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REDRESS

Ending torture, seeking justice for survivors

August 2024

JUST REPARATION

Strengthening the community of practice for reparation by sharing topical developments in the field



Welcome to Just Reparation, our roundup of news on reparation curated by the REDRESS legal team. This edition covers the International Court of Justice's (ICJ) Advisory Opinion on Israel's occupation of Palestine and its obligation to provide reparation, the decision to award reparation to victims of former Junta leaders by a Court in Guinea, allegations of gender discrimination in the reparation process by a mining company in Brazil, and reparation for victims of the 2020 Lekki toll gate shooting awarded by the Community Court of Justice of the Economic Community of West African States (ECOWAS). It also includes a contribution from the Independent Medico-Legal Unit (IMLU) in Kenya, which shares their experience on the path to justice in the Massacre Kin's Trek case.

Please share your feedback at the link below or by contacting Alejandro Rodriguez (REDRESS Legal Officer) at alejandro@redress.org.

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BIG STORIES



ISRAEL/OPT

ICJ finds Israel has violated international law on occupation and settlements in Palestine

On 19 July 2024, the ICJ issued an [Advisory Opinion](#) on Israel's policies and practices in the Occupied Palestinian Territory. The ICJ found, among other things, that Israel's occupation is unlawful, and stressed the state's international obligation to provide reparation for the damage caused.

According to the ICJ, "reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed". This includes measures of restitution, compensation, and satisfaction. Specifically, it encompasses the end of settlements and the return of all land and assets seized since the start of the occupation in 1967, including cultural property, archives, and documents. The ICJ also emphasised Israel's duty to dismantle the boundary wall built in the West Bank and to respect the right of Palestinians to return to their original places of residence. Where restitution is not possible, the ICJ noted that Israel has an obligation to provide financial compensation to individuals and communities affected by its occupation.

Regarding the international community, the ICJ recalled the obligation of all States "not to recognise as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory", and to cease any aid and assistance that perpetuates the conditions created by the occupation.

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GUINEA

Reparation awarded to victims as former Junta leaders are found guilty of crimes against humanity

After a two-year trial, in August 2024, the Guinean Criminal Court found former self-declared president Moussa Dadis Camara and seven others guilty of crimes against humanity for the killing of at least 156 people and the rape of 109 women during an opposition rally in 2009, known as the Stadium Massacre. They were also charged with torture and kidnapping, while four other defendants were acquitted.

The victims, through their legal representatives, had sought life sentences for the defendants and reparation for the psychological and physical harm they suffered. The Court ruled on a reparation claim ranging from 200 million to one billion Guinean francs (approximately 23,000 to 114,000 USD) and sentenced Camara and other military leaders, under the principle of command responsibility, to 20 years in prison, while others received sentences of 10 years. According to [Human Rights Watch](#), this ruling mandates the

provision of reparation to different groups of victims, and the creation of a trust fund, if the convicted individuals are unable to pay.

This ruling is a significant step towards achieving justice and reparation for the victims of the Stadium Massacre.

Photo by: Aborkhuraa CC 4.0

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BRAZIL

Prosecutors sue mining companies for gender discrimination in the delivery of reparation

The companies liable for the collapse of a tailings dam in Brazil that killed 19 people and left over a million others homeless or without a means of livelihood, have been accused of gender-based discrimination in their processing and distribution of reparation and emergency aid to victims.

Brazilian companies Vale and BHP, along with their joint venture Samarco, have been criticised for distributing aid and reparation based on a patriarchal model that predominantly designates men as heads of families and households. Prosecutors argue that this registration process often overlooks women, treating them solely as dependents or

helpers and failing to acknowledge their work and economic contributions. This approach not only reproduces existing gender-based violence but also reinforces it within the community.

The lawsuit [urges](#) the judiciary to address these issues, stating that “the errors made during the compensation and reparation process over the past nine years, particularly the lack of affirmative actions with gender considerations, must be recognised and reversed to effectively reduce damages, which disproportionately affect marginalised groups”. It also emphasises the need to consider intersectionality, particularly concerning Black, Indigenous women, and women from traditional communities, such as quilombolas.

For these violations of women’s rights, prosecutors are seeking compensation of 135,000 reais for each affected woman, with the total claim amounting to 3.6 billion reais (approximately 667.73 million USD).

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NIGERIA

The ECOWAS Court orders reparation to victims of torture in the case of the Lekki toll gate protest

On 10 July 2024, the ECOWAS Court delivered a significant judgment against Nigeria for the 2020 [Lekki toll gate massacre](#). On 20 October 2020, the Nigerian government deployed military and police forces to the Lekki toll gate, where peaceful protesters were demonstrating against the brutality of the Special Anti-Robbery Squad (SARS). The #EndSARS protests escalated with the military's intervention, resulting in 12 deaths and numerous injuries.

The ECOWAS Court found Nigeria responsible for violations of the African Charter on Human and Peoples' Rights, including the right to life, freedom of expression and assembly, and freedom from torture. The Court also noted Nigeria's failure to investigate these violations and provide reparation to victims.

Each of the three applicants was awarded two million Naira (approximately 935 GBP/1,200 USD) in compensation. Taking a slightly narrow view of the purpose of reparatory compensation, the Court noted that "compensation is not a means of buying the victim, rather it is intended to be symbolic in deterring a recurrence of the same violations". Nevertheless, it considered the gravity of the violations in the exercise of its discretion to award compensatory reparation.

Additionally, the Court ordered Nigeria to fully investigate and prosecute those responsible for these violations. It noted that a Judicial Panel of Inquiry had already [found the Nigerian security forces responsible](#) for the violations at Lekki and pointed out Nigeria's failure to implement the panel's recommendations.

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OTHER STORIES

HONDURAS

Case of transfemicide of Leonela Zelaya and subsequent impunity reaches Inter-American Court of Human Rights

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SPAIN

The Trust Fund for Victims of the International Criminal Court receives two million euros contribution from Spain

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NETHERLANDS

Advocates for reparation say Dutch slavery apologies not enough

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COMMUNITY CORNER

This section is dedicated to sharing the perspectives, progress, and insights of lawyers, activists, survivors, and others engaged in the field of reparation. If you would like to feature here, we highly encourage you to submit your contributions by 30 August to alejandro@redress.org. Your experience and input are invaluable to enriching our collective understanding and fostering a meaningful dialogue within the reparation community of practice.

Delayed Justice in Kenya: The King'ong'o Massacre Kin's Trek to Justice

Isabella Obara - Human Rights Lawyer, IMLU

On the tragic nights of September 3rd and 4th, 2000, Bernard M’Mwirichia, the sole survivor of the King’ong’o Prison Massacre, witnessed the brutal killing of six inmates at Nyeri Prison in Kenya. The victims, Peter Loyara Lumukunya, James Irungu Ndugo, John Njoro Njuguna, Julius Mungania M’Moraa, Peter Ngarushane Emashe, and Peter Koring, died after a heinous attack by prison warders.



This marked the beginning of a protracted legal battle for justice. In February 2002, the Nairobi PM Inquest No. 122/2000 was concluded with a determination that the deaths were not accidental. The court in this case found that the warders were culpable of killing the six inmates. In the succeeding criminal case, ruled in December 2008 (R v. Jacob Muthee & 8 Others [2008] eKLR), nine warders were found guilty of murder and sentenced to death. Following appeal of the warders, in 2012 a Court of Appeal bench acquitted five of the accused and upheld the conviction of Jacob Muthee, Joseph Rukwaro, Caesar Mwangi, and Samuel Ngugi, who were in charge of the security of the inmates during the night of the attack.

Following this, the Independent Medico-Legal Unit (IMLU) engaged Counsel Mbugua Mureithi to file a Petition seeking reparation to the victims’ families. On November 9th, 2023, the Court declared 100% liability of the State for the deaths of the inmates and awarded KES.3,000,000 in compensation to each plaintiff, along with interest at court rates from the date of filing, and costs.

8,466 days after the fateful night, the families of the slain inmates concluded their legal journey—or so they thought. To date, 9 months after the judgement awarding reparation, the State is yet to compensate the victims.

Is this the beginning of another legal battle to enforce compensation through Judicial Review?

WEEKEND READS

Building a Survivor-Centred Framework for Victims of Dominic Ongwen

by REDRESS, the Global Survivors Fund (GSF), Avocats Sans Frontières (ASF), the International Federation for Human Rights (FIDH), and the Institute of Peace and Strategic Studies at Gulu University

REDRESS, together with other organisations, launched a briefing paper that examines the Reparations Order issued by the ICC in favour of the victims of Dominic Ongwen, making recommendations on how to implement such an Order in a survivor-centred manner.

[Read the briefing](#)

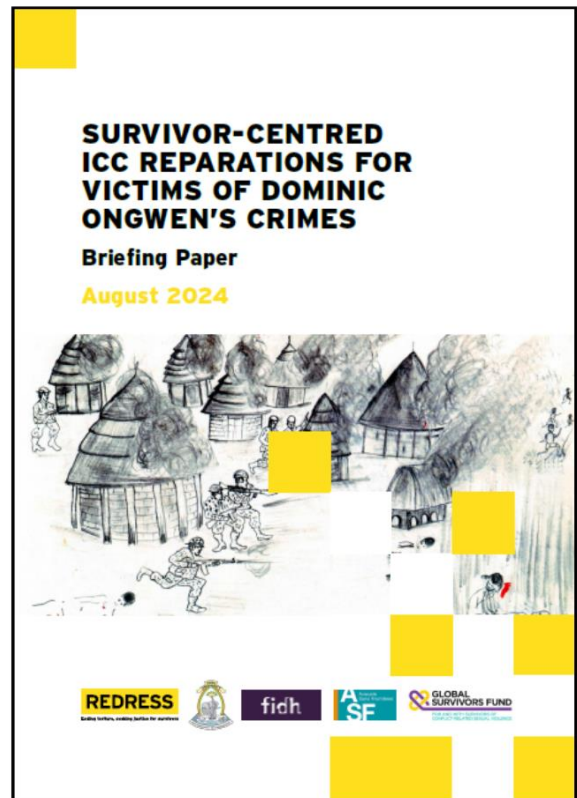
Rebel fighter, Maoist MP, rape survivor: the many lives of Devi Khadka

by Pette Pattinson (The Guardian)

After Nepal's bitter conflict ended in 2006, Khadka hoped to make a difference in parliament. A new documentary charts the disappointment and the passion of one of the most outspoken advocates for the country's forgotten women.

Photo by: dhilung CC 2.0

[Read the article](#)



Yazidi genocide a decade on: Iraq camp closures loom, but survivors still live in fear of Islamic State

by Luke Moffet (The Conversation)

In this short article, the author describes the difficulties that Yazidi genocide victims have faced in obtaining reparation, even ten years after the atrocities. The article sheds light on survivors' perspectives - obtained by Luke Moffett through direct interviews - and highlights the differential impact of the reparation process on survivors of sexual violence.

Photo by: Ezidixan CC 4.0



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