

Transitional justice

Topic guide

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GSDRC, International Development Department, College of Social Sciences
University of Birmingham, B15 2TT, UK

www.gsdrc.org

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Summary

Transitional justice seeks to address the destructive and painful legacies of mass violence and human rights violations. It involves mechanisms and processes such as truth-telling, criminal prosecutions, reparations, memorialisation, traditional justice, cultural interventions, vetting and institutional reform. The application of transitional justice is often more effective with a combination of mechanisms, to enable greater innovation and a comprehensive approach that evolves over time.

This guide provides an overview of the field of transitional justice. It discusses key mechanisms, relevant factors to consider when working in transitional justice, and topics of growing interest to scholars, practitioners, local actors and communities.

Factors important to the design of transitional justice strategies, processes and mechanisms include the following:

- **Local context and ownership:** Mechanical and top-down design and implementation of transitional justice is unlikely to resonate with local needs, meanings and practices, and can undermine a sense of legitimacy and ownership. It is crucial to learn about local perceptions, preferences and practices and to incorporate them.
- **Participation and inclusive processes:** Inclusive participation has the potential to empower local people and to challenge a range of exclusions and power relations at local, national and international levels. Potential difficulties to address include the ability to identify, hear and incorporate multiple voices; and the ability of communities to mobilise and articulate their needs and priorities.
- **Outreach:** Careful public outreach, including a variety of targeted messages to all relevant groups, could contribute to public support for transitional justice efforts. In the absence of such outreach, there can be a gap between the goals of transitional justice and the needs and perceptions of the societies it seeks to serve.
- **Timing and sequencing:** It can be beneficial to view transitional justice as a continuous process of transformation. In some cases, implementing certain initiatives before society is ready can produce more divisions. Ongoing political economy and conflict analysis can help to identify risks, changes in incentive structures and new opportunities to promote transitional justice.
- **Coordination with other sectors:** It is important to eliminate the frequent disconnect between transitional justice objectives and strategies and other humanitarian and development interventions. Improving relationships between sectors can enable better assessment of how their different goals and actions affect each other.

Key transitional justice topics include:

- **The impact of transitional justice:** There is currently limited systematic evidence on the impacts of transitional justice. Nonetheless, many claims have been made about the positive effects transitional justice can have on societies recovering from violent conflict. Sceptics argue instead that it can undermine negotiated settlements and worsen divisions. Research on impacts is emerging, but is still in the early stages – and currently points to mixed findings.

- **Socioeconomic rights and development:** There have been growing calls to expand the focus of transitional justice beyond political and civil rights to cover socioeconomic inequalities and systemic marginalisation. The main approach emphasised is the promotion and enforcement of economic, social and cultural rights. Others argue for a more far-reaching approach ('transformative justice') that seeks to question liberal political and economic agendas. Sceptics argue, however, that transitional justice does not have the tools to delve into development issues.
- **Reconciliation:** This is often identified as a specific goal of transitional justice, generally, and in many transitional justice processes and mechanisms. Reconciliation can apply at many levels: individual (psychological), interpersonal (personal friendships), community (inter-group relationships), societal (common civic goals and action) and political (state-citizen relations). There is much uncertainty about whether transitional justice contributes to reconciliation, at its varying levels. Greater empirical research on impact is needed, along with more efforts to explicitly address social repair in initiatives.
- **Art and transitional justice:** Cultural and artistic projects (e.g. drama, photography, dance) can make victims visible and, in some cases, provide them with spaces to share their experiences for the first time. Such interventions can also amplify the work of other transitional justice mechanisms by publicising, for example, the findings of a truth commission in an accessible and powerful way.
- **Gender and youth:** The nature and consequences of mass violence differ significantly for men, women and children. It is important for transitional justice processes and mechanisms to incorporate these varying perspectives and needs. The narratives that emerge should highlight gender disparities and explore the links between masculinity and violence. Transitional justice initiatives also need to be accessible to women and children, including for example by providing childcare and producing child-friendly literature.
- **Diaspora, refugees and IDPs:** Transitional justice mechanisms have focused primarily on institutions and populations within national borders. There has, however, been growing recognition of the importance of involving diasporas, refugees and internally displaced persons. Their involvement is important in itself, as many will have been victims of human rights violations. It can also contribute to greater diversity of perspectives, more comprehensive truth telling, higher levels of international awareness and the ability to address social divisions within diasporas. There are various challenges, however, including the operational and technical difficulties of extending transitional justice mechanisms across various countries.

1 Concepts and mechanisms

1.1 Introduction

The impact of violent conflict on a country's society, economy and political governance is devastating and broad. The effects can be tangible and visible, including killed and injured civilians, destroyed or derelict bridges and wells and damaged or inadequate health care and education facilities. They can also be intangible, such as the collapse of state institutions, mistrust in government, the disruption of social cohesion, psychological trauma and pervasive fear. It is increasingly recognised that legacies of mass violence and human rights violations can, if left unaddressed, fuel future conflicts. Transitional justice seeks to address the legacies of large-scale past abuses, and includes mechanisms such as truth-telling initiatives, criminal prosecutions, reparations processes, cultural interventions, vetting and institutional reform.

The notion of transitional justice as a separate field of research and action emerged during the 'third wave' of democracy in Latin America in the 1980s and in Eastern Europe after the fall of the Soviet Union in the 1990s. At the time, it focused on addressing dictatorial or authoritarian regimes and the transition of societies to democracies. Since then, the field has evolved from being a human rights instrument of democratisation to become an essential aspect of post-conflict transitions and peace-building interventions (Andrieu, 2010).

The UN defines transitional justice as 'the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation' (UN Security Council, 2004).

By helping establish the truth and a permanent record of mass violence and human rights violations, transitional justice has the potential to assist communities to understand the root causes, to counter denial and to engage in conflict prevention. It also has the potential to restore personal dignity and provide spaces for dialogue and reflection (see González & Varney, 2013).

Transitional justice processes are inherently political in that they involve often contentious decisions and actions based on power, interest and prudence (Vinjamuri & Snyder, 2015). Support to such processes cannot be considered neutral and purely technical, but should be acknowledged as political, with the potential to produce both positive and negative effects (Barsalou, 2005; Thoms et al., 2008; Sancho, 2014). Decisions on, for example, whom to prosecute (high-, medium- or low-ranking officials; perpetrators of a particular ethnic group; solely domestic or also international actors) are political and are rarely perceived by societies, groups and individuals affected by the conflict as neutral. With regard to truth commissions, the narratives that emerge tell a particular story about a nation's traumatic past. This involves political determinations about what is included or left out (Andrieu, 2010).

Transitional justice initiatives interact in complex, unpredictable ways with other aspects of peace negotiations, peace-building or post-authoritarian transitions (Thoms et al., 2008). While transitional justice should not be expected to solve complex conflicts, it provides tools that could help alleviate conflict (Arthur, 2009). It is about the pursuit of justice, in various forms, in exceptional circumstances constrained by politics and resources (Duthie & Seils, 2016).

This guide aims to provide an overview of the field of transitional justice. It outlines key transitional justice mechanisms and looks at factors critical to the design of strategies, processes and mechanisms: local context and ownership; participation and inclusive processes; outreach; timing and sequencing; and coordination with other sectors. The guide also discusses select topics that are of growing interest to transitional justice researchers and practitioners and of much importance to the individuals, communities and societies that transitional justice actors seek to reach and address: the impact of transitional justice; socioeconomic rights and

development; reconciliation; art and transitional justice; gender and youth; and diaspora, refugees and internally displaced persons (IDPs).

1.2 Mechanisms

Transitional justice mechanisms usually have limited timeframes and specific mandates. They include truth commissions, trials, traditional mechanisms, reparations, memorialisation, vetting and institutional reform. Institutional reforms are aimed at democratising and building public trust in state institutions. They overlap with many broader reforms in conflict-affected and fragile contexts. Vetting processes assess the integrity of individuals to determine suitability for public employment and to exclude those responsible for serious human rights violations (OHCHR, 2006). They also are often an important part of broader security and justice institution reform (see the GSDRC [Safety, Security and Justice](#) Topic Guide for further discussion). Trials, truth commission, traditional mechanisms, reparations and memorialisation are discussed below.

The application of transitional justice is often more effective with a combination of different mechanisms (Olsen et al., 2010a; Ramji-Nogales, 2010). This allows a more innovative and comprehensive approach to evolve over time, which can satisfy various dimensions. For example, some mechanisms may be more appropriate to address issues of procedural fairness; others may resonate more with local populations (Ramji-Nogales, 2010). In some cases, however, the adoption of multiple mechanisms may be problematic, as their roles could become confused or even at odds with one another. In Sierra Leone, for example, some perpetrators did not tell the truth at the Truth and Reconciliation Commission (TRC) as they were concerned they would face prosecution at the Special Court for Sierra Leone, which was operating at the same time but separate from the TRC (ibid.).

Truth commissions

Truth commissions are official, non-judicial commissions of limited duration established to investigate human rights abuses, usually those perpetrated by military, government or other state institutions. They seek to hear testimonies (from victims, witnesses and perpetrators) and officially acknowledge truths. This provides victims with recognition and creates an authoritative, factual record of human rights abuses. In some cases, this includes statements about responsibility and/or detailed lists of perpetrators' names. In some cases, such information has been provided as evidence to assist with prosecutions. Hearings may be public or closed (González & Varney, 2013; Brankovic & van der Merwe, 2014).

Public hearings, made common by the South African TRC, can be a powerful outreach activity, providing victims with the opportunity to speak out and to achieve a sense of personal vindication, while also involving the public. The South African TRC allowed full access to television cameras to document the proceedings, which made it possible to draw the entire nation into the process as receivers of the testimony (Cole, 2014). The Peruvian TRC partnered with universities across the country, training students to provide support to victims giving testimony at public hearings (González & Varney, 2013).

One of the key outputs of truth commissions is a comprehensive report that documents human rights violations and war atrocities – with the aim of contributing to building a collective memory and educating the public. The final report produced should be considered an important national document. The Report of the Argentine National Commission on the Disappeared, 'Nunca más', for example, is widely used for civic education in the country and has been reprinted and reproduced in various formats to reach larger audiences (González & Varney, 2013). Truth commissions can also provide recommendations aimed at addressing the root causes and outcomes of the conflict. Often, this involves countering inequalities in society through institutional reform and developing a reparations policy (González & Varney, 2013; Brankovic & van der Merwe, 2014).

Many truth commissions are tasked with promoting societal and national reconciliation. Providing a forum to disclose past atrocities, hear each other's grievances and possibly reach common understandings is considered an important step towards reconciliation. In some cases, activities aimed specifically at fostering reconciliation are organised (González & Varney, 2013; Bakiner, 2014). In Timor-Leste, for example, the Commission for Reception, Truth and Reconciliation partnered with indigenous communities to reintegrate low-level perpetrators who wanted to return to their homes and make amends with those they offended (González & Varney, 2013). Truth commissions can also promote reconciliation through recommendations in their final report. In Peru, the TRC suggested that reform of state institutions could contribute to reconciliation between the government and the citizenry (ibid.). The Liberian TRC's final report documented the need to implement community reconciliation initiatives among the diaspora. This recommendation propelled the development of such programming (Young & Park, 2009).

In order for truth commissions to have an impact on societies, politicians need to be genuinely committed to the process and to provide commissions with the necessary support and resources. Lack of political will, public input and support and careful planning can undermine the effectiveness of truth commissions (Grotsky, 2009; Quinn, 2009). In the case of the Haitian *Commission Nationale de Vérité et de Justice* (CNVJ), for example, a lack of political will and popular support, along with numerous institutional constraints (including lack of capacity, increasing security concerns, and shortages of time and funding), led to the failure of the Commission to contribute appropriately to the acknowledgement of Haiti's conflicted past and to advance reconciliation in the country. Although the Commission collected significant amounts of data on the conflict, it failed to make a lasting impact as the final report was not publicised well and there were no follow up activities (Quinn, 2009).

Truth-telling is not limited to official, state-based truth commissions. Truth-telling initiatives can also be unofficial and rooted in civil society. Although unofficial truth commissions may not be able to establish a society-wide dialogue about the past, benefits of community-level truth-telling include the ability to be more context-driven and creative and to connect more with communities (Bickford, 2007).

For further discussion, see section 3.1 on the impact of transitional justice.

Tools and guidance

- González, E., & Varney, H. (Eds). (2013). *Truth seeking elements of creating an effective truth commission*. Brasilia: Amnesty Commission of the Ministry of Justice of Brazil; New York: ICTJ. <https://www.ictj.org/sites/default/files/ICTJ-Book-Truth-Seeking-2013-English.pdf>
- Arthur, P. González, E., Lam, Y., Rice, J., Rodríguez-Garavito, C., & Yashar, D. J. (2012). *Strengthening indigenous rights through truth commissions: A practitioner's resource*. New York: ICTJ. <https://www.ictj.org/sites/default/files/ICTJ-Truth-Seeking-Indigenous-Rights-2012-English.pdf>

Trials

Trials can take different forms, including international, hybrid and national courts and transnational criminal and civil proceedings. International courts have taken the form of *ad hoc*, temporary tribunals – notably the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) in the 1990s. The International Criminal Court (ICC) was established in 2002 to serve as a permanent international tribunal. Under Article 17 of the Rome Statute of the

ICC, the Court can intervene only where a state is 'unable or unwilling to genuinely to carry out the investigation and prosecute the perpetrators'.

Hybrid or mixed courts, located within the country in which the crimes were perpetrated, have been introduced as a mechanism for combining international intervention and support for the national judicial system. Hybrid courts are often considered to incorporate the benefits of both international and national courts. They allow for international expertise and contribute to capacity-building of national legal systems. In addition, their situation in the local setting allows for greater ownership and potential impact on the population. National courts also engage in prosecuting international crimes, often through special sections, for example the War Crimes Chamber in the State Court of Bosnia and Herzegovina (BiH).

The effectiveness of mixed and national prosecutions depends significantly on the national or local justice system, which may be weak and defective, particularly in fragile and conflict-affected states. There is a tendency to have national trials designed and staffed by international actors in order to address this capacity gap. This can, however, cause frictions with local actors. In BiH, for example, the local judiciary felt their expertise was neglected. Even in the case of hybrid tribunals (such as in Cambodia, Timor-Leste and Sierra Leone) that lend themselves to capacity-building and knowledge transfer, experience has shown that capacity-building has been limited in part because of conflicts of interest. It is necessary for international actors to take specific additional measures to strengthen local capacity (AIV & CAVV, 2009). In Rwanda, thousands of lawyers have been trained over the past decade and have been able to replace foreign lawyers involved in genocide trials (*ibid.*). This can be an important component not only of capacity-building but also of outreach (see Lambourne, 2010).

At the same time, however, domestic prosecutions in Rwanda (which were supported with international funding) were undermined due to inadequate due process protections, politicisation and poor detention conditions (van Zyl, 2005). This was due in part to insufficient resources. In addition, after a period of sustained human rights violations, populations are often unwilling to accept the idea that suspects also have rights. Aside from building up a physical and knowledge infrastructure, transitional justice mechanisms can specifically help to establish a culture of human rights. Communication and outreach strategies are essential here (AIV and CAVV, 2009).

For further discussion, see section 3.1.

Traditional justice systems

Traditional justice systems are increasingly seen as an integral mechanism through which to implement transitional justice (Triponel & Pearson, 2010). Traditional systems are often referred to by other terms, such as customary, informal, community-based, grassroots, indigenous and local (Allen & Macdonald, 2013). Their appeal lies in their potential to resonate more with local populations and thus to be more effective in providing a sense of justice and restoring community relationships. They are more familiar to local populations and allow for local contexts to be incorporated into transitional justice processes. They can also be faster and more convenient to implement.

A comparative analysis of traditional justice mechanisms in Burundi, Mozambique, Rwanda, Sierra Leone and Uganda finds there are often high degrees of public participation in these mechanisms and sharing of experiences. Some form of truth-telling is integral to many traditional mechanisms and reconciliation is a primary goal, often focusing on the return of ex-combatants. The focus on reconciliation does not, however, exclude desires for acknowledgement, responsibility and restitution (Huysse, 2008).

The focus on traditional justice has gained momentum since the *gacaca* community courts were set up in Rwanda. The Government of Rwanda gave the public a large role in selecting who would implement the traditional justice system. Judges were elected from among the local population over which they had jurisdiction, following the accepted custom regarding *gacaca* courts (Triponel & Pearson, 2010).

In Timor-Leste, a smaller-scale grass roots traditional justice mechanism – the Community Reconciliation Process – was adopted, with the aim of reintegrating people who had committed ‘less serious’ harmful acts during the political conflicts into their communities. This involved a series of community-based hearings to determine how to reintegrate perpetrators, for example the performance of community service (Triponel & Pearson, 2010).

Various studies of traditional justice systems have raised concerns about the persistence of ethnic, religious, generational and gender hierarchies and divisions at the local level, which can limit the effectiveness of such practices—and perpetuate inequalities (Valji, 2009; Andrieu, 2010; Allen & Macdonald, 2013; Gready & Robins, 2014). There may also be practical limitations, as community-level justice mechanisms are usually not developed to address the scale or types of atrocities committed during such conflicts (Valji, 2009; Allen & Macdonald, 2013). In addition, if traditional justice mechanisms are ‘hijacked’ by international actors, institutionalised and implemented in a top-down fashion, they may no longer resonate with local populations. There has been much criticism of the implementation of the *gacaca* system in Rwanda in this regard (Huyse, 2008; Andrieu, 2010; Allen & Macdonald, 2013; Gready & Robins, 2014).

For further discussion, see section 2.1 on local ownership.

Reparations

Reparations refer to various measures that aim to redress past wrongs and provide compensation, rehabilitation and satisfaction for victims. These measures can involve the provision of material reparations, such as cash payments, or goods or services (e.g. education and physical and mental health assistance). Reparations also include symbolic measures such as disclosure of truth, public apologies, memorials and monuments (see memorialisation below), and commemoration of victims (de Greiff, 2006). Where the number of victims in need of reparation is exceptionally high, for example in the case of reparations for displacement, symbolic reparations may be particularly appropriate (Duthie & Seils, 2016).

Reparations can be judicial or non-judicial and can be allocated individually or collectively—such as the building of a school or hospital (see section 3.2 on socioeconomic rights and development). For some victims, reparations are the most tangible manifestation of state efforts to remedy the harms they have suffered, having a direct impact on their welfare (de Greiff, 2006).

Official public apologies have gained prominence in recent years as an important form of symbolic reparation. This is a formal, solemn and usually public acknowledgment of past human rights violations. It involves recognition of what survivors have suffered and acceptance of some or all responsibility by the party apologising (state, group or individual). In some cases, an apology may form part of the recommendations of truth commission reports; in other instances, victims’ groups may drive it. The process of developing consensus for the need for an apology could help societies face the past and work toward non-repetition (Carranza et al., 2015).

The emphasis on apologies should not eliminate the need for other reparative measures, such as restitution and health services that could address physical needs of victims. In Canada, for example, the apology for Indian Residential Schools was preceded by the settlement of a class-

action lawsuit and implementation of reparation payments and services, in addition to a state-sponsored report acknowledging the human rights violations (Carranza et al., 2015).

Tools and guidance

- OHCHR. (2008). *Rule-of-law tools for post-conflict states: Reparations programmes*. New York and Geneva: Office of the United Nations High Commissioner for Human Rights. <http://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf>
- De Greiff, P. (2006). *The handbook of reparations*. Oxford: Oxford University Press. <http://www.oxfordscholarship.com/oso/public/content/politicalscience/9780199291922/toc.html>

Memorialisation

Memorialisation refers to a range of processes and forms of collective remembrance. Memorials, museums, monuments and other places of memory represent important sites where the past can be confronted. Throughout the world, prior sites of atrocity, torture and genocide, mass grave sites and other similar locations have been turned into public memorials, drawing innovatively on the memorialisation of the Holocaust (Bickford, 2014). Unlike other transitional mechanisms, such as prosecutions and truth commissions, memorialisation can involve large numbers of people over long periods of time. It can also be initiated by both communities and governments (Hamber et al., 2010).

These memory sites often have the dual aim of providing for education/learning and redress/reflection. In terms of education and social learning, the experience is aimed at creating empathy for the victims as fellow human beings and providing information about the brutality of harms inflicted upon them. In so doing, the aim is also to prevent future episodes of mass atrocity (Bickford, 2014). The goal of redress involves helping survivors and those who lost loved ones to have a space to reflect and to grieve. The Vietnam Veterans Memorial in Washington, DC, the hillside Halabja Memorial in Iraq and the 8,000 graves at the Srebrenica-Potočari genocide memorial in BiH, for example, have all been designed to provide such a space. Where the two aims co-exist at one site, the design is often to have one part of the site for reflection and another part, similar to a museum, to facilitate learning (ibid.).

One of the key challenges of memorialisation is determining how to address the narrative of past atrocity, which can be highly contested. Memorial sites can be used to force a specific ideology onto society, becoming more about glorification than memorialisation (Hamber et al., 2010). They can also be used to lay blame on one group over another, which can exacerbate tensions (Andrieu, 2010; Bickford, 2014). In some cases, sites avoid presenting one narrative and aim instead to promote critical thinking and debate. This, however, may be unsatisfactory to victims and may undermine efforts to develop shared values (Hamber et al., 2010).

In order to maximise the impact of memorial sites, they require long-term investment, ongoing programmes and evaluation. Exactly how memorialisation supports social reconstruction or transitional justice is not well documented. It is beneficial to explore how memorialisation can work with other transitional justice mechanisms to further increase impact (Hamber et al., 2010).

For further discussion, see section 3.1.

2 Approaches: Designing transitional justice strategies and programming

2.1 Local context and ownership

Transitional justice processes and mechanisms have been critiqued for being prescriptive and top-down – created and supported by the international community and national elites rather than tailored to the specific society. The prevailing policy options of criminal prosecutions and truth commissions (sometimes simultaneously) have resulted in an ‘almost prescriptive approach to “best practices” in dealing with the past’ (Fletcher et al., 2009, p. 210). Such a mechanical design and implementation of transitional justice in the immediate aftermath of violence may not resonate with local needs, meanings and practices, undermining a sense of legitimacy and ownership (Ramji-Nogales, 2010; Garbett, 2012; Gready & Robins, 2014; USAID, 2014; Robins & Wilson, 2015). A study on local perceptions of various *ad hoc* tribunals, hybrid courts and truth commissions around the world finds that failure to incorporate local preferences in design processes has often resulted in a disconnect between the mechanism and local populations and in some cases widespread rejection of the particular mechanism (Ramji-Nogales, 2010).

Local ownership is thus essential to effective transitional justice initiatives. Commentators suggest that, to build national ownership into such initiatives, it is necessary to understand and integrate existing traditions and cultures and to take into account the needs, views and attitudes of local populations at all stages (see van Zyl, 2005; Lutz, 2006; Fletcher et al., 2009; Garbett, 2012). While relying on universal standards of justice and human rights, it is essential to consider what is perceived as justice locally (Valji, 2009). For example, while legal trials may ‘honour’ victims in Western terms, such structured processes for eliciting victims’ testimony may not be appropriate in all settings. Other forms of storytelling may be more fitting (Barsalou, 2005).

It is important for academics and policy-makers to learn about local preferences and perceptions of transitional justice (Ramji-Nogales, 2010; AIV & CAVV, 2009). This can be facilitated through empirical studies of the perceptions of local populations, focus groups and surveys of local traditions (Ramji-Nogales, 2010). Before the Commission for Reception, Truth and Reconciliation in Timor-Leste was established, for example, a steering committee underwent various consultations throughout the country to determine what kind of truth commission would most suit local needs (Triponel & Pearson, 2010). An understanding and incorporation of local preferences in transitional justice strategies can help determine the most appropriate mechanism(s), and could increase the legitimacy of transitional justice (Ramji-Nogales, 2010).

National processes and international actors have often neglected spontaneous community initiatives to address local impacts of violence (Gready & Robins, 2014). It is important to study existing practices at the local level. In Guatemala, a range of local mechanisms were implemented in the aftermath of conflict. These included memorialisation initiatives, psycho-social interventions, exhumations and conflict resolution based on Mayan methods. Such local practices should not replace national or international initiatives, but they can provide essential guidance on what would or would not resonate at a national level, what forms of reconciliation have already occurred and what remains to be done (Arriaza & Roht-Arriaza, 2008).

Working with traditional actors is not, however, risk free. Localised justice is also a product of local power structures and dynamics, which may in some cases oppress certain groups (women, minorities), perpetuate inequalities and violate human rights (Valji, 2009; Andrieu, 2010; World Bank, 2012; Gready & Robins, 2014). It is important to critically evaluate local practices – to ask whom these practices serve and whether they have been compromised over time (Valji, 2009).

There may also be practical limitations to local mechanisms in the context of mass violence. Community-level justice mechanisms were often not developed to address the scale or types of atrocities committed during such conflicts (Valji, 2009; Allen & Macdonald, 2013). As such, they should be evaluated and considered on a case-by-case basis (World Bank, 2012).

2.2 Participation and inclusive processes

Marginalisation and disempowerment are often at the core of human rights violations (USAID, 2014). Victimhood in turn results in further disempowerment, as the crimes ordinarily place victims in a situation where they are denied control and are subject to the perpetrators' will (Pena & Carayon, 2013). Allowing victims to be heard and to make decisions for themselves can play a role in addressing the loss of self-esteem and confidence that can result from victimisation (Pena & Carayon, 2013; USAID, 2014).

Inclusive participation in all aspects of transitional justice processes (design, implementation, evaluation) can be important not only in fostering local ownership and perceptions of legitimacy (Ramji-Nogales, 2010; USAID, 2014) but also as an opportunity to empower local populations and challenge a range of exclusions and power relations at local, national and international levels (Andrieu, 2010; World Bank, 2012; Gready & Robins, 2014; USAID, 2014). Victims need to be seen at the core of transitional justice measures and given recognition as rights-holders, so as to enable them to become 'citizens' again (Valji, 2009; Ramji-Hogales, 2010; Edwards, 2013).

The participation of victims in transitional justice has often been interpreted narrowly, however, as playing a role as a witness in judicial or truth-telling processes. Such participation through testimony, while critically important, offers little agency in terms of design and implementation of transitional justice mechanisms (Gready & Robins, 2014; Robins & Wilson, 2015). Participation should also seek to transform victimhood and victims into agents of change, encouraging their access to and involvement in transitional justice processes. Such participation can be a key element of empowerment, in which the marginalised access and shape key institutions (Gready & Robins, 2014). This can generate a more meaningful, respectful and legitimate process for all involved—victims, transitional justice actors and society (Arthur et al., 2012).

Specific transitional justice institutions have attempted to provide opportunities for communities to be active participants in their operations, rather than viewing them solely as witnesses (USAID, 2014). The structure of the Extraordinary Chambers in the Courts of Cambodia (ECCC) includes victim participation, for example, whereby victims can not only appear as witnesses but also file complaints as civil parties and be represented by civil party lawyers in court proceedings (Lambourne, 2010). The Rome Statute of the ICC specifies the right of victims to participate in judicial proceedings. This provision is designed to encourage genuine engagement with victims, which was considered lacking in the *ad hoc* tribunals, and to acknowledge and address their needs and concerns, which may differ from the prosecution's case (e.g. an independent need for public acknowledgement). Encouraging victims to be able to make their own decisions from the start (e.g. choice of counsel) may also give them a sense of agency (Pena & Carayon, 2013).

There is also increasing recognition and acceptance among policy-makers of the importance of a victim-centred approach and of community participation in transitional justice, such as the need to consult with conflict-affected communities in the design of transitional justice strategies (USAID, 2014). While it is accepted that it is important to focus on the sectors of the society particularly affected by the violence, the question of whom to consult can still be challenging—to determine and to implement.

It can be difficult to identify and engage with traumatised, marginalised groups to ensure multiple voices are heard (UK InterAgency Group on Rights, 2009). In some cases, it will be

important to include not only the victims of conflict but also the perpetrators. Child soldiers in Sierra Leone, for example, are considered victims and perpetrators of violations, and their views on transitional justice are particularly important (Triponel & Pearson, 2010). Regional viewpoints should also be taken into account, as atrocities are likely to have had different impacts in various parts of the country. The TRC in Peru, for example, set up five regional offices to promote participation from all the parts of the country (ibid.). Involving refugees and diaspora communities also affected by the violence is essential yet challenging to implement (see section 3.6 on diaspora, refugees and IDPs). Different groups can have very different ideas about how to address a violent past and what they need to come to terms with it. It can thus be difficult to balance the varying needs of individuals, different groups and society as a whole (Andrieu, 2010).

Communities themselves may also find it challenging to take advantage of opportunities to influence design and implementation. To participate effectively, they need to be able to articulate their needs and priorities, to understand and critique proposed policies. They also need to know how to use mobilisation and advocacy strategies to ensure their voice is heard. As such, some may benefit from training and capacity-building in these areas (USAID, 2014).

Tools and guidance

- USAID. (2014). *Community participation in transitional justice: A role for participatory research*. Washington, DC: USAID.
<https://www.usaid.gov/sites/default/files/documents/1866/CPTJUSAID.pdf>

2.3 Outreach

Outreach programming comprises a set of tools and strategies that transitional justice measures put in place to communicate with the affected communities in which they operate. They are devised to raise awareness and understanding of the aims and functioning of transitional justice processes and mechanisms (Ramírez-Barat, 2014). Careful public outreach, including a variety of targeted messages to all relevant groups, could contribute to public support for transitional justice efforts and state institutions (Arthur, 2009; Sancho, 2014). Outreach channels of communication include (see González & Varney, 2013; Ramírez-Barat, 2014):

- Dissemination of information on the goals, structure and working procedures of the initiative. This could comprise printed, online and audiovisual media. Interaction with the community can be fostered through online resources, town hall-style meetings, fairs, radio programmes and cultural activities, such as theatre performances.
- Promotion of open dialogue by transitional justice institutions beyond the initial dissemination of information phase.
- Establishment of consultation channels with various stakeholders, allowing society, and victims' groups in particular, the opportunity to have a say in the work of established transitional justice initiatives.
- Openings for local participation (local governments, civil society and victims groups) in the design and implementation of transitional justice measures.

There is growing consensus that outreach is an essential component of any transitional justice process (Lambourne, 2010; Vinck & Pham, 2010). In the absence of effective outreach programming, there can often be a gap between the goals and actions of transitional justice mechanisms and the needs and perceptions of the society. Trials, truth commissions and other

transitional justice mechanisms will be restricted in their effect on societies in transition if the public are not familiar with the processes and do not perceive them as fair or just.

In the case of BiH, for example, perceptions of ethnic bias in the indictments of the ICTY and War Crimes Chamber and lack of confidence in the institutions are prevalent. The absence of an active outreach programme and engagement with the press in the early years allowed politicians and local media to fill the void and shape the discourse with misinformation and biased criticisms (Cole, 2007; Ramji-Nogales, 2010; Ahmetašević & Matic, 2014). There have since been various attempts to improve outreach, but some of the damage has been irreparable (Ahmetašević & Matic, 2014). Various commentators find that outreach efforts are still insufficient. Strategies to better communicate and engage with affected populations, such as regular press conferences and outreach visits to towns and cities, could help provide more comprehensive information and contribute to transparency (Garbett, 2012). Reaching out to groups that may be apathetic, hostile or simply unaware of the work of the War Crimes Chamber could also be beneficial. While the Court of BiH has been effective in bringing in, informing and engaging with audiences that are keen on interaction (victims' groups, NGOs, academics), it has not developed any initiatives to reach out to groups that may be most sceptical of its work (Barbour, 2014).

Public awareness is necessary for the basic functioning of transitional justice mechanisms. Testimonies can be gathered only if affected communities are aware of and understand the existence of the tribunal or truth commission (Ramírez-Barat, 2014). Public awareness is also essential to build society's trust in the transitional justice measure, to ensure the transparency of proceedings and to promote understanding of the institutions and perceptions of legitimacy (AIV & CAVV, 2009; Vinck & Pham, 2010; Ramírez-Barat, 2014). Special attention has been paid to explaining the legal process and emphasising that these transitional justice mechanisms are not aimed at any one group but rather seek individual accountability (Vinck & Pham, 2010). Outreach can also improve the legitimacy of measures by managing expectations of what these can and cannot achieve (Ramji-Nogales, 2010). In recent years, the aims of outreach activities have expanded beyond promoting transparency and awareness to include engagement and participation of affected communities (see prior sections on local ownership and participation).

There is insufficient empirical research to determine the most beneficial ways to reach out to communities in conflict-affected societies. There is an assumption that developing proactive public information and outreach is sufficient to improve public awareness and knowledge; however, this may not be the case. A study evaluating the ICC's outreach activities finds that popular mass media, such as radio and newspaper in Sub-Saharan Africa, can reach large segments of the population. They find this insufficient, however, as key victim groups, such as women, are often information poor and do not have access to media (Vinck & Pham, 2010). Their sources of information are interpersonal communication channels. Strategies need to be developed and invested in to target hard-to-reach populations (*ibid.*). In some cases, civil society groups, which have closer links with and a deeper reach into victims' communities than official institutions, can be important in facilitating outreach.

Children and youth are another group considered excluded from general communication channels and, as a result, from transitional justice processes. Specific outreach is thus necessary here. This has rarely been available, however, particularly given the low budgets generally for outreach (Ladisch & Ramírez-Barat, 2014). Online tools may offer opportunities to reach young people, inside and outside the classroom, through interactive websites and games. Social media strategies and tools also have implications for funding and staffing, however. If transitional justice institutions intend to include new media as part of their communications and outreach strategies, they need to invest adequately in staffing and infrastructure (Crittenden, 2014).

Outreach activities should also extend to future generations in order to have a longer-term effect.

Transitional models and outreach should pay far greater attention to history education and the incorporation of the findings of transitional justice mechanisms in educational curricula (Cole, 2007). This has happened in very few countries. In South Africa, the TRC produced a complex and difficult-to-digest seven-volume report, which was not accessible by the majority of the population. The TRC did not have any strategy to provide appropriate materials that could be used to teach about the Commission and its work in schools. In contrast, in Guatemala the Commission for Historical Clarification (CEH) produced accessible copies of its conclusions and recommendations to be printed in newspapers and placed in public libraries. School programmes have begun to incorporate teachings of the CEH findings (ibid.).

Outreach activities targeted at diaspora communities should be incorporated into transitional justice mechanisms. Outreach to exiles by truth commissions in Argentina, Chile and Ecuador prompted them to engage in the process by giving testimonies at embassies and consulates in their host countries or returning to their home country to testify in person (Haider, 2014).

For further discussion on children and youth, see section 3.5. For more on diaspora and transitional justice, see section 3.6.

Tools and guidance

- Ramírez-Barat, C. (2011). *Making an impact: Guidelines on designing and implementing outreach programs for transitional justice*. New York: International Center for Transitional Justice.
<http://ictj.org/sites/default/files/ICTJ-Global-Making-Impact-2011-English.pdf>

2.4 Timing and sequencing

Transitional justice measures are often designed and implemented hastily in the immediate aftermath of violence. Rushing transitional justice objectives could jeopardise the buy-in of key elites around peace-making, political settlement and/or constitutional reform processes that could lay the foundation for more inclusive political settlements. At the same time, failure to acknowledge and address legacies of mass violence during transition could mean the country runs the risk of continued violence in the future (World Bank, 2012).

A qualitative study on outcomes of trials and truth commissions in various countries finds that countries that experienced international transitional justice interventions in the immediate post-conflict phase demonstrate mixed results in terms of internal political stability and support. On the other hand, countries that were self-reliant and proceeded with transitional justice slowly benefited through greater internal political stability and support (Fletcher et al., 2009). The study also finds that all countries examined modified their original transitional justice responses after a moderate period of time in order to better satisfy the needs of victims. This demonstrates that state responses to mass violence are dynamic rather than static (ibid.).

It is thus beneficial to view transitional justice as an ongoing process of transformation. In some cases, implementing initiatives before society is ready can produce more divisions. It may be better to delay the building of memorials, for example, until enough time has passed to allow survivors to reach more nuanced or balanced views about what happened during the conflict, such that memorials will not be divisive (Barsalou, 2005).

Ongoing political economy and conflict analysis can help identify risks, changes in incentive structures, new opportunities and implications for transitional justice strategies and implementation (World Bank, 2012). Shifts in the balance of power could mean initial amnesty

(or immunity) is later displaced by formal justice interventions, as with the later indictment of Chilean dictator Augusto Pinochet. In Cambodia, dramatic changes in later years resulted in the initiation of criminal prosecutions of the Khmer Rouge (AIV & CAVV, 2009). Allowing too much time to pass, however, can be problematic, as there are now only a few people who can still be prosecuted and evidence is much more difficult to produce (AIV & CAVV, 2009).

2.5 Coordination with other sectors

Coordination among various actors involved in, connected to and affected by transitional justice is important (Edwards, 2013). A disconnect often remains between those focusing on transitional justice objectives and strategies and on other humanitarian and development interventions (Thoms et al., 2010; World Bank, 2012). For example, while the ICC seeks to challenge the power of perpetrators, this may not be the goal of development and humanitarian organisations. Moreover, this aim of the ICC could deepen violence on the ground and affect the work of the other development and humanitarian actors (Balasco, 2013). Efforts to improve the relationship between the ICC and humanitarian and development organisations on the ground could allow for better assessment of how the work of the Court could affect human security and the larger field of post-conflict reconstruction (ibid.).

Various specific sectors are linked to transitional justice. Two examples are disarmament, demobilisation and reintegration (DDR) and education. DDR often takes place alongside transitional justice initiatives in conflict-affected societies. It typically involves dismantling the command structures of armed groups and reducing the size of fighting forces and the number of weapons in circulation. Ex-combatants are either assisted to return to civilian life, with reintegration packages including cash or non-monetary benefits such as vocational training or counselling, or merged into new national security forces (de Vries & van Veen, 2010; Muggah, 2010).

Despite the traditional segmentation of transitional justice and DDR in research and practice, there are various ways in which DDR and transitional justice processes and mechanisms overlap and could be designed to benefit the other (see Haider, 2011a). DDR processes are often challenged by commanders or warlords who refuse to disarm and demobilise and constrain their combatants from doing so. In such circumstances, prosecutions of these spoilers and their removal from the situation could allow for the DDR of the combat unit or group (Patel, 2009a; Witte, 2009). In the case of lower-level combatants, targeted amnesties (or reduced penalties) for crimes of a political nature, such as treason and rebellion, can serve as an incentive for participation in DDR programmes (Bryden et al., 2005; Duthie, 2005; Patel, 2009a). The distribution of DDR benefits can also be made conditional on an ex-combatant not being suspected of or charged with committing human rights abuses (Sriram & Herman, 2009). They can also be made conditional on participation in or cooperation with transitional justice measures (Duthie, 2005; Patel, 2009b; Sriram & Herman, 2009).

Education is another sector for which there have been recent calls for more systematic consideration of its relationship with transitional justice. The account of past harms that emerges from transitional justice initiatives, such as truth commissions and trials, could be incorporated into formal history textbooks. Currently, there is a lack of coordination between these two processes (Cole & Barsalou, 2006). In addition, truth commissions have often produced findings about the role of education in contributing to conflict, and offered recommendations on its reform and on the development of a curriculum that teaches the recent past and fosters a culture of peace (Ramírez-Barat & Duthie, 2015). Incorporating the findings of truth commissions into curricula has been challenging, however. In South Africa, for example, despite a truth commission recommendation to introduce human rights into the curricula, no action was taken (UNICEF Innocenti Research Centre & ICTJ, 2010).

Education can more broadly be viewed as part of a societal response to the legacies of mass violence, in terms of engaging younger generations in a dialogue about the past, reforming the education system from a human rights perspective, fostering social cohesion and incorporating lessons from transitional justice processes into educational curriculum (Ramírez-Barat & Duthie, 2015). Educational tools are also important in extending outreach to youth and engaging them in transitional justice processes. As part of its outreach strategy, the Special Court for Sierra Leone, for example, had primary school students visit the court and court officials visit classes in schools. Given these linkages, it would be beneficial to bring educators and transitional justice actors together early in the processes. Transitional justice initiatives should also consider incorporating an educational mandate in their work (Ramírez-Barat & Duthie, 2015).

For further discussion on education and transitional justice, see sections 2.3 (Outreach) and 3.5 (Gender and youth).

3 Thematic aspects of transitional justice

3.1 Impact of transitional justice

There is currently limited systematic evidence on the impacts of transitional justice. There is, however, growing recognition of the need to engage in such empirical research. Research is emerging, but still in the early stages. Nonetheless, many claims have been made about the positive impacts transitional justice can have on societies recovering from violent conflict. These include promoting reconciliation and psychological healing, respect for human rights and rule of law and helping establish the conditions for democratic and peaceful government (Thoms et al., 2010). Sceptics argue instead that many transitional justice measures can undermine negotiated settlements and exacerbate divisions.

An extensive survey of studies on transitional justice mechanisms (focusing on trials and truth commissions) finds insufficient empirical evidence of either positive or negative effects at the state level of analysis. Many early findings are questionable or contradictory and thus cannot provide useful guidance to policy-makers in making sound decisions and policy choices (Thoms et al., 2010). Even if transitional justice does achieve goals, there is limited knowledge of when, why or how it might do so (Olsen et al., 2010a).

An empirical analysis of data collected on five transitional justice mechanisms (trials, truth commissions, amnesties, reparations and lustration) for all countries in 1970–2007 finds specific combinations of mechanisms—trials and amnesties; trials, amnesties and truth commissions—can contribute positively to human rights and democracy (Olsen et al., 2010a). Trials can provide accountability and amnesties can provide stability, advancing democracy and respect for human rights. Truth commissions can also increase accountability by revealing systematic patterns of abuse; and provide guidance for reforms to improve human rights protections. On their own, however, truth commissions can have a negative impact on human rights (ibid.).

Drawing on the experiences of truth commissions in Brazil, Chile, Nepal, South Africa and South Korea, a related study finds that, although truth commissions are incapable of promoting stability and accountability on their own, they contribute to human rights improvements when they complement and enhance amnesties and prosecutions (Olsen et al., 2010b). Additional research is needed to determine whether commissions are successful in achieving other important goals, such as establishing an official truth about the past and giving voice to victims (Olsen et al., 2010a).

Literature that focuses on truth commission impact finds different effects on democracy and human rights. While some find that truth commissions have a weak negative impact or no observable impact at all, others find a positive independent effect on human rights conduct (see Bakiner, 2014). Divergent results may owe to different research strategies (qualitative and quantitative) (ibid.). A review of the literature finds that qualitative studies tend to see more positive effects of truth commissions than quantitative studies (Salehi & Williams, 2016).

Another review of existing literature on truth commissions finds evidence that truth commissions have had positive political impacts, albeit modestly and to different degrees, focusing on government policy (acknowledgement of human rights violations and willingness to implement truth commission report recommendations) and judicial change (use of findings for prosecutions). This is particularly the case when human rights and victims' groups pressure governments for policy implementation (Bakiner, 2014). The review also finds that two factors that influence the degree of impact include the truth commission's mandate and the role commissioners and staff play in interpreting this and interacting with stakeholders, and their decisions on what to include

in the report (*ibid.*). Although a lot of research has focused on the design and implementation of truth commissions, relatively few studies have assessed the individual psychological and emotional effects of national truth-telling on victims. A study assessing the available evidence on the impact of transitional justice finds little evidence to support either positive or negative claims about the effects of truth commission on victims (Mendeloff, 2009).

In contrast with truth commissions, a review of literature on trials finds that quantitative studies tend to see more positive impacts on human rights and peace (positive impact, no negative impact or no effect at all), whereas qualitative studies are more sceptical and find a better record for amnesties (Salehi & Williams, 2016). A statistical analysis on the role of international criminal tribunals and domestic human rights trials in peace-building in post-conflict societies finds that, while they do not appear to exercise any negative effects, they also do not seem to contribute to reducing the recurrence of civil war or improvements in human rights practices (Meernik et al., 2010). Again, more research is called for to provide more intensive analysis of the impact of domestic trials and international tribunals, in light of these findings (*ibid.*).

Memorials, museums and places of memory represent important sites to confront the past. The way memorialisation supports transitional justice and social reconstruction is, however, not well documented (Hamber et al., 2010). An assessment of the impact of memorialisation in Bangladesh, Chile and Italy—focusing on youth programming—finds memorial sites have had various positive impacts on the young people who visit them. These include changing opinions, raising awareness, improving relationships, encouraging civic engagement and increasing emotional understanding of the human consequences of atrocity. Whether such sites can contribute to reconciliation, violence prevention or respect for human rights depends largely on the extent to which they are linked to other wider mechanisms of reform (*ibid.*).

For further discussion on the impact of transitional justice on reconciliation, see section 3.3.

3.2 Socioeconomic rights and development

The field of transitional justice has historically focused on violations of political and civil rights. Where conflict and group divisions are embedded in deeper socioeconomic inequalities and legacies of exploitation, however, processes and mechanisms may be limited in their impact if they fail to link to broader economic and social transformation (Brankovic & van der Merwe, 2014). There have been growing calls in the past decade by transitional justice actors to expand the field's focus to socioeconomic disparities and inequalities and systemic marginalisation (see Fletcher et al., 2009; Brankovic & van der Merwe, 2014; Gready & Robins, 2014; Szoke-Burke, 2015). This would allow for greater attention to the roots of conflict and grave violations—and could contribute to more stable and sustainable political transitions (*ibid.*).

The main approach to incorporating socioeconomic issues into transitional justice emphasised in the literature is the promotion and enforcement of economic, social and cultural rights (ESCRs) (Brankovic & van der Merwe, 2014). The truth commissions in Kenya, Liberia, Peru, Sierra Leone and Timor-Leste have discussed socioeconomic marginalisation of specific identity groups and investigated and made recommendations on ESCRs. However, in general, structural inequalities and ESCR violations have received little attention in practice (Brankovic & van der Merwe, 2014; Gready & Robins, 2014).

Arguments in favour of including violations of ESCRs in transitional justice include the following:

- Socioeconomic grievances are often an important element of conflict dynamics and atrocities and thus need to be properly investigated and understood (Szoke-Burke, 2015).
- Victims and local populations often prioritise these rights and issues (Gready & Robins, 2014). A study on perceptions of the TRC in Sierra Leone, conducted in a town in the rural north of the country, found justice for those victimised by social and economic violations necessarily included a new social, economic and political order in which social services such as education, health care and jobs were a possibility (Millar, 2011).
- Properly addressing ESCRs and socioeconomic injustices—which may have been part of the root causes of conflict—could contribute to preventing the renewal of violence and human rights violations (Gready & Robins, 2014; Szoke-Burke, 2015).
- These rights are considered non-negotiable (Szoke-Burke, 2015). In addition, the human rights field has stressed the equal importance and indivisibility of civil–political and socioeconomic rights (Gready & Robins, 2014; Schmid & Nolan, 2014). ESCRs are now justiciable in many forums (Szoke-Burke, 2015).
- Highlighting ESCRs could contribute to the development of a fuller conception of rights and justice in transitioning countries (Gready & Robins, 2014).

Despite these considerations, many commentators advise caution when considering whether to include ESCRs within transitional justice mandates. They believe this would require transitional justice to delve into development issues, and that its tools and strategies are not well equipped to do so (see Szoke-Burke, 2015). There are concerns that including such rights would produce overly high expectations that transitional justice could eradicate poverty and inequalities or ensure socioeconomic development. This would be particularly difficult given the time-limited nature of transitional justice initiatives and the limited funding available to them (*ibid.*).

Others feel that, while such expectations would indeed be unrealistic, transitional justice could still make an important contribution (Schmid & Nolan, 2014). For example, forced displacement—which involves violations of the right to an adequate standard of living and housing, among other socioeconomic rights—can be the subject of truth finding and recommendations. In some cases, the mere acknowledgement of ESCRs may be sufficient to push the state to fulfil its obligations to prevent breaches of these. In addition, the civil and political violations and rights that transitional justice seeks to address, such as ensuring the right to a fair trial, involve long-term processes (Szoke-Burke, 2015).

Some transitional justice scholars recommend going beyond human rights discourse towards a more ‘transformative justice’ discourse, questioning the liberal political and economic agendas that underpin the field (see Brankovic & van der Merwe, 2014). They argue transitional justice processes have the potential to reveal the continuities between past and present socioeconomic exclusion and structural harms. A reconceptualisation of transitional justice would enable actors to pay more attention to socioeconomic issues in addressing the legacies of abuses, bringing together economic with legal, psychological and political justice to transform structures and relations (Waldorf & Lambourne, cited in Schmid & Nolan, 2014). There are concerns, however, that this would result in a model that includes too much and is overstretched and impractical.

One strategy to rein in the extension of transitional justice to cover violations of all socioeconomic rights is to develop a categorisation of harms and focus on the concept of subsistence harms (Sankey, 2014). Subsistence harms comprise ‘deprivations of the physical, mental and social needs of human subsistence’. They constitute particularly grave harms,

involving direct forms of violence—attacks on homes, livelihoods and basic resources—and producing devastating, long-term impacts on survivors and communities (ibid., p. 126).

Various transitional justice mechanisms have the potential to explore and address socioeconomic issues and the fulfilment of ESCRs. Truth commissions have, to date, given their limited mandates, focused largely on violations of civil and political rights. In some rare instances, they have delved into socioeconomic issues and investigated violations of ESCRs (OHCHR, 2014). The Guatemalan CEH, for example, acknowledged that the state had deprived indigenous peoples of their traditional economic activities, caused their forced displacement and forced them into conditions of extreme poverty (ibid.). Other commissions have addressed the socioeconomic roots of conflict without specific reference to the human rights framework. The Liberian TRC, for example, was mandated to investigate ‘economic crimes, such as the exploitation of natural or public resources to perpetuate armed conflicts’ (ibid.).

Truth commissions could more routinely expand their mandates to explore the socioeconomic causes of conflict and make recommendations towards addressing poverty and structural inequalities that lead to violence (Laplante, 2008). They could characterise socioeconomic marginalisation as violations of ESCRs, which would trigger government obligations and facilitate civil society advocacy (Szoke-Burke, 2011).

Criminal tribunals have jurisdiction over international crimes such as genocide, crimes against humanity and war crimes. Several of these crimes are connected to violations of ESCRs, and this is reflected in some of the jurisprudence of international and hybrid tribunals (OHCHR, 2014). The ICTY, for example, has successfully prosecuted conduct that violated ESCRs, such as the rights to work, to health and to an adequate standard of living (Szoke-Burke, 2015).

Some of the literature emphasises that reparations programmes have great potential to produce socioeconomic impacts (Gready & Robins, 2014). They have the potential to directly affect victims’ socioeconomic position, involving the transfer of goods, money or other services to victims (e.g. compensation or restitution of land, scholarships or increased access to health services) in response to violations of ESCRs (Szoke-Burke, 2015). In order to maximise the impact of reparations, it is important to look at the structures that underpinned the harms done and to ensure acts of violence are not decontextualised. The role of reparations in unequal societies should attempt to transform the circumstances of victims away from poverty and discrimination (Gready & Robins, 2014). Chile’s National Commission of Truth and Reconciliation recommended the state adopt measures to improve the welfare of victims in areas such as social security, health, education and housing. Parliament passed a reparations law to implement the recommendations, so as to provide a certain level of economic stability to surviving victims in the form of pension payments and access to educational and health benefits (OHCHR, 2014).

Collective reparations can address collective harms and rights on a community level. They are a form of distribution of public goods or services designed to benefit all members of a particular community, group or region, rather than specific individual victims (Szoke-Burke, 2015). Some reparation programmes, such as those in Peru and Uganda, have framed development projects as collective reparations for the historic systematic exclusion of specific communities (Brankovic & van der Merwe, 2014).

Large-scale reparations, such as the construction of hospitals, schools or infrastructure, can serve to remedy violations of the rights to health, education, water etc. (Szoke-Burke, 2015). There are some concerns, however, that reparations programmes will conflate a state’s developmental obligations with its duty to redress victims (Brankovic & van der Merwe, 2014). Reparations should not become a substitute for development (Gready & Robins, 2014). In addition, the impact of reparations programmes on the realisation of ESCRs may be limited, given that such programmes often face serious implementation and financing problems (OHCHR, 2014).

3.3 Reconciliation

Reconciliation has been articulated as a specific goal of many transitional justice processes and mechanisms (Skaar, 2013). A review of transitional justice literature finds that reconciliation is considered the 'ultimate goal' of transitional justice, with the view that it is essential to preventing a renewal of conflict (Oduro, 2007: pp. 2–3). There is limited consensus, however, on what reconciliation entails and how it should be promoted. It has been defined as 'a process through which a society moves from a divided past to a shared future' (Bloomfield, 2003: p.12). From a peace-building perspective, it may be seen as the process of repairing relationships at all levels of society and confronting dominant narratives of the past (Rodicio, 2001; Halpern & Weinstein, 2004; Chapman, 2009).

At the individual level, reconciliation may entail psychological interventions to address war trauma. At the interpersonal level, it involves restoring intimate, personal relationships between old friends. At the community level, it has been identified with efforts to promote intergroup relationships and to challenge stereotypes and perceptions of the 'other' and of one's own group. The development of common civic goals and collective civic action are considered important at the societal level. At the wider political level, reconciliation has been associated with efforts to foster representative institutions, commitment to the rule of law, positive state–citizen relations and nation-building (Halpern & Weinstein, 2004; Stover & Weinstein, 2004; Barsalou, 2005; Chapman, 2009).

The ambiguity and potential breadth of the concept of reconciliation makes it difficult to assess the extent to which transitional justice is fulfilling its aim. Regardless of the perspective adopted, there has been growing recognition that the link between transitional justice and reconciliation is tenuous, however, with insufficient empirical knowledge and evidence to support claims that transitional justice processes and mechanisms promote (or undermine) reconciliation (Thoms et al., 2010; Skaar, 2013).

The contemporary conflicts that transitional justice mechanisms seek to address are ones in which group identity was violently targeted at the communal and interpersonal level. Widely shared collective fear, distrust and hostility developed and persist. The psychosocial dynamics of individual and collective trauma are not, however, fully understood by the transitional justice field (Brankovic & van der Merwe, 2014). There is little consideration of the role transitional justice mechanisms must play in negotiating and addressing collective psyches and of the mechanisms' actual impact on trauma, group identities and perceptions (see Haider, 2011b).

A recent assessment of current knowledge on the relationship between trials, truth commissions and traditional justice systems, on the one hand, and reconciliation on the other, finds inconclusive evidence on their linkages (Skaar, 2013). In the case of prosecutions, they can promote group reconciliation, contributing to truth-telling and the individualisation of guilt; others find they do not resolve the problem of collective guilt and may backfire by creating perceptions that perpetrators targeted by the court are scapegoats and victims, exacerbating tensions (*ibid.*). The empirical evidence is inconclusive as to how trials could influence reconciliation at varying levels (individual, societal or national) (*ibid.*). While the focus of criminal prosecutions on individual accountability aims to counter perceptions of collective responsibility and the demonisation of entire groups, dominant myths and narratives may be unwavering in polarised societies, forming a part of individual and collective identity (Arthur, 2009). A survey of ICTY witnesses found that, while they felt their participation in trials was beneficial, it had not changed their attitudes about other national groups (either positively or negatively) (Stover, 2004). Some argue trials may even exacerbate divisions and intensify ethnic identity politics. The historical record produced by the ICTY has been used by political propagandists to further the view that their national group is the victim of the conflict, causing further suspicion and fear among divided communities (Fletcher & Weinstein, 2002; Stover & Weinstein, 2004).

Many truth commissions have included reconciliation as a specific end goal in their mandate. Similar to the case of trials, much of the literature claims that truth-telling processes enabled by truth commissions can contribute to individual and intergroup reconciliation (see Skaar, 2013). Some argue instead that too much truth-telling can generate more social cleavages and truth-telling can lead to re-traumatisation for individuals giving testimony (ibid.). This may be particularly the case for women, given the stigma of speaking out about sexual violence (Brounéus, 2008). Much of the evidence on truth commissions is country-specific and based on descriptive narrative and anecdotal evidence, resulting in different findings on whether the mechanism is linked to reconciliation. Even in the context of South Africa, different studies have produced varying results (Skaar, 2013).

Traditional justice systems are widely considered in the literature to promote reconciliation through specific rituals that directly engage victims and perpetrators, include elements of dialogue or rites and aim at social inclusion and reintegration rather than punishment (Skaar, 2013). Studies on local justice practices have also been limited to individual case studies. A review of country studies (Mozambique, Northern Uganda, Rwanda, Timor-Leste) finds that, while traditional justice can contribute to community-level reconciliation, this usually does not translate into breaking down divisions at the national level (Skaar, 2013). There is also limited empirical knowledge regarding the effects of truth-telling initiatives

The debate about whether transitional justice contributes to reconciliation has not yet reached a conclusion. Claims made are still in need of empirical support. In the face of such uncertainty, it may be that efforts to build a sustainable peace require not only transitional justice mechanisms but also activities that seek specifically to rebuild relationships and promote reconciliation (Haider, 2011b). In deeply divided societies in particular, positive outcomes may be highly dependent on the ability to create meaningful forms of cross-cultural communication (Brankovic & van der Merwe, 2014).

Transitional justice could contribute more effectively to the process of reconciliation by supporting and working alongside coexistence initiatives and incorporating coexistence frameworks within its own processes and mechanisms. Coexistence initiatives—such as dialogue facilitation, intergroup projects aimed at achieving shared goals and media campaigns designed to reframe the ‘other’—can help restore trust, transform perceptions and rebuild relationships in divided societies. There are various ways in which transitional justice and coexistence work could support one another (see Haider, 2011b). For example, people interacting with each other across group divides, through coexistence initiatives, may be more willing to explore and understand the facts uncovered and decisions made in trials, rather than focusing on divisive preconceptions of collective guilt and victimisation. Truth-finding mechanisms could include as part of their mandate helping unify people, and could document positive as well as negative narratives in order to break down harmful stereotypes. Specifically, truth commissions could uncover the stories of those who sought to save the lives of members of the ‘other’ group, thus focusing on a narrative of common humanity (ibid.).

For further discussion on impact, see section 3.1. For more on reconciliation, see the GSDRC topic guide on [conflict](#).

3.4 Art and transitional justice

Art and transitional justice is an emerging area of scholarship that explores how cultural and artistic projects (public art installations, photography, dance, music theatre, literature, film, memorials) can open up spaces for new political thinking, possibilities and action (Garnsey, 2016). Cultural interventions can contribute to the aims of transitional justice by making victims visible. They can comprise more accessible forms of transitional justice (d'Evie, 2014). In some cases, they may afford victims the spaces in which to share their experiences safely for the first time (de Greiff, 2014). Free of institutional constraints, such intimate spaces can provide a sense of safety for discussions about human rights abuses (Ramírez-Barat, 2014).

Cultural and artistic projects also have the potential to evoke powerful reactions among the audience to the effects of human rights violations on the lives of victims in ways that other forms of communication, such as official truth commission reports, may not (de Greiff, 2014). By using symbols, metaphors, or parables—or by linking individual and personal experiences to collective narratives—cultural and artistic projects can capture public attention, trigger empathy and foster dialogue (Ramírez-Barat, 2014). Such transformations of societal attitudes towards victimisation are critical in affecting transitions (de Greiff, 2014).

In Afghanistan, participatory theatre oriented around transitional justice has opened up spaces for communities, particularly victims, to share their stories and construct collective meanings. This space has been particularly important given the absence of transitional justice measures in the Afghan context. Approximately 80 percent of the initial theatre participants were women (Siddiqui & Joffre-Eichhorn, 2014). Efforts were made to include participants in as many aspects of workshop preparation as possible and to give them control over the process. The theatre productions have enabled memory and truth-seeking, in different forms than other transitional justice mechanisms. Participants can present their stories simultaneously, enabling multiple narratives to be heard. While theatre provides the spaces to express feelings of fear, anger, pain and suffering, there are risks that re-enacting such narratives could be traumatic for participants.

Cultural and artistic interventions can also amplify the work of other transitional justice mechanisms. REwind, for example, was an art installation created to commemorate the 10th anniversary of the South African TRC. Testimonies from the Commission were depicted in the installation through the use of seven screens and music, drawing on emotive sounds and symbols. Viewers were encouraged to physically engage with the artwork through seeing and hearing it. The individual narratives were activated to take on collective significance (Garnsey, 2016). The exhibit raised questions, however, as to the implications of selecting certain testimonies and not others, and reinterpreting and performing other people's stories (ibid.).

Art projects have also been created specifically for diaspora communities. In Toronto, for example, organisers of a non-state memorialising project, Fragments, invited members of diasporas to submit artefacts that represented their personal narratives, past or contemporary experiences and micro-truths. The outcome was an exhibition that allowed for interaction among diasporas and sharing and acknowledgment of one another's truths and narratives (d'Evie, 2014). Some diasporas involved submitted objects that symbolised a move beyond victimhood to agency. One survivor of the genocide in Rwanda, for example, submitted a pamphlet for a charitable organisation she founded in Canada to help Rwandan orphans (ibid.).

3.5 Gender and youth

The nature and consequences of human rights violations differ significantly for men, women and children. The needs of men, women and children in the aftermath of mass violence can also differ. Transitional justice processes and mechanism should incorporate these varying perspectives and ensure the needs of women and children are met.

Gender

The *ad hoc* international criminal tribunals (ICTY and ICTR) broke new ground in the mid-1990s by prosecuting systematic sexual violence against women as a crime against humanity and recognising rape as a war crime (ICTY) and as a crime of genocide (ICTR). The ICC has further sought to advance the rights of women with an expanded definition of what amounts to sexual and gender-based violence (SGBV) in the context of international or non-international armed conflict (see Lambourne & Carreon, 2016). Despite this progress, there remain a large number of victims of sexual abuses in some contexts that have not received justice or any broader recognition as victims and rights holders (Sancho, 2014).

There have been growing calls to broaden transitional justice from efforts to ensure accountability for systemic SGBV against women to a more ‘transformative’ justice that seeks to understand the multiple harms experienced by women and to address issues of patriarchy and gender inequalities (see Lambourne & Carreon, 2016). It is argued that restitution should not entail a return to restrictive gender roles that preceded violent conflict (O’Rourke, 2012) (see also section 3.2 on socioeconomic rights and development).

Gender should be mainstreamed into all transitional justice strategies, processes and mechanisms. In the case of trials and truth commissions, the psychological harm and socioeconomic implications of SGBV—and the consequences of testifying—require greater attention and support. In many societies, victims of SGBV are ostracised and rendered unmarriageable, which can have profound and lasting social and material effects. Actors working on trials and at truth commissions need to ensure women feel safe to testify and are given support to deal with the repercussions of their testimony (Lambourne & Carreon, 2016).

Truth commissions were originally established in a gender-blind fashion. Following the lead of the South African TRC, subsequent truth commissions (Liberia, Peru, Sierra Leone, Timor-Leste) have created gender units and implemented measures to increase women’s participation. Such measure can include providing childcare and safe transport (Valji et al., 2010). Women have also been appointed as commissioners and experts.

The narrative truth commissions develop should also explore the links between masculinity and violence and unequal power relations and gender inequality as potential root causes of conflict (González & Varney, 2013). The Sierra Leone TRC, for example, was the first to make a connection between ‘extraordinary’ violence against women during the civil war and ‘ordinary’ violence they experienced before and continue to experience since the war (Lambourne & Carreon, 2016). Truth commissions (Sierra Leone and Timor-Leste) have recommended reparations for victims of SGBV. Some argue, however, that such reparations are rarely adequate to redress for the multiple harms they have suffered (ibid.).

Reparations are usually not designed to address root causes of violence or to transform gender relations (Lambourne & Carreon, 2016). In addition, it is recognised that the principle of restitution is often not appropriate, since a return to more restrictive gender roles that preceded violent conflict may not be desirable (O’Rourke, 2012). Some policy-makers and academics argue that gender-just reparations should be ‘transformative’ rather than solely restorative—going beyond direct relief and support of victims to initiatives aimed at structural change (see Walker,

2016). On an operational level, reparations programmes need to ensure their design is not disadvantageous for women and or that they help eliminate barriers to women's access to reparations. For example, monetary payments may be of little use for women who lack access to bank accounts (Valji et al., 2010; Walker, 2016). In addition, reparations, considered gender-neutral, have in some instances been disproportionately inadequate for women. In South Africa, for example, gender-neutral payments of a modest flat sum to all victims did not recognise the likelihood that many female victims had lost a bread-winner and had multiple dependants, and thus required greater support (Walker, 2016).

Children and youth

In many violent conflicts, children and youth suffer disproportionately, through direct violence and indirectly through violations against their caregivers. They need to be considered and included in transitional justice efforts to receive recognition as victims, to regain agency and to provide a fuller picture of past violations (Bah, 2009; Aptel & Ladisch, 2011; Ladisch & Ramírez-Barat, 2014). Even where young people are not among the most directly or severely affected by human rights violations, they are important stakeholders in transitional justice. Children and youth need to understand the past in order to play a constructive role in prevention (Aptel & Ladisch, 2011). If transitional justice seeks to advance new social norms and contribute to civic trust, it needs to reach out to youth, who comprise a potential broad base of support.

To date, however, transitional justice processes and mechanisms have not systematically included children and youth (Aptel & Ladisch, 2011). There are almost no examples of consultations by transitional justice bodies that include children and youth. The one exception is the Children's Consultation on the Truth and Reconciliation Commission Bill, held in Nepal in November 2009 by the Ministry of Peace and Reconstruction, with the mediation of the UN Children's Fund (UNICEF). The aim of this was to gain information about how children's issues should be included in the bill and to involve children actively in deliberations about setting up the truth commission. Ultimately, however, the results from the consultation were not incorporated in the truth commission's draft bill (Ladisch & Ramírez-Barat, 2014).

There should be special considerations when engaging children in transitional justice, including ensuring the best interests of the child, their physical safety and psychosocial well-being and their anonymity (Aptel & Ladisch, 2011). Special care must be given to avoid re-victimising children or exposing them to traumatic information that they are unable to process (González & Varney, 2013).

With regard to particular transitional justice initiatives, children require better access to criminal justice. There should be greater efforts to foster the prosecution of those responsible for crimes against children and procedures should be made child-friendly (Aptel & Ladisch, 2011). Truth commission mandates should make clear reference to violations suffered by children and efforts should be made to gather statements from children (González & Varney, 2013). The Sierra Leone TRC was the first to explicitly mention children in its mandate. The Act to Establish the Truth and Reconciliation Commission in Liberia noted the role of children and outlined measures to protect them (UNICEF Innocenti Research Centre & ICTJ, 2010).

It is also important that transitional justice mechanisms invest in creating materials that are accessible to younger audiences, such as child-friendly versions of truth commission reports that could be introduced into school curricula (Bah, 2009; Aptel & Ladisch, 2011). This has rarely been done (UNICEF Innocenti Research Centre & ICTJ, 2010). Outreach programmes and activities should also be tailored to children and youth. The Peruvian and Liberian truth commissions, for example, have specifically undertaken child- and youth-oriented outreach activities. Limited budgets for outreach generally, however, have constrained the breadth and effectiveness of outreach to children and youth (Ladisch & Ramírez-Barat, 2014) (see section 2.3).

Providing reparations to children and youth is a relatively new area of transitional justice. Reparations should aim to help children and youth have the tools and resources necessary for a productive life—for example compensation for lost years of schooling through accelerated educational programmes (Aptel & Ladisch, 2011). Currently, few reparation programmes have explicitly recognised children as beneficiaries; where they have been recognised, there have been difficulties with design and implementation (UNICEF Innocenti Research Centre & ICTJ, 2010; Aptel & Ladisch, 2011). Careful planning is needed to determine how children and youth could learn about and access benefits (UNICEF Innocenti Research Centre & ICTJ, 2010).

For further discussion on children and youth, see the sections 2.3 and 2.5.

Tools and guidance

- Aptel, C., & Ladisch, V. (2011). *Through a new lens: A child-sensitive approach to transitional justice*. New York: International Center for Transitional Justice. <https://www.ictj.org/sites/default/files/ICTJ-Children-Through-New-Lens-Aptel-Ladisch-2011-English.pdf>
- UNICEF Innocenti Research Centre & ICTJ. (2010). *Children and truth commissions*. Florence: UNICEF. https://www.unicef-irc.org/publications/pdf/truth_commissions_eng.pdf

3.6 Diaspora, refugees and IDPs

Transitional justice mechanisms have focused primarily on institutions within national borders and have had limited outreach to populations outside the home country (Mey, 2008; Rimmer, 2010). While the opinions of home country residents about transitional justice options have in certain contexts been solicited, this has rarely been the case for refugees or IDPs (Iyodu, 2012). However, displacement is integrally linked to the human rights violations that transitional justice mechanisms seek to address. Violations such as mass killing, torture and rape can lead to displacement. In addition, violations such as the destruction of homes and property are aimed at preventing people from returning home. Moreover, displacement itself is a rights violation. Displaced people are also often particularly vulnerable to human rights violations (Duthie & Seils, 2016). Truth commissions in Guatemala, Liberia, Sierra Leone and Timor-Leste have examined the role of displacement in conflict and the suffering and stigma endured by the displaced (ibid.).

There has been growing interest in and recognition of the importance of involving diasporas, refugees and IDPs in transitional justice (see Haider, 2014). One way refugee and diaspora communities have been involved is in providing input to transitional justice strategies. The Kenyan Truth, Justice and Reconciliation Commission, for example, conducted interviews in 2011 with refugees in camps in Uganda to determine how communities that fled the electoral violence in 2007 could be included in transitional justice processes (Iyodu, 2011). Effective consultation and involvement of diasporas, refugees and IDPs can help frame responses to atrocities in terms of measures of acknowledgement, accountability and redress (Duthie & Seils, 2016).

Transitional justice mechanisms have in various instances specifically incorporated refugee and diaspora communities in their design and implementation. The most comprehensive effort to date to involve diasporas in all aspects of a transitional justice mechanism is the Liberian TRC. Recognising that the Liberian diaspora played a role in starting the civil war and that key witnesses, alleged perpetrators and other conflict actors were known to be among the diaspora, the Commission was mandated to include them in its activities (Young & Park, 2009; Antwi-

Boateng, 2012). This resulted in a series of public hearings held in cities overseas with a strong Liberian diaspora presence.

Diaspora communities themselves have mobilised to initiate transitional justice initiatives or to further ongoing processes. In the 1990s, the Haitian diaspora community effectively pushed for the truth commission for Haiti. They created a proposal outlining the parameters for the commission's activities and lobbied for its implementation. Once the commission was in place, the diaspora participated from abroad, sending written accounts and in some cases coming to testify before the commission (Quinn, 2009). Diasporas have also been active in pushing for justice through trials pursued under universal jurisdiction laws. Universal jurisdiction legislation in various European countries has enabled prosecution for serious human rights violations committed anywhere in the world, particularly where the home country justice system is unable or unwilling to prosecute.

The involvement of conflict-generated diasporas in transitional justice is important in itself, as many will have been victims of human rights violations that the transitional justice mechanism seeks to address (van der Auweraert, 2012). There are various other potential benefits to engaging diasporas, including broadening the diversity of perspectives reflected in transitional justice processes; more comprehensive truth-gathering; greater international awareness; and the potential to address societal divisions within diaspora communities.

Surveying a range of perspectives is important for designing processes and mechanisms that meet the needs of the diverse populations affected by violent conflict. Diaspora members may have different yet meaningful lived experiences and needs that should be expressed in the formulation of policies and operation of transitional justice mechanisms. They may, for instance, have very different views than those remaining in the home country on restitution for loss of property from displacement. The participation of diaspora members can also contribute to more comprehensive gathering of evidence and truth-telling, leading to greater effectiveness of initiatives. Diasporas can also play an important bridging role, engaging in advocacy, outreach and awareness-raising in their host country. The mere involvement of diasporas can attract greater media attention in host countries of transitional justice processes and situations in the home country (Haider, 2014).

Transitional justice processes and mechanisms that incorporate diasporas can have the added benefit of highlighting and addressing divisions in diaspora communities. The Liberian TRC revealed divisions and residual tensions present in many diaspora communities and recommended community reconciliation initiatives to address them (Young and Park, 2009).

Alongside benefits, there are various challenges to engaging diaspora communities. These are related, and involve how to consolidate the varying perspectives of differing communities; possible resentment by home populations of diaspora participation; and lack of coordination between populations in the home country and abroad. In addition, it can be challenging to implement transitional justice mechanisms that span the globe.

A key challenge of diaspora engagement is how to deal with the divergent perspectives and interests of diasporas and populations in the country of origin. The growing independence of some diasporas can lead to pronounced differences (Mey, 2008). The different contexts that diasporas experience living outside the home country may result in diasporas holding more divisive views in some cases, or in others more reconciliatory views than those in the home country. Further, where divisions are prevalent within a diaspora, it would be challenging to address differing views not only between the diaspora and populations at home but also within the diaspora group itself.

Home country populations may also resent input from the diaspora, particularly if they perceive diaspora members as having escaped much of the suffering in the home country and living comfortably in host countries (Smith, 2007; Mey, 2008). Diaspora members may be seen as 'elite' representatives, disconnected from the local context and needs of home populations (SPCOP, 2012). Absence of cooperation between the diaspora and the home country can be a challenge to effective transitional justice processes. Cambodian diaspora victims' associations that have filed lawsuits in Europe against members of the Khmer Rouge did not establish working relationships or contacts with local victims in Cambodia or with local associations that have been gathering testimony for years. This lack of communication and coordination resulted in duplication of efforts and different expectations and perceptions of the process between local victims and the diaspora (Mey, 2008).

There are also various operational and technical challenges in implementing transitional justice processes and mechanisms that aim to extend across several countries. The Property Claims Commission in Iraq, for example, has been unable to process claims made by Iraqis living overseas, given the absence of specific rules and procedures to handle claims from abroad (van der Auweraert, 2012).

Transitional justice actors need to understand the particular issues and concerns that may affect the ability of diasporas, refugees and IDPs to participate in mechanisms. The hearings that the Liberian TRC held in host countries enabled the participation of the Liberian diaspora, particularly those with unsettled immigration status or insufficient resources and those who would have been unwilling to take the physical and emotional journey to the home country to participate (see Haider, 2014). Regular consultation and the inclusion of members of these groups in the administration of such mechanisms would give prominence to such issues (Bradley, 2012).

Support for transitional justice mechanisms from international organisations can also contribute to an engaged diaspora. Involvement by the UN Refugee Agency (UNHCR) beginning from the early stages of forced displacement could facilitate awareness-raising and participation of refugee, IDP and diaspora communities. Although the refugee agency has demonstrated an interest in transitional justice and reconciliation processes, they are not a core part of its mandate (Rimmer, 2010). In order to promote diaspora engagement, UNHCR and other international organisations involved with refugee and diaspora communities should view displaced persons as critical actors and stakeholders in transitional justice and reconciliation processes and move away from *ad hoc* approaches to their engagement to a more systematic approach (Bradley, 2012). They could develop a focal point for such processes and initiatives and strengthen their capacity to systematically support them (ICTJ Research Unit, 2012).

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