

REPARATIONS FOR COLONIALISM AND HISTORICAL INJUSTICE: INSIGHTS FROM THE LUSOPHONE EXPERIENCE

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Abstract: In April 2024 the President of Portugal stated that the country assumed total responsibility for the crimes of the past, and mentioned the need for reparations. This is a recognition of Portugal's responsibility for the colonialism and crimes committed during colonial times, especially the 6 million Africans that were enslaved and transferred to Brazil. This statement gave oxygen to the debate on the need for recognition of colonial crimes, and it was received in former colonized countries with caution and hope. Portugal colonized five territories in Africa, as well as Brazil and Timor-Leste. The colonial past of extreme violence and some massacres are still to be recognized.

How is it possible to repair the crimes committed during colonial times? Western scholars stress the doctrine of intertemporality to conclude that there's no legal basis for such reparation. The 2021 Germany-Namibia Joint Declaration on the recognition of the Herero Genocide, as a groundbreaking agreement to achieve justice, embodies this doctrine, as Germany recognized its responsibilities but without compensation. This perspective is fought against by TWAIL scholars, who defend that international law is constructed around Western conceptions and to protect their interest, but also that a decolonial approach to international law is needed. Are States willing to repair their past? In the case of Portugal, some signs point to the possibility of reparations. In 2014, the Parliament approved a law granting citizenship to descendants of Portuguese Sephardic Jews persecuted and expelled from the country in the XVI century. This law was seen as a reparatory measure for past injustices and opened the door for a wider debate.

This work aims to contribute to the wider debate on the reparations for colonial times. It focuses mainly on the cases of former Portuguese colonies, in Africa and beyond. It defends that an apology is needed and accompanied by an honest debate and real actions for reparation. By unpacking the legal apparatus, to identify legal avenues from reparatory measures, this paper finds that a decolonial and anti-racial approach to International law is imperative and that reparations are a moral obligation of former colonizers.

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