



## Global Protection Cluster Task Team on Law and Policy (TTLP)

### Concept Note

#### Webinar: *The role of legal aid in reparation contexts*

7 February, 14:0-15:30 (CET) ([TEAMS LINK to be shared](#))

In line with international law, victims of gross human rights violations have the right to receive comprehensive reparation for the harm suffered.<sup>1</sup> Harm may be physical or mental, material, economic, professional; it can be reflected in the opportunities that the victims lost as a result of the violation, including employment, education and social benefits; harm can also include moral damage. In post conflict and transitional societies, the right to reparation is often one of the four pillars transitional justice programmes<sup>2</sup>, together with the right to truth, the right to justice and guarantees of non-recurrence.<sup>3</sup> Reparation may take the form of restitution, compensation, rehabilitation, satisfaction. Reparations can also take the form of revealing the truth about the violations themselves and providing guarantees that they will not be repeated.

In many countries, individual reparations have been complemented by collective reparations delivered to specific groups and communities, including to victims of forced displacement. Reparations act both as a deterrent to future forced displacement and as active steps towards strengthening legal protection against displacement; reparations in situations of forced displacement, can directly contribute to addressing the obstacles to durable solutions<sup>4</sup>. The design and delivery of individual and collective reparations may intersect with humanitarian and development programs. Very often population that have been forcibly displaced, such as IDPs and refugees, are those who have suffered harm and social and economic inequality. Reparations interventions are therefore often wider than the individual coexistence or reconciliation between the victim and the perpetrator, are aimed at reconciling individuals with state institutions and other groups and should be designed and implemented in ways that can transform unequal and unjust conditions, rebuild social ties and contribute to sustainable peace.

Reparations can be implemented through administrative programs and/or enforced as the result of individual or collective litigation. In both cases, legal aid play a crucial role. Returning housing, land and property (HLP) to those who have been driven out are the types of reparations most directly linked to displacement; financial or other type of compensation measures may be more appropriate to restore trauma and can be associated with community rehabilitation programmes, such as the building of relevant infrastructure, collective educational programmes for those returning and their children; and health and psychological services. Legal aid may take the form of counselling or legal consultation on rights and procedures to access these sets of rights; it may consist in legal representation to support the victim proving ownership of housing and land destroyed or lost as a result of the conflict; court representation may be needed to assess the level of damage suffered and to confirm patterns and circumstances of violations. In some contexts, it is difficult to draw lines between contending forces, between

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<sup>1</sup> See *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005.

<sup>2</sup> The term transitional justice refers to justice-focused processes that societies undertake in the aftermath of large-scale human rights violations. It is both the scale of the violations and the fragility of the context that distinguishes these efforts from justice and human rights promotion more generally. Transitional justice processes aim to confront impunity, provide redress to victims, recognize the dignity of victims as citizens and rights bearers, restore trust in state institutions, and prevent the recurrence of violations. They may also contribute to broader objectives, such as restoration of the rule of law, good governance, democratization, peacebuilding and conflict prevention, and reconciliation.

<sup>3</sup> See E/CN.4/2005/102/Add.1, report of the Independent Expert appointed to update the Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity. See 2015 reports of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, on the pillar of non-recurrence (A/HRC/30/42 and A/70/438). The four pillars are referred to explicitly in the IASC Framework on Durable Solutions for IDPs.

<sup>4</sup> "Transitional justice in the context of displacement is not a special form of justice, but justice adapted to countries or communities transforming themselves after a period of internal displacement." Special Rapporteur on the human rights of IDPs, A/73/173, 2018.

civilians and armed agents, and even between victims and perpetrators. Similarly, participation in violence may be more widespread, making the attribution of responsibility more complicated. The larger universe of potential beneficiaries of compensation programmes coupled with economic scarcity make comprehensive reparations much less feasible. In these contexts, strategic litigation can therefore help establish key jurisprudence to support the design of reparations intended for displaced communities as a whole providing far-reaching benefits that go beyond the level of the individuals and the family unit.

As a follow up to the November 2022 GPC webinar “*Exploring reparations by state and non-state armed groups for victims of gross violations of human rights and serious violations of international humanitarian law*”<sup>5</sup> ([recording available here](#)), this webinar aims to **explore how more coordinated and sustainable legal aid and access to justice interventions by protection actors (and their development, peace, human rights partners) can more effectively support victims’ access to reparations in humanitarian and transitional settings.**

This webinar is the first of a series aimed to inform a collection of good practices on legal aid in humanitarian settings, particularly focusing on three aspects deserving attention which were highlighted in the field survey findings conducted by the TTLP last year<sup>6</sup>:

- a. enhance synergies between development, humanitarian, human rights and peace actors in the design and implementation of access to justice and legal aid interventions in humanitarian contexts;
- b. build sustainable partnerships with national legal aid actors (civil society, private sector, duty bearers) for more sustainable access to justice and legal aid interventions in humanitarian contexts;
- c. design and implement legal aid and access to justice interventions aimed at addressing and resolving legal aid needs of hard to reach populations.

The webinar aims at discussing the following guiding questions (main country focus: Colombia and Ukraine):

- ✓ What role can legal aid play in the implementation of reparation policies and programmes?
- ✓ How have humanitarian and development actors coordinated their efforts to design and implement more effective, collaborative and joint legal aid interventions in reparation contexts?
- ✓ How have protection actors enhanced the sustainability of their legal aid and access to justice interventions in reparation contexts through partnership with national legal aid actors (civil society, private sector, Bar Association, informal dispute resolution mechanism, etc...)?
- ✓ Were legal aid interventions in reparation contexts able to address and respond to the needs of hard to reach population? How?
- ✓ What are some of the most common challenges, key lessons learnt and good practices that can be shared in all these areas (humanitarian/development cooperation, working with local partners, addressing the needs of hard to reach populations)?
- ✓ What tools are available to support those interested to do more in this area?

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<sup>5</sup> Building on a multi-year project on this topic by Queen’s University Belfast, delivering a series of useful case studies and tools including the “Belfast Guidelines on Reparations in Post-Conflict Societies” and two Handbooks - one on engagement with civil society and donors, and one on non-state armed groups.

<sup>6</sup> The Survey Report as all other tools produced in the framework of the Project are available at: <https://www.globalprotectioncluster.org/Legal-Aid-in-Humanitarian-Settings>.

<sup>7</sup> “(...) Knowledge about effective transitional justice measures and about preventing, responding to and resolving internal displacement is sometimes scattered across fields, disciplines and communities of practice, with the inherent risk that it will not be deployed broadly, systematically and in an interdisciplinary manner. Bridging this possible divide between transitional justice actors and humanitarian, development, human rights and peacebuilding practitioners is of great importance. These actors often operate in the same contexts, and opportunities for stronger collaboration and cooperation should therefore be sought out.” Report of the Special Rapporteur on the human rights of internally displaced persons, A/73/173, 2018.