

THE UK SHOULD SUPPORT INNOVATIVE SOLUTIONS FOR FINANCING REPARATIONS

November 2023

Victims of human rights violations have the right to effective reparations for the suffering inflicted on them. However, those reparations are not always accessible in practice, leaving victims without redress. Meanwhile, those responsible for the harm inflicted continue to profit from their abuses. It is high time for legal and policy reforms to challenge the financial impunity enjoyed by perpetrators, and fund reparations for victims.

On 7th November 2023 the UK Government announced that it would introduce a Criminal Justice Bill, which provides an opportunity to strengthen the UK's approach to tackling complex offences and pursue routes for repurposing illicit wealth. REDRESS has identified some legal and policy reforms that the UK Government should implement to ensure the confiscation and repurposing of profits derived from human rights abuses and violations of international humanitarian law to repair victims.

KEY RECOMMENDATIONS

The UK Government should:

1. **Consult with civil society and experts** on the development and implementation of new legislation to enable the confiscation and repurposing of frozen assets as reparations for victims of violations of international human rights and humanitarian law.
2. **Commit to repurposing monetary penalties levied for violations of sanctions** related to breaches of international human rights and humanitarian law as reparations for victims.
3. **Establish transparent mechanisms by which sanctioned persons can donate their illicit wealth to provide reparations for victims** without undermining due process and accountability.
4. **Support the EU's proposal for a windfall tax** on profits generated by frozen Russian assets and repurpose any funds received as reparations for victims in Ukraine.
5. **Establish reparative mechanisms** to pool repurposed funds and re-direct them as reparations for the benefit of victims of violations of international human rights and humanitarian law.

CONFISCATION OF FROZEN ASSETS

Targeted sanctions are a powerful tool in the UK's foreign policy toolkit to stigmatise abusers of international human rights and humanitarian law and freeze their ill-gotten gains. Following Russia's invasion of Ukraine, the UK alone has frozen over £18 billion in Russian assets. However, current sanctions regulations do not allow for the confiscation of frozen assets. Further, avenues to seize frozen assets as proceeds of crime are limited due to lack of jurisdiction and narrow definitions of what constitutes 'unlawful conduct'.

Frozen assets can sit untouched in the UK indefinitely, preventing any potential benefits to victims. This cannot continue: Other countries, such as the US and Canada, are developing laws and policies to make the confiscation and repurposing of assets frozen under sanctions possible. The UK Government has not yet put forward any proposals. The first step is for the UK

Government to be transparent about frozen assets and engage in multi-stakeholder consultations on any steps it intends to take to seek their repurposing.

[Jardine House](#), once a buzzing office block in the heart of London's financial district, has been vacant since 2011, when it became frozen under UK sanctions against Gaddafi's regime in Libya. Today, the property exists in a legal limbo, with even basic maintenance work requiring approval from the UK Government, causing the [value of the assets](#) - ostensibly owned in the name of the Libyan people - to plunge.

REDRESS urges the UK Government to:

- **Publish data on assets frozen within the UK's jurisdiction**, with a breakdown by asset class, including those owned by individual perpetrators, state-owned enterprises and state assets.
- **Consult with civil society and experts** on the development and implementation of new legislation to enable the confiscation and repurposing of frozen assets as reparations for victims of international human rights and humanitarian law violations.
- **Expand the scope of 'unlawful conduct'** for the purpose of civil asset recovery proceedings to include core human rights and humanitarian law violations.

REPURPOSING OF SANCTIONS VIOLATION PENALTIES

The repurposing of monetary penalties for breaches of UK sanctions could provide a powerful alternative source of funding for reparations, if channelled correctly. The UK enforcement authorities have the power to impose significant monetary penalties, such as fines and asset forfeiture, against those involved in breaching UK sanctions. This power could be further strengthened if the definition of 'sanction evasion' were to be broadened to capture sanctioned persons seeking to conceal their property in the UK.

There is currently no legal basis under English law for allowing fine monies or proceeds of forfeited assets to be repurposed as reparations for victims. In the absence of such legal basis, these funds are required to be paid into the Government's general bank account at the Bank of England (the Consolidated Fund), allowing the Government to inadvertently benefit from the violations.

The UK Government should introduce legislation to allow for monetary penalties imposed for breaches of sanctions relating to human rights or international humanitarian law to be re-directed as reparations to victims and encourage enforcement authorities to consult with victims when awarding such reparations to effectively address their needs.

In 2020, the Office of Financial Sanctions Implementation (OFSI) fined [Standard Chartered Bank](#) £20.4 million for breaching EU Russia sanctions by making funds available to a subsidiary of Sberbank of Russia. Sberbank was first sanctioned under the regime in 2014 following Russia's illegal annexation of Crimea due to its close links to the Kremlin. Since then, Crimea's residents have faced [grave civic, political, and human rights](#) violations, for which they are yet to be compensated. Meanwhile the £20.4 million have gone to the Consolidated Fund to be used for general governmental purposes.

In 2019, the [niece of Syrian president Bashar al-Assad](#) had her London bank account seized after it was used by money-laundering ‘smurfs’ to evade UK sanctions. The court found that more than £150,000 had been paid into her Barclays account via 56 cash deposits made around the country in 2017 and 2018. Under the [Asset Recovery Incentivisation Scheme](#), the monies recovered are to be distributed among agencies involved in the asset recovery process. Meanwhile, reparations remain [elusive](#) for the thousands of victims of the Syrian conflict.

REDRESS urges the UK Government to:

- **Commit to repurposing monetary penalties levied for violations of sanctions** related to breaches of international human rights and humanitarian law as reparations for victims.
- **Encourage UK enforcement authorities to consult with victims on how funds should be repurposed** when imposing monetary penalties following sanctions violations to support the effective delivery of reparations.
- **Expand the scope of sanction evasion** by making failure to disclose assets belonging to a sanctioned person a criminal offence subject to fines and criminal penalties.

VOLUNTARY DONATION MECHANISMS

In June 2023, the UK Government announced a new process whereby Russian sanctioned individuals may apply for frozen funds to be released to support Ukraine’s recovery and reconstruction. According to the [Government](#), “[t]he precise mechanics of the fund which will disburse these donations will be announced in due course.”

Voluntary diversion of frozen assets can present a practical solution for making funds available for victims. The UK Government should clarify the procedural mechanisms it intends to put in place for receiving donations from sanctioned persons and repurposing them as victim reparations. This process should be transparent and allow for victims and civil society to play a role in ensuring that funds are used to deliver effective reparations. It should also include oversight mechanisms to protect due process and provide a measure of accountability by requiring sanctioned persons to guarantee non-repetition of the acts that led to their designations.

In March 2022, [Roman Abramovich](#) announced his intention to sell Chelsea Football Club and use the proceeds worth £2.5 billion to support victims of the war in Ukraine. When Abramovich became sanctioned for his close connections with Putin’s regime, the sale was made possible by a licence granted by OFSI to create a fund to support “[exclusively humanitarian purposes in Ukraine](#)”. However, the process has [reached a stalemate](#), with neither the Government nor those tasked with creating the fund taking responsibility to progress the matter.

REDRESS urges the UK Government to:

- **Establish transparent mechanisms for sanctioned persons to donate** their illicit wealth to provide reparations for victims without undermining due process and accountability.

TAXING PROFITS GENERATED BY FROZEN ASSETS

The EU recently proposed creating a [windfall tax](#) on the profits of frozen Russian assets and repurposing the tax collected for Ukraine. The EU currently holds Russian assets worth about €200 billion, of which €100 billion is from Moscow’s foreign reserve, earning roughly [3% in interest](#) a year that would be subject to the proposed tax.

The UK should support the EU's proposal for a G7-wide windfall tax on the profits of frozen Russian assets and repurpose part of these funds to finance reparations for victims in Ukraine. A coordinated approach is essential to ensure businesses will not re-route to other jurisdictions free of such requirements.

The potential of targeted taxation in raising mass funds for reparations was demonstrated by the Belgian government. In October 2023, Belgium [announced](#) that it would invest €1.7 billion in Ukraine, sourced from tax revenue generated from frozen Russian central bank assets. These assets are managed by Euroclear SA in Belgium, and any profits generated are subject to a 25% corporate tax under Belgian law.

REDRESS urges the UK Government to:

- **Support the EU's proposal for a windfall tax** on profits generated by frozen Russian assets and repurpose any funds received as reparations for victims in Ukraine.

REPARATIVE MECHANISMS FOR VICTIMS OF INTERNATIONAL CRIMES

There is currently no established mechanism by which the UK Government could pool funds and enable those who have suffered abuses abroad to access them as reparations. While existing victim compensation funds provide an avenue for reparations for domestic crimes, they are unavailable to non-UK citizens or victims of international crimes.

In practice, this means that foreign victims and those who suffered human rights and international humanitarian law violations abroad are barred from claiming compensation. Any funds that could be used to repair them are either allocated on an [ad hoc basis](#) at the discretion of the Government or directed into the Consolidated Fund to fund other governmental purposes. The UK Government must introduce new laws and regulatory procedures for earmarking funds – including fines, confiscation orders, donations, or other revenue – that are linked to international human rights and humanitarian law violations and disbursing them as reparations in consultation with affected communities, and where appropriate to existing reparative mechanisms.

REDRESS urges the UK Government to:

- **Establish reparative mechanisms** to pool repurposed funds and re-direct them as reparations for the benefit of victims of international human rights and humanitarian law violations.

ABOUT REDRESS

REDRESS is committed to legal reforms that challenge financial impunity. If you would like to work with REDRESS to ensure that new legislation introduces avenues to confiscate profits derived from human rights abuses and ensure reparations for victims, contact Natalia Kubesch, Legal Officer at REDRESS, on natalia@redress.org or Olivia Dehnavi, Policy and Advocacy Officer at REDRESS, on olivia@redress.org.