Transitional Justice Evaluation Tools

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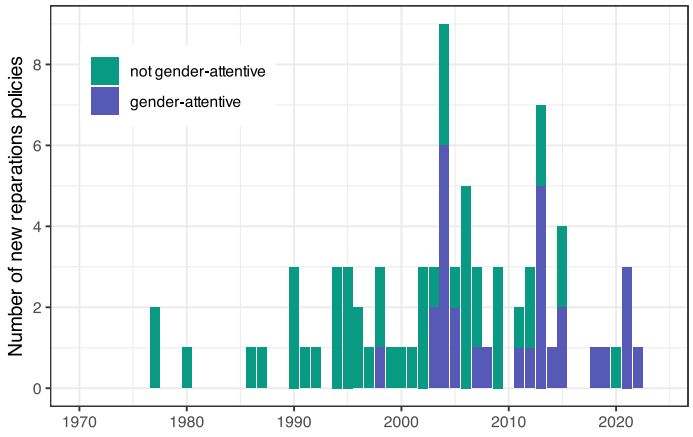
Are Reparations Policies Attentive to Gender?

Reparations policies have become more attentive to gender in the last two decades. While most gender-attentive policies focused on sexual violence against women, some also addressed males, sexual minorities, and other harms.

Using TJET data on reparations, we find that gender was absent from reparations policies around the globe in the period from 1970-1998. However, attention to gender has become more common since the mid-2000s. Initially, gender-attentiveness centered on violence against women, but more recently has broadened in some policies to include men and boys as well as LGBTQI+ individuals.

Early efforts of feminist activists in the Global North and the Global South helped put gender on the agenda, leading to diffusion across countries. The figure traces reparations policies from 1970 to 2024, with the purple portions representing those that are gender-attentive. South Africa adopted the first gender-attentive policy in 1998, when its Truth and Reconciliation Commission (TRC) created a fund to compensate victims of rape and sexual assault.



South Africa's policy marked a broader shift in global practices. Sixteen other states had created reparations policies before, and none focused on gender. Since 1998, though, 28 (49.1%) of 57 reparations policies did take gender-based issues into account. South Africa's policy served as a model for other African states: Ghana, Morocco, Sierra Leone, Kenya, Tunisia, The Gambia, and Mali adopted gender-attentive reparations policies. This bottom-up process of regional diffusion is at odds with the argument sometimes made that gender-attentive policies are disseminated from the Global North to the Global South. Global partners, like Canada, have supported gender-attentive reparations, but did not instigate them.

Gender-attentive reparations policies focus overwhelmingly on providing reparations for bodily harms suffered by women. Twenty-Seven (93.1%) of 29 gender-attentive policies give reparations for sexual violence. Most of these provide reparations for rape (21), while more than half of them also provide reparations for other types of sexual violence, including sexual slavery (6), enforced prostitution (3), forced pregnancy (4), and enforced sterilization (7).

Few policies deal with gender-based crimes against other populations. Among reparations policies implemented in transitional contexts, only three explicitly refer to men and boys as potential recipients of reparations for sexual and gender-based crimes: Sierra Leone (2004), Ghana (2004), and Kenya (2013). In addition, seven policies gave reparations for forced child recruitment (Colombia's two policies, Guatemala, Mexico, Peru, Sierra Leone, and Sri Lanka), a harm that disproportionately affects boys. Only Spain's 2007 policy and Mexico's 2012 policy explicitly give reparations for crimes against LGBTQI+ victims.

Some reparations policies include children as victims of sexual violence. Sierra Leone's 2004 policy recognizes children born out of an act of sexual violence as victims eligible for reparations. Rwanda's 2008 law provides reparations to children with incurable diseases or any disabilities inflicted during the genocide. More recently, Mali's 2022 reparations policy pays special attention to vulnerable victims, providing children born of conflict-related rapes and their mothers administrative, legal, and social support services.

Morocco's 2004 reparations policy deserves special notice for its early attention to gender, and its recognition that "women bear both the direct and the indirect consequences of violations." Similarly, Colombia's 2011 policy took a more comprehensive view of gender-based harms. It mandated a special program to guarantee women's access to land restitution, through preferential service windows, personnel trained in gender issues, and other measures to facilitate access by women. It also required that the unit responsible for land restitution process applications for women heads of household first.

Year	Countries that created reparations policies (with year of implementation), gender-attentive in red
1977	Portugal, Spain (1979)
1980	Zimbabwe
1986	Argentina (1986)
1987	Sri Lanka
1990	Czechia, Romania, South Korea
1991	Argentina (1991)
1992	Chile (1992)
1994	Argentina (1994), Malawi (1994), Malawi (1995)
1995	Bosnia and Herzegovina (1995), Brazil (1995), Taiwan (1995)
1996	Paraguay (2002), Serbia (1997)
1997	Portugal (1997)
1998	Rwanda (1998), South Africa (2003), Taiwan (1998)
1999	Morocco (1999)
2000	South Korea
2001	Solomon Islands
2002	Brazil (2002), Slovakia, South Korea (2002)
2003	Estonia (2004), Guatemala (2005), Timor-Leste (2003)
2004	Albania (2004), Argentina (2004), Bolivia (2005), Chile (2004), Ghana (2006), Morocco, Sierra Leone (2008), South Korea, Turkey (2004)
2005	Colombia (2006), Indonesia (2006), Peru (2007)
2006	Algeria (2006), Georgia (2007), Indonesia (2006), Lebanon
2007	Albania (2009), Nepal (2008), Spain (2007)
2008	Rwanda (2008)
2009	Iraq, Romania, Uruguay (2009)
2011	Colombia (2012), Tunisia
2012	Mexico (2013), Thailand
2013	Argentina (2013), Ecuador (2013), El Salvador (2015), Indonesia (2013), Kenya, Philippines (2014), United States of America (2013)
2014	Kosovo (2017)
2015	Cote d'Ivoire, Croatia (2016), Mauritania, United States of America (2017)
2018	Sri Lanka
2019	Tunisia
2020	United Kingdom (2020)
2021	Czechia (2022), Gambia (2021), United States of America (2022)
2022	Mali (2022)

References

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