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Reparations, Development and Gender

Report of the Kampala Workshop
1-2 December 2010

Prepared by UN Women and UNDP

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Reparations, Development and Gender Workshop

Kampala, Uganda
1-2 December 2010

"Reparations are the most victim-centred of transitional justice measures. They have the most potential to deliver redress to victims. UN Women encourages a leveraging of the relationship between reparation and development to achieve the most sustainable and transformative outcomes for women whose human rights have been violated in conflict."

UN Women, Introductory Remarks

"It is important to make development actors aware of the potential of reparations programmes. Strategic development planning around reparations is vital in achieving optimal outcomes in post-conflict societies."

UNDP, Introductory Remarks

The Kampala workshop was co-hosted by UNDP and UNIFEM (now UN Women) as part of their global partnership and respective Global Programmes on ***Strengthening the Rule of Law in Conflict/Post-Conflict Situations*** *and on* ***Women's Access to Justice Conflict and Post-Conflict,*** *both of which focus on furthering women's access to comprehensive justice for conflict-era crimes.*

I. Introduction

On 1 -2 December 2010, UNIFEM (now part of UN Women) and UNDP co-hosted an international workshop on Reparations, Development and Gender in Kampala, Uganda. The purpose of the meeting was to explore the relationship between reparations and development with the aim of contributing to a discussion on the role of UN agencies in the design and implementation of gender-just reparations for victims of gross human rights violations.

The workshop was intended as an initial conversation on this complex subject, and the focus was an internal UN-focused dialogue. Human rights and development practitioners, together with select experts in the field of transitional justice, discussed the intersection between reparations and development, identified areas of tension and opportunity in the partnership between the two fields, and sought to identify specific recommendations where UN engagement in the delivery of reparations would bring significant added value to national reparations programmes. The meeting brought together participants from a wide range of country contexts and various geographic regions, including from Afghanistan, Bosnia, Democratic Republic of Congo, Kenya, Morocco, Nepal, Solomon Islands, Timor-Leste and Uganda. A key outcome was the identification of the need for ongoing dialogue to address and strengthen the right to reparations and States' capacity to deliver on this duty.

Reparation has not often been identified as an area where engagement of development actors and access to development resources can provide an added value. Reparations, however, are the most directly victim-focused of transitional justice measures and have the potential to deliver redress and acknowledgement, as well as material resources to recover from past harms. While the right to reparations is enshrined in international law and the normative framework has been more fully developed in the past decade, there is limited coherent policy or guidelines regarding its practice. Being primarily conceived as a 'rights issue', the advocates for just symbolic and material redress for victims of conflict are mostly found within transitional justice and human rights spheres. This has limited the potential reach and impact of these programmes.

A number of benefits to cooperation have been identified, and they were reinforced by many of the participants at this workshop. Development actors, for example, can contribute valuable lessons regarding distribution of resources, particularly in a conflict-sensitive context. Equally, engagement of development actors could further the ability of justice and human rights practitioners to maximize resources for otherwise underfunded reparations programmes, as well as to tap into new sources of funding. Many countries recovering from conflict experience the twin challenges of mass poverty and mass violations for which redress is due. Often, there is little or no history of state institutions with capacity to deliver on the rights due to citizens, or to deliver the redress due to victims. Underdevelopment may have been both a cause and consequence of the conflict and justice is therefore often understood by victims in social and economic as well as criminal justice terms. Developing the capacity of state institutions to deliver on this obligation will be critical to preventing future cycles of conflict as well as central to the effectiveness of any reparations programme.

Additionally, working in partnership across the justice/development line can ensure that programmes designed to further peace do not in fact sow new feelings of animosity or grievance. For example, partnering individual reparations with economic recovery of conflict-affected communities can en-

sure that in a context of widespread poverty where all have been impacted by conflict in some way the right to individual reparations does not create new fault lines or animosities within communities. Coordination is particularly important in relation to the messages that can be sent to post-conflict societies by the prioritization of funding to some groups over others. In some cases, for example Poverty Reduction Strategy Papers (PRSP) on conflict-related assistance will contain entries on Security Sector Reform (SSR) but not on reparations. In others, development programmes will provide economic incentives for reintegration of ex-combatants, but will not include civilian victims of conflict among beneficiaries.

A more integrated approach to the design of reparations policies and programmes within comprehensive support for economic recovery for affected communities could assist both programming issues and resource mobilization. Through this approach, assistance provided to a targeted group of beneficiaries can be further strengthened through other support mechanisms, such as microfinancing, livelihoods options and access to education, health care and free legal aid services. At the same time, funds for local reparations schemes can be mobilized within overall efforts to assist affected communities at large, particularly in relation to collective reparations. Within this framework of discussion, the workshop explored opportunities and challenges for creating closer initiatives between human rights and humanitarian actors, on the one hand, and development actors, on the other hand.

The relationship between reparations and longer-term development and reconstruction efforts needs therefore to be explored further. In particular, a gender-transformative approach to reparations requires rethinking the relationship between reparations and development, particularly in contexts of mass violations, to both leverage limited resources as well as coordinate overlapping areas to further gender equality goals. For example, in the area of land restitution — a key area of reparations — furthering gender equality would entail that property and inheritance laws be amended to allow women to benefit from land restitution and that redistribution and land reform equally aim to redress past gendered inequalities in land ownership. Moreover, without a targeted development strategy, including support to new women land owners, necessary infrastructure, access to credit, markets and skills, reparative land restitution and broader reform initiatives will not yield the transformative impact needed or intended.

This report seeks to synthesize the presentations by and dynamic debates among workshop participants regarding the international legal framework for victim-centred reparations, and the role of development actors in transitional justice contexts, the relationship between reparations and development strategies for successfully engendering reparations programmes and possibilities for UN participation in gender-sensitive reparations. This report also articulates the concerns and priorities of development practitioners, human rights advocates and civil society representatives regarding the intersection of development and reparations and the role of the UN. Finally, the report highlights areas for further discussion and needed coordination.

II. The Practical Links Between Development and Reparations

The starting point for the meeting was to affirm that **the right to reparations and the right to development are two distinct rights.** While the two are distinct rights, there is growing acknowledgement of the need for development practitioners and transitional justice practitioners to link their efforts if they are to deliver effectively on the twin outcomes of justice and recovery.[1]

A. Reparations

i. Definition and Understanding of Reparations

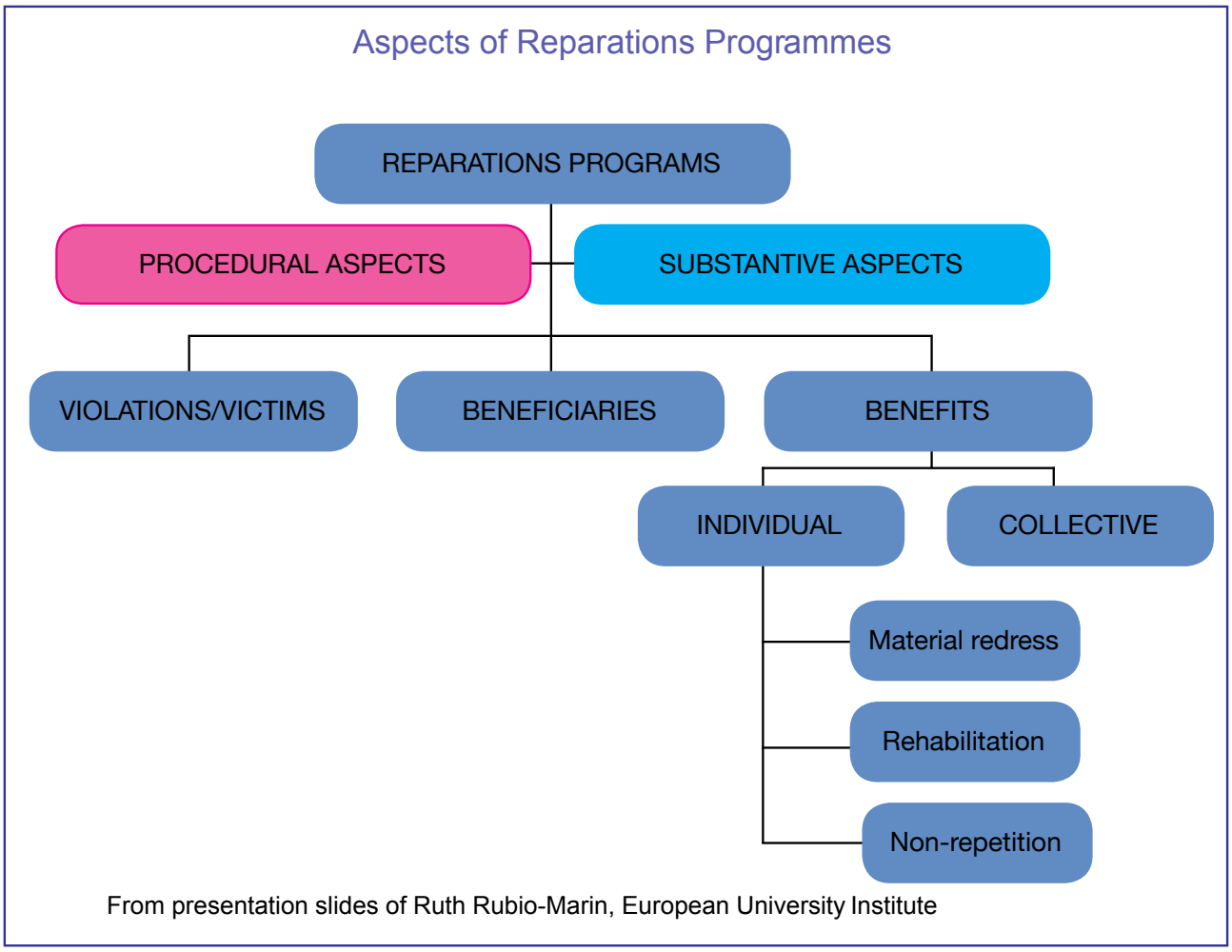
The UN *Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* outline the international legal framework for the right to a remedy and reparations. According to the *Basic Principles*, States are under legal obligation to provide reparations for gross violations attributable to them, as are persons found liable for relevant war-time violations. States are also obligated to endeavour to provide repair and redress for victims in circumstances where those directly responsible are unwilling or unable to meet their obligations, in particular through the establishment of reparations programmes. The UN *Basic Principles* recognize the following five forms of reparations:

1) **restitution:** restoration of a victim's rights, property, citizenship status;
2) **rehabilitation:** psychological and physical support;
3) **compensation;**
4) **satisfaction:** acknowledgement of guilt, apology, burials, construction of memorials, etc.; and
5) **guarantees of non-repetition:** reformation of laws and civil and political structures that led to or fueled violence.

The different forms of reparations can be administered individually and/or collectively, in material and/or symbolic forms and in synergy with other post-conflict justice efforts to satisfy victim needs and demands for justice.

Reparations programmes should be comprehensive and complex; they should include elements that are material and symbolic, collective and individual, immediate and ongoing, and that involve pecuniary measures, as well as ensuring access to essential services.

[1] Naomi Roht-Arriaza and Katharine Orlovsky. 'A Complementary Relationship: Reparations and Development'. Research brief of the International Centre for Transitional Justice (July 2009).



From presentation slides of Ruth Rubio-Marin, European University Institute

ii.Reparations vs. Targeted Development Assistance

"Development is not a 'substitute' for reparation. While development is a right for all, reparation is a right for a specific subset of people: those who have been victims of human rights violations. Reparation has intrinsic value in that it restores victims."

Ruben Carranza, International Centre for Transitional Justice

For development actors, reparations programmes will typically be supported in post-conflict environments through a 'conflict-sensitive approach'. In UNDP, this practice areas is designated as Crisis Prevention and Recovery (CPR).

The programmes that support post-conflict recovery fall into the following areas:

1. **Livelihoods and economic recovery,** including livelihoods options, emergency job creation, micro loans, reintegration of ex-combatants, mine action.
2. **Governance and rule of law,** including decentralization process; development of local governance, justice and security institutional capacity; free legal aid and legal awareness, transitional justice, community security, armed violence reduction, anti-corruption efforts.
3. **Conflict prevention,** including constitution-making; mediation and alternative dispute resolution; confidence-building and reconciliation initiatives.

There is a range of other UN assistance that could

	Key Elements of Reparations Programmes	Key Elements of Development Assistance
Objectives	Redress for systematic violations of human rights	Post-conflict recovery and/or poverty alleviation
Underlying Principles	Fulfilling individual rights	Addressing collective needs (with recognition of individual rights and vulnerabilities such as age and disabilities)
Type of assistance outputs	Symbolic compensations (public apologies and reinstatement, etc.) and material compensations (land restitution, payments, etc.)	Livelihoods, economic empowerment, educational opportunities, health services, access to justice and other public services
Duty bearer/ assistance provider	State is the primary duty bearer and state involvement is a prerequisite, including recognition of violations and responsibilities	State is the primary duty bearer and often key implementer, but its involvement is not mandatory in delivering assistance
Stakeholders/ beneficiaries	Victims and their representatives	Members of the community at large and its representatives

overlap in terms of victims' needs and capacity to complement a more adequate delivery of reparations, including on food delivery (FAO), health service (WHO), educational opportunities (UNICEF and UNESCO), assistance to refugees and the displaced (UNHCR).

With regard to timing and sequencing, interventions are generally profiled for early recovery, post-conflict recovery and long-term development. Early recovery is the period that overlaps with humanitarian actors and prepares the ground for the development phase. Typically, early recovery contexts refer to either the immediate aftermath of a natural disaster and conflict or areas of continuation of low-intensity conflict. Reparations programmes will be implemented most frequently in the post-conflict settings, but there are exceptions when they have been initiated in the early recovery phase (Tunisia being a recent example) and often continue to be a part of long-term development strategies.

iii. Reparations and Transformative Justice

In the aftermath of mass atrocity, states have the opportunity to review and reform systems and policies that entrenched discrimination and marginalization of certain groups. Reparations programmes that seek to address both the causes and consequences of wartime violations and operationalize principles of gender equality, non-discrimination and victim participation and empowerment can further these goals and have transformative impacts on victims, communities and states.

To date however, the ability of reparations programmes to be transformative in nature has been limited. Inevitably truth commissions or other designated bodies issue recommendations, which are then pared down in practice to limited individual compensation, occasionally alongside symbolic measures. Research shows that the minimal individual compensation provided in most contexts is spent on immediate needs or past debts, leaving little available to cope with the longer-term consequences of harm — physical, mental or material — or to address the inequalities that often give rise to or inform the impact of these harms. This need to redress underlying inequalities, in particular in the case of gendered inequalities that inform both causes and consequences of violations, and have a transformative impact, is an increasing focus in judicial and policy-making circles. For example, both the Inter-American Court's recent 'Cotton-field' judgment and the 2010 annual report of the

Special Rapporteur on Violence Against Women, which focused on reparations for women, called for reparations measures to be gender-specific and 'transformative' in impact.

One obstacle to the fulfillment of this goal has been that reparations programmes often take place in contexts of mass violations and limited resources which severely hampers their ability to have the transformative or even reparative impact intended. While the right to reparations cannot be derogated, reparations on their own will not fulfill victims' rights to comprehensive redress or further recovery.

Central to the transformative capacity of reparations is the way in which administrative processes — the selection of victims and benefit packages, outreach and registration efforts, empowerment of civil society and victims groups, and funding strategies — include victim participation and input. Victim participation is vital to these processes, and is necessary to design and implement gender-sensitive, transformative reparations programmes.

iv. Reparations as a Process

"Justice is an experience; it is as much about process as it is about outcome. The process of justice, for some victims, might constitute a significant part of reparation."

Mariana Goetz, Redress

Under international law, the right to reparations carries dual significance, granting victims both a substantive right to redress for harm suffered and a procedural right to the process of securing reparations and redress. According to this understanding, justice is as much about victims' experiences in the pursuit of justice as it is about the outcomes of reparations. Victim engagement in both processes of contestation and demand for reparations and in the design, implementation and monitoring of reparations is an essential component to the fulfillment of victims' right to reparations.

In addition to forming more complete, gender-sensitive reparations programmes, participation

Opportunities for creative responses in furtherance of both redress and development: UN boat delivered to Congolese victims of sexual violence

In February 2011, the UN Joint Human Rights Office, Democratic Republic of Congo (DRC), with support from UN Women, presented a boat — a 'balenière' — to the women of Songo Mboyo, a remote village in the DRC, where a mass rape occurred in 2003 and where women were awarded reparation through the courts but have yet to receive their due. The boat was given in response to a request from the women as an interim measure to help improve their lives and enable them to transport their merchandise to local markets.

This gift "constitutes, undoubtedly, an expression of compassion and solidarity from the international community for the devastated population of Songo Mboyo", said Thérèse Boluwa, President of the Association of Victims of Sexual Violence in Songo Mboyo (AMRS), a group the women established to support each other and develop income-generating activities in the years following the mass rapes of more than 100 women in the village.*

While the granting of the boat does not constitute reparations, given the absence of state acknowledgement and involvement and the inability of the boat to redress the specific and wide-ranging impacts of the violations suffered, it was requested and received as an important gesture of solidarity and symbolic redress by the women of Songo Mboyo. It will be used as a tool to assist these women to secure a livelihood and overcome some of the consequences of the harm suffered.

* Excerpt from OHCHR press release, 18 February 2011.

supports the building of democratic participation that is central to the establishment and growth of rule of law in post-conflict states, a central goal of development programming in these areas. While participants acknowledged the importance of civil society and victim-led groups in local political struggles for justice and their central role in successful participatory processes, it was emphasized that state actors must play a central part in the process in order for it truly to be characterized as reparations.

v. Recognition of State Responsibility

State acknowledgement of responsibility is an important element of any reparations programmes and is necessary to fulfill victim demands for satisfaction.

While there was some debate on this issue, it was noted that state involvement is an essential requirement, and that a distinction between targeted assistance and reparations is important, as blurring the two risks in fact undermining victims' rights to full reparations in future. Conference participants recognized the important moral weight of a State's acknowledgment of responsibility to victims, and there was discussion among participants as to when it was appropriate to use the word 'reparations'.

Debate also centred on the question of what 'state responsibility' and involvement entailed. For example, whether demonstrated political will to contribute to the progressive realization of this right was sufficient, whether state involvement necessarily entailed resource provision and, if so, whether this needed to be in part or in its entirety. Equally, with respects to the UN *Basic Principles*, what constitutes 'endeavour[ing] to establish a national reparations programme'? Must the state operate entirely alone? What assistance and support can be provided by external actors and what role must the state minimally have in order to fulfill this obligation? Should nonstate actors and assistance providers pursue programmes for assistance to the victims in cases where state institutions recognize the harm done but are reluctant to provide means for redress of victims? Also discussed were the implications in relation to fulfillment of a State's obligation in situations where local-level state actors were centrally involved in reparations measures but national-level actors lacked the political will.

B. Identified Linkages

Both participants and presenters emphasized the value of a human rights-based approach to development in influencing positive reparations through the promotion of gender equality, non-discrimination and victim empowerment. This approach, which makes critical links among civil and political rights and social, economic and cultural rights, identifies clear objectives for victims' socio-economic empowerment through a participatory process. Human rights-based development also carries transformative potential for women and girls, indigenous groups and other marginalized peoples, which is vital to the implementation of gender-sensitive, gender-just and transformative reparations.

Participants identified several areas in the implementation of reparations that could be strengthened by coordinated support of various UN actors. These include technical assistance directed towards design and implementation of reparation policies, including with legislative drafting, institutional capacity development, support to civil society efforts at education and outreach, and provision of emergency interim assistance to victims. In addition, these efforts should be linked to independent, community-based programmes that target assistance in areas that can address victims' needs, including livelihoods and economic recovery, educational opportunities, health services and free legal aid. Initiatives were also identified that could be undertaken to lay the groundwork for reparations whether state acknowledgment was immediately forthcoming or not. These are detailed below.

i. State Responsibility: Partnership and Advocacy

As emphasized above, it is important for government to remain involved in reparations processes and schemes through recognition, contribution to and direct provision of resourcing. However, UN development agencies are well placed to strategically engage the government to take up this responsibility. This is particularly so where they have good working relationships with the government and are able to mainstream these programmes into multiyear national development strategies (ISFs, UNDAFs, etc.) while maintaining requirements for symbolic measures on the part of the state.

ii. Institutional Capacity Development

The same institutions that deliver social services to citizens are required for the implementation of reparations programmes. Whether or not there is immediate acknowledgment of state responsibility for violations, UN actors could employ strategic capacity-building efforts to help prepare government for future reparations programmes, particularly with regards to the necessary physical and administrative capacity. These efforts could include:

1) **targeting reconstruction efforts** to areas worst affected by the conflict, where demands for reparations and recovery will be equally strongest;

2) **continued engagement in rule of law initiatives,** including on provision of security and access to justice to the victims, anti-corruption measures, in fulfillment of the obligation to provide guarantees of non-repetition as a central component of reparations; and

3) **establishment of adequate capacity to administer reparations,** including building state registries, training specialized health personnel and civil servants, creating and/or expanding safe and accessible banking.

All of the above initiatives fit within the development framework and have the potential to constitute a significant added value to the implementation of reparations.

iii. Support of Civil Society

Support of civil society groups is another key value-added potential for UN engagement in reparations. Civil society groups already have long-term relationships with victims and victims' groups and may be providing some victims with health, legal and psychosocial services as well as conducting advocacy with government on issues of human rights and reparations. Here, the UN could strengthen relationships with civil society and victims' groups, creating better linkages between these groups and the state when developing policies in relation to reparations.

UN agencies are often uniquely positioned to bridge existing gaps, address potential mistrust and bring disparate actors to the same table through a capacity to engage equally with government and civil society organizations. Caution was raised, however, that the UN should be aware of practical considerations such as language barriers, including UN terminology and communications, that might impede genuine participation of individuals and grassroots organizations that are new to UN partnerships.

Additionally, distinctions were made between victim consultation and informed victim participation, namely that the process of remedy and reparations requires victim participation *throughout* the design, implementation and monitoring of reparations, not simply a one-time consultation. This entails a prolonged engagement by the UN to facilitate participation throughout the process.

iv. Emergency Assistance

Assistance to victims of serious violations and crimes is essential both during and in the aftermath of violent conflict. Such victims suffer from serious physical, social, financial and political distress and, among other things, often need access to secure housing, sources of food, emergency medical care and psychosocial treatment. Not only

does service delivery meet immediate needs of victims, but it could be used as an opportunity to equip and empower victims as rights-holders.

UN representatives gave examples of development efforts in Liberia and Kenya that have met the immediate housing, health, education and livelihood needs of victims; they also described larger reconstruction projects intended to encourage victims. It was noted that in Afghanistan, development is currently the only outlet for UN development agencies to reach certain victims, given the absence of any transitional justice framework.

In Nepal, an ongoing 'interim relief program' was established to address specific material needs of families of those who were killed, disappeared or injured, and to compensate those who lost or suffered damaged to their property during the 10-year conflict there. The relief programme offers compensation to families of those who were killed or disappeared, reimbursement of medical expenses for those who were injured and expenses for the education of up to three children under 18 years old of those who were killed or disappeared. The relief programme, however, is not linked to any official truth-seeking process or to government-led investigations and prosecution involving violations that led to the harms for which relief has been offered. The Nepal government says that a comprehensive reparations programme will happen if and when a truth commission and a separate disappearances commission are established. One consequence of the delinking of relief from accountability is the continued impunity of those who were responsible for the violations. Another is the general sense among victims — particularly the families of those who still do not know the whereabouts of disappeared relatives and victims of sexual and gender-based violence (SGBV) and torture who are not covered by any of the relief measures — that no justice has been done.

v. Overcoming the 'Resourcing Gap'

While governments offer humanitarian assistance to displaced communities and to limited categories of victims, they are often reluctant to provide reparations, which would mean acknowledging the right of a potentially larger number of victims to material (and symbolic) benefits involving a wider range of losses and harm. A common reason for this reluctance is the apprehension over the cost of reparations programmes.

Reparations programmes certainly require a significant investment of state financial and human resources. But, like development programmes, reparations programmes can be financed and managed in ways that promote broader goals of justice and empowerment. Truth commissions in South Africa, Sierra Leone, Timor-Leste and Liberia have, for example, recommended legislation that would tax businesses that profited from repression or the protection of armed groups during a conflict. In Peru, some mining companies operating in conflict-affected rural communities volunteered to pay a levy that partly went to providing reparations. Ghana, using its highly indebted poor country (HIPC) status, obtained the consent of its foreign creditors to apply money that would have gone to debt payments as compensation for victims of rights violations. In the Philippines, legislation has been drafted so that part of the funds recovered from the assets amassed through corruption by Ferdinand Marcos during his dictatorship can be used to finance reparations. Taking funding for reparations from profits obtained as a result of the international crimes that harmed its victims is an approach adopted by States party to the Rome Statute creating the International Criminal Court.[2]

Some donors have also helped catalyse government efforts in implementing reparations. The UN Peacebuilding Fund (PBF) provided seed money to help begin implementing reparations in Sierra Leone. The World Bank has provided funding for

[2] UN General Assembly, Rome Statute of the International Criminal Court (last amended January 2002), 17 July 1998, A/CONF. 183/9, available at: http://www.unhcr.org/refworld/docid/3ae6b3a84.html [accessed 18 August 2011].

an interim reparations program run by the truth commission in Timor-Leste and has funded the interim relief programme set up by the government in Nepal.

The European Union funded part of Morocco's collective reparations programme, including the building of administrative capacity among the programme's implementing agencies.

C. Areas for Further Review

Areas that required further study and discussion were also identified.

i. "Indirect Responsibility": Third Party States, Multinational Corporations and Other Actors

According to the UN *Basic Principles,* **both states and those individuals found liable for serious violations and crimes carry obligations to repair.** Participants and presenters discussed the possibility for elaboration of the responsibility with regards to reparations to include indirect responsibility and complicity of other states, international corporations and individuals. Nonstate actors, both belligerents and otherwise, are known to play important roles in the instigation and the continuation of conflict, which causes grave harm to victims. Given the financial constraints present in most post-conflict states, responsibility of nonstate actors could provide additional resources for the reparations of victims while building the rule of law and combating impunity.

Conceptions of indirect responsibility, however, should not serve to absolve states of their responsibility, but rather should include the goals of strengthening reparations programmes and holding to account all those responsible, including other States and nonstate actors.

Special Representative on Human Rights and Transnational Corporations

In 2005, the UN Commission on Human Rights adopted resolution E/CN.4/RES/2005/69, which requested the appointment of a Special Representative on the issue of human rights and transnational corporations and other business enterprises. The Special Representative submitted the 'Protect, Respect and Remedy' framework in his final report, which the UN Human Rights Council welcomed. The framework he presented emphasizes state duty to protect against human rights abuses and provide access to victims to both judicial and nonjudicial remedies.

In 2008, the Human Rights Council renewed the Special Representative's mandate and requested the elaboration of the framework, in particular, an exploration of options and recommendations, at the national, regional and international level, for enhancing access to effective remedies available to those whose human rights are impacted by corporate activities. In line with this, in June 2011, the Special Representative submitted the *Guiding Principles for Business and Human Rights*, which were adopted by the Human Rights Council. The Principles outline how States and businesses should implement the UN 'Protect, Respect and Remedy' Framework in order to better manage business and human rights challenges.

ii. Comprehensive Justice: Furthering Both Prosecutorial and Reparative Justice

Participants noted that further discussion is required to explore whether the principle of complementarity — which allows the International Criminal Court (ICC) to operate where a Nation State is unable or unwilling to fulfil its duty to prosecute — might have application with regard to the duty to provide reparations. In particular, as the Rome Statute, which established the ICC, provides for a comprehensive architecture of justice that includes a trust fund for victims with a dual mandate of assistance and reparations, should complementarity not be seen to include the implementation by national justice sectors of the full architecture of the Rome Statute? **Is there an evolving norm regarding the relationship between prosecutorial and reparative justice to secure comprehensive justice for victims?**

Questions also arose regarding the role of the international community in reparations. Specifically, **in the case where States are unwilling or unable to provide reparations, does the international community have a duty to intervene?** Human rights advocates emphasized that international law identifies States as having the legal responsibility for reparations and repeated that reparations conducted by international actors would not satisfy victim demands for satisfaction and guarantees for non-repetition. Others suggested, however, that as no one can speak in the name of the actual victims, and contexts may differ, it may be impossible to provide a universal response to this question. It is within the remit of victim groups in every specific context in which reparation claims appear to make that particular judgment. It was acknowledged that there is a difference between providing reparations and standing in solidarity with victims of human rights violations — the latter was seen as an equally important role for the international community.

Advocates did acknowledge, however, the international community's ability to provide assistance to victims and capacity-building for States as they move towards state ownership of reparations. The political role of the UN was also emphasized as a tool to influence States to pursue remedy and reparations; however, there was concern that this should not detract from the State's responsibility or role. Participants noted that decisions of this magnitude required a more in-depth and higher-level discussion, which included various actors from within the UN system and the international community. Equally, further discussion is needed on what exactly constitutes state responsibility, including definitions, minimum thresholds and constituent components. Lastly, making accessible best–practice cases based on exemplary design and state implementation of reparation programmes and policies to date would help States to understand their role.

iii. Coordinating Post-Conflict Efforts for Peace and Justice

Participants noted the importance of peace processes for setting the foundations for comprehensive justice post conflict. In particular, with regard to peace processes, the enforcement of legal instruments, such as UN Security Council resolutions 1325, 1820, 1880, 1888, 1889 and 1960, could secure immediate assistance for victims of sexual violence; ensure women's full participation in all peace-related processes, including those related to justice; promote the longer-term goals of reparations by providing legal structures to combat impunity; and secure sector and broader reforms that would work towards guarantees of non-repetition. Peace processes could also define budgetary goals and recommendations for truth-seeking bodies and reparations programmes.

Equally, the relationship between reparations and disarmament, demobilization and reintegration (DDR) programmes for ex-combatants was raised as an area of importance by participants who noted that governments and the international community were quick to prioritize ex-combatant disarmament and demobilization over victims' rights to justice.

One participant noted that the injustice caused by DDR is gendered, since many women and

girls from the fighting forces do not participate in DDR. This is compounded by the international community's failure to assist with reparations for women — resources go to male combatants rather that towards reparations programmes where the majority of beneficiaries are women or where the programme would have a positive impact on families and communities.

Concern was also expressed that DDR programmes without correlative community and individual reparations are unsustainable. In many cases, DDR programmes provide ex-combatants with education, skills and other forms of compensation. These processes seem unjust to victims, who feel that those responsible for violations of human rights have been rewarded for their crimes, while victims continue to suffer from war-time harms. It is unlikely, therefore, to lay the grounds for sustainable reintegration and community harmony.

This complex relationship between DDR and reparations is further complicated by the nature of communal violence, where the lines between victim and perpetrator may be less distinct, and community fractures are multiple and stand as an obstacle to local-level peace and recovery. It was noted that short-term efforts to establish peace through DDR should not overlook the long-term interests of peace that require adequate justice for victims. Participants suggested that DDR processes cannot be favored over remedy and reparation for victims and that the international community should do more in the peace process and post-conflict period to combat injustice in order to serve the interests of both short- and long-term peacebuilding. Interagency coordination and victim participation will be necessary in order to ensure that during both the peace process and in the immediate aftermath of conflict, peace is secured and justice and victims' rights are not 'bargained away'.

Summary of Discussion — Presentations and Workshop

III. Reparations, Development and Gender

Session

The first day of the conference was spent in plenary and focused on two substantive sessions:

- The Practical Links between Reparation and Development
- Gender, Reparations and Development

On the second day of the workshop, participants were split into three parallel working groups to allow for discussions based on in-country experience. These groups were:

- Reparations for Sexual and Gender-Based Violence
- Gender-Just Development that Links with and Strengthens Gender-Just Reparation Efforts: A Focus on Land, Health and Education
- Roles, Responsibility and Resourcing of Reparations Programmes — National and International Actors

A. Reparations for Sexual and Gender-Based Violence

In this session, participants emphasized that remedy and reparations should prioritize the specific and unique needs of women and girls, and engage with civil society organizations (CSOs), women's groups and individuals in order to fully satisfy female victims' rights to comprehensive justice in the post-conflict period. Participants concluded that engendered reparations schemes should *avoid discrimination* based on sex, class, ethnicity, economic standing or cultural identity, should *screen for patriarchal norms and sexist standards* and should *optimize the transformative potential of reparations.* Successful reparations, it was argued, should *address the impact of violations,* but also strive to *dismantle discriminatory structures* that enabled and promoted violence. In the case of SGBV, violations form a part of a 'continuum of violence' that exists before, during and after conflict. Guarantees of non-recurrence for SGBV necessitate reform not only of national economic, political and legal structures, but also local cultural structures that perpetuate discrimination and violence against women and girls.

Participants agreed that reparations should be a victim-oriented and victim-led process and, as such, require the participation of women and girls at every stage of design, implementation and monitoring. Implementers need to understand carefully what women and girls deem important with regard to justice and redress for themselves, their families, extended families and communities. It is also important to understand, however, that the cultural context in many communities does not welcome female participation, and women and girls themselves are not accustomed to speaking openly. Engagement of local authorities to ensure minimum standards of female participation will be necessary to ensure that women's and girls' voices are heard. Also, educational efforts on the full participation of women and girls and other community-based initiatives can build women's and girls' capacity to engage in these and future community processes.

Reparations for Sexual Violence in the DRC

Conference Presentation by Jessica Neuwirth, OHCHR

The Comprehensive Strategy for sexual violence in the DRC currently includes a pillar on impunity and, within this, reparations for survivors of sexual violence. To date, while there have been some successes in securing convictions for sexual violence, judgements have not been executed with respect to reparations awarded through court processes.

In 2010, OHCHR convened a high-level panel to look at the needs for redress of survivors of sexual violence. The panel consisted of Kyung-wha Kang, UN Deputy High Commissioner for Human Rights; Elizabeth Rehn, Chair of the Board of the ICC, Victims Trust Fund; and Dr Dennis Mukwege, Panzi Hospital, Bukavu, DRC.

The panel visited six communities in various regions of the country. In each location, they met with local and provincial government authorities, and held private hearings with victims, a roundtable with NGOs, UN and victims. Some hearings were conducted in a group, some were individual. In each case, the panel explained that they already knew what had happened to victims and that the victims did not have to tell their stories again, but rather, that they should elaborate on their material needs and their sense of justice. In most cases, victims chose to retell their stories (re-emphasizing the value placed by victims on the act of telling and acknowledgement). The panel was clear that this was an information-gathering exercise and would not lead directly to reparations so as not to raise expectations.

The preliminary findings from the panel included:

1) Justice means different things to different people.

2) In some cases individuals wanted relocation (whether away from the site of the violence or to return home).

3) Significant stigmatization has led to secondary harm (in particular, the medical and psychological impact for women who have no way to support their children, have been cast out of community networks and are ostracized from their families).

4) The primary concern for victims is the health care and education of their children.

5) Victims long for acknowledgment and support in the form of comprehensive reparations.

The panel noted more political will at the provincial level than at the national level.* The top priority for most women was peace. Basic needs were medical and education related, as well as economic activity, particularly for those who had been ostracized from community and family support networks.

In discussion after the presentation, it was emphasized that:

- Individuals have different ideas of justice — some want acknowledgement, some want compensation, for many the immediate needs are peace and basic services.
- The idea of reparations will change over time, e.g. when peace and security needs are met, compensation may become more important.
- Overcoming stigma is of central importance in any collective reparations programme.
- The international community may need to provide assistance and/or pressure to ensure that domestic judgments that include reparations are executed.

* A discussion of who represents the State in the fulfillment of state obligations ensued during plenary. In particular, where national-level actors may be resistant to engage in reparations programmes for political reasons, but provincial-level authorities are keen to take responsibility and establish reparations, do the actions and acknowledgement of provincial or local authorities fulfill obligations for reparations?

i. Deciding Who Qualifies for Reparations

When drafting reparations programmes, States choose which violations 'trigger' inclusion in a reparations programme, often within environments of resource scarcity (personnel, infrastructure and financial). Presenters emphasized the necessity of a 'harms-based' approach in the selection of violations, considering both direct victims and dependents/relatives of victims as potential beneficiaries, particularly orphans and widows. Careful gender and generational analysis of the effects of serious violations and crimes is necessary to understand how the violence has impacted men, women, boys and girls in both the short and long term, and should inform reparations programmes that target those most affected by serious violations and crimes.

Presenters encouraged consideration of those violations that resulted in serious harm to bodily integrity, forms of liberty deprivation and forms of human commodification — including SGBV, reproductive violence, forced displacement, destitution of land and/or livelihood, forced labour and slavery. Suggestions were made regarding the phrasing and naming of violations that might be more inclusive of SGBV while avoiding stigmatization. For example, participants suggested focusing on reparations for 'ill-treatment', which would include SGBV within a larger category of victims.

It was noted that, with respect to sexual violence, the initial crime is compounded by subsequent stigma and ostracism. So while we must be careful to avoid creating a 'hierarchy' of harm or identify individuals, there is a growing practice of focusing limited resources on programmes that prioritize the most vulnerable. For example, in Sierra Leone, the reparations programme included a $100 urgent interim reparations grant to amputees, war-wounded victims who have 50% or more incapacity and victims of sexual violence.

Presenters commented on the value that prior truth-seeking efforts and extensive community mapping can play in the identification of victim groups in different contexts. While truth commissions are not a prerequisite to reparations, they have served an important basis for remedy and provide a way to establish a public record on patterns of violence within a conflict. Presenters warned, however, against building 'hierarchies' of victims (SGBV over war widows, for example), as highlighting particular groups over others could create unwanted tensions among individuals and victim groups and undermine the goal of reparations. **The need to learn from conflict-sensitive development practice to anticipate and avoid these problems was highlighted.**

ii. Gender-Sensitive Registration Processes

Registration processes that ignore the physical, social and cultural barriers facing individuals of different ages and sexes will fail to include the universe of victims due reparations. Participation of women and girls in the design of these programmes could inform more gender-friendly processes that consider issues of confidentiality, avoid discriminatory administrative hurdles and consider problems regarding evidentiary rules.

Addressing stigmatization of victims of SGBV requires creative approaches in the administration of reparations programmes. In particular, public registration processes that openly categorize violations are likely to exclude many victims of sexual violence. Participants discussed the need to identify a variety of channels for women's and girls' access to registration and services. By utilizing locations where women and girls already gather to receive information and services, such as local health clinics and women's organizations, reparations processes could ensure greater levels of confidentiality and avoid further stigmatization of victims. Participants shared from their own experience bringing women together on development or income generation projects as a 'safe cover' to also discuss more sensitive matters.

In addition to stigmatization, women and girls face other administrative hurdles to registration. First, women and girls often do not know about reparations programmes that might benefit them, or they do not understand the purpose of the programme

or details as to how they might register. Outreach efforts must take into consideration different language and literacy levels of women and girls, as well as their limited access to the public sphere in some contexts. Second, physical distance and expense of transportation to and from registration points often precludes many of the most vulnerable victims. Third, stringent documentation and evidentiary requirements, including the demand for death certificates, land titles or medical documentation proving sexual violations, need to be considered thoughtfully given the context of the programme and the accessibility of such evidence to victims. Lastly, front-line administrative programme staff require appropriate training on human rights and gender-sensitive ways to deal with victims. In each of these areas, development practitioners can play a contributing role.

Lastly, registration programmes must acknowledge that victims might still suffer symptoms of trauma that preclude their coming forward; therefore, registration should not be limited by restrictive time frames.

iii. Selection and Delivery of Services

Like other administrative processes, the choice and delivery of the benefits of reparations, whether material or symbolic, collective or individual, carry tremendous gendered implications. The selection of programmes and benefits should aim to achieve transformative outcomes, and consideration must be given to those forms of redress and compensation that will empower women and girls, including innovative microcredit and business and skills training, and the creation of safe spaces for women and girls. Likewise, benefit distribution should take into consideration factors that limit women's and girls' access to services and should avoid delivery that could further stigmatize and endanger women and girls and undermine the public perception of reparations. Participants emphasized the need for education efforts that provide context for the delivery of reparations benefits, so that victims as well as service delivery staff and members of their community understand the purpose and goals of reparations.

Rehabilitative measures implemented through reparations, such as health services, emergency and psychosocial care, should acknowledge the capacity limitations of local institutions. Often, severe violations lead to particular harms requiring specialized care, for example, fistula surgeries for victims of sexual violence. Presenters emphasized that local services are often inadequate, and a development approach that focuses on increasing access to primary care without attention to the specialized care required by victims of extreme violence will not satisfy the specific rights and needs of victims. Moreover, this would be an avenue for development actors to contribute to reparations programmes by building the capacities required to deliver services encompassed in the programme.

B. Areas for Further Review

i. Men and Sexual and Gender-Based Violence

Discussion regarding the role of men in reparations for SGBV took two forms. First, while men also suffer from sexual violence during conflict, little attention has been given to outreach and reparations for these victims. Second, questions arose regarding the inclusion of men in the reparations of female victims of sexual violence, and participants sought to identify how male relatives of victims could be specifically targeted for sensitization and psychosocial support. Integrating men into these programmes could reduce stigma, assist in rehabilitating and healing individuals and families, and contribute to the overall goal of non-recurrence.

ii. Traditional Justice and Issues of Culture

The cultural context of reparations demands consideration in any discussion about reparations, gender and development. In some contexts, culture hinders transformative reparations by excluding women and girls, the poor and other marginalized groups. As mentioned earlier, it will be necessary to

initiate a dialogue about the issues of reparations with the victims, their communities and the community leaders. Minimum standards of participation should be established, and marginalized groups should be equipped with skills and space that enable them to participate fully in the process. Communities are also, however, an important space for peacebuilding and post-conflict reconstruction, and where local-level initiatives do not further harm, marginalize or discriminate against females or victims of serious violations and crimes, reparations programmes should consider how best to support those processes and, through them, rebuild vital social networks.

Is there a place for traditional justice in reparations?

Conference participants raised questions about whether traditional practices could be incorporated into reparations programmes. While there was some acknowledgment of the value of traditional justice at a local level, especially where there were no other justice mechanisms available, concerns were raised about the focus of some traditional justice practices on men or as 'family-family' arrangements that may in fact further violate women's rights — there were fears that relying on traditional justice would not adequately address the rights of women as individuals.

C. Reparations, Development and Gender — Linkages and Synergies

Several linkages were identified between development and reparations of SGBV.

i. Mapping

Mapping of victims, patterns of violations, locations and needs is critical to the design and delivery of benefits that serve the goals of reparations. Whether conflict has been resolved or is ongoing, mapping helps identify harms suffered as a result of violations and could be an important tool in linking political and civil violations to social and economic violations. Mapping could also inform delivery of specialized services to victims with regards to violations that impact health, education, land and well-being. By assisting in mapping and understanding the regional differences in the nature of harms suffered, the UN could seek to influence current development and civil society initiatives that assist victims, and help to synergize efforts implemented in post-conflict regions. It is important to note that civil society organizations in many contexts have already begun mapping and information-gathering initiatives and could be supported directly in this endeavour. The UN itself has undertaken extensive mapping efforts in the DRC, Afghanistan and elsewhere and thus has the expertise and technical skills to support these initiatives.

ii. Expertise on Gender, Land, Health and Education

Participants concluded that while not every country team has expertise in the areas of gender, land, health and education, it is necessary to identify experts both within and outside of the UN system who could inform gender-sensitive reparations. Participants also encouraged 'South/South' exchanges, both for governments and CSOs, in order to share ideas, strategies and pitfalls in the implementation of reparations. CSOs and local groups have expertise on victim needs, including expertise on how conflict has affected gender relations and women and girls. Advocacy efforts are vital to all transitional justice processes, including the building of commissions of inquiry and truth commissions that are part of the remedy and help inform reparations.

D. Roles, Responsibilities and Resourcing of Reparations Programmes: International and National Actors

One working group was dedicated to looking at the evolving issue of the roles and responsibilities of different actors *vis à vis* reparations programmes, as well as the funding of these processes.

Country Case Study: Uganda
Challenges of providing reparations in relation to health, land and education

In this group, it was decided to draw upon the Ugandan local context to explore the relationship between land, health and education and gender-sensitive reparations. While the discussion was rooted in the country case study, many of the issues raised are common to post-conflict contexts. Particularly in those countries where poverty has been a cause as well as a consequence of the violence, victims speak of reparations in terms of accessing their socioeconomic rights, often specifically in relation to health, education and land and housing.* This is particularly the case for women, who almost uniformly constitute a marginalized and impoverished group in any conflict context.

The Health, Land and Education Group used the case study of Uganda as a basis for discussion on how reparations might address these areas. The identified objectives of the work group were: 1) to determine synergies and distinctions between development and reparations as they pertain to issues around land, health and education; 2) to identify how development can serve reparations in these sectors (ideas, best practices and lead organizations); 3) to identify how to best link with victims of grave violations to ensure they have a voice in shaping programme, implementation and monitoring; and 4) to make recommendations on guidelines.

In the northern Uganda context, according to surveys and research, victims consider reparation to include the following:‡

- a process to enable victims to speak about what is wrong;
- public acknowledgement by the State that what was done to them was wrong;
- attention and assistance given to victims to help them lead a normal life;
- rebuilding hope and ensuring harms will not be repeated;
- proper treatment of the dead (from identification to burial); and
- building trust after conflict.

Land Access — presented by Dyan Mazurana

The majority of the northern Ugandan population is agro-pastoral, with 80% in subsistence agriculture. Access to land is essential for people's survival and livelihoods. There have been significant challenges for some war widows and orphans to access their land after the killing or disappearance of a husband/father/caregiver. Rights under national law often conflict with customary practice in terms of women's and children's access to land, and widows as well as orphans and children born of conflict are often denied access to land by both sides of family.

(Continues on next page)

* See, for example, Office of the United Nations High Commissioner for Human Rights, "Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo to the High Commissioner for Human Rights" (March 2011); International Center for Transitional Justice, "The Rabat Report: The Concept and Challenges of Collective Reparations" (February 2009).

‡ See Office of the United Nations High Commissioner for Human Rights and Uganda Human Rights Commission, "Victims' Views on Their Right to Remedy and Reparation: A Report from the Greater North of Uganda" (forthcoming).

Country Case Study: Uganda (continued)

Even where victims have access to land, their ability to utilize the land is often reduced as a result of violations experienced. For example, injury may prevent individuals from engaging in agriculture. Widows in particular struggle to prepare fields for planting in time, which can lead to failed harvests and entrenched cycles of poverty for the family.

Health — presented by Victor Ochen

Since 2005, the African Youth Initiative Network (AYIN) has focused on interventions addressing critical medical needs, including reconstructive, plastic and general surgeries, addressing sexual trauma and providing psychological support for victims of torture, mutilations and beatings.

Based on these experiences, it was reported that when dealing with sexual abuse, rape, sustained rupture (fistula) and sexually transmitted diseases, it takes trust and confidence for women to confide their problems. The numbers of rapes are extremely high, but women are slow to report these violations. In the experience of AYIN, female victims go to the hospital to get examined for one symptom, but then quietly report their 'main' problem; that of sexual abuse or rape.

In northern Uganda, victim medical needs go beyond present government facilities. Community facilities and regional transfer hospitals do not have enough capacity and expertise in the types of treatment that war victims require. This is compounded by the fact that donor assistance has not looked at victim health needs. There has been a focus on basic health services, leaving out specific needs of victims. Where assistance has been given it has been within very specific limits. For example, burn victims may take three months to recover, but current donor-funded programmes for war victims operate on a 10-day limit for hospital care. Needs are also urgent and cannot wait for a future reparations programme to be established; immediate health interventions are required if victims are to survive.

Psychological needs are prominent, especially among widows, wives of abducted males and children whose parents have disappeared. Many women report that family members who died in IDP camps 'visit' them at night and ask them why they left them in the camp, why they did not get a proper burial.

Education — presented by Teddy Atim

War victims are vulnerable to dropping out of school and losing their access and opportunity for education. This is particularly the case for those who lost caregivers, young women who experienced forced pregnancy and those who lost schooling as a result of being in IDP camps. Mutilated victims are often unable to go to school because they do not have artificial limbs or suffer harassment from teachers and classmates.

The educational system is not responsive to those girls who have returned to their communities with children and child care provision that would allow for schooling to be resumed is non-existent. Many of the children have been traumatized by their experiences during the conflict and as a result have difficulty concentrating in school, further affecting their performance. Teachers are not trained to deal with these children.

A crucial question raised was in relation to international actor involvement. In particular, who leads the process, what roles national and international actors should play and whether international community involvement would satisfy victims' demands for acknowledgement and justice.

Participants agreed that a clear definition that maintains the important distinctions between reparations, development and assistance should be agreed upon so that the symbolic element of acknowledgement of responsibility for harm done to the citizens by the State (whether by commission or omission) is included in the way development and assistance are part of the processes addressing the violations and serious harm victims have suffered. This requires going beyond the delivery of services when intervening in reparations schemes and clearly invites UN agencies to work in coordination with each other, reinforcing each others' contributions based on their respective mandates and role within transitional justice so that such programmes stay effectively victim-centred and concerned with state responsibility. Furthermore, gender equality and non-discrimination need to be integrated in any assistance or reparations programming as it is these principles that give reparations schemes their transformative value and potential.

The participants also recognized that national development programme health initiatives could precede reparations and prepare specialized staff, infrastructure and services that can be of future benefit to victims of serious violations and crimes by providing services that are sensitive and responsive to their unique needs and concerns. The same efforts should be applied in the area of legal services and access to education.

E. Recognizing State Responsibility

Reparations should be an integral part of government planning, especially in transitional societies. The State, supported at times by the UN, needs to ensure that victims of serious violations and crimes are fully engaged in the reparations process, including design, implementation, monitoring and evaluation For the rebuilding of a viable society, victims need acknowledgement, accountability and apology from the State to provide the important recognition for the harms suffered. The international community should help support and build the capacities of the State to realize and act upon its responsibility. In particular, participants argued that the UN and development partners can strongly object to any attempt by States to call existing development programmes 'reparations' as a way to avoid spending resources on reparations. As such, there needs to be a commitment by development actors to differentiate development and humanitarian assistance from the right to remedy and reparations.

Participants agreed that discussion is needed on what constitutes the core elements of the obligation on the part of States to fulfil the right to reparations. The notion of demonstrating a 'serious effort' was suggested, but would this suffice and, if so, what would this constitute exactly? Is justice served for victims if all the push for reparative justice and funding comes from the international community and not from within the State and its own resources? One participant noted that sometimes resources for reparations are available, but States are not willing to prioritize this. In such cases how would one determine whether the state was indeed 'endeavour[ing]' to establish reparations?

IV. Role of the UN in Reparations: Going Forward

A. Internal UN Coordination on SGBV

Efforts to address issues of SGBV are a multi-agency process. UN Women and OHCHR, together with other agencies, could streamline their efforts on SGBV in order to avoid overlap and maximize resources. Other suggestions included interagency national team conversations that deal with thematic issues, such as SGBV, women's rights, land rights and reparations. These conversations could also inform a more cohesive approach to issues across agencies, with input from all levels of UN staff. These opportunities would also benefit from civil society and victim-group participation, as relationships and interchange could benefit both groups.

B. Funding Structures

It was noted that current UN funding structures limit the ability of states and other implementing organizations in the delivery of emergency assistance and reparations. In the case of Sierra Leone, the UN Peacebuilding Fund gave a one-year deadline to develop a reparations programme, train staff, register victims and begin implementation.[3] Such funding limitations preclude extensive planning and outreach efforts necessary for the implementation of gender-sensitive and gender-just reparations. In the area of victim assistance, donor funding requirements often ignore the time required for rehabilitation efforts, such as those that often require extensive hospital stays, multiple surgeries and significant post-surgical care and follow-up.

Currently, the UN Development Programme, International Organization for Migration, Office of the High Commissioner for Human Rights, UNICEF, UN Population Fund, UN Peacebuilding Fund, UN Women and international institutions such as the World Bank are all involved in reparations initiatives. Audits to ascertain the validity of frameworks used to establish reparations schemes and provide a system-wide assessment of best practices, as well as an analysis to evaluate how best to ensure that reparations-sensitive development integrates a victim-centred participatory process, would be a necessary step prior to adopting a more integrated UN system-wide approach to reparations.

If linkages are to be made within the UN system on the issue of upholding victims' rights to remedy and reparation, better support could be offered to those States hesitant to fulfill their obligation, as reparations evoke the necessity to re-evaluate how health services, transportation systems, education facilities, land rights issues, inheritance laws and budget accounting systems function in order to take into consideration a reparations process that upholds gender equality and non-discriminatory principles.

[3] Mohamad Suma and Cristián Correa, *Report and Proposals for the Implementation of Reparations in Sierra Leone* (ICTJ, December 2009).

C. UN Development Actors' Role

The meeting sought to highlight the importance of linking a human rights-based approach to development. It was suggested that an interagency committee coordinated by OHCHR could facilitate linkages of programmes and avoid duplication. A gendered approach to remedy and reparations implies targeting the causes and consequences of rights violations and can have an influence in the human rights and justice sector and the development sector as it brings an empirical approach to the indivisibility of rights.

Participants also recommended a review of current linkages between UN headquarters and country teams, especially with regard to short-term funding and reporting structures. The process of reparations requires both immediate and long-term justice projects across different UN agencies, requiring creative funding, reporting strategies and cooperation.

V. Conclusion

The meeting enabled human rights, transitional justice and development actors to appreciate the potential societal transformative value of reparations, and to recognize the need for ensuring gender-just reparations.

A. Challenges

Many challenges were identified. These include:

- The problems that may arise when 'development' is pursued as a substitute for reparations. This happens usually in situations where political forces are trying to avoid or back away from acknowledgement of, and responsibility for, the harm done or where they are keen to limit the extent of reparations programmes and as such refer to development programmes as reparation.
- Participants agreed that, **in the absence of States' acknowledgment of wrongdoing via commission or omission and/or in situations of ongoing conflict, provision of services and aid to victims should be considered assistance and not reparations.** While all efforts should be made to attend to victims' needs without delay and to build towards reparations, these programmes should be carried out with public recognition that such assistance cannot substitute for or undermine in any way fulfillment of a future legal right to comprehensive reparations by the State.
- In contexts where SGBV carries a high stigma, it is important to be mindful of the potential for reparations programmes to 'do more harm than good'. It is important in such contexts to design reparations programmes so as to minimize the risk that participants will be identified as victims of sexual violence.
- In contexts where there are multiple competing priorities, it is important not to sacrifice the needs of individual victims. Acknowledgement of harm done to individuals must be paramount in any collective reparations or reparative development programme.
- Bringing state actors and victims and their associations to the same table can often be a challenge. In a number of contexts, state actors need to be convinced of their obligation and need for prioritization of victim-centred reparations. Victims, on the other hand, need to be given a voice in the design of any reparations programmes, and a secure environment must

be ensured for their participation.

- All efforts must recognize the complexity of post-conflict societies; often we are dealing with intergenerational issues, systemic inequality and actors with very weak trust relationships. A long-term, integrated, strategic and human rights-based approach can add to our consideration of systemic issues and transitional processes.

B. Collaboration

The workshop identified many opportunities for transitional justice and development practitioners to work together, leveraging the potential of both reparations and development and their inherent linkages.

Concrete opportunities for collaboration were identified. These include:

- Where countries are still in conflict or have not yet embarked on formal transitional justice efforts, the only vehicle through which to assist victims may be targeted development assistance to victims. In such cases, it is important for development practitioners to work with their human rights counterparts in order to include victim-focused and gender-just elements in development programmes.
- Education of men is key to gender-just reparations and overcoming the stigma of sexual violence. Any early recovery or peacebuilding interventions should engage and educate men.
- A human rights-based approach to development can bring about wider reparative elements in interventions. It can operationalize non-discrimination and victim empowerment and demand state involvement.
- The UN should play a role in facilitating a continued conversation between human rights and development practitioners. There was recognition of the value of this conversation and the need to involve field practitioners in discussions that take place at UN headquarters, as guidance is developed.
- Development can help support states and build their capacities to realize their responsibility to provide reparations.

C. Consideration

The workshop identified many important issues that require further high-level consideration. These include:

- Where are the parameters of ‘reparation’ and ‘development’?
- Is the provision of reparations inherently tied to the financial commitment of the State or should the international community fund reparations?
- Do reparations programmes have to be State-administered in order to have symbolic and moral value?
- Strategically, should we be pressing for corporations, international financial institutions and other complicit economic actors to contribute to reparations funds?
- Development actors tend to be ‘practice driven’, whereas human rights actors tend to be ‘norm driven’. More work needs to be done in bridging this gap to deliver victim-centred reparations programmes. Guidelines should be developed to assist UNDP practitioners operating in transitional justice contexts.
- Civil society actors need to be more involved in the delivery of reparations. UN and government actors should consider how to involve civil society actors, who can give a voice to affected communities.

Workshop Concluding Remarks

Concluding remarks for the meeting were provided by Ms Lwanga, Regional Programme Director, UN Women, who noted the uniqueness of the gathering in having representation from both headquarters and the field, in addition to having an impressive variety of country experiences presented, including from Afghanistan, Bosnia, Democratic Republic of Congo, Kenya, Morocco, Nepal, Solomon Islands, Timor-Leste and Uganda. This rare mix of geographical diversity lent much richness to the technical meeting.

Diversity also brings challenges, in the form of differing perspectives, even where there is an agreed-upon common goal, such as that of support to and healing for victims of violence and abuse. Agency mandates, turf and interpretation remain a challenge for the UN system and our work.

In reflecting on the two-day meeting, Ms Lwanga summarized some key highlights. Specifically:

For an initial meeting and first step in discussing the important subject of reparations, development and gender, the meeting had sharpened a shared understanding by:

- providing a common definition and understanding of the concept of 'reparations', not only as an integral part of the victim's right to justice, but as a package of measures that can provide restitution, rehabilitation and compensation, bring satisfaction and provide guarantees for non-repetition of the violence;
- acknowledging the complexity of implementing a reparations programme that places victims at the centre;
- noting that **in exploring the roles of different players, namely the victims, the communities, the State, development partners and the international community, and in particular the UN, there are distinct roles to be played by each; but as in all development efforts, there is a tendency for the roles to be complicated by relationships, differing priorities and political considerations;**
- due focus must be given to gender-based violence and the need for gender-sensitive reparations programmes that avoid sex discrimination, are screened for patriarchal norms and standards, and ensure removal of stigma and create space for women victims to participate with confidence, assured of non-repetition of the offence.

It was noted that participants had been in agreement that the two days of the meeting were not sufficient to lead to clarity on all issues and generate full consensus. It was therefore decided that further review and study were needed into a number of important issues, including the following:

- reparations for gender-based violence;
- ownership of reparations programmes by victims, communities and countries affected;
- an inventory of existing policies, strategies and activities;
- guidance on reparations for intergenerational implications of historical violations.

A level of consensus was achieved on the following:

- The importance of reparations as an important and integral part of post-conflict recovery programmes; to be included in access to justice and recovery interventions;
- The need to aim for *reparations-sensitive development* and take steps towards this through the following actions:
  - Develop guidelines for development practitioners operating in transitional justice contexts
  - Utilize existing instruments and frameworks to incorporate reparations as a way of getting them on the agenda, plans and budgets of national governments and development partners
  - Enhance the oversight role and facilitation

of UN agencies in the implementation of human rights conventions and protocols.

How do we move forward?

Ms Lwanga presented the following proposal for follow-up action from the Conference, to be considered by the agencies involved:

i. Undertake further review and study on reparations to bring about greater common understanding.

ii. Agree on a unified approach at least within the support of the UN on reparations.

iii. Establish a Technical Working Group on Gender, Reparations and Development, both at headquarters and at the level of the UN Country Teams in post-conflict countries.

iv. Develop guidelines for programming and mobilization for reparations with the involvement of DOCO, OHCHR (the lead on transitional justice), UNDP and UN Women.

v. Task Resident Coordinators with entering into dialogue with national governments on reparations with a focus on promoting ownership of the process by the affected victims, communities and countries.

vi. Establish a Network on Reparations, Development and Gender, made up initially of the participants of the just-concluded meeting.

Annex A
Proposed Recommendations on Reparations, Development and Gender

The following are preliminary recommendations that could be used to shape both understanding and action regarding the linkages among gender, development and reparation.

A. Conceptual-Level Recommendations

- **Added value of joining human rights and development resources.** Complementing human rights support for reparations with development support can bring added value to both reparations and development policies and programmes.
- **Reparations should not be conflated with development.** In other words, development assistance cannot substitute for reparations. Key features of reparations include state recognition of harms to victims of serious violations and crimes, recognition of complicity of state actors in perpetrating antecedent violations, recognition of the State's obligation and willingness to provide reparation to said victims accordingly.
- **Symbolic component of reparations.** In circumstances of ongoing conflict or in situations where States refuse to provide acknowledgment of or responsibility for grave harms and crimes, services provided to victims should be considered development assistance targeted towards the victims as beneficiaries, not reparations. Such assistance should focus on meeting the immediate health, security and legal needs of victims and should help prepare victims and civil society groups for future engagement with the government on issues of reparations. Other efforts could help prepare the State to uphold and carry out its responsibilities for ensuring victims of serious violations and crimes the right to remedy and reparation.
- **Transformative component of reparations.** Transformative reparations are informed by principles of non-discrimination, gender-equality and victim participation and empowerment, and include efforts to provide remedy and redress for both the causes and consequences of serious violations and crimes.
- **Guarantees of non-recurrence.** Instituting such guarantees for SGBV will necessitate reforms in national economic, political and legal structures, as well as local cultural structures that perpetuate discrimination and violence against women and girls.
- **Centrality of victims.** For reparations to be victim-centred, they should be victim-led. Civil society and victim-led groups should be included in every stage of remedy and reparations. Victim engagement in both the political processes of contestation and demand for reparations and in the design, implementation and monitoring of reparations is a necessary component to the fulfillment of victims' right to remedy and reparations. Participation strategies should recognize cultural and social

restrictions to women's and girls' participation.

B. Policy and Strategic Planning-Level Recommendations

- **Integrated Approach.** Situate reparations-sensitive development initiatives within broader national strategic frameworks for development assistance. Contribute to the implementation of reparations programmes with support from existing rule of law, economic recovery and health programmes.
- **Partnerships.** Ensure better coordination of UN entities and programmes within a common framework for a comprehensive national reparation-sensitive development programming. Facilitate States' responsibility in establishing reparations policies and programmes, including through technical advisory services and building States' administrative capacity to manage programmes.
- **Operational support.** Take advantage of the extensive experience of development actors in assisting governments with administration of funds and programmes.
- **Resource mobilization.** Provide access to previously unavailable development funding resources.
- **Sustainability.** Capitalize on continuing UN presence on the ground and long-term perspective to adequately follow through all stages of remedy and reparations and create sustainable mechanisms beyond the time frames generally allocated for transitional justice assistance. Provide monitoring and oversight functions.
- **Exit strategies.** Plan exit strategies for what needs to be discussed with government, civil society and victim-led representatives so UN-administered programmes remain active for those victims with post-traumatic syndrome, especially for SGBV survivors likely to use these programmes beyond the time frames generally allocated for transitional justice assistance.
- **Advocacy.** Advocate for States to incorporate into domestic legislation UN treaty obligations, including amending domestic laws and ensuring access to justice and remedy and reparations schemes.
- **UN Country Teams Regular South/South Exchange.** Establish regular exchanges among UN country teams on how to best contribute to the design, implementation and monitoring of gender-just, reparations-sensitive development initiatives in close collaboration with local human rights activists and victim-led groups. Encourage 'South/South' exchanges both for governments and civil society organizations in order to share ideas, strategies and pitfalls in policies and programmes of remedy and reparation.

C. Integration of Reparations in the Context of the UN System

- **Implementing Agency.** Integrated UN missions and UN Country Teams should, whenever possible, be the country-level loci for establishing integrated reparations programmes in support of the 'Delivering as One' principle. This will maximize coordination and use of all available human rights and development resources.
- **Coordination through OHCHR.** OHCHR is the lead agency on transitional justice and reparations within the UN system. At the country level, OHCHR acts as a catalyst for collective assistance on reparations programmes within mission and UN Country Team settings. UNDP, UN Women and other UN entities present on the ground should increasingly support OHCHR and partner in areas of their respective strength.
- **Coordination and Strategic Framework.** At the country level, reparations programmes

should, whenever possible, be introduced and integrated into long-term strategic planning frameworks, including through UN-based assistance tools, e.g. Integrated Strategic Frameworks (ISFs) and UN Development Assistance Frameworks (UNDAFs), and broad national development and peacebuilding strategies, such as Poverty Reduction Strategy Papers (PRSPs), Post-Conflict Needs Assessments (PCNAs) and national frameworks for assistance through the Peacebuilding Fund (PBF). The integration of programmes into broader development and post-conflict strategic frameworks can provide an effective vehicle for coordination of UN agencies present on the ground. Joint analysis and needs assessment will facilitate inclusion of consideration of all areas of concern (e.g. specific needs of victims groups, including women, children, marginalized). The comprehensive picture acquired through this process will facilitate a common strategic approach and inform programmatic interventions.

- **Integrating transformative principles.** Integrate transformative principles within UN work prior to, during and after a conflict and prior to the establishment of reparations programmes. Gender equality and non-discrimination principles should be promoted and embedded in all national programming, which will help facilitate reparations programmes to properly address those whose rights have been seriously violated.

D. Programming-Level Recommendations

- **Employing a gender-sensitive approach.** Administrative decisions impact the gender sensitivity and transformative potential and impact of reparations. Processes of remedy, selection of victims and benefit packages, outreach and registration efforts, empowerment of civil society and victims groups, and funding strategies are all vital components of reparations and are gendered processes. Issues of confidentiality and evidentiary rules disproportionately affect female victims, and should be informed by and encourage female participation. Extensive outreach and education should be employed in order to inform victims of their right to remedy and reparations and the ways in which they can access their rights to both. Registration processes should avoid restrictive time frames that exclude highly stigmatized victims.
- **Effectiveness of reparations programmes can depend on consideration of a broader set of rights and needs.** In a number of contexts, delivery of reparations programmes will benefit from provision of broader economic recovery measures, including addressing land rights and the health and educational needs of the victims and their families. In some settings, integrity and anti-corruption programmes may be prerequisite to effective distribution of services and compensation to the victims.
- **Process-oriented assistance.** In order to ensure inclusiveness, reparations policies and programmes developed with UN assistance need to be victim-centred and focus on the process of remedy and reparation and not solely on the outcomes of the reparations.
- **Importance of consultative process.** Reparations programming needs to take into account the specific realities of women and girl victims of serious violations and crimes, ensuring adequate participation of all who have a stake in the reparatory process. In this regard, women's rights groups and women and girl victims' representatives, as well as other victims' associations, need to take part in setting institutional frameworks, monitoring and evaluation of reparation policies and programmes.
- **Educational campaigns on the purpose and goals of reparations.** Develop educational tools that provide context for the delivery of reparation benefits, so that victims as well as service delivery staff and members of their

community understand the process and participate in its implementation.

- **Civil society and victim-group participation.** Support and engagement with civil society and victim-led groups is central and essential to transformative, gender-sensitive reparations. Support of civil society in its political struggle for recognition is vital in contexts where there is no state acknowledgment or responsibility of harms.
- **Inclusive development of institutional frameworks.** Victims', and specifically women and girl victims', participation in outreach and consultation should be central to the development of institutional frameworks for remedy and reparation.
- **Individual and community-based reparations.** Community-based reparations and targeted development assistance should be cognizant that such programmes could have a tendency to sideline provisions of individual satisfaction to the victims. They could also potentially reinforce community antagonisms that inform conflict and thus feed some of the root causes of conflict.
- **State responsibility and acknowledgement** of the role of the State in serious violations of victims' rights must exist for reparations to deliver redress to victims and to fulfil victim demands for satisfaction. In the absence of state acknowledgement of responsibility, international efforts to pursue reparations could 'bargain away' victims' right to remedy and reparations in the long run.
- **State capacity-building,** especially in the areas of reconstruction of public infrastructure, promotion of the rule of law, investment and preparations of administrative structures (including state registries, banking) and increased dialogue with States on human rights issues, is essential to prepare states for successful reparations programmes.
- **Mapping** of victims, patterns of violations, locations and needs is critical to the design and delivery of remedy, reparations and development assistance and should inform delivery of specialized services.
- **Gender analysis** of the violations and crimes and the resulting short- and long-term harms impacting men, women, boys and girls is necessary to adequately address the gender- and age-specific demands for remedy and reparation in the post-conflict period.
- **Reparations programmes and reparations-sensitive development programming should avoid building hierarchies of victims** of serious violations and crimes by highlighting particular groups over others, as such attention could further isolate and stigmatize beneficiary groups. It can also reinvigorate antagonisms between groups and collectives, which in a number of environments may be a root cause of conflict.
- **Interdependence between DDR and reparations programmes.** Donors and the UN should not consider DDR and reparations programmes in isolation from each other, but rather should coordinate to ensure that funding is provided for both in comparable terms and within the same time frame. In the past, DDR programmes have received considerable funding in the immediate post-conflict period, while reparations for victims are left until a much later period and attract comparably little, if any, financial support. The same set of principles should be applied in considering assistance for post-conflict reintegration and rehabilitation of ex-combatants and victims of conflict. Otherwise, the international community risks sending the wrong message and feeding the drivers of conflict: they will appear to reward the behaviour of those who took up arms, while at the same time neglecting to provide equal benefits and treatment to civilians who suffered the consequences of violence.

Annex B
Workshop Agenda

Wednesday, 1 December 2010

8:30 – 9:00 Registration

9:00 Welcome and opening remarks by the Government of Uganda (10 min)

9:10 Welcome and introductory remarks by Jebbeh Forster (UNIFEM Country Programme Manager, Uganda) and Lebogang Motlana (UNDP Uganda Country Director)

9:20 Background to meeting; overview and presentation of methodology of working meeting and review of meeting's objectives by Djordje Djordjevic (UNDP) and Nahla Valji (UNIFEM)

9:30 **First Session: The Practical Links between Reparation and Development**

Session Overview:

Although post-conflict development needs to be considered distinct from reparation, reparation programmes could be an important part of broader reconstruction and development efforts. If connected to reparation efforts, transformative development efforts could increase victim access to health services, education, housing, land security, transportation and communication facilities and justice mechanisms, among others. This session will attempt to identify the various forms of reparation — restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition — that might be linked with current development programming in order to increase efficiency and effectiveness of reparations programmes.

Facilitation — Ariane Brunet

• Reparations — a brief overview. Mariana Goetz (Redress)

• A development perspective — Ozonnia Ojielo (10 minutes)

• Reparations and development — an introduction, Ruben Carranza (ICTJ) (10 minutes)

Key issues for discussion — positive and negative repercussions of the interaction between reparation and development; how can UN procedures and technical expertise benefit reparation programmes; how might established development approaches satisfy victims' demands for redress and state and public acknowledgement of harm as well as fulfilment of state responsibility for reparations.

What principles should inform UN engagement regarding reparations?

Objectives:

Define the added value of reparation-mindful development. Brainstorm possible principles for UN agencies to inform victim-led, reparation-focused development.

10:30 Morning Break

10:45 Continued discussion: How do development efforts, especially in the delivery of services, help reparation programmes become more efficient? What are strategies to ensure UN agencies' coordination in the implementation of reparation and development? How will the UN ensure participation of CSO and victim-led groups throughout every stage of design, implementation and monitoring of reparation? What can country practitioners share regarding lessons learned within their own country contexts?

11:45 Draw main conclusions and recommendations

12:15 Lunch Break

13:30 Review of the morning session and concluding remarks

14:00 **Second Session: Gender, Reparations and Development**

Session Overview:

As the Special Rapporteur on Violence against Women remarks, reparation programmes that include women and girls present transformational potential and ought to "subvert instead of reinforce, pre-existing structural inequalities that may be at the root cause of the violence that women experience before, during and after the conflict." Given the work already done in the development field on integrating gender in rural development, health, education and finance, gender-sensitive development could set an example for gender-just reparation. Furthermore, the participatory approach to development might equip reparation programmers to more effectively engage CSO and victim-led groups in the design, implementation and monitoring of reparation.

- Presentation on the transformative potential of gendered reparation as linked to development, Ruth Rubio-Marin (10 minutes)
- Discussion on integrating basic principles of non-discrimination and equality in the fabric of reparation program: a development perspective
- Begin thinking through principles to guide the formation, implementation and evaluation of gender-sensitive development programmes. Identify principles that could be utilized by reparation programmers to ensure gender-just reparation. Finally, consider how the donor community can contribute to the development of indicators sensitive to gender, age, cultural diversity and human rights to monitor and evaluate the implementation of reparation measures.

Objectives:

Identify areas of technical expertise that development actors can provide to gendered reparation.

15:30 Break

15:45 **Continued discussion:** How can development actors contribute to a gender-just approach to delivery of reparation that is linked to development? How can reparation-led development increase the capacity of women to pursue personal economic development within local economic systems? How can the relationship between reparations and development further the goal of transformative justice for women?

16: 00 Drawing main recommendations

16:50 Logistical issues

17:00 End of first day

Thursday, 2 December 2010

9:00 Logistical information for the day

9:05 Review of the key outcomes and recommendations of the previous day's two sessions

9:30 Working Groups

During this segment, there will be three parallel working groups. These groups will address the flowing topics: A) Reparations for Sexual and Gender-Based Violence; B) Roles, Responsibility and Resourcing Reparations — National and International Actors; and C) Gender-just Development that Links with and Strengthens Gender-Just Reparation Efforts: A Focus on Land, Health and Education. Each workshop should contain a balance of experts in gender justice, development and reparation. Each working group should select a rapporteur that will present the group's findings at the 11:30 a.m. session.

A. Reparations for Sexual and Gender-Based Violence (Chair: Jessica Neuwirth (OHCHR))

Session Overview:

Although men, women, boys and girls suffer serious violations of human rights law and grave violations of humanitarian law during armed conflict, the socioeconomic, psychological and physical effects of these violations differ considerably between the sexes and among age groups. Procedural difficulties within juridical administrative process and reparation programmes often create a limited time frame for registration of victims. Reparation-sensitive development could serve to fulfil long-term victim needs that short-term reparation programmes are unable to satisfy given time and budget constraints. Development programmes should therefore take into consideration victims who were unable or unwilling due to high levels of stigma or perceived risk to formally register for reparation and consider the long-term needs of victims in order to pursue the goals of reparation. Health services need to be designed in a way that serve the specific medical needs of SGBV victims as should be the case of all other elements of a complex reparations programme. Such designs will be enhanced with input on design, implementation and monitoring, including on fact finding and memorialization, by victims and women's rights activists.

- Introduction and overview: reflecting on current and planned programming in the

DRC, Jessica
Neuwirth (OHCHR)

- Discussion: How can development practitioners ensure women's participation throughout the process of design, implementation and evaluation of reparations? How can distribution methods ensure that women access and retain control of reparation benefits? Can the design of symbolic reparations and guarantees of non-repetition for victims of SGBV combat the impunity of perpetrators of sexual violence?

Objectives:

Identify areas of technical expertise that development practitioners can provide to gendered reparation. Identify methods of reparation-led development that satisfy both women's immediate needs and their right to reparation in a longer time frame than that offered by the usual reparation programmes time frame.

B. Roles, Responsibilities and Resourcing of Reparations: National and International Actors

Session Overview:

Many post-conflict societies would like to see the UN involved in reparation programmes, primarily in the role of donors and for oversight to ensure appropriate targeting and delivery. Before setting guidelines for the UN's role in reparation, it is necessary to define the responsibilities and resources of local, national and international actors in reparation. If a conflict is internal there is a tendency to view responsibility as solely local; if the conflict had international dimensions, then responsibility becomes even more of a sensitive issue. Today's conflict also involves private actors or groups who supported warring factions and/or have benefited from the violence. It is important that roles and responsibilities, as well as resources, are determined with a gendered lens so that development can strengthen gender-just reparation.

Responsibility:

For victims, reparation is often linked to truth-telling, fact-finding and the struggle against impunity and for accountability. Victims view the guarantee of non-repetition and satisfaction as essential forms of reparation. Indeed, key elements of satisfaction, in particular the element of acknowledgment by the government of its acts and omissions that lead to serious violations, coupled with government's signifying that through reparation they will address these violations, are of paramount importance to victims and signify to victims that the actions that follow are reparation. Thus, how will the international community link gender-just development to gender-just reparation programmes in ways that allow for government acknowledgment of harm, failure to prevent harm and their responsibility to address those harms to remain central to reparation principles and initiatives? What mechanism needs to be created so there is fair responsibility between the State and the international community in the delivery of reparation/development programmes? What ought to be the links between justice and development?

Roles:

Which development partners should lead on development programmes that are intended

to link with and help strengthen gender-just reparation? What role can development partners take in ensuring that victim-led groups and CSOs that work with victims are able to participate and engage in the design, implementation, monitoring and evaluation of gender-just reparation programmes at the local and national level? How can the UN become accountable to victims in the delivery of gender-just development that is linked to gender-just reparation?

Resources:

There are two main models for the financing of reparations: creating special trust funds or dedicated lines in the yearly national budget. The former allows for potential alternative sources but possibly weak political commitment. The latter implies a relatively sound economy, strong accountability procedures and transparency and anti-corruption measures. Can the international community affect the budgetary dimension of reparation programmes during peace negotiations? How will funding efforts be coordinated for national reparations schemes within the international community? What type of funding structures should be set up as the development sector engages in reparation? Given that reparation is already becoming a programmatic feature of a number of UN agencies, what type of mechanism should be set in place for the coordination of resources (and programming) within the UN? What role could the UN play in coordinating the financing of reparation programmes? How will the UN ensure its reparation efforts are gender-just?

- Presentation for Roles and Responsibilities, Betty Murungi (10 minutes)
- Discussion

Objectives:

Identify local, national and international areas of responsibility within reparation initiatives. Consider how the UN can guarantee full participation of victims and CSOs in the design and implementation of reparation. Create plans for internal UN coordination regarding gender-just reparation. Establish guidelines for gender-just reparation financing that address state responsibility and UN monitoring. Articulate suggested guidelines for the accountability of UN involvement in gender-just reparation.

C. Gender-just Development that Links with and Strengthens Gender-just Reparation Efforts: A Focus on Land, Health and Education

Session Overview:

Reparation must address the reality of female victims' lives; in particular it must address how the serious violations of human rights and grave violations of humanitarian law that females experienced impact their present lives and their future. Female victims around the world consistently prioritize reparation that enables their access to land, health care and education. These sectors are also the focus of many development efforts, and are particularly prioritized when working with war-affected populations, as these sectors tend to be some of the most damaged during conflict and, with regard to land, one of the most contested areas in the post-conflict period. Furthermore, in the post-conflict period, governments may claim that increased development of conflict-affected areas in and of itself constitutes reparation, but to date in countries where this has occurred, victims of serious violations appear to reject such claims. This session seeks to understand the complex

realities of female victims as they try to access land, health care and education. It also seeks to understand how gender-just development can link itself to gender-just reparation and in turn strengthen both reparation and development efforts for female victims and their communities.

- Introductory note by Dyan Mazurana (5 minutes)
- Three concise, illustrative presentations on the realities of women and girl victims in northern Uganda and how the grave violations they have suffered have strongly and negatively affected their access to land, health care and education by Dyan Mazurana, Victor Ochen, Teddy Atim (20 minutes)
- Break into 3 working groups — 1) land (Dyan Mazurana and Sarah Brun), 2) health (Victor Ochen), 3) education (Teddy Atim) — and begin thinking through what principles would be necessary for gender-just development responses that seek to link with and strengthen gender-just reparation. Then, begin thinking through what implementation processes might look like for gender-just development linked with gender-just reparation initiatives. What principles would be appropriate for ensuring women victims' and groups that represent victims' participation in the implementation and monitoring of such initiatives?

Objectives:

Apply real-world experiences of women and girl victims whose experiences of serious violations have strongly affected their access to land, health care and education. Use these cases to begin to think through principles and implementation of gender-just development regarding land, health care and education that is linked to and helps to strengthen gender-just reparation efforts.

11:30 Drawing main recommendations from workshop sessions. Special rapporteurs from each working group present findings.

12:30 Lunch Break

13:30 **Concluding Session: Defining UN Role in Reparation**

Led by Katherine Liao and Jessica Neuwirth, OHCHR

Session Overview:

Building on the recommendations and proposed guidelines of the past sessions, participants will be invited to look at the added value of development within reparation schemes. What can we draw from our conversations that would help design a gender-sensitive development programmatic approach to gender-just reparation? It is also important that participants reflect on the coordination needed between the various UN agencies that are already working on reparation programmes, such as delivery services, and working within the transitional justice framework. At this juncture of UN involvement in reparations schemes, what are the major concerns that should be addressed at the policy level. How to introduce reparation notions and guidelines for the following concerns:

- Community recovery packages

- Within economy recovery settings: health, education and land reforms
- How to leverage resources
- How the UN can work reparation concerns within DDR programmes
- UN agencies' coordination efforts around reparation programmes
- Advocacy efforts internally on a consolidated approach to reparation and transitional justice
- What should the UN prioritize

Objectives:

Look at programmatic ways to integrate reparations programmes taking into account expertise on good governance, human development and gender analysis.

15:30 Afternoon break

15:45 Drawing Main Recommendations

Session Overview:

Participants will work together to make recommendations that pull together the various UN expertises and ensure coherence and coordination between agencies with regards to gender-just reparation programming.

16:00 Guidelines for UN Participation in Reparation: Comments and Suggestions

Session chaired by Nahla Valji and Djordje Djordjevic

Session Overview:

Distill some basic principles and preliminary guidelines from the two-day discussion (see Annex A). This will allow each UN agency to integrate reparation in a way that takes into account state responsibility, the larger transitional justice processes and victim-led and CSO roles in decision-making processes of design, implementation, monitoring and evaluation of reparation programmes.

17:15 Feedback, conference outcomes and way forward. Elizabeth Lwanga — UNIFEM Regional Programme Director (15 minutes)

17:30 Last Logistical Issues

17:40 End of Meeting

Annex C
Workshop Participants

Name	Organization
Ariane Brunet	Consultant
Ruth Rubio Marin	European University Institute
Abderrahim Chahim	Advisory Council on Human Rights, Morocco
Betty Kaari Murungi	ICC — Trust Fund for Victims, Executive Board
Scott Bartell	ICC — Trust Fund for Victims, Uganda
Ruben Carranza	International Center for Transitional Justice, New York
Mariana Goetz	Redress, UK
Margaret Ajok	International Center for Transitional Justice, Uganda
Boniface Ojok	Justice and Reconciliation Project, Uganda
Jane Akwero	Women´s Initiative for Gender-justice, Uganda
Moses Okello	Refugee Law Project, Uganda
Teddy Otim	OHCHR, Uganda — consultant
Dyan Mazurana	OHCHR, Uganda — consultant
Jessica Neuwirth	OHCHR, HQ
Katherine Liao	OHCHR, Uganda
Florence Nakazibwe	OHCHR, Uganda
Philippe Brewster	International Organization for Migration, Nepal
Elizabeth Lwanga	UNIFEM, Kenya
Jebbeh Forster	UNIFEM, Uganda
Alice Nayebare	UNIFEM, Uganda
Sarah Brun	UNIFEM, Uganda
Sama Shretha	UNIFEM, Nepal
Reinaldo Borges	UNIFEM, Timor-Leste
Alvina Soaki Erkali	UNIFEM, Solomon Islands
Nahla Valji	UNIFEM, HQ
Oretha L. Gilbert	UNIFEM, Afghanistan
Sofia Coelho Candeis	UNDP, DRC
Gaellane Bourges	UNDP, DRC

Workshop Participants (continued)

Name	Organization
Tek Temata	UNDP, Nepal
Edwin Berry	UNDP, Nepal
Sanela Paripovic	UNDP, Bosnia
Djordje Djordjevic	UNDP, HQ
Evelyn Edroma	UNDP HQ
Ozonnia Ojielo	UNDP, Kenya
Lebogang Motlana	UNDP Uganda
Enid Nambuya	UNDP, Uganda
Rose Ssebatindira	UNDP, Uganda
Sara van Wie	Rapporteur
Victor Ochen	African Youth Initiative Network (AYINET), Uganda
Ernest Hategeka	Translator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