

# Reparation for Victims of Crimes Against Humanity

## *Programme*

**25 Octobre 2012**

***Healing Aspects of Reparations for Victims of Crimes Against Humanity***

Yael Danieli (Ph.D)

*Distinguished Professor of International Psychology*

This presentation will review psychological and psychosocial meanings of reparations for victims of crimes against humanity. To emphasize the insufficiently acknowledged significance of the process of (claiming and obtaining) reparations, the presentation will highlight the distinction between viewing reparations merely from the outcome perspectives and that of both outcome and process, and will draw theoretical, psychological and practical implications. The presentation will also extend the reparative notion to the full trial process, and expand on the concept of reparative justice as crucial to the victims' experience of justice as healing rather than used merely as witnesses for the case, or, worse, (re)traumatizing.

***Restoring Justice for Victims: Reparation and the ICC***

Jo-Anne Wemmers (Ph.D)

*Professor, École de Criminologie, Université de Montréal*

Justice is a multi-dimensional concept. It includes distributive justice, procedural justice, interactional justice and informational justice. I will present research analysing the different types of justice available to the ICC with respect to reparation for victims. This research shows that the Court is limited in terms of what it can do to enhance victims' justice judgements. It therefore needs to maximize use of procedural justice in order ensure that victims view the Court as just. The paper closes with recommendations on how the Court can enhance victims' justice judgements.

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**26 Octobre 2012**

***Framing Reparation Claims for Crimes against Humanity: A Social-Psychological Perspective***

Katherine Starzyk (Ph.D)

*Assistant Professor, Departement of Psychology, Mount Royal University*

Historical intergroup harms are often characterized by moral and legal complexities. As a consequence, psychological factors influence people's reactions to reparations. Complementary to and informed by the scholarly work in related disciplines, I will (a) describe how social-psychologists aim to understand the causes of support for reparations, (b) discuss the key theories (just world, system justification, and

social identity) that organize much of social-psychological research on reactions to intergroup harm and reparations, (c) and summarize briefly the relevant social psychological findings, (d) including those from my program of research.

***Transitional Justice: Factors Impacting the Type of Accountability, Reparation and Justice***

Nicholas Jones (Ph.D)

*Assistant Professor, University of Regina, Departement of Justice*

How a state addresses post-conflict justice is crucial in determining how they recover from a period of mass violence and violations of human rights. Using data from a population-based survey in Bosnia and Herzegovina this paper seeks to explore the impact of various demographic factors (i.e. age, gender, education level, and religious affiliation) and degree of victimization experienced on three outcome variables: 1) type of accountability (active participation versus imposed obligations), 2) type of reparation (individually-focused versus collective), and 3) type of justice (court-based, TRC, dialogically-based). The findings indicate that only one's religious affiliation and the degree of self-reported victimization have a statistically significant impact on the outcome variables.

***Reparative Justice at the ICC: best practice or tokenism?***

Mariana Goetz (LL.M.)

*Director of Programmes, REDRESS*

The International Criminal Court (ICC) provides an extensive framework for victims' justice, in principle, enabling the standards set out in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation. The ICC Statute and Rules of Procedure have woven interconnected procedural and substantive rights into the Court's framework. These include rights to information and consultation (including collective types of consultation such as under Article 15(3) of the Statute, or notification of specific events such as confirmation of charges or reparations hearings); rights to participation, including the ability to express views and concerns through a common legal representative appointed by the court; the eventuality of testifying as a witness of the Court; rights to protection and support as well as legal representation, and ultimately the ability to claim reparation. While enabling on paper, limited resources, time delays and both physical as well as conceptual remoteness have resulted in discourses of expectations management. It is argued that victims' expectations are legitimate, it the Court that has yet to make more progress in devising mechanisms to enable victims of mass violations to be participate effectively and meaningfully in a manner that takes significant numbers as a starting point.

***Healing and Statecraft: Residential Schools and Reparations in Canada***

Andrew Woolford (Ph.D)

*Associate Professor of Sociology, University of Manitoba*

The goals of individual Survivors, victim groups, and states are often at odds within reparative processes. While Survivors seek outcomes such as immediate economic and psychological relief, and groups desire collective goods of recognition, redistribution, and representation, the goals of the state tend more toward affirmation of political power, nation-building, and the governance of the past into a more calculable and certain future. This presentation examines the ways in which the goals of statecraft interfere and threaten to disrupt the healing efforts launched under the 2007 Indian Residential School

Settlement Agreement, with particular attention paid to the Common Experience and Individual Assessment Processes, which provide monetary compensation to residential school survivors. It draws upon Pierre Bourdieu's and Loic Wacquant's work on the "Bureaucratic Field" to situate the IRSSA within realm of governance and to pinpoint the potential harms of actuarial and responsabilizing forms of healing and repair.

***Collectivizing Reparations***

Frédéric Mégret (Ph.D)

*Associate Professor, Faculty of Law, McGill University*

This presentation will critique the excessively individualistic focus of current legal discourse on reparations within the ambit of international criminal justice, particularly the ICC. That focus is a result of international human rights case law but is inadequate for crimes that transcend individual human rights violations. The author will offer ways in which one might think legally about awarding reparations to groups as such, not merely because it is expedient to do so but because it is the groups that have been targeted as such when crimes were committed.

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**27 Octobre 2012**

***The Restitution of Land to Farmers Displaced by Paramilitary Groups in Colombia***

Gabriela Manrique

*Ph.D. Candidate, École de Criminologie, Université de Montréal*

Between 2003 and 2006 a peace process between the Colombian Government and the paramilitary group, United Self-Defence Forces of Colombia (*Autodefensas Unidas de Colombia* - AUC) led to the demobilisation of over 30,000 combatants. The AUC exercised control by massacring, assassinating, torturing and the forced migration of civilians. Subsequently, the Colombian government introduced several measures aimed at repairing victims. The penal tribunal for "Justice and Peace" was created in 2005, and permitted victims whose offenders were tried by the tribunal, to request reparation. Victims who did not participate in the criminal justice process could obtain reparation through administrative procedures. In addition, the National Commission for Reparation and Reconciliation was created and this Commission developed several commemorative and informational activities. The Commission on Historic Memory published several reports in order to ensure that victims' truth would be known. In 2011, the Colombian Congress approved the Law on Victims and Restitution of Land, which aims to guarantee the return of land and property rights to the victims of forced migration. In this paper we will analyse the process of restitution for victims in the *Monts de Marie* region of Columbia.

***Recognize and repair the damages before the consequences of victimization become chronic***

Marie-Marthe Cousineau (Ph.D)

*Professor, École de Criminologie, Université de Montréal*

On December 6th 1989, Quebec became the scene of a drama never experienced in Québec before : the now famous shooting at the *École Polytechnique*. On that day, 14 young women were murdered by a young man who then killed himself. The anniversary of this event is remembered each year. However, we forget that in addition to these 14 young women who were killed and the pain and suffering inflicted on their family and friends, there were many other victims that day. Both those who witnessed the shooting and those who were injured but not killed by the gunman experienced many serious consequences as a result of the crime. Ten years after the event, we discovered victims whose files were still open at Quebec's Victim Compensation Program (IVAC). For one thing, this revealed that the consequences of victimization do not necessarily disappear with time. Could reparation have possibly reduced the consequences suffered by the victims? Individually or collectively? The victims confided in us and we attempt to draw lessons from their stories.

***Reparations as a Tool for Healing in the Context of Large Scale Atrocities in Poor Countries***

Hugo Van Der Merwe (Ph.D)

*Transitional Justice Programme Manager,*

*Centre for the Study of Violence and Reconciliation, South Africa*

Reparations are the primary justice concern of impoverished victims. Not addressing these concerns head-on results in other justice processes becoming delegitimized. Providing reparations is however a process that is complicated by the context within which it needs to occur, particularly when there are many victims and the country is impoverished. While there have been significant developments in recognising reparations in international law, the meaning and significance of reparations is ultimately still contextually determined. Firstly it is important to recognise that victimhood is largely shaped by context -- the meaning of being a victim is dependent on local histories, discourses and politics. Secondly, the shape of reparations policies are mediated and manipulated by local political interests (rather than law). And thirdly, healing is a culturally ambiguous term that does not fit clearly with the way that law and politics define reparations. Answering the question of whether reparations programmes can heal victims would thus depend on the local meaning and political currency of each of the concepts: victim, reparations and healing. This paper seeks to sketch out these contextual variations and their implications in broad terms.

***Reparation and Recovery***

Christophe Herbert

*Ph.D Candidate, Departement of Psychiatry, McGill University*

Traumatic events, like violent victimization, sometimes give rise to post-traumatic stress or depression. The criminal justice system, however, follows its own track at its own tempo, independent of the victims' well-being. Indeed, the criminal justice system sometimes even augments the victims' suffering. Even when the offender is found guilty by a court of law, this may not necessarily lessen the victim's psychological trauma. Reparation is considered by some to be a precondition for healing. In this paper I will look at reparation and the possible impact on victims' recovery from trauma.

***The Impact of Time on the Need for Reparation***  
Amissi Manirabona (Ph.D)  
*Assistant Professor, Criminal Law, Université de Montréal*

Does time erase the need for reparation? Or does time simply change victims' needs? Based on a series of interviews with victims of torture and crimes against humanity committed during the Duvalier dictatorship in Haiti, this study shows that victims' desire for reparation does not disappear with the passage of time. Some twenty years after the fall of the Jean-Claude Duvalier "Baby-doc" regime, victims still wanted reparation. However, time did affect the urgency of victims' need for reparation.