SOCIAL BONDS

A Lifeline for Atrocity Victims

FELLOWSHIP REPORT SEPTEMBER 2024

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

SIMON-SKJODT CENTER FOR THE PREVENTION OF GENOCIDE

THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM teaches that the Holocaust was preventable and that by heeding warning signs and taking early action, individuals and governments can save lives. With this knowledge, the **Simon-Skjodt Center for the Prevention of Genocide** works to do for the victims of genocide today what the world failed to do for the Jews of Europe in the 1930s and 1940s. The mandate of the Simon-Skjodt Center is to alert the United States' national conscience, influence policy makers, and stimulate worldwide action to prevent and work to halt acts of genocide or related crimes against humanity, and advance justice and accountability. Learn more at **ushmm.org/genocide-prevention.**

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COVER: An elderly Rohingya Muslim man, newly arrived from Myanmar, carries his grandson as he walks near Kutupalong refugee camp, Bangladesh, Friday, Oct. 20, 2017. The continuing exodus of Rohingya Muslims has become a major humanitarian crisis and sparked international condemnation of Buddhist-majority Myanmar, which still denies atrocities are taking place. *AP Photo/Dar Yasin*

** The co-authors write strictly in their personal and academic capacities. All views expressed by the co-authors in this report are their own and do not represent the official opinion of or bind any institution with which any author is affiliated.*

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PREFACE

"Reparations provide a tangible acknowledgment of the harm endured. Reparations cannot buy back all that survivors have lost, but they can help survivors build a new life for themselves and access the rights to which all people are entitled." Nadia Murad

Recent decades have seen many advancements in international criminal justice: from Rwanda to Chad, and from Syria to Cambodia, perpetrators of genocide and mass atrocities have had to answer for their crimes in court. These processes have provided the immeasurable benefits of preserving the truth about past crimes and recognizing the experiences of victims and survivors. However, criminal accountability processes often fail to address some of the most pressing needs of victims of mass atrocity crimes, notably restitution. This fellowship report seeks to explore creative ways to address this gap.

The United States Holocaust Memorial Museum's Simon-Skjodt Center for the Prevention of Genocide works with victims of genocide and related crimes against humanity across the globe. As with Holocaust survivors, these victims know all too well that the harm inflicted by mass atrocities is immense, profound, and long-term. The Center monitors early warning signs and threats of genocide and related crimes against humanity, raises awareness among policy makers and the public, and provides options for preventing mass atrocity crimes—and their significant harm to communities—from happening.

An important part of this mandate is a recognition that all too often prevention does not occur or is insufficient to save lives. In those cases, the Center works to advance victims' rights to justice and accountability, through the Ferencz International Justice Initiative. This Initiative promotes a holistic approach to pursuing justice—one that supports victims and survivors of genocide and related crimes against humanity in their efforts to seek justice and redress.

In a 2021 interview, Thomas Buergenthal—Holocaust survivor, former judge at the International Court of Justice, and past chair of the Museum's Committee on Conscience—explained that justice for mass atrocities means two things to him: that perpetrators are punished, and that victims receive compensation and the aid they need to survive. Buergenthal credits such compensation for allowing his family to rebuild their lives and notes that financial support is critical for survivors. For other communities that have experienced mass atrocities, such compensation rarely exists. All too often, this absence exacerbates the serious economic, health, and personal challenges that survivors face as they struggle to begin to rebuild their lives.

Ambassador David Scheffer (in his capacity as a Simon-Skjodt Center Tom A. Bernstein Genocide Prevention Fellow), Dr. Caroline Kaeb, and Madeline Babin have examined a novel way to fund reparative justice for victims of mass atrocities. This report explores a fresh approach to one of the most serious problems of our time. The Center is proud to support the authors' innovative efforts to make reparative justice for victims of mass atrocity crimes a reality.

Naomi Kikoler
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GLOSSARY

Arrears	The term *arrears* primarily refers to an overdue payment. The word is used to describe the state of being behind or late in the fulfillment of an obligation, duty, or liability. For example, a UN Member State that has failed to fulfill the payment of its annual dues to the organization is said to be in arrears.
Assessment (or Assessed Dues)	*Assessment* is the term used to describe the amount of money that, for example, the UN General Assembly directs each country to contribute to finance the approved general budget each year. These assessed dues are mandatory and binding.
Called	A guarantee is typically *called* when a borrower defaults on repaying an outstanding debt, meaning the borrower is unable to fulfill its payment obligations under the terms of the agreement. If the guarantee on a bond, for example, is called, the entity acting as the guarantor for the transaction must supply funds covering part or all of the borrower's financial obligation.
Contingent Liability	A *contingent liability* is a potential liability that could occur depending on the outcome of an uncertain future event.[1]
Debt Instrument	*Debt instruments* are a type of debt that legally requires a fixed payment to the lender (or investor), often with interest, over a predetermined length of time. Bonds are one type of debt instrument.
Endowment Social Bond	An *endowment social bond* is a fixed-return social bond issued by an organization. The funds raised from social investors are invested to accrue an annual rate of return that covers the yearly interest payments to the social investors, an annual management fee, and at least part of the budget of the recipient organization that aims to generate a positive social impact.
Environmental, Social, and Governance (ESG) Standards	*Environmental, social, and governance standards* are a set of criteria that socially conscious investors use to screen investments.
Guarantor	The *guarantor* is the entity that underwrites the bond, meaning it provides the financial backing for the issuance by taking on the responsibility to pay the debt and interest in the event that the issuer defaults on its repayments. Governments, agencies, companies, multinational institutions or organizations, foundations, and high-net-worth individuals can serve as guarantors.
Humanitarian and Resilience Investing (HRI)	*Humanitarian and Resilience Investing* is an emerging impact investment theme aimed at leveraging private capital to directly benefit vulnerable people and fragile communities.[2] See also impact investing.
Impact Investing	*Impact investing* is the practice of deploying capital through investments intended to generate social and/or environmental benefits in addition to a competitive financial return.

Lead Manager (or Asset Manager)	With regard to bond issuances, the *lead manager* arranges the transaction with prospective investors and announces the bond issuance publicly. Lead managers also support (and sometimes serve as) book runners, who market the bond, evaluate demand, and determine the price and allocation of the issuance.[3]
Market Catalyst	A *market catalyst* refers to any event, entity, or information that causes a significant change or development in a bond market.
Municipal Bond	A *municipal bond* is a debt security issued by states, cities, counties, and other governmental entities to finance day-to-day obligations and capital projects, including the construction of schools, highways, or sewer systems.[4]
Principal	In investing, the *principal* is the initial amount of money borrowed, separate from any earnings or interest. When investors purchase a bond, the borrower pledges to pay the investors back the principal amount plus the set interest rate of the bond.
Recourse	A *recourse* is a legal agreement that gives the lender the right to obtain pledged collateral if the borrower is unable to satisfy the debt obligation.[5] It refers to the investor's legal right to seize or collect collateralized assets if the loan is not repaid according to the terms of the agreement.
Reparations	*Reparations* are generally understood as a form of compensation to provide redress to victims of past injustices in recognition of the harms suffered. Reparations can be monetary, in the case of financial compensation; they can also involve restitution, rehabilitation, or satisfaction, or some combination of these measures.
Social Bond	A *social bond* is a standard use of proceeds bond that raises funds for projects that aim to achieve broader social benefits while generating a financial return.
Social Impact Bond (or Pay-For-Success Bond)	A *social impact bond* is a performance-based contract in which a bond-issuing organization raises funds upfront from private investors. The funds are then used to cover the operating expenses of a social program in order to generate measurable positive social outcomes. The metrics for measuring outcomes are agreed upon when the bond is issued; the return on investment is contingent upon the achievement of desired social outcomes. The better the results, the better the return investors receive.
Social Investor (or Impact Investor)	*Social investors* are investors who seek to combine financial returns with social impact by investing in projects or ventures that aim to deliver some quantifiable social benefit.
Social Project Bond	A *social project bond* is a project bond for a single or multiple social project(s) for which the investor "has direct exposure to the risk of the project(s) with or without potential recourse to the issuer."[6]
Social Revenue Bond	A *social revenue bond* is "a non-recourse-to-the-issuer debt obligation . . . in which the credit exposure in the bond is to the pledged cash flows

	of the revenue streams, fees, taxes, etc., and whose use of proceeds go to related or unrelated social project(s)."[7]
Social Securitized and Covered Bond	A *social securitized and covered bond* is collateralized "by one or more specific social projects(s), including but not limited to covered bonds, ABS, MBS, and other structures. . . . The first source of repayment is generally the cash flows of the assets. This type of bond covers, for example, bonds backed by social housing, hospitals, and schools."[8]
Sovereign Bond	A *sovereign bond* is a debt instrument issued by a national government, government department, or agency, or a special purpose vehicle of a government or multiple governments.[9] A sovereign social bond is issued to raise funds to meet some social need(s).
Sovereign Credit Rating	A *sovereign credit rating* measures the creditworthiness of a country, meaning the relative risk that a country will default on its debt responsibilities. Credit agencies assign rating symbols (AAA, AA, A, etc.) to sovereign states to indicate the risk associated with lending to the country.
Standard Social Use of Proceeds Bond	A *standard social use of proceeds bond* is a standard recourse-to- the-issuer debt obligation in which the issuance raises funds for projects or ventures dedicated to bringing about a social benefit. An endowment social bond falls within this category of social bond.
Subvention	A *subvention* functions as a monetary grant, in this case derived from the general budget of the United Nations, to financially aid or support some entity or undertaking.
Sustainable Investing (or ESG Investing)	*Sustainable investing* is an investment theme in which an investor considers environmental, social, and corporate governance (ESG) criteria before contributing capital to a particular venture or company. The goal of sustainable investing is to use investments to simultaneously generate positive environmental and/or social benefits, corporate responsibility, and financial returns. It differs from impact investing in that the company or venture that receives the money does not have to directly aim to address broader environmental or social themes.

EXECUTIVE SUMMARY

This report examines the funding gaps that undermine the delivery of sufficient funds—reparations and assistance—to victims of "atrocity crimes" (genocide, crimes against humanity, and serious war crimes) and options for developing a funding mechanism in the form of a social bond for the benefit of such victims. The report aims to generate an innovative means to scale funds in order to meet the immediate and long-term needs of survivors and those adversely impacted by atrocity crimes. This exercise has become even more vital in the wake of the COVID-19 pandemic as funding shortages have erupted for human rights and humanitarian priorities across the globe.

This is no small matter. The victim populations of atrocity crimes encompass the survivors of ongoing atrocities in addition to those stretching back years and decades. Atrocity victims currently number in the tens of millions globally. Addressing their needs—both with short-term provision of assistance to meet victims' economic, health, and living requirements in the immediate aftermath of atrocities as well as with the long-term objectives of securing justice and reparations—remains at the forefront of policy priorities.

The victim populations of atrocity crimes encompass the survivors of ongoing atrocities in addition to those stretching back years or even decades, including the assaults on civilians in Afghanistan, the Balkans, Cambodia, central Africa, Colombia, Darfur, El Salvador, Ethiopia, Guatemala, Iraq, Myanmar, North Korea, Rwanda, Sierra Leone, South Sudan, Sri Lanka, Syria, Ukraine, Xinjiang (China), Yemen, and many other regions and countries. Stripped of their human rights, and often enduring the losses of their relatives or friends, millions of these oppressed peoples are internally displaced or forced to flee as refugees.

Tribunals, transitional justice mechanisms, and some domestic courts endeavor to hold criminally accountable those responsible for atrocities. Just as the millions who perished during or survived the Holocaust continue to be entitled to criminal justice and reparations, those who have endured contemporary atrocities seek compensation for the injustices suffered. This is proving increasingly difficult.

Reduced Support for Humanitarian Assistance to Address Immediate Needs

Those who survive mass atrocities often face significant challenges during and in the immediate aftermath of the crimes, including physical and mental injuries, loss of livelihoods, and displacement. Subnational and transnational humanitarian aid agencies are often the first responders providing life-saving assistance to victims of atrocities and severe human rights abuses—survivors who struggle with physical and mental injuries in addition to destitution and malnutrition. These organizations rely on voluntary governmental contributions each year, supplemented in some cases by philanthropic donations from individuals and foundations. Humanitarian assistance is critical, in that it seeks to reduce the impact of the harm inflicted.

Even before the pandemic, glaring funding gaps existed for humanitarian needs and reparative measures. While the United Nations High Commissioner for Refugees (UNHCR)[10] calculated its 2018 needs would total $8.2 billion, it raised only $3.5 billion for the year. Prior to the pandemic, the UN World Food Programme (WFP)[11] had projected its 2020 operations would experience a $3.1 billion shortfall after falling behind by $4.5 billion in 2019. The organization ultimately faced a $5.3 billion shortfall in 2020. With chasms widening between humanitarian needs and available resources, the future threatens to entail suffering and even starvation on an unprecedented scale if organizations are unable to identify new sources of capital.

The fate of Yemen amid the COVID-19 pandemic provides a grim glimpse into the future of humanitarian assistance reliant on governmental support. By March 2021, 3.6 million people were in an “emergency” state of food shortage, and an estimated 400,000 children were regarded at risk of perishing from hunger while WFP struggled to garner funding. By late 2021, the situation had only worsened, after donors delivered just half of WFP’s financial requirements for the year.[12] Woefully short of the necessary funding to address the threat of widespread famine,[13] the organization was forced to cut rations by up to 50 percent to some of the world’s most vulnerable populations. In Yemen alone, where escalating atrocities claim a growing number of victims, WFP reduced food rations to eight million citizens beginning in January 2022.[14]

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Similar funding deficiencies plague other humanitarian organizations and international tribunals around the world. Médecins Sans Frontières[15] had an overall funding gap of €72 million in 2018. Save the Children UK[16] reported a decrease of £104 million in funding between 2017 and 2018. The International Committee of the Red Cross (ICRC),[17] which is the guardian of the Geneva Conventions and on the front line of armed conflicts globally, had a funding deficit of CHF 30 million in 2019.

Funding for Reparations

Justice for victims following the infliction of atrocities, whether justice is administered locally or internationally, is a long-term quest that over the last 30 years has been increasingly pursued and partially met with the creation of international tribunals and prosecutions in domestic courts. While restoring livelihoods and well-being are paramount during an ongoing armed conflict or in the immediate aftermath of atrocities, survivors usually will seek some enduring measure of justice.[18]

While reparations awards are supposed to be paid as a tangible admission of responsibility for the crimes of past regimes, and thus burden the government with that liability, in reality the cavernous gap between actual payments and what is owed often requires additional funding beyond governmental means. For example, the funding shortfall for the Trust Fund for Victims (TFV)[19] of the International Criminal Court

(ICC) remains about €6 million to €7 million annually, as victims seeking international justice await unfunded reparations awards and judges continue to hand down those judgments.[20]

The Inter-American Court of Human Rights has a long practice of awarding reparations against member states accountable for serious human rights abuses,[21] but satisfaction in payment of reparations depends on the defendant government taking the necessary steps to appropriate funds for that purpose.[22] States have had a good compliance record with respect to such reparations awards, but challenges for payment remain.[23] Efforts in Colombia to finance reparations as part of the Peace Accords between the government and the Revolutionary Armed Forces of Colombia remain uncertain.[24] Similarly, while the European Court of Human Rights awards damages in its cases,[25] the actual pay-outs are sporadic.[26]

Reparations as penalties for the crimes against humanity of slavery have a long and largely unfunded history.[27] While governments and institutions, such as universities, built on the backs of slaves increasingly explore and commit to reparations awards of varied types,[28] including pecuniary and other forms of remorse, vast challenges remain to generate the necessary revenue.

Governments pay, through assessments and/or voluntary contributions, almost all of the budgets of international or hybrid tribunals, including the permanent International Criminal Court, the International Criminal Tribunals for the former Yugoslavia and Rwanda (succeeded by the International Residual Mechanism for Criminal Tribunals), the Special Court for Sierra Leone (succeeded by the Residual Special Court for Sierra Leone), the Extraordinary Chambers in the Courts of Cambodia, the Special Tribunal for Lebanon, and the Kosovo Specialist Chambers and Specialist Prosecutor's Office. Recent years have also seen a profusion of international investigative mechanisms to collect and examine evidence of atrocity crimes relating to conflicts in Venezuela, Myanmar, Burundi, Yemen, Syria (two commissions), Libya, South Sudan, the Kasai Region of the Democratic Republic of the Congo, and Iraq. (See appendix III.) All of these entities depend on *voluntary* governmental contributions, which rarely meet the full funding needs to implement the investigative and archival work of the mechanisms.

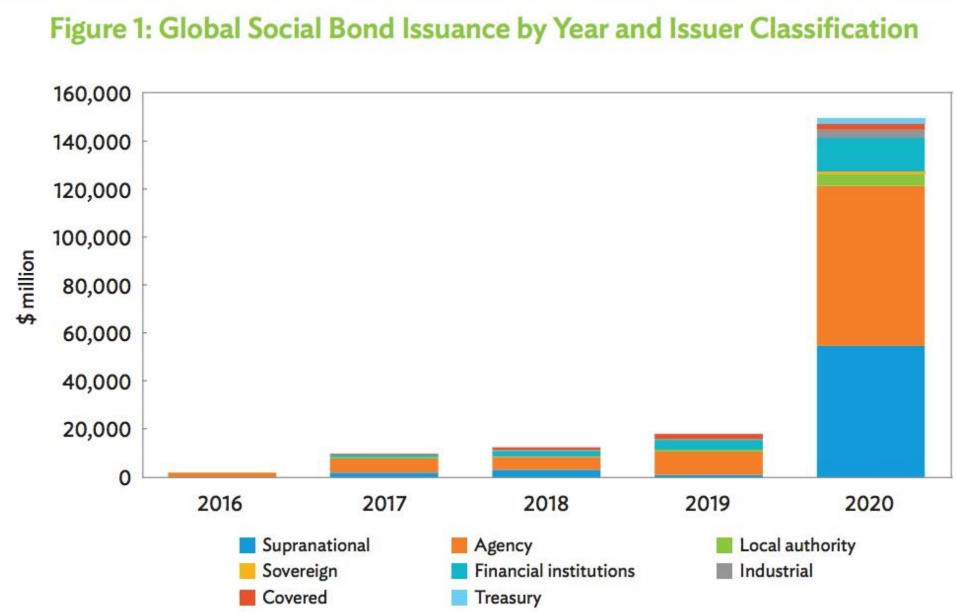
The near total dependence on government financing—assessed or voluntary—for the tribunals and investigative mechanisms may make sense under the theory that the rendering of justice should be a strictly public obligation and subject to the oversight of government or international officials. The problem, however, is that where funding is incomplete or too scarce to achieve the objective of international justice, the ones who suffer, once again, are the victim populations. The colossal scale and magnitude of the crimes make reliance on strictly public funding unrealistic if credible justice is the goal. One might argue that victims are essentially revictimized simply because the funds are not there to pay for the judicial remedy they deserve, which also hinders the deterrent signal that reparative justice can deliver.

It is expected that victim populations and funding shortfalls for the organizations and tribunals seeking to assist them will grow significantly in the years ahead, exacerbated by the pandemic's fallout and the increasing demands on governments and their budgets. Autocratic and authoritarian-leaning governments as well as violent nonstate actors will continue to spawn repressive policies and armed conflicts that generate additional waves of refugees and victims of atrocity crimes.

There are emerging solutions. For the last few years, momentum has been building behind "humanitarian investing," namely utilizing the private sector and "social investors" for profitable investment opportunities that scale the funds needed to pursue humanitarian aims. Though the phenomenon is a relatively recent development in the capital markets, its track record lays a solid foundation for exponential growth that could be leveraged for humanitarian objectives.

During the pandemic, the social bond market, which is explicitly designed to address social causes, gained a firm foothold. (See figure ES.1.) With countries in lockdown, businesses forced to shutter, and public health needs soaring, large social bond issuances enabled the preservation of the livelihoods and health care for millions. The International Finance Corporation (IFC) noted that in the first quarter of 2020, issuances of social bonds skyrocketed to the highest level in history.[29] By December 2020, a total of 138 social bonds had been issued globally, which raised more than $140 billion. This amount far exceeded the total of $17.4 billion in social bonds issued in 2019. In 2021, social bond issuances surged again, raising over $190 billion by some estimates.[30] As a result, bonds that address social themes and appeal to the rapidly expanding class of socially concerned investors have represented the fastest growing sector of the bond market.

Though COVID-19 catalyzed the rapid rise in social bond issuances, the interest in social bonds is expected to last far beyond the crisis. Evidence that sustainable investments often outperform traditional ones has partly driven the increasing appeal.[31] In recent years, interest in social bonds has surged across Europe, Asia, and the Americas. The most active social bond issuers in 2020 were two European Union (EU) member states, France and Luxembourg.[32] The two countries each accounted for approximately one-third of the total global social bond market that year, individually raising around $50 billion for their respective social projects.[33] The European Union became one of the world's largest issuers of social bonds in 2020, raising a total of $47.3 billion.[34] In 2021, the EU's SURE Program, which tackles unemployment, issued nearly €100 billion ($123 billion) in social bonds building off the bloc's unprecedented issuances in 2020.



Note: Data for full-year 2020.
Source: Bloomberg LP.

Regions beyond Europe experienced similar growth. In March 2020, the African Development Bank (AfDB) marketed a $3 billion three-year "Global Fight COVID-19 Social Bond" to "alleviate the economic and social impact the pandemic will have on the livelihoods and Africa's economies."[35]

In February 2021, the Asian Development Bank (ADB) issued a report that recorded the dramatic growth in the region's social bond market since 2019.[36] In 2017, Asian social bond issuance comprised 12 percent of total global (excluding supranational) issuances. During 2020, this share surged to 23 percent. In fact, Japan held the highest number of issuances in 2020, with 40 social bonds raising $8.8 billion. Similarly, in March 2020, the Inter-American Development Bank issued a $2 billion five-year sustainable development bond to support government and corporate responses to the public health, labor income, and business impact of the pandemic. It too sold quickly with oversubscribed orders.[37]

Beyond the imperative of COVID-19—which propelled a surge in social bond issuances to address pandemic-related challenges to public health, safety, security, and employment[38]—the challenge remains to turn social investors' attention toward diverse humanitarian needs that include atrocity victims. Indeed, the World Economic Forum, World Bank Group, International Committee of the Red Cross (ICRC), Credit Suisse, and the Netherlands, supported by the Boston Consulting Group, have spearheaded an ambitious initiative on humanitarian investing, which can be directed towards the needs of atrocity victims, as discussed in detail in section V of this report.

Social bonds can be structured in different ways, but each shares a common affinity for metrics that demonstrate the value of the enterprise. That is, what will draw in investors who find enough meaning in the social purpose to take the financial risk? Examples include front-loaded social bonds that require the rapid infusion of a large amount of funds for a social objective, such as purchasing and administering vaccines quickly for populations. In this transaction, several governments commit, with monies raised from annual legislative authorizations, to repay the bond investors progressively at a later date. One example is the $300 million vaccine bond issued by the International Finance Facility for Immunisation (IFFIm) supporting Gavi, the Vaccine Alliance, in 2017 to finance its work in the world's poorest countries (see a further description in appendix II.2).[39] The ICRC's humanitarian impact bond[40] functions as a variant of the front-loaded social bond of relatively small size (CHF 26 million) (see a further description in appendix II.5a).

Launched in 2017, the financial instrument underwrites the building and operation of three new rehabilitation centers in Africa. Speaking on the importance of this new funding stream, ICRC Vice President Gilles Carbonnier stated, "Faced with a growing gap between the needs on the ground and the resources available, strengthening the bridges between the world of finance and that of humanitarian aid becomes essential and helps us to have a lasting impact."[41]

Social bonds hold promise as a long-term solution for generating a relatively steady stream of revenue each year to help reduce the funding gaps that undermine the work of humanitarian organizations, tribunals, and victim populations. In particular, an endowment social bond could generate consistent funding each year for 10, 20, or 30 years. An expert management team could invest the initial bond offering in largely passive investments, similar to how conventional endowments—such as at universities—manage their assets. After discounting a reasonable management fee and the reduced interest rate paid to the social investors each year, the remaining return on those investments would be applied to cover part of the gap in funding for the humanitarian organization or tribunal. This would result in a blended financing model, combining governmental contributions with revenue raised in the market from the social bond. The principal either would be repaid at the end of the bond term from the endowment fund, or the bond could be rolled over and continue paying interest to the social investors.

The humanitarian organizations and tribunals would invite or accept only prequalified social investors who meet their ethical standards. As institutional social investors come primarily from traditional sources such as pension funds and insurance companies, the issue of an unethical prospective donor likely would not arise—as confirmed by the experience of investment banks managing social bonds. The key to an endowment social bond would be for one or more governments, corporations, private foundations, or wealthy individuals to guarantee the bond so that social investors have confidence to invest in the bond and can anticipate a profitable, though discounted, return. This reduced return is aptly described as the middle ground between investing in conventional profitable bonds and philanthropy. It would be necessary that the governments falling within the AAA, AA, and A categories of sovereign risk, strongly favored by social investors as guarantors, would take on a contingent liability.

Some nations spurn contingent liabilities for fear of burdening future leaders and parliaments with the risk, albeit remote, that the guarantee might be called. Yet, the challenges of current times call on political and financial leaders to break the mold for victims' needs in the same spirit as the European Commission did with its initial social bond issuance to rescue European nations during the COVID-19 crisis.

Particularly after the pandemic diverted huge cash flows from national treasuries, governments, institutions, and financiers should take a fresh look at an innovative approach to raise funds on the social bond market, backed by highly credit-worthy guarantors, to help cover funding gaps for support for victims and survivors of mass atrocities. Assistance for atrocity victims can come in many forms, and this report focuses on the funding of reparations, financing for humanitarian organizations delivering aid and psychosocial relief to populations during and after crises, and garnering adequate financial resources to enable international tribunals to carry out their mandates in delivering justice and deserved compensation to victim populations.

The world is burdened with extraordinary risks in modern times, but narrowing funding gaps to help victims of atrocities and other assaults on human rights should not be an impossible mission. After all, securing restitution and reparations for the survivors of the Holocaust and their descendants required extraordinary endeavors,42 and while that task is by no means complete, meeting the imperatives of justice and well-being for the victims of atrocity crimes in our own time and repairing the legacies of past wrongs will necessitate exploration of similar pathways.

I. INTRODUCTION

This report examines the funding shortfalls that impede the provision of adequate financial support, in the form of reparations and assistance, to survivors of "atrocity crimes" (genocide, crimes against humanity, and war crimes) and explores options for developing a funding mechanism, such as an investment and guarantor portfolio for a social bond, for the benefit of these victims. Creating an innovative means to scale funding to meet the immediate and long-term needs of victims of atrocity crimes becomes even more vital within the context of COVID-19 and its subvariants, which have widened the gaps between humanitarian needs and available funding globally.

Section II of the report describes the nature of the problem, namely the large numbers of current atrocity victims across the globe, the funding sources and requirements for these groups of individuals, and the gaps in funding that continue to grow. It discusses the growing humanitarian needs of atrocity victims and other populations enduring protracted crises, along with the overall state of funding. Appendix I provides an overview of the experience of 11 relevant humanitarian organizations that assist atrocity victims in acquiring funds and disburse aid to various recipient populations.

Section III examines the growing imperative of reparations for the benefit of victims of atrocity crimes. There are summaries of reparations awarded by regional and international courts in addition to an explanation of the difficulties of raising the capital for reparations awards.

Section IV outlines the funding requirements for the operational budgets of international criminal tribunals and investigative mechanisms that manage the demands for accountability on behalf of survivors.

Section V explains the new era of humanitarian investing and its relevance for tribunals and atrocity victims.

Section VI sets forth information about the social bond market. The section includes a general description of the character and growth of social bonds as well as an explanation of the criteria established by the Social Bond Principles, administered by the International Capital Market Association. Appendix II provides more detail about various types of social bonds.

Finally, **Section VI** describes this report's primary proposal of endowment social bonds.

Section VII sets forth five proposed pilot projects to deploy an endowment social bond or other viable social bond mechanism. One pilot project pertains to the budget of the International Criminal Court and four of the projects focus on the operational budgets of nongovernmental organizations dedicated to assisting victims of atrocity crimes.

Section VIII lists a number of recommendations for further action.

The **Conclusion** reaffirms the critical need to reduce funding gaps for atrocity victims, the challenges ahead, and the value of innovative financial instruments structured to meet the needs of survivors.

II. THE NATURE OF THE PROBLEM: ATROCITY VICTIMS, FUNDING REQUIRMENTS, AND FUNDING GAPS

A. Examples of Countries with Atrocity Victims and Estimated Funding Requirements

There remains great difficulty in ascertaining accurate figures regarding the tens of millions of victims and survivors and estimating the enormous cost of assistance for them in scores of countries. Even when the magnitude of the need is recognized, the resources available cover only a tiny fraction of what is required.

Five examples—Syria, Yemen, South Sudan, Ukraine, and reparative measures awarded by international tribunals and governments for past large-scale atrocities—demonstrate the massive scale of these needs, which include physical and psychosocial support and rehabilitation. Descriptions of the five are as follows:

- Conflict has continued in Syria since 2011. A multitude of international aid agencies, nongovernmental organizations, the Turkish and Greek governments, and the European Union continue to assist survivors of atrocity crimes there. Still, the funding gap between contributions received and the requirements of Syrian victims, including the refugees spread throughout the European continent and those internally displaced, totaled at least $2.38 billion in 2020 alone.[43]

- Yemen has been described by the United Nations as the worst humanitarian crisis in the world.[44] While a civil war aided by external actors unleashes grievous atrocity crimes on the civilian population, a stark disparity persists between UN appeals for humanitarian assistance from governments and the limited aid received. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), in 2020 a nearly $1.9 billion funding gap existed between the total assistance acquired for victims in Yemen and the total need, which reached $3.2 billion.[45] There has been no realistic source of funding proposed for millions of Yemenis other than voluntary contributions by governments. Since the war began in 2015, over 140,000 children under the age of five have died;[46] in 2019 alone, 25,000 Yemenis perished as a direct result of the conflict.[47] In 2021, the United Nations estimated that total casualties had reached 370,000 and projected that number could rise to 1.3 million by 2030.[48]

- In South Sudan, where the United Nations has documented atrocity crimes resulting in at least 300,000 fatalities, over 1.87 million people remain internally displaced. An estimated 2.3 million refugees live scattered throughout South Sudan, Uganda, and Kenya.[49] The gap between the assistance needed for these populations and the actual aid levels reached epic proportions in 2020 with the UN raising $542.3 million compared to the calculated need of $1.8 billion.[50] Civil society groups have experienced shortfalls in every effort to meet the needs of South Sudan citizens. The United Nations High Commissioner for Refugees (UNHCR) experienced a deficit of $48.7 million,[51] while a woefully underfunded UN International Children's Fund (UNICEF) operated with a shortfall of $81.7 million in 2019.[52] South Sudan received five times less funding in June 2020 than it received in June 2019, which left it only 4 percent funded for the entire year.[53]

- In Eastern Europe, Russia's invasion of Ukraine spurred the exodus of more than one million Ukrainian refugees across borders in the first week of the war alone, while it displaced thousands more internally.[54] Three weeks after the start of the military offensive, the number of refugees had soared to over 3.2 million while an additional 6.5 million Ukrainians had been displaced across the country. By March 21, 2022, over 10 million people—totaling one-fourth of the country's entire population—had fled their homes.[55] Humanitarian needs surged as attacks on civilians by Russian troops inflicted serious injuries and hundreds of thousands of citizens suffered without access to water or electricity.[56] Estimating at least 12 million people in Ukraine were in immediate need of humanitarian assistance, the United Nations appealed for $1.7 billion to supply urgent relief.[57] Then, in July 2022, an estimated $750 billion was sought at the Ukraine Recovery Conference in Lugano, Switzerland, to fund the country's reconstruction.[58] For the host countries to support the 4 million refugees that had traveled across borders in the first three weeks of the conflict, the costs incurred could reach $30 billion in 2022 alone. If the conflict continues without sign of cessation or de-escalation, the number of Ukrainians in dire need of assistance both within and across borders will continue to grow. Humanitarian agencies will require higher levels of funding to keep up with the soaring needs.

- While the International Criminal Court has awarded reparations in several cases and doubtless will continue to do so,[59] unfunded reparations awards have mounted. Some of the best-known reparations programs in recent decades have been negotiated or judicially awarded in a number of Latin American countries and by the Inter-American Court of Human Rights, with millions of dollars of reparations awards. Similarly, the European Court of Human Rights has awarded pecuniary damages for serious human rights violations on scores of occasions. [60] The Extraordinary Chambers in the Courts of Cambodia (ECCC) has awarded nonfinancial reparations, but even that has been an arduous struggle as it depends on civil society securing voluntary contributions to fulfill the reparative measures. Germany paid significant reparations to Israel in relation to the Holocaust.[61] For surviving and deceased Holocaust victims and their descendants, the estimated disparity between need for compensation or reparations and what actually has been provided in some cases remains challenging.[62] Several American universities have begun to pay reparations drawn from private sources in relation to their historical use of slave labor.[63] Reparations claims by African Americans and Native Americans run into the billions of dollars and will continue to increase as the Black Lives Matter movement and petitions by Native Americans grow in the years ahead.[64] While these last examples may not be victims of current atrocity crimes, they constitute groups entitled to reparations for past harms that vastly surpass the current levels of reparative funding available to compensate them.

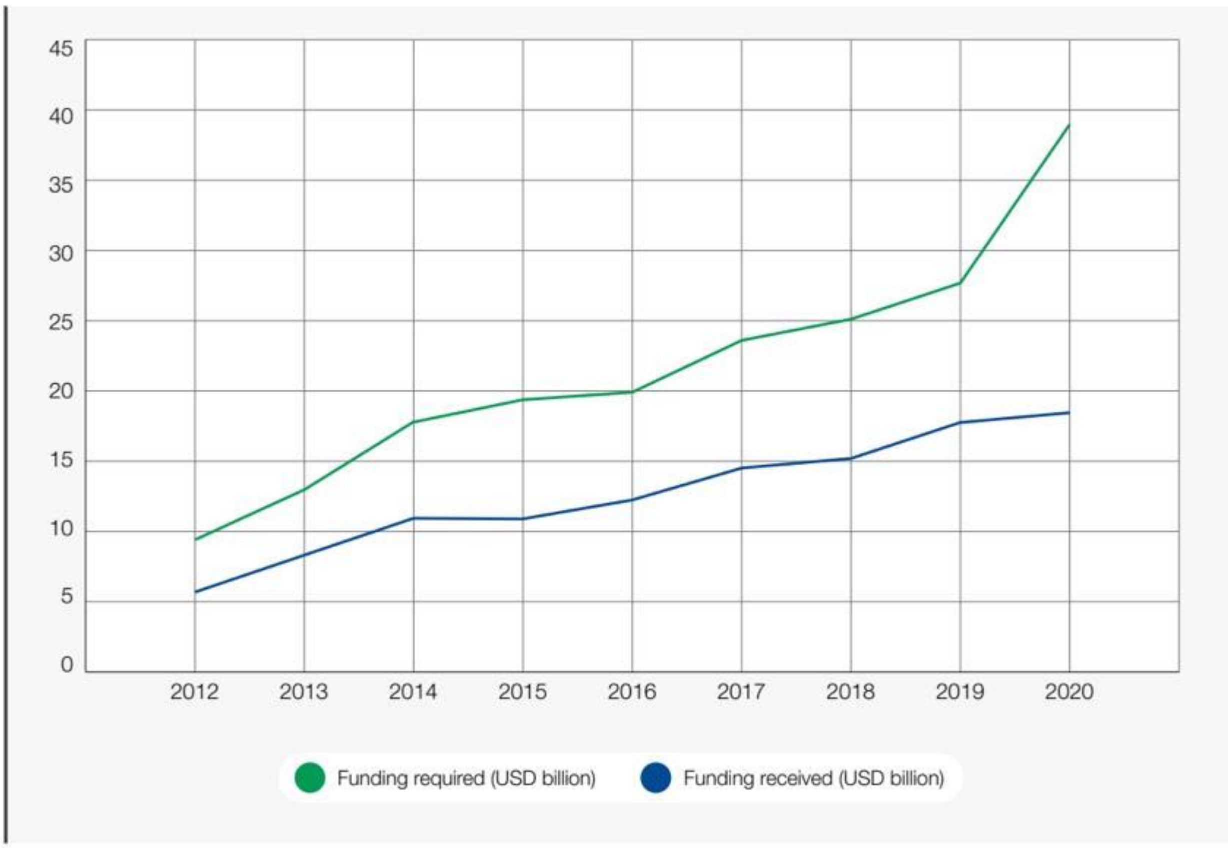
The need for scaled assistance to victims of mass atrocities is incontrovertible. Though in limited cases the needs of refugees or health requirements of survivors are being addressed at least in part, there remains inadequate funding to fully meet the reparative needs of victims.

B. General Sources of Funding for Atrocity Victims

Section II.A records the funding needs that are most identifiable among the victims in the listed countries. Most of the funding for atrocity victims is derived from government contributions to multilateral financial institutions, humanitarian agencies, civil society, or relevant governments directly through bilateral foreign assistance programs. Philanthropy and private charity raise additional funds independent of governments for multilateral organizations and humanitarian agencies. A third source is the amount the relevant government itself can budget, if anything, toward the needs of victim populations, who are often refugees, within its own borders.

The funding gap experienced in every one of the atrocity victim situations outlined in section II.A reflects an unfortunate shortcoming on the part of global actors to meet the dire needs of survivors, a phenomenon that long pre-dates the COVID-19 pandemic (see figure II.1). An initiative on "humanitarian investing" spearheaded in 2019 by the World Bank, the World Economic Fund, and the International Committee of the Red Cross highlighted this financial trough as a growing gap for which no conventional solution exists. This conclusion, and the need to find a new pathway of funding to complement voluntary governmental contributions, resonates even more strongly as a consequence of the colossal budgetary demands created by the pandemic. Section V discusses humanitarian investing in more detail.

Figure II.1 Humanitarian Funding Gap



Source: World Economic Forum, *Unlocking Humanitarian Resilience Investing through Better Data* (Geneva: World Economic Forum, 2021), https://www3.weforum.org/docs/WEF_Unlocking_Humanitarian_and_Resilience_2021.pdf.

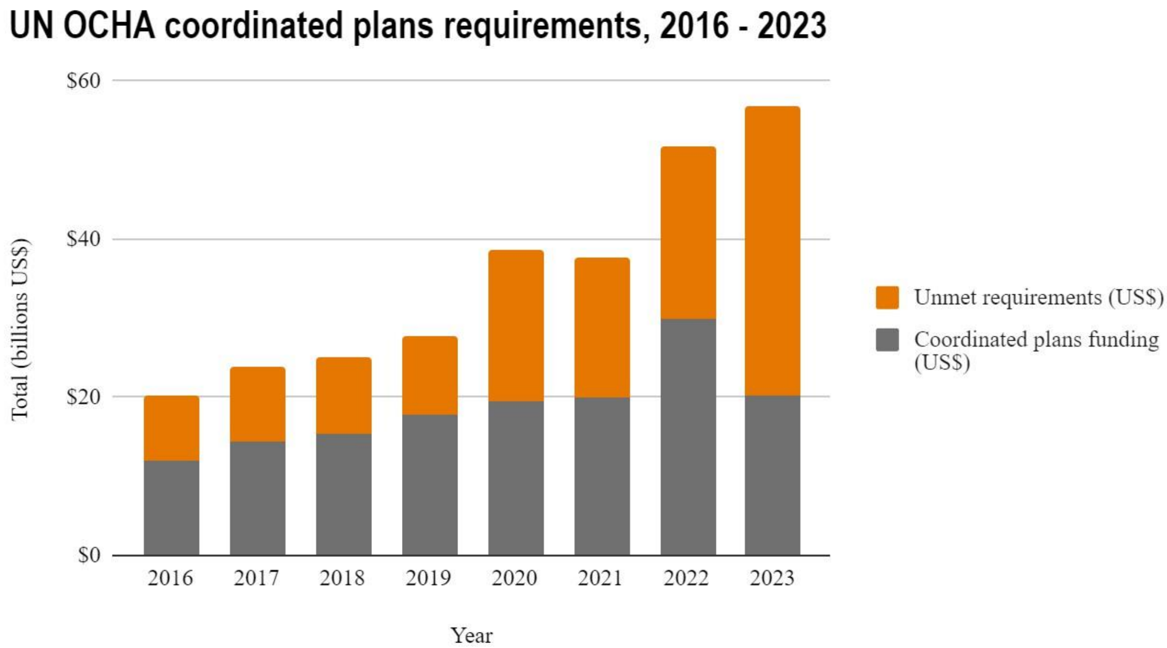
The fate of reparations negotiations and awards remains precarious. Reparations are often conceived as cash payments to survivors who have suffered grievous harm in the commission of atrocity crimes and human rights abuses. They traditionally have been structured as punitive awards that the government pays to right a past wrong. Having the government assume responsibility for payment provides a sense of accountability for the gross human rights abuses, because the government is forced to sacrifice a significant amount of budgeted funds, subsidized by by tax revenue, for the reparations. Reparations can also be negotiated or litigated as nonmonetary awards in the form of monuments, memorials, educational schemes, health programs, development assistance, land grants, and other forms of aid. In nearly all instances of reparations awards, the funding relies solely upon the budgeting of governmental funds in exercises that have proved wholly inadequate to the task.

C. Humanitarian Organizations: Funding Gaps

The methodologies for disbursing funds to atrocity victims vary depending on the organization. Leading international agencies and nongovernmental organizations have disbursed funds to victim populations for decades. The targeted recipients of these organizations often include groups and individuals extending beyond atrocity victims per se, since there are only a limited number of humanitarian organizations that focus solely on providing assistance to atrocity victims. These include the Trust Fund for Victims (see section VII.E, and appendix I.7), the Center for Victims of Torture, REDRESS, and the International Rehabilitation Council for Torture Victims. Each organization, however, has the capacity to treat relatively small numbers of victims. The following discussion briefly examines how the largest institutions organize their funding and administer aid in the field to the targeted victims. A dominant feature remains the disparity between total average funds available and estimated budgetary requirements. Where the information is available, special attention is paid to programs that focus on trauma and the mental health of atrocity victims, as these are largely underfunded and could serve as viable pilot projects. Appendix I describes the funding situation for eleven major humanitarian organizations.

Funding deficiencies plague the international humanitarian aid system and could increasingly constrain the activities of organizations serving victim populations. Large humanitarian organizations often face outsized demands compared to limited financial resources. Compounding the issue, organizations tend to prioritize physical health needs when confronted with constricted budgets. Forced to divert scarce resources to meet other priorities, agencies derive extremely small allocations, if any, for trauma and mental health care for survivors.

Globally, the need for humanitarian assistance has continued to rise with growing populations afflicted by protracted conflict and new crises erupting with greater longevity and intensity. As of 2019, approximately 2 billion people, equating to a third of the global population, lived in countries impacted by conflict.[65] For the year 2020, the UN OCHA estimated that 168 million people would need approximately $28.8 billion in humanitarian assistance due to extended conflicts and climate-fueled extreme events. Ultimately, however, the humanitarian system was able to provide only about $17.3 billion to 98 million people. Around the world, it concluded, “needs are growing faster than funding.”[66] In 2021, an estimated 235 million people needed humanitarian assistance, shattering the prior year’s record. In 2022, the figure reached new heights: Breaking the record for the third year in a row, approximately 274 million people in need of assistance dotted the globe with funding requirements totaling $41 billion, according to the OCHA.[67]



Even as these populations have grown, some of the largest aid organizations on which survivors depend have struggled to acquire sufficient funding. Organizations including the International Committee of the Red Cross, Save the Children, UN High Commissioner for Refugees, and UN International Children's Fund have highlighted common obstacles underlying their struggles to raise funds. The increasing pressure from donors to earmark funds for high- profile needs constitutes a primary challenge in achieving adequate financial support. This practice contributes to a growing "protection gap,"[68] as agencies must allocate funds to specific projects while depriving other programs, and their respective recipient populations, of critical resources. Organizations like the UN World Food Programme, which are funded entirely by voluntary contributions, endure consistent shortfalls that strain operations. Describing the perils suffered by populations that depend on its aid due to worsening resource scarcity, WFP reported in 2022 it was forced to "take food from the hungry to feed the starving."[69]

The Trust Fund for Victims faces similar difficulties in its work to provide material assistance and deliver reparative measures to victims of atrocities prescribed by the International Criminal Court. Because TFV depends largely on government donations, the politicization of assistance threatens its ability to implement support programs for survivors of some of the gravest human rights abuses.[70] Moreover, TFV has struggled to independently raise funds on an annual basis. While TFV required about €10 million annually for the years 2004 through 2020, the Fund received, on average, just over one-quarter of that amount. For TFV, adequately financing an annual budget to pay for reparations and assistance while continuing to rely solely on governmental contributions remains a daunting challenge. The Fund's inability to substantially increase the level and consistency of funding it receives on a yearly basis risks significantly undermining its aims and responsibilities under the Rome Statute.

Victim populations also suffer on account of the inclination of donors to supply capital after the onset of an emergency rather than providing organizations with unrestricted funds prior to a crisis. *Médicins Sans*

Frontières (MSF) reported that this, along with shifting donor sources for vaccine-related projects, posed a significant hurdle to actualizing its emergency response interventions in 2020.

Beyond providing emergency physical medical care, MSF delivers mental health and psychosocial support in a number of ways, such as deploying specialized clinicians to target acute mental conditions and providing trauma-informed counseling. In October 2021, MSF reported that it had changed its organizational approach in order to deliberately incorporate mental health care as a core component of all of its services in recognition of the vastly unmet psychosocial needs of conflict and emergency survivors. It described, “In the past ten years, mental health consultations in our projects have risen by 230 per cent worldwide. This enormous increase in providing care for mental health illustrates the shift in our approach as well as the diverse and complex psychological needs” faced by war-wounded, traumatized, and displaced persons.[71] The financial need is particularly acute as a result of the lack of preexisting services in the terrain where MSF and other organizations work, which means that these aid agencies must construct their own mental health programs from the ground up. This requires substantial resources and personnel amid high-risk conditions. Having unrestricted capital prior to the onset of crises would help organizations to react more efficiently and effectively in rapid-onset emergencies as well as ensure continued operations in territories enduring protracted conflicts with populations in need of long-term mental health care.

The dearth of flexible emergency funding unencumbered by the constraints of donor influence remains a pervasive problem afflicting several humanitarian organizations. A consistent stream of capital would ensure the timely delivery and disbursal of aid without concern for political considerations related to donor interests. Already, some agencies have launched explorations of innovative funding mechanisms. UNICEF, plagued by consistent shortfalls, has expressed its commitment to pursuing new funding methods, which have thus far consisted of strategies to forge partnerships with local startups in conflict-affected areas in order to reduce its cost burden and innovative investments in emerging technologies.[72]

In recent years, the COVID-19 crisis has resulted in disruptions to donor funding globally and exacerbated human suffering on a massive scale. Yet, many humanitarian aid agencies experienced financial difficulties prior to the onset of the pandemic. Even after the world moves beyond the coronavirus, future disruptors in the form of pandemics, climate-worsened natural disasters, and shifting government priorities will continue to threaten the ability of organizations to acquire their necessary level of financial resources. When donors cannot fulfill their pledges or pledge less, these organizations will encounter mounting obstacles that diminish their capabilities to deliver lifesaving aid. The resulting disparities will lead to greater human suffering. Social bonds could provide a way to narrow the funding gaps.

With humanitarian needs rising, humanitarian agencies will need to obtain the resources required to attend to both the physical and mental health of survivors. Addressing the humanitarian needs of victim populations across the globe is particularly important due to not only the individual effects that ill health can inflict on survivors but also the broader economic impacts that can result from populations ensnared in the physical and psychosocial aftershocks of conflict. Individuals are more susceptible to mental illness when exposed to one or more primary risk factors such as a challenging prenatal environment, economic disadvantage, traumatic experiences, general adversity, and stressful life events.[73] Violent conflict and atrocity crimes impose all of these risk factors on the subjected and survivor populations. Research has found that untreated poor mental health costs society billions each year, particularly resulting from "reductions in contributions to national economic output, mainly through curtailed participation in employment. . . . Society also incurs additional spillover effects, such as increased strains placed on police and the criminal justice system, and family members experience physical and mental health impacts."[74]

Even after the commission of atrocities has ended, the consequences can reverberate throughout countries as communities attempt to rebuild. Lower national economic output, which can also result from populations' reduced mobility due to unaddressed physical impairments incurred during the conflict, could threaten to hinder the nation's economic recovery and future development. Simultaneously, increased strains on criminal justice and familial systems could jeopardize state stability and human security in addition to diverting resources from other priorities.[75] Addressing the needs of atrocity survivors is, therefore, not simply a humanitarian duty but an economic imperative.

III. THE GROWING IMPERATIVE OF REPARATIONS

The award of reparations for the commission of atrocity crimes and serious human rights abuses is a field of inquiry that focuses sharply on the right to reparation for victims and on penalizing governments and other perpetrators of atrocity crimes in a manner that establishes their respective responsibilities for the crimes.[76] By ensuring the public acknowledgement of wrongdoing and providing the fiscal means for victims to restore their dignity, reparations constitute a central component of remedying gross violations of human rights. In this way, reparations play a critical role in achieving transitional justice to settle past transgressions and enable future reconciliation for populations emerging from conflict.

Thus, the core principle that has guided all decisions about the award, funding, and distribution of reparations is the recognition of responsibility. Reparations have been seen as a punitive remedy that either the perpetrating party should perform or that society at large should provide as an acknowledgement of past wrongs. In other words, payment of the monetary awards serves as a tangible admission of responsibility for the crimes of past regimes or individuals and the burden of that liability thus falls on the perpetrators. Once awarded, however, two major challenges persist in the delivery of reparations: (1) how to find the necessary resources, and (2) how to implement the reparations.

Though sourcing the funds from the perpetrating entity can aid in assigning responsibility, if funds never reach the atrocity victims because of the difficulties of governmental budgeting and amassing political will, or because the perpetrator is indigent or has hidden assets, then the atrocity victims suffer once again. In practice, when the perpetrator is assigned as the primary payer of reparations awards, enormous gaps result between actual payments and the compensation owed. As reparations continue to be awarded, the need for funding will continue to outpace the financial resources available. Finding an innovative means to accrue the needed funds will be crucial to overcome the two major challenges facing reparations.

A social bond could serve as a viable solution to address the widening funding gaps. If the judgment of the court or the relevant legislative act renders the perpetrator government or individual *publicly* accountable for the wrong inflicted on the atrocity victims, then deriving the revenue for reparations from the capital markets should not defeat the punitive purpose of the reparations. With this assurance of public accountability through the courts, no other intrinsic reason requires that the perpetrating government or individual serve as the primary or sole funding source of the reparations. Rather than relieving perpetrators of accountability in the public eye by submerging responsibility under the weight of an innocuous offering on the private market, the social bond can augment the level of justice achieved for the victims. In one reparative framework employing a social bond, the bond could function as an effective mechanism of payment whereby the responsible government uses the funds raised privately from social investors in the interest of the victims.

Private-sector funding for reparations, therefore, should not change how victims understand the connection between what they receive and governmental responsibility. In fact, in the case of traditional reparations, often a government not associated with the perpetration of the atrocity crimes has served as the voluntary donor. A social bond would act in this same way, where it replaces the contributing government to supply the reparations award without absolving the perpetrating government or individual. Granted, sourcing the funds from the capital markets may be perceived as defeating the punitive purpose of the reparations relating to the responsible government or individual. This challenge can be overcome by ensuring that the judgment of the court or the relevant legislative act renders the perpetrating individual or entity publicly accountable for the wrongdoing. This assurance of public accountability could fulfill the victims' need to firmly establish responsibility for the crime, while the use of private capital to fund the awarded reparations would ensure the satisfaction of the financial needs of those who have been affected. In this way, the use of private capital would not detract from the fulfillment of victims' key accountability criterion. Instead, the use of social bonds could act in a way that enhances the reparations process, solidifying the public culpability of the perpetrator and assisting victims financially to restore their lives and livelihoods.

Moreover, decades have often elapsed by the time reparations are actualized. As time passes, the demand for economic reparations—regardless of the source—frequently overtakes the issue of responsibility. As this demand supersedes the desire for source-specific compensation, the use of private capital from social bonds would effectively provide the monetary compensation the population needs. Simultaneously, the courts would fulfill their role in assigning and assuring public accountability to meet that crucial requirement for justice. Ultimately, an equilibrium must be struck between the public need to hold perpetrators accountable for past harms and the interest of the victims to receive adequate reparations, regardless of origin.

In some cases, victims have held firm that the government or group responsible for the atrocity crimes should pay the reparations, holding accountability as the key criterion of funding. Though this desire to pair payment with perpetrator responsibility is understandable, when there are not enough state resources or it is not clear who is responsible, the issue of how to fund the reparations using the assets of the culpable government or group appears insurmountable. One method of attempting to garner payment from the perpetrating entity or group, asset recovery, generally does not work. For example, in the case of Northern Ireland, whose population endured a protracted conflict costing thousands of lives between 1969 and 1998, the British government could not acquire much of the armed groups' assets. Funding for reparations has been a sticking point in the postconflict justice process between the British government and the devolved Northern Ireland government. Funding for compensation schemes (such as the Northern Ireland Memorial Fund) have thus originated from both the British government and the devolved government at Stormont in Northern Ireland.[77]

Additionally, even when a reparations program receives an initial installment of reparations, it rarely kick-starts further payments. In post–civil war Sierra Leone, the Truth Commission had an ambitious reparations program, but it was underfunded with no plausible plan for raising the requisite funds. Though the United Nations supplied initial funding to act "as a start-up mechanism" for the Sierra Leone government to establish a system to deliver support to victims, the government failed to do so. The regime neglected to put in place the necessary revenue-accruing mechanisms, including a suggested peace tax on mining revenues, to finance the reparations, and thus it was unable to assume responsibility for the program. This resulted in the suspension of the reparations program. In the end, the majority of victims received only a small amount of cash—a one-time payment of $100—and some amputees and war-wounded persons received microgrants more than a decade after the end of the atrocities.[78] Nearly 30 years after conflict consumed Sierra Leone, survivors still await measures pledged to them, and most of those who received some compensation remain in "abject poverty."[79] With the government unable to deliver comprehensive reparations, the burden of injustice once again has fallen on the victims.

Further compounding the issue, reparations programs need to be well-managed and that entails administrative costs to cover the distribution of funds. These administrative costs increase the financial requirements of reparations implementation schemes, drawing already scarce funding further away from the victims. This presents yet another obstacle that inhibits victims from receiving vital compensation.

The "reparations gap" remains a persistent, and expanding, reality. Even as the financial resources available for reparations remain meager, the imperative of reparations has continued to build with international tribunals awarding compensation to victims and demand for reparations as redress for past abuses, such as slavery, rising.[80]

A. Slavery

Reparations as penalties for the scourge of slavery,[81] firmly established as a crime against humanity, have a long and largely unfunded history. While governments and institutions, including universities built with slave labor, increasingly have explored[82] and committed to reparations awards of varied types—pecuniary and other forms of remorse—actually generating the necessary revenue faces vast challenges. The growing movement of reparations claims by African Americans for the slavery of their ancestors will present an enormous challenge of financial accountability in the years ahead, as the pressure will only build for such compensation.[83] Even if the political will to consider reparations for African Americans can be cultivated, the claims at issue are so large that it will require the development of innovative means of raising the necessary capital. Social bonds to address this need may be the most realistic medium of payment.

B. Inter-American Court of Human Rights and Latin American Reparations

The Inter-American Court of Human Rights (the Court) has a decades-long practice[84] of awarding reparations against member states accountable for serious human rights abuses. It has the most holistic form of reparations, which consist of correction and transformation. This means that the Court's judgments are designed not only to remedy past violations but also to prevent repetition of the same harms in the future, often doing so by mandating changes to the country's political systems.[85] The Court's determination of justice involves restitution, which entails compensation, satisfaction, and various reparations awards.

However, the Court's impressive reparations record often has not translated into actual payments since satisfaction in payment of reparations has depended on the defendant government taking the necessary steps to appropriate funds for that purpose. This daunting challenge remains unresolved, as in the case of Colombia where efforts to fund reparations related to the Peace Accords between the government and the Revolutionary Armed Forces of Colombia have faltered.[86]

Moreover, the Court risks overstepping its mandate when it takes into consideration how the state would pay the reparations. In blunt terms, the Court is not the institution obligated to pay the reparations. The defendant government or other entities must figure out how to raise the necessary funds to finance the reparations.[87] As a result, there is a tension at the Court between those supporting the judicially ordered payment of full reparations and realists seeking to lower the reparations awards.[88] If there was more space for dialogue between the Court and governments, then the Court could be more realistic about reparations and manage expectations based on the government's financial status.

The case before the Court regarding the indigenous people who were massacred by military forces in the 1982 Plan de Sánchez massacre in Guatemala demonstrates the issue.[89] Marking the first time that an international tribunal awarded reparations to the survivors and relatives of a full-scale massacre, the Court ordered approximately $7 million in compensation for moral and material damages.[90] However, Professor Clara Sandoval has noted that, "Against judgments on reparations, such as that of Plan de Sánchez, states have argued financial difficulties in paying the court's orders."[91]

Reparations can be defined very flexibly. As a form of collective reparations, which are not paid directly to the individual victims, the Court permitted the Guatemalan government to build a new road as a development project. Still, over 10 years after the 2005 judicial decision should have settled the matter, the government had not complied.[92]

The Court has decided various cases and ordered reparations for human rights violations that have taken place in various countries in the Americas that have faced armed conflicts or dictatorships, such as Argentina, Brazil, Chile, Colombia, El Salvador, Guatemala, and Peru.[93] Chile offers a good example of one of the more successful domestic reparations programs.[94] It involved state-assumed responsibility for more than 3,200 victims of forced disappearance or killings and more than 38,000 victims of torture during the Pinochet regime.[95] The reparations awarded life-long pensions to all torture survivors and scholarships for college. Dedicated staff for health and psychological support also deployed to provide a permanent standard of care.[96] The reparations assumed that all survivors suffered some harm to their human dignity since the program understood that it would be impractical to distinguish and discriminate among the thousands of victims. Chile's national government budget allocated the cost of the reparations, thereby paid indirectly by taxpayers. What the state had denied for years it finally admitted, and the national regime assumed responsibility for the torture campaign.[97] The Chile example demonstrates how a well-designed and fully funded reparations program based on a flexible process for registering victims can effectively reach a significant number of them and express a concrete form of acknowledgement of the wrong done.[98]

Argentina also implemented an ambitious reparations program for victims of the Dirty War.[99] However, the mechanism for paying them sent a contradictory message. Instead of receiving a lump sum or a pension, recipients were paid with treasury bonds, which could be sold immediately with a discount.[100] Set to mature after 16 years, interest began to be paid after six years. The costs of the policy were passed to successor governments. This situation became worse when the 2001 economic crisis hit the country and bonds lost their value and even for a period, payments were suspended and convertibility from pesos to dollars was eliminated.[101]

Cristián Correa, a senior expert at the International Center for Transitional Justice, wrote to the authors of this report:

> Nevertheless, given the importance of reparations to communicate meaning, both policies faced resistance and dissatisfaction as long as they were implemented in context of impunity. Reparations to be effective not only need to provide material conditions for addressing the consequences of the violations, but need to be accompanied by a clear message of acknowledgement of wrongdoing and commitment to learn the lessons and guarantee non-repetition. Criminal investigations of those responsible need to be also part of that message.[102]

Recovering the assets of perpetrators has proven problematic. Colombia's Justice and Peace Law of 2005[103] provides a good example of the challenges.[104] The law aimed to facilitate the demobilization of various paramilitary groups across the country by establishing parameters for members of the illegal armed groups to face accountability for past offenses while also reintegrating into society. A provision of the Justice and Peace Law mandated that perpetrators contribute to the reparations fund for victims. The national court ordered reparations according to the harm inflicted. Some of the reparations were ordered against the state and some against the perpetrators. Creating the Fund for Reparations, the court intended that the individual or group who inflicted the harm in each case should provide the reparations, and in the event that the individual or their armed group were unable to fulfill the obligated payment, the state would be required to step in to deliver the funds. However, most perpetrators claimed insolvency, and the few assets that were surrendered from ex-combatants remained inadequate.[105]

Subsequently, in 2011, the Colombian Parliament passed the Victims and Land Restitution Law, which promised to deliver holistic reparations to victims of the several decades- long conflict. By 2016, just over half a million victims had received some form of reparations, meaning that 93 percent of victims had not received payment.[106] By 2021, over 9 million citizens, one-fifth of the country's population, had registered as victims. Yet between 2011 and 2021, only an estimated 983,000 victims had received payment, as the state has remained unable to finance the full extent of the reparations owed, and international donations faltered.[107] Though there is a first-class law, a third-class level of funding and distribution has inhibited the implementation.[108] It could take an increase of at least 6 percent of Colombia's gross domestic product (GDP) to pay the reparations, but it remains unknown how the funds will be raised.[109] At the current pace of implementation of the law in Colombia, and with current resources, it would take over 50 years to complete payment of the reparations.[110]

How does the government compel the Revolutionary Armed Forces of Colombia (FARC) to pay its fair share of reparations, particularly as a relatively wealthy armed group? The revised law requires an accounting of FARC assets, but FARC has not fully declared its assets.[111] Although it has given up some land and monies as well as made some apologies, an inability to ascertain an accurate view of the group's assets and financing capabilities has prevented full implementation of the reparations.[112]

C. European Court of Human Rights and European Reparations

The European Court of Human Rights (ECtHR) awards damages[113] in cases brought by citizens of member states against their own governments or against foreign regimes.[114] Of the ECtHR, Professor Clara Sandoval writes, "The payment of compensation as just satisfaction has not been a problem, as a general rule."[115]

The ECtHR began awarding monetary compensation in interstate cases with its 2014 decision in *Cyprus v. Turkey* when it ordered the Turkish government to pay €90 million in damages to Cyprus based on the human rights violations committed during Türkiye's invasion of the island in 1974.[116] The ECtHR directed Türkiye to pay the damages within three months of its judgment. Prior to the decision, the Turkish government indicated it would not comply with the ruling, a posture Ankara has maintained. As a result, Türkiye now owes over €103 million in financial compensation, based on accrued interest, to the relatives of missing persons and the Greek-Cypriot residents of the Karpas peninsula.[117] After waiting six years for the compensation, the Cyprus government appealed to the European Council's Committee of Ministers in 2020 to "exhort the Turkish authorities to pay immediately the damages and interest that have been ordered,"[118] in recognition of the needs of the victims and their relatives. Though unfulfilled, this case set a precedent for the ECtHR to award damages in interstate conflicts.

Subsequently, in 2014, the ECtHR ruled that Russia's arrest, detention, and expulsion of thousands of Georgians from illegally occupied lands in the 2006 August War violated the European Convention on Human Rights. In 2019, the Court followed this main judgment with a decision ordering Russia to pay €10 million in compensation for violations committed during the mass deportation, which Georgian officials would distribute to 1,500 victims.[119] As of July 2022, the Kremlin still had not paid the damages.[120]

These cases demonstrate how the sole reliance on the perpetrating government to deliver the awarded damages risks leaving thousands or millions of victims without essential compensation. With several interstate cases pending, the ECtHR may award additional damages of varying amounts. In the absence of state compliance with the ECtHR's rulings, assuring the delivery of justice to victims would require an innovative mechanism to raise the funds.

D. Other Reparations

As a nongovernmental organization, the International Center for Transitional Justice prefers to push for state responsibility in the payment of reparations and establishment of long- term and permanent care programs. However, most governments, if they are willing and able to supply compensation, wish to make one reparations payment and then put the matter behind them.

A good example of reparations implementation has been the Remembrance, Responsibility and Future Foundation of Germany.[121] This involved the participation of German- incorporated companies and awards exceeding €4.4 billion. Each qualified victim received between €2,500 to €7,500.[122] Benefiting from the commitment of senior German government officials, the German fund compiled estimates of the identities and numbers of Holocaust survivors and their beneficiaries. In the end, however, the funding remained insufficient, and actual payments were often delayed.

As another example, the UN Security Council established the UN Compensation Commission (UNCC) following the Iraqi invasion of Kuwait and the Gulf War in 1990–1991. It mandated the UNCC to process claims and deliver monetary compensation for losses suffered by individuals, corporations, governments, and international organizations during the invasion. The majority of the funding was to be derived from the sale of Iraqi oil from the oil-for-food program. Originally, 30 percent of the petroleum revenue funded reparations. However, the oil- for-food program ceased in 2003, and as a result, the share of oil revenue allocated to reparations plunged to 5 percent.[123] Even as funding faltered, claims mounted. The commission received nearly 3 million claims from over 100 governments and organizations, with compensation awards totaling $52.4 billion.[124] In July 2010, the UNCC paid out $650 million, bringing the total payouts to more than $30 billion after five years.[125] Four years later, the payments halted due to budgetary issues derived from the Iraqi government's conflict with the Islamic State (ISIS). Payments were unable to resume until 2018, when the UNCC paid the Kuwaiti government $90 million, bringing the total payouts from the UNCC to $47.9 billion. After payments resumed in 2018, the compensation fund received 0.5 percent of Iraqi oil export profits. Thirty years after the invasion, one outstanding claim totaling $1.7 billion remained unpaid.[126] With the commission operating with limited resources dependent upon the government's ability to accrue revenue from oil sales, the capacity to provide the necessary reparations remained vulnerable to shifting political, social, and conflict dynamics, and payments have experienced suspensions for several years at a time.

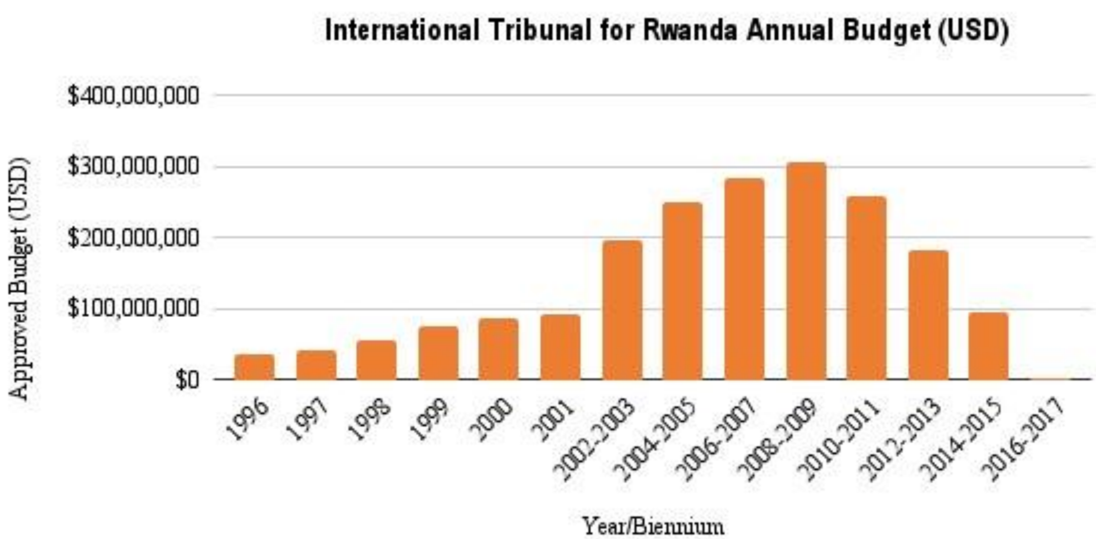
Another significant problem for reparations is that even when an organization can garner the initial seed money, it often has great difficulty securing follow-up funding. The Property Claims Commission for Kosovo (KPCC) demonstrates this dilemma. The KPCC functions as the decision-making body of the Kosovo Property Agency (KPA). Together, they operate as "a mass claims processing mechanism in the field of post-conflict property restitution with the objective of facilitating the exercise of property rights by persons displaced by the armed conflict in Kosovo in 1998–1999."[127] The commissioners spent 95 percent of their time trying to garner follow-up funding. In fact, though the KPA sent letters to every donor and numerous governments to request more funding "to cover costs pertaining to the compensation scheme and demolition of illegal constructions," the funding met only a small portion of the KPA's financial requirements. The donations were enough to sustain the staff's wages but not enough to fund the operations side, the critical component in the implementation and delivery of reparations. In 2016, though the KPA estimated its needs to be €3,435,952, it was confined to a total budget of €1,883,101.[128] Ultimately, inadequate funding served as a major inhibiting factor keeping the KPCC from effectively carrying out reparations and restitution processes.[129]

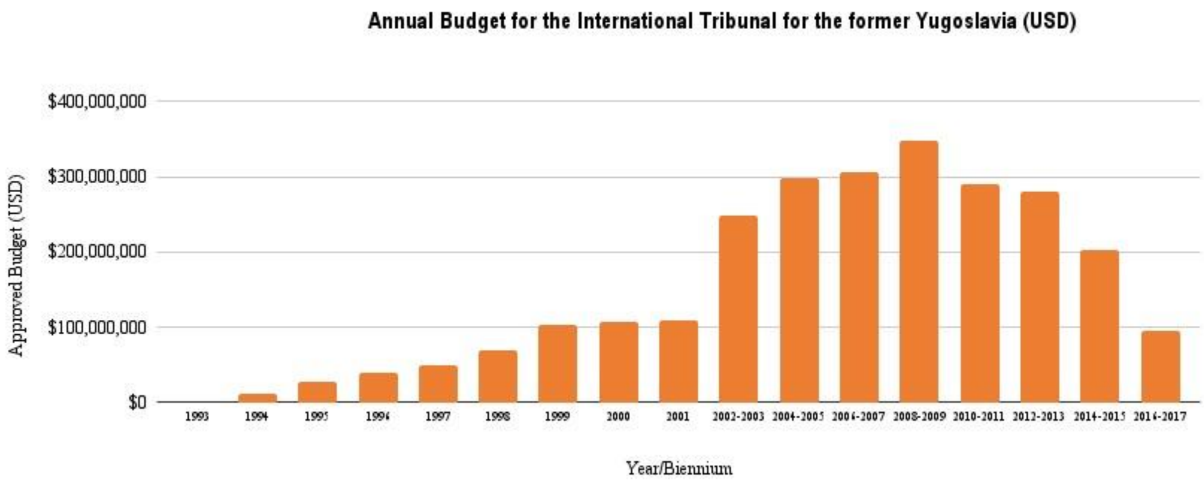
IV. FUNDING REQUIREMENTS FOR OPERATIONAL BUDGETS OF INTERNATIONAL CRIMINAL TRIBUNALS AND INVESTIGATIVE MECHANISMS

During the last three decades, numerous ad hoc, hybrid, and international criminal tribunals (tribunals) have been established to investigate and prosecute perpetrators of genocide, crimes against humanity, and war crimes (atrocity crimes) as well as violations of domestic criminal law committed in the context of internal violence, warfare, or terrorism. These tribunals have represented historical advancements in the enforcement of international criminal law as successors to the Nuremberg and Tokyo military tribunals, which were formed in the aftermath of World War II to prosecute Nazi and Japanese political and military leaders.

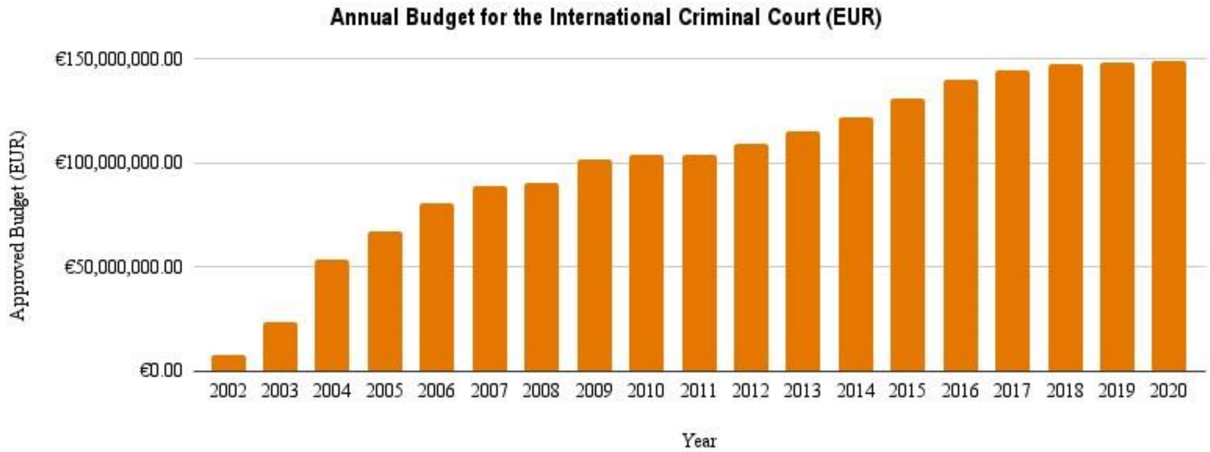
Survivors of atrocity crimes vest enormous faith in the prospect of tribunals rendering justice for the harms inflicted upon them. The effective operation of each tribunal for numerous years or even decades requires sustained funding for judges, prosecutors, investigators, defense counsel, and administrators to work through each case to judgment. If a guilty verdict is rendered, funding must be sufficient to ensure that sentencing and incarceration can occur unencumbered by financial constraints. Social bonds could provide a viable reprieve from the financial shortfalls that have plagued international tribunals since the mid-20th century.

Two modern tribunals—namely the International Criminal Tribunals for the former Yugoslavia (ICTY), launched in 1993, and Rwanda (ICTR), created in 1994—were established as subsidiary judicial organs of the UN Security Council under the enforcement authority of Chapter VII of the UN Charter. Their annual budgets were paid as part of the mandatory assessments of Member States of the United Nations. Each year, the Fifth Committee of the UN General Assembly examined and approved the proposed budget of each of these tribunals, just as the Fifth Committee continues to do for the two tribunals' successor court, the International Residual Mechanism for International Criminal Tribunals (IRMCT), created in 2010. Funding has been assured throughout the many years of operation as a legal obligation of UN Member States.



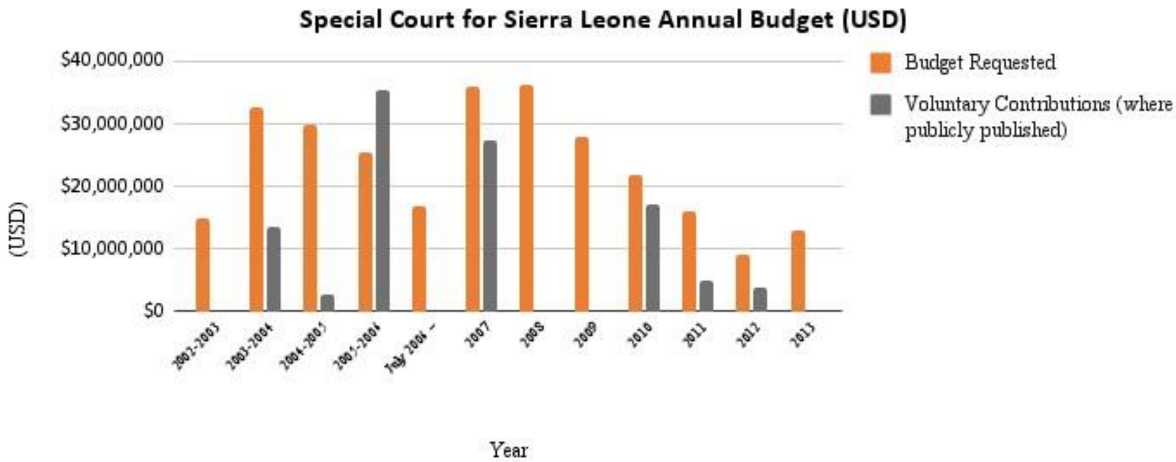


The International Criminal Court, headquartered in The Hague and operational since 2002, is a permanent treaty-based tribunal funded entirely from assessments rendered against each State Party to the Rome Statute of the ICC. There are currently 124 countries legally committed under the Rome Statute. Similar to the ICTY, ICTR, and IRMCT, the proposed budget of the ICC undergoes an annual review, in this case by the Assembly of States Parties. Once the budget of the ICC is approved, assessments are levied against each of the States Parties pursuant to treaty obligations. There have been recent years where the arrears in such payments have mounted, thus undermining the ICC's overall operations. Insufficient funding has posed a particularly daunting impediment to the Office of the Prosecutor's efforts to conduct investigations of mass atrocities.



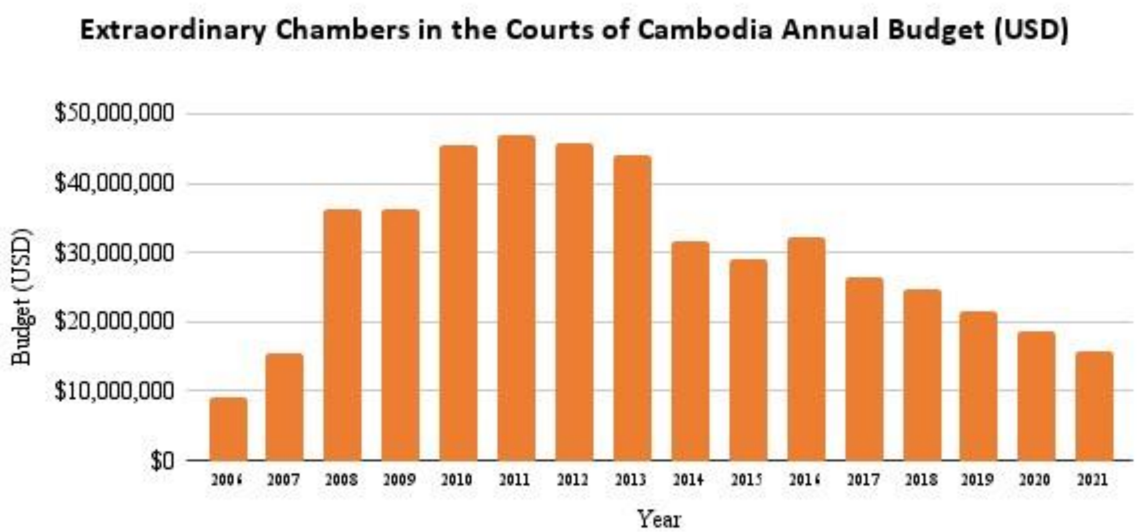
Unlike the ICC, the IRMCT, and its predecessors, the Residual Special Court for Sierra Leone (RSCSL), which is the successor to the Special Court for Sierra Leone (SCSL), has depended entirely on voluntary contributions from governments. Since 2016, the UN General Assembly has provided supplementary subventions to fill the chasm between the states' contributions and the RSCSL's financial needs. The subventions, which constitute a de facto UN loan, are drawn from the UN general budget paid by UN Member States each year through assessed dues. The subvention procedure requires that some other priority in the UN budget be deprived of funding in order to cover the funding gap for the tribunal. The tribunal and its contributor nations must endeavor to repay the subvention using voluntary funds ultimately raised on behalf of the tribunal. However, repayment to the UN subvention account is rarely accomplished. In both mediums of fundraising—voluntary contributions by governments and subvention requests paid for by the United Nations—annual budgets of the tribunals are difficult to meet because nothing is assessed. Everything depends on the political will of governments to voluntarily donate funds. When these voluntary contributions prove inadequate, the ability of the courts to fulfill their mandates to prosecute those responsible for violations of international humanitarian law rests entirely on the will of governments to approve the subvention request.

The RSCSL, along with its predecessor, the SCSL, has experienced very lean years, where the budget was not fully met, and very difficult political episodes with governments and the United Nations to secure the UN subvention needed to sustain operations. The SCSL was plagued by funding crises, receiving only half of the $100 million it required for its operations between 2002 and 2006. The chronic underfunding continued until its closure in 2013. The RSCSL, established in 2014, has relied on subventions due to its inability to obtain adequate voluntary contributions from Member States. In 2016, for example, the RSCSL requested a subvention of $6 million after voluntary contributions met only 16 percent of its total needs for the years 2016 and 2017. The report of the secretary-general the prior year stated that "the challenge of raising the funds required to guarantee sustained funding for the work of the Residual Special Court is proving to be insurmountable."[130] Placed against any business model for financing a judicial organization, the experiences of the SCSL and RSCSL demonstrate how precarious funding based on governments' willingness to voluntarily finance or approve UN monetary support can be. International justice cannot function confidently on a firm foundation when confronted with such shaky financial support.



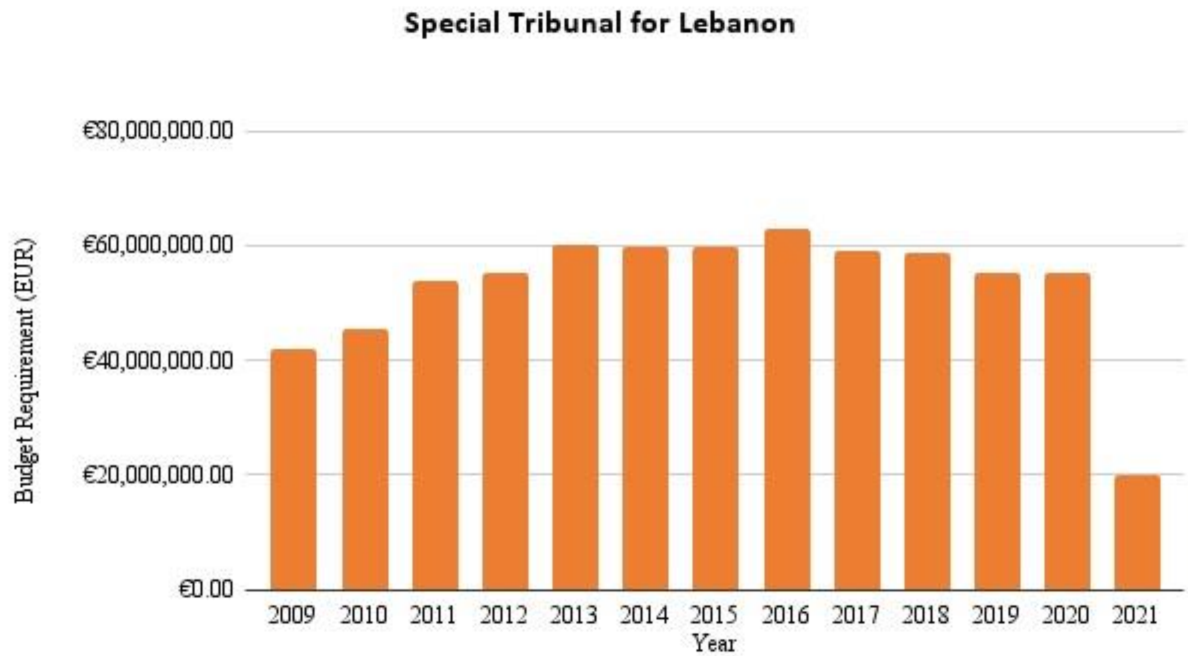
Similarly, voluntary contributions from foreign governments and an annual contribution by the Cambodian government have funded the Extraordinary Chambers in the Courts of Cambodia since its establishment in 2005. Subvention funding from the UN General Assembly to supplement the ECCC's budget began in 2014 in the same manner as the SCSL and RSCSL, with the institution troubled by escalating financial challenges and widening funding gaps. Then- UN Secretary-General Ban Ki Moon requested the initial subvention with the recognition that the "financial failure of the Court would be a tragedy for the people of Cambodia, who have waited a long time for justice, and would constitute a serious setback to the international community's fight against impunity."[131] In 2014, the UN General Assembly subsequently approved a $15.5 million subvention to help narrow the funding gap for the international component of the ECCC.[132]

Still, the operations of the ECCC continued to endure significant strain due to inadequate funding raised from governments and the diplomatic heavy lifting required to secure a subvention from the UN. In 2019, the ECCC received a $9.5 million subvention. Though it received a request for an $8.5 million subvention for the year 2021, the United Nations approved a subvention of $7 million. In September 2021, once again, the secretary-general asked the UN to provide a $7.5 million subvention for the year 2022 as the court remained unable to accrue the needed funding from voluntary contributions.[133] While these subventions financially supported the international component, the national component of the ECCC also received inadequate resources. In 2020, the national side experienced a 20 percent shortfall from its $5.04 million approved budget.[134] Though the government stabilized the national component for 2021, future funding remained uncertain and the international component continued to face a turbulent situation.[135] The constraints imposed by limited voluntary and subvention funding each year can prevent necessary hiring and retention of critical staff. This delays investigations, translation efforts, and judicial work on trials and preparation of judgments. These disruptions only increase the overall cost of the tribunal.

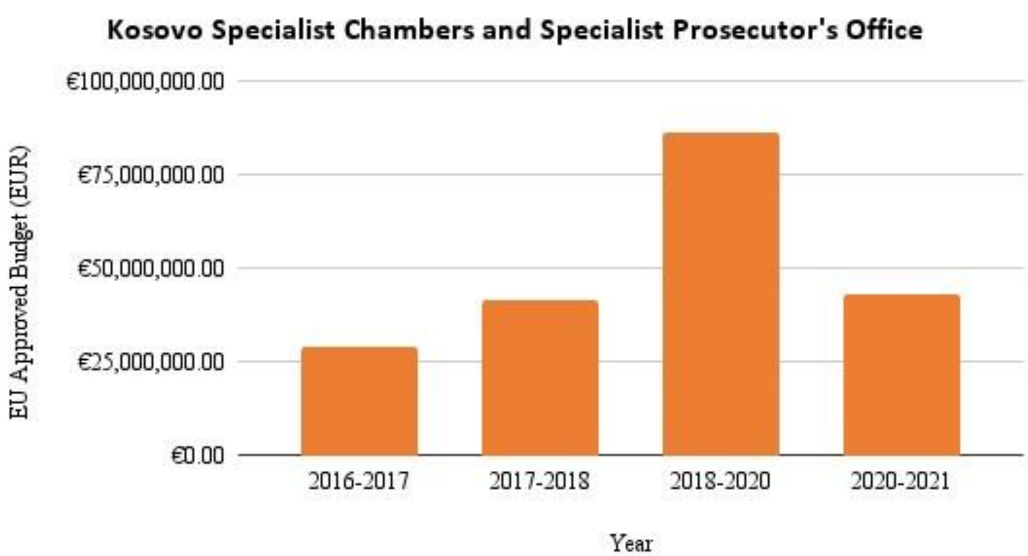


The Special Tribunal for Lebanon (STL) is an international criminal tribunal based in The Hague since 2009 to investigate and prosecute the 2005 assassination of Lebanese Prime Minister Hariri. It does not adjudicate atrocity crimes per se but instead Lebanese criminal law and international terrorism. Nonetheless, its financial arrangements were challenging because Lebanon, a country in dire straits financially, provided slightly more than 50 percent of the funding each year, and the remaining 49 percent came from the United States, France, and a handful of other western governments. There were many difficult years in the quest to raise sufficient funds for the STL's annual operational budget. In June 2021, the STL announced that due to an unprecedented financial crisis, it would cease to operate beyond July 2021 without immediate funding. This closure with one month's notice would inhibit its ability to carry out the remaining two pending cases. The COVID-19 pandemic had already forced the tribunal to decrease its 2021 budget by nearly 40 percent. A subvention approved three months earlier, in March 2021, provided $15.5 million to cover three-quarters of the Lebanese portion of the budget, but it had not been sufficient to alleviate the financial crisis.[136]

In response to the June 2021 announcement, the STL Trial Chamber II ordered the cancellation of a trial that had been scheduled to commence that month and halted all decision making.[137] In order to continue to function past July 2021, the STL imposed additional reductions to its overall budget and staff. As a result, the budget contained insufficient funding for further trial proceedings, instead "limiting the Tribunal's functions to preserving records and archives, support and protection for witnesses and victims, as well as providing information to states."[138] Even with this tightly constrained budget and programmatic scope, the STL experienced difficulty acquiring the funds to undertake these activities.



The Kosovo Specialist Chambers (KSC) and Specialist Prosecutor's Office are supported by the European Union with annual appropriations that fluctuate significantly. For the years 2016 through 2020, the KSC received a total of $150 million from the EU.[139] Though sourcing its funds from the EU provides a measure of stability, it inherently requires a reliance on member states' continued support for allocating a portion of the EU's annual funds to the KSC. This practice could face risks in the future as state priorities shift in light of new challenges confronting their societies or as financial circumstances change.



The Special Panels for Serious Crimes (East Timor), which operated for several years following the massacres of 1999 in East Timor and included some atrocity crimes within its jurisdiction, had an annual budget that stood at $6.1 million in 2002 and $7–8 million in 2004– 2005. Even with the budgetary increase between 2002 and 2004, one assessment found that the "lack of resources remained a crippling problem."[140] In 2005, though the budget of the Serious Crimes Process in Timor-Leste amounted to nearly $8 million, it received only $120,000 in voluntary contributions.[141] This financial crisis extended to the SCP's Special Crimes Unit, which was mandated to investigate and prepare indictments for those in East Timor responsible for atrocities. The dearth of capital obstructed the work of prosecutors and meant that "funding, or rather the lack of it, therefore determined prosecutorial strategy."[142]

Social bonds for international justice could assist with the funding requirements of tribunals' annual operating budgets. In particular, the endowment social bond described in section VI of this report could fill gaps between what can be raised through assessments or voluntary contributions and the funding required to fulfill a tribunal's annual planning requirements. Since the tribunals already are supported by major governments of high sovereign risk ranking (AAA, AA, and A), sovereign guarantees should be attractive instruments to back up the social bond. Ultimately, social bonds could alleviate some of the financial burden on international tribunals by serving as a consistent funding source.

Similar reasoning applies to the international bodies investigating atrocity crimes and major human rights abuses in nine countries as of October 2021: Burundi, the Kasai Region of the Democratic Republic for the Congo, Iraq, Libya, Myanmar, South Sudan, Syria (two commissions), Venezuela, and Yemen.[143] The international bodies operating as of September 2024 are listed in Appendix III. All of these entities are financed with UN funding, voluntary contributions, or a combination of the two, which rarely meet the totality of their investigative needs. Compared to the larger scale of international organizations and criminal tribunals, the costs of the international commissions are relatively small. Therefore, supplying funds through an endowment social bond, guaranteed by multilateral bodies and governments, should be a feasible means to raise necessary monies for their investigative and forensic work.

V. "HUMANITARIAN INVESTING" AS A PLATFORM FOR HELPING ATROCITY VICTIMS

During the last few years, momentum has been building behind "humanitarian investing," namely utilizing the private sector by attracting social investors for profitable (though often less than the conventional market rate) investment opportunities that scale the funds needed to pursue humanitarian aims.[144] Though the phenomenon is a relatively recent development in the capital markets, there now is a solid foundation for significant growth.

The World Economic Forum, World Bank, and ICRC initiated this broad objective with a press release in January 2019.[145] Their subsequent white paper, *Humanitarian Investing—Mobilizing Capital to Overcome Fragility*, issued in September 2019 before the COVID-19 pandemic, expands on the innovative thinking and provides examples of investment instruments to draw upon, including when considering collaborative opportunities with international organizations.[146]

They wrote:

> As co-chairs of the World Economic Forum's Humanitarian Investing initiative, we see the need to stimulate new approaches to tackle long-term challenges of fragility, protracted crises and forced displacement. Building on the current momentum, this initiative aims to shift the narrative from funding to investing, in order to unlock new capital and identify bankable projects and, ultimately, to deploy a new investment theme that supports the most vulnerable communities.[147]

The initiative undertaken by these international institutions—later expanded to include Credit Suisse and the Netherlands—to promote humanitarian investing can have beneficial impacts on efforts to meet the needs of atrocity victims. *Humanitarian investing* is a relatively new term preceded by sustainability investing and impact investing, both of which can operate within a very wide range of policy objectives. Large sums of money—totaling $30 trillion—have been committed pursuant to sustainability investment strategies of which impact investing accounts for only $500 billion.[148] Although both traditional and impact investors expect financial returns, impact investors place more emphasis on the societal and environmental impact of their capital, which can lead to these investors sometimes accepting below-market returns on especially impactful projects.[149] Granted, the concept of humanitarian investing itself is aimed at a broad universe of humanitarian needs in society and remains tied to principles of sustainability and development. However, every single project that can be categorized as humanitarian investing actually reflects a micro-project that, while focusing on more traditional objectives such as health care, the environment, agriculture, refugees, energy, or small business, has a methodology that can be readily adapted to meet the requirements of reparations and direct assistance to atrocity victims.

Over the last three decades, the number of countries engaged in violent conflicts has increased steadily along with the number of forcibly displaced persons, totaling more than 84 million worldwide by mid-2021.[150] Crises demanding international responses, particularly for humanitarian aid, doubled between 2005 and 2017.[151] At the same time, the white paper acknowledges that "the principles underlying international cooperation and humanitarian aid have come under immense pressure, stemming from racism and xenophobia, the rise of nationalism and reductions in funding to, or acceptance of, migrants, refugees, or other affected populations."[152] In this context, a key indicator is the gap in UN-coordinated appeals between 2007 and 2018. The gap was only 15 percent in 2007 but rose to 40 percent in 2018.[153] There seems to be no coherent plan at the United Nations to remedy the significant shortfalls other than to repeat appeals and seek cooperation from governmental, institutional, and philanthropic donors. The UN-coordinated appeals often directly relate, within their larger ambit, to groups of atrocity victims in dire need of help.

The white paper paints a grim picture for 80 percent of the world's poorest people by 2030. The existing framework for meeting critical needs will not suffice:

> Protracted crises and increasing vulnerability are stretching mandates and resources so that traditional approaches to financing humanitarian-development efforts are not commensurate with the sharp increase in needs nor in a comprehensive strategy to address the underlying drivers of [fragility, conflict, and violence].[154]

Humanitarian investing arises as a solution. A number of objectives will set the pace.

First, activating donors and financial institutions will serve as a market catalyst to propel market growth. Expanding the availability and scale of investable opportunities through these market catalysts will enable the flow of investment capital. Promoting humanitarian investing as a real financial opportunity, expanding the concept beyond traditional humanitarian crises, and upgrading the readiness of organizations to act would further function as steps to adapt traditional methods of investing to meet humanitarian needs.[155]

In 2021, there remained a dearth of projects to meet the rising investor demand for financial ventures that have positive social impacts. The projects may seem too small; they may lack acceptable collateral; or they may seem too politically risky, which prevent them from appearing as viable opportunities for investors. *Build it and they will come* might be the call signal, but not enough are being built. An impressive number of humanitarian investing projects adhering to two primary principles are underway (see appendix II). First, the sizeable investments pursue profit through positive returns similar to traditional investing. Second, generating positive social outcomes in populations "anywhere in the fragility-crisis cycle" prevails as one of their primary objectives.[156]

Yet, humanitarian investing is not an easy fix. As the white paper also makes clear, it faces significant challenges. Potential barriers can be addressed in two primary ways. First, the all-important "market catalysts" need to build the market for humanitarian investing, including for investments directed toward atrocity victims. That means that high-net worth and philanthropic donors, development banks, development finance institutions, and humanitarian- development organizations would need to act as market catalysts and encourage collaboration among stakeholders.[157] They would identify investable opportunities to connect with investors and mitigate the risk by guaranteeing the financial instrument or investing themselves to spread the risk.

Second, humanitarian investing needs to demonstrate large-scale viability by providing robust evidence of humanitarian investments generating both financial returns and observable societal benefits. Humanitarian investing can involve a spectrum of opportunities with "return- seeking, impact-driven investment across many investment approaches, from impact investors looking for risk-adjusted market returns, through philanthropies making mission-related investments, to [development finance institutions] offering concessionary loans."[158] If a strong track record of financial returns and societal benefits can be established, then prospects for focusing humanitarian investing on projects for atrocity victims improve markedly.

By narrowing cavernous funding gaps, humanitarian investing has the potential to increase the likelihood that individuals and communities effectively recover and rebuild the physical and social infrastructure that underpins state stability.[159] For atrocity victims, closing funding gaps in either reparations awards or direct assistance can become the game-changer in overall attention to and fulfillment of their critical needs.

This category of investing has several benefits for atrocity survivors: addressing inefficiencies in the delivery of assistance to victims through financial instruments that demand verifiable, high standards of performance and innovation (in accordance with the Social Bond Principles explained in section VI.B. below) and aligning investors' interests with those of the atrocity victims to generate sustained attention and reliable capital flows toward improving social outcomes.

There are, however, important caveats to humanitarian investing. The white paper posits that investors will want to be paid interest at market rates "or near-market rates for some impact or concessionary investors," and that "could require a blended finance structure with supporting capital in the humanitarian investing market's early stages, making it a complement to, but no replacement for, donor capital."[160] Blended finance involves mixing private investment capital with supporting capital from a public donor or philanthropic entity in order to reduce the risk associated with deals that would not be commercially feasible otherwise.[161] It works by combining different investors with differing risk tolerances and expected rates of return, allowing the private investment capital to be paid back at market or near-market rates and thereby making the opportunities more attractive and viable for investors.[162] Also critical for atrocity victims would be internal auditing mechanisms that ensure their needs are met as directly as possible through a financial instrument that delivers funding transparently.

The white paper sets forth eight principles for humanitarian investing. While intended to address the broader agenda of humanitarian causes envisaged by the World Bank, World Economic Forum, and ICRC, these principles are replicated below to stimulate thinking about principles for the participation of social investors in a possible market of social bonds for humanitarian investing for the benefit of atrocity victims. The eight principles are these: apply capital to investable opportunities that:

a. Directly affect people exposed to fragility and humanitarian challenges and the environments around them.

b. Address needs across the fragility-crisis cycle from resilience to crisis response and recovery, including in FCV [fragility, conflict, violence] contexts.

c. Are context-appropriate and structured to take advantage of differences in the mandates, return objectives, risk tolerances, and investment horizons of capital and actors.

d. Bring the right partners, expertise, and capabilities together, public and private, to originate, structure, broker, and execute successfully.

e. Create collaborations, informed by humanitarian principles, an investment mindset, and "contextual intelligence" of humanitarian and development actors.

f. Help transform the architecture and efficiency of the humanitarian system through complementary responses and impact.

g. Empower beneficiaries for resilience, access, inclusion, and market participation.

h. Measure and report on human impacts, financial performance, and adherence to these principles.[163]

The task of creating new investment facilities for a broader set of humanitarian and social justice objectives in accordance with these principles will be the great challenge in the years ahead, but one can start to apply these principles to the task of structuring one or more financial instruments for the subset of atrocity victims and the targeted projects they need to finance.

In January 2021, the expanded World Economic Forum consortium issued a new white paper building upon the first one entitled, *Unlocking Humanitarian and Resilience Investing through Better Data*.[164] Since social investors look for metrics that will demonstrate the worth of their investments in social causes, the 2021 report aims to address that challenge with a deep dive into data collection in contexts where quantitative measurements can be difficult to achieve. To effectively expand the capital available among private-sector investors to humanitarian causes requires more precise data to galvanize investment in humanitarian and resilience objectives. By providing information related to the number of people impacted by humanitarian crises and the outcomes of aid operations for communities, the data help to frame the "likely risk, return, and impact of humanitarian and resilience investing."[165] This knowledge can encourage investors to invest their capital in crucial humanitarian initiatives. The authors undertake that task in the context of their main argument recognizing the need for, and increasing investor interest in, humanitarian and resilience financing, which reflects "an emerging investment theme aimed at leveraging private capital in a way that directly benefits vulnerable people and fragile communities. . . . It brings together investors and corporates with humanitarian and development organizations to identify pioneering projects that catalyze investor capital and strengthen collaboration across different stakeholder groups."[166]

These two white papers signal a clear and strong momentum toward humanitarian investing, but they do not specifically mention atrocity crimes as a main driver for humanitarian funding. Thus, innovative humanitarian investing approaches need to be tailored to address the needs of atrocity victims.

VI. A LIFELINE: SOCIAL BONDS

A. Introduction to Social Bonds

Victim populations and funding shortfalls for the organizations and tribunals seeking to assist them may continue to grow in the years ahead given new atrocities and other emerging humanitarian crises around the world. Though nothing will instantaneously close the funding gaps of tribunals, governments, and humanitarian organizations, the traditional strategy of complete dependence on voluntary governmental contributions and charitable giving no longer stands. Financial innovation is needed to complement funding venues for humanitarian organizations, tribunals, and the vulnerable populations they serve.[167]

a. What constitutes a social bond?

In the early 2000s, Sir Ronald Cohen, a highly successful venture capitalist who turned his considerable talents to social causes, developed the first "social impact" bonds to combat recidivism in the British prison system.[168] The initiative worked by assisting individuals who had served their time to pave new productive lives, avoid crime and reincarceration, and thus reduce the combined cohorts' recidivism rate by 7.5 percent or more.[169] This saved the British Government significant resources that it would otherwise have committed to the prison system. Sir Ronald's pioneering work in the field has earned him the title, "the father of social investment." In light of the evolving number and character of social impact bonds and social bonds that followed Sir Ronald's breakthrough, major international actors have taken hold and amplified the concept.

The modern social bond market functions as a reservoir of financial resources for the achievement of socially beneficial objectives while providing investors with an acceptable rate of return (unless the vehicle is a social *impact* bond that incurs the risk of no or little rate of return for the social investor depending on performance criteria). The common touchstone is the Environment, social, and governance standards that guide the purpose and performance criteria of investments in the sustainable bond market. The Social Bond Principles (SBP) developed by the International Capital Market Association (ICMA) have supplemented the ESG standards since 2017 with a specific focus on the emerging social bond market. The SBP provide objective criteria for social bonds based on four pillars: the use of proceeds, project evaluation, management of proceeds, and reporting.[170] The SBP set out a common base definition of social bonds to ensure transparency and accountability. As indicated by their association with humanitarian investing, social bonds require that the proceeds of a bond be used for a specific societal benefit. This is the crucial marker differentiating them from normal debt instruments that use proceeds for general corporate or municipal purposes.

b. How are social bonds issued?

Governments, multinational banks, humanitarian organizations, nongovernmental organizations, and corporations can all issue social bonds.[171] The largest body of issuers of social bonds include multilateral institutions such as the World Bank, International Finance Corporation, Asian Development Bank, African Development Bank, Inter-American Development Bank, and the European Commission. Each entity establishes a framework that describes the types of projects it intends to finance along with the performance metrics.

Reporting on those performance metrics is critical because investors at the moment of investment do not necessarily know exactly how their funds will be allocated to the issuer's projects. The performance report will provide that information. If the metrics are not met by the project performance, then such social investors may not commit to roll over their initial investment at term or purchase stakes in subsequent social bonds.

The multilateral institutions identify the viable social projects to fund. These eligible projects fall within the categories of investment opportunities established by the SBP. The international financial institutions are essential to the exercise because few, if any, of the social projects normally would be funded because they are too small and too risky for any investors to finance directly on attractive economic terms. The World Bank or another multilateral development bank aggregates demand for the social bond financing. This process ensures the deployment of capital in the neediest places. If, for example, the World Bank raises a $1 billion bond, its staff will manage the balance sheet dynamically to finance a number of different loans. The World Bank's high credit rating, standing in the market, global investor following, and longstanding market presence ensure that it has access to the market. The World Bank can raise the $1 billion on favorable terms (lower interest rates) and therefore lend at lower rates to the borrowers pursuing social objectives.[172]

While multilateral institutions, including the European Commission, issue the most social bonds, other entities have increasingly issued social bonds and social impact bonds to meet their growing financial needs.[173] As mentioned earlier in the report, the International Committee of the Red Cross issued the first humanitarian impact bond for rehabilitation facilities in Africa; Gavi, the Vaccine Alliance, created the International Finance Facility for Immunisation, which issues vaccine bonds that align with all four elements of the SBP[174] for immunization programs; and Pfizer issued a sustainability bond in 2020 for a variety of public health objectives. The issuing entity agrees to repay the bond over a set period of time with the addition of either a fixed or variable rate of return.

Social bonds are generally built upon the theory that the issuing entity will save enough money in the successful outcomes of the social projects being funded to facilitate the guarantee of repayment over the terms of the social bonds. For example, when the United Kingdom launched the world's first social impact bond in 2010, it aimed to reduce recidivism by 7.5 percent. At the time, some prisons in the United Kingdom were experiencing reoffending rates over 70 percent.[175] The cycle of reincarceration proves to be an expensive process both for taxpayers contributing funds to sustain the prison system as well as for those individuals in the system.[176] Ultimately, the bond's success at reducing recidivism in the targeted population by 9 percent saved taxpayers money while contributing to the ability of former offenders to rebuild their lives and livelihoods.[177]

c. Growth in the social bond market

Though the social bond remains a relatively new idea in the financial markets, it has experienced major growth over the past decade.[178] Particularly with the advent of the COVID-19 pandemic, social bonds accelerated in number and value over the last two years. Before the pandemic dominated the financial needs of governments, the United Kingdom (47 social bonds) and the United States (26 social bonds) were the highest-issuing jurisdictions for social bonds.

The investors included funds, banks, private equities, and other institutions. The payers had been mostly governmental organizations. The programs funded by the prepandemic social bonds mainly covered eight areas: workforce development, housing/homelessness, health, child and family welfare, education and early years, criminal justice, poverty, and the environment.[179]

The concept of social bonds draws from the experience of similar financial instruments. Municipal bonds, backed by the full faith and credit of governments, are long-standing examples of a social bond typically designed for infrastructure projects.[180] Economic stabilization bonds include the European Financial Stability Facility, guaranteed by 13 euro-area member states, which temporarily helped stabilize the economy in Europe following the Great Recession of 2007–2008. The European Investment Bank (EIB) launched the world's first green bond in 2007 with its Climate Awareness Bond. In 2018, the EIB issued its inaugural Sustainability Awareness Bond to supplement the climate bonds by providing finance for sustainable projects apart from climate mitigation that further EU policy objectives. It was guaranteed by the member states of the EU at the time (when the United Kingdom was still an EU member).

There are also examples of prepandemic social bonds backed by paid-in and callable capital from member state governments. They include the Council of Europe's bond that financed housing for low-income populations, education and vocational training, and job creation in small and medium-sized enterprises.[181] The International Finance Corporation has ongoing bonds for investments in companies that engage directly with smallholder farmers, provide utilities for low-income households, and offer affordable health services, education, or housing to low-income populations. In 2019, the Instituto de Crédito Oficial, a state-owned Spanish lending institution, issued its sixth social bond, guaranteed by the Spanish government, to extend credit to small, medium, or microenterprises to spur employment creation or retention in specific economically underperforming regions of Spain.[182]

These and other bonds demonstrated even prior to the pandemic that (1) there is an appetite in the market for social bonds pursuing worthy social objectives, and (2) governments have a track record of backing such bonds whether through paid-in capital, callable capital, or a guarantee. Good practices developed for these social bonds can also be applied to a bond concept for the benefit of victims of atrocity crimes.[183]

Social bond issuance reached more than $140 billion in 2020 compared to a total of $17.4 billion in 2019, according to the International Finance Corporation.[184] Though COVID-19 acted as a propellant for the rapid expansion of the social bond market in 2020, social bond issuance is projected to continue to increase far beyond the pandemic as improved regulations and strong returns have driven an unprecedented shift in investors' desire to deploy capital that contributes to the public good.[185] Social causes have moved to the forefront in light of increasing existential challenges facing societies globally, and governments have increasingly recognized social bonds as crucial funding tools.

Globally, social bonds and the entire sustainable bond market continued their upward trajectory in 2021. Nearly one-third of 2020's total social bond issuance was achieved in just the first 60 days of 2021 as social bond issuances reached over $50 billion. Indeed, January 2021 proved to be a record month, which experienced a 758 percent increase in social bond issuances worldwide as compared to January 2020.[186] By June 2021, total social bond issuance reached

$90 billion, with social, sustainable, and green bond volumes all breaking individual and collective records in the first quarter. Overall sustainable bond volumes, which include green, social, and sustainability-linked bonds, surged in the first quarter of 2021 to a historic $231 billion, a three-fold increase compared to the same quarter in 2020. Ultimately, global sustainable debt issuance surpassed original projections to reach a historic $960 billion in 2021, reflecting a 61 percent increase from 2020.[187]

The market continues to experience global demand for social bonds vastly outpacing supply.[188] Reports have indicated that asset managers, particularly in Europe, maintain high interest in investing capital into social debt issuances but face the challenge of inadequate opportunities.[189] Large asset managers, such as ATP in Denmark, aimed to deploy billions across several social and sustainable bonds in 2021, citing the rapid market expansion, yet limited market supply posed a challenge.[190]

Recent progress toward improving regulations and transparency has encouraged more issuances in order to meet the demand. In March 2021, the EU enacted the Sustainable Financial Disclosure Regulation standards, which outline rules and regulations for impact investing. The standards have been a valuable tool in increasing transparency and reporting on the side of the bond issuers and lead sale managers while also focusing the attention of investors on how to deploy capital in a way that contributes to the UN Sustainable Development Goals.[191] The ICMA also issued its updated Social Bond Principles in June 2021. These principles set a strong foundation for the growth of the global social bond market with the updated standards expected to encourage market expansion by providing increased guidance on transparency and reporting.[192]

Tables VI.1–VI.3 demonstrate the level of interest throughout 2020 in social bonds and sustainable bonds (the latter meaning general finance of ESG objectives). They also identify the top lead managers of social bonds. The data reflect the trends in both volume of issuance and category of issuer as well as place of issuance.

Table VI.1: Top Social Bond Issuers of 2020

Issuer	Value in US$ (B)
European Union	71.9
France	49.8
Luxembourg	49.6

Source: Linklaters, "More than 680 Green Bonds and 130 Social Bonds Issued Globally So Far in 2020," Linklaters, December 17, 2020, https://theimpactlawyers.com/international-legal-sector/linklaters-more- than-680-green-bonds-and-130-social-bonds-issued-globally-so-far-in-2020.

Table VI.2: Top 10 Biggest Single Sustainable Bond Issuances of 2020

Issuer	Currency	Value in local currency (M)	Value in USD (M)
European Union	EUR	17,000	19,976
European Union	EUR	14,000	16,606
European Union	EUR	8,500	10,127
IBRD	USD	8,000	8,000
Federal Republic of Germany	EUR	6,500	7,771
Societe du Grand Paris	EUR	6,000	7,065
IBRD	USD	6,000	6,000
Cades	EUR	5,000	5,897
Federal Republic of Germany	EUR	5,000	5,845
Cades	EUR	5,000	5,825

Note: The sustainable debt market has been divided among social, sustainability, green, and sustainability-linked bonds. Social bonds constituted the second largest category of issuances based on monetary volume in 2020 behind green bonds.

Source: Ahren Lester et al., "Sustainable Bonds Insight 2021," Environmental Finance, 2021, 2–3, https://www.environmental-finance.com/assets/files/research/sustainable-bonds-insight- 2021.pdf.

Table VI.3: Top 10 Lead Managers of Social Bonds in 2020

Rank	Lead Manager	Volume in USD (M)
1	**Credit Agricole CIB**	13,980
2	**BNP Paribas**	13,394
3	**HSBC**	12,097
4	**Bank of America Merrill Lynch**	10,088
5	**Citigroup**	9,734
6	**JP Morgan**	9,569
7	**Société Générale**	8,781
8	**Barclays**	8,543
9	**Nomura**	7,280
10	**TD Securities**	6,964

d. Difference between social bonds and social impact bonds

There is a technical distinction between "social bonds" and "social impact bonds," although these terms sometimes become interchangeable in general dialogue about impact investing.[193] **Social bonds**, which clearly have an impact but shed the actual word *impact*, are typically issued in order to finance social purpose loans shepherded by multilateral organizations like the World Bank and International Finance Corporation, which aggregate the demand. These multilateral organizations also have the expertise that enables them to undertake due diligence review of the financed project. Such experienced institutions have high credit ratings due to the backing of their government shareholders. This allows them to access the market on favorable terms. As such, the social bonds finance loans and generate a return themselves, part of which is paid to investors in the form of a fixed rate coupon. Some instruments have been designed to have a slightly different payout structure with predefined targets.[194] Limited types of social bonds may have a step-up or step-down coupon when the predefined targets are met or not met. This means that the social investor gains more profit when the target is met and less profit (and perhaps no return at all) when the target is not met. But the vast majority of social bonds issued in the market have a fixed coupon and therefore generate a fixed return to investors. This is important because the growth of the social bond market is also driven by the depth of the fixed income investor base.[195] Social investors are generally focused on liquidity and conservative in their risk profile.[196] As a result, the fixed return coupon is central to the exercise.

Despite the importance of the social goal being pursued, the terms of the social bond are not correlated to the outcome. The World Bank, for example, issues somewhere in the range of €60 billion to €70 billion in bonds each year under its sustainability debt framework. When the World Bank or the African Development Bank enters the social bond market, it has access to the market on terms that are available to the bank at that time. The social investor buys within the context of the social bond issuance. While the World Bank or AfDB will allocate the social investor's payment to eligible projects that will be financed with the social bond funds, the outcome is not correlated to the terms of the bond. However, the social investor will have access to the impact of the investment because issuers of social bonds have the obligation to report on the use of proceeds and the consequential impact. The social investor, provided with that information, can choose later in the process to reinvest in a rollover of the social bond or decline if unsatisfied with the impact of the bond's financing.

To provide an example, the European Investment Bank launched its Sustainability Awareness Bond in 2018, which finances projects related to EU sustainability objectives apart from climate mitigation activities. The 2018 bond was intended to cover broad social objectives related to water and sanitation, pollution, natural disaster risk reduction, and affordable health services. The EIB reported the bond has funded projects related to ensuring a drinkable water supply, flood protection, expanding access to higher education, and helping hospitals to modernize health care infrastructure to enable more efficient and effective patient care.[197] In accordance with the SBPs guidelines on reporting, the EIB publishes publicly available records on its website on the use of proceeds and the impact anticipated from each project receiving a loan.[198] The project-by-project allocation report provides detailed information on recipient programs and their contributions to achieving specified social objectives, which equips investors with crucial information to assess the results of their investment. This, in turn, informs their decision on whether to reinvest.

In comparison, **social impact bonds** are generally much smaller in size. They have a payout structure that is directly linked to a successful outcome or pre-agreed social benefits, and they are more similar to equity instruments and carry a higher risk as they do not pay a fixed return to the social investor.[199] Performance can fluctuate with a social impact bond and the sliding rate of return reflects the risks. Governments typically accept the obligation to repay social impact bonds because they expect to realize savings in public outlays for projects and policies that arise from the bond's successful implementation, such as in the case of Sir Ronald's social impact bonds targeting recidivism reductions. The significant budgetary savings often cover most or all of the costs of paying interest and principal on the social impact bond.[200] The social impact bond generally will be issued on a smaller scale and be very targeted with an outcome decided in coordination with a public institution. An example could be a social impact bond that deals with childhood education, where there is a strong correlation between early childhood education and greater social benefits over the long term. There would be an associated study undertaken to ensure that the correlation is identifiable. There would be a calculation of what the municipality is saving thanks to the early investment by the private social investors and the social investors' return if the outcome is met.

The recipient party must satisfy set performance criteria, or metrics, and the social investors gauge their rate of return by whether or not those metrics are achieved. This is decidedly not conventional philanthropy, although traditional philanthropists can be attractive candidates as social investors or guarantors and outcome funders. A profitable rate of return remains the social investor's goal but the bond's size is calculated in terms of the anticipated social impact arising from the infusion of funds under the bond, and the dependency on results means that if the project fails to actualize its established goals, the investors could be deprived of their return.

Social impact bonds generally are not issued as broadly in the market as social bonds. These impact bonds suffer from the reality that data are often lacking to confirm the correlation between investment and impact. The challenge is to establish the metrics either as to the social issue at stake or as to how to quantify the outcome in sufficient detail to inform the sliding scale of return. Addressing the trauma of victims of atrocity crimes, for example, may be exceptionally difficult to render as a data point for social investors in their evaluations of the bond's performance in the field. Ideally, the issuer needs a very strong projected correlation between the problem and the outcome in order to build the case for a social impact bond.

As of November 2023, social impact bonds constituted 236 of the total 253 impact bonds ongoing in 40 countries, while development impact bonds comprised the remaining 17.[201] Highly localized, these bonds benefit an average of 12,457 people each. Half of the bonds serve 500 beneficiaries or fewer. The average upfront capital deployed for each individual bond is $3.12 million, while the total upfront capital distributed across all 214 bonds is approximately $437.27 million. The contracts for the bonds run for an average of four years. Given the need for concrete metrics, the majority of impact bonds target the education, health, employment, and social welfare sectors.[202]

Typically, social investors have invested in social bonds or social impact bonds that increase funding for public needs related to environmental, health, local criminal justice, and infrastructure priorities.[203] The banks and lead managers possess familiarity with and knowledge about the social investors who would qualify for this type of transaction. The issuers can choose to exclude social investors if there are any concerns with their backgrounds. Banks and investment firms are very familiar with institutional social investors (e.g., prominent insurance companies and pension funds, university endowments, central banks, official institutions, wealthy individuals, and large asset managers) who are interested in long-term investments that also advance a social cause, but they also have foundations and high-net-worth individuals to reach out to as potential investors.[204] The common parlance in the markets identifies these investors as socially responsible investors[205] focused on ESG[206] criteria in their decisions on how to invest. When social bonds are issued on the market, the process usually unfolds rapidly.[207] While there is much preparation that goes into developing the framework and the marketing of the social bond in advance of the issue date, the issuance (sale of the bond) can occur within a matter of hours on the chosen day.

The pandemic has resulted in valuable lessons learned. For instance, the World Bank issued a seemingly preventive pandemic bond in 2017, designed to confront prospective infectious diseases head-on with targeted funding for the 76 poorest countries that might come under viral siege.[208] However, it flopped due to high annual interest rates paid to investors and its conditionality that set payout to occur only after a pandemic resulted in a certain number of deaths, proving itself to be unwieldy and post-mortem, literally. This failure has provided insight on how to formulate more effective social bonds that address infectious diseases. Preventive pandemic bonds need to be tailored to pay lower interest rates and disburse funds quickly enough to prevent the pandemic from spreading rather than waiting to attain a certain threshold of fatalities before funding disbursal.

Multilateral development banks have become increasingly willing to structure and issue social bonds for key programs, including education and health care. They have responded quickly to the needs of their member states during the COVID-19 pandemic and mobilized significant funds, demonstrating their potential for further expansion into the social bond market. At the national level, the pandemic has compelled policy makers to adopt a more receptive attitude toward social bonds and, in particular, increased openness to guaranteeing social bonds. European governments coalesced to form a multiannual

EU budget that supports borrowing funds in the capital markets (through the issuance of EU bonds) to fund the NextGenerationEU recovery plan. Already in 2020, the European Commission issued a bond for up to €100 billion for the Support to Mitigate Unemployment Risks in an Emergency (SURE) program in the face of the COVID-19 pandemic.[209] Social investors need to be confident that the accountability of the institutions issuing the bond is high. The multilateral development banks, in turn, have strict standards to uphold related to the types of projects they lend to and the project outcomes. The standards prescribed by the Social Bond Principles play a central role in constructing the necessary conditions to enable each actor involved in a social bond issuance to play its part with confidence.

B. Social Bond Principles

As mentioned earlier, the standards employed in creating and examining social bond opportunities are the Social Bond Principles of the International Capital Market Association, which follow the earlier template of standards set forth in the ICMA's Green Bond Principles. Indeed, ICMA estimates that its principles for green and social bonds were referenced by approximately 97 percent of all sustainable bond issuances in 2020.[210]

The SBP are designed as a common set of standards that issuers uphold to ensure that the term "social bonds" is used for well-understood and broadly accepted types of debt instruments.[211] The guidelines facilitate the growth of the social bond market by providing guidance to issuers to ensure they devise a credible social bond and assisting investors by establishing parameters that guarantee the availability of information needed to accurately assess the impact of their investments. The SBP also benefit underwriters by steering the market toward disclosures of information that promote smooth transactions and the integrity of the market.

The SBP set standards for each of the four core components of a social bond program (the SBP Core Components):

1. Use of social bond proceeds
2. The process for project evaluation and selection
3. The management of proceeds
4. Reporting

The SBP require issuers to demonstrate adherence to the four components in a Social Bond Framework document made readily available to investors. As a result of increasing transparency and accountability, the principles help to encourage investors to deploy more capital in social bonds, thereby supporting the growth of the overall market.[212]

ICMA published the latest version of the SBP in the June 2021 edition of its flagship report, *Social Bond Principles: Voluntary Process Guidelines for Issuing Social Bonds* (*Guidelines*).[213] These updates primarily focus on sharpening transparency and emphasizing impact. Any social bond proposal to assist victims of atrocity crimes through international tribunals or humanitarian organizations would be evaluated against these criteria. Some extracts from the document that will be crucial to incorporate into the development of a social bond to meet the needs of atrocity victims are set forth below.

Social bonds are defined in the *Guidelines*:

> Social Bonds are any type of bond instrument where the proceeds . . . will be exclusively applied to finance or re-finance in part or in full new and/or existing eligible Social Projects . . . [which] directly aim to address or mitigate a specific social issue and/or seek to achieve positive social outcomes especially but not exclusively for a target population(s). A social issue threatens, hinders, or damages the well-being of society or a specific target population. . . . [T]he definition of target population can vary depending on local contexts.[214]

There are three factors that the social bond issuance should communicate to the social investors:

1. The social objectives
2. How the project(s) fit within the eligible categories for social projects
3. The related eligibility criteria, including, if applicable, exclusion criteria or any other process applied to identify and manage potentially material social and environmental risks associated with the projects

The *Guidelines* currently describe four types of social bonds, while noting that additional types may emerge as the market expands. This report focuses primarily on the Standard Social Use of Proceeds Bond, the first of those described by the *Guidelines*. The Social Revenue Bond, Social Project Bond, and Social Securitized and Covered Bond constitute the remaining three social bond types. The Standard Social Use of Proceeds Bond is encapsulated throughout this report by the use of the terms *social bond* and *social impact bond*. This report also introduces the term *endowment social bond*, proposed as a key methodology for generating a reliable annual amount of income for international criminal tribunals as well as agencies and nongovernmental organizations assisting atrocity victims. The endowment social bond also fits within the use of proceeds bond category.

The categories of social projects set forth in the *Guidelines* include six areas:[215]

1. Affordable basic infrastructure (e.g., clean drinking water, sewers, sanitation, transport, energy)
2. Access to essential services (e.g., health, education and vocational training, health care, financing, and financial services)
3. Affordable housing
4. Employment generation and programs designed to prevent and/or alleviate unemployment stemming from socioeconomic crises
5. Food security and sustainable food systems (e.g., physical, social, and economic access to safe, nutritious, and sufficient food that meets dietary needs and requirements; resilient agricultural practices; reduction of food loss and waste; and improved productivity of small-scale producers)
6. Socioeconomic advancement and empowerment (e.g., equitable access to and control over assets, services, resources, and opportunities; equitable participation and integration into the market and society, including reduction of income inequality)

The *Guidelines* further state that the target populations include:[216]

1. Populations living below the poverty line
2. Excluded and/or marginalized populations and/or communities
3. People with disabilities
4. Migrants and/or displaced persons
5. Undereducated populations
6. Underserved communities, owing to a lack of quality access to essential goods and services
7. Unemployed individuals
8. Women and/or sexual and gender minorities
9. Aging populations and vulnerable youth
10. Other vulnerable groups, including as a result of natural disasters

The SBP also set forth requirements for the proper management of social bond proceeds, defining a transparent accounting procedure that permits accurate tracking of the bond's net proceeds and the allocation to an eligible social project, all to be verified by an auditor or other third party. The SBP describe a transparent reporting regime under which bond issuers "should make, and keep, readily available up to date information on the use of proceeds to be renewed annually until full allocation, and on a timely basis in the case of material developments. . . . The SBP recommend the use of qualitative performance indicators and, where feasible, quantitative performance measures (e.g., number of beneficiaries, especially from target populations) and disclosure of the key underlying methodology and/or assumptions used in the quantitative determination."[217] The *Guidelines* also point to templates that can be used for issuer reporting.

Finally, an external review of the issuance of the social bond must verify that the bond meets the SBP Core Components described at the beginning of this section. Acceptable external review methodologies include a second-party opinion from an independent institution, an independent verification against a designated set of criteria, a certification based on a recognized external social standard or label, or a social bond scoring or rating evaluated or assessed by qualified third parties.

Projects to meet the needs of atrocity victims should be evaluated under each of the SBP Core Components set out by the Social Bond Principles. Social investors would expect no less than that rigorous examination. To apply the *Guidelines* directly to those who have endured atrocities and help facilitate the issuance of social bonds to target this population, the SBP should list support for humanitarian needs, including aid for atrocity victims, as a category of social projects, and it should explicitly define atrocity victims as a target population under the SBP. This seventh category of social projects could be listed as:

> Reparations, Justice and Restorative Assistance (e.g., reparations payments to victim populations of armed conflicts and atrocities; development of assistance programs for the benefit of such

groups; financial support for criminal tribunals and investigative mechanisms pursuing justice for the commission of atrocity crimes).

The SBP's rationale for the 10th listing of target populations, namely "Other vulnerable groups, including as a result of natural disaster," would apply just as easily to an eleventh category that should be described as "Victims of armed conflicts or atrocity crimes." Since these victims number in the tens of millions across the globe, the absence of such a category in the SBP is a glaring omission.

C. Examples of Social Bonds

There are numerous social bonds that have been developed in recent years to address humanitarian and other societal challenges. Appendix II describes nine types of instruments or financial institutions that exemplify the scale of resources and social objectives already present in the market, and thus are helpful to inform the development of social bonds to address the needs of atrocity victims. These examples encompass domestic criminal justice, vaccines and health services, the European response to the COVID-19 pandemic, France's recent social bonds covering social security and unemployment needs, various humanitarian and development impact bonds, the World Bank's bonds funding development and other social objectives, and the social bonds issued by the Asian Development Bank and the African Development Bank. Each financial instrument demonstrates innovative thinking, rigorous metrics, a commitment to critical social priorities, the participation of major entities, and scaling molded to the demands of the moment.

D. A Pragmatic Long-Term Investment

While to date there is no precedent for an endowment social bond, the concept would be to use the issuance of a fixed-return social bond by the recipient organization (or its incorporated issuer) to raise funds among social investors. The bond would be guaranteed for repayment purposes by governments with low sovereign risk in the A to AAA categories and by foundations, high-net-worth individuals, or multilateral institutions. The funds raised by the endowment social bond would be invested for the purpose of attracting an annual rate of return that could pay:

1. A discounted annual rate of interest to the social investors;
2. The negotiated management fee of the investment firm managing (and growing) the endowment principal with largely passive investments and some active investments—similar to how conventional endowments manage their assets; and
3. The remaining rate of return to the recipient organization to help it achieve its social objective.

At the end of the endowment social bond term, there would be enough capital in the account to repay the principal to the social investors or, if the social investors agreed to roll over the bond for another term of years, continue to grow in order to repay the principal to the social investors at the end of the extended term of the bond and to bank any remaining return on the investment for the social objectives.

For example, a $1 billion social bond might expect to create a rate of return that generates, on average, about $10 million per year to meet the needs of atrocity victims. The investors would be prequalified in consultation with the guarantor governments and partners. While a $1 billion bond may seem extraordinary, investment advisors have indicated that such a social bond is relatively small and would be very attractive to investors because of the high- quality guarantee that would back up the bond and its social purpose. This type of social bond should be an attractive proposition to countries as they would only have to provide the guarantee without disbursing funds unless the guarantee were called. Thus, on a long time horizon, the structure is expected to be self-funding.

The endowment social bond ideally requires an issuing entity with name recognition, clout, high reputation, and sovereign backing already in place. Multilateral financial institutions normally meet these requirements. Major international investment banks also can act to identify prequalified social investors and undertake the structuring and placement of the endowment social bond. However, the organization benefiting from the endowment social bond and disbursing its proceeds for a social objective might be in a position to create a new corporate entity (such as, for example, a newly created Dutch or Luxembourg limited liability company) to issue the bond or even arrange for itself to be identified as the issuing entity of the bond. There are many options depending on the nature of the entity receiving and disbursing the funds and what the market may require to attract sufficient numbers of prequalified social investors. The structure is most realistic in its design if enough sovereign or other highly rated guarantors work with the issuing entity to collateralize the endowment fund. Nonetheless, in theory, there always would be the risk of the guarantee being called. This could pose a challenge for some sovereigns since governments can be reluctant to hold contingent liability on their books for many years. Thus, one might envision such a structure being built upon a shorter-term guarantee to lessen the risk.

Conceivably, the World Bank would be an attractive issuer of an endowment social bond benefiting atrocity survivors since governments have high trust in the World Bank's management of funds. There probably would need to be a special purpose vehicle (SPV)[218] established to assist with the issuance. The World Bank would gain little to no profit on the rate of return. One World Bank official indicated that this endowment social bond structure, issued through the World Bank, could prove viable given the increasing scale of need and widening funding gaps, remarking, "Humanitarian donations are falling across the board. Given that big problem, an endowment social bond might help. But it has to be a large bond issue, requiring a financial analysis. What will be the bond's objectives, who will be its beneficiaries, and what would be the level of required funds?"[219]

Some endowment bond precedents from US institutions, including major universities, raise a debt that is comprised of a portion of the overall assets of the institution, which provide sufficient collateral. There is no comparable asset base for collateralizing endowment social bonds to assist atrocity victims. This is why, for the purpose of a social bond for atrocity victims, there would need to be a sufficient number of guarantees from A-, AA-, or AAA-rated countries or highly rated parties, such as foundations, corporations, or wealthy individuals, to secure a high overall rating of the structure. There is always the reality that cash flows may prove less than expected during those years when the rate of return on the investments falls short, but reserves built up from more profitable years should minimize any such impact and sustain the ability to pay the annual interest payments owed to the social investors.

At the height of the pandemic, some investment advisors conceded that aside from COVID-19 social bonds, the market at that time could be difficult for other types of social bonds. However, as the pandemic recedes, new possibilities could arise. For example, if the World Bank could issue the social bond and direct the funds toward sovereign governments for distribution to atrocity victims, then the bond could be a much easier proposition under current circumstances and well received by the markets. The World Bank could segregate individual programs for the victims. If the funds were to be disbursed to governments, then the next critical step would be to have in place a means to effectively monitor expenditure and use. The advisors stressed the long view and how bond proceeds would be applied over a number of years, as that would be a critical marketing point. The long-term model projection would narrow down the possibilities of where the funds should be directed and how they should be deployed most effectively.

The innovative structure of endowment social bonds merits study as a path-breaking means to generate self-financing revenue that could cover funding gaps in whole or in part over the long term.

VII. PROPOSED PILOT PROJECTS

This report sets forth five proposed pilot projects that could explore the merit of humanitarian investing using social bonds to meet the financial needs of atrocity victims:

1. The first proposed pilot project is a social bond for the Global Survivors Fund, which provides direct medical assistance to individual victims, particularly of sexual violence during armed conflicts.
2. The second proposed project is the nongovernmental Commission for International Justice and Accountability, which investigates atrocity crimes to identify and preserve evidence for prosecutions.
3. The third proposed project could use a social bond to help cover the significant costs associated with providing trauma and mental health assistance to victims of atrocity crimes, with a consortium of humanitarian aid organizations pooling resources that would be raised with the bond.
4. The fourth proposed project could be a social bond to help cover the annual assessments for the budget of the International Criminal Court, which delivers not only verdicts on the guilt or innocence of perpetrators but also awards reparations to the atrocity victims.
5. Finally, the fifth proposed project is a social bond for the Trust Fund for Victims, which currently seeks to raise from governments the funds required to cover the reparations ordered by the ICC and to provide assistance to victims of atrocity crimes being adjudicated before the ICC.

A. Global Survivors Fund

The Global Survivors Fund (GSF) is a Geneva-based global fund for survivors of conflict-related sexual violence. Its mission is to enhance access to reparations and other forms of redress for survivors across the globe.[220] GSF was established by Dr. Denis Mukwege and Ms. Nadia Murad, an atrocity survivor herself, after they received the 2018 Nobel Peace Prize. The GSF aims to fill a widening gap in addressing the rights of survivors by providing interim reparative measures in the form of compensation, particularly when states are unwilling or unable to do so. GSF advocates on behalf of survivors to prioritize survivor-centric reparations, and it provides technical assistance and expert advice to support governments that want to put reparation programs in place.[221]

GSF is currently funded through voluntary government donations. It has funding through 2023 in the amount of about $24 million. The GSF has ceased trying to raise more for the time being in part due to the arduous restrictions that come with donations as well as the difficulties in trying to obtain the level of funding needed. The current funds are also plagued by limitations as government donors impose geographic and other restrictions on use of the funds.

While governments bear the primary responsibility for the reparations advocated by GSF, at issue is how the GSF sustains its operations in the field among the survivors and its advocacy in national capitals. GSF's advocacy priority is to compel governments to fulfill reparations payments for the benefit of survivors of conflict-related sexual violence. Without adequate funding, financing operational needs inevitably overshadows that priority, forcing GSF to turn its focus to lobbying for contributions to sustain its operations. An endowment social bond could generate a long-term revenue stream for the organization's operational requirements. The guarantee of a consistent funding stream to subsidize its continued operations would enable GSF to concentrate fully on its mission to develop and deliver interim reparative measures to survivors.

The government backing of GSF to date suggests that one or more of its government funders, as well as foundations and wealthy private donors, could be approached to guarantee either an endowment social bond for long-term operational purposes or a front-loaded bond that would be directed into effective assistance programs relatively quickly for survivors of sexual violence.

B. Commission for International Justice and Accountability

The Commission for International Justice and Accountability (CIJA) is a nonprofit nongovernmental organization situated in Europe (for security reasons its precise location is not disclosed). It investigates atrocity crimes and secures evidence to support prosecutorial efforts to end impunity at the national and international levels. CIJA collects evidence in a number of highly sensitive locations. For example, CIJA has acquired a vast trove of evidence relating to Syrian atrocity crimes committed from 2011 to the present and has made the information available to various prosecutors in countries including Germany. The organization's work to collect evidence in order to bolster prosecutorial efforts in cases of mass atrocities meets one of the primary needs of victims related earlier in this report, namely the establishment of public accountability for past harms. Successful gathering of evidence aids the delivery of justice for victims and, in turn, serves to facilitate the award of reparations, where warranted, by the courts. CIJA supports prosecutions in 13 countries and assists 37 law enforcement and counterterrorism organizations globally. However, the organization cannot publicly disclose these critical, highly dangerous evidence-gathering endeavors in order to protect the security of their personnel in the field and the chain of custody of documentary evidence transported to secure locations in Europe. This makes briefing government donors very difficult.

CIJA is funded entirely on a voluntary basis by governments, which have shrunk in number from an original group of seven western governments upon its creation in 2012 to only two western governments in 2021. Sourcing its financing entirely on voluntary governmental contributions each year has become highly problematic. First, CIJA has become identified with western governments—its donors—and the resulting image risks diminishing its credibility with other states that are skeptical of western values and policies, particularly with respect to international justice efforts. Second, since so much of CIJA's work must remain secret in nature, the organization cannot reveal much of the investigative endeavors or "work product" to government donors. The evidence retrieved from atrocity situations will become known only when it is revealed in a national or international courtroom by the prosecutor. Third, government donors strongly prefer to earmark what investigations will be funded by their voluntary contributions, thus limiting the scope of CIJA's work and inhibiting its ability to strategize the use of its limited personnel. CIJA would prefer to pool governments' individual funding streams (that are not earmarked) into a single budget in order to make independent decisions to allocate budgetary funds without political influence on which atrocity situations to investigate. The challenge with that approach is to demonstrate to donor governments how it is using its funds in a manner that encourages continued governmental support.

Still, it is important to note that, due to the secretive nature of its operations, the data typically sought by social investors, particularly in the context of a narrowly structured social impact bond, would not be forthcoming in any traditional sense. This would present a somewhat unique challenge to test unprecedented terrain for social investors deeply committed to international justice.

C. Trauma and Mental Health

Millions of victims of armed conflicts and atrocities—for example, in central Africa, Myanmar, South Sudan, Syria, Ukraine, and Yemen—suffer enormous injury and hardship; international assistance typically aims to heal the body but not the mind. This is particularly true for the trauma and mental anguish that impacts millions of victims, which in large measure goes untreated. So, while injury to and care of the human body receives the vast bulk of funds provided voluntarily by governments and private donors to humanitarian organizations each year, the mental damage receives woefully small allocations of overall assistance. There are scores of recently published reports and articles revealing the trauma and mental health impacts of armed conflicts and atrocities, confirming the pervasive and widespread reality of their largely untreated condition and grossly underfunded programs.[222] Some organizations recognize this need and seek to provide some focus on mental health needs of victims of armed conflicts and atrocities, who so often become refugees, but such operations remain relatively small and thus amount to a drop in the bucket.

It is imperative to develop a systematic means to raise significant funding for the mental health needs of the victims that is not just drawn from the mainstream of humanitarian relief. Applying novel mechanisms would avoid the annual toil of fundraising from governments, which increasingly are limited in what they can provide.

One of the initial pilot projects of the Funding Initiative, possibly a social impact bond, could focus on trauma and other mental health care for survivors of atrocity crimes. The metrics expected by social investors could be difficult to establish with mental health objectives, but they are not impossible to determine. No regional or international humanitarian organization is able to devote sufficient funding by itself to address the mental health needs of victims, including refugee children. Helping overcome trauma, especially in children, is critical to secure a sustainable future for those societies. Postconflict and atrocity trauma among survivors poses a potential threat to their country's economic prospects, which are often already unstable, as a traumatized society can impede economic progress during a recovery phase.[223] A social impact bond could, at least partially, address the gap in the allocation of humanitarian funds for mental health services.

Possible candidates for disbursing entities to benefit from the issuance of a social bond could include *Médecins Sans Frontières*, the International Committee of the Red Cross, Save the Children, Partners in Health, the Center for Victims of Torture, REDRESS, and the International Rehabilitation Council for Torture Victims.

D. International Criminal Court

The ICC serves to uphold the rule of law and combat impunity "by ensuring that the most severe crimes do not go unpunished and by promoting respect for international law."[224] As a court of last resort, which has the authority to prosecute perpetrators of genocide, crimes against humanity, war crimes, and aggression in the event that national jurisdictions prove unable or unwilling, the ICC acts as a vital safeguard of international justice for victims of atrocities. Critical to meeting the needs of victims is the accountability that results from court convictions in which reparations may also be issued. The ICC goes beyond simply punishing perpetrators to help restore survivors' agency. It contributes to victims' empowerment by permitting affected persons both to participate in the court proceedings and to apply for reparations in order to "bring retributive and restorative justice closer together."[225] Ultimately, the ICC functions as a crucial vehicle for delivering justice to victims in the aftermath of atrocities.

However, the ICC's funding requirements have reached a critical juncture: as major contributing states parties raise serious concerns about the size of the ICC budget, inflationary pressures and the expanding operational requirements of the ICC mean that the ICC budget will remain under significant pressure each year. Concerns raised over the cost of prolonged investigations and trials, what situations are receiving priority and thus funding in the ICC budget, and the relatively small number of convictions fuel states parties' skepticism about further increases in assessed funding.[226]

The issue arises whether a social bond could be issued that would finance part of the ICC budget each year and thus ease the financial strain on top contributors to the budget and, ultimately, all states parties of the ICC. The objective would be to reduce a material portion (perhaps between 7 percent and 41 percent, depending on the size of the social bond and its rate of return) of the annual assessed obligations of at least the 29 states parties that hold A-category sovereign credit ratings and are willing to guarantee the facility. There may also be the political decision to afford some relief to other states parties by flat-lining their assessed contributions (say, as of 2023) and establishing that the aggregate cost of growth in the ICC budget during the term of the ICC social bond (including the costs that would otherwise be assessed to the non– guarantor states parties) would be borne by the proceeds of the social bond. So, while the guarantor states should experience a significant reduction in what is required to be paid on their assessments, they also would be responsible for growth costs associated with the assessments of all states parties. This would reduce the savings for the guarantor states parties in their annual assessments somewhat, but this notion of guarantor states parties covering the cost of growth might be a key leverage point to ensure the good will and support of the non–guarantor states parties. A budget structured along these lines, with a social bond guaranteed by a group of states parties and a revised assessment scale applied among all states parties, would need the approval of the ICC Assembly of States Parties.

The ICC social bond could reduce the amount of funds that must be raised through assessments to meet the ICC's annual budget requirements. The concept is fairly straightforward, based on two reasonable assumptions: (1) The ICC could raise an endowment social bond through the issuance of an ICC social bond guaranteed by the participating states parties in the A-category of sovereign credit ratings. (2) The ICC social bond, over the long term, would generate investment returns in excess of the interest costs of the social bond to fund a substantial portion of the ICC's annual budget requirements in the tens of millions of euros a year, depending on the structure and size of the social bond.

For illustrative purposes, one could envisage three issuance sizes for the ICC social bond—€3 billion, €2 billion, and €1 billion (determined by the Assembly of States Parties)—where the annual return is 5 percent (which is considered conservative), and the cost of growth in the ICC budget at 3 percent per year is borne entirely by the 29 guarantor states parties with A-category sovereign credit rating. This scenario regarding who bears the cost of growth in the ICC budget was suggested because the non–guarantor states parties might expect a benefit of this character in order to support the proposal. The issuance size directly and proportionately impacts the size of the gains from the investment (assuming an identical rate of investment return), thus directly and proportionately impacting the relief afforded for the ICC budget. A €3 billion ICC social bond would provide much more relief for the ICC budget than would a €1 billion bond. One can also envisage a €3 billion ICC social bond at the same annualized rate of return of 5 percent, but with the cost of growth in the ICC budget at 3 percent per year to be borne by *all* of the states parties.

Although dated now, it remains worthwhile to examine calculations made in 2017, which yielded the following: Beginning with the fiscal year 2018, one could assume the issuance of a 10-year ICC social bond in the amount of €3 billion, guaranteed by 29 A–sovereign risk category states parties, with an annual interest rate of 3.5 percent. One could further assume that the proceeds from the €3 billion issuance would produce annualized investment returns of 5 percent (again, a conservatively calculated rate), which would generate sufficient gains to cover the €105 million in annual interest payments on the ICC social bond as well as contribute approximately €35 million to the ICC budget. The contribution of such investment gains to the ICC budget would result in the 29 guarantor states parties paying aggregate assessments of €68 million (rather than €103 million) in 2018, which effectively amounts to a decrease of 34 percent for the guarantor states parties. If, in the alternative, the €3 billion ICC social bond produces an annualized investment return of 5 percent *and* if the non–guarantor states parties are relieved of the obligation to cover any growth in the ICC budget (at 3 percent per year) during the term of the ICC social bond, then in 2018 the 29 guarantor states parties would pay aggregate assessments of €70 million, representing a 33 percent decrease in assessments from the status quo. In this scenario, the aggregate assessments of the 29 guarantor states parties would steadily advance to €103 million by 2027, but this figure still reflects a 23 percent decrease in assessments from the status quo for that year even though the guarantor states cover all of the growth in the ICC budget.

The social bond concept also might envisage, for purposes of comparison, the three issuance sizes for the ICC social bond of €3 billion, €2 billion, and €1 billion but with an annualized rate of return of 6 percent (an optimistic assumption reflecting performance of some university and foundation endowments and pension funds), with the annual rate of growth in the ICC budget remaining at 3 percent and also borne entirely by the 29 guarantor states parties. Savings for the 29 guarantor states parties would increase significantly were the annualized rate of return to reach 6 percent or more.

While the interest cost on the ICC social bond (which, for example, could be 3.5 percent for a 10-year term) would remain fixed over the 10-year term of the security, investment returns on the issuance proceeds would fluctuate. However, it is reasonable to assume that the investment returns from a broad, well-diversified portfolio of equities, fixed income, and real assets should exceed the interest costs on the ICC social bond over the long term. This assumption is supported by historical data on relative returns and corporate profit growth. Nonetheless, given the inherent variability in annual investment returns, it is possible that the investment return on the proceeds could fall below the interest cost on the ICC social bond (and indeed even be negative) in any given year. In such a circumstance, the ICC and the participating guarantor states parties could elect from among four alternatives: (1) have the Investment Unit (see below) contribute funding from the principal balance; (2) have the Investment Unit manage a reserve fund built up during years when investment returns exceed expectations and then draw upon that reserve fund during lean years; (3) draw upon the guarantee but only during a worst- case scenario in the global economy; or (4) have the guarantor states pay larger assessments (although likely lower than their status quo assessments) in lean years. Of course, just as investment returns may be subpar in certain years, it is also likely that investment returns will exceed expectations in other years, thus the principal balance could well be in excess of the initial balance, providing a buffer to protect against down years. Regardless of the year-to-year variability in returns, it is reasonable to assume that the guarantor states parties' funding requirements over the 10-year period with the ICC social bond would be well below the group's status quo funding requirements.

This preliminary analysis assumes retention of a highly experienced and reputable investment bank with expertise in sovereign and quasi-sovereign debt issuance to assist in the issuance of any social bond (including the structuring, marketing, and pricing of the bond). Additionally, a highly experienced and reputable investment advisory firm would prudently manage and optimally invest the proceeds from the issuance. This could be called, for convenience, the "Investment Unit," and it might be created as an in-house division of the ICC (with requisite expertise) or it might be retained as a group of experts at an existing investment bank or investment advisory firm. If the former, the expertise required for such a venture would need to be at the highest level, and hence salary requirements may prove difficult to achieve on ICC pay scales and actually may exceed the fee that an outside group would charge. If the latter, namely an outside group, then the ICC should be able to negotiate a reasonable fee for such services, particularly since the undertaking is akin to the management of endowment funds which attract lower management fees. It should be possible to negotiate the lower fees in the spirit of "low-bono" assistance for a worthy societal endeavor. Based on preliminary research, endowments in the range of $50 million to $100 million might require a management fee of about $100,000 per year. An ICC social bond between €1 billion and €3 billion likely would require a management fee of a few hundred thousand dollars per year (but considerably lower than what would be required of a normal commercial bond offering). The ICC could seek bids from various firms and determine which one to choose based upon competence and fees.

Securing the guarantees of states parties comprising the guarantor group presumably would be a challenging political "sell." But that would be offset by two realities. First, the guarantor states parties should realize the significant decreases in their annual assessments in exchange for guaranteeing repayment of the ICC social bond. Second, the high sovereign credit ratings of the guarantor states parties are likely to attract investors to the ICC social bond, thus resulting in a low cost of borrowing. The guarantor states parties presumably would not guarantee the ICC social bond jointly, but rather would commit to individual guarantees for the portion of the bond reflecting the relative share of their financial commitment to the ICC. No guarantor state party would assume the risk of any other guarantor state party defaulting on the guarantee. Thus, for example, under the proposed structure, if there were a default by the Investment Unit in paying interest and/or principal on the ICC social bond, each participating guarantor state party would only be responsible for the portion of the ICC social bond that is equal to its share of the assessments owed to the ICC, regardless of the capabilities or willingness of other guarantor states parties to honor their obligations under the guarantee. Understanding this risk, the very high credit ratings of the guarantor group would still attract investors.

One significant caveat to the proposal is that investors may demand a capital injection into the borrowing entity to give the investors more confidence that their investments are backed not only by the guarantee but also by the asset value of such a capital fund. Since the ICC does not have assets like factories or real estate to put up as collateral, investors might insist on some cash reserves to back up the ICC social bond. One would hope that a guarantee by a sovereign or other highly rated guarantors would obviate the need for such collateral, but further exploration of the issue would be merited.

Much like sovereign debt, as the ICC social bond nears maturity, the ICC likely would plan subsequent issuances to effectively roll over the debt, enabling a long-term continuation of the funding strategy. Of course, one would need to be strategic in identifying the timing, sizing, and pricing of any subsequent issuances to capitalize on the market environment and investor appetite for such securities. Such an approach would help to further promote a long-term investment strategy. Alternatively, it may be more beneficial to consider issuing a longer-term bond, perhaps 20 or 25 years or even a "perpetual" social bond (where investors bank on the interest payments repaying the principal at the end of a reasonable period and then continue to profit with interest payments). Since the ICC is a permanent court with perpetual funding requirements, it is logical to consider a funding instrument that more closely matches the duration of the funding requirements (much like a university endowment). That said, to start with, the 10-year term likely would be the more realistic instrument to sell to the guarantor states parties politically given the novel character of this mechanism.

E. The Trust Fund for Victims

Article 75 of the Rome Statute of the International Criminal Court designates the Trust Fund for Victims, which is an independent body guided by a board of directors standing apart from the ICC, as a key source of funding for the reparations awards for victims that are ordered by the Court.[227] The dilemma today is that reparation awards (as well as TFV's assistance [physical, psychological, and material] programs for victims) are entirely dependent on voluntary fundraising from governments of states parties to the Rome Statute. That fundraising remains inadequate as governments face so many humanitarian and other challenges to meet.[228]

While calculations of cash in the aftermath of atrocity crimes may seem cynical as a remedy, it is in reality a necessity for the victims. The estimated annual cash requirements of TFV (for reparations and assistance programs) have stood at about €10 million each year. In 2021, TFV anticipated the funding required to carry out its existing reparations and assistance programs would reach €12.1 million in 2023 and €9.3 million in 2024.[229] During most of the existence of TFV, from 2004 through 2020, only €33.3 million was raised, often sporadically, from 41 states parties to the Rome Statute. This averages out to €2.7 million per year.

During 2020, 26 governments voluntarily contributed €2.789 million to TFV.[230] During 2019, such contributions from donor governments similarly totaled €2.669 million.[231] In 2018, 23 governments voluntarily contributed a total of €4.08 million to TFV, with the Netherlands, Norway, and Sweden leading the way. Still, a €3.465 million deficit remained that year.[232] In 2017, TFV received €3.06 million, and in 2016, total contributions amounted to €1.7 million. While the contributions of donor governments should be well acknowledged and appreciated, such funding supplies far less than the need dictates, and the historical data reflect an unpredictable annual result.

In the *Katanga*[233] case, the March 2017 reparations order of a symbolic compensation award of $250 for each of the 297 victims and collective reparations awards for housing assistance, income-generating activities, education, and psychological support were fortunately addressed by TFV with an allocation of $1 million. However, there are several outstanding reparations awards that remain partially funded. The December 2017 judgment in *Lubanga*[234] awarded $10 million in reparations, of which TFV raised about $3.96 million by early 2019.

TFV continues to solicit voluntary contributions from countries and private actors to enable full payment of the reparation award.[235] In December 2021, TFV reported that it had "complemented 49% of the total liability amount set in the *Lubanga* case."[236] The *Al Mahdi*[237] case requires €2.7 million in its reparations order, of which TFV was able to only cover half as of December 2018.[238] The large reparations award anticipated in the *Bemba*[239] case was extinguished in early 2018 by the Appeals Chamber reversal of the Trial Chamber's guilty verdict.[240] Still, TFV decided to allocate €1 million to an assistance program for the aggrieved victims who were devastated by the Appeals Chamber reversal, as well as for other victims of conflict-related sexual violence in the Central African Republic.

The Trial Chamber rendered a guilty verdict in the *Ongwen*[241] case in February 2021, followed by the judges' deliberations on reparations, which remain ongoing. The Trial Chamber awarded $30 million in reparations in March 2021 in the *Ntganda*[242] case, none of which can be expected to be funded soon. Reparations awards have been increasing in their value, in consideration of the significant scale of harm suffered by victims in these cases, and that can be anticipated for future judgments as well. Defendants typically claim indigence, so the burden on TFV will only mount in the future.

Coauthors David J. Scheffer and Caroline Kaeb spent the year 2018 exploring the feasibility of an endowment social bond[243] with the staff and board of directors of TFV. Such a bond valued at €1 billion was designed to generate about €10 million per year for the TFV's programs and reparations obligations. After initially signaling its interest in the Funding Initiative, the board decided to suspend further study of a social bond during its December 2018 meeting because the "lack of appropriate financial resources is preventing continuation of the exploration" and because of an interest in considering other fundraising prospects with public and private donors.[244] However, the proposal was reintroduced to the ICC and TFV in April 2020, as part of the comments submitted by the American Bar Association Criminal Justice Section to the Independent Expert Review of the ICC, which was tasked by the ICC Assembly of States Parties in December 2019 to enhance the performance, efficiency, and effectiveness of the Court and produce recommendations for improvement.[245] In its final report in September 2020, the independent experts cited the proposal as an avenue of funding to explore in order to meet the annual budget requirements of TFV.[246]

Given the increased issuance of social bonds in recent years, the time may have arrived to reintroduce the endowment social bond to TFV and the Registrar of the ICC in particular, who would assume significant administrative responsibilities of TFV under the recommendations of the Independent Expert Review. A former president of the Assembly of States Parties of the ICC, who is also a former president of the Court (as chief judge), expressed significant interest in the endowment social bond concept for the ICC and TFV in 2017 and 2018.

F. Concluding Thoughts on Pilot Projects

The pilot projects described above could utilize endowment social bonds as the means to secure funding for, however partially, the needs of atrocity survivors. The reality remains that voluntary governmental funding and philanthropic contributions have fallen short of meeting the needs of victim populations and remain insufficient to provide the reparations that have been awarded and will be relentlessly sought in the future. It is critical to make the task of systemic funding for atrocity victims integral to international justice and transitional justice systems because, while recognizing that humanitarian organizations serve large parts of the general victim population, they often fall short, experience funding gaps, and do not have the specialized mandates and expertise needed to adequately support victims of atrocity crimes in particular. If successful for one or more of these pilot projects, then endowment social bonds, and social bonds in general, could become more attractive instruments, particularly as part of blended funding (see section V), to help raise some of the revenue needed to operate large humanitarian organizations. The unprecedented utilization of social bonds to confront the COVID-19 pandemic and the consequential positive impact on societies should be persuasive evidence of the utility of social bonds to address the needs of victims and survivors of mass atrocity crimes.

VIII. RECOMMENDATIONS

The following recommendations are set forth to generate greater knowledge about and exploration of social bonds to meet some of the financial requirements of international tribunals, investigative mechanisms, and humanitarian organizations, large and small, that are assisting victims of atrocity crimes.

1. A highly reputable think tank or nongovernmental organization should compile and maintain current data on the following points in an easily retrievable system so that governments, multilateral organizations, investment banks and advisors, and social investors can understand the dimensions of the needs of atrocity victims:

    a. Estimated numbers of atrocity victims in each country

    b. Estimated funding gaps in the budgets of major humanitarian organizations

    c. Outstanding reparations awards and estimated reparations demands for the near future

    d. Estimated budgetary requirements for international criminal tribunals and investigative mechanisms in addition to the estimated funding gaps

2. International financial institutions, such as the World Bank, International Finance Corporation, and regional development banks, should explore serving as issuing bodies for social bonds or functioning as guarantors of, or social investors in, social bonds for the purpose of meeting the funding requirements of international tribunals, investigative mechanisms, and humanitarian assistance, including reparations, for victim populations of atrocity crimes.

3. Regional organizations should explore opportunities to guarantee social bonds or commit as investors in social bonds to raise funds for international tribunals, investigative mechanisms, and humanitarian organizations assisting victims of atrocity crimes.

4. Corporations, large foundations, and wealthy individuals should participate in the social bond market as social investors and as guarantors.

5. Support for humanitarian needs, including aid for atrocity victims, should be listed as both a category of social projects and as a target population in the Social Bond Principles as described in section VI.B. of this report.[247] A new seventh social project category should be listed as “Reparations, Justice and Restorative Assistance (e.g., reparations payments to victim populations of armed conflicts and atrocities; development of assistance programs for the benefit of such groups; financial support for criminal tribunals and investigative mechanisms pursuing justice for the commission of atrocity crimes).” In addition, a new eleventh category of target populations should be recorded as “Victims of armed conflicts or atrocity crimes.”

6. The pilot project entities described in this report—the Global Survivors Fund, the Commission for International Justice and Accountability, the International Criminal Court, the Trust Fund for Victims, and organizations addressing trauma and mental health

needs of atrocity victims—should explore, at a minimum, the concept of an endowment social bond to meet a significant portion of their operational requirements throughout the bond's multiyear term. This would generate a blended financial portfolio of voluntary or assessed contributions and revenue generated by the social bond, which would make the organization more resilient to the oscillating financial priorities of states.

IX. CONCLUSION

The prospects for bridging the gaps in funding for the needs of atrocity victims are admittedly dire at a time when the COVID-19 pandemic has sapped governments and multilateral institutions of the means to fully meet growing humanitarian demands. On the other hand, it is precisely the pandemic that has ushered in a new era of social bonds and highlighted how the concept can serve as a major force in the securities markets. This report points toward well-regulated and targeted social bonds to ensure that the long-standing predicament of shortfalls in funding for victim populations is met head-on with the determination to achieve justice not only in the courtroom, but also in the livelihoods and wellbeing, indeed the survival, of the millions of survivors whose needs are overwhelming.

This report presents an introduction to the dimensions of the problem—atrocity situations and numbers of victims and funding gaps where ascertainable—the tribunals and investigative mechanisms seeking justice, and the humanitarian agencies that traditionally have addressed the overall needs of refugees, internally displaced, and others suffering from violence, natural disasters, and extreme poverty. Examination of the track record of the social bond market to date provides fairly good examples of how revenue raised through a social bond can reduce critical funding gaps for social objectives. Based on this analysis, social bonds could be issued and managed to raise funds to pay reparations, fund court and organizational operations, as well as to compensate for the financial shortfalls in humanitarian assistance programs.

The report prioritizes the endowment social bond for further consideration following expert consultations on the topic. The endowment social bond could provide for a relatively steady rate of return over years or decades to apply to blended financing alongside more conventional means of funding, such as institutional assessments, voluntary governmental contributions, and private philanthropy. There also is hope in the roles that the World Bank and other international financial institutions could play to make social bonds a realistic possibility to meet the critical needs of atrocity victims.

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The coauthors write strictly in their personal and academic capacities. All views expressed by the coauthors in this report are their own and do not represent the policies of or bind any institution with which any coauthor is affiliated.

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APPENDIX I: FUNDING GAPS AND PRACTICES AMONG MAJOR HUMANITARIAN ORGANIZATIONS ASSISTING ATROCITY VICTIMS

The methodologies for disbursing funds to atrocity victims vary depending on the organization. Key international agencies and nongovernmental organizations have been disbursing funds to victim populations for decades. Of course, the targeted recipients include groups and individuals extending beyond atrocity victims per se. There are only a limited number of humanitarian organizations that focus exclusively on providing assistance to atrocity victims, such as the Trust Fund for Victims (discussed below).[248] Further, such organizations as the Center for Victims of Torture,[249] REDRESS,[250] and the International Rehabilitation Council for Torture Victims,[251] focus their attention on survivors of torture, a crime that afflicts so many victims of atrocity crimes. The following discussion briefly examines how the largest humanitarian institutions organize their funding and administer aid in the field to large numbers of refugees, displaced persons, survivors of armed conflicts, atrocity victims, and others struggling to survive poverty, starvation, and calamities. A dominant feature of their financial condition is the funding disparity between total revenue and budgeted needs. Where the information is available, special attention is paid to programs that focus on trauma and the mental health of atrocity victims, as these are largely underfunded and could be viable pilot projects.

1. International Committee of the Red Cross

The ICRC 2018 annual report highlights the difficulties in facilitating donations due to an increasing pressure on donors to earmark their funds for high-profile needs.[252] During 2018, the ICRC, headquartered in Geneva, faced an overall deficit of about CHF 30 million due to high field expenses and an unfavorable financial market (figure A.1).[253] Nongovernmental organizations are better positioned if unearmarked funds can be distributed based on evolving needs. However, the percentage of unearmarked and loosely earmarked funds declined from 2013 to 2019. The ICRC receives most of its funding from governments in addition to the European Commission and other public and private sources.[254] The organization has set up seven funds and two foundations for specific uses in addition to its regular funding. For example, the Clare Benedict Fund assists victims of armed conflict.[255]

Figure A.1

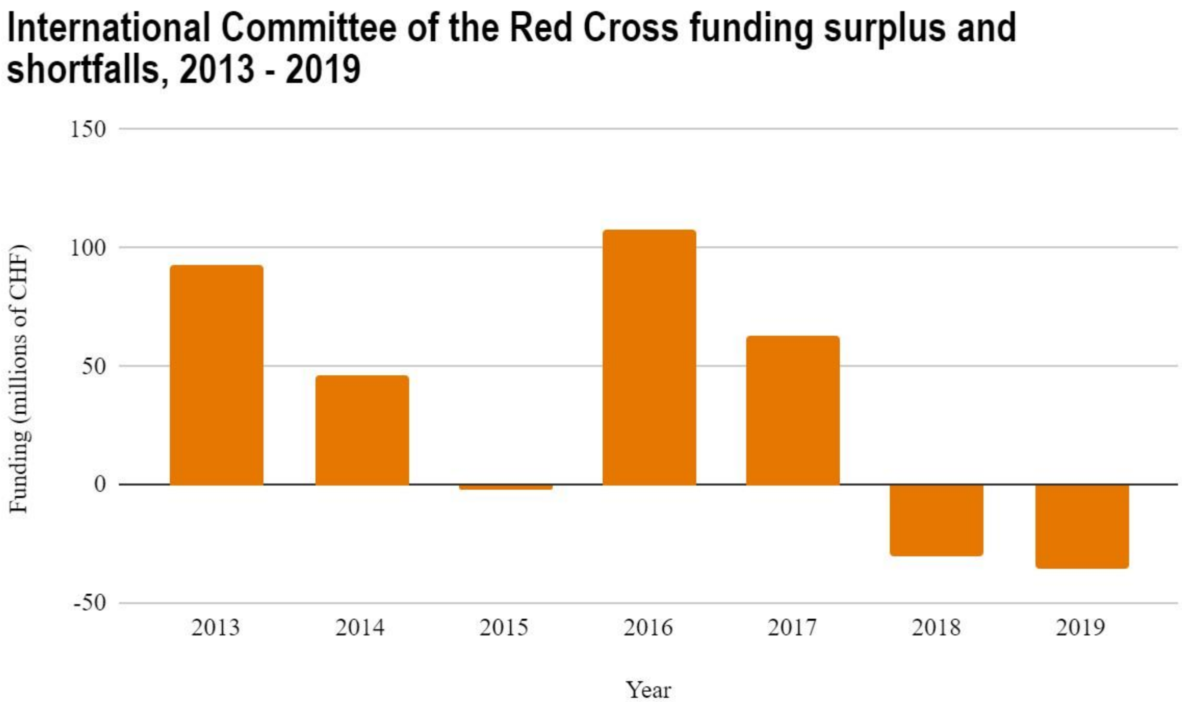
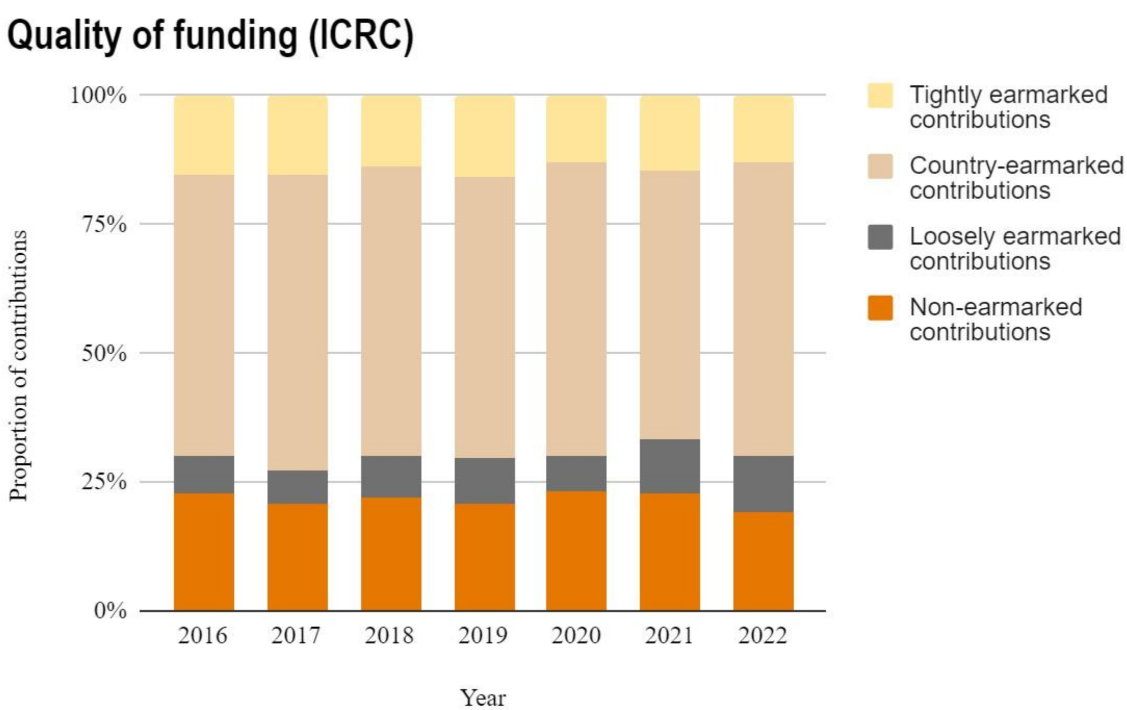


Figure A.2



Source: International Committee of the Red Cross, *Annual Report 2019: Volume II* (Geneva: ICRC, 2020), https://library.icrc.org/library/docs/DOC/icrc-annual-report-2019-2.pdf.

The regular funding is sorted first by country and second by category: economic security (including food, essential household items, and agricultural inputs), medical, physical rehabilitation, and water and habitat.[256] In Africa, for example, the funding subsidizes direct assistance to victims in the form of messages collected and distributed among families and increased calls facilitated between family members when one or more are detained.[257] The ICRC also delivers assistance by supplying food, sustaining income, and providing housing support while helping civilians to produce their own food.[258]

The ICRC prides itself on being mission driven, working to alleviate suffering for those affected by conflict and violence. The organization has expressed that one ongoing challenge remains helping people who are not eligible for specific programs and therefore fall into a "protection gap."[259] Its strategic goals include employing sustainable emergency response tactics and engaging with technology to improve its services.[260] To fulfill its mission and achieve its strategic targets, the ICRC requires increasing amounts of funding as conflicts escalate globally.

The ICRC contends that it is building good practices to address the trauma and mental health of victims because of the organization's breadth of experience working with sufferers on the ground amidst massive crises. In 2019, ICRC President Peter Mauer addressed the vast mental health needs of the populations the organization serves, emphasizing the importance of addressing stigma, training a local workforce equipped to provide psychosocial treatment, and improving support for the well-being of crisis workers who face immense stress attempting to address colossal crises with limited resources.[261] The ICRC reported that its programs to stabilize and improve the mental health and psychosocial well-being of survivors reached 554,000 beneficiaries through 230 projects globally.[262] Still, as with many organizations, the resources and funding available to devote to mental health and trauma constitute a fraction of the financial contributions received each year. Overall, more than one in five persons living in regions touched by conflict lives with a mental health condition—three times more than the general population globally—yet the majority of people do not receive adequate help. The ICRC reports that in the low- and middle-income countries where most humanitarian crises continue to take place, mental health and psychosocial support services are "underprioritized and underfunded with an average of two mental health workers per 100,000 people."[263] This results in two-thirds of those suffering with severe mental health conditions unable to receive any treatment. While the 554,000 figure is substantial, when it is compared to the tens of millions of people the ICRC supports annually through various lifesaving and life-sustaining measures, it demonstrates the enormity of the need and the vast deficiency of resources.

2. UN High Commissioner for Refugees (UNHCR)

The numbers of refugees and forcibly displaced people recorded by UNHCR, also headquartered in Geneva, grew consistently from 2015 to 2021 (table A.1).

Table A.1. Refugees and Forcibly Displaced Populations, 2015–2021

Year	Refugees under UNHCR mandate	Asylum-seekers	IDPs of concern	Venezuelans displaced abroad	Stateless persons	Others of concern	Total
2015	16,110,280	3,223,460	37,494,172		3,687,759	870,688	65,300,000
2016	17,184,291	2,729,521	36,627,127		3,242,206	803,084	65,600,000
2017	19,940,568	3,089,503	39,118,516		3,853,982	1,596,125	68,500,000
2018	20,359,556	3,501,627	41,425,168	2,592,947	3,851,981	1,182,756	70,800,000
2019	20,414,675	4,170,548	43,503,362	3,582,202	4,161,980	6,140,622	81,973,000
2020	20,661,855	4,140,106	48,557,439	3,862,102	4,176,913	8,309,751	89,700,000
2021	20,835,367	4,409,770	50,872,901	3,944,279	4,265,472	8,426,151	92,750,000

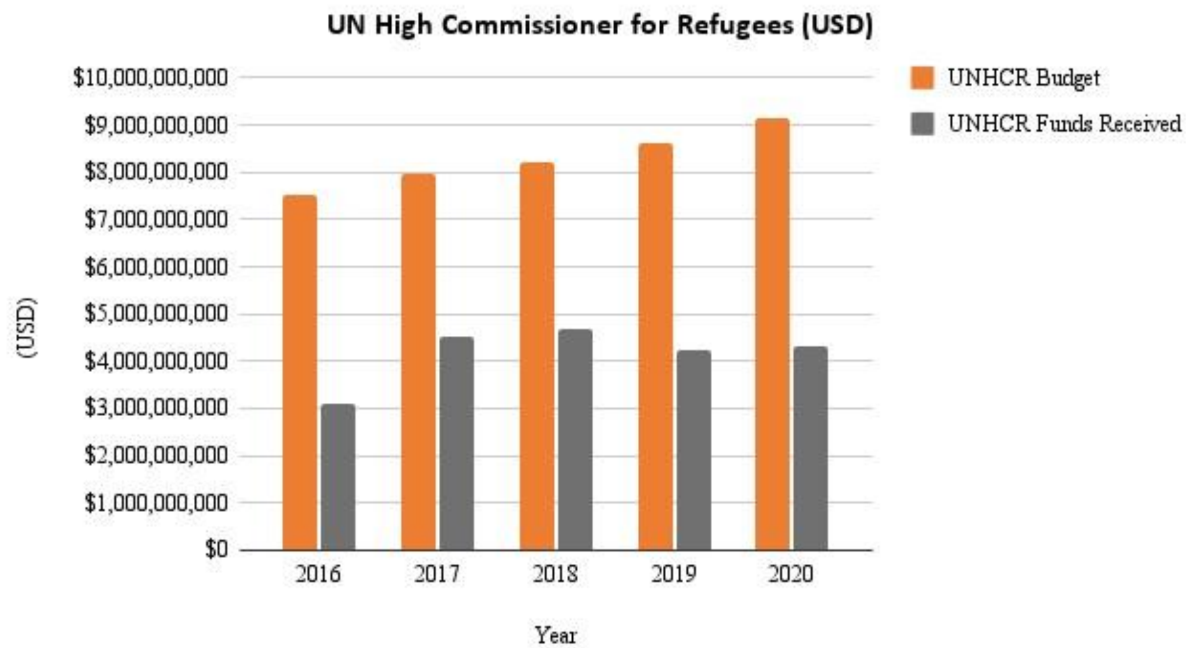
Note: IDP = internally displaced person.

Source: UNHCR, "Refugee Data Finder," accessed March 2, 2022, https://www.unhcr.org/refugee-statistics/download/?url=3HMho5.

The funds actually made available to UNHCR have not, however, kept pace with these growing populations in need of assistance. The UNHCR's annual budget registered $8.2 billion during 2018, with over $700 million added during the year for emergency needs.[264] Still, the UNCHR experienced a funding gap of $3.5 billion that year.[265] About two-thirds of all of UNHCR's funding is earmarked, which poses challenges similar to those experienced by the ICRC. Its budget increased to $8.6 billion in 2019, and in 2020, the budgetary needs surged again to $9.13 billion.[266] The UNHCR receives funds primarily from governments but also benefits from private donations.[267] In 2020, the UNHCR noted that the hardship brought by COVID-19 combined with "the lack of political progress on resolving conflicts, combined with funding shortfalls for UNHCR and other humanitarian agencies," compounded the suffering and insecurity of the populations it serves.[268] The organization expressed concern that "even a fully- funded UNHCR would only be able address a portion of these needs, and humanitarian funding windows are not adequate or sufficiently predictable for the response that is required."[269]

The UNHCR divides its funding geographically among seven regions, four of which are in Africa.[270] It also has a budget for global refugee programs. The funding is then further divided by pillar, including refugees, statelessness, reintegration, and internationally displaced people.[271] The refugee program received 78 percent of its total required funding in 2019.[272] Yet, because the monies it receives are largely earmarked, the organization utilizes reserves to help cover emergencies and gaps.

Like many other organizations, strategic focus and programming are organized thematically. One of the UNHCR's major functions is seeking improvements to law and policy, which provide indirect support to victims.[273] Its direct support programs include increasing registration of refugees and birth certificate issuance.[274] The UNHCR has several programs addressing the theme of ending sexual and gender-based violence. One successful initiative has been cash-based interventions, which provide cash or vouchers for goods and services to victims.[275] These have been successful with support from teams that assess needs and whether the market can meet those needs, as well as teams that can analyze risks, implement the program, and monitor results.[276]

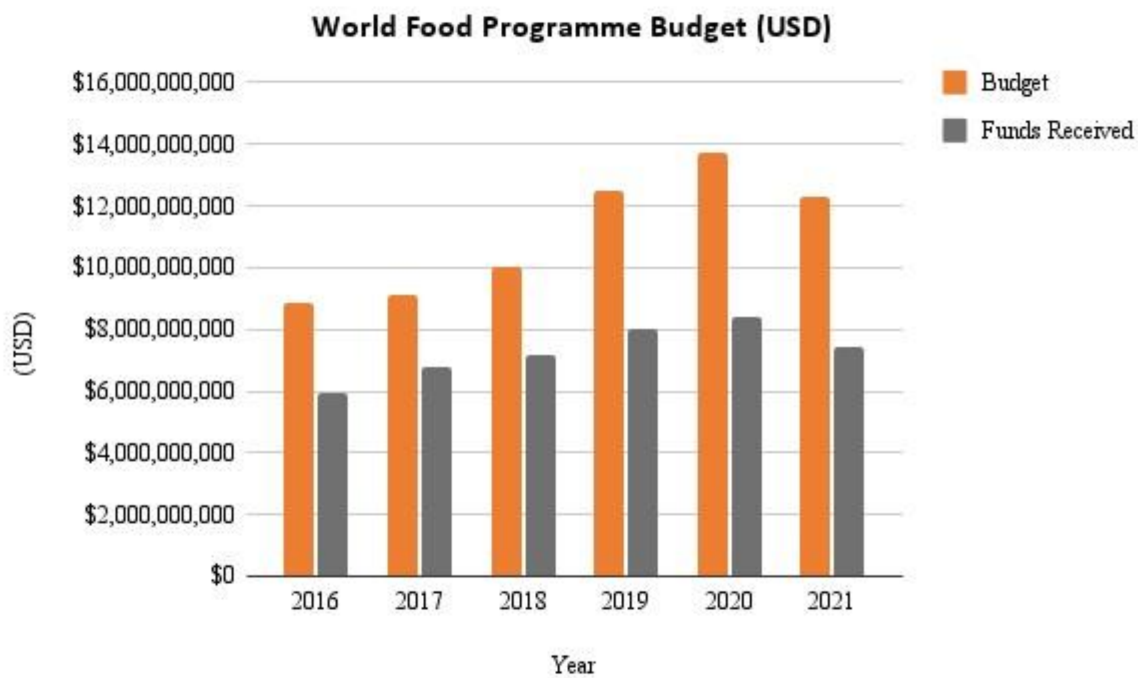


3. UN World Food Program (WFP)

The World Food Programme, headquartered in Rome, provides food to destitute populations across the globe. WFP, which is funded entirely by voluntary contributions, experienced a $5.3 billion shortfall in 2020 despite raising a record $8.4 billion, thus failing to reach its $13.7 billion goal.[277] Notably, in April 2020, WFP announced a 30 percent reduction in the relief food it distributes to 1.4 million refugees in Uganda. The program stated it was experiencing a shortfall of $137 million against the total needs amounting to $219 million for the country's refugee population.[278] The funding crises continued into 2021 as conflicts persisted.

WFP reported that for the second half of 2021 alone, it would need $4.5 billion to prevent more loss of life, yet "due to funding issues, WFP is, in some cases, taking food from the hungry to give to the starving."[279] It reported that it had to impose ration cuts in South Sudan and Yemen, two countries where the populations already endure famine-like conditions, during the first half of the year. The population in Madagascar suffered similar cutbacks, with only the people experiencing catastrophic levels of hunger given full rations; for those suffering emergency levels of food insecurity, the food assistance was reduced by half due to lack of resources.

The crises of funding did not begin with the onset of the pandemic. WFP has continually faced a scarcity of funding that has constrained organizational operations, endangering the lives of millions who depend on its assistance. While WFP raised a record $8 billion in funds in 2019, this amount was still $4.5 billion short of the total needs for the year.[280] In 2018, WFP received $7.2 billion in donations, but the overall funding gap amounted to $2.8 billion.[281] The organization experienced similar deficiencies in 2017, when it received donations of $6.8 billion, though its total needs amounted to $9.1 billion; this resulted in a funding gap of $2.3 billion.[282]



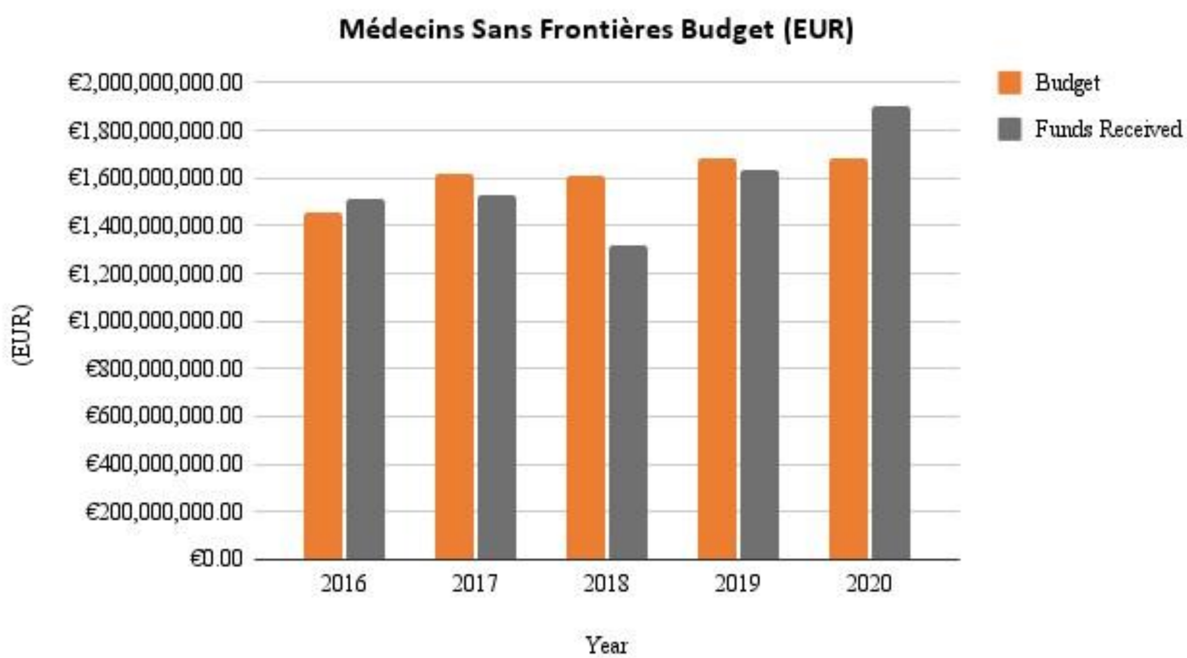
4. Médecins Sans Frontières (Doctors Without Borders) (MSF)

Unlike many other international nongovernmental organizations that accept large donations from governments that often come with strings, MSF receives about 89 percent of its funds from the general public.[283] The rest comes from agencies and governments with acceptance of these donations sometimes dependent on ethical considerations. For example, in 2016, MSF, headquartered in Geneva, rejected funding from the European Union because it did not approve of the EU's migrant policies.[284] Even if it had accepted the funding from the European Union, resources would have remained inadequate to address the mounting needs. In 2018, MSF's budget resulted in a funding gap of €72 million, which the organization attempted to cover through reserves.[285] Though it often falls millions of euros short, the majority of MSF's funding is unrestricted to particular projects, giving it flexibility to respond to emergencies quickly.[286] MSF highlighted large numbers of outpatient consultations, admitted patients, and major surgeries throughout 2018 to demonstrate programmatic success.[287]

MSF produced a report in 2018 providing insights into how to address the gap in emergency response capabilities. One of the key bottlenecks MSF identified is a lack of human resources.[288] Another hurdle is the tendency of donors to respond to an emergency after it begins, rather than allowing organizations to have access to unrestricted funds beforehand.[289] MSF's work is also a gamble for donors, namely whether they are willing to allow organizations like MSF to take the necessary risks to further their humanitarian missions even if that means some level of financial loss.[290] MSF faces steep hurdles in providing medical care due to the places and conditions in which it works, where government interference can terminate operations.[291]

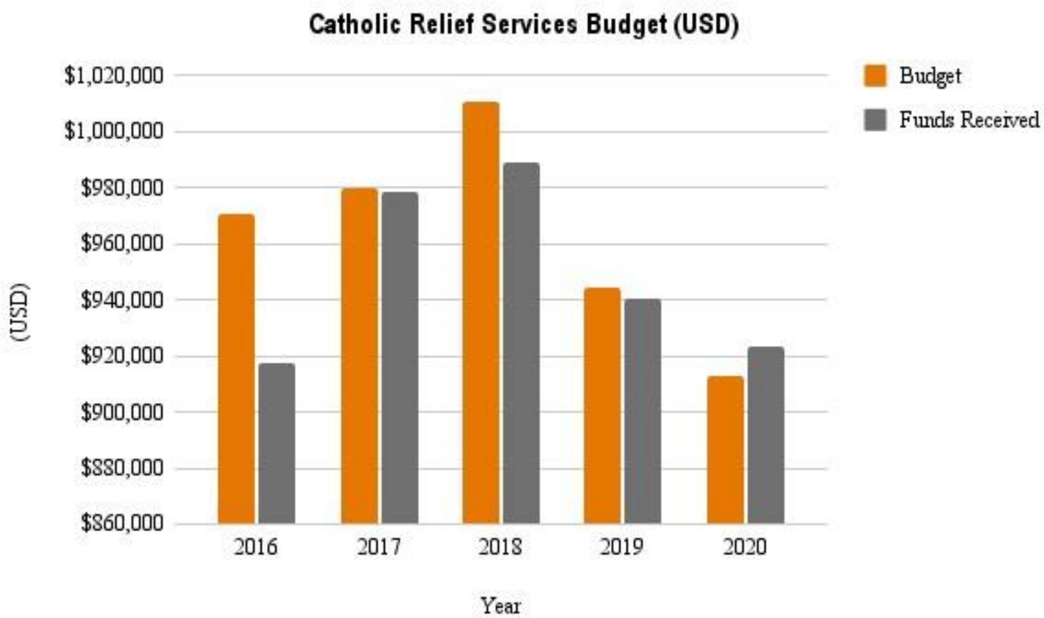
MSF identified another major funding gap for HIV and tuberculosis, which has rebounded in some countries as new drug-resistant strains of the pathogen have emerged. MSF is helping purchase vaccines and medicines but warns that a recent transition from having international organizations fund the projects to having the affected countries fund the projects could jeopardize MSF's operational abilities, as the affected countries do not have the capacity or funds to confront the diseases.[292]

MSF also has provided mental health services for over 20 years, although the numbers of individuals treated remain far lower than the overall need. In 2018, MSF provided over 400,000 mental health consultations.[293] MSF invests in specialized clinicians to treat severe mental illness but also provides counseling services for short-term, trauma-related mental health needs. For example, on Nauru and Manus Islands, which housed an offshore immigrant detention facility for Australia until 2019, asylum seekers were isolated and detained indefinitely due to severe Australian immigration policies. During this time, MSF was one of the few organizations allowed on the islands, though for political reasons it was eventually asked to leave.[294] MSF was effective in treating large numbers of refugees and natives on the island prior to its departure. It provided indiscriminate care, and more than half of the patients showed significant improvement.[295] Further, MSF was able to leverage its work to increase public awareness of the dire situation and prevent the most severe cases of mental health from worsening. Still, its consistent funding shortfalls threaten to derail its work in mental health–related programs.



5. Catholic Relief Services (CRS)

Catholic Relief Services (CRS), headquartered in Baltimore, Maryland, works by investing in local institutions for development and programming to help people in need. As one of the largest international aid agencies in the world, CRS works in 93 countries to help over 100 million people every year. Emergency response and recovery constitutes the bulk of the organization's programmatic operations. Over 30 percent of CRS programming is devoted to emergency relief, which includes delivering immediate needs such as food and water, as well as more long-term programming to aid in postconflict reconstruction and assist victims in reestablishing their lives and livelihoods.[296] In 2018, though CRS acquired an operating revenue of $989 million through public and private support, it experienced a shortfall as its operating expenses amounted to over $1 billion.[297] In 2019, the organization's expenses once again surpassed its operating revenue by several million dollars.[298]



CRS funding comes mostly from public sources, especially the US government, although it also accepts private support.[299] CRS partners with the Catholic Church and other churches around the world, while it also works with governments, researchers, foundations, businesses, impact investors, and implementing partners.[300]

One program related to mental health that CRS started was in The Gambia. It is training members of the Truth, Reconciliation, and Reparations Commission on trauma healing and social cohesion so that they can better support survivors of mass atrocities.[301]

Another program, in Ghana, treats postpartum depression. In order to fund this project, CRS partnered with a charitable trust that supports health efforts around the world.[302] This program is in part facilitated by having trained staff assess mothers during community meetings using a mood chart, which helps identify depression treatment needs so services can be provided.[303]

In addition to agencywide funding gaps, the organization has recognized a shortage of health care workers and supplies in individual countries such as Nigeria due to highly insecure environments; the Boko Haram insurgency attacks health facilities, which disrupts access to these critical resources.[304] This is a scenario where flexible emergency funding could prove useful.

5. UN International Children's Fund (UNICEF)

UNICEF, headquartered in New York, receives its funding from a variety of sources. UNICEF's most versatile funding source, called "regular resources," is unearmarked, so that UNICEF can allocate that funding based on its organizational needs. In 2018, UNICEF's revenue totaled $6.6 billion, with less than one-third (27 percent) of its funds designated as flexible regular resources.[305] The remaining resources accrued are "pooled funding," which includes thematic funding, joint programs, emergency appeals, and trust funds.[306] Because donors often want control over their funding, this leads to a large portion of earmarked funds that are reserved for nonemergency operations and strategic priorities. Thematic funding constitutes a form of "soft" earmarking, in which a donor stipulates its contributions should be used for a particular theme, such as health, education, social protection, or gender equality.[307]

In 2022, UNICEF received $1.2 billion in thematic funding. The top three contributors were the United States Fund for UNICEF ($288 million), the government of Germany ($130 million), and the German Committee for UNICEF ($105 million).[308]

UNICEF collaborates with the United Nations and UN partners to complete its mandate, and it receives significant contributions from the Office for the Coordination of Humanitarian Affairs, the Development Group, and the United Nations Development Programme. Still, the organization continues to experience resource gaps between the capital required to deliver aid to populations in crises and the amount of donations received.

UNICEF discussed innovative funding mechanisms in its 2018 annual report.[309] The organization remains committed to accessing new funding methods, such as partnering with local for-profit startups to save money on costs. For example, working with Conceptos Plasticos in Colombia to construct classrooms saved UNICEF 40 percent on costs.[310] UNICEF also allocates money to implement digital technologies to improve humanitarian outcomes.[311] A local UNICEF, UNICEF USA, is using impact investing as an innovative funding method to help it acquire necessary supplies and deploy vital technologies.[312]

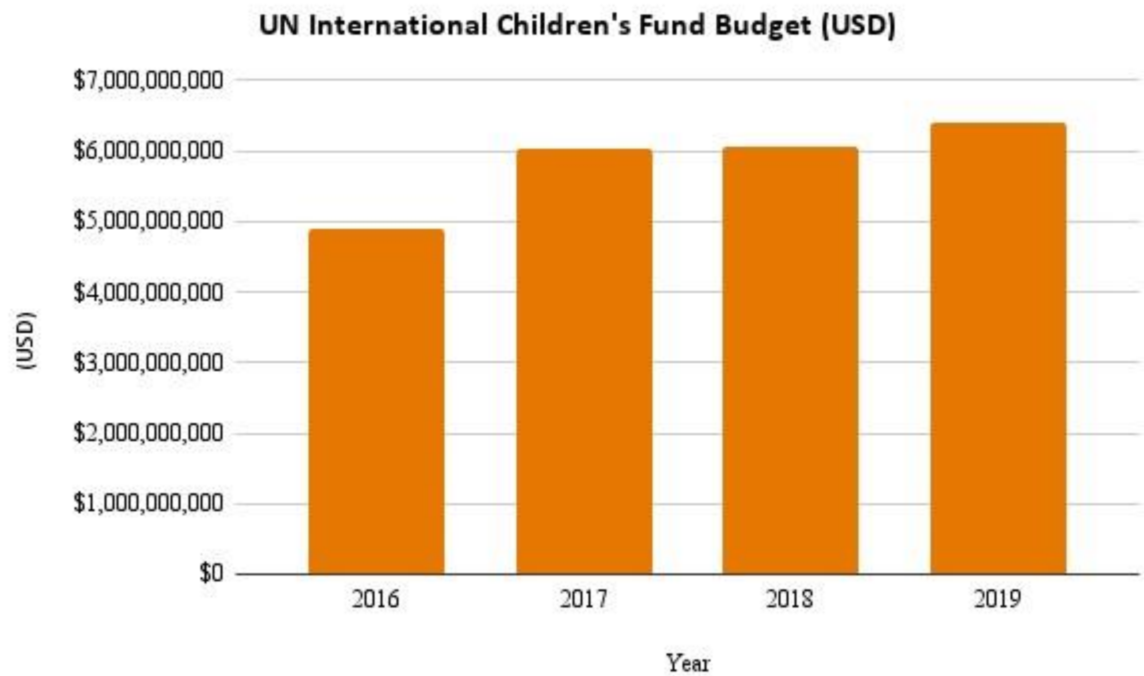
UNICEF organizes its funding by region and theme. The themes are tied to UNICEF's strategic plan which includes five goals: For children to (1) survive and thrive, (2) learn, (3) be protected from violence and exploitation, (4) live in a safe and clean environment, and (5) have an equitable chance at life.[313] Its broad goals for children are more akin to guiding principles, since most of its money comes with geographical or other strings attached. As a result, the organization "will focus on maximizing flexible and predictable income" to better mobilize resources.[314]

While UNICEF aims to mobilize resources for a variety of projects, evaluation of its transparency portal, which is updated monthly to provide information on the organization's programmatic and financial data, it appears the majority of its money is earmarked and controlled by the United States and the United Nations.

UNICEF spends substantial time and effort in Yemen, where 80 percent of the population is in need of humanitarian aid due to continued conflict escalation.[315] UNICEF is on the ground providing food and medicine to help children.[316] This includes psychosocial support, vaccinations, and access to clean water.[317]

UNICEF funding is more focused by country than other organizations. Each country has its own programmatic strategy focusing on themes narrower than UNICEF's broad goals.

Therefore, UNICEF's funding is more fragmented than other organizations that have more globally available funding for programming.



6. The Trust Fund for Victims (TFV)

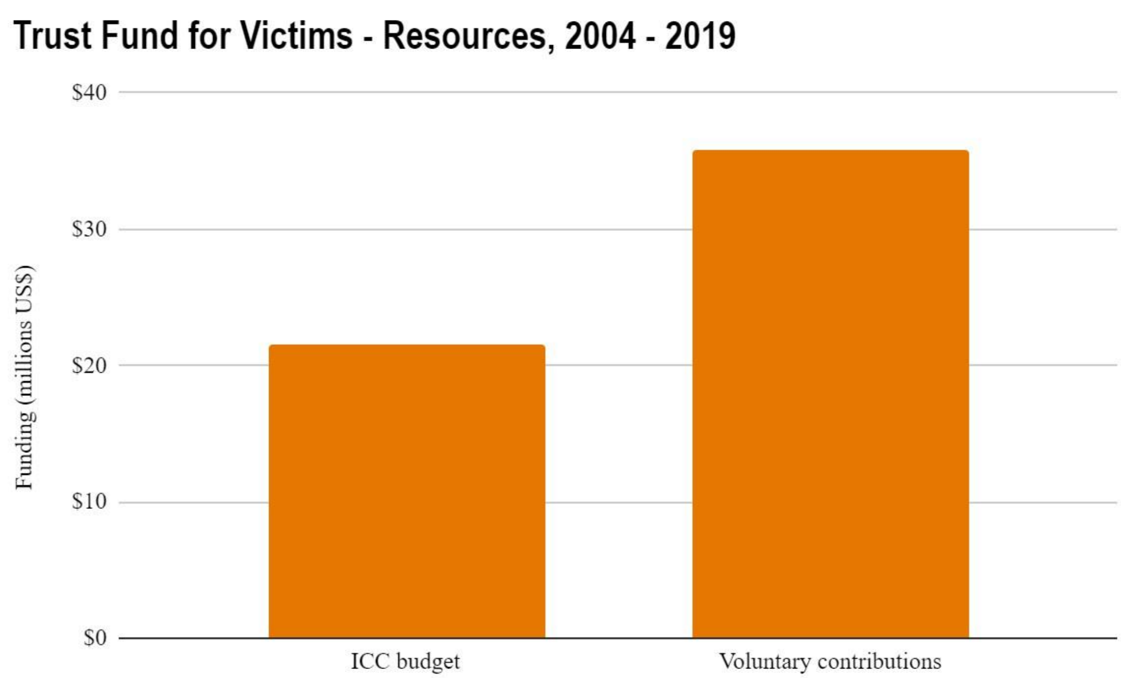
TFV, located in The Hague, is authorized by article 79 of the Rome Statute of the International Criminal Court and has two mandates: "(i) to implement Court-ordered reparations and (ii) to provide physical and psychosocial rehabilitation or material support to victims of crimes that fall within the jurisdiction of the Court."[318] TFV's unique position enables operation of the Fund before a criminal conviction occurs, allowing emergency physical and psychosocial rehabilitation to take place without delay by court proceedings.[319] TFV partners with local agencies to provide psychological support such as group therapy and physical rehabilitation.[320]

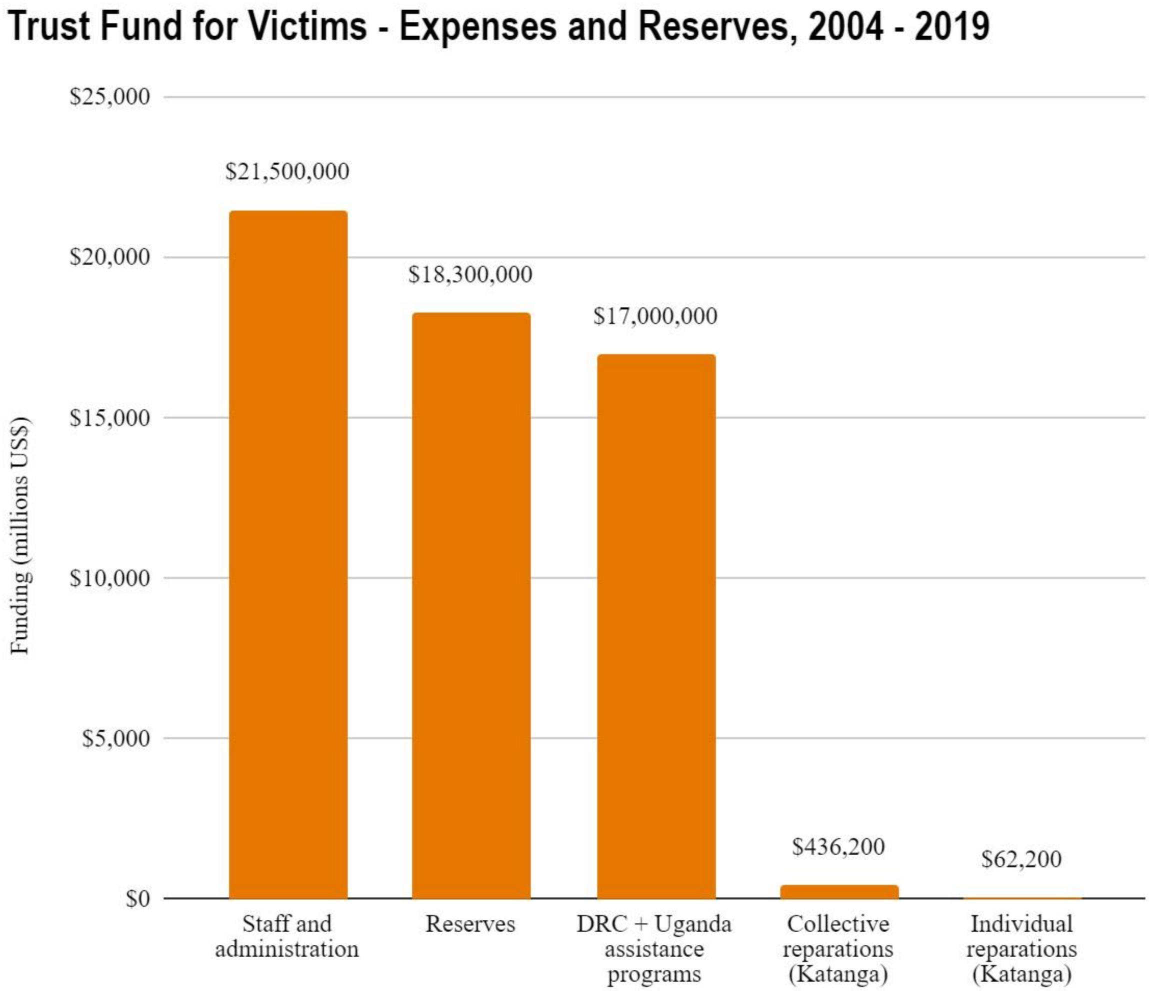
TFV conducts programming through a competitive bid process to select local and international partners.[321] The bid process is conducted with the ICC Procurement Unit based on field-based assessments.[322] TFV's strategic plan allocates funding under its program framework by identifying themes, such as "promoting community reconciliation, acceptance, and rebuilding community safety nets" and "addressing issues of victims' stigma, discrimination and/or trauma," with a focus on the empowerment of women and girls.[323] In northern Uganda, for example, efforts related to physical rehabilitation engaged partners to assist with "corrective surgery (plastic and general surgery), prosthetics, physiotherapy and psychological support," as well as improving the accessibility of buildings in the community.[324] These are the assistance programs, often prior to judgment in the particular case before the ICC, that provide more timely relief to the victim population.

The other mandated portion of TFV funding focuses on reparations, including restitution, compensation, and rehabilitation. This structure of funding is unique because often the mandate of a humanitarian organization does not center on delivering justice, but rather simply seeks to help those in need. The TFV form of international transitional justice creates a bridge between the two concepts of direct humanitarian assistance and the award of reparations as a measure of justice. Despite centuries-old mass atrocity crimes, "[c]ollective and individual reparations for mass atrocity crimes is a new venture for states and international institutions alike."[325]

In 2019, a legal article published research on this unique combination of providing both assistance and reparations in order to assess TFV's performance.[326] Requested by the ICC Trial Chamber II, the analysis found that TFV provided an intermediate engagement with victims that better prepared them to receive reparations ordered by the ICC.[327] The research acknowledged TFV's limitations due to ongoing tensions and difficulties in helping victims who often live far from central towns.[328] Another difficulty TFV faces is the politicization of the assistance due to local government funding and partnerships, which can be unreliable and inhibit the work of the implementing partners.[329] Limitations arise from TFV's role as an intermediate source, which means that when treatments begin under the assistance mandate and require follow-up, the follow-up treatment cannot be provided.[330] The research also found that the assistance mandate was limited in its use for mental health assistance funding, because only economic harms are readily traceable to the conflict.[331]

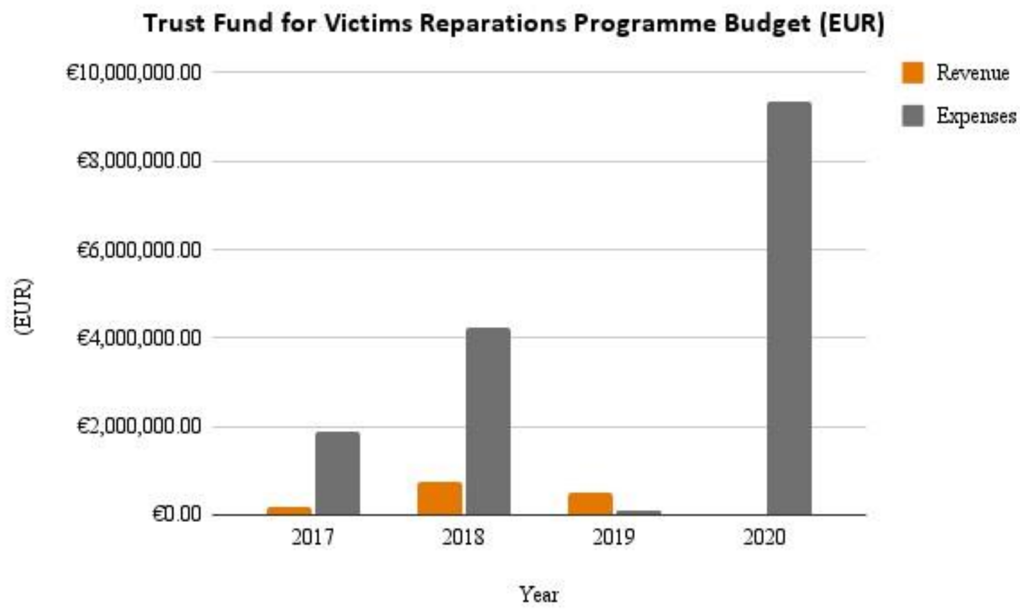
TFV was the subject of a critical examination by the ICC's Independent Expert Review in late 2020 (see section VII.E).[332] Furthermore, a penetrating evaluation by Janet Anderson and Stephanie Van Den Berg for a two-article series published in December 2020 and January 2021 pointed to weaknesses in TFV's management of resources, with relatively small allocations of the TFV's budget being channeled into assistance programs and court-ordered reparations for the victims.[333]



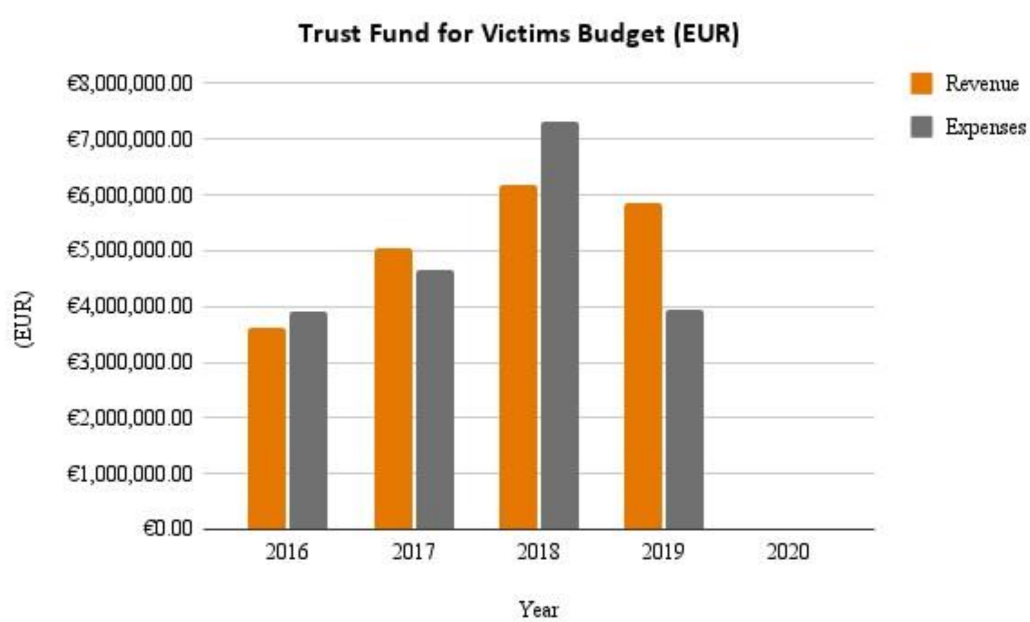


Anderson and Van Den Berg wrote:

> The Fund has been receiving specific 'voluntary contributions' since 2004. Between 2004 and 2019, according to financial statements, it has received over 35.8 million euros in voluntary contributions, overwhelmingly from ICC member states. The Fund's own stated goal is to raise [an additional] 40 million euros in contributions by 2021. Its lack of diversity in its donor base has been pointed out in multiple reports. In 2019, of the almost 2.3 million euros raised, just over 1 percent came from private donors . . . In total, the Trust fund has received around 60 million euros in sixteen years, with a little over 40 percent of that going to the running costs of the secretariat and the rest to the assistance and reparations mandates.[334]



A restructured and highly efficient TFV, which the Independent Expert Review recommends, would better provide humanitarian aid in the aftermath of atrocities, when there might otherwise be none, and it could demonstrate how assistance can accompany international accountability. The issue remains how even a reformed TFV would adequately finance an annual budget to pay for reparations and assistance to atrocity victims with its continued reliance solely on governmental contributions. Without such funding, the aims of and responsibilities shouldered by TFV under the Rome Statute will be significantly undermined. Access to private capital in the form of a social bond could provide a promising avenue to ensure the TFV accrues sufficient funding annually in order to deliver the needed assistance and the awarded reparations to communities in the aftermath of atrocities.



6. CARE International

CARE, headquartered in Geneva, is a confederation comprised of 14 national members, each with its own distinct yearly budget allocated to manage international programs in more than 100 countries worldwide. All federation members ascribe to similar processes for both raising and allocating funds based on the *Sphere Handbook*, a resource first developed in 1998 that provides evidence-based standards and guidance for planning, implementing, and managing humanitarian responses.[335] Members of the CARE confederation raise funds for individual issues as they arise and establish the target level of funding based on a standardized form of assessment as derived by the *Sphere Handbook*. To cover rapid onset emergencies and gaps in funding, CARE maintains limited reserves.

Funds are allocated to four main issue areas: (1) humanitarian response, (2) sexual and reproductive health and the right to a life free from violence, (3) food and nutrition security and resilience to climate change, and (4) women's economic empowerment.[336] While the member organizations rely on donations from the public, they build on this by raising additional funds from institutional donors, varying from unilateral governments to multilateral institutions. CARE reported in 2017 that its total revenue reached €841,398,000, while its expenses approximated €811,222,000, resulting in a €30,000,000 surplus. With this income, the organization was able to work with 63 million people in 93 countries.[337] This estimation of revenue and expenses represents an aggregation of the work of all of the confederation's members. Subsequently, while CARE reported an overall surplus in 2017, individual members, including the subsidiary CARE organizations in Denmark, Germany, India, and United Kingdom, reported deficits.

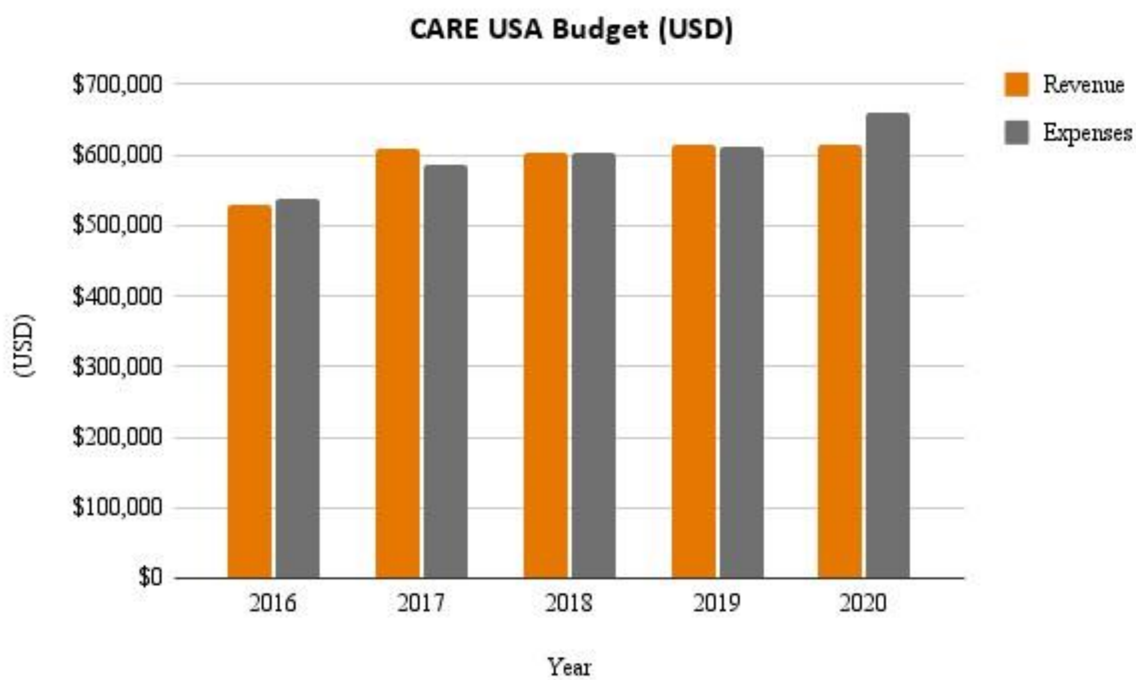
CARE primarily raises funds issue-by-issue based on the type of emergency, which depends on two factors: the humanitarian need and the humanitarian response service gap. The humanitarian need considers the total number of people affected, the severity, and the amount and extent of physical damage, while the response service gap evaluates the scale of the gap between the needs and local capacities to respond.[338] Once the decision is made to engage in a country and the emergency type has been determined, the member or affiliate has the responsibility to liaise with donors and prepare funding proposals.

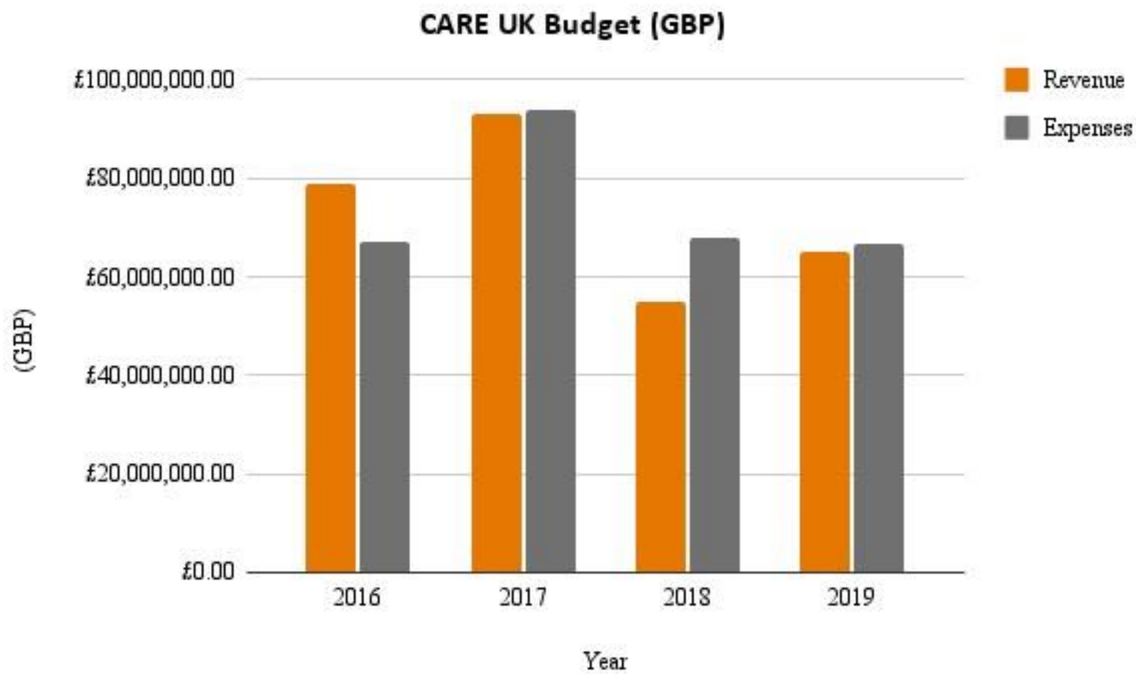
The designated lead member must ensure that CARE raises sufficient funds from private donors and appeals to the public to support the response. When the emergency has been declared, the member may apply to access the Emergency Response Fund (ERF) to support rapid response and assessment. The ERF is only intended to be used until sufficient donor funds can be raised. The upper limit to the ERF is $300,000, with the usual request between $20,000 and $150,000. The pooled fund, available for use by all CARE members, mandates that relief activities fueled by its funding commence within 72 hours of the disaster. The funds are subsequently available for three months. Repayment requirements are based on response conditions.[339] Other funding sources include the Reproductive Health Response in Conflict Consortium in addition to donations from CARE member emergency and board funds. All of these sources adhere to similar processes and requirements as the ERF, with eligibility conditions determined on a case-by-case basis and upper limits imposed on the level of financial support the recipient CARE organizations can receive. Ultimately, these reserve funds are intended only to support immediate responses and entail short-term time limitations. Reliance on donations from governments, international institutions, and the public constitute the main method of funding procurement.

CARE International reported that, as of June 2020, it had six regional or joint refugee response plans, and four of them were under 10 percent funded.[340] Further, "the appeal for the Democratic Republic of Congo refugee crisis [is] just over 3% funded, despite being 6 months into the year. The South Sudan regional refugee response plan has received 5 times less funding than this time last year. These 6 response plans cover around 1/4 of the [nearly 80 million] people displaced at the end of 2019."[341] In 2021, CARE was one of 12 international humanitarian organizations reporting on the state of funding related to one major ongoing crisis, Yemen. The agency reported that, in 2020, donors raised just $1.35 billion total for the assistance effort, which constituted half of the amount donors had pledged to provide in 2019. This resulted in severe aid cuts that exacerbated the population's suffering. Reportedly, in 2021, over nine million people in Yemen had their food assistance cut in half, and six million citizens, half of whom are children, were without access to clean water and sanitation during the pandemic.[342]

The COVID-19 crisis resulted in disruptions to donor funding globally, with Yemen serving as a primary example of the massive scale of suffering. Yet, even as the world moves beyond the coronavirus, future disruptors in the form of pandemics, climate-worsened natural disasters, and shifting government priorities threaten the ability of organizations such as CARE and its cosignatories to acquire the necessary level of resources.

Notably, as of 2021, CARE does not have a distinct outcome area with recorded allocations to mental health and trauma.





6. Oxfam International

Oxfam, headquartered in Nairobi, is one of the "good" stories on revenue as its income outpaces its expenses. Oxfam's 19 affiliates, in addition to the Oxfam International Secretariat, constitute the Confederation. Oxfam reported that the consolidated income across the Confederation for the fiscal year 2021-22 reached €1,057 million, while the total expenditure for the fiscal year amounted to €958 million.[343]

The allocation of expenses is categorized both regionally and thematically. The regions receiving the highest level of funds were the Middle East (15.2 percent), West Africa (13.9 percent), Horn of Africa (10.9 percent), and East and Central Africa (8.3 percent).

The allocation of funding broken down according to thematic area reported over a third was dedicated to saving lives (36.2 percent), while the remainder contributed to supporting active citizens (16.8 percent), providing sustainable food (13.2 percent), achieving gender justice (12.5 percent), providing access to natural resources (10.8 percent), and administering essential services (10.6 percent). Additional information is available in the chart later in this section.

Oxfam members function largely through strategic partnerships with organizations such as the UK Department for International Development (DFID) and the Swedish International Development Cooperation Agency (Sida) in order to acquire flexible funding. Oxfam UK maintains a five-year partnership arrangement with DFID as well as a four-year agreement with Sida, which provide it with stable and unrestricted funding to respond to evolving humanitarian crises. The Sida funding principally targets food security; livelihood assistance; water, sanitation, and hygiene; and protection for over half a million people each year. The DFID funding, which supplied Oxfam with 8 percent of its funding in 2016, supports staff training and establishment of the necessary systems for the organization to function in its target populations.[344] This strategic humanitarian funding fulfills a vital need for financial resources that can be appropriated to address unspecified crises as disasters unfold.[345] Overall, the organization maintains strategic relationships with diverse entities, including women's organizations, national nongovernmental organizations, cooperatives and associations, and national and local governments.

In 2018, the organization reported that the majority (80 percent) of its funding comes from institutional and public fundraising. Within this percentage, institutions including the United Nations, European Union, individual governments, and nongovernmental organizations contributed 41.7 percent, while contributions from fundraising among the public, including events, humanitarian appeals, gifts, and donations, comprised 39.4 percent of the income. Trading revenue contributed approximately 16.8 percent of revenue. The 2018 annual report noted that 71 percent of Oxfam's institutional donor income was used for humanitarian responses, while 25 percent was applied toward longer-term development programs.[346]

As of 2018, all Oxfam affiliates contribute a significant proportion of their annual unrestricted program funds to a confederation-wide account, known as the Collective Resource Allocation, which funds the core costs of Oxfam programs in more than 90 countries.[347]

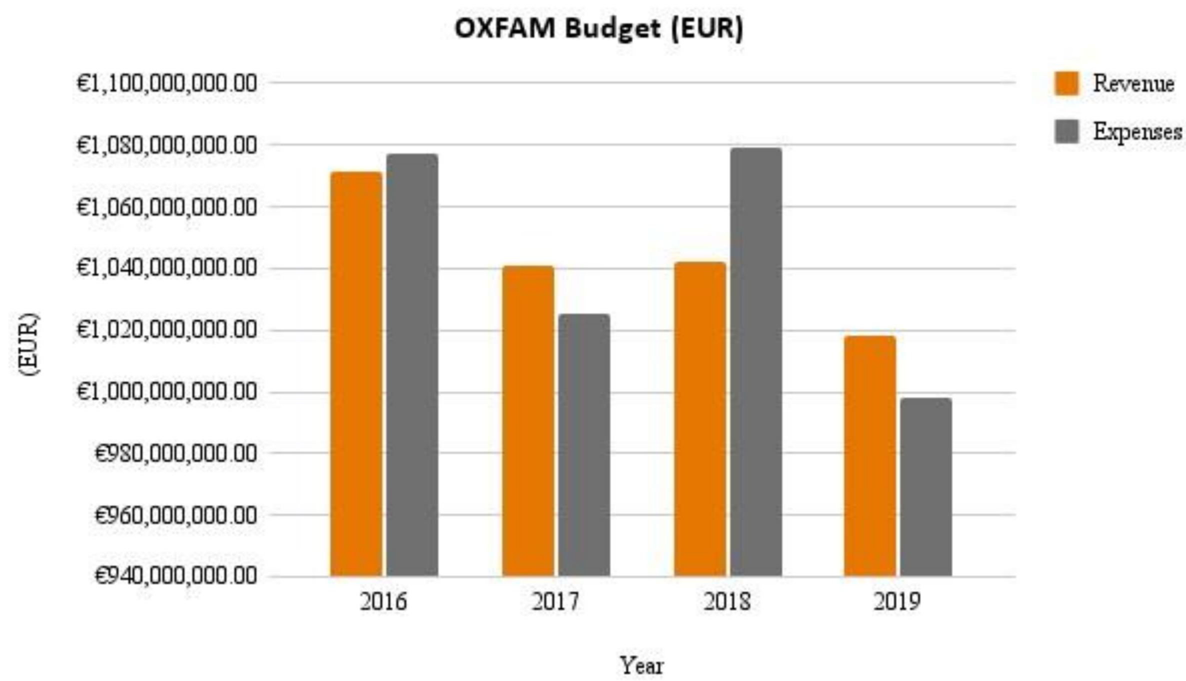
Table A.2 shows the funding distribution by region and by focus area for Oxfam in 2019.

Table A.2. Oxfam International Funding, by Region and Focus (2019)

Region	**Million euros**	**Percentage**
Global Level Allocation	127.2	19.0
East and Central Africa	58.1	8.7
Horn of Africa	72.0	10.7
West Africa	79.9	11.9
Southern Africa	42.8	6.4
Maghreb & Middle East	93.4	14.0
East Asia	80.4	9.0
South Asia	51.5	7.7
Eastern Europe & Former Soviet Union	5.8	0.9
Central America, Mexico, and the Caribbean	33.1	4.9
South America	10.2	1.5
Pacific	13.1	2.0
Other (i.e. regional level)	22.0	3.3
Total	**669.6**	**100**

Focus Areas	**Million euros**	**Percentage**
Active Citizens	110.8	18.8
Gender Justice	82.3	12.5
Saving Lives	238.7	36.2

Sustainable Food	87.0	13.2
Access to Natural Resources	71.1	10.8
Essential Services	69.9	10.6
Total	**659.8**	**100**



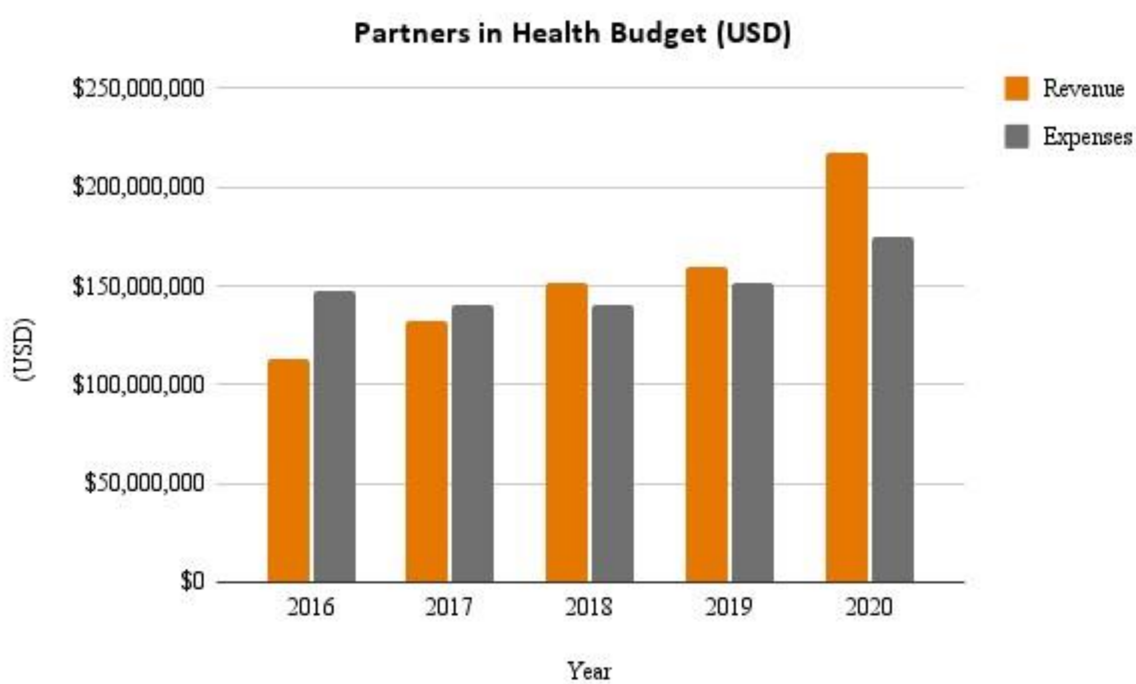
7. Partners in Health

In 2019, Partners in Health (PIH), headquartered in Boston, received $159.6 million in contributions. Like Oxfam, PIH operated within its financial means. Individuals and family foundations provided the majority of this funding, approximately 60 percent. Governments and multilateral organizations provided 21 percent of the total revenue, while foundations and corporations contributed approximately 14 percent of the total funds. Gifts in kind and other income contributed the remaining 5 percent of the funding. The reported expenses for fiscal year 2019 totaled $151.115 million, of which 88.3 percent was utilized for implementing program services, 5.1 percent contributed to development, and the remaining 6.7 percent funded the general and administrative needs of the organization. The allocation of funding can be broken down further within the proportion budgeted for program expenses, with the largest allotments attributed to Haiti (29 percent), development and administration (12 percent), Rwanda (9 percent), and Peru (9 percent).

PIH executes programs primarily through partnering with affected countries and populations to implement projects. Importantly, the organization has instituted a considerable mental health program in order to provide psychological support to the millions of people in middle- and low-income countries with mental health conditions.[348]

To address the issue of mental health through partnerships, PIH has invested in community-based mental health interventions. Haiti provides an example. PIH partnered with Zanmi Lasante, a local organization, after the 2010 earthquake to create curricula, materials, and protocols to train a variety of providers, including traditional healers, social workers, and physicians. Ultimately, in 2016, the program reported it trained 270 providers and enrolled 2,168 patients for mental health care in 11 facilities.[349] The training toolkits that provide instruction for a limited number of disorders—including epilepsy, depression, psychosis, and child & adolescent mental health—are available for providers online. Community-based programs such as this have allowed PIH to address the growing trauma and mental health needs of communities following rapid onset emergencies and during protracted crises.

PIH also worked in close partnership with the government of Sierra Leone to improve the country's mental health services in 2019. The improvements came primarily through PIH's work on improving infrastructure and supply chains at the nation's teaching hospital in order to upgrade the treatment spaces, while in the rural Kono District, eight health workers were trained in mental health care, along with the area's first psychiatrist. In total, 347 people in the district began receiving mental health treatment during 2019.[350] During 2019, PIH designated funds to 96 health facilities delivering mental health care across the globe.[351] The proliferation of new programming and enhancement of preexisting mental health–related projects reflects the growing recognition within international humanitarian aid and public health organizations of the need to address the mental health impacts of emergencies and atrocities. As prolonged conflict and crises persist, the mental health needs of the affected populations grow. As the needs mount, the resources required to provide adequate psychosocial support will place increasing demands on the budgets of aid organizations.



8. Save the Children

Save the Children's aid disbursal methodology uses thematic programs to apportion the available capital. The majority of the funding, approximately 87 percent, that the organization receives is allocated to service these programs. The remaining funds are divided between fundraising (8 percent) and management and general services (5 percent). Breaking down the program funding, Save the Children, headquartered in London, reports that 45 percent is committed to health and nutrition, 22 percent of the aid advances education, 9 percent addresses hunger and livelihoods, 8 percent attends to emergencies, 7 percent is directed toward public policy and advocacy, 6 percent supports HIV/AIDS treatments, and 3 percent is invested in child protection measures.[352] The sources of funding vary widely, with the organization reporting 40 percent from US national, state, and local governments; 26 percent from the United Nations and other multilateral institutions; 19 percent from individuals; 10 percent from corporations; and the remainder from foundations.[353]

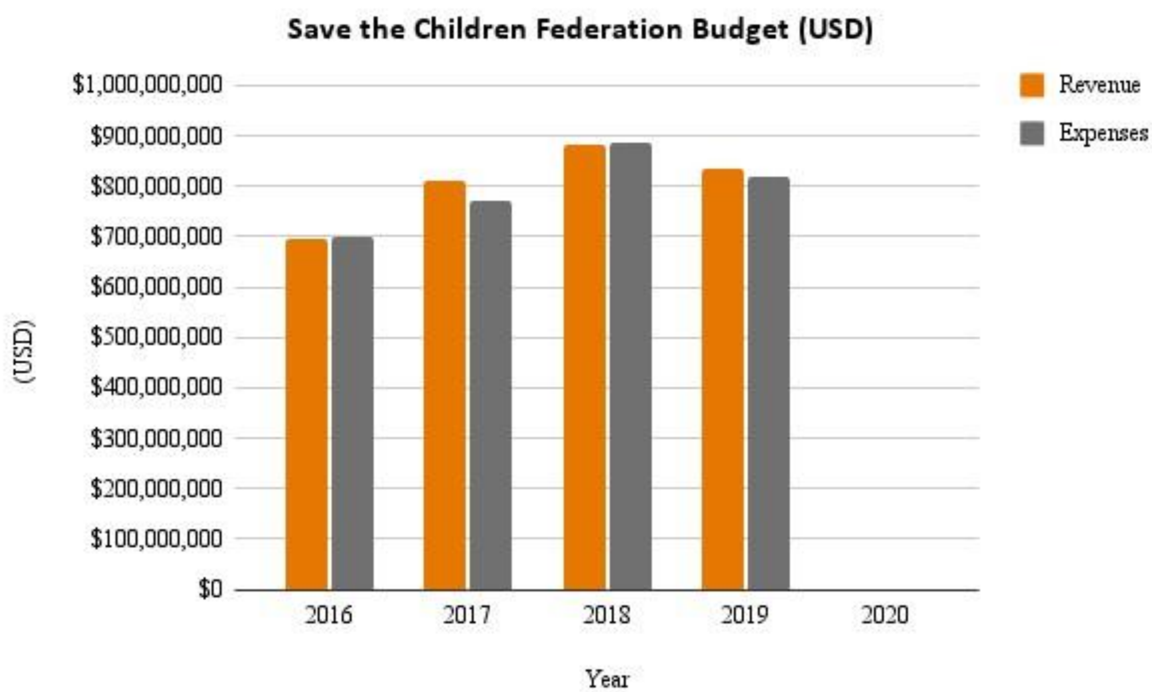
Save the Children UK reported a decrease of £104 million in funding between 2017 and 2018. In addition, the majority of funding the UK affiliate received constituted restricted funds, totaling €211 million in 2018; conversely, unrestricted funds amounted to €92 million that year. The restricted funds target specific projects such as the Horn of Africa response, which runs feeding programs and treats malnourished children in specialized centers. This limits the ways in which the funding can be deployed. Further, for 2018, while the total funding received by Save the Children UK amounted to €303 million, the organization reported its total expenditure was €315 million, exceeding available funds by €12 million. The year 2020 provided a more positive outlook, with Save the Children UK's total income amounting to £289 million, which exceeded its total expenditure by £6 million.[354]

Related to mental health, Save the Children has published an abundance of research on the issue. This includes reports of statistics regarding Yemeni mental health resources and the psychological toll of the ongoing conflict on the children, which make up over half of the Yemeni population, that has led to untreated trauma, depression, and anxiety.[355]

From its research, the organization reports that "17% of adults living in conflict zones have mild to moderate mental health disorders, which would require non-specialised mental health support. Assuming that similar rates apply to children and adolescents, it is estimated that approximately 24 million children living in conflict today have mild to moderate mental health disorders."[356] Additionally, based on its evaluation, Save the Children concluded that present resources for addressing children's mental health needs in conflicts are severely inadequate. The organization's analysis determined that between 2015 and 2017, only 0.14 percent of all official development assistance went to programs related to child mental health.[357]

The research conducted by Save the Children has been important in raising awareness of the need for mental health support to combat the psychological effects of conflict and trauma on afflicted populations. The extent to which the organization has acted to meet these needs appears limited. There is no designated mental health category on the website or outlined within the organization's documents, making it difficult to discern the extent of mental health–focused programming. In 2018, however, in the aftermath of two large earthquakes in Indonesia, Save the Children provided psychological first aid and trained teachers and parents to recognize signs of distress and provide support.[358] To continue to implement programs such as this one—as a growing percentage of people across the globe endure the impacts of conflict on their mental health—levels of development assistance must go far beyond the 0.14 percent allocated between 2015 and 2017.

To address trauma, Save the Children's programs mirror that of the Indonesia effort, primarily working to establish and improve caregiving and school systems as a way to create stability, routine, and community, thereby indirectly addressing mental health. In 2019, Save the Children began to call on donors to provide funds to support the development of a "child and adolescent mental health diploma" for mid-to-senior professionals in conflict zones.[359] The organization planned to commence the pilot in 2021 in the Middle East region if sufficient funds were generated.[360] In March 2020, Save the Children reported that it was in "the inception phases of exploring the development of a diploma that supports staff in conflict-affected settings to upskill on the topic of child and adolescent mental health."[361] It continues to develop this diploma in recognition of the increased need for mental health staff trained to deliver youth-centered psychosocial support.



APPENDIX II: EXAMPLES OF SOCIAL BONDS

1. Criminal Justice Social Impact Bonds

Social bonds for domestic criminal justice objectives launched the social bond market more than a decade ago. Most of these bonds addressed recidivism, which can require significant public spending associated with reincarcerating repeat offenders. This relatively successful model points toward broadening the long-standing *domestic* criminal justice prism of social bonds to encompass *international* criminal justice and the victims of atrocity crimes at home or abroad. Globally traded financial instruments could be used to raise the necessary funds through qualified social investors to meet these challenges.

Although they are relatively small in size compared to the billions raised in 2020 and 2021 for mega-social bonds, there have been 12 particularly prominent social bonds for domestic criminal justice issued since 2010. Among them, $73.6 million of capital has been raised in five countries to help over 16,000 individuals. The United States was the issuing jurisdiction of eight of these social bonds, along with the United Kingdom, Australia, the Netherlands, and New Zealand. They demonstrate on a small but socially important scale the value of social bonds for specific projects.

Examples of social bonds associated with domestic criminal justice include the following:

a. Ventura County Project to Support Reentry

The Ventura County Project was launched in Ventura County, California, in November 2017 to reduce recidivism, improve public safety, and promote family stability and economic opportunity for those on formal probation. In California, more than two-thirds of probationers return to prison within three years. The project was designed to reduce that problem. It raised $2.6 million with the aim of serving 400 moderate-to-high-risk individuals over four years. The clients receive services like therapies and employment support. The project evaluates its success in reducing recidivism by measuring (1) the number of quarters in which each enrolled client is not arrested, and (2) the reduction of recidivism over a 12-month period, compared to a controlled group. Ventura County will repay investors up to $2.85 million depending on the results.[362]

b. Just in Reach

Just in Reach is a health-based housing program aimed to lower recidivism and help resolve the challenge of homelessness for people experiencing multiple jail sentences. It was launched in Los Angeles in October 2017 and raised $10 million. The project aims to place 300 homeless individuals with mental health or substance use disorders, who have been in custody, into permanent supportive housing. It measures housing retention at six months and one year in addition to the reduction in number of arrests in two years following placement into houses. Payments to investors were to be made in 4.5 years. There are several scenarios where investors would get full repayments. For example, one scenario envisages 70 percent housing stability at stages of six and twelve months assuming 80 percent of the cohort has two or fewer arrests. The maximum payment is $14.9 million, $11.5 million of which would go to the investors while the rest would be recycled into the program.[363]

c. Alameda County Justice Restoration Project

Alameda County Justice Restoration Project was designed to reduce recidivism for young adults. It was launched in Alameda County, California, in September 2017. The pilot phase of the program served 29 young adults and the full program, which started in 2018, serves an additional 150 young adults. The program provides 24/7 services, including access to substance use disorder treatment, employment training, adult education, mental health care, intensive case management, and housing assistance. The total amount of capital invested, the metrics, and the repayment terms were not disclosed.[364] The clients are mainly young adults between 18 and 24 years old who are on felony probation or who have been charged with certain felony crimes.[365]

d. Auckland Genesis Youth Trust

In September 2017, the New Zealand government worked with a nonprofit service provider, Genesis Youth Trust, and raised $6 million through a social impact bond aimed at reducing reoffending by teenagers under 16 years old. It involves around 1,000 participants in Auckland; up to 70 percent of them fall within a medium- to high-risk group, and at least 30 percent fall within a high-risk group. The goal is to reduce reoffending by 10–15 percent. The bond's duration is five years. After the first two years, the effectiveness was to be evaluated, and the program could be modified for the remaining three years. The program uses an assessment tool to measure the performance. The capital was raised in two tranches: (1) NZ$4.8 million Class A bond with target rate of return of 6 percent for the first two years and 9.6 percent for the remaining three years, with the final returns based on actual success but capped at 11 percent; (2) NZ$1.2 million Class B bond with target rate of return of 10 percent for the first two years and 16.8 percent for the remaining three years, with final returns based on actual success but capped at 20 percent.[366]

e. Women in Recovery

This program was designed to help women in Tulsa, Oklahoma, who were facing prison sentences for nonviolent, drug-related offenses. It will serve up to 625 women for up to five years. The total capital is $10 million, funded by George Kaiser Family Foundation. Oklahoma has the nation's highest female incarceration rate at 151 per 100,000. The average cost of female incarceration per prison term is $30,133 in Oklahoma. The program will help to reduce the number of women sent to prison and the resulting impact on their children. The program defines success as not being incarcerated in the Oklahoma Department of Corrections at four key milestones: upon successful graduation from the Women in Recovery program, 24 months after the program start date, 36 months after the program start date, and 54 months after the program start date. The payment from the Oklahoma government will be reinvested directly back into the program.[367]

f. Criminal Justice REACH

The Criminal Justice REACH project provides comprehensive treatment and support to 225 formerly incarcerated individuals with substance use disorders and a number of other co- occurring criminogenic characteristics.[368] The project launched in December 2016 in Salt Lake County, Utah, where the jail experienced an 18 percent growth in population over the course of a single decade. The program will provide individualized therapeutic services and housing support and measure performance based on four outcomes: reduction in days incarceration, reduction in state-wide arrests, improvement in quarters of employment, and successful program engagement.[369] It raised $4.6 million from seven different institutions and will repay up to $5.95 million if the project achieves the following outcomes in four years: 35 percent reduction in days incarcerated; 35 percent reduction in statewide arrests; 25 percent improvement in quarters of employment; and 66 percent successful program engagement.[370]

g. New South Wales Parolees Project

In early 2016, nearly half of inmates leaving prison in New South Wales, Australia, would return within two years. The social bond was the first in Australia to address parolee reoffending and reincarceration. It provides intensive, holistic support to parolees immediately upon release to help them break cycles of reoffending and lead more fulfilling lives. The project serves up to 3,900 adults with a medium to high risk of reoffending released in selected Sydney areas. Participants receive individualized support on transition, reintegration, and community connection. The metrics include whether there has been a reduction in the reincarceration rate in 12 months relative to historic data and a random control group. The amount of capital raised and the returns to investors were not disclosed.[371]

h. Work-Wise Direct Consortium

This program was launched in the Netherlands in June 2016 to decrease dependence of ex-offenders on social benefits and to lower recidivism by supporting them to find sustainable jobs and helping them overcome obstacles. €1.2 million of capital was raised from three institutions. It targets 150 adult prisoners sentenced from 3–12 months. The project provides an individualized integral work/study program and counseling. The performance is measured by (1) reducing recidivism of participants by 10 percent, (2) decreasing social benefits issued to participants by 25–30 percent, and (3) increasing labor participation of participants by 882 months compared to a control group. The investors will get a 10 percent return on capital over 2.5 years if the program is successful.[372]

i. Roca

This project was the largest Pay for Success project in the United States at the time it was announced. It raised $22 million to reduce recidivism rates and increase employment for young people. In Massachusetts, 4,000 young men out of the juvenile corrections system are reincarcerated within five years, with an average prison stay of 2.4 years. It costs Massachusetts $280 million every year. The participants include 929 young men aged between 17 and 24. Following a four-year model, the project begins with two years of intensive engagement and then two years of follow-up. It has four elements: outreach to young men by Roca staff; outreach case management; life skills, educational, prevocational, and employment programs; and work opportunities with community partners.[373] The outcomes are measured by three metrics— reduction of days of incarceration, increases in job readiness, and increases in time employed; all three are compared to a control group.[374] The bond was issued in two tranches with durations of seven years. If the project is successful, senior lender Goldman Sachs will receive 5 percent on its $9 million investment, and junior lenders, Living Cities and the Kresge Foundation, will receive 2 percent on their $3 million investment. Other investors' returns will be recycled back to this project or be used to fund further initiatives.[375]

j. New York City Jail on Rikers Island

Just in Reach This project was launched in New York City in January 2013, the first Pay for Success project launched in the United States. It raised $9.6 million to address young offenders' high recidivism rates at Rikers Island Jail. At that time, nearly half of 16 to 18-year-old young men released from Rikers Island Jail returned within a year. The project targeted 4,458 young offenders between 16 and 18 years old. The project adopted the Adolescent Behavioral Learning Experience intervention program, which involves cognitive behavioral therapy in addition to counseling, training, and educational services. It has a single outcome metric: a reduction in recidivism bed days—the number of days spent in jail within the 12 months following their release—compared to a control group. Recidivism bed days needed to be reduced by 10 percent compared to the control group for investors to receive payments, which increased incrementally, with performance capped at $11.7 million at a reduction rate of 20 percent. The outcomes did not meet expectations. The reduction in recidivism did not meet the 10 percent threshold. The initiative was discontinued as of August 31, 2015, and no payments were made to investors.[376]

k. Peterborough Prison

This social bond, launched in September 2010, was the first in the United Kingdom. At that time, individuals given short sentences were 60 percent more likely to reoffend than other UK groups, and this project aimed to break the cycle of reoffending. It raised £5 million and was targeted at 2,000 offenders serving a sentence of one year or less. The service providers assisted with meeting a variety of needs related to accommodations, training and employment, substance abuse, and mental health problems.[377] The frequency of reconviction served as the outcome metric. Investors would receive payments if the reconviction rates fell by a minimum of 7.5 percent across all cohorts.[378] By July 2017, the Peterborough project had lowered recidivism by 9 percent across all the cohorts. This outcome exceeded the target of 7.5 percent. As a result, the 17 investors received a return of just over 3 percent per annum on their investments for the period of seven years.[379]

2. Front-Loaded IFFIm Vaccine Social Bonds

One of the most prominent examples of a social bond in recent years was the $300 million vaccine bond with a three-year term issued by the International Finance Facility for Immunisation in 2017.[380] It presented social investors with a very worthy objective: funding immunization programs by Gavi, the Vaccine Alliance. This program protects millions of children from preventable diseases in some of the world's poorest countries.[381] The bond accelerated the availability of much-needed funds to distribute vaccines quickly while several governments committed, with pledged monies raised pursuant to annual legislative authorizations, to repay the bond investors at a later date. It provided a vehicle to front-load the funding for a cause where time is of the essence. The vaccine bond sold on the market within a half day and was oversubscribed.[382]

This type of structure—backed by government pledges over a number of years—already exists and would be relatively easy to replicate. Sovereigns might respond better to this mechanism than to one requiring long-term guarantees of a bond offering. The front-loaded social bond requires a demonstrated need for immediate significant funding for a social objective, where funds must be expended rapidly in order to achieve successful, measurable results. This demonstrated need with clear results would justify the cash infusion of the bond. The long-term health benefits provided that justification for funding the vaccine distribution through the IFFIm social bond issuance.

When applied, for example, to the vast trauma and other mental health needs of atrocity victims, a front-loaded social bond backed by the pledges of sovereigns would require the demonstrated experience and capability of an entity to disburse the funds rapidly for well- planned mental health programs that treat the victim populations. The experience of violent trauma has been found to potentially lead to increased risk of involvement in violent extremism, because higher exposure to trauma leads to a greater likelihood of post-traumatic stress disorder. This can lead to increased threats to national and international security. At the same time, large populations living with prolonged mental illness often incur substantial economic losses. In fact, the World Health Organization estimates that depression and anxiety disorders, two mental illnesses with the most direct links to the experience of emergencies and atrocities, cost the global economy $1 trillion each year. The overall cost of mental illness can be over 4 percent of GDP, according to the Organization for Economic Cooperation and Development.[383]

When populations living with various types of mental illness are properly treated, this has been proven to lead to better countrywide economic outcomes and increased GDP. The Institute of Labor Economics estimates that, "If mentally ill people received treatment so that they had the same employment rate as the rest of the population, total employment would be 4 percent higher, adding many billions to national output."[384] The benefits of minimizing potential threats to state security while also fostering better economic prospects should offer states powerful rationale and incentive to issue front-loaded social bonds when feasible.

The recipient organization would have to plan and organize the programs that would take advantage of a large infusion of funds quickly under this type of social bond in order to show the feasibility of the venture. Establishing the bond as a viable instrument would persuade governments to support it with pledges.

To secure market attention, the front-loaded social bond likely would be marketed at a minimal level of $500 million. The potential for a larger bond issuance (more than $500 million) for either this option or other bond options could arise if a consortium of, for example, leading international humanitarian organizations created a special purpose vehicle that would issue the bond, assuming that both the consortium SPV and the bond itself could obtain high ratings.

However, the process for setting up the SPV could be lengthy and potentially cumbersome given the multiple entities involved.

Though it may prove difficult to measure quickly the true impact of mental health programs from a frontloaded infusion of funds in mental health objectives, those indicia of achievement should be attainable with expert planning that would satisfy institutional authorities and pledging governments.

3. European COVID-19 Recovery Bonds in 2020 and 2021

Acting on behalf of the European Union, the European Commission (EC) set a record in global demand in 2020 for social bonds as part of its COVID-19 recovery plan, becoming the single largest issuer of social bonds for the year according to the news and analysis service, Environmental Finance.[385] In its first month of issuances, the EC raised nearly €40 billion under the Support to Mitigate Unemployment Risks in an Emergency program. The SURE program, as a core element of the EU's COVID-19 recovery plan, delivers financial support in the form of loans to member states in order to fund work schemes and subsidize public expenditure that contribute to job preservation and income support, particularly for the self-employed.[386] Ultimately, the financial assistance serves to offset the adverse impacts of COVID-19 on EU member states' economies by contributing to short-time work schemes and related measures to protect jobs and prevent layoffs.[387]

The EC tapped into the market three times in the final months of 2020 to issue bonds under its SURE program; each issuance was more than 10 times oversubscribed, demonstrating the investors' broad "confidence in the EU as an issuer and a borrower, and as an important global player on the financial markets."[388] The social bond label proved invaluable by providing investors with confidence that the funds mobilized would achieve a social objective.[389] While the EC aimed to draw in €17 billion ($20 billion) through its first bond to fund the SURE program, demand from investors ultimately raised €233 billion ($276 billion)—nearly 14 times as much.[390] Bloomberg analysis reported that the 14-fold oversubscription indicated that the market is "structurally underserved," while social bonds remained the fastest-growing segment of sustainable debt that year.[391]

The massive investment interest in the EC's 2020 social bonds demonstrated that there is significant demand for a market multiple times larger than what currently exists. Based on this success, in late 2020, the EC announced its plan to issue at least €62.9 billion worth of social bonds under existing programs, including its SURE scheme, throughout 2021, again with EC guarantees that have proved appealing to social investors.[392]

Around half of the €62.9 billion under existing programs was raised during the first quarter of 2021, while the remainder was raised in the second quarter. The EC announced its first SURE social bond issuance of 2021 on January 17, 2021, which totaled €14 billion. The issuance was comprised of two bonds, with €10 billion due for repayment in June 2028 and €4 billion to be repaid in November 2050.[393] There was high demand among investors, which enabled the EC to obtain attractive pricing conditions.[394] Notably, the seven-year bond was "priced at a negative yield of -.497 percent, which means that for every €105 that EU Member States receive, they pay back €100 when the bond matures."[395] In March 2021, the EC issued a €9 billion bond to mature in June 2036, marking the fifth bond issuance under the SURE program and the second issuance in 2021.[396] Again, this bond was oversubscribed nearly 10 times. Two weeks later, the EC completed the sixth social bond issuance under SURE, which consisted of two bonds—one that amounted to €8 billion, due for repayment in March 2026 and another that raised €5 billion, due for repayment in May 2046.[397] After this sixth issuance, the EC disbursed the €13 billion to six EU Member States—its third disbursement in 2021. The Czech Republic received €1 billion, Belgium €2.2 billion, Spain €4.06 billion, Ireland €2.47 billion, Italy €1.87 billion, and Poland €1.4 billion. As of March 30, 2021, 17 EU member states had received €75.5 billion under the SURE mechanism.[398]

In September 2021, the EC released its second report on the impact of SURE. The report found that "SURE has been successful in cushioning the severe socio-economic impact resulting from the COVID-19 pandemic. National labour market measures supported by SURE are estimated to have reduced unemployment by almost 1.5 million people in 2020."[399] Disclosing that 19 member states had been approved to receive a total of €94.3 billion, the EC confirmed that €89.6 billion had already been distributed. As a result of this funding, the SURE program provided critical support to 31 million people, comprising over one-fourth of the total workforce in the 19 beneficiary states, throughout 2020. The report further found that the SURE bonds helped over two million firms retain workers despite the pandemic's disruptive impact on businesses. Particularly important, the EU's strong credit rating during its issuances saved beneficiary member states approximately €8.2 billion in interest payments.[400] The EC will continue to publish new reports every six months for the duration of the SURE program.

The SURE debt issuances throughout 2020 and 2021 positioned the EC as a large and trusted issuer, which then was followed by the NextGenerationEU bond issuances.[401] In June 2021, the EC completed its first social bond issuance under NextGenerationEU, the temporary recovery instrument created in July 2020 to help repair the immediate economic and social devastation caused by COVID-19.[402] The bloc's first issuance related to this program attracted over €140 billion in demand, far surpassing the €20 billion requested.[403] This first transaction constituted the largest-ever institutional bond issuance in Europe and the largest amount the EC had raised in a single transaction.[404] The second bond issuance to support Europe's recovery fund occurred in late June 2021. The €15 billion transaction was over 11 times oversubscribed, attracting more than €170 billion in bids.[405] Throughout the second half of 2021, the EC issued approximately €71 billion in long-term bonds through its NextGenerationEU recovery mechanism.[406] The EC built on this early success by issuing €50 billion in long-term bonds between January and June 2022 and between July and December 2022.[407] Overall, the recovery instrument will accrue an estimated €800 billion from the capital markets between 2021 and 2026 through ongoing issuances on behalf of the EU.

During 2018 and 2019, coauthors David Scheffer and Caroline Kaeb interviewed a number of European Commission officials over a multimonth period to ascertain where there might be some opportunity to spur interest for engagement with social bonds or other financial instruments for the benefit of atrocity victims.

One logical situs of interest for addressing the assistance needs of atrocity victims might reside in the EC's European Civil Protection and Humanitarian Aid Operations (ECHO). Each year, ECHO staff identify the immediate global needs and organize projects aligned with specific crises. Some of ECHO's projects aid victims of armed conflicts.

ECHO staff work within a fixed and structured system of criteria for project implementation. Project funding is disbursed on a yearly basis. Projects are usually one to two years in duration. ECHO participated in a Dutch-organized conference on humanitarian needs in Fall 2019, which identified mental health and trauma needs as being significantly underfunded. The Dutch government championed the mental health issue at the conference.[408] The work of ECHO may be considered a helpful basis to draw upon and build upon for future efforts to address the mental health and trauma needs of victims.

4. EU Member State Highlight: France

Within EU member states, the French government agency Caisse d'Amortissement de la Dette Sociale (CADES) and the French unemployment insurance fund Unédic were among the largest issuers of social bonds in 2020, with a combined issuance of $22 billion.[409] CADES, established in 1996 by the French government, functions to amortize the debt amassed by France's national social security scheme.[410] In the second half of 2020, CADES established a social bond program to finance, either in whole or in part, the deficits of the French social security system.[411] In September 2020, CADES issued a €5 billion social bond, which attracted €16 billion in orders.[412] Investors came predominantly from Europe, including from France (26.8 percent), Benelux (17.6 percent), and Germany (14.5 percent), while Asia also invested significantly (16.9 percent). In January 2022, CADES issued an additional 10-year €6 billion social bond, which shattered its prior oversubscription record. Two hundred sixty-five investors submitted orders reaching €26.5 billion.[413] CADES established its social bond program to target three primary social objectives: access to essential health services, socioeconomic development, and social inclusion and autonomy. It appointed Vigeo Eiris to serve as an independent second party opinion which verified that the CADES framework for social bonds aligned with the Social Bond Principles, including a clearly defined process for the management and allocation of proceeds in addition to transparent monitoring and reporting methodology to occur through the publication of an annual report.[414]

In the second half of 2020, Unédic, France's unemployment insurance management agency, launched two of the world's largest social bonds at the time, which raised €4 billion each to support its COVID-19 response.[415] In December 2021, Unédic published its *Allocation and Impact Reporting: Social Bonds 2020* report to disclose the progress resulting from its social bond issuances.[416] The agency reported that "The reduction of economic activity caused by the restrictions in France led to a drop in revenues and an increase in unemployment insurance expenditures. This in turn led to a sharp increase in Unédic's funding requirements in 2020. The bulk of this financing requirement was covered by Social Bonds."[417] Unédic's operating requirements surged to €55.7 billion in 2020 due to the pandemic's economic and social consequences, with nearly seven million French citizens seeking to access some form of unemployment support services and another eight million furloughed during the height of the crisis.[418] Social bonds served as an essential tool to bridge the widening gap between budgetary needs and financial resources.

Overall, six social bond issuances raised €17 billion to supplement Unédic's €36.9 billion in revenues for the year 2020.[419] Unédic undertook another €10 billion of social bond issuances in 2021.[420] Unédic's social bond program has benefited from the Social Bond Framework that Unédic published in May 2020, which it developed in full adherence to the Social Bond Principles issued by ICMA.[421] The agency provides public documentation outlining the use of proceeds, which are primarily intended to provide protection through socioeconomic development and support through access to essential services. It delineates the process for project evaluation and selection with distinct guidelines and an established framework of governance.[422] Unédic also ensures a transparent allocation process to ensure the proper management of proceeds, and finally its system of reporting consists of the publication of an annual report that details the allocation, verified by an independent entity, and the impact, reviewed by the Social Bond Committee, of the social bond funds.[423] Banks, in addition to central banks and official institutions, comprised 68 percent of the bonds' investors; asset managers constituted another 26 percent of the investor base, while insurance and pension funds comprised 5 percent of the financiers.[424]

5. Humanitarian Impact Bonds

a. ICRC Humanitarian Impact Bond

A variant of the front-loaded social bond would be a social impact bond of longer-term application and of a quasi-guarantee character. ICRC's launch of the world's first[425] humanitarian impact bond in September 2017 provides an example of the possibilities.[426] The ICRC is the largest provider of physical rehabilitation support in developing and fragile states globally. The organization used this funding to improve the efficiency of physical rehabilitation services for victims who have disabilities and require mobility devices. The humanitarian impact bond financed the construction and operation of three new rehabilitation centers in Africa over a five-year period from 2017 to 2022. The three new centers are located in Mali (Mopti), Nigeria (Maiduguri), and the Democratic Republic of Congo (Kinshasa).

The project is known as the Program for Humanitarian Impact Investment. There are ninety million people in the world who have physical disabilities and require mobility devices, but only 10 percent have access to them. PHII intended to increase the efficiency of rehabilitation services and help at least 3,600 victims to regain their mobility between 2020 and 2022.

The project raised CHF 26.09 million ($27.3 million) from nine private investors coordinated by Lombard Odier, and the outcome funders, who will act as donors covering the costs associated with the project if it meets its goals, are La Caixa Foundation and the governments of Belgium, Italy, the United Kingdom, and Switzerland. The government of the Netherlands provided initial grant finance.[427] The ICRC is incentivized to achieve performance targets in order to receive the funding that repays the social investors. Whether repayment to investors occurs in full or with an additional return depends on the efficiency of the three centers. Independent auditors will verify the ICRC's reports to determine the efficiency ratio, which refers to the number of people who receive mobility devices per physical rehabilitation professional. The efficiency ratio is then compared to existing centers. If the ratio demonstrates that the centers have served more individuals living with disabilities than comparable centers, the social investors receive the initial investment plus an annual return. However, if the performance of the new centers fails to meet the benchmark, then the return on investment diminishes for both the social investors and ICRC.[428] Interest payments are capped at 7 percent internal rate of return. If no outcomes are achieved—for example, if the new centers do not to deliver services—then investors could lose 40 percent of their investments.[429]

The ICRC reported the outcome data, which Philanthropy Associates verified as an impartial auditor. Despite the COVID-19 pandemic delaying construction of the centers and implementation goals, the ICRC remained on track to deliver results according to its preestablished timeline.[430] In July 2022, the ICRC announced that the three centers funded by the bond provide services 9 percent more efficiently than the comparable center.[431] Peter Maurer, President of ICRC, stated,

> This funding instrument is a radical, innovative but at the same time, logical step for the ICRC. It is an opportunity not only to modernise the existing model for humanitarian action, but to test a new economic model, designed to better support people in need. We hope that once the pilot project is proven, it will demonstrate that non-traditional financing models can work. There is great potential for investments that are built around improving the social, environmental and economic conditions so that humanitarian action advances in impact, effectiveness and scale in ways never seen before.[432]

A measurement that is key to how the humanitarian impact bond works with social investors is exemplified in these factors:

- **Equity considerations**. "The ICRC [humanitarian impact bond] has [value for money] and equity considerations built into the performance metric. [The Foreign, Commonwealth and Development Office] will only make payment for this project on the basis of efficiency—ICRC must deliver at least a 10% increase in efficiency in operating the physical rehabilitation centres built under the [development impact bond] compared to current centres to recover costs. Carefully designed metrics and weighting of efficiency measures means the centres are disincentivized to 'cherry-pick' specific groups of patients for treatment and ensures equity of service provision."[433]

- **Cost-effectiveness/efficiency considerations**. "ICRC is investing in a new Digital Centre Performance Management System that should assist with driving efficiency by enabling better patient case management and centre supply chain management. This workstream is expensive and requires bottom-up software development, but the [impact bond] model enables ICRC to make these longer-term strategic investments, whilst ensuring that donors only repay these additional investments if they enable ICRC to help more people with the same resources."[434]

The ICRC initiative could prove useful as a pilot project for the enormous needs of atrocity victims. Large humanitarian organizations and multilateral development agencies have the credibility, size, and fundraising experience, as well as the audited records, to scale for larger projects in the future if a pilot project demonstrates success. A similar type of private placement, bringing private social investors together with supporting governments, could be structured for the treatment of atrocity victims, including trauma and mental health; an international or regional institution—such as the EU, ICRC, International Organization for Migration (IOM), MSF, UNHCR, UNICEF, or World Health Organization (WHO)—could undertake the project work and aim to meet "success" targets by the end of the term of the bond. The evaluation metrics of equity and cost-effectiveness would easily apply to a project focusing on the needs of atrocity victims.

b. The Cameroon Cataract Development Impact Bond

This social bond project launched in 2018 to prevent blindness through the provision of thousands of cataract surgeries over five years. In sub-Saharan Africa, the level of blindness and vision impairment is double the rest of the globe, yet approximately 80 percent of the cases are either preventable or treatable.[435] Cataracts remain the single biggest cause of avoidable blindness, but the affliction can be treated with a 20-minute surgery. At the time the project was launched, around 15,000 cataract surgeries occurred each year in Cameroon, leaving two-thirds of surgical cases untreated.[436] This funding could significantly expand Cameroon's cataract surgical capacity.[437] The project raised $2.5 million. The repayment schedule and outcome metrics have not been disclosed.[438]

c. The Utkrisht Impact Bond

The Utkrisht Impact Bond, introduced in November 2017, aims to reduce maternal and neonatal mortality by improving maternal care quality in Rajasthan, India. Maternal and newborn mortality rates are high in India. At the time the project was launched, about 80,000 babies died every year in the state of Rajasthan, which had maternal and newborn mortality rates that were 47 percent and 14 percent above the national average, respectively. Raising $3.5 million for a duration of five years, the bond helps support 600,000 pregnant women in Rajasthan. Service providers, the Hindustan Latex Family Planning Promotion Trust and Population Services International—are working with 440 private medical facilities to get accreditation as maternal care providers and to adhere to new government standards over the long term. The outcome funding depends on the facilities' ability to meet the standards of two certification processes: (1) the National Accreditation Board for Hospitals and Healthcare Providers, and (2) the Federation of Obstetrics and Gynaecological Societies of India's Manyata certification.[439] To be paid the full $8 million, each facility needs to obtain half of the points associated with each chapter of the National Accreditation Board as well as a minimum 11 of the 16 Manyata standards.[440] To receive a $2 million payment, the individual facilities must achieve 30 percent of the National Accreditation Board points and meet six of the Manyata standards.[441]

Mathematica functions as the independent assessor working to confirm whether the facilities meet the predetermined standards. The assessors from Mathematica work with implementation partners, investors, and outcome funders to conduct biannual assessments to determine if a representative sample of the facilities meets the development impact bond (DIB) standards.[442] This assessment is used to determine whether outcome funders should issue payments and the level of payments investors should receive.[443]

In October 2020, Mathematica issued its "midline findings."[444] By this point, it had conducted 113 assessments during three verification rounds. Outcome payments exceeded the implementation costs for the facilities that achieved the improvement standards, meaning the investors received a substantial return on their investment. Mathematica reported, "At midline, the implementation partners and facilities spent approximately $10,000 and $7,500, respectively, to meet the DIB standards. In comparison, investors received payments of up to $18,000 for each facility that met the DIB standards, in accordance with the DIB design."[445]

Partners involved in deploying this development impact bond include Hindustan Latex Family Planning Promotion Trust, MSD for Mothers, Palladium, Population Services International US Agency for International Development, and UBS Optimus Foundation.

d. Pfizer Sustainability Bond

In March 2020, Pfizer issued a $1.25 billion 10-year sustainability bond paying semiannual interest of 2.625 percent. The bond assists with mitigating Pfizer's environmental impact, expanding patient access to the company's pharmaceuticals, and bolstering overall health care systems. In addition, proceeds are used to invest in manufacturing and development capabilities to ensure that the company can make adequate medicines and vaccines available according to recommendations from global public health organizations, such as in the case of the COVID-19 pandemic. Proceeds also support a variety of health-related initiatives in low- and middle-income countries.

The consultancy firm Sustainalytics, which conducts research and ratings on environmental, social, and corporate governance standards, reviewed Pfizer's bond framework and confirmed that it aligns with the four primary components of the SBP issued by ICMA.[446]

6. The World Bank Trust Fund: Financial Intermediary Funds

One of the many functions of the World Bank is that it serves as the trustee providing financial management services in connection with, at the end of 2017, more than $89 billion in funds for more than 26 different organizations addressing development or other socially beneficial objectives. These resources are managed through a subset of World Bank Trust Funds called Financial Intermediary Funds (FIFs), which receive, hold, and transfer funds at the instruction of the implementing organizations.[447] As the World Bank reports, "The Bank does not oversee the end use of the funds and it is not responsible for disbursement decisions. Rather, it is the FIF governing bodies, made up of contributors to the FIF and other key stakeholders that select the implementing agencies that will receive financing, and which in turn manage the projects and programs funded by it. . . . On receipt of development partner contributions to trust funds and FIFs, the [World] Bank invests these resources in international capital markets until funds are transferred to the recipients for development projects. Such investment management aims to preserve donor funds over time, and enhance their value."[448] Further, the World Bank reports that its trust fund and FIF investment portfolios have experienced strong investment performance throughout the past 10 years, effectively withstanding the global financial crisis of 2008–2009.[449]

The FIF would be a highly reputable entity to receive promissory notes from World Bank Member State governments (and perhaps high-net individuals and corporate philanthropies) that would be interest-free loans. In return, the World Bank offers the service of managing the loaned funds with investment strategies and with audited procedures that monitor the timely transfer of such funds to disbursal entities. There would be no sovereign guarantees (as required for an endowment social bond); rather, the interest-free loans would provide the funds necessary to support the program objectives on a timetable and in amounts that would be decided by the disbursing entity or entities. The key to this structure is the high level of confidence governments have in the World Bank and its auditing procedures, and the selection of a disbursal entity (or entities) that is well known with a high reputation and trusted auditing procedures. Governments are assured of recovering the full principal they have loaned from a trusted institution knowing that the loaned funds have been invested wisely by the World Bank managers until transferred to disbursal entities to be applied toward an objective supported by the governments.

Thus, a FIF for victims of armed conflicts and atrocities would have the advantage of being immediately recognized as a World Bank Trust Fund of high reputation, professionally audited, and operating with management and investment skills trusted by sovereign governments. The disbursal (implementing) organization(s) would need to be carefully selected to satisfy World Bank conditions and standards; but the EU and major humanitarian organizations such as ICRC, IOM, MSF, UNHCR, UNICEF, and WHO should possess the characteristics, including good management of financial resources, that would make them excellent candidates for disbursal responsibilities of World Bank FIF money.

Despite these attractive features, a World Bank FIF might struggle to be an attractive option in light of the disappointing performance of the Pandemic Emergency Financing Facility (PEF), the bond that required a certain threshold of fatalities to occur before money could be disbursed, during the COVID-19 pandemic. As one World Bank official put it, “PEF gave FIFs a bad name.”[450] However, this mechanism, if it were to demonstrate a better performance track record, could appeal to investors and garner greater enthusiasm.

7. The World Bank: International Finance Corporation’s Social Bond Program

One of Launched in March 2017, the social bond program of the International Financial Corporation (IFC) primarily offers bond investors an opportunity to allocate investments to achieve certain Sustainable Development Goals (SDGs) without any additional credit risk, as IFC is a triple-A rated issuer.[451] The IFC served as the chair of the Executive Committee of the Green and Social Bond Principles for the year 2020–2021.[452] It continues to provide technical assistance to clients to set up their own social bond programs that adhere to market standards.

In fiscal year 2019, the proceeds from IFC’s social bonds supported 31 projects, totalling $823 million, primarily aiding communities in developing countries. According to Bloomberg, issuances climbed by 170 percent from January to August 2020.[453] By the end of 2020, the IFC had a cumulative social bond issuance of 48 social bonds equating to $3.3 billion in volume.[454] These issuances have supported over 160 projects.

In February 2021, the IFC issued its *Social Bond Impact Report* for fiscal year 2020.[455] In total, for FY20 (July 1, 2019–June 30, 2020) 11 social bonds raised $1.6 billion to fund 55 new projects across 10 sectors in four currencies—a record volume since the program’s creation. The beneficiary sectors included health, agribusiness, education, gender finance, infrastructure, and COVID-19 response. Over a five-year period, these projects are expected to[456]

- Feed three million people,
- Reach 703,610 farmers,

- Supply power to 1.9 million "connections,"
- Reach 703,255 patients,
- Directly employ 5,500 people,
- Distribute 48,147 loans to women,
- Provide 405,167 residential housing loans,
- Support 18,035 micro, small, and medium enterprises,
- Provide 34,185 agrifinance loans, and
- Provide 776,311 microloans.

The IFC acknowledges that social bonds are a crucial innovative solution for scaling up investments in sustainable finance over the next decade to overcome the "estimated $2.5 trillion annual funding gap so that the world can meet the Sustainable Development Goals by 2030."[457] Confirming the rapid growth in the market, the IFC recorded a global issuance of over $140 billion in social bonds for 2020, compared to the $17.4 billion issued in 2019.

The IFC has implemented the "3.0 Creating Markets Strategy" that is "in line with the strong international call to work on a new financing approach focused on the mobilization of the private sector. Working with our partners, we are supporting policy and regulatory reforms that promote private investment, develop projects upstream, and introduce blended finance."[458] Further, the IFC and other development finance institutions "are collaborating to develop innovative models [using social bonds] to increase their impact in low-income, fragile, and conflict-affected countries."[459] In the summer of 2020, the IFC created the Joint Collaboration Framework Agreement to guide increased cooperation among development finance institutions to deliver crucial development impact throughout the world's most challenging settings.[460]

With an emphasis on achieving the SDGs, the IFC's social bond program continues to support projects that provide:

- Affordable basic infrastructure (clean water, sewers, transport, energy);
- Access to essential services (health care, financial services);
- Affordable housing;
- Food security; and
- Socioeconomic advancement and empowerment.

The IFC cites its issuance of a COVID-19-related $1 billion social bond on March 11, 2020, which attracted huge interest "from investors with a final order book of over $3.4 billion," as a "testament to investors keenly interested in supporting the alleviation of social issues."[461] The IFC has published case studies[462] to illustrate the application of social bonds during COVID- 19 "to highlight how issuers from various industries can use social bonds to raise financing that addresses social issues raised" by the pandemic.[463]

With the IFC as a frequent issuer of social bonds in public and private markets, and particularly with the growing market for financing projects regarding social issues and projects targeted at achieving the SDGs, the IFC could play a vital role in filling the funding gaps for atrocity victims. The IFC also can serve as an advising institution on how to structure the social bond as it has built its own engagement by applying an articulated set of social bond principles.[464]

As a result, the SDGs offer an interesting framework to achieve this because the framework of goals and objectives is very broad, providing wide issue coverage and an umbrella under which the targets of the project could be defined and attached to a goal or goals.

Simultaneously, the 17 SDGs have specific indicators, which will help to further define performance targets that characterize such social bonds. For example, because SDG 16 covers peaceful and inclusive societies, it constitutes a promising catch-all.

The utility of the SDGs to sensitize the public and parliaments to key issues related to the social bond includes the following:

- SDGs will be helpful in finding a government to put up the collateral and to persuade an institution such as the World Bank to issue the social bond.
- The SDGs tie the project into something more concrete (namely, the SDGs) and thus offer the opportunity to states that are already at the forefront of some of the SDG issues to further advance their goals.
- The SDG approach can determine which countries are aligned the most with the project for atrocity victims in terms of what preexisting programs such states are already undertaking. One can approach the targeted governments to discuss how putting in the collateral would provide good optics for the state in terms of their SDG focus area. Also, it would pinpoint an existing topic area that could serve as an entry point with governments.
- Overall, the evolving trend in funding projects to aid atrocity victims favors opportunities for governments and private companies to work together to achieve worthy goals in the realm of sustainability.
- With respect to the potential role of national parliamentarians, elected individuals serve as a bridge between citizens and executive power in governments. As allies, they could function as intermediaries to sway both public opinion and executive action. Their participation can encourage citizens to mobilize their political capital while providing pressure on the executive. The Parliamentarians for Global Action, for example, can assist with providing a setting to interact with legislators and float among them the idea of a

social bond for atrocity victims.

Beyond the IFC, the US government could serve as the primary backer of a number of specifically tailored social bonds for atrocity victims. With the geopolitical framework incorporating the SDGs, regardless of right or left, the administration of the day could greatly benefit from making such a commitment. A democratic government like the United States would be more favorable to such a project than would an authoritarian regime. A US administration could be inclined to back a social bond if the optics convey it is doing something concrete, sustainable, and long-lasting to achieve progress toward the SDGs and, in particular, is acting on the matter in a way that compares favorably to what China or Russia is *not* doing.

It should be noted that the World Bank's International Development Association (IDA) issued an impressive $1.5 billion bond for grants and loans to the poorest countries for development issues in April 2018.[465] This followed the surprising discovery by the IDA that it was sitting on $158 billion of equity, which stimulated the push to combine donor funding with money raised in the capital markets (thanks to the newly discovered collateral backing it up). The IDA's triple-A rating translated into a triple-A rated bond. Central banks and pension funds invested in the bond, attracted by the rating and knowing of the World Bank's efficiency and reputation in managing the bond's funds.[466] While not issuing social bonds per se, the IDA role in the bond market for large-scale development purposes offers useful examples of methodologies that work and may provide a source of support for social bonds directed toward atrocity victims in the future.

8. Asian Development Bank Social Bonds

The Asian Development Bank[467] is also a potential source of support for social bonds for atrocity victims.[468] The ADB issued its first "gender bond" in 2017 to finance eligible projects that promote gender equality and women's empowerment in Asia and the Pacific.[469] In its *Strategy 2020*, the bank's long-term strategic framework outlining its development goals introduced in 2008, ADB outlined gender equality as a key operational priority,[470] which served as the basis for this bond. In its *Strategy 2030*, the ADB also outlined its aims to address poverty and lessen inequalities which include "achieving better health for all" and ensuring social protection systems and service delivery for those in need, goals which social bonds are increasingly supporting.[471]

The ADB's thematic social bonds are designed to support projects that contribute to sustainable growth in Asia's development. They are now also being utilized to help combat the impacts of the pandemic. As of March 2023, issuances related to ADB's gender, health, and water bonds amounted to $12.7 billion (table A.3).[472] In August 2023, the ADB published a report providing an overview of ADB's gender, health, and water bonds to highlight some projects they support in Asia and the Pacific.[473]

Table A.3. Summary of ADB Theme Bonds ($ million, as of March 31, 2023)

Item	Total Bond Issuance	Outstanding Bonds
Gender bond	6,917	6,911
Health bond	2,616	2,585
Water bond	2,214	615
Total	12,776	11,140

Source: ADB, *ADB Theme Bonds for Sustainable Development* (Mandaluyong City, Philippines: Asian Development Bank, 2023), https://www.adb.org/sites/default/files/publication/655806/adb- theme-bonds-sustainable-development.pdf.

ADB Treasurer Pierre Van Peteghem stated, "We are very pleased with the strong support of investors for our theme bonds, which provides us with the necessary resources to support our developing member countries in achieving their sustainable development goals."[474]

In February 2021, ADB issued a report, *Primer on Social Bonds and Recent Developments in Asia*,[475] which outlined the dramatic growth that has occurred in the social bond market over the previous two years, particularly as a result of COVID-19, and the market outlook for Asia. Social bond issuance in Asia has been consistently behind European issuance so far, but the region has experienced substantial growth in recent years. In 2017, Asian social bond issuance comprised 12 percent of total global issuance.[476] In 2020, this share surged to 23 percent. From 2017 to 2020, the social bond market in Asia expanded 22.3 times compared to 9.8 times in Europe and 14.3 times globally apart from Asia. In the Asian social bond market, government-affiliated agency issuers in high-income economies such as Japan have issued the most.

The ADB *Primer* notes, "Overall, the region has been relatively slow to adopt ICMA- compliant issuance, which is mainly limited to Australia, India, Japan, the Republic of Korea, the Philippines, Singapore, and Thailand. Growth of the social bond market in Asia is closely linked to investor interest in COVID-19-linked bonds."[477] While Japanese and Korean government- related issuers dominate the social bond market, many Asian social bond issuers in 2020 were entirely new entrants to the ESG market. The ADB anticipates that the broad interest from both investors and issuers will not recede even as the pandemic wanes.

Denoting the importance of social bonds to close the funding gap for critical social needs, the ADB report also states that:

> The UN Conference on Trade and Development estimates that $5 trillion–$7 trillion per annum will be required to achieve the SDGs by 2030, including $3.3 trillion–$4.5 trillion in developing economies. This leaves an annual funding shortfall of around $2.5 trillion globally. The UN has warned that developing economies in Asia and the Pacific will need to invest an additional $1.5 trillion per annum, or 5% of their combined GDP, to achieve the SDGs. Funds are desperately needed for power, transport, digital infrastructure, climate change mitigation, health care, education, food security, water and sanitation, and more.[478]

As the Asian social bond market amounts to merely a third of the size of the European market, there are prospects for growth.

9. African Development Bank Social Bonds

The African Development Bank issued an AUD 600 million social bond in Australia in June 2021.[479] Over 30 investors purchased the bond, which constitutes AfDB's seventh issuance since its social bond program began in 2017. The bond's term is 5.5 years.

In 2020, AfDB social bond issuance soared to $3.3 billion. In 2021, the AfDB continued to issue social bonds to assist countries grappling with the effects of the pandemic.

APPENDIX III: EXISTING UNITED NATIONS INVESTIGATIVE MECHANISMS ON ATROCITIES

- **Belarus – Group of Human Rights Experts on the Human Rights Situation in Belarus**[480]
    - Mandate established: April 4, 2024
- **Iran – Independent International Fact-Finding Mission on the Islamic Republic of Iran**[481]
    - Mandate established: November 24, 2022
    - Mandate renewed: April 4, 2024
- **DRC – International Team of Experts on the Democratic Republic of the Congo**[482]
    - Mandate established: July 6, 2018
    - Mandate renewed: October 12, 2023
- **Myanmar – Independent Investigative Mechanism for Myanmar**[483]
    - Mandate established: September 27, 2018
    - Successor to the Independent, International Fact-Finding Mission to Myanmar
- **Nicaragua – Group of Human Rights Experts on Nicaragua**[484]
    - Mandate established: March 31, 2022
    - Mandate renewed: April 3, 2023
- **North Korea – OHCHR Democratic People's Republic of Korea accountability project**[485]
    - Mandate established: March 28, 2014
    - Mandate renewed: April 4, 2023
- **OPT/Israel – The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel**[486]
    - Mandate established: May 28, 2021
- **South Sudan – Commission on Human Rights in South Sudan**[487]
    - Mandate established: March 23, 2016
    - Mandate renewed: April 4, 2024
- **Sri Lanka – OHCHR Sri Lanka accountability project**[488]
    - Mandate established: March 23, 2021
    - Mandate renewed: October 6, 2022
- **Sudan – Independent International Fact-Finding Mission on Sudan**[489]
    - Mandate established: October 11, 2023
- **Syria – Independent International Commission of Inquiry on the Syrian Arab Republic**[490]
    - Mandate established: August 22, 2011
    - Mandate renewed: April 4, 2024
- **Ukraine – Independent International Commission of Inquiry on Ukraine**[491]
    - Mandate established: March 4, 2022
    - Mandate renewed: April 4, 2024
- **Venezuela – Independent International Fact-Finding Mission**[492]
    - Mandate established: September 27, 2019
    - Mandate renewed: October 7, 2023

APPENDIX IV: FUNDING INITATIVE FOR ATROCITY VICTIMS: CONSULTATIONS AND EVENTS,* DECEMBER 2017–MAY 2021

December 2017

Briefing of "A New Funding Mechanism for the International Criminal Court" at a side event to the Annual Meeting of the Assembly of States Parties of the International Criminal Court (New York City)

December 2018

Briefing of "A Funding Initiative for the Trust Fund for Victims" before the Board of Directors of The Trust Fund for Victims (The Hague)

July 2019

- Peter Maurer, president, International Committee of the Red Cross (Geneva)
- Stijn Houben, transitional justice, European External Action Service (Brussels)
- Andrej Kirn, lead, Humanitarian Agenda, International Organisations and Informal Gatherings of World Economic Leaders (IGWELs), World Economic Forum (Geneva)
- Philomena Cleobury and Marc Schacter, legal counsels, UN High Commissioner for Refugees (Geneva)
- Valentin Zellweger, Ambassador of Switzerland to the United Nations (Geneva)
- Roberta Dariol, International Justice, European External Action Service, European Union (Brussels)
- Aileen McLeod, Member of the European Parliament from Scotland (Brussels)

September 2019

- Roberta Dariol, International Justice, European External Action Service, European Union (Brussels)
- Stijn Houben, transitional justice, European External Action Service, EU (Brussels)
- Andrej Kirn, lead, Humanitarian Agenda, International Organisations and IGWELs, World Economic Forum (Geneva)
- Aileen McLeod, Member of the European Parliament from Scotland (Brussels)

October 2019

- Giovanni Pio, head of Global Change Management, World Food Programme (Rome)

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* *Dr. Caroline Kaeb participated only in select consultations and events during the years 2018 and 2019.*

- Mauro Politi, former judge, International Criminal Court, and professor, University of Trento (Rome)
- Simone Budini, project manager, Ethics, Responsibility, and Sustainability Hub at LUISS University Business School (Rome)
- Officials in the legal counsel's office, North Atlantic Treaty Organization (Brussels)
- Several European Parliament officials (Brussels), including Gonzalo Urbina Trevino (Parliamentary research administrator, Directorate-General for External Policies of the Union, European Parliament), Marika Lerch (Parliamentary research administrator, Directorate-General for External Policies of the Union, European Parliament), and a Member of the European Parliament's Human Rights Committee
- Roberta Dariol, International Justice, European External Action Service, European Union (Brussels)
- Stijn Houben, transitional justice, European External Action Service, EU (Brussels)

December 2019

- Andrew Clapham, international law professor, Graduate Institute of International and Development Studies (Geneva)
- Cecile Aptel, director, Policy, Strategy and Knowledge Department, International Federation of Red Cross and Red Crescent Societies (Geneva)
- Mauro Politi, former judge, International Criminal Court, and professor, University of Trento (Rome)
- Thomas Hammond, senior land officer, Land and Water Division, Climate, Biodiversity, Land and Water Department, UN Food and Agriculture Organization (Rome)
- Shaza Saker, program officer, UN Food and Agriculture Organization (Rome)
- Marie-Therese Maurice, founder and director, Changing the World 1 Minute at a Time (Rome)
- Gerhard Werle, professor of international law, Humboldt University (Berlin)
- Fatou Bensouda, prosecutor, International Criminal Court (The Hague)
- Delegates to the Annual Meeting of the Assembly of States Parties of the International Criminal Court (The Hague)
- International Criminal Court staff and Assembly of States Parties delegates at reception hosted by the Coalition of NGOs for the International Criminal Court (The Hague)

February 2020

- Eric Schwartz, president, Refugees International (Washington, DC)
- Morse Tan, US Ambassador at Large for Global Criminal Justice, and staff at the Office of Global Criminal Justice, Department of State (Washington, DC)
- Sara Dill, partner, Anethum Global, and chairwoman, Middle East Committee, International Bar Association (Washington, DC)
- Georgia Harley, senior governance specialist, Global Governance Practice, World Bank (Washington, DC)
- Roberta Dariol, International Justice, European External Action Service, European Union (Brussels)

- Elisa Moretti, quality management officer, Human Rights, Gender, Democratic Governance, Directorate-General for International Cooperation and Development, European Commission (Brussels)
- Reka Dobri, policy officer, Humanitarian Aid Thematic Policies, Directorate-General for European Civil Protection and Humanitarian Operations, European Commission (Brussels)
- Kip Hale, legal counsel, Commission for International Justice and Accountability

March 2020

- Michael Pates, director, Center on Human Rights, American Bar Association; and Kristin J. Smith, director, International Criminal Court Project, and staff attorney, Criminal Justice Section, American Bar Association (Washington, DC)
- Stephen A. Seche, ambassador (ret.) and executive vice president, Arab Gulf States Institute; Raymond E. Karam, chief program and development officer, Arab Gulf States Institute; and Sara Elizabeth Dill, partner, Anethum Global, and chairwoman of the Middle East Committee of the International Bar Association (Washington, DC)
- Natasha Lebedeva, director, International Affairs, NBC News (Washington, DC)
- Stefanie A. Lindquist, senior vice president, Global Academic Initiatives, and foundation professor, Law and Political Science, Arizona State University; and Clint Williamson, ambassador (ret.) and senior director, Global Rule of Law, Governance and Security, McCain Institute, Arizona State University (Washington, DC)
- Morse Tan, US Ambassador at Large for Global Criminal Justice, and staff at the Office of Global Criminal Justice, Department of State (Washington, DC)
- Maud Le Moine, executive director, Investment Banking Division, Goldman Sachs International (London)

May 2020

- Cristián Correa, senior expert, International Center for Transitional Justice (New York)
- Norbet Wuhler, formerly of the International Organization for Migration and director of Germany's Forced Labor Compensation Fund Program (Germany)
- Officials of Parliamentarians for Global Action, including Executive Director David Donat Cattin, Jennifer McCarthy, Melissa Verpile, and Rebecca Short (various global locations)
- Clara Dandoval, professor, Essex University, and reparations researcher, Inter-American Court of Human Rights (Essex, UK)
- Luc Moffett, professor, Queen's University (Belfast, Northern Ireland)
- Tara Van Ho, lecturer, School of Law and Rights Centre, University of Essex (Essex, UK)

July 2020

Karen Kunz, associate professor of public administration, West Virginia University (Morgantown, West Virginia)

February 2021

- Maya Shah, head of operations, Global Survivors Fund (Geneva)
- Maud Le Moine, head of SSA Debt Capital Markets, Goldman Sachs & Co. LLC, and Maya Shah, head of operations, Global Survivors Fund, at Council on Foreign Relations Virtual Roundtable: Can Social Bonds Help Save the World?[493]
- William H. Wiley, founder and executive director, Commission for International Justice and Accountability

March 2021

Nerma Jelacic, director, Management and External Relations, Commission for International Justice and Accountability

April 2021

- Senior fellows' briefing on Social Bonds and Atrocity Victims, Council on Foreign Relations
- Gideon Rose, Mary and David Boies Distinguished Fellow in US Foreign Policy, Council on Foreign Relations (New York)
- Lisa Shields, vice president, Global Communications and Media Relations, Council on Foreign Relations (New York)

May 2021

Maya Shah, head of operations, Global Survivors Fund (Geneva)

APPENDIX V: SOVEREIGN CREDIT RATINGS

Country	S&P Rating
United Kingdom	AAA
Switzerland	AAA
Sweden	AAA
Singapore	AAA
Norway	AAA
Netherlands	AAA
Luxembourg	AAA
Liechtenstein	AAA
Hong Kong	AAA
Germany	AAA
Finland	AAA
Denmark	AAA
Canada	AAA
Australia	AAA
Czech Republic	AA/AA-
Chile	AA/A+
Israel	AA-/A+
Taiwan	AA-
Saudi Arabia	AA-
Japan	AA-
Estonia	AA-

Country	S&P Rating
United States	AA+
New Zealand	AA+
France	AA+
Austria	AA+
Qatar	AA
Kuwait	AA
Belgium	AA
South Africa	A/BBB+
Malaysia	A/A-
Thailand	A-/BBB+
Mexico	A-/BBB
Brazil	A-/BBB
Malta	A-
Botswana	A-
Korea, South	A+/A
United Arab Emirates	A
Trinidad and Tobago	A
Slovenia	A
Slovakia	A
Poland	A
Oman	A

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