations. Such support should however be based on equality, and not on images of victims and survivors as vulnerable individuals without agency.
 - b. Support victims and survivors by offering platforms to come together in national or international networks, thus helping them to identify common, overarching needs and goals around which to develop lobbying processes. The committees of family members of the disappeared in Lebanon and Syria, and INOVAS itself, are examples of how movement building can form part of informal repair processes. The international community should actively support such processes, and create spaces for networks to interact with national and international policymakers.
 - c. Make sure that victims and survivors of different generations, genders and ethnic groups are involved in movement building to lobby for reparations, for instance taking the Nepalese Conflict-Affected Women's Network as an example.
 - d. Provide information and training about reparations, including international lessons learned, advocacy skills, gender sensitivity and other needs that organisations might have.

- e. Base support on thorough and first-hand knowledge of organisations' needs and the dynamics and relationships between them, built on relationships of equality between survivors' organisations and donors. This requires a continued engagement with victims' organisations at the grassroots level, rather than using national-level civil society organisations as intermediaries.
 - f. Design long-term rather than short-term and ad hoc support strategies, since reparation processes tend to be lengthy. International donors should ensure sustainability and/or an exit strategy, to avoid unexpected setbacks when support ends.
4. Psychosocial support is rarely provided as a reparation measure, even though it is crucial to allow victims and survivors to talk about the crimes experienced and to be able to rebuild their life projects. The international community should insist on such support, and contribute to combating the common stigma surrounding mental health. The cases of Guatemala and Colombia show how psychosocial support can be delivered in culturally appropriate ways.
 5. Memory and the recognition of crimes is an essential element of reparations for victims and survivors around the world. The cases of Guatemala and Morocco demonstrate that compensation without recognition does not constitute genuine reparation; neither does recognition without any form of material compensation. The international community should insist on this with national governments. Another way to promote recognition is to support grassroots processes of historical memory building. This can enable survivors to feel moral repair and build their own narrative. This frequently contrasts with official discourses and narratives of the past, which may minimise crimes and official responsibility for them. Such memory processes should also recognise survivors', and specifically women's agency, as a step towards transforming structures and relations of (gender) inequality. Supporting 'informal repair' processes should however not let the state off the hook, as survivors agree that reparations should ultimately be provided by the state.
 6. Reparations need to respond to the specific conditions of different groups of victims. Gender is an important element. States such as Nepal and Guatemala are still reluctant to provide reparations for sexual violence. The international community should push for this, while acknowledging that gender has broader implications in terms of women's participation and the gendered impacts of other crimes against women, men or their family members. The specific situations of widows, victims' children and LGBTQ individuals also require consideration.
 7. The international community, each institution according to its mandate, should advise on and support processes to hold multinational corporations and other third parties who were complicit in human rights violations responsible for providing redress to the victims.⁷⁸ It can do this by supporting victims and survivors in cases of strategic litigation against these companies in national or international courts. The international community should also assess its own responsibility and act accordingly, for example by pushing for a line of research on international responsibility in truth commissions, or starting their own inquiries.

78 The United Nations have worked on and supported strategic litigation for human rights violations, including cases against international companies, such as the Guatemalan Lote Ocho case against a Canadian mining company. See for example Office of the United Nations High Commissioner for Human Rights, "Strategic Litigation for Gender-Based Violence: Experiences in Latin America" (Geneva, 2021), <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SL-LatinAmerica-EN.pdf>.

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Annex I: List of interviewees

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