

# Understanding Reparations

Reparations provide official state recognition of victims' rights by repairing the damage and suffering of individuals and communities caused by one or more serious human rights violations. The objectives of a reparations programme include:

- fulfilment of rights to restitution, compensation, and rehabilitation;
- building trust in the state and its ability to guarantee human rights; and
- contributing to a sustainable peace.

## The importance of reparations

Reparations are important because they fulfil victims' rights that have been violated and so begin to repair the social fabric that was torn by conflict. After a conflict has ended many people continue to suffer negative consequences of past human rights violations. They wait for official recognition of their suffering and of the contributions they made during the conflict. Many victims require material assistance and symbolic recognition to heal their physical and emotional wounds, and restore their dignity.

International law and, often, domestic law recognize that victims of human rights violations have a right to a remedy. When the state gives priority to addressing the needs of victims, it demonstrates its commitment to providing this remedy to victims, strengthening human rights, and condemning violence, which builds victims' trust toward the state. Reparations also strengthen social solidarity by promoting an understanding of the situation of victims' and of the contributions they made to the nation. All this contributes to long-term stability.

Reparations programs are usually implemented in countries that have suffered a long conflict or repressive regime marked by widespread human rights violations and many victims. Often the local court system is unable to deal with this high number of violations so that the state must find other ways to care for or recognize victims. Reparations must be implemented alongside other approaches used to address the negative impact of past conflict. For example, if there is no institutional reform to ensure that the state respects citizens' human rights it will be easy for violations to recur, making any reparations an empty measure. If there are reparations but no initiatives to bring suspects to account, victims may feel as though reparations are intended to replace their right to criminal justice. Reparations are not an alternative to criminal justice, but part of a broader strategy to acknowledge and address the impact of abuses.

Social assistance programs and veterans' programs are not the same as reparations. Social assistance programs are a right of all citizens, provided they fulfil certain criteria such as being disabled or elderly. Veterans' benefits are a way to thank veterans for their service to the nation and aim to reintegrate ex-combatants into civilian life. Reparations, on the other hand, usually address the harm caused by the violations that victims suffered.

Implementation of a reparations program may use a number of mechanisms. A special institution may be created to implement a reparations program that would establish beneficiary criteria, collect necessary data, and provide reparations to the beneficiaries.

Having a single institution dedicated to the provision of reparations has several benefits. It:

- demonstrates the state's commitment to victims,
- makes it easier for victims to access information about reparations as there is only one institution to contact, and
- is easier to measure the resources dedicated to reparations.

A negative aspect of establishing a new institution to provide reparations is that it requires a lot of resources.

Although reparations are not the same as social assistance, some countries may integrate reparations into a social assistance strategy. For example, in Chile the reparations programme included a victim-sensitive health care system and the provision of university scholarships for victims or their children. When this approach is used it is important to distinguish benefits given for vulnerability caused by political violence from benefits given for vulnerability caused by other factors. This will allow the state to demonstrate its effort to provide reparations to victims and will help victims to feel they have been recognized.

### Different forms of reparations

**Material reparations** are concrete forms of assistance to victims that may include:

- compensation, usually monetary: payment for damages
- rehabilitation: provision of services to help addresses victims' needs such as special services for education, and mental and physical health including special counselling; legal aid; and economic assistance, such as access to micro-credit schemes, one-off payments, or monthly pensions
- restitution: returning victims to their original situations as much as possible; e.g., re-employment, full citizenship, the return of stolen property, or the repair of damaged property
- proper burial of victims (families are able to have appropriate ceremonies).

**Symbolic reparations** are measures that can provide victims with satisfaction and are often seen as efforts to keep the violations from being repeated in the future. They include:

- apologies to victims from those responsible for the violations
- monuments or other forms of recognition dedicated to victims
- memorialization such as national days of remembrance, renaming public places and streets after past events, or marking former massacre and detention sites
- locating missing persons and recovering the remains of deceased victims.

Collective reparations are material and/or symbolic reparations designed for a community or specific group of victims. Material reparations for the community may take the form of new or improved infrastructure or some other project, such as a community centre, that will help the community as a whole to recover.

### Sources

- Lisa Margarrell, "Reparations in Theory and Practice", 2007, available at <<https://www.ictj.org/sites/default/files/ICTJ-Global-Reparations-Practice-2007-English.pdf>>
- Pablo de Grief (ed.), *The Handbook of Reparations*, New York: Oxford University Press, 2006.

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