

# Reparations for Victims of Gross Violations of Human Rights and Serious Violations of International Humanitarian Law

Dr Luke Moffett

@reparationsni

[l.moffett@qub.ac.uk](mailto:l.moffett@qub.ac.uk)

AHRC project 'Reparations, Responsibility and Victimhood in Transitional Societies'

<https://reparations.qub.ac.uk>



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# Reparations, Responsibility & Victimhood in Transitional Societies

Exploring reparations by state & non-state  
armed groups in transitional societies

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## Nepal

<https://reparations.qub.ac.uk>

Reparations in Nepal have stalled, despite efforts to deal with the past through a comprehensive transitional justice process.

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COLOMBIA



GUATEMALA



NEPAL



NORTHERN IRELAND



PERU



UGANDA

A woman with long dark hair, wearing a light-colored long-sleeved shirt and a black bag, stands on the left side of the frame, looking towards a memorial fountain. The fountain is a large, dark, abstract stone sculpture with a circular base, surrounded by a ring of light-colored stones. A colorful wreath is placed on a stand next to the fountain. The background features a grassy hill, several large trees, and a multi-story building in the distance under an overcast sky.

# Reparations and Transitional Justice

- Over 100 countries have provided some form of reparations
- Reparations can take the form of compensation, rehabilitation, memorials, apologies, restitution of land and rights, commitments to not repeat violations and institutional reform
- Reparations to recognise victims' harm, accountability, reconciliation



# Purpose of Reparations

“

reparation must, as far as possible, wipe-out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed ”

***Chorzow Factory  
case (1925)***

# Reparations and International Law

- Right to remedy in most human rights conventions
- Reparations as a core component of international law
- UN Basic Principles on the Right to Remedy and Reparations for Gross Violations of Human Rights and Serious Breach of International Humanitarian Law
- Reparations through administrative, judicial or mixed bodies to large victim populations

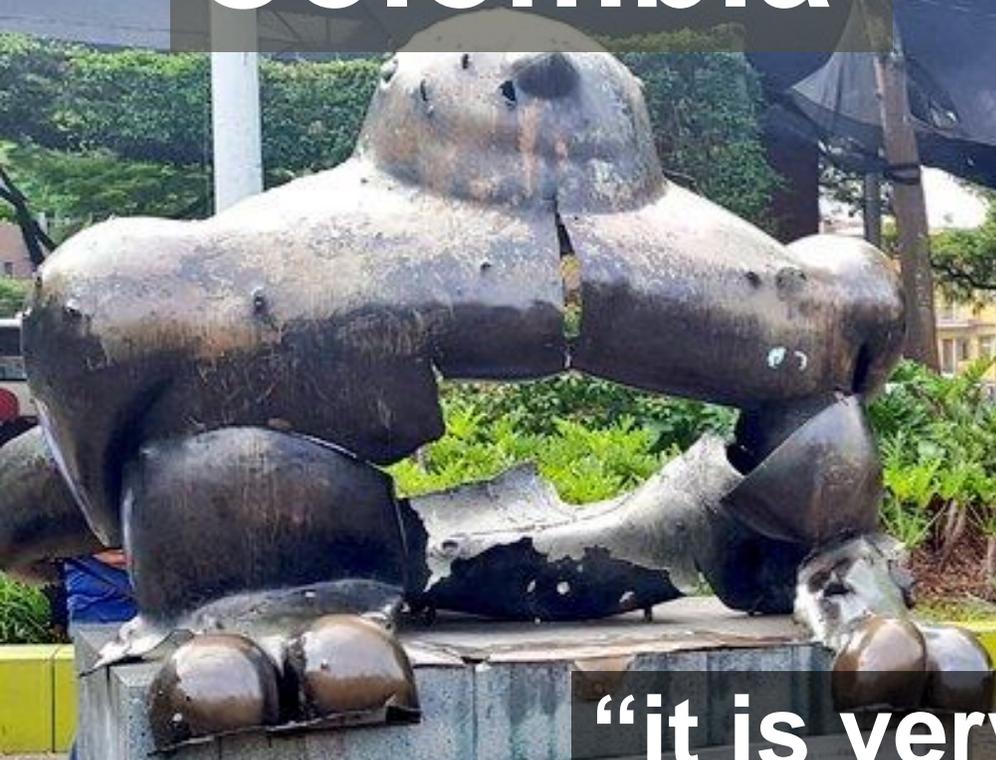


# Reparations Implementation

- Olsen et al-up to 2010 only 14 out of 84 transitional societies implemented reparations
- South Africa – 18% of Apartheid victims benefited from compensation
- Ratner et al (2014) – 47 transitional societies only 25% delivered reparations
- In our studies of post-conflict societies (eligible victims received reparations):
  - Colombia ~10%
  - Guatemala 16%
  - Peru – 95% - excluding ex-SL & MRTA
  - Nepal – only victims of disappearance, displacement, injury and extrajudicial killing
  - Northern Ireland – 2021 injured victim scheme, no bereaved scheme
  - No reparation programmes in Uganda and South Sudan



# Colombia



**“it is very difficult to repair a victim when you have another victimisation next month. How do you close the tap of reparations then.”**

**- Colombian civil society actor**



**/ ENGAGING  
NON-STATE ARMED  
GROUPS ON  
REPARATIONS /**

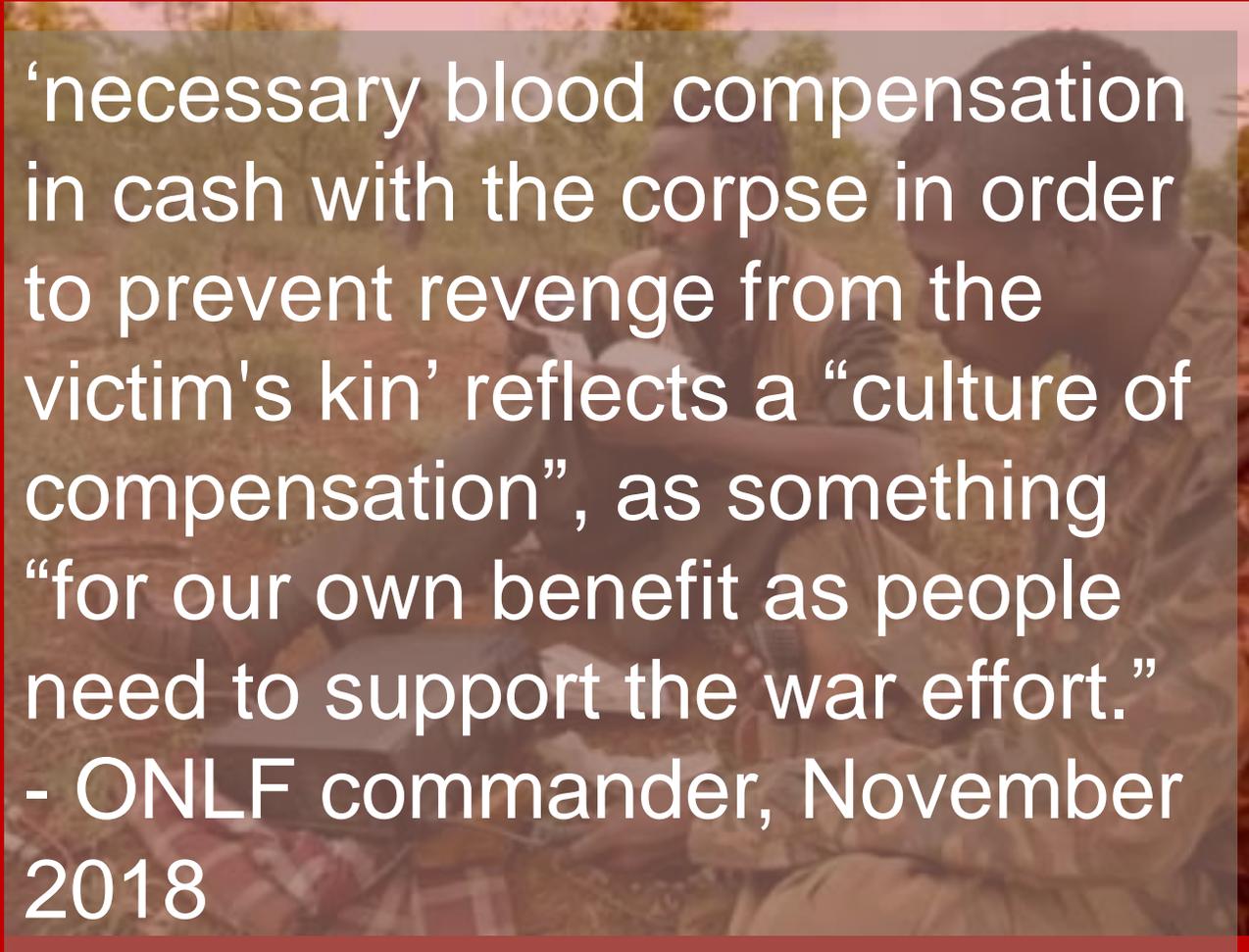
# NSAGs Reparations During Conflict

## Motivations to provide reparations:

- Governance
- Ideology
- Improve public image
- Cultural

## Forms:

Rehabilitation; Cash: Apologies or acknowledgements of responsibility: and guarantees of non-repetition – removal of those responsible or other sanctions



‘necessary blood compensation in cash with the corpse in order to prevent revenge from the victim's kin’ reflects a “culture of compensation”, as something “for our own benefit as people need to support the war effort.”  
- ONLF commander, November 2018



# Post-Conflict Reparations

- Measures:

- Assets/land restitution
- Information
  - Location of disappeared/ clandestine burial sites
  - Truth recovery
- Rehabilitation and restitution
- Acknowledgement (≠ apology)
- Guarantees of non-repetition
  - Mitigating future violence; demining; infrastructure

- Challenges:

- NSAG may no longer exist
- Indigent or impoverished
- Symbolic measures over 'tangible' reparations
- Threats from dissidents
- Capacity



## Recovery of Remains

- Northern Ireland – Independent Commission on the Location of Victims' Remains (ICLVR)
- Colombia - Unit for Search Disappeared Persons (UBPD)



# Handbook on Civil Society Organisations and Donors Engagement on Reparations

Reparations, Responsibility

 Victimhood in Transitional Societies

- Working with victims on reparations should be based on genuine consultation and co-ownership that facilitates victim participation in the design, implementation and monitoring of reparation programmes
- Engaging with victims and providing them space to articulate what reparations should look like and can change over time is essential in informing the appropriate forms of reparations
- Consider what is feasible, realistic and in keeping with the ethos and capacity of the organisation when making reparations.
- Reparations need to be viewed as holistic measures. Not fulfilling promises can be worse than promising less

# Belfast Guidelines on Reparations in Post-Conflict Societies

- Primary responsibility of States to ensure reparations to victims
- Non-state actors also responsible for reparations
- Making amends during conflict does not extinguish right to reparation
- An individual's status as a victim is not obliterated by their past actions or character.
- Interim reparations in protracted conflicts may be needed
- Funding for victim groups and allied civil society organisations is vital to support mobilization and success in securing reparations

# Conclusion

- Reparations as a legal entitlement, but political contested and resisted by those responsible for violations
- Victims are the driving force for seeing reparations delivered
- Non-state armed groups as responsible actors and potential community leaders can play an important role in reparations
- Significant role funding makes in supporting victims and allied CSOs
- Reparations take years, decades, even generations to be delivered so long-term view needed in supporting victims