

The Right to Reparations

What are Reparations?

Armed conflict tears apart the social fabric of entire communities and devastates people's physical, mental, and emotional states, as well as their economic security and social status. A basic concept of justice, as recognized by both domestic and international law, is the right of victims to a remedy. Domestic and international law also requires perpetrators to repair the damage they have caused. **Reparations are a critical avenue of providing remedies after armed conflict.**

What Can Reparations Look Like?

Reparations can come in the form of a wide range of programs, processes and actions that seek restitution, rehabilitation, compensation, and/or satisfaction and guarantees of non-repetition.

Concretely, reparations can look like:

- medical and psychological care
- legal and social services
- monetary compensation
- public acknowledgment of the facts and acceptance of responsibility
- prosecution of the perpetrators
- search for the disappeared and identification of remains
- remembrance, commemoration, and education aimed at preventing future crimes
- rebuilding/repairing critical infrastructure
- environmental clean-up

One example of reparations from the United States is the United States' official apology for the internment of Japanese Americans during World War II and monetary compensation to Americans of Japanese descent. This was the result of a successful campaign for reparations led by Japanese Americans throughout the 1980s that culminated with the signing of the Civil Liberties Act of 1988.

Reparations should be proportional to the gravity of the harm suffered. Governments should take into account the multi-dimensional and long-term consequences of crimes – such as sexual violence –

when implementing remedies programs. Those most directly impacted by the violations must play an integral role in the decision-making regarding the form, implementation and evaluation of reparations.

Adding to the understanding of reparations and how the issue should be approached, *the Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation* calls for the recognition of how armed conflict impacts genders differently and for the involvement of those most affected in determining the nature and scope of the remedy. It also considers the obstacles that often exist to the full participation of women and girls in remedy processes and sets forth principles that provide for the involvement of victims generally but, specifically, for the involvement of women and girls in every stage of the reparation process: design, implementation, evaluation, and decision-making.

Recent Advances in International Law

In 2012, the International Criminal Court issued its first decision concerning reparations in the case of *Prosecutor v. Thomas Lubango Dyilo*. The court affirmed the importance of victims, their families and communities participating in the reparations process. The Court further promoted a gender- and ethnic-inclusive approach to reparations and mandated that the Trust Fund for Victims work with victims to ensure that the reparations were consistent with the principles the Court set out.

More resources:

Basic Principles and Guidelines on the Right to a Remedy and Reparation *available at:*
www.unhcr.org/refworld/docid/4721cb942.html

Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation *available at:*
www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf

Redress, What is reparation? *available at:*
www.redress.org/what-is-reparation/what-is-reparation