

Cristián Correa and
Didier Gbery
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Recommendations for Victim Reparations in Côte d'Ivoire

Responding to the Rights and Needs of Victims of the Most
Serious Violations

Introduction

Côte d'Ivoire is obligated to provide reparations to victims of both the political violence that shook the country following the 2010 presidential elections and the different episodes of political violence and armed conflict since 1990. Fulfilling this obligation will show that the state is willing to embark on a new democratic era in which the rights of all Ivorian citizens are respected and guaranteed.

After a consultation process that involved the active participation of victims, the National Commission for Reconciliation and Compensation for Victims (La Commission Nationale pour la Réconciliation et l'Indemnisation des Victimes des crises survenues en Côte d'Ivoire, CONARIV) made a series of recommendations on reparations and provided an initial list of victims to the government. Now the government must define a policy that is transparent and fair, based on those recommendations and victims' input.

The International Center for Transitional Justice (ICTJ) has been working with CONARIV, victims' groups, and other government entities on reparations since 2012, providing technical assistance, encouraging a process of consultation and dialogue, and learning from victims about their needs and demands. This has included consultations with youth and victims from some of the most affected areas of the country.

To help advance the process of defining a credible reparations policy for Côte d'Ivoire, this paper presents a series of proposals for the government and the general public. The aim is to advance discussions on the best strategy to address the rights of victims of serious human rights and international humanitarian law violations committed by the warring parties.

The proposals are based on four fundamental pillars for defining reparations in Côte d'Ivoire that could improve the effectiveness of a future reparations policy in responding to the most serious violations suffered by victims: a) the need to prioritize the victims of the most serious violations; b) the need to focus on natural persons as victims; c) the need to implement a comprehensive policy that responds to the different consequences caused by those violations; and d) the need for a clear implementation strategy that could provide certainty to victims. These principles have been included in several policy proposals made by different actors in Côte d'Ivoire, but still it is important to reemphasize them in relation to these proposals.

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Recommendations for Victim Reparations in Côte d'Ivoire: Responding to the Rights and Needs of Victims of the Most Serious Violations

About the Authors

Cristián Correa is the Senior Associate in ICTJ's Reparative Justice Program and an expert in the definition and implementation of reparations programs for mass human rights violations. Previously, he was a legal advisor for a commission of the Presidency of Chile responsible for defining a human rights policy and the legal secretary of the Commission of Political Imprisonment and Torture of Chile.

Didier Gbery is the National Program Officer in Côte d'Ivoire for ICTJ.

This paper makes concrete proposals that could help to organize Côte d'Ivoire's reparations policy and respond to those principles. This includes some concrete definitions for forms of compensation, rehabilitation, and satisfaction of individual victims. It also includes proposals for community reparations, the search of the forcibly disappeared, access to documentation for those what have either lost them or have never been properly documented, a reconstruction policy specially focused on the areas most affected by the conflict, and symbolic reparations based on community participation. It also highlights the need to undergo a budgetary exercise, based on the profile and numbers of victims registered, that could help to define how to respond to the priorities outlined.

Through these recommendations, ICTJ seeks to present the knowledge and experience it has gained over several years working in Côte d'Ivoire with government entities, civil society organizations, and victims' groups that shared valuable insights on understanding the needs, priorities, and possible avenues for providing reparations. It is hoped that these proposals will help to define a reparations policy for Côte d'Ivoire that effectively addresses the consequences of violence that continue to impede the lives of victims.

Four Fundamental Principles for Defining Reparations

Four important issues should define a reparations policy that aims to address the consequences of the most serious crimes on victims' lives, the need to: 1) prioritize violations of the severest nature, 2) prioritize natural persons as victims, 3) implement forms of reparations that respond to the consequences of violations and go beyond mere compensation, and 4) develop a clear plan that allows for definitions of the priorities, budget, and implementation timeline of such a policy.

There is a general consensus on these issues, as the majority of victims and state entities support this approach. However, more clarification is needed.

1. Prioritizing Violations of the Severest Nature

It is understandable that some may think that, ideally, all harms caused by violations of human rights and humanitarian law should be treated equally and that all victims should be entitled to reparations. However, a reparations policy that responds to massive harms, including gross violations of human rights, needs to have a sense of priority. To do so, the policy must define which violations are the most important to address. The reparations proposals designed by both CONARIV and the Programme National de Cohésion Sociale (PNCS) include a sense of prioritization, which is a very welcome development.

Most often, reparations programs prioritize victims who continue to be vulnerable and suffer serious consequences well after the crisis has subsided. During armed conflict, most of a society suffers, and many people lose goods and opportunities. Some suffer the destruction of property; others have to leave their homes due to either displacement or exile. These consequences are serious and have a severe impact on victims; as such, they need to be acknowledged as unjust. However, although suffering is severe and may have long-lasting impacts, it can hardly be equated with what a family suffers after the loss of a loved one, or of the consequences of suffering serious and disabling physical harm, or the suffering caused by sexual violence.

As such, the reparation process requires a prioritization of victims who suffered the most serious consequences, relating in particular to violations of the right to life (killings and enforced disappearances) and violations of the right to physical integrity (victims of sexual violence or torture or victims disabled as a result of serious injury).

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Prioritization refers to the fact that the government's immediate and most substantial effort should be directed at the types of violations and victims identified as the most serious during consultations, including victim's experience of physical violence. Providing reparations to these victims, more than any other category of persons who suffered consequences during different periods of political violence, is both a moral and political imperative.

After priority needs are addressed, it may be possible to provide reparations to victims of other violations, such as material losses and violations to the rights to education, health, or information. However, such reparation must be defined in a way that does not affect the state's capacity to address the rights and needs of widows, orphans, those who suffered sexual violence, and others who suffered serious harms. In addition, Côte d'Ivoire has the obligation to provide conditions for the safe return or resettlement of displaced persons.



Abidjan: During consultations, women were given opportunities to work exclusively with other women, allowing them space to more comfortably express their needs and priorities. (ICTJ)

2. Limiting Reparations to Natural Persons

A corollary to the previous point is the need to focus on natural persons as victims. Indeed, human rights are established to protect natural persons. They are the ones who can experience suffering, humiliation, lack of education, health problems, or the loss of loved ones. They are the ones who can exercise freedom of speech, the right to vote, participate in political affairs, or be elected as officials. They are the ones who can marry, have children, and pursue happiness according to their own vocation.

That said, natural persons who own a small business or a corporation also have a right to property, but only as natural persons. Moral persons still have rights according to the legal system, but they are not entitled to the same scope of rights as natural persons, neither are they subject to human rights.

The question for those who suffered the loss of property, as mentioned above, is if their loss can be considered as having as severe a consequence on the individual as the serious violations that have been prioritized.

Similarly, communities that suffered from the destruction of infrastructure or places of worship also deserve reconstruction efforts and symbolic forms of reparations. Symbolic

and community reparations, as well as reconstruction efforts, are also part of this proposal, as individuals organized on collectivities may also be entitled to reparations, as will be explained below.

3. Reparations Should Include More Than Payment of Compensation

A third preliminary question to consider is what should constitute adequate reparations for flagrant violations of human rights or for serious violations of international humanitarian law. The nature of these crimes, their consequences, and their commission on a large scale require going beyond our typical understanding of reparations for individual cases, like those awarded in a courtroom.

Reparations cannot just take the form of compensation (cash payments); they must meet all dimensions of the damage caused. In addition to compensation, international law recognizes other forms of reparation: restitution, satisfaction, and guarantees of non-repetition. These include: health care services; psychosocial support; access to education for those who were unable to continue their education; recognition of crimes committed; criminal investigations; efforts to trace missing, forcibly disappeared, and buried persons and the organization of ceremonies for people who were buried in mass graves; public apology on behalf of the state; and reforming the police and security forces to reduce the likelihood that their members do not in future commit crimes against civilians or use violence to resolve political or ethnic disputes. Thus, reparations should not only be directed at addressing the consequences of crimes committed in the past, but should also address ongoing social issues.

Based on consultations carried out in different regions of the country, the following types of reparation measures were identified as needed:

- Some form of individual reparation, including compensation for victims of the most serious violations and the most vulnerable victims, but also other forms of rehabilitation and satisfaction
- A set of community measures (including psychosocial support) in neighborhoods or towns with a high concentration of victims
- The search for the missing and the forcibly disappeared, including those who were killed and buried in mass graves. This comprises honoring their remains and responding to the needs of the families
- A reconstruction policy to ensure certain minimum standards of access to social and economic rights, including the right to education and health care. This policy should give priority to the most affected areas or areas that have low development due to the armed conflict and political crisis
- Symbolic reparations and public apology

Some of these measures were included in CONARIV and PNCS's proposals, but they need to be recognized as priorities.

4. Making Sure Promises Are Fulfilled

Any reparations policy needs to be specific enough to ensure certainty about its feasibility. This is particularly true with regards to reparations that address violations of human rights and humanitarian law, where the ability to fulfill promises is a precondition for rebuilding trust.

In observing reparations programs in other countries, such as Peru and Colombia, it is clear that the more vaguely plans are defined, the less likely they are to be implemented,

even several years after reparations laws are enacted. In those cases, vaguely defined policies have been only partially implemented, health care has been promised to all victims without defining exactly how it would be provided or by whom, or ambitious collective reparations proposed in Colombia. In contrast, those defined in more concrete ways, like compensation, and implementation of community-defined projects, as in Peru, have been swiftly implemented.

Concrete measures that are defined after a process of consultation with victims and affected communities have the advantage of allowing for cost estimates, defining priorities, and establishing a clear implementation plan. Citizens can then know what to expect and hold government accountable to their promises.

Defining the Types of Reparation

An Ivorian reparation policy has already been partially defined, following the announcement that compensation amounting to 1 million CFA francs (approximately USD \$1,685) would be paid to each victim who is in urgent need. It is expected that reparations for the severest violations would not be different from that standard. The announcement of support for health care is also a good precedent for defining reparations.

But how should reparations that meet the expectations of all consulted victims be defined, and should they go beyond the measures previously announced? Should they consist of long-term support for some victims, like a pension or a single cash payment? If so, what should be the amount? Should scholarships be included as a form of reparation? Should they also include measures of rehabilitation and psychosocial support? Different forms of reparation may have more or less impact on victims who are actually the most vulnerable, namely women, children, and the elderly.

An examination of the effectiveness of one-time cash payments for victims of the 2006 Toxic Waste Dump provides some helpful lessons, particularly in regard to the need for health care and social projects—and the amount to be distributed. This experience also warns about devoting resources to reparations of corporations, enterprises, and other types of moral persons, as it could lead to the appropriation of vast amounts of resources by people or organizations that are not in extreme need.

On the basis of interviews with victims and their representatives and existing lists, it should be possible to identify, in general, what needs have come up most often in Côte d'Ivoire and from there draw proposals for reparations.

Providing similar amounts and forms of reparations to all victims can have an equalizing message regarding victims' common dignity, even if the economic impact of reparations may be comparatively less significant for those who are wealthier. Further, such a policy can send the wrong message to victims that loss or suffering has a different value according to the victim's economic status.

Evaluations of individual harm are important for those who suffered physical harm, at least to determine the degree of harm. The need for such an evaluation should be balanced with the need for expediency and keeping the evaluation cost low in order to preserve resources for the actual reparations to victims. A detailed assessment might not be needed, but only a general one that helps to define who suffered a full or close-to-full disability and who does not.

One possibility is to define just two categories of victims: 1) Those either who are now disabled or who still suffer serious consequences but are not disabled; and 2) those whose

consequences are less serious. Those in the first category should receive reparations as a matter of priority.

Making an assessment of the individual needs of each victim is not recommended. These kinds of assessments are common practice in adjudicating individual cases in a court of law, but are impractical for massive reparations programs. It would be too costly to carry out such an assessment and it would be a waste of time and resources. Moreover, it might negatively affect those who lack evidence to provide proof of loss of income or other forms of harm, who in many cases would be the less educated and lower income.

If measures are meant to prioritize widows, orphans, victims of sexual abuse, disabled victims, or victims who have suffered torture, reparations cannot take the form of a single cash payment. Those who face serious ongoing obstacles to securing a living should receive other forms of support, like a pension.

Because of the nature of the violations and their ongoing impacts, it is impossible to meet the needs of these vulnerable groups in the long term by granting compensation alone or a single payment. Children and youth would benefit from scholarships or cash payments to encourage them to continue formal education or technical/vocational education or university, in accordance with their abilities. Victims should also receive specialized health care and psychosocial support. Community health care and psychosocial support centers could help to implement these services.

The following examples are based on reparations that victims have proposed to ICTJ and experiences in other countries:

CATEGORY OF VIOLATION	CURRENT CONSEQUENCES AND NEEDS	PROPOSED REPARATION
Murders and enforced disappearances (rights holders)	Poverty, economic impact	Compensation or pension
	Fragile health (due to poverty)	Free access to health care and medicine
	Psychological trauma	Access to psychosocial support programs
	Inability to finish studies	Scholarships or conditioned payments
	Inability to produce the required documents for inheritance	Specific procedures to gain free access to requested documents
Disabled, survivors of torture and sexual violence	Poverty linked to the inability to work, social stigma, psychological trauma, or abandonment by spouse	Compensation or pension
	Fragile health linked to poverty and physical consequences of violations suffered	Free access to health care and medicine
	Psychological trauma	Access to a psychosocial support program
	Inability to complete studies, both for survivors and their children	Scholarships or cash payment to encourage studies

The various proposed reparations are almost the same for all victims. By implementing them together it could prevent social stigmatization of certain categories of victims, like those who suffered sexual violence, from being identified publicly. This could also allow for an expedient reparations process, instead of one where individual assessments and defining individual contracts require a large number of administrative staff to perform activities and more time to carry out.

Implementing these forms of reparation will require significant, long-term investments. If most of the resources of the reparation fund are used to compensate legal entities or those

who lost property, it will be difficult to fund reparations for victims who are in extreme need. Again, there is a real need to prioritize.

However, even if all of these forms of reparation are established for victims of the most serious crimes, they will be insufficient to meet all of the victims' needs.

In addition to reparations for victims of the most serious crimes, reconstruction, especially that which would improve access to education and health care, is also an imperative.

Specific Definitions for Each Reparation Proposal

a. Compensation or pension: Given the precedent of the emergency reparations program implemented since early August 2015, the payment of one (1) million CFA francs is a standard that cannot be reduced. It is recommended that the same amount be provided to widows, victims of sexual violence, and victims of a disability of at least 40%. An alternative would be to pay them a pension equivalent to the minimum wage of 60,000 CFA francs (USD \$100) which would be added to an initial payment of 280,000 CFA francs (or USD \$480), so that in the first year all victims would receive the same amount as that paid to those who received funds through the emergency program. As previously mentioned, all victims of the most serious violations should be entitled to this form of reparations.

Providing a pension of the same amount to all victims is recommended, including widows, widowers, spouses of those forcibly disappeared, those who suffered physical harms that cause disability or serious consequences, and those who suffered sexual violence. There should be no distinction among victims of severe crimes; not making decisions based on loss of earning or the economic condition of victims should make the process of determining eligibility and payment more expedient.

We propose using a sum equivalent to the minimum salary as a measure, to guarantee, at a minimum, the modest survival of those most affected by violations. It is understood that the pension would not be enough to repair the irreparable harm caused to victims, but it would at least guarantee them a better quality of life.

The pension should take the form of lifetime payments. A pension that is provided for just a few months or years cannot guarantee a better life to recipients, especially as time passes and victims become older and some of the physical consequences of violations intensify. The amount of the pension is modest enough not to be a heavy burden on the state budget.

Finally, compared with a one-time cash payment, a pension offers better guarantees that victims will not be defrauded or have their funds stolen by relatives or friends. It can also prevent misuse of funds by victims. It also better protects victims from falling into extreme poverty after promised income-generating projects have failed.

Additionally, symbolic payments should be provided to parents who lost a child, as a way to recognize their loss. One possibility would be to provide a one-time payment equivalent to the initial installment to be paid to widows, of CFA 280,000 francs. This amount should be paid to the mother (and only to the father in her absence), because mothers may be in more need of support. This amount should be paid in addition to the pension and initial installment proposed for a widow.

Only when these measures are defined and are being paid should an estimate be made of compensation owed for other losses. That way, resources to compensate for property destruction, for example, would not compete with the availability of resources for compensation for the most serious crimes; it would guarantee that victims of gravest crimes start receiving reparations first.

b. Free access to health care and medicine: Based on the list of victims and their place of residence, hospitals and health care centers in the relevant localities should strengthen their services by hiring more staff and purchasing any additional equipment and medicines needed to provide care for victims who appear on the list. An additional budget to cover these expenses should be provided to each health care center where there is a high density of victims.

Among the services to be included should be surgery for those suffering from injuries that still affect them, pain medication, as well as prosthetics and physical rehabilitation. Services should not be limited to these forms of medical care. To facilitate victims' access to health care, one approach may be to provide victims with a specific document that identifies them as entitled to the services offered in the rehabilitation health care policy.

c. Access to psychosocial support programs: The psychosocial needs of victims vary significantly. In many cases, victims do not need to undergo psychotherapy or medication, but their fragile condition requires accompaniment and support from trusted people. Psychosocial support programs directed towards victims of violence are very different from the type usually provided by mental health programs. A concrete proposal would be to create a specific psychosocial support service in social centers located in areas where victims are concentrated. This service could be composed of a small team of two or three newly recruited people (with at least one woman) in addition to the center staff. The idea is to avoid assigning the service to existing personnel in order to provide an exclusively dedicated staff to support victims. It is recommended that the staff providing these new services receive specific training to enhance their capacity to provide victims with counseling. A proposal to be studied would be to encourage the establishment of psychosocial activities based on a community approach, which includes the involvement of victims and their organizations for the provision of some forms of care and accompaniment. Setting up this psychosocial support policy could be based on the experiences of victim support groups created in other countries—or other forms of community intervention, as explained below. An approach that relies only on mental health support is not enough on its own.

d. Scholarships and educational assistance: Continuing studies for victims and their children (including all orphans as well as all children of victims affected by disability or who suffered sexual violence) is an important form of reparation. Access to education for primary and secondary school for this group should be totally free of cost, including for technical and vocational school. Victims should also receive educational kits and other forms of assistance set up by the state. The list of school-age victims should be sent to the respective school directors to ensure that schools have the capacity to accommodate these students, exempt them from registration, maintenance, and other fees, and provide an educational kit.

There should not be a limit on the number of children per family who are eligible for such reparations, as all children may be affected to the same level. It would be unfair for parents and children to have to choose among the children who would receive education and who would not. Such a limitation may also lead to gender discrimination, as it is likely that sending boys to school would be prioritized over sending girls.

Limiting benefits to children conceived in a legal marriage is also a form of discrimination, according to the Convention on the Rights of the Child. All orphans and children of those disabled or who suffered sexual violence, no matter their gender or legal status, should be considered as having suffered similarly from the loss of a mother or a father; there is no reason to exclude them from this form of reparation. This is even more important if it is remembered that this form of reparation guarantees these victims another of their rights: the right to education and the right of parents to educate their children.

A university scholarship should be provided to victims who have been accepted to a university or who have matriculated, in order to enable them to pay for registration fees and tuition. Victims (both youth who have been victims or who are victims' children) who had their schooling interrupted because of the crisis should be provided with a scholarship so they can access vocational or technical training until they reach the age of either 30 or 35 years. Vocational training should be extended to youth victims; and their children should also receive full scholarships.



Bangolo: A group of men from different communities in Bangolo discuss the common consequences they face in the aftermath of the violence, February 2015. (ICTJ)

e. Access to civil status documents: Children of victims who lost administrative documents during the conflict should benefit from the establishment of accessible and free mechanisms for reconstitution and obtaining documents. A campaign should be implemented to reconstitute missing records (birth, marriage, death) and deliver certificates by prioritizing the most affected by the conflict free of charges.

Families of those murder victims who, because of violence and chaos, were buried without a death certificate should be able to easily obtain one, quickly and free of charge. In the past, exceptional state measures have been taken in Côte d'Ivoire to help facilitate access to death records (for example, from November 2010 to July 2011). A similar mechanism could be used for victims on CONARIV's list. Still, widows or spouses of those killed or forcibly disappeared who cannot produce a death certificate should not be required to do so in order to access reparations.

f. Regarding victims of enforced disappearances: For those victims of enforced disappearance whose death cannot be established, a simplified mechanism for obtaining a declaration of absence should be provided. The waiting period required to obtain a declaration of absence should also be reduced, because in such circumstances it is highly likely that the victim in question is deceased.

Given the circumstances under which most victims are forcibly disappeared, there is no longer a need to apply the 30-year requirement established by Ivoirian law for the declaration of presumptive death. Even requiring 10 years may still be an obstacle for many victims. If the enforced disappearance happened in the context of the conflict, and more than five years have passed without any news of the victim, families should be able to obtain such a declaration. The possibility of a few victims reappearing alive is limited

and does not justify keeping many spouses, most of them women, and their children from exercising their rights.

The declaration should be accessible and free of charge, based on the registry done by CONARIV, and not require any other forms of evidence, as most families will not have the resources to hire a lawyer for assistance or pay for specialized documents.

Lifting Additional Obstacles to the Exercise of Victims' Rights

Another essential element of reparation is simplifying the mechanisms in place to help victims who do not have identity documents. Indeed, the lack such documents for people who have suffered a serious crime should not be an obstacle to receiving reparation. Like the definition of types of reparations, guaranteeing access to reparations, despite the lack of official identity documents, could be particularly important for certain categories of victims who are most vulnerable, including women, children, the elderly, members of minority groups, and stateless persons.

Further, ensuring that documents are accessible to all people living in the country is a way to not only guarantee the availability of reparations, but also constitutes a form of relief in itself for many people who are not victims of serious violations but who face serious obstacles in exercising their rights. Thus, it is a means to prevent the recurrence of violations.

Registering births, marriages, and deaths (and other civil acts) was difficult during the conflict and other periods of instability and violence, particularly in the northern provinces after 2002. A universal and simplified process of registration, free of charge for those requiring documents, needs to be part of a comprehensive reparations policy.

Another potential difficulty is the use of intermediaries (NGOs, victims' groups, lawyers) to reach victims and provide them with reparations. In some cases, it is clear that this network is an effective way to reach victims, but there is also the serious risk that victims will not receive full reparation if no control measures are put in place. The effectiveness of the system should be combined with transparency and counterbalances in the form of both independent agencies and civil society.

Community Psychosocial Support Projects in Areas Most Affected or with a Higher Concentration of Victims

Psychosocial support was a frequent request from victims interviewed by ICTJ. Such support differs from what is provided by the regular network of mental health services, because this aid does not respond to pathologies but to the consequences of trauma, fear, and/or mistrust.

These services cannot be limited to the victims of the most serious crimes, because other members of the affected communities may also need psychosocial support to overcome their difficulties. Nevertheless, the services should be prioritized for victims of sexual assault and other forms of extreme violence.

A small team of psychologists and social workers with relevant training and work experience with victims should provide these services. They should not be limited to individual assistance or clinical work, but also involve community social assistants (positions for which qualified victims may be recruited). Other strategies can also be taken into account.

In Kenya and Colombia, experiences of creating victim support groups led by victims trained and supervised by an experienced professional demonstrate their effectiveness. This community-based approach also serves to ensure continuity in the provision of services, which

professionals cannot guarantee, considering regular turn over, particularly in the regions. Such turn over would disrupt the process of building patient confidence, which is essential for victims suffering from intense trauma or for those who are reluctant to tell their story.

NGOs that could partner with the program may play an important role in training staff. It is also recommended that these centers work closely with the different victims' groups and community organizations in the region.

These community psychosocial projects could respond to the recommendations by PNCS of providing health care and psychosocial rehabilitation to victims of other violations, such as the rights to education, health care, and information. Because those violations will be difficult to identify with precision, and compensation for them will not be appropriate in a context of scarce resources, a broad policy for guaranteeing psychosocial and health care support to affected communities might be easier to implement and direct to those with the greatest need.

The number and location of these centers could be defined according to the mappings of violence during different periods or the areas where victims and displaced persons or refugees moved. They should operate for a significant period of time, as the consequences of serious trauma cannot be addressed with limited, short-term interventions. Over time, these services could become part of the network of community and health care services. This should not be an extremely expensive policy; the state can easily finance it with its own resources.

Search for the Missing and Disappeared, Including Those Buried in Mass Graves, Honoring Their Remains, and Responding to the Needs of Their Families

A reparations policy aimed at providing conditions for reconciliation needs to respond to one of the most traumatic and long-term consequences of violence, uncertainty about the fate of those who were forcibly disappeared as well as those buried in mass graves. Both situations require specific attention.

For those whose whereabouts are unknown, especially if they were kidnapped or detained by an armed group or state agents, determining what happened to them—if they are alive or dead—is essential.

Enforced disappearance is recognized as a continuing crime by international law. The violation demands that authorities make efforts to alleviate the uncertainty relatives of the forcibly disappeared experience. This requires investigating all allegations of the violation and exhuming places where victims may be buried, identifying them, and returning them to their families, with the proper assistance so that they can be buried in dignity, according to the appropriate customs.

For those killed and buried in mass graves, a decision should be made—with the input of their relatives—as to whether the burial site should be left intact and consecrated according to the religion and customs, the bodies recovered and delivered to families for reburial, or other forms of remembrance. These efforts need to be done with due consideration for the needs and opinions of the families and communities involved and should be accompanied by forms of psychosocial support or accompaniment according to victims' needs.

Reconstruction Efforts to Improve Enjoyment of Social and Economic Rights

Both the Ivorian Constitution and the International Covenant on Economic, Social and Cultural Rights recognize the right to education. Ensuring “complete free, equitable and quality primary and secondary education” for both boys and girls is also a target of the

Sustainable Development Goals. Ensuring access to quality education—for all children of Côte d'Ivoire—is not strictly a form of reparation, but fulfills an existing law.

However, the destruction of some schools during the conflict, the poor management of the Ivorian education system in general, the insufficient number of teachers, and the indirect cost of the system (maintenance fees, cost of lunches, etc.) are all obstacles that negatively impact low-income children's access to education, especially children of widowed or single mothers.

A policy of improving education should aim to: reduce the number of students per class to fewer than 40 children; remove the registration fee, at least for child victims; and ensure that schools are not too far from children's places of residence, so that children can get to school safely. These measures should apply to primary and secondary education. This policy is not only important for the victims in overcoming the consequences of the conflict, but also for the prevention of future conflicts and the economic competitiveness of young Ivoirians.

Road maintenance and improvement of roadways is another area requiring significant reconstruction efforts. Some regions consider themselves economically isolated due to poor roads. Community leaders interviewed by ICTJ insisted that it is crucial to have navigable roads, in order to enable them to travel, discuss potential problems with government agents and other communities, advocate, and thus be in a position to help to prevent intercommunity conflicts.

Women interviewed by ICTJ complained of the lack of medical services, particularly midwives and gynecological services, and the low number of female staff. Further, they reported that medical specializations are rare in health centers and hospitals.



Bouaké: Consultation participants discuss how poverty and lack of access to health care and education are major issues facing victims in central Côte d'Ivoire. (ICTJ)

It must be stressed that none of these reconstruction projects constitute a reparation for human rights violations suffered by victims and communities. However, such efforts at reconstruction do give effect to the entire reparation process. For example, there would be no point in providing scholarships to child victims or victims' children if there were no preexisting schools or if they were overcrowded. These efforts also are important pre-conditions for peace and preventing conflict.

However, the specific definitions for reconstruction and development projects targeting the areas that were most affected or have suffered historical marginalization should be defined through consultation with each community. These policies should aim to give voice to the inhabitants of those regions regarding their needs and priorities and empower them as citizens. During these consultations, special attention should be given to women to make proposals and define projects that respond to their priorities.

Reparations for Property Damage

Only when the measures outlined above are defined and being paid can an estimate of compensation for other losses be made. This is to ensure that compensation for property destruction does not compete with the availability of resources for reparations for the most serious crimes. It would also guarantee that victims of such crimes begin receiving reparations first.

Providing reparations for property damage on a massive scale faces similar challenges to defining reparations for personal harm. The scale of the harm makes it impossible to provide full compensation in each case, as would be expected for single cases of property destruction adjudicated in a court of law. Because reparations for personal harms cannot return loved ones, give back the years lost, erase the suffering, or compensate for the absence of a parent or the social stigma suffered, reparations for property damages on a massive scale cannot attempt the impossible of providing each claimants with the equivalent of their loss. As a result, reparations can only be symbolic in nature.

Determining the exact extent of the damage is a huge administrative task that could take years, or even decades, to carry out, considering the provision and assessment of evidence and the discrepancies and appeal process that might be involved. An attempt to provide reparations in proportion to the harm caused, the amount loss, or the value or size of the property or business may end up channeling most resources to the wealthy, who often have a greater capacity to overcome the harm.

The reparations policy must be consistent. Even if the loss of property can have serious consequences, those who lost only property cannot receive more than what a widow, orphan, or victim of sexual violence or serious physical harm receives. If not, the policy may affirm a hierarchy of values that does not respond to the recognition of human dignity, a core principle of reparation.

Following these criteria, it is recommended that a policy defines a symbolic amount for all those who suffered a loss of property that would be identical for all and equivalent or lower than the CFA 280,000 proposed as the initial payment for victims of other violations. The amount should be the same for all sizes of businesses, regardless of the amount of property lost. Again, the compensation would be a symbolic payment in recognition of the loss.

For the lowest-income victims to whom the loss of property may have caused a more serious impact, this symbolic amount may be enough to help them reopen their business, start a new one, or repair a house. For those who lost more, it may only be of symbolic value. Those willing to donate the symbolic amount as contribution to the reparations program and their commitment to peace and reconstruction should be welcome to do so.

This proposal for reparations for property damage should be carefully examined in terms of its feasibility. The recommended budget exercise below may shed light on determining if even a modest amount could be provided to each victim. That would depend on the number of such victims registered by CONARIV.

Symbolic Reparations

Reparations are not just a matter of providing physical measures of repair to victims; it is also about recognizing the inherent dignity of victims, which must be affirmed. Material means can be used for this purpose, but a symbolic acknowledgment is always necessary.

Recognition of the victims and the harms they suffered marks the essential difference between humanitarian assistance (or measures implemented in solidarity with victims) and the recognition that these individuals were victims of wrongdoing and violations.

Two possible forms of symbolic reparations are described below, but the consultation process with victims and civil society could result in the definition of other forms.

Public apology made by the President of the Republic, inviting others to give apologies in turn

Official recognition that wrongdoing was committed based on the responsibility of the state and the lack of protection provided to victims could pave the way for a process to apologize to victims of past violations. In accordance with the principle of continuity of the state, the proper process is to request the president, himself, to apologize on behalf of the state for its part in past atrocities, as have the heads of state of Argentina, Australia, Canada, Chile, El Salvador, Germany, Great Britain, Sierra Leone, Togo, the United States, and many other countries. Both CONARIV and PNCS have emphasized the importance of this form of reparation for all types of violations committed.

Inviting other authorities or political leaders to also apologize could be an important addition, but these additional gestures should not be a pre-condition for victims to receive an apology from the state.

Special apologies should be presented by the leaders of all relevant political parties and factions that used or rallied youth for political purposes during the conflict and political crises and armed groups that recruited children or youth in violation of international law.

Monuments and Remembrance

Local commemoration is important because it can help communities to remember the victims. Only after consultation with the respective communities and victims' groups, to collectively decide on the place and content of the monument (for example, a public gathering place or a place linked with an event or a mass grave) should these measures be implemented. Memorial sites should enable families and victims to honor their loved ones.

This reparation policy could be achieved in the communities that have suffered the most. CONARIV's list can help to identify those communities; and the measures proposed by PNCS can also be a useful guide.

Specific monuments honoring different kind of victims could also be established, such as those honoring women, those who suffered as a result of violations committed against their loved ones, or those activists who sustained calls for reparations for victims. Another category of victim that should be given special consideration are youth who suffered forced recruitment, political manipulation, and crimes against their parents and loved ones, or who suffered directly, including abduction, killing, torture, enforced disappearances, and sexual violence. Victims should be honored without identifying their party affiliation or the sides they were recruited for. Planning cultural commemorative events defined with the participation of women or youth, depending on the memorial, may provide these gestures with more meaning.

This policy must always be carried out after the implementation of reconstruction measures: the construction of monuments, even the most modest, may face resistance if some schools or health centers, or even the streets or roads, have not been repaired.

This could also include rehabilitation of places of worship, by repairing them, adding plaques or other forms of memorialization of the events that happened in them, as well as performing ceremonies of acknowledgment, apology, and consecration.

Establishing a day in honor of victims, which has been done in many countries, could be important in Côte d'Ivoire. It is important, though, that such ceremonies are not used as occasions to demand victims to forgive, but for those responsible to ask for forgiveness from victims and to recognize the inherent dignity of victims.

Need for Budgetary Estimate Before Beginning

At this stage it is impossible to make an estimate of what a reparations policy for Côte d'Ivoire could cost. The provision of medical services; a psychosocial support program in all the most-affected areas of the country that victims could easily reach; different scholarships programs and school kits proposed; improved accessibility for civil documentation, including staffing of civil registration offices and courts; community reparations; reconstruction policies and the rehabilitation of the educational, health care, and roads infrastructure and services; a policy for the search for the forcibly disappeared and the provision of aid and support to victims to bury their loved ones; and memorialization initiatives all have a significant cost. However, these costs are not insurmountable, given the strength of the Ivorian economy. They could be implemented over time, prioritizing those measures that directly benefit the most vulnerable victims in the poorest and most abandoned regions of the country.

It should be recognized that if the state were to recognize, for example, the importance of memorialization and remembrance (starting with building monuments) when schools and health care centers are needed, it could send a contradictory message about the country's priorities.

One of the main challenges to estimating a budget is the definition of the proposed pension for all victims. It is impossible to make a full estimate of the costs of the policy, as that requires knowing the number of victims of each category that should receive reparations. That is one of the most compelling reasons for demanding that the government publish CONARIV's report as well as make available basic statistical information about the registration of victims (not to release the full list), so as to know each category of victims, gender per category, and the number of children, as basic components for estimating costs.

A budget estimate may help in assessing the advantages or disadvantages of each policy proposal, particularly for defining the compensation method and deciding between one-time payments or pensions. It could also help stakeholders to understand what the costs might be for providing compensation payments for violations other than those described as to be prioritized in this paper. For example, again, if there is a large number of victims of property damage, it may be better to limit compensation to just a symbolic payment or even decide that it is impossible to provide any compensation at all.

Estimates should be compared with the national budget to define the feasibility of the policy. The policy needs to be implementable, as there is no worse promise than one that cannot be fulfilled.

Recommendations for Victim
Reparations in Côte d'Ivoire:
Responding to the Rights and
Needs of Victims of the Most
Serious Violations

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Conclusions

The government of Côte d'Ivoire should define a reparations policy through a transparent and participatory process. This will require making public the reports of CONARIV, CDVR, the Commission Nationale d'Enquête (CNE), and others that could help stakeholders in assessing the number of victims and their needs. Following CONARIV's approach, the government should consult victims and other civil society organizations throughout the process of designing and implementing a comprehensive reparations policy. However, in defining its priorities, the government must consider the fact that some victims are more in need than others and that these victims should be prioritized.

Ultimately, the reparations program must respond to the most serious consequences of the violence for victims through measures that address their long-lasting socioeconomic, psychosocial, and education-related effects for victims and their children, and health and other consequences that limit victims' ability to exercise their rights. It should also include a reconstruction effort that can guarantee the enjoyment of basic rights in the areas of the country affected by violence, destruction, and marginalization.

Moreover, reparations should affirm the dignity of victims, ensuring that the services provided are defined and implemented in an interactive and respectful way for victims.

Implementation may require defining a clear policy first, and then a timeline for the different actions to follow. A decision must be made regarding the victims' registry as well as considerations of how to include those who were not able to apply because they resided abroad or suffered other obstacles. If such a registration process is carried out, it should be done using the same criteria and experience as CONARIV (and likely the same staff), in order to guarantee consistency.

Recognition of state responsibility with regard to these serious harms is another key factor for making reparations effective. Violence and destruction were not the result of natural causes, but of political decisions made by those in power. The most senior-ranking state officials should clearly apologize to victims, and victims should not be forced to provide forgiveness in return. Forgiveness is something that can be asked for, but never demanded.

If two other policies are not implemented contiguously, however, all of these efforts will fall short. The first are policies that work to guarantee the nonrepetition of acts of political violence and repression, which requires looking at the conduct of the armed forces, the police, the Gendarmerie, as well as armed groups that fought during the armed struggle. The second is the enforcement of respect for human rights and humanitarian law in all state institutions. Individuals found responsible for violating these norms should be prevented from promotion and removed from the services. Mechanisms for safeguarding how the police and the military recognize and respect citizens' rights is essential, and reforms establishing adequate oversight are needed.

Another crucial component of making the reparations policy a credible effort is investigating and prosecuting serious violations of human rights and humanitarian law. Those violations cannot go unpunished. Efforts to establish a strong democracy based on respect for human rights requires a combination of factors. Victims, and all of Ivoirian society, have the right to truth, justice, reparations, and guarantees of nonrepetition that the government, the National Assembly, and the judiciary are responsible for delivering.