

Reparations

Reparations are measures designed to repair harm caused to individuals and communities by serious human rights violations. While victims of serious violations have a right to prompt, adequate, and effective reparations, it is important that reparations be implemented with other transitional justice initiatives. In Timor-Leste, despite recommendations from the Commission for Reception, Truth and Reconciliation (CAVR) and bilateral Commission for Truth and Friendship (CTF) encouraging the recognition and rehabilitation of victims, there has been no comprehensive reparations program for victims of the 1974–1999 armed conflict.

Types of Reparations

Reparations often combine interventions that rehabilitate victims in physical, mental, or public status; provide satisfaction to victims by providing official recognition of their suffering; and make guarantees that these serious violations will not happen again.

Reparations come in forms that can be material or symbolic and are offered to individuals or groups of victims.

Material reparations are measures that provide a physical benefit or service to victims. They can include:

- Providing access to education and physical and psychological health services;
- Access to micro-credit schemes, a one-off compensation payment, or monthly pensions; and
- Locating missing persons, recovering the remains of deceased victims, and helping people rebury their relatives with dignity.

Symbolic reparations are measures that provide recognition to the suffering victims experienced. These measures can include:

- Apologies from those responsible for the violations; and
- Memorialization efforts, such as monuments, national holidays, and marking of former massacre and detention sites.

In many post-conflict societies, policymakers have learned that it is important to provide symbolic and material reparations concurrently. Symbolic recognition will have more meaning for victims if such recognition is accompanied by material assistance. Providing material benefits linked to symbolic recognition increases the likelihood of victims feeling satisfied.

Collective reparations are material and symbolic reparations aimed at a group of victims who share a common experience from the conflict. Material reparations aimed at an entire community may take the form of a project that will help the community to recover as a whole.

Significance of Reparations

Reparations are part of a larger strategy to secure peace and stability and address the legacy of past abuses in societies that have experienced mass violence. Although Timor-Leste is now independent, many people continue to suffer the consequences of past human rights violations. Timor-Leste's truth commissions, the CAVR and CTF, have identified the urgent need for these vulnerable victims to receive attention. Many victims are still waiting for official recognition and assistance that acknowledges their suffering and restores their dignity.

Reparations can help rebuild trust between victims and the state while demonstrating the Timorese state's commitment to strengthening human rights. Reparations can also reinforce solidarity by promoting society's understanding of victims' contribution to the nation and the challenges they face in their daily lives.

International law and Timor-Leste domestic law both recognize that victims of human rights violations have a right to a remedy that includes access to justice, learning the truth about the violations, and reparation. An administrative reparations program is one way of providing a form of remedy to victims.

Reparations Alone are Not Enough

Reparations should be implemented in coordination with other transitional justice initiatives. Truth-seeking identifies victims, the abuses they suffered, and those responsible. Institutional reform helps prevent the recurrence of human rights violations. Prosecutions of those most responsible for human rights violations demonstrate that the state will not tolerate human rights violations. It is imperative to acknowledge that reparations are not an alternative to criminal justice. Rather, by focusing on the needs of victims, they form part of a wider strategy to address the negative impact of Timor-Leste's long conflict.

Reparations, Social Assistance and Development

Reparations are not the same as social assistance or veterans programs. Veterans' benefits are a form of appreciation for their service to the nation and aim to reintegrate ex-combatants back into civilian life. Many victims were civilians and do not qualify for veterans programs. Social assistance programs are designed for all citizens who fulfill certain criteria, such as being disabled, elderly, or widowed.

Reparations, on the other hand, are related specifically to the human rights violations suffered by a victim and usually seek to address the harm caused by these violations. Reparations can be a form of justice for victims. They are not the same as a development project but can promote government development objectives such as reducing social vulnerability and contributing to social stability.

Implementation

Reparations programs can be implemented in a number of ways:

A special institution can be created to implement the reparations program, charged with identifying beneficiaries, collecting the necessary data, and providing reparations to beneficiaries. Having a single institution dedicated to providing victims with reparations has some potential benefits: it demonstrates that the state views victims as a priority, it makes it easier for victims to access information about a reparations program because there is only one

institution that they need to contact, and it is easier to measure the amount of state resources required to provide reparations.

An alternative is to use existing government programs and structures to provide reparations to victims. For example, programs within certain ministries could be adapted to ensure that victims are able to access government assistance.

However, reparations must be something over and above the assistance and recognition given to all citizens: they must include symbolic recognition of victims' suffering. This may include providing victims with a letter that links the social assistance to official recognition for the human rights violation experienced, entering beneficiary names into an official victim registry, providing an official certificate, or other forms of recognition. If this is not done, people may feel as though they have not received reparations.

Common Questions and Concerns

The state of Timor-Leste did not commit these human rights violations; why should it have to pay reparations?

In principle, the state or person who committed the violation should be the one to pay reparations. However, the UN General Assembly has indicated that if "the parties liable for the harm suffered are unable or unwilling to meet their obligations," then "states should endeavor to establish national programs for reparation and other assistance to victims." Therefore, Timor-Leste has a responsibility to look after 1975–1999 victims. This doesn't mean that Timor-Leste needs to bear this responsibility alone. In other countries, development partners have supported reparations programs with funding and technical support. If the government identifies reparations as a national priority, the international community may assist with funding.

We do not want to exchange our suffering for money.

The objective of reparations is not to exchange people's suffering with money. The reparations program proposed by the CAVR does not include the payment of monetary amounts but rather the rehabilitation of victims by providing them with needed services. The majority of victims do not request money but request assistance accessing education for their children, credit to establish a small business, assistance to fix their house, or treatment for a health problem. Many victims have said that they want the state to value them and assist them to overcome their ongoing suffering. However, international experience does indicate that the most successful reparations programs combine both monetary and non-monetary assistance measures.

Paying material reparations to some people will cause others to feel jealous or resentful and may create conflict.

There are concerns that reparations will give rise to interpersonal jealousy. The government already has experience in managing such problems, as this same risk applied when defining who could qualify as a veteran for the veterans program. There are measures that can minimize the extent of such problems, such as:

- Alongside material reparations, implementing a symbolic reparations program that is relevant to all victims. In this way, all victims can receive some form of recognition from the state;

- Formulating criteria which determine reparations recipients that are clear, fair, and reflect community attitudes;
- Undertaking a program of socialization to explain any material reparations program, including the criteria used to select beneficiaries, the types of assistance they will receive (and what they will not receive), and the reasons for the program's design.
- Ensuring that the program operates transparently and that opportunities for corruption and nepotism are minimized; and
- Encouraging and monitoring victim participation in designing reparations programs.