Reparations:
Lessons for the Climate Debate

Climate Strategies

Author and Project Lead: Sonja Klinsky
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Climate Strategies convenes networks of senior climate policy researchers to produce innovative, cross cutting and policy relevant analysis, aimed at opening new perspectives.

Contact: Andrzej Błachowicz, Managing Director
Climate Strategies
40 Bermondsey Street, London SE1 3UD UK
T: +44 2031021526
E: info@climatestrategies.org
W: www.climatestrategies.org
T: @climatestrat

Repairing relationships is at the heart of transitional justice processes and typically includes acknowledging harms. Efforts to provide redress for historically rooted harms are commonly referred to as "reparations" and have included country-to-country and in-country agreements. Reparations are intended to provide benefits to those harmed and to demonstrate the regime's forward-oriented intent to better include those previously harmed or excluded. Both kinds of actions aim to build legitimacy and social trust.

Transitional justice experiences with reparations are useful in the climate context in two ways. First, they widen the scope of consideration to include non-monetary forms of reparation. Second, these experiences emphasise the importance of appropriate reparations efforts within successful transitions. If reparations are not seen as sincere or are insufficient over time they can be destructive to social trust and erode regime legitimacy. The table below highlights five principles for reparation and identifies their potential to inform complementary applications in the climate context.

Types of Reparations	Potential Climate Applications
Restitution efforts restore victims to their original situation in terms of freedom, property, or employment	This approach could be used to address concrete, specific losses with high attribution to climate change such as land lost due to sea-level rise. This could involve provision of substitutive resources (such as land, fishing rights etc. located elsewhere), or material contributions designed to "make up" for lost wellbeing.
Rehabilitation investments in social services are designed to revitalise collective life	Reparations for diffuse or systemic harms often require efforts directed at entire groups of people, as is most likely in the climate context. Rehabilitation efforts could include assistance with education and healthcare nationally or construction of schools and clinics in affected communities. These efforts can be complimented by satisfaction efforts. A rehabilitation approach may be of most use when considering internal or transboundary climate induced displacement.
Material compensation for suffering and lost opportunities can be directed to individuals or groups.	Compensation is politically difficult in the climate context, although some element of material address for systemic adaptation and "loss and damage" is likely to become essential. Across transitional justice experiences, compensation is very rarely possible in full, leading some to recommend framing such efforts as **contributions to well-being** for those negatively impacted, rather than as 'compensation,' which can build expectations that cannot be met *(de Greiff, P 2007)*. The central focus here is on designing efforts that materially improve the wellbeing of those most impacted.
Satisfaction efforts include broader symbolic measures such as apologies, memorialisations, or truth-seeking processes.	Many reparations are not monetary in nature, in part because there are harms for which financial or material address would be insufficient or inappropriate. In the climate space this could include apologies; memorialisations focused on cultural, territorial or spiritual loss; and truth-seeking (see truth commission brief). The key to satisfaction efforts is that they must be seen as proportional and genuine by those they are directed toward.
Guarantees of non-repetition are typically linked to forward-oriented institutional or socio-economic structural change efforts.	Non-repetition reparations attempt to chart a course that demonstrates why future arrangements will result in a fundamentally different pathway than that which resulted in the injustices. In the climate context this resonates directly with efforts to support low-carbon human development which is systematically pro-poor.

Overarching lessons for the climate context

In addition to concrete suggestions for how reparations might be designed, a range of overarching lessons about the role of reparations in transitions also emerge.

Calls for reparations unlikely to "go away": Communities facing historically rooted harms have typically placed great importance on reparations. In many cases calls for reparations have occurred decades after the initial harm occurred, and repeatedly emerge if they are not addressed. These persistent efforts suggest that such claims will not "go away" so that addressing them is a central component of building a new regime that is seen as genuinely legitimate by all, including those who were previously excluded, disadvantaged or actively harmed.

Successful reparations are appropriate: The central element of successful reparations is the ability to meaningfully address the self-identified needs of those harmed and their families. Designing and implementing appropriate reparations necessarily involves the participation of recipients. In the "loss and damagey" context this could be operationalised through the use of site-specific scoping studies which could identify concrete elements that would meaningfully contribute to the well-being of those harmed. Governance of any reparations funding would have to be designed to reflect the bottom-up nature of the identification of appropriate efforts.

Multiple forms of reparations: As seen in the table above, reparations can take multiple forms and these can be used in concert to create a more complete attempt to repair relationships. In the climate context this could include future-oriented investments in local well-being and economic development; debt forgiveness; support for locally identified needs; or long-term investments in capacity building ideally combined with formal apologies or symbolic acknowledgment of historical responsibility. Importantly, such reparations must not be framed as in exchange for mitigation efforts but as acts of repair in a future-oriented regime.

Non-material reparations are important: pulling on ideas of satisfaction, non-material efforts could also be important in the climate context. Countries could include forms of apology phrased in ways that do not raise legal liability concerns *(Hyvarinen, J. n.d.)*. Commitments to memorialisation and documentation of profound loss could be something that is considered over time as is already been suggested by some groups *(Pocantico Signatories 2016)*. Truth-seeking mechanisms have also been included within symbolic reparations programs.

Overall it appears that some form of reparation, even if not framed as such, is likely necessary in the climate context. As de Grieff argues, because reparations are focused on the concrete needs of those most severely impacted they have a special, and symbolically powerful, place within transitional processes. Based on transitional justice experience it seems most desirable to use a combination of reparation efforts, including both material and symbolic elements, along with other transitional justice mechanisms including amnesties, litigation and truth commissions. Moving forward into greater collective and solidarity may be impossible if the persistent claims of those most grievously impacted by climate change are not explicitly considered.

The Climate Strategies project "Evaluating peace and reconciliation to address historical responsibility within international climate negotiations" took place in 2015-16. It was led by Climate Strategies member Sonja Klinsky, an Assistant Professor at the School of Sustainability of Arizona State University.

As part of the project, Climate Strategies held three international expert workshops to explore how transitional justice experiences could inform efforts to navigate the political territory between complex, historically rooted justice claims and a future that demands solidarity and collective action. The briefs in this series provide an overview of key outcomes from this project.

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References:

de Greiff, P. in Reparations: Interdisciplinary Inquiries (eds. Miller, J. & Kumar, R.) (Oxford University Press, 2007).
Hyvarinen, J. n.d. Respect and protects human rights: lessons from transitional justice. Mary Robinson Foundation for Climate Justice.
Pocantico Signatories. Pocantico Call to Action on Climate Impacts and Cultural Heritage. (2016).