

Responding to Mass Atrocities and Human Rights Abuses

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Mass atrocities are generally understood as genocide, war crimes and crimes against humanity, but many other human rights abuses are committed in conflict-affected contexts. There are a range of responses to these abuses, particularly by national and international actors, constituting international criminal justice and transitional justice.

Development actors are increasingly directly involved in managing conflict or prosecuting serious crimes, either through their engagement with rule of law, security sector reform, and other programming, or through direct support to domestic transitional justice processes. It is essential to understand what human rights abuses and mass atrocities are, how they relate to peace and development, and what response mechanisms exist in such settings that may enable, or impede, peace and development activities.

Serious human rights abuses occur frequently in severely conflict-affected societies. These include mass atrocities, but also violations of civil and political rights including freedom of religion, assembly, and political participation. Failure to address them may perpetuate underlying causes of conflict, create new grievances and limit opportunities for post-conflict peacebuilding and development. This reading pack outlines three critical topics for those concerned with conflict and development:

1. the relationships between abuses and violent conflict
2. the need to attend to economic, social and cultural rights violations and international policy responses such as international criminal law and transitional justice
3. the challenges of assessing the effectiveness of responses to abuses



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Mass atrocities, human rights violations, and conflict

Reading 1: Sriram, C. L.; Martin-Ortega, O.; and Herman, J. (2014, second edition). The interplay between war and human rights. *War, Conflict and Human Rights: Theory and Practice*. London: Routledge, pp. 3-13.

<http://www.gsdrc.org/document-library/the-interplay-between-war-and-human-rights/>

Reading 2: Miller, Z. (2008). Effects of Invisibility: In Search of the 'Economic' in Transitional Justice. *International Journal of Transitional Justice* vol. 2, pp. 266-291.

<http://www.gsdrc.org/document-library/effects-of-invisibility-in-search-of-the-economic-in-transitional-justice/>

In conflict-affected countries, mass atrocities and other human rights abuses are frequently visible results of conflict, not least because contemporary internal armed conflict often involves the targeting of civilians by all parties. Ongoing and previous abuses may also motivate conflict, with combatants fighting to protect parts of the population and/or to exact revenge or punishment for alleged abuses. Disputes over abuses – their occurrence, responsibility, and any processes for accountability – often influence processes of conflict resolution and longer-term peace and reconstruction activities.

Mass atrocities, such as genocide, war crimes and crimes against humanity, may draw the greatest attention, with significant transitional justice and international criminal justice measures developed accordingly. However other violations of rights or infliction of economic harms, including corruption, often precede, and occur during, conflict. These include:

- denial of freedom of expression and religion
- seizure and destruction of land and property
- destruction of cultural and religious property

It is essential to understand the ways in which these violations may be both a consequence of conflict and driver of future, or further, conflict in ways that are not sufficiently addressed. Post-conflict peace and development activities may need to address, or operate alongside, the material and moral consequences of such violations, whether land-grabbing, cultural destruction, or corrupt political arrangements.

International policy responses

Reading 3: United Nations. (2011). *The rule of law and transitional justice in conflict and post-conflict societies. Report of the Secretary-General*. UN Doc. S/2011/634

http://www.unrol.org/files/S_2011_634EN.pdf

Reading 4: Task Force on the EU Prevention of Mass Atrocities. (2013). *The EU and the Prevention of Mass Atrocities: An Assessment of Strengths and Weaknesses*. Hungary: Budapest Centre for the International Prevention of Genocide and Mass Atrocities.

http://massatrocitiestaskforce.eu/Report_files/The%20EU%20and%20the%20prevention%20of%20mass%20atrocities%20-%20an%20assessment%20of%20strengths%20and%20weaknesses.pdf

There has been increasing attention to the appropriate responses to abuses, particularly through support to institutional reform processes, via support to domestic transitional justice (TJ) measures,

and international criminal law (ICL) processes. While TJ and ICL are increasingly converging in engaging conflict-affected countries, they are distinct and often operate alongside or in tandem with institutional reform:

- **Institutional reform processes:** often developed in conflict-affected countries not only to support development and peacebuilding, but also to help prevent the recurrence of abuses. These may include rule of law promotion, security sector reform, and wider institutional restructuring. These processes often operate alongside, or as part of, peacemaking, peacebuilding and development, and interact with the implementation of peace agreements, the disarmament, demobilization and reintegration of ex-combatants.
- **TJ processes:** generally domestic responses to past abuses. This can include domestic prosecutions, non-criminal accountability such as vetting and commissions of inquiry. It also includes processes such as reparations, memorials and amnesties which may be oriented towards victims and also have the effect of shielding perpetrators. Countries often use several of these processes simultaneously, and alongside ICL.
- **ICL processes:** involve individualised criminal responsibility for violations of a small number of core international crimes – genocide, war crimes and crimes against humanity. It has been utilised in the permanent International Criminal Court (ICC), at temporary international criminal tribunals (ICTs) in Rwanda and the former Yugoslavia, and in courts with mixed domestic and international participation such as the Special Court for Sierra Leone.

International and regional organisations such as the United Nations and the European Union, as well as bilateral donors, have increasingly developed principles and processes to prevent or respond to mass atrocities and support institutional reform, TJ and ICL.

Evidence of the relevance of accountability for peace

Reading 5: Thoms, O.N.T.; Ron, J.; and Paris, R. (2010). State-Level Effects of Transitional Justice: What Do We Know?. *International Journal of Transitional Justice*, pp. 1-26.
<http://www.gsdrc.org/document-library/state-level-effects-of-transitional-justice-what-do-we-know/>

Reading 6: Lie, T.G.; Binningsbø, H.M.; and Gates, S. (2007). Post-Conflict Justice and Sustainable Peace. *Post-Conflict Transitions Working Paper No. 5/ World Bank Policy Research Working Paper 4191*
<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/PostConflict.pdf>

When practices of TJ first seriously developed in transitions from authoritarianism in Latin America in the 1980s, and subsequently in transitions from conflict through the 1990s, analysts and practitioners expressed concern that any accountability measures would disrupt transitions, preventing authoritarian leaders from stepping down and combatants from reaching or implementing peace agreements. Similar debates followed with the rapid development of international criminal tribunals such as the ICTY, ICTR and ICC. At the same time, such measures are often presented as essential to facilitating conflict resolution and peacebuilding; however the evidence of positive impact similarly remains disputed. Qualitative country studies by scholars and practitioners have suggested that TJ and ICL may help to deter future abuses, prevent revenge attacks, support democratisation and rule of law, and enable longer-term peace and stabilisation and improved human rights records.

As with qualitative work, quantitative evidence that either TJ or ICL impede or promote peace is mixed. Quantitative analyses by scholars in the past decade present divergent evidence based upon different emphases on measures deployed or results of interest.

In this context, deciding how best to respond to mass atrocities and human rights violations is evidently difficult, but not impossible. The focus should be on what a particular measure can do within the given context in the short- to medium- term, rather than expecting it to make a significant contribution to longer-term goals of peace and stability. Specifically, one may seek to match justice processes carefully with the goals and demands of those communities affected. These demands will depend on the local social, cultural and political relevance of particular measures. In some contexts, for example, demands of victims for recognition may be addressed by trials, in others by commissions of inquiry, in some by traditional or local justice, and in others by reparations or memorials. Of course, these responses must adhere to international human rights and humanitarian law obligations to ensure that assistance doesn't generate new violations.

Finally, given the mixed evidence of impact in this area, programming should include impact assessment to better understand what works and inform future policies.

Questions to guide reading

- How are human rights violations/mass atrocities and violent conflict potentially mutually reinforcing?
- Are there merits in addressing human rights violations beyond mass atrocities in conflict-affected countries, such as violations of economic social and cultural rights?
- How do the UN and the EU understand the importance of addressing atrocities in conflict-affected countries, and do they identify different priorities?
- How do accountability processes potentially work or interfere with peacebuilding and development processes?
- What is the evidence that TJ/ICL may be of utility in conflict-affected countries, and for which measures and to what specific purposes?
- How might one make an informed analysis in context regarding the utility of a particular TJ/ICL measure?
- How might that affect development and peacebuilding programming?