

## **Report of the Chair of the Board of Directors of the Trust Fund for Victims**

Nineteenth session of the Assembly of States Parties

14 - 16 December 2020

**Dear Mr President, Excellencies, Ladies and Gentlemen,**

I have the great honour to be addressing you today, before this august Assembly of States Parties, for the first time as Chair of the Board of Directors, to inform you of the activities, achievements and accomplishments of the Trust Fund for Victims as well as the challenges it is facing. This is also a sad honour.

This is because, in April of this year, we lost our Chair, Dr Felipe Michelini, following a tragic accident at his home. His sudden death was a cruel shock to his family as well as his friends and colleagues at the Trust Fund for Victims and the Court.

Dr Michelini was an invaluable defender of human rights, which thus made him an ardent defender of the ICC from the beginning, and a leader within the Trust Fund for Victims. His friendship, solidarity and leadership still inspires us today.

I would like to express my gratitude once again to my fellow members of the Board, who, in electing me to this position, have put their trust in me to continue the exciting work begun by our dear colleague Felipe.

During our commemorative event last week, we honoured Felipe's legacy by ensuring that young professionals and researchers would be able to support the cause of victims in the field of international justice.

On behalf of the Board of Directors of the Trust Fund for Victims, I extend warm greetings to all of the delegates who are present here, as well as to those who, due to the very unusual circumstances, are unfortunately unable to attend in person this year, but are following the work of this session.

Indeed, the COVID-19 pandemic is affecting the entire world. Nobody is untouched by the effects of the virus, least of all those who are already in a vulnerable position due to the harm they have suffered as a consequence of the most serious and atrocious crimes.

Such crimes are not easily healed from. Even if the perpetrators are prosecuted before the ICC in The Hague, we must never forget that these crimes cause immense and long-term damage to innocent civilian populations, and their families and communities.

Allow me to repeat the Preamble to the Rome Statute, which states “that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity. ”

Unfortunately, these atrocities are not confined to the past but are still taking place; even as we are meeting here today, victims of atrocities are suffering in Yemen, Syria, the DRC, Sudan, CAR, Mali, Georgia, etc. There are so many places that it is only possible to mention these ones. These victims are suffering from the murders of their families and their close friends and relations. They are suffering from sexual violence, forced deportations, destruction of their property and means of subsistence, ruined economies and institutions, social divisions, and destruction of their cultural heritage.

Each day in my home country of Mali, I witness the tragedy befalling my fellow citizens as a result of armed conflicts, religious intolerance, stigmatisation and marginalisation.

The injustice being suffered by so many victims, especially during these times of the coronavirus pandemic, is continuing to motivate the Board of Directors of the Trust Fund for Victims to redouble its efforts in order to give hope to the victims, and enable them to receive a significant and effective remedy that will allow them to regain their dignity and also offer hope that they can reclaim their futures.

**Dear Mr President, Excellencies, Ladies and Gentlemen,**

It is incumbent upon us, the Trust Fund for Victims, the Court and the States Parties, to continue the fight for reparative justice in the interests of, and for the benefit of, the millions of victims who deserve recognition and reparations.

This year has been a crucial transition period for the Trust Fund for Victims and its mandate to implement judicial reparations and assistance activities. We have transitioned from intensive preparation and planning to an implementation and evaluation phase that is no less intensive.

The Trust Fund is currently implementing reparations in connection with three cases across two regions – the east of the DRC and the north of Mali. Unfortunately, these programmes are continuing to be adversely affected by violent conflicts while also having to deal with the COVID-19 pandemic.

This is not an easy task. The victims are cut off and located far away not only from the judicial proceedings but also from the staff and implementation partners of the Trust Fund.

In spite of this situation, the Trust Fund has, with regard to the *Katanga case*, directly implemented the individual reparations and a considerable part of the collective reparations including, in particular, the measures to develop income generating activities and to assist with school fees for nearly 300 victims who suffered harm during the attack on the village of Bogoro, located in the province Ituri in the east of the DRC.

The award for reparations to be provided through the staff of the Trust Fund for Victims was made in close consultation with their legal representatives and with substantial support from the Registry of the Court, both in the field as well as in The Hague.

The collective reparations in *Katanga* were planned and refined in consultation with the victims themselves, in order to provide individual benefits that reflect the harm they have suffered: housing, education, income generating activities and psychological support.

This has been the daily work and responsibility of the Trust Fund's staff in both Bunia and in The Hague.

In the cases of *Lubanga* and *Al Mahdi*, the Trust Fund for Victims has made significant progress. Implementation partners, ranging from local organisations to international organisations such as UNESCO, have been selected and engaged.

At the same time, the Trust Fund has worked diligently to overcome the setbacks resulting from the COVID-19 pandemic and local conflicts in order to locate the victims and establish their eligibility for reparations, while observing the necessary safeguarding measures and rules of procedure.

More than a thousand positive and negative eligibility decisions have so far been taken by the Board of Directors in 2020.

In Timbuktu, Mali, the first beneficiaries are due to receive their individual reparations at the beginning of January 2021.

The Trust Fund's staff have done their utmost to ensure that female victims will have equal access to, and control over, their reparations in this area where local customs may dictate the contrary. As a Board member with direct involvement in the process of deciding on the victims' eligibility, I can personally attest to the thoroughness and quality of the Secretariat's administrative procedures.

In view of the positive responses that the Board has received from the Court, I am convinced that the Trust Fund for Victims remains committed to the performance of its mandates.

In the interests of the victims' well-being, we must not create impermeable barriers or be fearful of addressing the difficult questions faced by the Court and the Trust Fund for Victims.

It is clear that, while always ensuring procedural thoroughness and respecting the rights of the victims, as well as those of the convicted persons, we must never lose sight of the ultimate objective: fulfilling the victims' wishes to receive full recognition of the harm they have suffered as well as an effective remedy.

At the Trust Fund, we are deeply aware of our responsibility to collaborate with the Court and the States Parties on these matters which lie at the heart of the reparative function of the Rome Statute.

**Dear Mr President, Excellencies, Ladies and Gentlemen,**

It was exactly 15 years ago, in December 2005, that the United Nations General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims.

The UN principles clearly inspired the provisions of the Regulations of the Trust Fund for Victims, which were also adopted 15 years ago by this Assembly; these provisions enable the Board of Directors to decide upon the reparations measures for the victims in the situation countries independently of the question concerning the identity of the perpetrator.

This assistance mandate, which is focused solely on the victims and based on the harm suffered, enables victims to receive recognition and assistance in cases where they have suffered harm as a consequence of equally serious crimes that do not fall within the scope of specific prosecutions.

While prosecutions may fail, the harm suffered by the victims persists.

Hence, the assistance activities provided by the Trust Fund can still provide them with rehabilitation. With its firm foundations in the United Nations Principles, the Trust Fund's assistance mandate is essentially a reparative mandate, which corresponds fully with the essential functions of the Rome Statute.

I am very happy to inform you that, last year, the Trust Fund made significant progress in the performance of its assistance mandate. The Board of Directors was very anxious to promote and guide the launch of new assistance activities during 2020: in the DRC, Côte d'Ivoire, and the Central African Republic.

In November 2020, the Board of Directors also decided to commence new assistance programmes, such as those in Mali, Kenya and Georgia. This is a considerable and significant improvement in terms of the Trust Fund's presence among the victims and their communities.

**Dear Mr President, Excellencies, Ladies and Gentlemen,**

The Trust Fund for Victims' Strategic Plan spans the period from 2020 to 2021 and its end date has been aligned to the ICC Strategic Plan. It includes some major changes in comparison to previous plans. These changes have been inspired by the progress of the Trust Fund's activities, particularly in relation to reparations, as well as through consultations with stakeholders, the findings from the external review and the impact of the COVID-19 virus on our operations.

On the basis of this, the Trust Fund has established two major strategic objectives: impact and performance.

The impact objective is linked to the specific reparative value that the Trust Fund provides for the victims and their families and communities. The impact is made possible by the voluntary contributions, donations, fines and property confiscations which the Trust Fund depends upon in order to successfully accomplish its programme activities.

Performance is linked to the efficiency and effectiveness of the Trust Fund, as an institution established under the Rome Statute and financed by assessed contributions from the States Parties. This is a strategically important area, not just for the Board of Directors, but also for the States Parties and the Court, as well as for the victims.

The organisational performance of the Trust Fund for Victims is closely linked to the impact we are able to generate in terms of delivering reparative justice for the victims. This was also subjected to an in-depth external review, conducted by the Independent Oversight Mechanism in 2019 and by the Independent Expert Review in 2020.

At the beginning of the current Board's mandate two years ago, we requested a review of the Secretariat of the Trust Fund by the Mechanism. In making this request, we acted jointly with the States Parties for the purposes of this requirement.

In the meantime, for the purposes of adopting the new Strategic Plan, we waited to view the Mechanism's evaluation report, which was only received at the end of 2019.

In order to save time, and in view of the urgency of continuing to improve the performance of the Secretariat, we decided to accept the recommendations of the IOM and requested the Executive Director to prepare an action plan; this was done immediately.

The Board of Directors has been more active and more involved in the work of the Trust Fund for Victims than ever before. This year, we convened in remote sessions on more than 10 occasions, instead of the usual twice per annum.

During these meetings, we took important decisions to place the Trust Fund on the path towards improved performance and implementation of the programmes.

We thus finalised the Strategic Plan and approved the adoption of a tool for monitoring and evaluating activities, which integrated the action plan prepared in response to the review conducted by the Mechanism. We engaged in intensive discussions with the Secretariat concerning our main challenges: expanding our active portfolio of activities in spite of the problems caused by COVID-19 and the ongoing conflicts in many of our zones of intervention, while intensifying our efforts among current and potential donors to increase our resources.

The Board approved and welcomed the launch of the long-planned assistance and reparations activities, which constituted an unprecedented expansion of the Trust Fund's active portfolio to seven situation countries. We approved the recommendations of the Secretariat aimed at stimulating investment in the critical performance areas, particularly fundraising, communication and the verification of victims.

Despite budgetary constraints, these are the areas that require the Trust Fund's urgent and critical attention if it is to continue achieving its objectives to provide reparative justice for the victims.

Outside of the Board meetings, we have been engaging with local stakeholders and providing as much encouragement to the victims as possible. I was directly involved in the meetings with victims in the *Al Mahdi* case. My understanding of the situation in Mali contributed to the development of a new assistance programme, under the responsibility of the Secretariat's programme manager, and enabled significant funding to be obtained. Despite the recent political upheavals in my country, we were successful in maintaining excellent relations with the authorities.

**Dear Mr President, Excellencies, Ladies and Gentlemen,**

At the Secretariat of the Trust Fund, there is a new paradigm. This is not a process that emerged suddenly, but is rather the result of previous ideas and initiatives as well as the review conducted by the IOM, which we, as Board members, have guided and scrutinised closely. The Trust Fund is now in the course of implementing all of its planned activities. The Executive Director and his team have completed the process of mobilising staff in key positions, which is having a positive effect on the operations.

Temporary staff have also been engaged to meet the demands of peak workloads in procurement and the identification and verification of the victims.

Implementation of the Trust Fund's budget has improved steadily, absorbing the 30% increase from 2019 despite COVID-19.

In 2020, the budgetary performance of the Secretariat of the Trust Fund actually exceeded expectations. Many of the previous performance problems were due to capacity constraints and a period of radical expansion in the Trust Fund's workload. Resolving these problems required perseverance, time, and greater cooperation with the Registry to reduce administrative constraints.

I am extremely grateful to the Registrar for the valuable advice and unfailing support that he has provided to the Board and the Secretariat, including essential organisational support, e.g. in terms of resolving problems associated with using the services of implementation partners. In addition to the implementation and development of resources, which I have already referred to as being significant challenges, the Trust Fund for Victims is also facing another major challenge: communication.

Having concentrated the bulk of limited budgetary resources on activities associated with the implementation of reparations and assistance, the Secretariat's communications capacity has remained underdeveloped. This has adversely affected the visibility of the Trust Fund's achievements and, to a certain extent, has also affected the quality and depth of the external review, as conducted by the independent experts. Based on the Executive Director's advice, the Board agreed to publish its key internal reports, such as the Board's quarterly management letter, and the monitoring report on the activities set out in the Strategic Plan.

At the same time, the Trust Fund considerably increased its activity on the website and social media, providing a constant flow of information on key activities and events. Through these initiatives, the Trust Fund is reporting more transparently on its results and activities – insofar as this is possible having regard to the confidentiality requirements that must be observed when implementing reparations. We are convinced that they are also contributing to a better understanding and appreciation of the mandates and activities of the Trust Fund.

In October, the Board published a statement in relation to the report of the independent expert review, which we very much appreciated. As the Trust Fund will need to carefully consider the conclusions and recommendations of the experts, we, as members of the Board, understand the importance of their report in terms of improving the performance of the institutions established pursuant to the Rome Statute, i.e. the Court, the Trust Fund and the Assembly of States Parties.

The Board and the Secretariat of the Trust Fund are firmly committed to engaging in an open and frank dialogue in order to achieve this objective, without losing sight of the most important goal: honouring the promise under the Rome Statute to deliver effective and meaningful reparative justice for the victims.

The Trust Fund for Victims is calling for shared responsibility and joint action between the Trust Fund, the Assembly of States Parties, the Court and civil society, particularly during this challenging period caused by the Covid-19 pandemic, to ensure that the victims of the most serious crimes can genuinely benefit from their rights to the reparations and assistance that they require in order to overcome the harm they have suffered.

More than ever, we are in need of solidarity, hope, political will, financial resources and joint action to make reparative justice a reality for the victims.

Thank you.