

Remedying the Past, Healing for the Future

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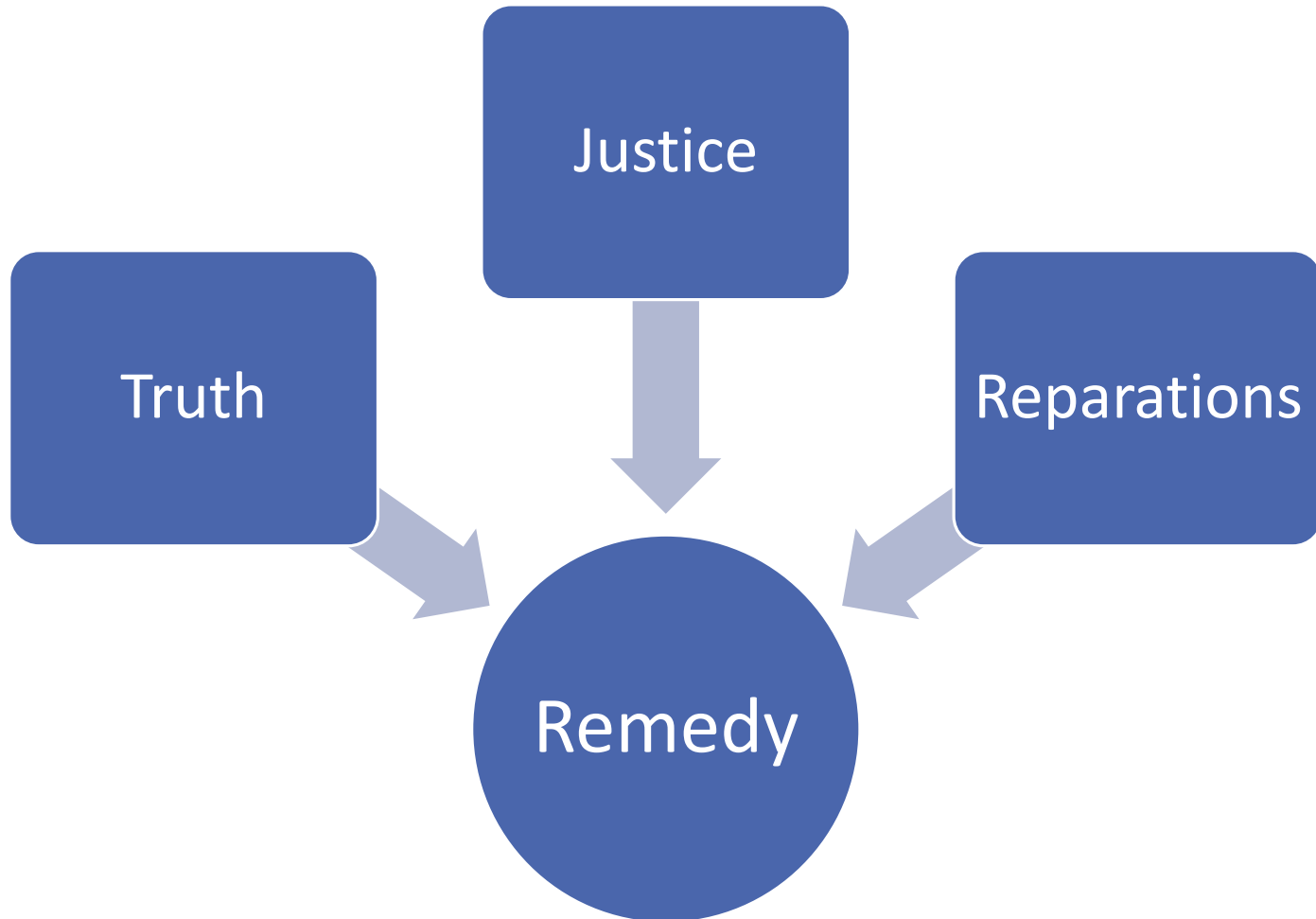
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Overview

- What are remedies?
- What are reparations?
- Types of reparations
- Who is eligible?
- Who is responsible for reparations?
- Past Northern Ireland proposals

What are remedies?

- Equal and effective access to justice mechanisms to receive redress



What are reparations?

- Reparations are victim-centred measures of redress to repair the harm caused
- Reparations are meant to respond to the needs of victims, alleviate suffering, and prevent violence recurring

In comparison to other processes:

- Prosecutions focus on the acts of perpetrators
- Truth commissions try to uncover the truth for the whole of society
- Reparations work best when used with truth commissions and judicial processes

Types of reparations

Principles 19-23, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation:

1. Restitution
 2. Compensation
 3. Rehabilitation
 4. Satisfaction
 5. Guarantees of non-repetition
- Ordered together to holistically remedy victims' harm



Restitution

- Return of property/restore rights



University scholarships



German reparation pension to Holocaust survivors

Compensation

- Lump sums
- Annual/monthly pensions



Rwandan genocide survivor
support service (NGO)

Rehabilitation

- Medical and psychological care
- Education and vocational support
- Legal and social services



The Eye that Cries memorial, Peru



Lukodi Massacre Memorial, Uganda

Measures of satisfaction

- Memorials
- Public apologies, acknowledgement of responsibility and victims' dignity
- Recovery of those disappeared
- Truth recovery



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION



Guarantees of non-repetition

- Prevent future violations
- Civilian control over security forces
- Human rights promotion and protection

Material Reparations

- Medical costs
- Return of property
- Loss of earnings

Symbolic Reparations

- Public apologies
- Acknowledgement of responsibility
- Shared memorials

- Material reparations aim to provide reimbursement of the economic cost of a crime or violation
- Symbolic reparations serve to publicly acknowledge victims' suffering and dignity
- Material and symbolic reparations are usually ordered both together to alleviate the costs of harm caused to victim, and to publicly acknowledge the wrongfulness of victims' suffering
- Reparations can be awarded to individuals or collectively to groups or communities who have been harmed, such as child soldiers.

Who is eligible?

- Victims, their family members and dependents
 - All those who suffer as a result of a violence act
 - Victim focused – to remedy suffering, no matter the action of the victim or identification of the perpetrator (non-discriminatory)
 - Gender and trans-generational impact
- Individuals who intervened/witnessed, or assisted victims (carers)
- Victims entitled to reparations even if the perpetrator is not identified or prosecuted
- All victims?
 - A number of countries focus on those most vulnerable and who continue to suffer
 - Such as those individuals who were killed, disappeared, tortured or injured
 - Reparations are not meant to enrich or impoverish victims

Who is responsible for reparations?

- The state is responsible for acts or failures to act by its own agents that resulted in death or serious injury
- Corporate responsibility of paramilitary groups
 - Apologies/acknowledgement of responsibility
 - Assist recovery of those disappeared
 - Contribute to truth recovery processes
- Individual perpetrators can be held responsible
 - If perpetrator is unknown or penniless, state is responsible for reparations
 - Penniless perpetrators can contribute to measures of satisfaction such as apologies and acknowledgement of responsibility
- State should establish a reparation mechanism for all victims of serious violence

Past Northern Ireland Proposals

Consultative Group on the Past (2009)

- ‘Recognition payment’ - £12,000 to those killed
 - ‘ex-gratia’ i.e. without acknowledging responsibility
 - Excluded those injured
- A day of reflection (21st June)
- A shared memorial

Haass-O’Sullivan All-Party Talks (2013)

- Continuation of Victim and Survivor Service
- Mental Trauma Service
- Those responsible to acknowledge the wrongfulness of their actions ‘and include a sincere expression of remorse for pain and injury caused.’

Reparations three components:

1. Acknowledgement

- Public recognition of victims' suffering

2. Responsibility

- Made by those responsible, such as the state, paramilitary organisations, or individuals
- Ultimately the state is responsible for establishing reparation mechanisms

3. Remedy

- Provide appropriate remedies to repair harm caused:
 - Material forms: compensation, restitution, rehabilitation,
 - Symbolic: measures of satisfaction and guarantees of non recurrence

More information on reparations

UN 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 (2005) – inside your conference pack