

# Reparations

Resisting Historical and  
Contemporary Injustices through  
Decolonial Feminism

Gloriana Rodriguez Alvarez || Nompilo Ndlovu || Njoki Wamai

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# General Introduction

Across the Caribbean, Latin America, and Africa, the discourse surrounding reparations for colonial crimes has emerged as a critical point of scholarly and public debate. This comprehensive scoping study delves into the multifaceted dimensions of reparations, a topic that transcends geographic and temporal boundaries. From the historical atrocities of the transatlantic slave trade, colonial subjugation, and the apartheid regime to contemporary appeals for restitution, reparations are a testament to the enduring struggles and demands for justice.

Through a feminist lens, the interconnected issues of 1) reparations for colonial crimes and 2) decolonial methodologies are significantly enriched. These topics reflect the enduring impacts of historical injustices like colonialism and the transatlantic slave trade, which underpin contemporary socioeconomic disparities and migration patterns. Reparations for colonial crimes serve as potential redress for systemic injustices (H. M. Beckles and Shepherd 2004), and as a way to address the systemic and structural racism that disproportionately affects Black women (Maynard 2017) and other marginalised genders. In diverse forms like financial compensation, policy changes, or acts of reconciliation, they aim to counteract slavery's legacy, characterised by gendered racial injustices (Shepherd 1999). Equally important, decolonial methodologies seek to dismantle the entrenched colonial thinking within societal structures, including the justice system and academia (Rivera Cusicanqui 2010). These methodologies, from a feminist viewpoint, challenge patriarchal structures marginalising non-Western, non-male, and non-white voices, and are pivotal in the process of reparations.

Feminist reparative practices seek to address gendered harm due to historical injustices, conflicts, or systematic oppression, and they aim to restore the rights and dignity of the affected individuals, particularly women and other marginalised gender identities (Chambers-Letson 2006). Feminist reparative practices may be designed and implemented in various ways, and their form often depends on the nature and context of the injustices being addressed. These practices are not only about material compensation (Craemer 2018) but also involve acknowledging crimes against humanity and guaranteeing non-repetition of the injustices. Above all, it consists of centring the lived experiences of those who endured gendered racial terror (Shepherd and Reid 2019).

To this end, the main objective:

To provide a comprehensive analysis of the concept of reparations, focusing on its historical and contemporary relevance in Kenya, South Africa, Latin America, and the Caribbean through the lens of decolonial feminism.

This is complemented by the following sub-objectives:

1. To examine the role of women in resistance movements and their contributions to the reparations discourse.
2. To analyse the intersectionality of gender, race, and justice in the discourse on reparations.
3. To explore existing governmental and non-governmental initiatives aimed at addressing reparations, including legislation and organizational efforts.
4. To critically examine the contributions of scholarly research in shedding light on the avenues toward justice and reparations.

This research will address all three thematic areas, using examples from the African continent and the diaspora, specifically Latin America and the Caribbean, enhancing south-south knowledge building.

The first part focuses on Latin America and the Caribbean. It highlights the pivotal role of women in resistance movements, setting the stage for a comprehensive exploration of reparations through a decolonial lens. This approach is crucial for understanding the complexities of gender, race, and justice, which are often overlooked in traditional reparations discourse. By centring the experiences and contributions of women, this scoping study aims to offer a more nuanced and inclusive perspective on reparations. At the heart of this discourse lies the enduring pursuit of freedom, a theme that has reverberated across generations and continues to fuel the call for reparations today. The paper posits that the quest for reparations is intrinsically linked to broader struggles to define social justice, historical memory and equitable development.

The second part examines how South Africa continues to grapple with the profound legacies of racial and gender-based inequality. The imperatives of justice and reparations have come into sharp focus, but while efforts have been made in the domain of policymaking, the landscape remains fraught with complex challenges. This scoping study delves into the systemic issues that continue to perpetuate racial and gender inequalities. It surveys governmental and non-governmental initiatives to address these systemic challenges, including legislation like the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) and organisations like the Commission for Gender and Equality (CGE). This section also draws attention to how these interventions often fall short of being transformative owing to various socio-political and economic constraints.

Lastly, the third part explores the evolving discourse on Transitional Justice (TJ) in East Africa, which has mainly been dominated by Western paradigms that primarily focus on legal and normative frameworks. This scoping study aims to critique the transitional justice landscape in East African communities, using an African interpretivist epistemology and ethnographic methods to explore local dynamics among Kiswahili-speaking peoples. It questions the monolithic

application of Western transitional justice mechanisms and advocates for an intersectional and gender-sensitive approach rooted in African philosophies, specifically focusing on Utu as a foundational ethos for justice. For this reason, it articulates an Utu Feminist Justice framework, and scrutinises not only the vulnerabilities but also the agencies of women in these environments.

Furthermore, the paper extends its gender lens to explore how masculinities contribute to the dynamics of conflict and violence, challenging the patriarchal norms that often underpin traditional and even modern conceptions of justice.

By integrating these interrelated strands, the paper aims to produce a coherent narrative that transcends geographical and disciplinary boundaries. The work seeks to contribute to a more inclusive discourse informed by the enduring quest for justice and shared dignity. In the end, reparations are about more than rectifying past injustices; they are about acknowledging the multi-generational trauma and systemic disadvantages that continue to afflict marginalised communities. This calls for a comprehensive and multifaceted approach that addresses not just economic disparities but also social and emotional wounds, advocating for transformative change across societal structures.

The truth is that the past, present, and future are interconnected, each shaping the contours of the other in a continuum of shared experience. The lingering stain of colonialism manifests itself as an enduring cycle of cruelty resulting from crimes and suffering that have yet to be fully acknowledged or addressed. Only by confronting and reckoning with the deep-rooted horrors of colonialism, slavery, and apartheid can we hope to forge a path toward healing and justice. Through transparency, accountability, and meaningful reparations, we can collectively turn the page, moving beyond the shadows of historical injustices.

In this endeavour, it is vital to heed the voices of resistance, which offer a roadmap to a different future. This resistance, dating back centuries and often led by enslaved women, articulates itself through rebellion, defiance, and a distinct episteme. It is a form of resistance that remains unbroken and dares to defiantly push for a more inclusive world. Within the teachings of this resistance and the indigenous episteme lies the blueprint for how to proceed. In doing so, the aim is to cultivate a future in which human dignity and mutual respect are not merely abstract ideals but lived experiences that define our shared reality.

# 1.

## Reparations in Latin America and the Caribbean

### Introduction

*When the true history of the anti-slavery cause shall be written, women will occupy a large space in its pages; for the cause of the slave has been peculiarly woman's cause. Her heart and her conscience have supplied in large degree, its motive and mainspring. (Douglass 2019)*

In the vast tapestry of global history, the shadows of colonialism stretch long, weaving narratives of subjugation, extraction, and erasure. These shadows lurk in regions like Latin America and the Caribbean, places replete with histories that ricochet between vibrant cultural blooms and periods of stifling oppression. The unyielding spectre of slavery, with chains both literal and metaphorical, casts a significant portion of this shadow, leaving indelible imprints that echo across generations. Each echo brings forth profound questions, chief among them being the matter of reparations, a concept still debated in terms of its definition and implementation.

Reparations for slavery stand as redress for crimes against humanity, yet they unfold with nuances influenced by the distinct historical and socio-political backdrops of various regions. In Latin American countries like Brazil and Cuba, the longstanding ideals of racial democracy and *mestizaje*, which emphasise racial mixing and equality, have ironically served to blur the very real racial disparities that persist (Araujo 2017). After abolition, Latin American states largely abandoned their emancipated populations, leaving them to grapple with socioeconomic challenges (De La Fuente and Gross 2020). The narrative of racial democracy often masked these stark racial inequalities, leaving the formerly enslaved without significant support from the state. Nonetheless, across these varying contexts, the call for reparations has been unfailingly loud and persistent, echoing demands that range from symbolic to economic and political considerations, epitomised in rights like land ownership.

Nevertheless, the demand for reparations is not restricted by borders. Activism has taken a transnational tone (Rauhut 2021), with African leaders pointing to the enduring effects of the Atlantic slave trade as a source of contemporary societal problems (Adi 2019). Such sentiments echo across the Americas, with diverse calls ranging from symbolic gestures like memorials to concrete demands for land ownership rights (Agudelo 2019). Brazil, despite its façade of racial democracy, has witnessed fervent reparations activism (Sarkin 2004), highlighting the gulf between symbolic gestures and actual implementation (Mosquera Rosero-Labbé, Barcelos, and Almarino G. 2007).

This paper seeks to illuminate the multifaceted dimensions of reparations across the Americas and the Caribbean. Beginning with a consideration of women's pivotal role in resistance, it delves into the myriad forms this defiance took, from litigation to anti-colonial movements. This lays the groundwork for our primary endeavour: mapping the literature on reparations through a decolonial lens, which requires us to intertwine the threads of gender, race, and justice in intricate patterns.

Resistance, as a core element of human history, takes varied forms, and its nuances are influenced deeply by the interplay of race, gender, and historical contexts. At the crossroads of this intricate matrix lie the formidable roles of women and the enduring pursuit of freedom—themes that have reverberated across generations. This scoping study seeks to traverse the resistance, juxtaposing historical defiance with its contemporary counterparts rooted in decolonial feminism and the movements for reparations. It delves into the historical resistance, particularly spotlighting the leadership of women. From the impassioned fervour of anti-colonial movements to the intricacies of feminist methodologies, women have consistently been at the vanguard of the resistance.

Transitioning from history's echoes to the pressing voices of today, the second section focuses on contemporary resistance articulated through the lens of decolonial feminism. It explores various feminist paradigms, from the assertive voices of Afro-feminism to the rich tapestries of Afro-diasporic feminism and the rebellious spirit of maroon feminism. Together, they form a collective testament to the evolving nature of women-led resistance in the face of modern challenges.

Thirdly, the study anchors itself in the realm of reparations, viewing them not merely as instruments of redress but as profound acts of resistance. By charting a course through the diverse landscapes of Latin America and the Caribbean, the aim is to highlight both the tangible and symbolic aspects of reparations. Through this exploration, the significance of grassroots organizations and the commitments of entities such as CARICOM come to the forefront, all while emphasizing the often-overlooked gendered nuances inherent to reparative discourse. As with any exploration, it becomes essential to identify the gaps in the literature. To this end, there is a focus on under-explored areas such as the nuances of gendered leadership and the intriguing convergence of reparations and climate justice.

Overall, the study seeks to weave together narratives of defiance and aspiration, forming a bridge between memory, accountability and hope. Through its pages, the goal is to cultivate a deeper appreciation for the resistance and to amplify the persistent calls for reparations echoing across ages. In encapsulating this vast discourse, this paper seeks not merely to present an academic treatise; it aspires to be a clarion call, urging scholars,

policymakers, and activists to converge towards a comprehensive understanding of reparations, one that is deeply rooted in decolonial thought, gender justice, and the shared aspirations of communities that have long yearned for redress and recognition.

## **1.1. Historical Resistance: The Role of Women**

Throughout the vast tapestry of history, tales of defiance and rebellion have held a special place, narrating the human spirit's undying quest for justice, dignity, and freedom. Yet, as with many narratives, the spotlight often shines more brightly on the conspicuous, eclipsing the subtle shades of resistance that paint an equally vital picture. Enslaved women's acts of defiance are one such shade, a nuanced tale of resilience that challenges the boundaries of the conventional understanding of resistance. While academic research has focused on acts of revolt, it has at times overlooked the diverse forms of resistance, litigation, and anti-colonial struggles led by enslaved women. This section delves deeply into the multifaceted role of enslaved women's resistance, the legal battles they waged in pursuit of justice, and their pivotal role in anti-colonial movements. By exploring strategic acts of defiance by many enslaved women, the aim is to spotlight women's leadership in these historical movements.

In the literature, the myriad stories of enslaved women's resilience and defiance are underrepresented (González Esparza 2020). The mainstream narrative frequently celebrates overt, physical resistance, sidelining more subtle but equally important forms of dissent (H. Beckles 1999). Enslaved women's resistance was multifaceted, from the often-underestimated acts of daily subversion to bold decisions like marronage, a stark rejection of enslavement through escape (Shepherd and Reid 2019). Figures like Nanny of the Jamaican Maroons embody the audacious spirit of resistance, choosing liberty over continued subjugation (Sutherland 2023). In Cuba, enslaved women shaped resistance in ways that have been obscured. Notable figures such as Fermina and Carlota Lucumí stand out for their leadership during the 1843 insurgencies. Their stories challenge and add complexity to the traditionally male-dominated narratives surrounding anti-slavery leadership (Finch 2014).

Firstly, it is crucial to contextualise the experiences of enslaved women. It should be noted that within the academic literature, the terms 'racial terror' and 'gendered terror' are both used to refer to the experiences of enslaved Black women. To begin with, in Finch's article, "What Looks Like a Revolution": Enslaved Women and the Gendered Terrain of Slave Insurgencies in Cuba, 1843-1844', the concept of 'racial terror' is meticulously dissected. It refers to the systematic violence and intimidation wielded by the colonial state against

enslaved individuals and which served as a tool of suppression, especially evident during periods of insurgency (Finch 2014).

Furthermore, the term *ethnocide* has been coined to describe the experiences of Afro-descendants in Latin America. Accordingly, the *Instituto Interamericano de Derechos Humanos* (IIDH) (Inter-American Institute of Human Rights) “refers to the repression, delegitimization, or extermination of the cultural traits of indigenous and Afro-descendant peoples, even if their members survive as individuals. It leads to the death of cultural diversity and the gradual disappearance of the uniqueness of individuals and peoples” (Arboleda Quiñonez 2019, p. 101).

More recently, the term *ecogenoethnocio* (ecogenoethnocide) has been used to describe Afro-Colombians’ lived experiences. The term synthesizes the notions of life degradation and cultural obliteration, offering a more profound comprehension of their interplay. It encapsulates acts of aggression, historical dispossession, and the sustained, systematic violation of human rights. While social sciences, legal forums, and international humanitarian organizations have typically explored these concerns in isolation, this amalgamation of ecocide, genocide, and ethnocide interprets them as interconnected manifestations of a pervasive colonial blueprint (Arboleda Quiñonez 2019).

In addition to racial terror, it is important to point out that women were subjected to extreme violence because of their gender identity. In *Dispossessed Lives: Enslaved Women, Violence, and the Archive*, Fuentes analyses how enslaved women in colonial contexts experienced distinct forms of “gendered error” resulting from their racial and gender identities (Fuentes 2016). This intersectionality uniquely shaped their vulnerabilities and experiences (González Undurraga 2014). Despite facing such adversities, colonial authorities largely ignored the specific challenges and violations that enslaved women faced, including sexual abuses, violence and reproductive manipulations. These oversights were evident in laws and records. In many ways, women were “subjected to the same conditions” that essentially treated enslaved men and women similarly, overlooking the nuanced differences in their experiences (Bush 1990, p. 6).

Moreover, in the broader colonial perspective, enslaved women were often denied their gender identities. Considerations that generally acknowledged women’s roles, vulnerabilities, or qualities as mothers were not extended to them (Shepherd and Reid 2019). In effect, “enslaved women were considered ‘genderless’ in relation to ideologies of motherhood, female vulnerability, and femininity” (Fuentes 2016, p. 102). In essence, enslaved women’s experiences underscore the extreme forms of exploitation they endured, underpinned by the pervasive denial of their gender identities and the unique challenges presented by their multiple marginalised statuses (Gutiérrez Aguilera 2016). Nonetheless, these conditions did not entirely suppress the spirit of defiance among enslaved

women. Their acts of defiance, though significant, also spotlight the boundaries of resistance within the restrictive racial and gendered confines of their time (Fuentes 2016).

### **1.1.1. Anticolonial Resistance**

Resistance against oppressive structures in colonial history can be visualized as an intricate tapestry woven from diverse threads of defiance. At its core, this resistance wasn't merely a rejection of the brutalities of slavery; it was also a vehement objection to the broader colonial project, which sought to deny the humanity of enslaved men and women. The pivotal characters threading this tapestry were often enslaved women who stood as unwavering symbols of defiance against slavery and colonialism.

Historical accounts from this epoch offer illuminating insights into the roles these women played. Observations from the era, like those of A. C. Carmichael, highlight the fiery resistance of enslaved women, noting their defiance often surpassed that of their male counterparts (Shepherd and Reid 2019). For this reason, the term “petticoat rebellion” appears in historical accounts. This resistance indicated a deep-seated desire not just for personal emancipation but also for dismantling the broader oppressive colonial system (Dadzie 1990).

It is essential to emphasise that the involvement of these women in rebellions and uprisings was not a tokenistic or symbolic gesture. They were at the forefront, risking their lives in the process. The African-Barbadian protest of 1692 is a stark reminder of the immense costs of such defiance. Following this protest, a significant number of women faced execution — a brutal consequence of their refusal to yield to oppressive forces (Mcd. Beckles 1998).

Moreover, gendered resistance is not limited to one specific region. In Brazil, during the 19th-century rebellions, figures like Luiza Mahin emerged. Mahin was more than just an active participant in these uprisings; she acted as a catalyst and a leader, mobilizing and inspiring many (Ferreira Rocha 2023). Her significant influence is evident in major revolts, including the Malê Revolt of 1835 and the Sabinada rebellion from 1837 to 1838. Furthermore, Mahin's leadership was not confined to a single locality. She extended her influence beyond regional confines, playing pivotal roles in uprisings in areas as diverse as Bahia and São Paulo (Reis de Araujo 2017).

Conclusively, the defiant acts of these women, their brave stand against powerful adversaries, and their pivotal roles in shaping anti-colonial sentiments were not fleeting moments in history. They were cornerstones, foundational elements that constructed a broader narrative of resistance against colonialism and slavery. Through their actions, these women etched an indelible mark on the chronicles of resistance, reminding future generations of the indomitable spirit of those who refused to be subjugated.

Beyond leading rebellions, numerous enslaved and formerly enslaved women turned to the legal system to advocate for their rights. Rather than seeing the complex legal frameworks in different countries as barriers, they skilfully navigated them, fervently pursuing justice, recognition for their hardships and freedom. The history of colonial Latin America from the 16th to 19th centuries reveals a powerful narrative of resistance and rebellion (Valencia Villa 2015). Enslaved women in this region were not just subjects of oppression; they became adept players within the legal framework, using it to challenge their subjugation. Manumission, the act of freeing an enslaved person, played a significant role in the history of slavery across the continent (Cano Bolívar 2014). Its nature varied depending on the region and era.

A consistent trend throughout, however, was that most of those granted manumission were women. The collective decisions of enslaved families often leaned towards the manumission of women, a reflection of their essential roles within households and communities (González Esparza 2020). Furthermore, laws played a pivotal role: children birthed by manumitted women were granted freedom, a rule that propelled the numbers of the free population and subtly transformed the societal fabric. These women were not just breaking their chains but laying the groundwork to challenge and change the established order (Valencia Villa 2015).

Moving southward to Cuba, Andrea Quesada y Acevedo's fight encapsulates the spirit of the enslaved community. Her quest for reparations from her former enslavers' heirs was not just about financial redress but a demand for accountability and acknowledgement of the wrongs meted out to her and others enslaved like her (Araujo 2017). This resistance showcased enslaved women turning to the very legal system that often oppressed them, seeking to expose and challenge the systemic abuse they endured (González Undurraga 2014). Although many of their pursuits in places like Cuba did not always meet with immediate success, they planted seeds of awareness, ensuring their stories and struggles would not be easily forgotten (Araujo 2017).

Litigation also emerged as a pivotal strategy for enslaved women in colonial Venezuela. Rather than solely seeking justice, they leveraged the legal system to strategically reduce surveillance, which might have aided their escape attempts in some cases (Laurent-Perrault 2018). Evidence suggests that many of these women were adept at navigating the legal landscape, showcasing familiarity with legal procedures, terminology, and protocols to bolster their cases (Carcelén-Estrada 2022). Prominent examples, such as María Gertrudis de León, underscore that these women actively confronted the oppressive colonial structures, asserting their agency and challenging the status quo. Their court appearances became public spectacles, turning legal arenas into stages where enslaved women and their enslavers publicly contested identities and rights (Laurent-Perrault 2018). Furthermore, the late 18th century witnessed a surge in litigation initiated by enslaved women against their enslavers. From 1790 to

1810, Caracas recorded at least 923 such cases, attesting to women's growing assertiveness and resistance within the colonial judicial system (Dávila Mendoza 2009).

By December 1994, the call for justice and reparations resounded through the corridors of São Paulo's federal court. The plea for compensation on behalf of descendants of enslaved individuals represented more than just a legal demand; it was a symbolic gesture reflecting centuries of suffering (Reis and dos Santos Gomes 2021). Among the signatories was Maria do Carmo Jerônimo, a woman born into slavery (Ribeiro 2022). Her signature, a tangible connection to Brazil's history of slavery, intensified the demand's significance. Moreover, it positioned enslaved women squarely at the forefront of the reparations movement. This appeal sought not only financial reparations but also a formal acknowledgement of the profound injustices Afro-Brazilians endured throughout Brazil's extensive history of slavery (Gomes and Domingues 2011).

The enduring narrative of enslaved women, from individual tales of resilience in the face of unimaginable hardship to modern legislative efforts seeking reparations, is a beacon of hope. It showcases humanity's indomitable spirit, the quest for justice, and the relentless fight against oppression, emphasising the need for societies to confront, address, and redress historical injustices. Part of that effort is acknowledging the nature of the historical injustice through research.

## **1.1.2. Feminist Methodologies and Challenges**

Nevertheless, investigating the lived experiences of enslaved women presents a plethora of challenges intricately bound with feminist epistemological questions. Indeed, Fuentes points out the "historical paradox and methodological challenges produced by the near erasure of enslaved women's perspectives, in spite and because of the superabundance of words white Europeans wrote about them" (Fuentes 2016, p. 6). These challenges are deeply embedded in a historical landscape marked by silences, contradictions, and an unsettling indifference to violence against Black lives (Connolly and Fuentes 2016).

Within this context, historian Elsa Goveia's ground-breaking work in Caribbean historiography is a beacon in challenging traditional Eurocentric narratives. She made remarkable strides in emphasizing enslaved Africans' agency, resistance, and cultural contributions (V. Goveia 1984). In *Study on the Historiography of the British West Indies to the End of the Nineteenth Century*, Goveia's research on the socioeconomic structures of slavery, combined with her focus on the active agency of the enslaved, not only provided a vital framework for comprehending enslaved individuals as active agents in their histories (E. V.

Goveia 1980), but also left an indelible mark on the study of Caribbean history (Emmer et al. 1997).

On the other hand, Fuentes's approach to studying enslaved women is rooted in feminist methodology (Fuentes 2016). It poses vital epistemological questions: How can historical knowledge about enslaved female subjects be produced through archives? These archives, often tainted by biases that justified and perpetuated slavery, require a methodology that embraces uncertainty, unresolved narratives, and contradictions. In this context, feminist methodology becomes an active gesture toward redress, acknowledging the challenges of working with archives produced by those with "virtually unlimited power over their property" (Fuentes 2016, p. 107).

In Fuentes' methodology, she elucidates several vital approaches (Fuentes 2016):

1. Close Reading of Incomplete Sources: Mining meaning from incomplete sources allows for a profound understanding of the governing systems of enslaved lives.
2. Centring Gendered Ideologies and Circumstances: This unique lens illuminates the nuanced experiences of enslaved women, setting them apart from the broader enslaved populace.
3. Interrogation of Archival Silences: Recognizing gaps and misrepresentations in conventional archives provides the enslaved with a deeper, more authentic voice.
4. Challenging Empirical Limitations: Rather than conceding to the limitations of fragmented records, Fuentes advocates extracting understanding from these fragments.

Furthermore, it is worth mentioning the emerging scholarship on the experiences of enslaved women in Latin America, such as *Demando mi libertad: mujeres negras y sus estrategias de resistencia en la Nueva Granada, Venezuela y Cuba, 1700-1800* (I demand my freedom: Black women and their resistance strategies in New Granada, Venezuela, and Cuba, 1700-1800), edited by Aurora Vergara Figueroa and Carmen Luz Cosme Puntiel. The authors note that "in the dominant historiography, Afro-descendant women are not considered significant historical references" (Vergara Figueroa and Cosme Puntiel 2018). In this regard, the text seeks to address a gap in the literature.

To this end, the study employs a methodology anchored in the *perspectiva analítica del feminismo afrodiaspórico* (analytical perspective of Afro-diasporic feminism), providing a distinctive lens to scrutinize the experiences and resistances of enslaved women in colonial Latin America (Vergara Figueroa and Cosme Puntiel 2018). This approach emphasizes the intricate interactions between race, gender, and colonial influences, offering insights into the diverse backgrounds of Black women. Instead of narrowing the experiences of

enslaved women to separate dimensions of gender or race, this methodology underscores their intertwined nature, demonstrating how the dual impacts of racism and sexism moulded their lives within colonial contexts (Hernández Reyes 2018). This perspective aims to comprehensively grasp these women's lives, exploring the intricate web of race, gender, class, and colonial dynamics. A salient feature of this approach is its recognition of the solidarity among Black women. It explores how, despite the shackles of enslavement, these women forged networks of support and resistance in colonial Latin America (Vergara Figueroa and Cosme Puntiel 2018).

Moreover, historical ethnography forms a cornerstone of this research, with a deep dive into both primary and secondary historical sources. In particular, the research methodology delves into personal narratives and oral traditions, vital tools in piecing together diverse histories (Mosquera Lemus 2018). Stories passed down through generations, oral traditions, and community memories breathe life into the data, ensuring that the voices of the Palenquero, Black, Afro-Colombian, and Raizal communities resonate in their authentic tones (Hernández Reyes 2018). Challenging conventional narratives, this methodology portrays enslaved women as active agents, fighting on behalf of their communities even under oppressive conditions (Abello Hurtado 2018).

The feminist methodological challenges in researching slavery are multifaceted, grappling with incomplete sources, silences, and the complex gendered experiences of the enslaved. However, as scholars like Goveia and Fuentes illustrated, these challenges are not insurmountable. By employing critical feminist methodologies that focus on enslaved women's agency, resist historical erasure, and interrogate traditional archives, historians can uncover and integrate these vital narratives into the broader understanding of slavery. This approach is not merely an academic exercise but a necessary undertaking that actively resists indifference to the violence and silencing of Black lives, fostering a more comprehensive, inclusive, and humane historical discourse.

In conclusion, the discourse on reparations for slavery is vast and multifaceted, intertwined with a plethora of regional contexts, acts of resistance, legal battles, and anti-colonial protests. The heart of this narrative is the resistance of enslaved women. Their tales of tenacity and defiance not only echo the call for justice and reparations but also challenge dominant historical narratives.

Although overshadowed by dominant narratives, the sagas of enslaved women navigating complex terrains of racial terror, ethnocide, and gendered vulnerabilities underscore the multifaceted nature of resistance. This historical lens amplifies the nuance and potency of women's resistance, emphasizing their strategic acts of defiance, leadership in anti-colonial struggles, and fearless navigation of challenging legal terrains in pursuit of justice. While mainstream historiography often privileges narratives of overt, physical defiance, a parallel and equally significant tapestry of subversive acts

challenges these conventional paradigms (H. Beckles 1999). From the nuanced subversions embedded in daily actions to the more pronounced acts like marronage, enslaved women carved spaces of resistance within the constraints of their socio-political contexts (Shepherd and Reid 2019). Figures such as Nanny of the Jamaican Maroons, Fermina, and Carlota Lucumí converge in their shared ethos of resistance against subjugation (Sutherland 2023; Finch 2014).

In the domain of litigation, enslaved women's navigation of legal institutions stands as a testament to their agency and unwavering quest for justice within oppressive structures. The legal pursuits, as exemplified by Andrea Quesada y Acevedo in Cuba, María Gertrudis de León in Venezuela and Maria do Carmo Jerônimo in Brazil, were not merely isolated episodes but rather indicative of a broader, systemic movement wherein enslaved women deftly manoeuvred through legal corridors to assert their rights (Aiyetoro 2020; Araujo 2017; De La Fuente 2007).

Furthermore, the anti-colonial resistance spearheaded by these women accentuates their pivotal role in not just the anti-slavery movements but also in the larger narrative of decolonisation. The historical observations of figures such as A. C. Carmichael foreground the compelling fervour of enslaved women, a defiance that often transcended the gendered expectations of their era (Shepherd and Reid 2019). Their participation, replete with unparalleled valour, forms the bedrock of a broader anti-colonial narrative, underscoring the synergies between struggles against enslavement and colonial subjugation.

The struggles of enslaved women exist at the intersection of race and gender, offering invaluable insights into the intricate paradigms of power and resistance. Equally essential is a feminist epistemological inquiry that dives into the silences, absences, and biases of traditional archives, underscoring the significance of acknowledging and redressing these gaps. Scholars such as Fuentes and Goveia exemplify this endeavour, illustrating the depth and breadth of knowledge to be gained from a feminist methodology. An interrogation of these multidimensional resistances broadens the scope of historiographical analysis, necessitating a re-evaluation of enslaved women's roles. Their stories disrupt established narratives and serve as an exigent call for a more inclusive historical scholarship.

## **1.2. Contemporary Resistance: Decolonial Feminism**

Colonial power structures were not dismantled, nor did they disappear. They metamorphosed, adapting into more covert forms without a foundational overhaul. The term 'coloniality' captures this phenomenon, delineating how colonial legacies persistently mark contemporary societies. This residue surfaces as entrenched social discrimination, extending beyond official colonial

timelines and embedding deeply into the modern societal fabric (Quijano 2000). Thus the echoes of the past reverberate in the present, with clear links between the gendered and racialized terror of enslavement and today's structural violence.

Nevertheless, this continuum is not only evident in the oppressive systems but also in the resilient resistance against them. Historically, women have been at the forefront of this resistance, leading litigation efforts, rebellions, and establishing maroon communities. This spirit of defiance is alive today, manifesting in the streets and libraries where contemporary feminist resistance is waged.

Decolonial feminism, as championed by Black women, resists oversimplified, binary perspectives on gender and race. Decolonial feminists encourage nuanced interpretations of how colonial shadows persistently shape modern societal hierarchies. To contest these deep-seated systems, innovative paradigms have been introduced, embracing concepts such as *gendered racism*, *the modern-colonial-racist gender matrix*, and *Amefricanity*. Today's resistance movement is vibrant and multifaceted, articulated through Afro-feminism, Afro-diasporic feminism, and maroon feminism.

Rather than viewing the contemporary movement as separate from its historical roots, activists see their efforts as a continuation of historical defiance, carrying forward the rejection of enslavement, inhumanity, and racialized gender terror. In this sense, the resistance connects the past and present in a unified call for justice and equality.

### **1.2.1. Afro-feminism**

Beyond the confines of academia, numerous grassroots organizations in activist spaces have grappled with the myriad structural and historical violences that Black women and other marginalized groups endure. As Argelia Laya, in 1979, poignantly stated: “The violation of Black women and indigenous peoples’ human rights is a crime against humanity (...) We have to resist actively, organize and persevere for ourselves and future generations” (Laya 2014). In the decades since, in protest of historical and contemporary experiences, many activists have aligned themselves with *Afro-feminism*. The Venezuelan activist, Merlyn Pirela, observed that:

Our struggle has different roots, and our histories are not the same as those of mainstream feminists. The oppression that women like Simone de Beauvoir experienced is worlds apart from the oppression that Black women have faced, both historically and in contemporary times. Afro-

feminism challenges the discourse that neglects the extensive history of racist, patriarchal oppression (Pascual Marquina 2023, n.p.):

In addition, the Brazilian activist and intellectual Lélia Gonzalez is a pillar of Afro-Latin American feminism. Her critique of mainstream Latin American feminism revolves around its frequent oversight of the adversities Black and Indigenous women endure (Cardoso 2014). For this reason, her advocacy goes beyond mere acknowledgement – she pushes for a realignment (Gonzalez 2020). Her vision of Afro-Latin American feminism transcends mere inclusion; it demands that the narratives, histories, and experiences of Black and Indigenous women form its very foundation (Gonzalez 2020).

Central to Gonzalez's argument is her concept of *amefricanidade* or *Amefricanity*. This term is not just a label but an entire philosophical framework. It is a call to transcend geographical, linguistic, and ideological borders, opening a pathway for a richer, more profound understanding of America as a locus of experience and history (Cardoso 2014). Yet Amefricanity expands beyond mere geography. It embodies a historical odyssey defined by rich cultural interchanges, which include adaptation, resistance, and the reimagining of identities (Gonzalez 2020).

Moreover, Gonzalez's propositions are not just sociological but epistemological. She envisions a new way of knowing and understanding – a paradigm interwoven with the themes of racism, colonialism, imperialism, and their multifaceted repercussions (de Oliveira Costa et al. 2019). By foregrounding Amefricanidade, Gonzalez prescribes it as a prism to scrutinize and challenge systems that have marginalized Black and Indigenous groups. Yet beyond just recognition, it demands action – the forging of an inclusive feminist front that acknowledges Black women's specific challenges and actively works towards addressing and dismantling them (Gonzalez 2019).

Additionally, feminist thought has advanced conceptual tools to better comprehend the circumstances of Afro-descendent and Black women in Latin America. For instance, the concept of *racismo de género* (gendered racism) offers a nuanced lens to perceive the complex intersections of oppression (Gonzalez 2019). The term "gendered racism" was introduced as a direct reaction to certain shortcomings in feminist discourse and analysis that primarily focused on gender. This terminology highlights how discussions about gender can overlook the intertwined dynamics of race and class (Salazar 2006). In essence, this term emphasizes the constraints of analysing issues purely through a gendered lens, especially when such analyses arise from perspectives rooted in privilege (Rivera 2021). Individuals or groups that particularly emphasize the dynamics of gender in their evaluations and discourses are, at times, blind to their positionalities within the broader matrix of domination. Such positions often fail to recognize how their perspectives are shaped by

subjugation, discrimination, and inherent privileges (Espinosa Miñoso and Leone 2010).

Furthermore, Afro-feminists have also contributed the concept of the *matriz moderna-colonial-racista de género* (modern-colonial-racist gender matrix), building upon the foundational ideas proposed by María Lugones regarding the modern colonial gender system. Accordingly, the gender system, deeply rooted in colonial structures, is not merely hierarchical but also racially differentiated. This system denies humanity and gender to the colonized, positioning them in a dichotomous men/women normative category (María Lugones 2010). Hence gender, as understood in modern contexts, is a colonial imposition, often clashing with Indigenous cosmologies. Furthermore, the coloniality of gender is a potent system of power that intricately intersects with gender, class, and race. Throughout history, the colonized have undergone a prolonged process of subjectification, internalizing this dichotomy (María Lugones 2007).

To this end, the *matriz moderna-colonial-racista de género* (modern-colonial-racist gender matrix) delves further into the integral role this system plays in perpetuating domination and oppression (S. P. Santos 2022). One of the foundational arguments of this matrix is the indivisibility of domination; it cannot be neatly categorized into isolated sections like racism, classism, gender discrimination, or sexuality biases (Espinosa Miñoso and Leone 2010). Subjugation and discrimination are profoundly interconnected and operate simultaneously (Palacios Córdoba 2019). The matrix encapsulates this perspective by highlighting the inextricable link between these domains of domination.

Yet, throughout history, these oppressive systems have been tenaciously confronted. Indeed, Afro-feminism is intercultural and utopian. Afro-feminist perspectives draw deeply from both Indigenous and African knowledge traditions. The Kichua culture underscores the philosophy of *Suma Kawsai*, known as the Good Life. In parallel, South Africa's Ubuntu, embodying the essence of 'I Am Because We Are', has galvanized the movement throughout Latin America (Laó-Montes 2016). The utopian dimension has been articulated by Carneiro, who argues that "the goal is to have equal rights, embracing our complete humanity filled with opportunities that transcend race and gender. This is the core purpose of our fight."

## **1.2.2. Afro-diasporic Feminism**

Afro-diasporic feminism stands as a poignant paradigm within decolonial feminist theories. Accordingly, Sonia Beatriz dos Santos defines it as

[a] theoretical and political framework that centres the experiences, histories, and struggles of Black women and gender non-conforming people in the African diaspora. It emphasizes the interconnectedness of race, gender, class, sexuality, and other axes of identity and oppression. Afro-diasporic feminism challenges both the racism present in some feminist movements and the sexism within some Black liberation movements. It also highlights the unique challenges faced by Black women and gender non-conforming people, advocating for their liberation and the dismantling of all forms of oppression. (S. B. dos Santos 2007, p.14).

Conceptualizing Afro-diasporic feminism requires recognizing it as a geo-historical category. Diasporic communities can be envisioned as "imagined communities", symbolizing collective memories and shared experiences bound together by histories of dispersion and displacement (Butler 2001). For many in Latin America's African diaspora, a unifying memory is the brutal history of the transatlantic and transpacific slave trade. This profound historical trauma has significantly shaped the development and expression of Afro-diasporic feminist thought (Vergara Figueroa and Arboleda Hurtado 2014).

Therefore, Afro-diasporic feminism reflects numerous geographical displacements, reimagining life in exile, and a vindication rooted in ethnic identities (Lozano and Paredes Grijalva 2022). Thus it is not just a theoretical framework; it is a vibrant force propelling social mobilization, nurturing solidarity, and advocating for reparative justice (Vergara Figueroa and Arboleda Hurtado 2014). The movement employs several strategies to achieve its goals. Firstly, critical deconstruction is essential. There is a pressing need to critically assess the power structures that have historically sidelined Black women (Camacho Segura 2004). Anchored in the modern-colonial system, these have endured through different historical periods (Grueso 2007), positioning Black women at a disadvantage relative to other ethnic-racial, gender, and class groups.

Secondly, there is the research agenda. Afro-diasporic feminism challenges and seeks to dismantle stereotypical images of Afro-descendant women and their communities. The movement strives to counter the sexist and racist historiographical traditions that have consistently marginalized the varied experiences of Black women (Vergara Figueroa and Cosme Puntiel 2018). Indeed, as the Afro-Colombian feminist Camacho points out, "the history of Black women in Colombia is deeply rooted in a longstanding context of patriarchal dominance, colonial oppression, and persistent violence and fragmentation [...] The voices and words of Black women are still waiting to be heard" (Camacho Segura 2004). For this reason, women, whether from grassroots communities or academic circles, are encouraged to reinterpret Black women's histories. They are urged to create narratives that transcend the

victim narrative perpetuated by oppressive systems and highlight their roles as active agents of societal transformation (Muñoz Asprilla 2021).

Lastly, central to Afro-diasporic feminism is the call for reparative justice. This form of justice aims to confront and amend the historical and ongoing injustices endured by Afro-descendant women. In advocating for reparative justice, Afro-diasporic feminism recognizes past wrongs and paves the way for a fairer future (Vergara Figueroa and Arboleda Hurtado 2014).

### **1.2.3. Maroon Feminism**

Lastly, decolonial feminism also encompasses maroon feminism. The term *feminismo cimarrón* can be translated as *maroon feminism* or *marronage feminism*. This term evokes a brand of feminism that defies and breaks free from dominant or oppressive systems, drawing parallels with the maroon communities of escaped slaves who resisted colonial oppression. These practices are integral to the history of resistance (Muñoz Asprilla 2021).

Liberating practices, like marronage, which propose an alternative world, are often overshadowed and forgotten. Their neglect might explain why Caribbean feminism has not fully engaged with marronage or incorporated its social organization models and lessons into contemporary political strategies. Despite marronage's enduring legacy, evident in the memories of elders and communities, Caribbean feminism has been relatively muted regarding its impact (Espinosa Miñoso and Rodríguez Moreno 2020).

Revisiting marronage history is essential. As a potent form of resistance, it provides a blueprint for a world outside colonial dominance. Its significance, especially for racialized women in the Caribbean and elsewhere, cannot be overstated (Cuero Montenegro 2022). Marronage signifies collective resistance and underscores women's leadership roles in tandem with Black and Afro-Taino men. Moreover, it provides a societal model that transcends the confines of the colonial, racist, and sexist order (Espinosa Miñoso and Leone 2010).

The legacy of marronage challenges modern views. It represents a tangible political resistance and can enrich contemporary decolonial feminist strategies (Lozano and Paredes Grijalva 2022). Marronage, by its very nature, threatened colonial rule. More than just disrupting economic systems, it questioned the social and racial order, providing an alternative narrative (Muñoz Asprilla 2021). Each enslaved person who escaped countered colonial ideologies, demonstrating that even the subjugated had the power and agency to rebel against entrenched oppressive narratives.

It's essential to recognize that today's movement is deeply rooted in history. Contemporary activists see their efforts as continuing the maroon legacy—rejecting enslavement, inhumanity, and racialized gender terror. Today's

resistance is spearheaded by those who inherited the dreams and aspirations of the petticoat rebellions, ensuring that the fight for justice and equality remains unbroken across generations.

Indeed, “by the mid-1990s, there was a transnational community of AfroLatin American feminist intellectual-activists providing leadership in their individual countries and throughout the region” (Laó-Montes 2016, p.3). In the intricate tapestry of feminist movements, Afro-feminism, Afro-diasporic feminism, and Maroon feminism stand out as distinct yet interconnected threads, each crafting its narrative of resistance, identity, and empowerment. Rooted in the lived experiences of Black women, these movements challenge dominant paradigms and present alternative perspectives on gender, race, and colonialism. From the historical legacies of marronage to the contemporary discourses of Afro-diasporic feminism, a continuum of resistance against oppressive structures becomes evident. The voices of activists, scholars, and communities provide insights into Black women’s multifaceted struggles and triumphs in their pursuit of justice, equality, and recognition. Navigating these narratives reveals the enduring spirit of resistance, the power of collective action, and the transformative potential of feminist thought.

### **1.3. Reparations as Resistance**

The intersectionality of feminist thought, colonial histories, and their concomitant reparations has come to the forefront of academic and socio-political dialogues. Latin America (specifically Colombia and Brazil) and the Caribbean, with its historical tapestry of colonial subjugation, widespread enslavement, forced labour, and plantation-based economies, thus becomes an apt starting point. However, understanding the layered oppressions demands more than just examining economic injustices (Adi 2019); it necessitates a thorough probing of the narratives of those most affected—marginalised genders in racially subjugated spaces. Black women and other marginalised genders, bearing the double yoke of racial and gender oppression (H. M. Beckles and Shepherd 2004), offer narratives that are particularly poignant. Their experiences, often sidelined in broader discussions of colonialism and reparations, call for integration of a gendered perspective, making it an essential part of reparative discourses.

Delving deeper, the connection between Africa, Latin America, and the Caribbean allows south-south knowledge exchange, providing a platform for shared strategies, intertwined struggles, and collaborative healing. Thus reparations encompass historical understanding, acknowledgement of suffering, and the restoration of justice. To understand the depth and breadth of this discourse it is imperative to delve into the nuanced terminologies that shape the conversation across diverse regions and historical contexts. Therefore, it is essential to delineate and elaborate on key concepts that undergird the discourse on reparations, traversing regions from Latin America to the Caribbean. By unravelling the layers of meaning embedded in these terms, the aim is to shed light on the complexities of reparative justice and foster a more comprehensive understanding of its multifaceted nature.

The discourse around reparations is often misinterpreted as a modern response to past horrors. However, the demand for reparations goes beyond the historical wounds of chattel slavery and stands as an ongoing fight for emancipation and restitution (Adi 2019). Such demands for reparations can be traced back to the era of slavery itself. As Araujo (2017) illuminates, enslaved and freed individuals might not have used the term 'reparations' explicitly, but their pursuit for justice, articulated through terms like redress, compensation, and restitution, clearly resonates with contemporary demands (Araujo 2017). Indeed, "to demand reparations is to shed light on the unresolved injustices suffered by the entire global Black population throughout the diaspora" – as expressed by an Afro-Brazilian activist (Malachias 1993, p. 13).

Given the profound historical and contemporary ramifications of these injustices, it is necessary to devise and implement nuanced strategies of redress that are not constricted by traditional statutory time limitations (Cunin 2020). Moreover, both international and regional law have established

precedents for reparations. Since 1928, via the Chorzów Factory case, the Permanent Court of International Justice affirmed reparations “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” (The Factory at Chorzow (Germany v. Poland) PCIJ, Merits 1928, p. 43). As a result, reparations were affirmed as a principle of international law (F. E. Torres 2021) nearly a hundred years ago.

In the regional context, reparations have been front and centre; in fact, they are embedded in the legal system. Reparations in the Inter-American system are grounded in the fundamental principle of international law that there is a duty to make adequate reparation for every violation of an international obligation resulting in harm (Bejarano and Armijo 2011). The American Convention on Human Rights, particularly Article 63(1), is pivotal in this context. This article enshrines the legal figure of reparation for violating a human right (S. G. Ramírez 2008). Hence, the Inter-American Court can order compensatory and remedial measures. The aim of reparations is twofold: to require states to adhere to specific standards of law and order and to repair, as much as possible, any injuries caused by a state’s failure to meet those standards. In essence, reparations should wipe out all consequences of the illegal act (Nash Rojas 2009). Reparations focus on acknowledging the pain, suffering, and trauma experienced by victims of human rights violations. They can include public apologies, memorialization efforts, and efforts to ensure the truth is told and remembered. Symbolic reparations play a crucial role in restoring the dignity of victims (Brasil, Rousseaux, and Conte 2019).

There are several relevant historical legal precedents. As Beckles points out, “the Nuremberg Trials dealt conclusively with the principle of retroactive justice” (H. Beckles 2013, p. 170). Indeed, “Holocaust reparations were paid for crimes against humanity that were committed before they became formally illegal in international law” (Craemer 2018, p.696). The legal logic underpinning reparations for the Holocaust is deeply rooted in the acknowledgement of the immense suffering and loss experienced by the victims and the subsequent moral and ethical responsibility of the perpetrating nation to make amends (Bassiouni 2002). This logic is not only based on recognizing the atrocities committed (Jackson 1949) but also on the understanding that certain heinous acts, even if not formally illegal at the time they were committed, are inherently wrong and demand redress (Craemer 2018). The legal reasoning behind Holocaust reparations is similar to the arguments for reparations related to slavery. It was not until 1926 that slavery and the slave trade were officially prohibited in international law following the adoption of the International Convention to Suppress the Slave Trade and Slavery; yet in both cases, there was an awareness of the magnitude of the crime (Craemer 2018).

Moreover, there are other legal precedents. The reparations given to Japanese Americans are owing to the profound suffering and trauma they endured due to racial incarceration without charges or trial during the Second World War. This trauma spanned two generations and left deep emotional scars (Yamamoto 1999). After a sustained effort by the Japanese American community, President Ronald Reagan signed a bill on August 10, 1988, acknowledging the injustice and providing reparations (Tateishi and Yoshino 2000). In 1998, Canada also provided reparations to Japanese Canadians interned without trial during the Second World War (Sugiman 2004).

France's recognition of the inhumane nature of the slave trade, culminating in the *Taubira Law*, is a powerful reminder of the need for societies to confront their past (Ledoux 2012). Taubira, a French Guianan, spearheaded the law on 21 May 2001, which acknowledged the transatlantic slave trade and slavery as crimes against humanity (Taubira 2002). The law not only serves as an acknowledgement but also underscores the complex legacies of the slave trade. For example, islands still grappling with land disputes rooted in the era of slavery reveal the long shadow cast by historical injustices. With the abolition of slavery came compensation for enslavers, but the entrenched societal structures that favoured them lingered on. Such observations crystallize the necessity for a broad, public-policy approach to reparations, focusing on systemic change (Maximin, Pocrain, and Taubira 2007).

### **1.3.1. Latin America**

Within the Latin American diaspora, Afro-descendant activists have highlighted how “the scars of slavery are still visible” (Araujo 2017, p. 173). For this reason, activists and academics have argued for the need for Afro-reparations. Rooted in the abolitionist movements, this emerged as a call for compensation for unpaid labour and the harms inflicted by slavery. Championing equity and freedom, it aligns with a decolonial mindset and emphasises the political and historical dimensions (Gómez de Mantilla, 2007). For instance, Black and Afro-descendant communities have historically faced structural racism stemming from the nation's legacy of slavery, and are further marginalised by ongoing conflicts. This context imprints the past onto the present, leading to systemic forms of violence like genocides, mass displacements, and dehumanisation. Given these layered injustices, these communities demand restorative justice, which calls for both retributive and transformative social measures (Gómez de Mantilla, 2007).

The activist and academic, Jean Bosco Kakozi Kashindi, has pointed out that social policies are insufficient, as “to fully fight against racism, it's not enough

to confront its secondary causes or its effects (poverty, social marginalization, displacement, etc.); one must also tackle its root” (Kakozi Kashindi 2015, p. 9). Within Colombia, Afro-reparations, rooted in the history of the transatlantic slave trade and the forced displacement of Afro-Colombians, seek to redress historical injustices from African enslavement to the current challenges faced by enslaved people’s descendants. Afro-reparations aim for comprehensive justice, recognizing crimes against humanity. They advocate for an integrative social policy that addresses socioeconomic disparities and racial prejudices (Kakozi Kashindi 2015).

Central to the philosophy of reparation is the imperative to recognise and ameliorate the enduring trauma experienced by marginalised communities. The reparative framework is typically predicated on three fundamental tenets (Mosquera Rosero-Labbé, Barcelos, and Almario G. 2007):

- the restitution of lost assets or traditional ways of life
- the unequivocal acceptance of responsibility for historical transgressions
- the endeavour to repair and rejuvenate fractured socio-cultural relationships.

### **1.3.1.1.      Compensación (Tangible Reparations)**

Within the regional framework, reparations encompass tangible and intangible facets of redress (Mosquera Rosero-Labbé, Barcelos, and Almario G. 2007). For example, *compensación* – translated as compensation – underscores the importance of *tangible* reparative measures. This seeks to provide material restitution to the descendants of those historically enslaved. As Barragan points out, “Across the Americas, emancipation moved slowly, and profited those who had benefited from slavery most” (Barragan 2023, n. p.). Notably, in countries like Venezuela, when slavery was abolished, the government compensated enslavers financially, neglecting the actual victims of slavery (Garcia 2018). This pattern persisted in other nations. In Cuba, when slavery was terminated in 1886, it was the enslavers, not the enslaved, who were financially compensated (De Vito 2018). Similarly, when Colombia ended slavery in 1851, the government assumed the obligation of reimbursing former slaveholders, leading the Colombian treasury to allocate nearly 2.5 million pesos (Barragan 2021). It is imperative to emphasize that while enslavers received compensation, the newly liberated individuals often found themselves without adequate resources or assistance to navigate their newfound freedom (Araujo 2017). For this reason, reparations denote the act of returning that which was expropriated or providing compensation for historical injustices. This can manifest in various forms, including the restoration of land and allocation of resources. Across Latin America, one of the key demands has been recognition of the land ownership of Black communities.

Amid the brutality of slavery, communities formed by runaway enslaved individuals emerged throughout various regions of Latin America. Often in remote areas, these settlements served as sanctuaries, shielding them from potential captors (Leite 2000). These included cumbes in Venezuela (González Díaz 2013), quilombos in Brazil (Dionisio and da Fonseca Sá 2022), and palenques in Colombia (Escalante 2005). In several of these regions, communities persist to this day. Over centuries, they have embraced and reinforced their ancestral cultural heritage as Afro-descendants, weaving their traditions into a profound connection with the land and environment around them (ECLAC 2018).

In Brazil, their existence challenged the institution of slavery, making them not just a refuge but powerful symbols of defiance and resilience in the face of systemic oppression (Reis 1996). There has been a gradual acknowledgement of the land rights of quilombos (Leite 2000). However, it was only after the promulgation of the Constitution of 1988 that the remnant communities of quilombos were formally recognized (de Magalhães Moreira 2018).

Moreover, Article 68 of the Transitional Constitutional Provisions Act (Ato das Disposições Constitucionais Transitórias, ADCT) of 1988 is particularly significant. It states: "The remnants of the quilombo communities that are occupying their lands are recognized as definitive property, and the State must issue them the respective titles." This article was a landmark in ensuring that quilombo communities had legal rights to the lands they historically had (Custódio and da Silva Lima 2009). Nevertheless, although the Quilombola Program has identified over 3,000 communities, only 40 have been granted land titles. Although the country's 1988 constitution guarantees these land rights, the national government has been reluctant to recognize these territories for years (Gross 2018).

Land rights have been a cornerstone issue for Black communities in Colombia, intertwined with the broader discourse on feminist reparations (Vergara Figueroa and Arboleda Hurtado 2014). Notably, "Africans and their descendants, despite facing unimaginably adverse circumstances, managed to carve out spaces where they could thrive, thereby reshaping their identities." In this journey, land emerged as an integral element of their identity (Lozano Lerma 2016, p. 8). The Afro-Colombian community, primarily situated in areas like the Pacific coastal lowlands, northern Cauca and Valle del Cauca, the riverine regions of the lower and middle Magdalena, and the lower Cauca, hold territories rich in ancestral significance. These lands, characterized by their distinct community structures and local economic systems, have been central to the Afro-descendants' identity (Morales Alonso 2020).

Afro-Colombian Raizal and Palenquera women have been instrumental in leading movements that secured recognition for the ethnic and territorial rights of their communities. Additionally, they have played a crucial role in shaping

strategies to reinforce these rights in alignment with state policies (ECLAC 2018). Notably, the women of *Movilización de Mujeres Afrodescendientes por el Cuidado de la Vida y los Territorios Ancestrales* (Mobilization of Women of African Descent Towards Life and Ancestral Territories) are at the forefront, championing the intertwined liberation of people and nature and underscoring the importance of safeguarding their ancestral lands (Quiñones Torres 2015). They advocate for sustainable environmental practices and seek to free their territories from harmful developmental approaches (Grueso and Arroyo 2007). An activist stated: “Our ancestors arrived bound in chains (...) it’s due to their spirit that we stand here today. We now shoulder a profound historical duty to persevere in the fight for the future of our children” (Mina Rojas et al. 2015, p. 173).

In the late 1980s there was a heightened emphasis on the collective defence of these territories. This culminated in the 1991 Political Constitution with Article Transitorio 55 (AT55), formally recognizing the collective land rights of Black communities (Sánchez, Ortega, and Sánchez 1993). However, challenges persisted despite the constitutional acknowledgement and the stipulations of Law 70; major economic entities in the Pacific often overlooked collective land titling policies. These entities, seeking to advance their interests, frequently found ways around the requirement to consult with Black communities on projects impacting their territories (Ruelle-Orihuela and Caballero-Arias 2017). Afro-descendant communities in Colombia are deeply rooted in solidarity, collective identity, and ancestral traditions, drawing strength from a history of resistance.

### **1.3.1.2. Reparaciones Simbólicas (Symbolic Reparations)**

In effect, the legacies of colonialism and slavery persistently echo the lived experiences of Afro-descendants in Latin America. While tangible reparations have remained an oft-debated topic, the sphere of symbolic redress is increasingly gaining momentum. This intricate tapestry of *reparaciones simbólicas* (symbolic reparations) broadens this scope to include *intangibles* forms of redress such as public apologies, commemorative events, and revisions in educational curricula that more accurately represent the experiences of Afro-descendants (Shepard 2019). Indeed, these draw from the tenets of memory, acknowledgement, and restorative justice, offering nuanced forms of amends that delve beyond the material (Araujo 2017).

One concrete example is establishing a national holiday in Brazil to commemorate the death of Zumbi. Born circa 1655, Zumbi epitomizes the resistance to colonial slavery in Brazil. As the leader of Quilombo dos Palmares in Alagoas, a haven for runaway enslaved individuals, he symbolized freedom and defiance against oppressive colonial forces (Mattos 2007). In the 20th century, Brazil declared November 20 the Day of Black Consciousness (Dia da

Consciência Negra). This national holiday commemorating Zumbi's enduring spirit serves as symbolic reparation and recognition of Afro-Brazilian contributions and challenges (Araujo 2012). However, while the holiday represents a significant symbolic gesture, it is essential to recognize that reparations require comprehensive measures to address systemic racism, inequality, and the socio-economic disparities Black Brazilians face. The Day of Black Consciousness is a step in the right direction, but more substantial efforts are needed to fully address the legacies of slavery and colonialism in Brazil.

In 1992, amidst protests marking the 500th year of colonization led by various civil society organizations, the Network of Afro-Latin American, Afro-Caribbean, and Diaspora Women (*RMAAD or Red de Mujeres Afrolatinoamericanas, Afrocaribeñas y de la Diáspora*) was founded in the Dominican Republic (Busquier 2022). In effect, "it was the first network of its kind in the region, setting the stage for the organizational webs of Afro-Latin American social movements by the end of that decade, forging a transnational alliance of activists" (Laó-Montes 2016, p. 3).

Established in 1994 in Uruguay, the Continental Network of Afro-American Organizations paved the way for subsequent groups, such as the Central American Black Organization (ONECA) in 1995 and the Afroamérica XXI network in 1996 (Agudelo and Lemos 2014). The year 2000 saw the inception of the Afro-Latin American and Caribbean Strategic Alliance. By 2004, a network dedicated to examining and advocating public policies on racial equality was introduced alongside the Coalition of Latin American and Caribbean Cities opposing Racism, Discrimination, and Xenophobia. Finally, 2012 marked the foundation of the Regional Articulation of Afro-descendants in Latin America and the Caribbean (ARAAC) (Agudelo and Lemos 2014). For this reason, this date was then declared the International Afro-descendant Women's Day, also known as the International Afro-Latin American, Afro-Caribbean and Diaspora Women's Day (Alvarez 2000).

Likewise, in Montevideo in 1996, women of the Mundo Afro organization identified a pressing need for housing, particularly for female-led families, within their community. Responding to this, they founded the Ufama al Sur cooperative (Bogado Gesta 2021). This initiative is aligned with governmental affirmative action. It serves as symbolic reparation, resonating with the International Decade for People of African Descent, a period marked by the United Nations General Assembly from 2015–2024 (Malvasio 2004).

Beyond Brazil and Uruguay's borders, the symbolic reparations paradigm spans Latin America, weaving tales of justice, memory, and hope. Symbolic reparations include *justicia histórica* (historical justice), emphasizing the confrontation and rectification of past wrongs to foster a fairer present and future. Central to this is the concept of *memoria histórica* (historical memory). This is more than just recall of past events; it is an active remembrance of what

lingers from our history and how it shapes the present (Arboleda 2002). In contexts like Colombia, this memory does not solely revolve around the scars of slavery but also includes recent human rights violations (Mosquera Rosero-Labbé, Barcelos, and Almario G. 2007).

By recognising and remembering these injustices, society ensures they are not repeated. Moreover, memory informs and inspires new societal endeavours, intertwining with the principles of reparative justice. This justice seeks to restore to victims—viewed through a historical and political lens—what they have lost to systemic violence or extreme marginalisation (Gómez de Mantilla, 2007). Given their historical oppression through slavery and ongoing challenges from conflicts, Afro-Colombians carry the weight of both past and present injustices, making the call for acknowledgement and redress all the more crucial (Arocha 1998).

In addition to commemorating historical figures, symbolic reparations are also carried out through affirmative actions. Accordingly, the Quito Consensus (2007) aims “[t]o implement public affirmative action policies for Afro-descendent women in countries where they are not fully integrated into the development process and for indigenous women as measures of social reparation” (ECLAC 2013, n. p.). It should be noted that “the Brazilian context was presented as a reparatory measure, even though only symbolic” (Araujo 2017, p. 154).

These actions aim not only to prevent present-day discrimination but also to eliminate the persistent effects (psychological, cultural, and behavioural) of past discrimination. These effects manifest in structural discrimination, reflected in significant socioeconomic inequalities between dominant and marginalised social groups (Restrepo 2013).

Within Brazil, it is “an action aimed at providing reparation, compensation, or prevention, intended to address and rectify instances of discrimination” (Reis de Araujo 2017, n.p.). To this end, concrete measures have been implemented, such as a racial quota filling 30% of commissioned posts and positions of confidence. Quotas have also been established for university admissions. It should be noted that these policies are the result of grassroots organisations such as *Movimento Negro Unificado* (Unified Black Movement) and the *Movimento de Mulheres Negras* (Black Women’s Movement). The latter has been instrumental in pushing for policy changes at the national level, ensuring that the rights of Black women are protected and promoted (Almeida Lira 2022).

However, despite these measures, there remains a pressing need for gender and racial justice. Recently, the sitting President, Lula, asserted: “Brazil has not yet reconciled with its 350 years of slavery. Despite all the efforts and progress, this country still has a significant historical debt to address” (Vilela 2023, n. p.).

In many ways, this showcases the “enormous distance between the enactment of legislation and its application” (Araujo 2017, p. 173).

Overall, the annals of history often echo tales of human triumph but equally resonate with narratives of oppression and injustice. Chief among these is the cruel legacy of colonialism and the transatlantic slave trade, which has left an indelible imprint on the Afro-descendant communities of Latin America. The heart-wrenching tales of forced labour, subjugation, and the stripping away of human dignity are not merely footnotes; they shape the lived experiences of these communities to this day. Yet from this crucible of pain emerged stories of incredible resilience, of communities that, despite every adversity, forged identities of pride, unity, and an unyielding thirst for justice. The momentum for Afro-reparations arises against this poignant backdrop. This movement, illuminated by the torch of abolitionist and decolonial thought, fervently champions the cause of restitution—be it in rights, resources, or rightful recognition. Through the prisms of Brazil, Colombia, and Venezuela, this exposition embarks on a journey into the historical undercurrents, present-day struggles, and aspirational horizons of the Afro-reparations movement in the Latin American tapestry.

Brazil's vibrant Afro-Brazilian heritage provides a rich tableau of efforts in the realm of reparations. Notwithstanding the symbolic strides taken, the haunting spectres of history continue to cast their imposing shadows upon the nation's socio-political terrain. The tireless efforts of grassroots crusaders, such as the Movimento Negro Unificado and the Movimento de Mulheres Negras, underscore a relentless quest to confront and counter systemic racism, creating an ethos that equally valorizes racial and gender justice. Yet President Lula's sombre reflections are a stark reminder of the weight of historical debt, emphasizing the intricate and ongoing path toward true reconciliation.

Colombia's story is laced with the enduring scars of slavery, juxtaposed with contemporary human rights breaches, and emphasizing the urgency of addressing historical wrongdoings to sculpt a more just tomorrow. At the heart of this discourse lies the evocative concept of *memoria histórica* (historical memory), a compass that underscores the profound and enduring impacts of past injustices on today's realities. Through this perspective, Afro-Colombians, bearing the twofold burden of ancestral chains and current-day upheavals, stand testament to the critical import of symbolic reparations.

As Latin American nations traverse the intricate maze of their colonial antecedents, the quest for reparations presents a bridge that spans the chasm between a tumultuous past and a future founded on justice, acknowledgement, and healing. In this regard, there is a shared conversation with activists and governmental organisations in the Caribbean.

## **1.3.2. The Caribbean**

The notion that enslaved individuals deserve reparations has been a longstanding sentiment. This perspective is underscored by 17th-century Barbados court documents, where a few managed to secure their hard-fought freedom (H. Beckles 2013). In 1833 the British government set aside £20 million, about 40% of its entire budget, to compensate enslavers (Manjapra 2018). John Quinlan, a surveyor from Saint Lucia, spoke before the 1897 Royal Commission regarding post-emancipation conditions. He championed the cause of reparations, asserting that the formerly enslaved “are entitled to just as much consideration as their masters received 50 years ago” (Soomer 2016, n. p.).

This perspective resonated with Jamaican parliamentarian Henry, who stated “I am asking for the same amount of money to be paid to the slaves that was paid to the slave owners” (Lockhart 2021, n. p.). This massive financial undertaking led to hefty loans whose interest prolonged repayment. As a result, the debt was only cleared in 2015, indicating that modern-day British taxpayers bore some of the financial burden related to the abolition of the slave trade (Lockhart 2021). Thus the reparations debate remains a pertinent issue, transcending historical confines.

Furthermore, the quest for reparations has profound historical resonance in the Caribbean, with political entities and grassroots movements championing the cause (Cullors 2018). Through governmental and non-governmental organizations (NGOs), Black activists ardently counter attempts to silence, downplay, or threaten those working to confront the enduring consequences and amassed wealth stemming from enslavement (Annecka Leolyn 2021).

### **1.3.2.1. Babylon: The Role of Grassroots Organisations**

The Rastafari movement has been at the forefront of advocating for reparations (Andersen 2018), emphasizing its importance long before it gained traction among mainstream middle-class Black communities (Beckford 2022). The chairperson of the Caribbean Rastafari Organization affirmed that “[f]rom the time of emancipation in 1834, our ancestors have been clamouring for reparations. (...) the Rastafari nation from its inception has been appealing for reparations, and up to today, we are on that platform” (Kentish 2021, n. p.).

Central to their advocacy is the call for repatriation, viewing the return of Diasporic Africans to their ancestral homeland as a core element of reparations and a response to the trauma of forced displacement (Shepherd and Reid 2019). Beyond financial compensation, they stress the spiritual and psychological healing that comes from reconnecting with Africa. Influenced by a Pan-African ethos, the Rastafari view all Black individuals as Africans, underscoring the collective return to the “fatherland” as a form of restorative

justice (Barnett 2019). This holistic approach to reparations showcases Rastafari's influential role in the broader reparations discourse.

The concept of Babylon has roots in Rastafari activism since the 1930s and is intrinsically tied to the broader discourse on reparations and restorative justice. Rastafari's perceptions of Babylon encompass not only past colonial powers but also contemporary institutions perpetuating oppression (David-Delves 2015). The call for repatriation by seeking redress for historical wrongs is a vital aspect of the Rastafari movement (Shepherd and Reid 2019).

Barbara Makeda Blake-Hannah, in addition to her involvement with the Rastafarian movement, founded the Jamaica Reparations Movement in 2001. Reflecting on the legacy of slavery, she remarked: "The only thing Britain has given us as reparations is the cruel history of slavery" (Blake-Hannah 2021, n. p.). This sentiment was further solidified after she participated in the UN World Conference Against Racism, which identified 19 forms of reparations that should be provided by countries responsible for the grave injustice of slavery (Blake-Hannah 2021). Shepherd (2014) underscores the significant role Blake-Hannah played in shaping women's involvement in the reparations movement and advocating for the rights and respect of the Rastafari community (Shepherd 2014). While her contributions are noteworthy, her leadership is also influential. Many women in Jamaica, some directly inspired by Blake-Hannah, persist in advancing the movement (Shepherd 2014).

Grassroots organizations, particularly within the Rastafari movement, have been pivotal in championing the cause of reparations. Their emphasis on repatriation beyond mere financial compensation and on spiritual and psychological healing through reconnection with Africa, highlight a comprehensive view of restorative justice. Through their tireless advocacy they illuminate the deep-rooted trauma of forced displacement and colonization that still impacts communities today. Leaders like Barbara Makeda Blake-Hannah serve as a beacon, demonstrating that persistent advocacy and emphasis on inclusivity within the movement ensures that reparations remain a central conversation in the journey toward justice and healing.

### **1.3.2.2. Reparative Justice: CARICOM**

The call for reparations soon found state support. In 2004, Haiti, recognized as the first Black republic in the Western Hemisphere, initiated a reparations campaign against France. This move played a significant role in prompting the formation of Caribbean Community and Common Market (CARICOM) (Cullors 2018). Since its establishment in 2013, the CARICOM Reparations Commission has vigorously sought redress for Native Genocide and African Enslavement from various former European colonial powers (Strecker 2017). These include the United Kingdom, France, Spain, Denmark, Germany, the Netherlands,

Portugal, Norway, Sweden, and Switzerland (Caricom Reparations Commission 2020).

The concept of *reparative justice* broadly encompasses the idea of "remedying harm" and instituting symbolic and tangible redress measures (Agozino 2021). Indeed, the UN's human rights chief, Michelle Bachelet, has asserted that "[b]ehind today's racial violence, systemic racism, and discriminatory policing lies the failure to acknowledge and confront the legacy of the slave trade and colonialism (...) [to] make amends for centuries of violence and discrimination, including through formal apologies, truth-telling processes, and reparations in various forms" (Mogoatlhe 2020, n.p.).

In the Caribbean context, such measures are seen as critical investments in the infrastructure of Caribbean societies. Central to the Commission's agenda is the connection between core development issues in the Caribbean and the enduring structural damage arising from patterns of inequality ingrained by slavery and its enduring aftermath (Caricom Reparations Commission 2016). Indeed, CARICOM "maintains that there is an unpaid and outstanding debt for over 200 years of free labour, that fueled two industrial revolutions and a quantum leap in development in Europe, while simultaneously under-developing the nations of the Caribbean" (Caricom Reparations Commission 2020).

The present landscape of international debt is inextricably linked to the lasting imprints of European colonialism. Governed predominantly by English law, much of today's international debt is structured in a way that tends to favour creditors (GADN 2023). This bias extends to influential global economic entities such as the World Bank and the International Monetary Fund (IMF), whose decision-making frameworks lean towards the interests of wealthier nations (Hickel 2020). The inequality is further exacerbated by voting procedures within these institutions, granting disproportionate influence to affluent countries, thereby reinforcing a system that echoes past inequities (Karns and Mingst 2004). Thus reparations are not seen as isolated actions but rather as collective initiatives for the benefit of the entire society. These initiatives aim to offset social and economic disadvantages and counteract racial discrimination faced by the Afro-descendant population in the Caribbean.

The ultimate goal is to establish programs that boost societal wellbeing through infrastructure investment in education, health, and culture. Furthermore, it advocates for the transfer of technology and knowledge, along with the abolishment of external debts (J. Torres 2018). The responsibility of addressing the ongoing impact of the atrocities and injustices borne from slavery extends beyond the borders of the Caribbean, necessitating that European governments shoulder a larger share of historical accountability. This outward-oriented strategy, underscored here, is nonetheless complemented by essential dialogues on internal issues within Caribbean countries (Rauhut 2021).

CARICOM's reparations initiative is also a bold step towards addressing the enduring legacies of slavery and colonialism in the Caribbean (Esposito 2019). Rooted in the understanding that the racial victimization of the descendants of slavery and genocide remains a significant cause of their contemporary challenges, the plan seeks to rectify these historical injustices (H. Beckles 2013). Staceyann Chin (2013) poignantly captured the essence of this movement, stating "[p]eople need an apology, they need acknowledgment of what happened, and they need the acknowledgment of how it has affected them generation after generation" (Lockhart 2021, n. p.).

The reparations framework proposed by CARICOM challenges the remnants of formal colonialism and addresses the ongoing forms of imperialism in the Caribbean. As highlighted by Figueroa-Vásquez (2020), these demands are rooted in historical and political wrongdoings, with principles that resonate in other colonial contexts (Figueroa-Vásquez 2020). Indeed, CARICOM nations are expanding their reparations efforts beyond the Caribbean. These countries are forging stronger ties with reparations advocates in Africa, fostering South-South collaboration and amplifying the collective voice against historical injustices (Lockhart 2021).

Nevertheless, reparations, while often perceived through the lens of economic compensation, encompass a much broader spectrum of redress and healing. CARICOM's approach to reparations aligns with this holistic perspective, emphasizing community-focused responses. As highlighted by the co-founder of Black Lives Matter, Cullors, the essence of reparations lie in its "community-driven and -centred responses". She advocates for reparations that address economic imbalances and foster healing within communities, using tools like arts, culture, language, and health services (Cullors 2018, p. 1687).

The historical trauma of slavery and colonialism has left an indelible mark on present-day societies (Soomer 2016). The racial terror of slavery, built on racial and gender hierarchies, has perpetuated deeply rooted anti-Black systems of brutality. This legacy underscores the importance of a reparations movement beyond mere financial compensation, focusing on holistic healing and redress (Beckford 2022).

Figueroa (2015) further emphasizes the need for "decolonial reparation". Reparations should aim to transform both the ideologies and structures of coloniality. This means that while material reparations are crucial, they must be complemented by efforts to dismantle the lingering ideologies of colonialism (Figueroa 2015). Hence, while economic reparations are ethically and morally justified, they alone cannot address the profound psychological and psychosocial impacts of colonialism (Figueroa-Vásquez 2020). The enduring systems of dehumanization, born from centuries of colonial oppression, necessitate a reparations approach that prioritizes healing and decolonization at its core (Figueroa-Vásquez 2020). In essence, true reparatory justice requires

a comprehensive approach that addresses both the material and non-material wounds of the past.

### **1.3.3. Towards a Holistic Reparative Framework: Missing Gender**

Reparations, in recent times, have taken centre stage in discussions about justice, acknowledgement, and societal transformation. These compensations, whether financial or material, to marginalized communities, symbolize recognition of past injustices, aiming to bridge historical gaps (Saavedra Álvarez 2013). In this regard, reparations can be more than mere redress. They can represent an avenue for marginalized individuals to regain their diminished dignity and articulate long-silenced political concerns (Rubio-Marín 2006).

However, the scope of reparations extends beyond just legal restitution. Some scholars advocate for a broader interpretation of reparations (Greiff 2006b). Apart from fulfilling legal obligations, reparations should facilitate societal recognition of historical wrongdoings, enhancing mutual trust among diverse communities and fostering societal harmony (Kymlicka and Bashir 2008). This all-encompassing view accentuates the transformative potential of reparations in healing societal wounds and charting a path based on “recognition, civic trust, and social solidarity” (Greiff 2006a).

The contemporary emphasis on reparations mirrors a worldwide movement towards amending historical injustices. As the global community grows more reflective, there is amplified emphasis on confronting and addressing historical misdeeds. Thus reparations emerge as a means of restitution and a tool to shape a more inclusive society.

Nevertheless, a pivotal aspect often overlooked is the gender nuance, especially relating to the historical adversities women face. Despite the inclination of contemporary reparations discourse towards broader societal change, it frequently neglects the correlation between current gender-based violence and historical transgressions (Nagy 2010). This oversight undermines efforts to address women’s rights, highlighting the need for a gender-focused approach. Such an approach should encompass individual redress for women and tackle entrenched social injustices using an intersectional perspective (Guillerot 2009).

For this reason, feminist reparations emphasize the necessity to address both individual harms experienced by women and broader gender disparities. Advocating for remedies that go beyond individual reparations and seek societal change presents challenges, mainly because the link between contemporary gender-based violence and historical injustices is often

underemphasized (Nagy 2010). This gap strengthens the call for a gender-focused approach to reparations.

Feminist theories on reparations propose a more dynamic, process-oriented stance. They stress the intricate identities of women, portraying them not just as solitary victims but as integral community contributors (Painter 2012). These theories advocate for a dual-focused vision that addresses past wrongs and propels societal progress. The feminist perspective on "repair" calls for broad societal changes, ensuring that the discourse on reparations does not merely remain a retrospective endeavour but paves the way for a more inclusive future (Painter 2012).

The pressing issue of reparations for slavery is an ongoing global discussion. While several arguments centre around the racial aspect of the injustice, there remains a noticeable gap in acknowledging the suffering faced by enslaved women. For instance, despite its advocacy for reparations, CARICOM has not adequately addressed gender-specific aspects of slavery. As of now, *"in its demands for repair, gender consideration is mute"* (Beckford 2022, n. p.). This predominantly gender-neutral stance overlooks the intensified hardships enslaved women faced owing to racial and gendered discrimination.

It is crucial to highlight that after the abolition of slavery, women were more numerous than men, further underscoring the need for a gendered perspective for reparations (Beckford 2022). Hence a *"gender- and sexuality-conscious analysis of the political and economic causes and effects of antiblack violence adds an element that is missing from many reparations arguments"* (Balfour 2015, p. 683). By neglecting the combined challenges enslaved women confronted due to race and gender biases, the reparations dialogue remains only partially addressed.

As articulated through various terminologies, the intricacies of reparative discourse underscore the multi-dimensional nature of historical injustices. The terms, rooted in distinct cultural, historical, and regional contexts, collectively weave a narrative that highlights the gravity of past atrocities. While these terms serve to amplify the voice of the marginalised, they also reveal gaps in the overarching discourse, especially concerning the experiences of Black women. It becomes evident that there is a pressing need for terminology that encapsulates the specificity of gendered reparations, addressing the unique intersectionality of race and gender.

The lexicon of reparations, though diverse, often lacks the depth needed to understand the profound experiences of Black women, who endured both racialised and gendered forms of oppression. Their experiences, marked by systemic violence, marginalisation, and pervasive denial of their gender identities, demand a distinct space within the reparative framework. Their stories, intertwined with themes of resistance and resilience, need acknowledgement in ways that transcend generic reparative terminologies. For

reparative measures to be truly effective, they must be grounded in an intersectional framework that accounts for multiple axes of identity and oppression. By interweaving the discourses of race and gender, such an approach calls for reparative measures as multifaceted as the damages inflicted. It emphasises the urgency of cultural, economic, psychological, and, notably, gendered redress.

Mapping literature through a decolonial lens broadens this discourse. It offers an opportunity to delve deeper into intertwined legacies of gender, race, and justice. Embarking on such an endeavour advocates for a reparative framework not solely focused on rectifying past wrongs but which also seeks to build a just, inclusive, and holistic future. The experiences of Black women, marked by their dual marginalised status, lie at the heart of this framework, underscoring the necessity of a reparative praxis that resonates with their unique histories and challenges. Reparations can only address, remedy, and heal through a comprehensive and inclusive approach.

Overall, the global discourse on reparations traverses a spectrum of historical and contemporary concerns, spanning the legacies of the transatlantic slave trade to present-day inequalities. Its foundational understanding is rooted in acknowledging past atrocities and the imperatives of restitution, redress, and emancipation. While the call for reparations can be traced back to the very era of enslavement, contemporary dialogues have evolved to encapsulate nuanced dimensions of justice that span beyond mere financial compensation.

Within the Latin American and Caribbean landscapes, reparations touch upon the tangible and intangible, highlighting the need for restitution of assets, acknowledgement of historical wrongs, and mending sociocultural relationships. The principles of *justicia reparativa* and *justicia histórica* further underline the interconnectedness of the past and present, emphasising the need for active remembrance and societal acknowledgement.

In this matrix of reparative justice, a stark gap emerges: the absence of a robust framework focusing on gendered reparations for slavery. The use of terminology like “gendered terror” and “racial terror” provides a profound understanding of the layered experiences of enslaved Black women, revealing the intersectionality of race and gender in historical oppression. These terms spotlight the multifaceted challenges and violations these women endured, which are often overlooked in broader discourses on reparations. Their experiences, owing to a confluence of gendered and racialised oppression, demand a unique reparative framework that recognises and addresses these multiple marginalisations. The introduction of a concept or framework dedicated to gendered reparations for slavery would serve to fill this gap, ensuring that the experiences of Black women during the era of slavery are addressed with the specificity and sensitivity they deserve. Such a framework

would not only expand the contours of reparative justice but also reflect a deeper, intersectional understanding of historical wrongs.

The overarching theme connecting these discourses across continents and histories is the deep-seated need for acknowledgement, redress, and a commitment to justice. Reparations, therefore, are more than mere compensatory actions; they are emblematic of global aspirations for equity, restoration, and a collective commitment to a future free from the shadows of historical injustices. Adding gendered reparations for slavery to this mosaic reinforces the importance of an all-encompassing approach to justice that leaves no narrative behind.

## **1.4. Gaps in Research**

In spite of the historical, legal and feminist scholarship on the question of gendered reparations, there are still significant gaps in the literature. For instance, there is a need for research to delve into understanding gendered leadership and the intersectionality of reparations and climate justice. The role of enslaved women, who leveraged legal instruments to resist oppression and improve their conditions, is often overlooked in historical narratives (González Esparza 2020). Similarly, the instrumental contributions of women, especially from the Pan-African movement, to the quest for reparatory justice are frequently diminished (Adi 2019).

Meanwhile, a forward-looking perspective on reparations in climate justice discourse focuses on constructing an equitable and sustainable future (Táiwò 2022). Numerous grassroots organisations and non-state actors emphasise the inseparability of climate and racial justice. However, their impact on policy decisions within institutions like the African Union and CARICOM has been inadequately recognised (Nutti 2023). These research gaps necessitate a more inclusive study of slavery, reparations, and climate justice, underscoring the importance of a holistic understanding in evolving more equitable future policies.

### **1.4.1. Gendered Leadership**

It should be noted that in spite of the decades since “the call for gendered histories was first sounded ... women continue to be invisible in most histories of organised slave protest” (Finch 2014, p. 114). Furthermore, “selective historical amnesia militates against serious reflection on the continued impact of the trade on the lives of Black women. The national historical lacuna is partly the product of myopic Eurocentric historical studies in schools and universities” (Beckford 2022, n. p.).

Nevertheless, some academics have emphasised the study of individual experiences "from below" (González Esparza 2020). Within Latin America, this approach has highlighted specific instances of enslaved individuals, particularly women, who utilised legal mechanisms to mitigate their mistreatment and improve their living conditions (González Esparza 2020). It acknowledges that manumission, the act of an enslaver freeing an enslaved person, was not merely a concession from masters or an economic decision, but also a testament to the determination and resilience of enslaved women (Regalado 2015). This has contributed to a reimagining of social and legal history, one in which the agency of enslaved women is given prominence (Martín Casares and Perriñez Gómez 2014).

Similarly, it is imperative to shift away from the usual stories that highlight mainly male-driven uprisings or focus on "the ungendered slave collective as a primary historical actor". Credit should be given to enslaved women's significant roles in these revolts (Finch 2014). Moreover, rethinking resistance should place women at its core. This viewpoint not only celebrates the visible actions but also unveils the subtle endeavours of enslaved women in resistance efforts (Fuentes 2016). Fundamentally, this approach spotlights the varied leadership capacities of enslaved women in uprisings, pushing back against traditional male-centric tales and stressing the need to value and foreground their roles in the history of collective defiance.

In Colombia, Cuba (Chira 2021), Brazil, and the Caribbean (Shepherd, Brereton, and Bailey 1995), Black women emerged as prominent voices in the demand for financial and material reparations for slavery. Despite being denied voting rights, facing social and economic exclusion, and having limited access to education, these women were often the linchpins of their communities (Cruz Castillo and Baracaldo 2019). They viewed pensions and land as resources that could give them some autonomy. In essence, these women were champions of reparations long before the concept gained broader recognition (Araujo 2017).

The recognition of women's contributions to the struggle against slavery is not limited to the past (Matthews 2017). Black women have played instrumental roles in the pursuit of reparatory justice (Busby 2019). Their involvement and contributions, however, have frequently been overlooked or diminished (Adi 2019). Particularly noticeable is the engagement of Rastafari women in the Caribbean reparations effort (Ramsay 2022). These women have been at the vanguard of the movement (Barnett 2019), integrating aspects of third-wave feminism into their activism. They recognise that oppression based on gender is shaped by variables such as geographical location, age, race, class, and disability. The modern Rastafari woman embodies a fluid, hybrid identity that can be self-moulded, challenging traditional gendered norms and expectations within the movement (David-Delves 2015).

Likewise, even the Economic Commission for Latin America and the Caribbean has pointed out that “research should be undertaken in order to better understand the role of Afro-descendent women in the fight to defend their communities and territories since it is clear that these women are at the forefront of their communities’ struggle to survive and to preserve their culture” (ECLAC 2018, p. 48).

In summary, the role of women in resisting slavery and advancing the cause of reparatory justice, both in the past and present, is instrumental. Thus the concept of gendered leadership offers an essential lens through which to examine the struggle against slavery and the ongoing fight for reparations.

## **1.4.2. Reparations and Climate Justice**

The discussion around reparations for slavery has taken a new turn in recent years, with a shift in focus from addressing historical wrongs and present disparities to envisioning a better future. This fresh perspective suggests that reparations should be future-oriented, aiming to address climate change and the equitable distribution of resources (Beltrán Barrera 2022). This constructive approach posits that reparations should create a more equitable world, with those who bear the moral burden of past injustices contributing more to this effort (Táíwò 2022).

Recognizing climate change as an issue of reparative justice resonates with several grassroots movements and organisations. Stop The Maangamizi: We Charge Genocide/Ecocide Campaign (SMWeCGEC), a Pan-African advocacy group and part of the International Social Movement for African Reparations (Nutti 2023), contends that climate justice cannot be achieved without addressing the continuing injustices suffered by African people, both on the continent and in the diaspora (Schwarz 2022). This perspective is supported by non-state actors, including grassroots educational organisations, trade unions, peasant farmers’ unions, cooperatives, community formations, women’s, youth and student organisations, networks, and campaigns. These groups emphasise the inseparability of climate and racial justice and are pushing for their intersection to be recognised in reparations discourses (Táíwò 2022).

In summary, the concept of reparations is evolving, shifting from addressing historical wrongs to constructing a more equitable and sustainable future. This approach recognises the intertwining of climate change and racial justice and calls for a more significant contribution from those who bear the moral burden of past injustices towards creating this equitable world. The role of grassroots and non-state actors in this evolution and their impact on policy decisions within institutions such as the African Union and CARICOM cannot be overlooked.

Understanding slavery, reparations, and climate justice requires a comprehensive approach that acknowledges and addresses the underrepresented perspectives of gendered leadership and the interlinking of racial and climate justice. Recognising the pivotal roles played by women, both in the historical context of slavery and the present fight for reparations, is essential. Similarly, incorporating climate justice into reparations discussions bridges the gap between addressing historical wrongs and constructing a sustainable, equitable future. This integrated perspective can inform future policy decisions, ensuring they are grounded in an inclusive, ethical framework that respects the lived experiences of those most affected by these interconnected issues.

## **Conclusion**

Evidently, the legacies of colonialism and slavery are not mere historical footnotes but enduring realities that continue to shape contemporary socio-political landscapes, especially in regions like Latin America and the Caribbean. This exploration underscores the imperative of reorienting our academic and societal perspectives, ensuring they are both inclusive and representative. The reparations discourse is not a monolithic or static conversation; rather, it is a dynamic and evolving dialogue that intersects with various domains, from legal frameworks and political activism to cultural memory and historical scholarship. The diverse manifestations of reparations, whether symbolic or tangible, are emblematic of the multifaceted aspirations of historically marginalised communities.

One of the most poignant revelations of this study is the often-overlooked resistance exhibited by enslaved women. The narrative of reparations is intertwined with tales of resistance. An undeniable defiance persisted throughout history: a steadfast refusal to accept inhumanity, evident through escape, litigation and rebellion. Centring these narratives contests established historiographical paradigms and paves the way for a more holistic understanding of resistance, agency, and emancipation.

The decolonial lens serves as a potent tool for academic introspection and critique. It demands a departure from traditional epistemological frameworks, urging scholars and readers alike to engage with historical narratives and modern-day reparations in ways that are cognizant of the complexities of gender, race, and justice. The intersectionality of these domains, especially in the context of Black women's experiences, offers invaluable insights into the broader reparations discourse, emphasising the need for a reparative framework that is both responsive and restorative.

Overall, this scoping study is more than an academic exploration; it is a clarion call for societal introspection, justice, and equity. As we navigate the

complexities of the 21st century, marked by its own set of challenges and inequities, the lessons gleaned from this work remain profoundly relevant. The quest for reparations extends beyond merely redressing historical injustices; it involves envisioning and striving for a future anchored in justice, dignity, and mutual respect. Indeed, the author and activist Ta-Nehisi Paul Coates pointed out that reparations are “more than recompense for past injustices (...) What I’m talking about is a national reckoning that would lead to spiritual renewal” (Coates 2014, n. p.).

In conclusion, our shared responsibility is not merely about answering this call; it involves the active commitment to embed an intersectional perspective within reparations discourse, a view that is deeply rooted in decolonial feminism. This suggests an essential shift in the framing of reparations, from a single-layered and often unilateral perspective, towards a more complex, multifaceted interpretation that accounts for the varied and intersectional experiences of the historically marginalized and oppressed.

As we chart a way forward in these discussions, our collective task is to strive for a comprehensive understanding of reparations profoundly embedded in decolonial thought and gender justice. Such a perspective would not only provide a broader and more nuanced understanding of the past, but it would also have the potential to guide our steps towards a more equitable and inclusive future. By centring the voices, experiences, and aspirations of communities that have long yearned for redress and recognition, we can hope to reorient the reparations discourse towards a more holistic and justice-oriented framework.

Consequently, the echoes of history should not only stand as markers of past injustices. A pressing need exists for societal transformation, championing a culture prioritising memory, accountability and justice. Driven by this ethos, our academic pursuits should persistently aim to reveal, comprehend, and weave these intersectional stories into the vast mosaic of our collective narrative. Through this approach, we aspire to forge a future that genuinely reflects the principles of justice, equity, and the deep connections of our shared humanity.

## 2.

### Reparations in South Africa

#### 2.1. Conceptualisation of Justice Through Global Norms

Globally, the Rome Statute – the foundation document of the International Criminal Court (ICC), remains a guide to what justice can look like, particularly for countries that are its signatories. Whilst mostly known for its legal cases, the ICC uses a hybrid model of retributive justice as well as reparative/restorative justice mechanisms for victims (Durbach & Chapelle, 2014).

The word and use of the terminology *reparations* or *restoration* in transitional justice debates continues to hold various shapes and meanings in different contexts. Desmond Tutu, in speaking about the South African Truth and Reconciliation Commission (of which he was Chair), crudely distinguished between retributive and reparative justice when, speaking about amnesty, he stated:

Certainly, amnesty cannot be viewed as justice if we think of justice only as retributive and punitive in nature. We believe, however, that there is another kind of justice—a restorative justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships - with healing, harmony and reconciliation. (TRC Report 1998, n. p.)

Durbach and Chapelle note three key aspects of the ICC reparation mechanism, modelled after the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law. These are restitution, compensation, and rehabilitation. In addition, Durbach and Chapelle draw attention to two other key factors found in the ICC on reparation, namely

satisfaction (i.e. acknowledgement via public apologies, judicial and administrative sanctions, commemoration etc.) and guarantees of non-repetition (i.e. broad institutional reforms, such as civilian control over military and security forces ... and strengthening judicial independence etc.). (2014: 546)

What remains an issue with pushing for reparations at international level, including bodies such as the ICC, also holds true at most regional, national, community and individual levels. International institutions such as the ICC

struggle to see justice reform leading to transformation despite it being articulated as a priority focal area in policy. Bridging the gap between what is articulated in policy, and implementation, is often difficult. Furthermore, the business of justice remains male-dominated, such that both retribution and reparations lack a gendered component and advocates within in the space. For instance, the Department of Justice, in their StatsSA Gender Series (October 2017), reported low representation of females in the South African justice system, where less than a third, i.e. 27.3%, of employed Supreme Court judges or advocates are female (statssa.gov.za).

Researchers such as Gade (2013) would argue that both retributive and reparative justice are not new mechanisms throughout the African continent, nor should they be solely conceptualised and understood through global institutions such as the ICC or the UN, or events such as the TRC. The author notes that principles of retributive justice, i.e. *umthetho* (the law), as well as restorative justice referred to varyingly in local language terminology, such as *ukulungisa* (to repair or restore), have deeper historical roots in African indigenous justice systems and practices. Institutions or gatherings referred to locally as *inkundla* or *legotla* serve as group mediation and reconciliation forums. Therefore principles such as *ubuntu* (humanity) have always been about healing and community cohesion.

As such, extending reparations in South Africa (and continentally) requires a deep enquiry into the conceptualisation, languaging and practice of local/community justice norms and indigeneity, and to incorporate this more meaningfully into reparation conversation, especially as this usually touches on public life and holds relevance. In this way reparative justice could become transformative and useable.

## **2.2. South Africa's Historical Context: The Short Apartheid Past**

There are various arguments to be made for extended reparations to address South Africa's political and socio-economic, as well as gender injustice. Amongst other debates, a practical way towards fulfilling this would be considering a longer historical lens of South Africa's past, over and above apartheid (i.e. *apartness*), including holding colonisation to account for injustices and for financially profiteering off the country. Later in this scoping study, we refer to the example of the Khulumani Support Group, whose legal recourse against several multinational companies not only holds former colonies to account but has proceeded to take key institutions to court (unfortunately without success) for profiting from doing business during colonial and apartheid oppression, and financially benefitting from this.

The reparation agenda in South Africa, through mechanisms such as the Truth and Reconciliation Commission (TRC) has emphasised addressing the violence, violations and injustice experienced during the apartheid era (1948 to 1994). Whilst it is generally accepted that apartheid was a crime against humanity, this 50-year window is a notably narrow lens from which to conceptualise the generational and racial legacies that underpin the nation. Apartheid is most associated with the governance of Prime Minister Hendrik Frensch Verwoerd, who formerly served as the National Party's (NP) Minister of Native Affairs from 1950–1958 (Breckenridge 2005). His reign included the promotion of White Afrikaner nationalism and segregationist policies which severely impacted the Black populace - Coloured (mixed persons), Asian (Indian and Pakistan) and African persons - all categorised through a race classification board (Makubalo 2021). These were enforced through various forms of violence, particularly against the majority African citizens, and fortified pervasive underdevelopment.

Policies such as the Group Areas Act of 1950 and the Native Resettlement Act of 1954 encouraged forced land removals for Africans. Prominent examples of forced resettlements in the urban areas include District 6 in Cape Town, Cato Manor in Durban, and Sophia Town in Johannesburg. The Promotion of Bantu Self Government Act of 1959 set up the Homelands, also referred to as Bantustan or Reservation Settlements, resulting in African populations being confined to rural neglected geographical areas (Beinart 2012). The Bantu Education Act of 1953 administered an inferior education system, mostly confining African vocational lives towards becoming a race-specific cheap supply of domestic, mining, industrial and agricultural labour - in the process denying them economic advancement (Makubalo 2021). Those living within peri-urban and inner-city townships were strongly policed and required to carry a Bewysboek/Dompas to justify their presence in the metropole as African labour - including women, to whom it also became obligatory to carry these in the early 1950s (Ramphela 1989). Notable feminist author Miriam Tlali's offering *Muriel at Metropolitan* - considered the first novel written by a black woman and published in 1975 - provides insight into living in Johannesburg in this time, as well as detailing the struggle associated with passbooks and overall apartheid oppression. In similar vein, Keorapetse Kgositsile's poem *Anguish Longer than Sorrow* (1976) detailed apartheid legacies - amongst others, passbooks for African women.

The landmark National Women's Day celebrated in South Africa annually on 9 August sees the commemoration of women from different backgrounds who fought against pass laws (also referred to as passbook feminism) and raised awareness against apartheid along with advocating for women's rights. As a result, the apartheid struggle draws attention to leaders such as Ida Mntwana, Lillian Ngoyi, Ruth First, Helen Joseph, Rahima Moosa and Sophie Williams De Bruyn, who sustained feminism and demonstrated women's collective action and intersectionality. They were united by institutions such as the Federation of

South African Women (FSAW or FEDSAW), established in 1954, and the Black Sash, established in 1955, whose convening power and advocacy resulted in women playing a seminal role in the apartheid struggle. Notably, the role of women in different capacities is an integral part of the apartheid struggle, but sadly, apartheid reparations remain in the male domain and are guided by patriarchal offices, including customary ways of doing. In the TRC, women came mostly as witnesses or victims, whose testimonies were confined to their fathers, brothers, sons – never about themselves (Dube 2002). This was seen most prominently in the testimonies of the wives of the Craddock Four, whose own activism and need for reparative justice was never addressed, and whose presence in TRC convenings was solely used to tell the stories of the community (Ndlovu 2021).

Therefore, even whilst advocating for extended reparations over a longer historical lens, the above discussions show that within the shorter apartheid history, the extension of gendered reparations remains unaddressed, and should be prioritised. Furthermore, gendered reparations, amongst other aspects, should speak to the impact of apartheid on socio-economic livelihoods.

Statistics South Africa continually monitors and highlights the pervasive legacies of apartheid in the nation, including intergenerational poverty and unemployment, specifically addressing the fact that women remain most vulnerable to apartheid legacies as experienced in the labour market, with unstable jobs which keep them a) unemployed for much longer periods than their male counterparts; b) preoccupied with reproductive labour roles; c) earning less salary for similar work, and d) not getting management roles in the workplace ([www.statssa.gov.za](http://www.statssa.gov.za)). Mamphela Ramaphela (1989) reiterates these legacies, particularly rural to urban migration during apartheid, across gender, and how hostel living and long absences impacted upon family life. There are also gender disparities towards access to land and productive assets as women's property rights were denied to African women, who were legally classified as 'minors' during apartheid, under the guardianship of fathers, husbands and brothers. Even within hostel settings, women labourers who squatted in male-dominated quarters (mostly with their partners) were not bed-holders (the highest form of hostel occupancy) but slept on floors illegally. They owned no property and were constantly dependent on and subservient to male counterparts (bed-holders) for survival (Ramphela 1989). This was major activism advocacy for FEDSAW and is reflected in their 'Women's Charter' of 1955 which, significantly, is now incorporated into the South African freedom charter, stating that the lack of access to property rights and inheritance remains a major gender injustice whose reparations go unaddressed.

## 2.2.1. Addressing the ‘Short Apartheid Past’ through the TRC

The Truth and Reconciliation Commission was the mechanism set up to encourage national healing as well as reconciliation amongst South Africans, and to offer victims reparations for and rehabilitation from apartheid (Durbach & Chappell, 2014). According to Buur (2002), the 1995 Promotion of National Unity and Reconciliation Act 34 (commonly referred to as the TRC Act) set aside the following repatriation policies:

- a. urgent interim repatriation to address immediate-term needs in the post-apartheid era
- b. 17 000 individual repatriation grants which were a financial offering (estimated at R30 000 00)
- c. symbolic and community repatriations
- d. community rehabilitation programmes
- e. institutional reforms and various attempts to address racial injustice

A budget for reparations was set aside, but as of November 2022 almost two billion ZAR of TRC reparation money remains unspent, with very few victims and communities having received the promised allocations (Herron 2022). Various advocates and institutions, such as the Institute for Justice and Reconciliation (IJR) and Khulumani Support Group, amongst myriad others, have held the current government to account for lacking state integrity and for not taking reparations seriously, including loaning TRC repatriation funds for parastatal bailouts and diverting community monies to municipal infrastructural projects.

Another criticism associated with the TRC – regardless of its ambitious reparative mandate, and pool of funds available – is its deliberate short memory or selective amnesia. In planning the South African TRC, the National Party, along with the African National Congress, confined the period of enquiry from 1960–1990 and focused on politically motivated human rights abuses, thus limiting the types of cases that could be followed up (Buur 2002).

In the TRC, gendered issues (usually related to SGBV) were mostly categorised as ‘ordinary violence’ or private matters (i.e. criminal acts), but not as committed by perpetrators with a political objective (Durbach 2016). Gender, as addressed through the socioeconomic rights category, was subsumed into the development discourse, and was therefore often set apart from the prioritised political and civil crimes (Arbour 2007). Feminist author Gloria Emeagwali (1988) has continuously drawn attention to the lack of a significant and critical female presence in African historical narratives and historiography. Helen Bradford (1996) argues that the common tools used to examine history have been race and class, but there is in fact a large intellectual benefit to be gained

when gender and feminist contributions are incorporated into every facet of politics and history, as it would transform our vision of the past.

There continues to be a lack of gender inquiry and transformative reparation, particularly the understanding that colonialism and apartheid were gendered and need specific reparative efforts.

### **2.2.2. The Khulumani Support Group (KSG): Reparations from Multinational Corporations**

The Khulumani Support Group, formed in 1995 and now with over 100 000 members, remains one of South Africa's oldest existing social movements. The KSG came into existence directly because of Apartheid and the TRC (Makubalo 2021: 6). The author highlights that the movement was borne out of the extreme need of apartheid victims and survivors to periodically convene and speak out or talk (*khuluma*) about their experiences, and in many cases address traumas and healing. *Khuluma* – a Nguni word, and its deviation *Khulumani*, are vernacular archives deliberately languaged, and showing the public culture and conceptualisation around memory, occupying space, having voice, and being included. It should not come as a surprise that KSG follows a strong racial and gendered reparative thread, largely because of its representative formation across gender and class.

Amongst other concerns, the KSG felt that the TRC was not strategically providing a platform for people to seek redress, and therefore supported individuals and communities to come forward and prepare their testimonies for admission to the commission (Makubalo 2021). Of note was KSG's stance towards African gendered narratives, which were missing, and KSG sought to fill these gaps through, among other aspects, their representation. Pamela Dube and Thandi Shezi (ANC cadres) write about their testimonies at the women's hearings in 1997, noting that their stories of sexual violence were a much-needed component of the TRC ([www.justice.gov.za](http://www.justice.gov.za)). They testified despite the social stigmas and public humiliation (including from the ANC) that they experienced in the aftermath. Their transcripts (as a living written record) remain on the public domain on [www.justice.go.za](http://www.justice.go.za). KSG advocated for them to have an opportunity to speak out, if only sometimes, against their male ANC (Umkhonto we Sizwe) cadres. Durbach (2016) laments that some women in key ANC political leadership positions and who fought the guerrilla war continue to protect fellow males whom they lived with and who may have violated them in camps. By not speaking out (at such seniority), they do not hold their counterparts to account for their violations and instead become a part of the silence.

The women's hearings were part of the special hearings that were added to the TRC agenda at a later stage (in 1997) to include (mostly African) women's

narratives after lobbying for a gendered dimension to the TRC. Three women's hearings were conducted in the aftermath, albeit hurriedly, as a box-ticking exercise (Durbach, 2016). Unfortunately the women's hearings overly focused on sexual violence at the hands of the National Party Security personnel, to the neglect of the various intersectional issues that can constitute gender reparations (Durbach 2016). For instance, LGBTQI+ narratives were not explored. In addition, land reparations and climate justice as gendered issues were a missed opportunity.

The fight against multinationals who profited from apartheid, particularly the mining, oil, armaments, banking, transportation, technology, agriculture and domestic labour sectors, saw the *Khulumani et al. v. Barclays National Bank Ltd.* (2nd Cir. 2007) case filed to highlight corporate complicity and profiteering of various human rights violations in South Africa and to demand recompense (Hutchens, 2008). It goes without saying that they should be held to account and made to fund reparation.

KSG followed the Alien Tort Statute with the case tried in the United States Supreme Court in the Second Circuit in 2007. A previous case from *Khulumani* had been thrown out in 2004 based on technicalities. In this regard, unlike the TRC, which looks to the State to fund or at least administer reparations, the KSG understands that companies such as De Beers and Barclays National Bank were enriched through apartheid (and colonisation before that) and were proponents of racial segregation, often contributing to the jarring racial socio-economic ills experienced in the country. In the second circuit, the KSG plaintiffs sought \$400 billion USD on behalf of historical apartheid victims from more than 50 western multinationals to include ARMSCOR, Ford Motor Company, DaimlerChrysler AG, General Motors, IBM, Shell Oil Company, Coca-Cola, Exxon Mobil and Hewlett-Packard (Hutchens 2008: 644). Hutchens further notes that the US and South African governments were vehemently opposed to this case, stating that this process would be parallel to what they considered a functional TRC process. Hutchens also highlights that factually, Alien Tort Statute cases are rarely ever favourable to the plaintiffs. In the case of *Khulumani*, legal minds were consumed with the legalities used, along with the semantics of 'multinational corporate aiding and abetting'. Again, this case was not successful (as it had not been in 2004). KSG continued these processes, although over the years financial resources, particularly for this case, have become depleted.

### **2.3. The Medium Past: The Union of South Africa**

The Union of South Africa formed in 1910 in the aftermath of the Anglo-Boer war of 1899 to 1902 and, through the Treaty of Vereeniging, entrenched segregation long before the apartheid dispensation, and yet are not held to

account. Through a white minority governance structure, key segregationist policies were introduced at this time. These included the 1911 Mines and Works Act, which divided labour, and the 1913 Natives Land Act, which enhanced segregation of Africans to the reservation areas in the outskirts and prohibited Africans from land purchase and ownership. Indeed, the Native Land Act accounts for why many Africans could not own land or became landless, and enhanced racial inequality. This alone justifies why the TRC window (1960-1990) is symbolic and merely scratches the surface, but does not address the structural roots of many of South Africa's legacies. Where many have argued that extended reparations should start in the 1910 period during the Union of South Africa, historians and political scholars, understanding that this does not cover the full breath of colonial crimes, advocate for reparations over a much longer durée -- from the 1500s.

## **2.4. South Africa's Long Past (1500 – 1800)**

Southern African historians such as Carolyn Hamilton, John Wright and Nomalanga Mkhize have pushed for a greater understanding of the country's history through a longer political-historical lens, from before the colonial era. Projects such as the Five Hundred Year Archive (FHYA) argue for a look at history that is amongst other aspects archival, archaeological, and most often material, to explain the past (<https://fhya.org/>). For these scholars, and many others, the extension of racial and gendered reparations returns the conversation to colonial injustice. South Africa's racial and gendered story stems from the presence of the Dutch and British settler nations, from 1652 and 1795 respectively. This era includes myriad genocidal acts towards the first nations on the land, i.e. the San (Adhikari 2010); sustaining a slave trade until abolition in South Africa in 1834 through the Slave Abolition Act; and profiteering off key resources in the country such as land (through forced relocations and degrading the land through commercial agriculture) as well as mining rights, creating sharp class differences between black and white communities.

Indeed, in the advent of the mining boom, powerhouse institutions such as Kimberly Central and De Beers bought out the mining rights of Africans and drove them towards manual labour, forcing Africans into compound living, and sexualising and racializing labour (Turrell 1982). The creation of male black labour and eugenics theory through unethical medical testing of black miners during this time are crimes which have not been addressed (Turrell 1982).

Seemingly, a larger case, similar to the Khulumani Support Group case against beneficiaries of apartheid, could be instituted here against colonial nations and their deep-rooted harms in southern Africa. If we acknowledge that General Van Trotha's family from Germany has had to pay for colonial genocidal crimes

in Namibia (Engert, 2015), then it should be possible to do the same in South Africa. Prominent families such as the Rupert family (tobacco and mining), the Oppenheimer family (diamond mining and affiliation to De Beers and Anglo American), and the Hertzog family (with JBM Hertzog a Prime Minister of the Union of South Africa, white capitalist South Africa) remain capitalist powerhouses, with their ill-gotten wealth and assets untouched.

## **2.5. Gaps/Shortcomings and Recommendations for Enhanced Research**

1. Linguaging and re-conceptualisation of key terminology to include local interpretation and practice.

The shortcomings of gender justice and reparation work stem from the idea that the languaging and conceptualisation of key terminology such as *gender* is often quite narrow. For instance, in official government documents (for example StatsSA), the term gender is often erroneously equated with heteronormative women, without factoring in a wider or inclusive terminology. Thus LGBTQI+ communities are further marginalised and structurally discriminated upon in addition to social stigmas, sexual harassment and being subject to violence, which ultimately makes the community even more vulnerable. Further research could amplify the understanding and practice of justice indigenously and how it relates to local practice. Understandably, in a patriarchal South Africa, caution is always applied around the use of the word *tradition* and certain practices, owing to the harms of masculinity and male dominance over communities.

2. Engaging in racial and gender reparative work in various platforms over and above academia. As such, amplifying the efforts and advocacy role of a myriad of institutions, not affiliated to universities, and learning from their expertise.

Racial and gender reparative work in South Africa lends itself to academic spaces. This can often be to the neglect of feminist organisations or institutions who continue to lobby for gender equality and who have made various imprints. Institutions such as the Commission for Gender and Equality (CGE), Gender Links (<https://genderlinks.org.za/>), the Triangle Project, Gay and Lesbian Memory in Action (GALA), and Women in Business in South Africa (WIBSA) come to mind, although the list is by no means exhaustive. Whilst this is a mapping exercise at present, future research on gender justice and reparations needs to include an understanding of their institutional work,

mapping their key role as advocates in this field. Non-governmental bodies have a good institutional memory which needs to be tapped into.

The business community also needs to meaningfully engage and invest in this discourse, where they tend to exempt themselves from social debates and historical-political ongoings, focusing on profit.

3. Making a case to continue to rely on the creative arts to expand racial and gender justice narratives and to use this medium to advance activism widely in all spheres of society.

A key issue in South Africa is that the governance, legalese and elite academics associated with the domain of gender justice and reparations, do not necessarily represent the wider nation. For example, Durbach (2016) highlights that conversations about gender reparations need to be seen in everyday lives and society, experienced through art and culture and thus permeating all aspects of society. There has been progress in the area of feminist literature, where we see a larger number of novelists including Nobel laureate Nadine Gordimer, Zoe Wicomb, Sindiwe Magona, Miriam Tlali, Phaswana Mpe, Sisonke Msimang, Pumla Gqola and Kopano Matlwa speak to issues of blackness and identity, history and memory, feminism and womanhood, and address injustice and marginalisation, as well as speak about gendered resistance and survival, particularly, but not limited to, apartheid stories.

The expansion of gendered justice and reparations exceeds literature. Prominent feminist artists include photographer and LGBTQ+ rights activist Zanele Muholi, as well as Mary Sibande, whose sculpture is formed around her main character Sophie, a domestic worker, modelled after her mother. Musician and actor Nakhane confronts gender and sexual identity, filmmakers like Dlamini Dlamini confront patriarchy and draw attention to women's lives, and musicians such as Simphiwe Dana and Thandiswa Mazwai speak to ideas of Black Freedom.

4. Online platforms as digital archives and repositories

In this digital era, the role of public culture (including online social platforms) matters, particularly in relation to reparative justice debates and advocacy towards diversity, equality, and inclusion. These forms of media also act as memoryscapes and storage canons of politics and historical occurrences. Any study of racial and gender justice needs to be cognisant of media and space as forms of knowledge and conscientisation.

### 3.

## **Towards Utu-Centered Feminist Justice After Violence: Beyond the Eurocentric Liberal Transitional Justice Model**

### **3.1. Introduction**

Transitional justice refers to the dominant processes and mechanisms through which societies respond to legacies of impunity, authoritarianism, human rights violations, violence and conflict. The common mechanisms employed in response are trials, truth telling, institutional reforms and reparations.

Transitional justice mechanisms became popular after the end of the Cold War as part of the liberal peacebuilding agenda in the post-Cold War period, advanced by liberal peacebuilding institutions which promoted the 'transitional justice agenda' as the panacea for peace, justice and reconciliation after violence oblivious of the different contexts and their complexities. The transitional justice agenda aimed to reconcile communities through a return to liberal market economies, promoting democracy and the promotion of the rule of law.

Reparations is one of the pillars of transitional justice that is meant to acknowledge and repair the root causes of consequences of gross human rights violations after political violence, armed conflict, dictatorship and inequalities arising from regional, ethnic inequality, age and gender inequality, racism and colonialism. There are five types of reparations according to the United Nations General Assembly Resolution 60/147 are: First, restitution meant to restore victim to their original situation, second compensation or payment for economically assessable damage, third, rehabilitation which includes medical, psychological, legal, social services care. Fourth, satisfaction which includes public apologies and lastly commemorations and memorials which guarantees non-repetition measures that help bring an end to future violations. Court orders, legislative decisions and written peace agreements are useful in ensuring implementation of these reparations. Reparations framework focus is often not gendered in symbolic and individual reparations. Reparations for women should go beyond symbolic rhetoric or reductionist individual programmes, such as business funds, which are important in addressing women's poverty but often fail to address power relations between men and women in the post-conflict or post-impunity period. Reparations in African societies after conflict or catastrophe have often sacrificed women's needs for justice for the community.

Transitional justice is a field in crisis due to its liberal peace origins and the changing contexts its applied. There is increased interest in feminist and

decolonial practices as practitioners and scholars question the ability and capacity of the dominant concepts and tools to provide gender justice for African women after violence by addressing long-term forms of violence, including colonial legacies of violence and the resulting structural inequalities. This scoping paper will proceed as follows: the next section will present a review of the dominant transitional justice literature in scoping the gaps in literature. The study will then provide a methodological reflection on how the scoping study was conducted before the conclusion which includes the research gaps and policy recommendations are presented.

### **3.2. Kenyan Context of Violence in Colonial and Postcolonial Period**

The Kenyan state came to be in 1963 following a violent contestation waged by various liberation movements including the Kenya Land and freedom Army (KLA) popularly known as Mau Mau. The 2007-2008 post-election violence (PEV) is considered the most violent in Kenya's post-independence history. The violence resulted into 1,133 deaths and displacement of more than 650,000 people (GOK 2008). A mediation process known as the Kenya National Dialogue and Reconciliation (KNDR) process led by the former United Nations Secretary General Kofi Annan, and a government investigation commission on the causes of the 2007-2008 PEV, led by Kenyan judge-Justice Philip Waki recommended implementation of transitional justice mechanisms. These included a local or international trial process, a truth telling process and an institutional reform process to address the causes of the violence and impunity. A simplistic view of the PEV as an isolated case of political violence that warranted regional and international attention failed to understand that both direct violence (from fighting), and structural violence (from unequal power relations that render certain citizens of various types powerless) had been a constant in Kenya. Thus, the violence in the post-colonial period was as a result of as well as an expression of, the contested discourse on citizenship with land as the main arena of contestation since the colonial period. By examining the violence and reparations provided for victims through the colonial period and the authoritarian post-independence regimes-Jomo Kenyatta and Daniel Moi regime it is evident that women and other marginalized groups have been ignored in the context of reparations and transitional justice processes addressing colonial and postcolonial atrocities in Kenya.

### **3.3. Dominant Liberal Peace Transitional Justice Literature and Research Gaps**

As discussed above, transitional justice is a field facing an identity crisis despite its rich interdisciplinary nature, owing to its historical baggage from Nuremberg and inconsistent outcomes in different contexts. Historically, gender has not been adequately addressed in the design and implementation of transitional justice processes in post-conflict programmes. Most transitional justice processes have focused on armed conflict by male actors and how to transition societies from violence, largely ignoring women's role in conflict and conflict prevention and the different forms of violence against women. Several scholars have addressed this concern, including Enloe (2004) on the gendered nature of conflict and peacekeeping; Buckley-Zistel and Stanley (2014) on gender in post-conflict transitions; and Bell and O'Rourke (2007) on feminist perspectives in transitional justice. Bell and O'Rourke (2007) demonstrated that the focus on violence against men ignores gendered violence against women before, during and after conflict. Women's civil societies advanced the women, peace and security agenda until it became a political agenda at the United Nations in 2000 (Olonisakin and Okech 2011). There is attention to issues of race that had previously been ignored as the publication on racism and transitional justice by Hugo and Lykes shows (2020).

The United Nations Security Council Resolution UNSCR 1325 was then passed in 2000, acknowledging the role of women in peace and security. Conflict is not gender-neutral and it is necessary to consider dominant masculinities and femininities and their influence on how women engage in conflict, conflict resolution, prevention and protection. Resolution 1820 was passed to support protection of women from sexual violence in addition to other ensuing resolutions and legal precedents at the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for Yugoslavia (ICTY). Gender and transitional justice offer a gendered perspective on implementing the various mechanisms while appreciating their limitations in local contexts. There is a need for gendered transitional justice approaches to look beyond the dominant gender binary to intersectional, queer and decolonial perspectives, such as Utu feminist perspectives, in post-conflict contexts. Most gender approaches to transitional justice have fallen short of transforming power relations for women after conflict owing to the persistent employment of narrow approaches within scholarship and praxis. As argued by Chelin and van Merwe (2018), this is owing to several blind spots and gaps, including neglect of locally contingent meanings of gender justice and healing. Gender justice programs after conflict reproduce Eurocentric and colonial assumptions about concepts like gender, justice and reconciliation by ignoring local knowledges and archives on how communities address gendered violence after conflict. Oyeronke (1997) challenges the fixed biological understanding of gender which

fails to capture ideas of difference among the Yoruba and indeed other African societies. As a result, liberal transition justice and reparations programmes produce reductionist accounts of female victimhood in need of white liberal male transitional justice saviour programmes, further isolating those outside the heteronormative binary of male-female. Another blind spot in gender justice programs is the failure to consider the multiple different ways in which gender norms affect women and men outside the heteronormative gender binary. Simplistic and static understandings of gender as male and female further isolate other non-binary groups that are left out of TJ processes despite the violence they face during and after conflict, such as sexual minorities, women of colour, and women with disabilities. Using Kimberlé Crenshaw's intersectional feminism can support the design of inclusive TJ gender programmes that remedy the discrimination of some women and general gendered victimhood.

Despite the legacies of colonialism, racial injustice and gender inequality among African women, there is a dearth of research on the best forms of reparations and transitional justice programmes that best support them. There is need to study the best reparation programmes that address the gendered and intersectional nature of violations and violence in African contexts. Different victims have different needs for reparations and as the International Centre for Transitional Justice (ICTJ) has argued and they change over time. Women's needs in transitional justice reparations programmes are often subsumed by the greater symbolic reparations for the community that don't often take their specific harm to account-often women's harms are often assumed to be limited to sexual violence in reparation programmes. Victims' needs should ensure an intersectional perspective that takes into consideration economic class, age, gender and social identity. In addition to gender, race is the second missing gap in the transitional justice agenda. Black and African women have faced enduring racialized gender violence during slavery and colonialism due to the effects of liberal market policies, sexual trafficking, domestic violence and patriarchy. The position of African women in the world and the low racial hierarchy of black women has been discussed by Geeta and Nair (2004), who have argued that the lack of postcolonial approaches to women precludes attention to the enduring effects women of colour have faced from the unequal global system.

In remedying these Eurocentric and colonial legacies of knowledge and praxis, the scoping study unearths lack of locally grounded concepts and methodologies for researching past violence as the main gap in research that need to be focused on. McGinty and Richmond's (2013, 769) definition of the local is 'the range of locally based agencies present within the post-conflict environments, some of which are aimed at identifying and creating the necessary processes for peace' (McGinty and Richmond 2013, 770). They argue that although local forms of peace may be influenced by national and

international trends, local forms are normally invisible to the international community because they revolve around tolerance and coexistence. The local turn has received several criticisms, which include the romanticising of all things local. There is a risk of local actors being romanticised as bastions of purity and victimhood while they have also been seen to be as partisan, exclusive and discriminatory as other actors, especially minorities like women (McGinty and Richmond 2013, 770).

In spite of the criticism there is need to appreciate locally grounded concepts that embody healing and reconciliation after violence and dictatorships in Kenya as argued by two Kenyan feminist scholars. Drawing from the work of Prof Micere Mugo and Dr Njeri Kinyanjui on Utu-Ubuntu (Kinyanjui 2020, Mugo 2021) it is possible to extend the Utu concept towards a decolonial approach to transitional justice by addressing enduring violence towards African women from colonialism to the present through solidarity, reclaiming Utu (humanness), and healing. The late Micere Mugo proposed transformative Utu education (2021), arguing that western knowledges, including those on addressing conflict, are lacking in Utu or human-ness, which can be 'colonizing, alienating and enslaving'. Thus, she argues, 'there is a need for knowledge that is conscientizing, humanizing and liberating in creating new human beings with the agency to transform life and the world'. Mugo (2021) contends that African knowledge systems have been dominated by colonizing and imperialist structures that justify the dehumanization of the conquered and erases their knowledges, heritages and cultures. Njeri Kinyanjui (2020) similarly argues for Utu as a concept and practice for rethinking brokenness in communities for healing. Kinyanjui's work as a feminist geographer persistently focuses on African women in the marketplace in the cities. She contends that African women provide capitalist, patriarchal and hostile business environments with Afrocentric business ethics centred on Utu. Kinyanjui (2020) studied informal women traders and their resilience in harsh cities despite being ignored by city authorities that have, until recently, failed to mainstream them through policies that centre economic informality. Despite these challenges African women and men informal traders integrate themselves into global businesses using what she terms the 'Utu-Ubuntu' model. The Utu-Ubuntu model shapes urban spaces in the city. It is based on ethics of care, solidarity, sharing and resilience, among other social and cultural economic values as their businesses grow - they grow together, shaping the growing African metropolis. The women traders' ethics of caring, healing and solidarity during other social crisis in their lives enables them to remain resilient in the city, despite challenges including state violence and personal violence.

### **3.4. Dominant Methodologies for Transitional Justice Research**

This scoping study was based on an African interpretivist epistemology. It hopes to contribute what Geertz calls a *thick description* of transitional justice ideas and practices from below, as well as understanding why and how transitional justice suffers from illegitimacy among those it works for, the victims of violence at local level in post-conflict environments. This section sets out to provide an examination of general transitional justice methods from below that have emerged as ideas and practices of healing and reconciliation in different Eastern African communities which could be focused on for further research.

This scoping study contrasts with positivist research that dominates transitional justice in Africa and elsewhere and which focuses on the formal, legal and normative aspects of transitional justice by legal scholars, national and international civil society organizations (Musila 2009, 445-464; Hans Obel 2018). Instead, this form of research study explores complex and multi-layered actor-oriented agency away from western legal studies, as advised by McEvoy (2008). This study observes that the victims of violence resident in local contexts are not unidirectional and passively receiving global norms and practices of transitional justice. Instead, actors shape and appropriate global norms, processes and practices to suit themselves and various aspects of transitional justice. A thick description seeks to engage these messy interactions to understand how global concepts and processes are given meaning in specific places and times and how they are reshaped in unexpected directions, as observed by Shaw and Waldorf (2010, 4).

This study uses ethnographic methods to draw on the local dynamics and ideas of transitional justice among Kiswahili-speaking people in the East African countries. The local and cultural emphasis means the empirical material upon which the study relies is generated from victims and survivors of enduring violence as opposed to elites. Darian-Smith notes that ethnographic methodologies are best placed to explore intricacies because they demonstrate that 'law is not monolithic and universalistic in practice, and it does not correlate to any culturally discrete unit, and it is not devoid of sites of resistance, challenge and modification' (Darian-Smith 2004: 56). The Utu ways of healing and reconciliation challenge international transitional justice templates, showing how communities make sense of their past, present and future using their agency. There is need for further research with different communities in East Africa beyond the Kiswahili-speaking groups that use Utu. Field-based research could study on how different communities envisioned post-conflict reconstruction and gender justice after violence in the past should be carried out using archival and historical research methods.

### **3.5. Research Gaps and Policy Recommendations for Enhanced Research**

This scoping study found the transitional justice agenda has received attention in the African continent and in Kenya through implementation of the various mechanisms in nascent democracies seeking international legitimacy after violence or dictatorship. However, violence meted to women and other minorities is often unaddressed despite the public rhetoric by transitional justice agents and the implementation of the mechanisms. This scoping study reviewed dominant conceptual frameworks for transitional justice and studies in Kenya which show that justice is a mirage for African women after violence since liberal transitional justice mechanisms focus on ‘big gains’ such as ceasefire, power sharing, trials and institutional reforms. Additionally gender justice is often included without acknowledging the history of racial slavery, colonial violence, capitalism, and resulting structural inequalities that have been perpetuated by legacies of oppression of African women and other minorities. In conclusion, this scoping study finds a gap in lack of locally grounded reparations and ideologies based on African ideas of healing and repair. This scoping study finds gaps in lack of locally grounded forms of reparations after violence in Kenya. There is a need for more inclusive concepts of justice after violence using African feminist philosophies and ideologies. I outline proposed African transitional feminist justice research areas and recommendations here.

#### **3.5.1. Towards Utu Feminist Justice as a Local Transitional Justice Concept**

First, the scoping study proposes studies to unearth African feminist ideologies around East Africa like the Utu ideology discussed here and their relation to repair and healing. The African transitional justice framework would be inclusive of the complex and intersectional nature of women beyond the current dominant reductionist view of African women as victims. The framework should include how masculinities shape violence and conflict as well the vulnerabilities of men and women, without the current reinforcing nostalgia for dominant masculinities. These flawed masculinities lead to negative consequences for gender justice. Utu feminist justice calls for sharing, solidarity and healing our humanity towards a more egalitarian society based on non-binary perspectives that can restore and heal. These African philosophies on Ubuntu and Utu have been advanced by Kenyan feminist literary scholars Micere Mugo and feminist geographer Njeri Kinyanjui. The scoping study proposes the need to further study these concepts to explore an Utu-centred concept of justice after violence or impunity. Utu-centred justice recognizes the need for a more

inclusive concept of dealing with the past and enduring forms of injustice imposed on African women from the legacies of colonial racism, capitalism, patriarchy and imperialism. Utu-centred justice offers an inclusive and more attentive model for addressing gender-blind mechanisms that exclude minority women such as women of colour, sexual, gender and religious minorities. Utu Feminist Justice as a strategy and concept that could inform post-conflict situations within African contexts that would facilitate a justice that would be attentive to the harm caused that can bring reparations to women's utu (their humanity). Hugo, and M. Brinton Lykes (2020), have documented how race and transitional justice intersect and the need for a race lens in analysis. African centred feminist lens advances this further by looking at how race and gender intersect using African feminist concepts as discussed earlier and Crenshaws intersectionality.

The second proposal for research from the scoping study is unearthing African feminist centred methodologies for better transitional justice programmes that are founded on feminist realities. The dominant focus on legal, national-level reparations and transitional justice norms in Eurocentric and liberal transitional justice models ignores African women's aspirations after violence. For instance, women's solidarity networks without legal status become the space for restoration of violated minorities, using utu a healing framework often ignored by external legal liberal peacebuilders for macro-level programmes. The focus on the local and micro level reveals that methodology for research on victims is important towards developing feminist reparations.

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## 2: Reparations in South Africa

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