

## **SUMMARY OF THE COMPREHENSIVE REPARATIONS PLAN (PIR)<sup>1</sup>** **Truth and Reconciliation Commission of Peru**

### **I – FOUNDATION [2.2.1]<sup>2</sup>**

The mandate of the Peruvian Truth and Reconciliation Commission (TRC) calls for the clarification of both the acts related to and the conditions that caused Peru's internal armed conflict between the state's armed forces and insurgent<sup>3</sup> groups from 1980 to 2000. To fulfill its obligations, the TRC has collected testimonies from victims, witnesses and perpetrators as well as conducted studies since June 2001, all of which forms the basis of its official final report released on August 28<sup>th</sup>, 2003.

In addition, the TRC has made recommendations intended to promote national reconciliation, with the aim of ensuring that the past will never again be repeated. Recognizing that the prerequisites for reconciliation include the promotion of justice, the TRC has submitted to the Public Ministry<sup>4</sup> those cases that require further criminal investigation of alleged perpetrators of human rights violations, and has proposed a comprehensive plan of reparations intended to respond to the pain, suffering and injuries of the victims caused by these violations.

#### **1.1 Why Reparations? The Ethical Dimension [2.2.1.1]**

The acts of violence in the last twenty years caused grave and serious harm to the dignity and integrity of Peruvian citizens, the majority of whom come from the poorer and more marginalized sectors of society. Keeping in mind the immeasurable damage caused by the armed conflict, reparations are considered to be an act of recognition and affirmation of those affected by the conflict. In addition, reparations seek to mend what has been broken not only in the material sense such as lost property, but also in the moral sense, such as the personal loss of hope in the future and frustration of personal life plans, as well as the lack of civic trust in democratic institutions.

#### **1.2 Why Reparations? The Legal Dimension [2.2.1.2]**

The state's obligation to provide adequate reparations for human rights violations caused by the internal armed conflict arises out of both domestic and international law.

---

\* For more information on the ICTJ, see the website at: [www.ictj.org](http://www.ictj.org).

<sup>1</sup> This document is an unofficial summary of the Truth and Reconciliation Commission's reparations plan, and is based on an earlier summary prepared by the Commission's technical staff on reparations. In Spanish, the reparations plan is characterized as 'integral,' meaning comprehensive. We have kept the Spanish acronym PIR (for Plan Integral de Reparaciones) to refer to the plan throughout this text.

<sup>2</sup> The numbers in brackets refer to the sections in the original Spanish language Final Report.

<sup>3</sup> In the Commission's Final Report, the terms used are 'subversives' and 'subversive groups.'

<sup>4</sup> The Public Prosecutor's office, in charge of investigating and prosecuting cases.

This obligation includes the guarantee to prevent such violations, or when not possible, to diligently investigate those responsible and impose the appropriate sanctions, as well as provide reparations to the victims. The state's duty to provide reparations extends to violations caused by private actors; thus, the PIR includes victims not only of acts caused by state agents but also by insurgent groups. The current government must assume this responsibility even if the illegal acts occurred under the leadership of preceding governments.

### **1.3 Why Reparations? The Limits of Traditional Legal Mechanisms and the Policy Dimension of Reparations [2.2.1.3]**

Insofar as courts award reparations only to those individuals who file a complaint, traditional legal mechanisms fail to effectively address systematic and gross violations of human rights. Thus, similarly situated victims who are not a part of a case, who cannot successfully invoke the jurisdiction of the courts, or who otherwise lack the resources to pursue legal recourse are denied their right to a remedy. This patent inequality among victims requires the development of other methods of redress that depend more on policy and less on the courts. An alternative policy-based approach that includes individual, collective, symbolic and material reparations also helps overcome institutional prejudices that have historically denied justice to indigenous, ethnic and racial minorities. The PIR may be considered part of a larger policy project of consolidating democracy for ethical reasons, not just legal and court oriented ones.

### **1.4 Towards a National Policy on Reparations [2.2.1.4]**

The state has the obligation to create a system of victim reparations. This is necessary in order to restore the dignity of the victims as well as to compensate for their material and social losses. These organizing principles must be included in a state policy on reparations. This policy should be understood as a fundamental component of the democratic transition process. The responsibility to approve and implement reparations measures involves the three branches of government, public institutions and society as a whole.

## **II – THEORETICAL FRAMEWORK [2.2.2]**

### **2.1 Objectives [2.2.2.1]**

The general objective of the PIR is to “repair and compensate the victims of human rights violations as well as the social, moral and material losses or damages suffered by victims as a result of the internal armed conflict.” To accomplish this goal, the PIR aims to offer a comprehensive approach to reparations that includes complementary programs that are individual and collective as well as symbolic and material in nature. Moreover, the PIR is designed to complement other TRC recommendations related to clarifying the truth, reconstructing Peru's historical memory, seeking criminal justice and reforming democratic institutions.

While some of these reparations programs may improve the quality of life of victims and their families, the central goal is the recognition of victims as human beings whose fundamental rights were violated.

## **2.2 Beneficiaries of the Comprehensive Reparations Plan [2.2.2.2]**

The TRC considers “victims” “all those persons or groups of persons who as a result of the internal armed conflict from 1980 through 2000, have suffered acts or omissions that violated international human rights norms,” such as:

- Forced disappearance;
- Abduction;
- Extrajudicial execution;
- Murder;
- Forced displacement;
- Arbitrary detention and violation of due process;
- Torture;
- Forced recruitment;
- Rape;
- Injury or death from acts violating international humanitarian law.

Beneficiaries of reparations will include these victims, the families (spouse or partner, children and parents) of those killed or disappeared during the conflict, certain groups including native and rural communities, other populations affected by the internal armed conflict and located in provinces where the conflict was most intense, and groups of displaced persons who have not returned to their place of origin but stayed where they settled during the conflict.

The TRC considered it necessary to develop reparations measures that compensate for the differences between certain vulnerable groups, such as the elderly, orphans, widows/ers and disabled people, and the greater universe of beneficiaries.

Those victims who have already received reparations from the state through other political acts or judicial decisions (such as special laws that deal with victim status or rulings by international courts) will not be included in the PIR in order to avoid being compensated twice.

When identifying the victim, the TRC does not consider who the perpetrator of the violation is. The victim’s status is independent of any relationship that exists or could exist between the victim and the perpetrator. Based on the principle of non-discrimination, the TRC does not take into consideration the legality or morality of the victim’s actions prior to the violation.

## **2.3 Cross-cutting themes [2.2.2.3]**

In order to best serve the population intended to benefit from the implementation of the reparations plan, the PIR recommends that all reparations programs include five distinct dimensions: a focus on the psycho-social aspects of the programs, an emphasis on participatory decision-making, sensitivity to intercultural needs, promotion of gender equality and an emphasis on the inherently symbolic nature of all reparations.

### III – THE PROGRAMS OF THE COMPREHENSIVE REPARATIONS PLAN [2.2.3]

#### 3.1 Symbolic reparations [2.2.3.1]

Symbolic reparations, consisting of certain public acts and civic rituals, seek to restore social ties among citizens and between citizens and the state that were broken during the internal armed conflict. In particular, certain acts and civic rituals will be used to demonstrate the government's recognition of the damage caused by subversive groups as well as its own acts and omissions. These symbolic acts should include, among other proposals:

- **Public gestures** such as the President of the Republic fully endorsing the PIR as well as offering public apologies to victims.
- **Acts of Recognition** such as establishing a national holiday in memory of victims, personal letters recognizing the innocence of those unjustly imprisoned and naming certain schools after victims of the internal armed conflict.
- **Memorials** such as erecting monuments, placing plaques at the entryway of cemeteries, and creating new cemeteries for bodies recovered during exhumations of mass graves, in order to give these victims a final resting place.
- **Acts of Reconciliation** such as closing certain prisons and military bases closely associated with the internal armed conflict.

**Final Consideration:** The state should make every effort to implement these symbolic reparations. However, these measures do not limit civil society initiatives, which the state could support and encourage.

#### 3.2 Health-oriented reparations [2.2.3.2]

This program seeks to help populations affected by the internal armed conflict regain their mental and physical health in order to strengthen their capacity for personal and social development and to rebuild their personal lives and communities. The components of this program should include:

- **Training.** Given the reduced number of qualified personnel to provide mental health care to victims of human rights violations, especially in the Andean and Amazonian regions, this program should prepare professionals who would then return to their communities to train their colleagues (professionals of public and private institutions, community leaders and traditional healers) in applying special methodologies used for treating populations affected by political violence, while allowing for the special needs of their communities.

- **Community Intervention.** External facilitators could help repair the social fabric of communities by reconstructing support networks, providing conflict resolution and helping members reintegrate into their communities. This component should be implemented within the plan for collective reparations, first being applied in selected areas and then later expanded to include other affected communities.
- **Clinical Intervention.** The TRC recommends designing therapeutic programs that can provide individual, family and group therapy using a holistic approach, including attention to psychological, physical, family, work and social dimensions. The programs would be applied by multidisciplinary teams that include professionals from existing local health providers, who can adjust the treatment to the particular needs of individuals and communities.
- **Health Program Access.** Due to the vulnerability of the victims' health, the TRC recommends including within the existing Peruvian Comprehensive Health Program those victims who suffered physical injury, as well as people who became disabled as a result of the internal conflict.
- **Promotion and Prevention.** The Commission recommends disseminating information and developing educational programs to sensitize people about the physical and psychological effects of the internal armed conflict.

### 3.3 Educational reparations [2.2.3.3]

The general objective of this program is to provide access to educational opportunities for people who, as a result of the internal armed conflict, missed the possibility of receiving an adequate education or of completing their studies. This program would include:

- **Waiving Fees.** This component would require primary and secondary schools, universities, institutions of higher learning, Occupational Education Centers (COE) and other relevant educational institutions to waive the costs of all applicable entrance exams, tuition and board fees and fees for transcripts, certificates of graduation and diplomas.
- **Scholarship Program.** This program would consist of a competitive scholarship program (with quotas for regions and certain career tracks) for all types of higher education programs, both national and international. In cases where a beneficiary does not have adequate preparation to compete on an equal footing with other students, the program would include free access to pre-university programs to make up for this inequality.
- **Adult Education.** In coordination with local educational institutions experienced in adult education, this component would develop methodologies specifically geared towards affected populations, keeping in mind cultural and linguistic differences as well as the mental health status of its students. It should include flexible programs allowing beneficiaries to complete primary and secondary studies

through distance learning initiatives or during hours that accommodate their work schedule.

**Final Consideration:** The direct beneficiary may choose to pass the right to educational access to a family member in the form of educational loans.

### **3.4 Restitution of Citizens' Rights [2.2.3.4]**

This program seeks to reestablish political and civil rights for those persons affected by the actions or omissions of the state during the internal armed conflict. The TRC recommends the adoption of a series of specific actions.

- **The legal status of the disappeared.** The TRC recommends revising the Civil Code to establish a special legal category that recognizes “absence by reason of forced disappearance” for persons disappeared between 1980 and 2000, whose whereabouts have never been confirmed and thus do not necessarily fit within the category of “presumed dead.” This new legal status should be summarily declared by a judge, free of charge, for all persons whose family members choose this benefit.
- **The legal status of people with outstanding arrest warrants.** The TRC recommends that arrest warrants for terrorism and sedition lacking sufficient and reasonable basis to link the accused person to the alleged acts be expeditiously voided. In addition, the TRC recommends a statute of limitations of six months for orders of detention for terrorism that will automatically expire if not renewed. It also recommends continuing the plan to modernize information systems shared by the offices of the Ministry of the Interior and the National Police.
- **Criminal, legal and police records expunged.** The TRC recommends that the judiciary comply with the order to expunge the criminal, legal and police records of all innocent people unjustly imprisoned who have been acquitted, freed for having completed their sentences, been pardoned or given a presidential grant of clemency. This recommendation applies to those whose cases are linked to other ongoing trials. The National Police should be automatically notified that the records have been expunged.
- **The legal status of personal documentation.** The TRC recommends the establishment of a large-scale documentation program run by Civil Registration Offices and the municipalities of affected zones to reissue identity documents that were destroyed or lost as a result of the internal armed conflict. The program should require minimal standards of proof for issuing documents. This program would amnesty those who failed to fulfill their military duty or register for the military. All displaced populations should be informed about the benefits of this program.
- **Free legal services.** The TRC recommends that free legal assistance be provided through the Ministry of Justice to help beneficiaries use the above-mentioned

programs. The TRC also recommends that the Human Rights Ombudsman's Office broaden its Program for the Protection of Populations Affected by Political Violence.

- **Waiving of all costs.** All costs associated with the procedures related to the programs recommended above should be waived.

### **3.5 Economic Reparations [2.2.3.5]**

The objective of this program is to provide economic compensation for moral and material damages suffered by victims and their families, with the goal of contributing to their healing in conditions of dignity and well-being. Specifically, pensions or one-time payments should be provided to the families of victims who were disappeared or subjected to extrajudicial executions; to those who were partially or entirely disabled, whether physically or mentally; to innocent people imprisoned; and to victims of rape and children of rape.

It is recommended that all beneficiaries of the PIR receive preferential access to national programs for housing and employment.

**Final Consideration:** The TRC is aware of the risks to the social cohesion of indigenous communities and potential conflicts that can arise when individual economic compensation is given. Therefore, the TRC recommends increasing the amounts designated for collective reparations for communities of those victims who decline to receive individual economic compensation.

### **3.6 Collective Reparations [2.2.3.6]**

The objective of this program is to contribute to the reconstruction and consolidation of collective institutions in affected communities that were partially or totally destroyed during the internal armed conflict, by providing necessary capital and technical assistance. Given the diversity of realities faced by affected populations, it is recommended that the content of each program be designed through the participation of the beneficiaries, who will identify the particular needs of the community. This program has the following components:

- **Institutional consolidation.** This component would seek to foster respect for institutions, authorities and the leadership of traditional organizations of governance both in rural and native populations in the Andean and Amazonian regions. By strengthening the technical capacities and management skills of all relevant organizations, this process would help resolve internal conflicts, reform the legal system and place authorities back in their designated roles.
- **Recuperation and reconstruction of the infrastructure required for economic production.** This component would seek to improve the resources and capacity for production in the community that could increase employment and other income generating opportunities.

- **Recuperation and extension of basic services.** This component would respond to an urgent need to rebuild basic public services such as health and education, and should include strengthening or replacing the infrastructure and equipment needed for the provision of these services.
- **Employment and the generation of income.** This component would provide technical assistance for the development of businesses, including access to credit from private lenders as well as from non-profit programs designed to assist small businesses.

#### **IV. INSTITUTIONALIZATION [2.2.4]**

The TRC recommends creating a national entity to assume the coordination and overall supervision of the implementation of the PIR. It also recommends that this entity be based in Lima, with regional offices that can coordinate among regional and local governments as well as all other relevant institutions involved in the implementation of the PIR. Coordination should also be established with the judiciary, the Human Rights Ombudsman's Office and other ministries.

#### **V. FINANCING [2.2.5]**

The TRC recommends the formation of a National Fund for Reparations to fund the programs outlined by the PIR. This fund should be supported by the national budget to reflect the government's commitment and to ensure the viability of the PIR. However, complementary funds may come from international sources, such as through the conversion of external debt for projects related to reparations, and funds recovered from corruption cases.