

Donor Strategies for Transitional Justice: Taking Stock and Moving Forward



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EXECUTIVE SUMMARY

This is the report of the seminar “Donor Strategies for Transitional Justice: Taking Stock and Moving Forward,” held in London on October 15-16, 2007. The seminar brought together representatives of donor countries and organizations and civil society to discuss donor aid to transitional justice processes, partnership with national actors, and ways in which to contribute to effective transitional justice initiatives.

The field of transitional justice has expanded significantly in the past ten years. International donors have played an immense role in facilitating its growth, identifying gaps in knowledge and practice, and encouraging creative strategies. As societies across the world initiate such processes in increasingly complex contexts such as Colombia, Nepal, and the Democratic Republic of the Congo, donors and practitioners struggle to develop innovative ways to respond to claims for justice, safeguard victims and witnesses, and contribute to lasting change in contexts where many critical needs compete for attention. Yet, there is no shared policy framework across international donors and a number of questions still need to be answered. There is a growing demand for evidence and longer-term results. Transitional justice is too often seen in simple terms as a trade-off between peace and human rights. Development agencies committed to eliminating world poverty need to justify funding transitional justice initiatives, some of which can be extremely expensive, with other immediate priorities, such as working towards physical security, health, and education for all. As the ways in which aid is provided evolve, for example through greater use of national budgets and national policy frameworks, supporters of transitional justice initiatives need to engage differently with partner governments and international donors.

This report is organized around the questions presented to participants to guide their exchange:

1. What have been the impacts of transitional justice initiatives to date?
2. What are appropriate means and methodologies for evaluating progress and determining success?
3. How can we enhance the contribution of transitional justice initiatives to the protection of civilians, prevention of the reoccurrences of abuse, and more generally, to development?
4. How do we build increasing constructive relationships between international donors and national processes, including partnerships with civil society initiatives?

The main messages of the seminar were:

- Transitional justice today must be approached holistically fostering a sense of justice for all victims, establishing or renewing civic trust through both judicial and non-judicial channels, and preventing future human rights abuses.
- The transitional justice field needs to strengthen its empirical resources; in particular, information pertaining to achievements and failures of these mechanisms needs to be better documented and shared.
- Donors need better and more information to help them make the initial decisions about supporting transitional justice processes; a decision that requires weighing the possible trade-offs between supporting transitional justice and other development priorities, such as building the domestic rule of law system.
- Donors need to encourage recipients of aid to make time and resources available for program evaluation and monitoring, including the development of proper objectives, benchmarks, and evaluation methodologies for transitional justice mechanisms. Donors should consider adopting a wider menu of evaluation methodologies for assessing and measuring transitional justice interventions.
- Transitional justice mandates should consider accountability and reparation not only for crimes against humanity, but also crimes against development.
- Transitional justice can contribute to conflict prevention and the protection of civilians, for example through a justice sensitive approach to security sector reform (SSR).
- Donors make many contributions to the field of transitional justice. The most important areas identified in this report have been in capacity building, strengthening of international law, integrating local actors into internationally supported institutions, and increasing the understanding of the impact of transitional justice.
- Donors also have a significant role as political actors. Development agencies need to work with foreign affairs ministries to ensure that development support enhances national policy positions.
- There needs to be more opportunities for greater coordination within governments, between governments, and among governmental and private donors that provide aid for transitional justice practices.
- More discussion is needed about how transitional justice is funded. The idea of including transitional justice mechanisms in national PRSPs or in multilaterally managed funds for post-conflict peacebuilding, are possibilities to explore.

One the basis of this meeting, the following concrete recommendations were suggested as next steps.

- 1) A 3-5 page action-oriented policy brief will be developed on the basis of this conference report and will be shared with participants and other interested governments and institutions.
- 2) The conference report and policy brief will be presented to the OECD DAC for the purpose of contributing to the organization's work on developing guidance for evaluating conflict prevention and peacebuilding activities and to the joint working group on human rights and conflict which will be taking stock of transitional justice experiences.
- 3) The conference report and policy brief will also be presented to the UN Peacebuilding Fund as a contribution to on-going discussions about guidelines for supporting transitional justice in peacebuilding contexts.

INTRODUCTION

The seminar "Donor Strategies for Transitional Justice: Taking Stock and Moving Forward," was held in London on October 15-16, 2007. The two-day meeting brought together representatives of donor governments and private foundations with practitioners and researchers to share their experiences and respond to three interconnected questions:

- What have been the impacts of transitional justice initiatives to date? What are appropriate means and methodologies for evaluating progress and determining success?
- How do we build increasingly constructive relationships between international donors and national processes, including partnerships with civil society initiatives?
- How can we enhance the contribution of transitional justice initiatives to the protection of civilians and prevention from the reoccurrences of abuse?

Approximately seventy participants attended, including DFID and UK Foreign Commonwealth Office staff, government donor representatives (from Belgium, Canada, Finland, Germany, and the Netherlands), the United Nations (UN), private foundation donors, ICTJ staff members, and civil society representatives of transitional justice processes in Bosnia & Herzegovina, Liberia, Morocco, and Sierra Leone.

Participants discussed the relationship between development and transitional justice—defined as the range of approaches that societies use to deal with past mass atrocities, such as prosecutions, truth-seeking initiatives, reparation programs for victims, and institutional reform—and considered how transitional justice can contribute to conditions that lead to poverty eradication and conflict prevention. There was also an examination of the challenges that the field must confront in continuing to pursue transitional justice initiatives, including the dearth of empirical research to substantiate the claims of transitional justice, the lack of consistent approaches to monitoring and evaluation, and the struggle to secure reliable funding.

The meeting opened with remarks by Shahid Malik MP, Parliamentary Under-Secretary of State for DFID; a keynote speech by Geoffrey Robertson QC, founder and head of Doughty Street Chambers in London and the former president of the Sierra Leone Special Court; and a presentation by Juan Mendez, President of ICTJ. This was followed by a dynamic exchange among participants on the topic of transitional justice as a means for dealing with economic and social injustice, initiated by David Ashley, the United Kingdom Regional Conflict Advisor in Kenya, who proposed that transitional justice mechanisms should consider "crimes against development" under their mandates. Finally, participants considered ideas for improved partnerships and coordination among donors supporting transitional justice processes.

The agenda, list of resources, and the list of participants are included as addendum to the report.

PART 1: WHAT HAVE BEEN THE IMPACTS OF TRANSITIONAL JUSTICE INITIATIVES TO DATE?

“Peace and reconciliation go hand and hand with justice,” stated **Shahid Malik**, Parliamentary Under-Secretary of State for DFID, in his opening remarks. Reintegrating formally warring parties into society, while bringing justice to their victims can be politically difficult, yet it is politically necessary, he continued, using the experience of the UK in Northern Ireland as an example. Mr. Malik highlighted three major lessons on transitional justice. First, international tribunals can and do provide fair trials. Second, international prosecution is sometimes necessary, but rarely sufficient. A comprehensive approach to transitional justice, including domestic trials, truth commissions, reparations programs for victims, and vetting processes, should be adapted to the country context and respond to the demands of the population. Thirdly, transitional justice needs to be connected to wider efforts to build the rule of law and promote access to justice for all, including security sector reform.

Mr. Malik suggested that international development agencies can do more in the area of transitional justice, but they need better tools. “They need the evidence that transitional justice can contribute to peace and poverty reduction,” he said. Calling attention to DFID’s work in preventing conflict and bringing peace, Mr. Malik left the audience with a fundamental question to answer: How can transitional justice fit within the development and conflict prevention agenda?

Keynote speaker **Geoffrey Robertson**, started his presentation by providing a historical context for the field of transitional justice. “Transitional justice began in this country 350 years ago with the trial of King Charles I for torture.” The same question remains relevant today, “How do you put on trial heads of states and military commanders? Is it victor’s justice?” Mr. Robertson pointed out that Charles’ vehement objection to the jurisdiction of the court is still echoed today by the likes of Slobodan Milošević and Saddam Hussein. The trial of Milošević highlights some of the major challenges to transitional justice in terms of its cost and the enormous delays that attended it.

Mr. Robertson reminded the participants of the relative novelty of the idea of international criminal law. “We are working in the shadow of Nuremberg, but often under very different circumstances,” he said. In terms of non-judicial approaches he argued that truth and reconciliation commissions are good for providing a history of the conflict, allowing victims to tell their story, and reconciling low level perpetrators. He advised donor governments to focus on outreach programs, legacy issues, training lawyers and journalists, building court buildings and helping victims. On this last point he concluded that, “in war it is still the warriors and journalists who do well.”

Juan Mendez, President of ICTJ, provided an overview of the critical achievements in the field of transitional justice over the past ten years. The 1998 arrest of General Pinochet for his alleged involvement in the torture and disappearance of Spanish citizens during his dictatorship in Chile advanced the cause of universal jurisdiction; as did the 1999 indictment of Slobodan Milošević, former President of Yugoslavia. The trial of former President Albert Fujimori in Peru, and former Liberian President Charles Taylor’s recent submission to the jurisdiction of the Special Court for Sierra Leone (SCSL), represent further significant challenges to the notion of presidential immunity. The establishment of the International Criminal Court (ICC) in 2002 ensures that post-conflict peace is no longer predicated on impunity by creating another home for justice when domestic legal systems are unable or unwilling to provide accountability. Additionally, states now have clear obligations towards victims in periods of transition and beyond, and finally, the UN has established a norm of non-recognition of amnesties for crimes against humanity.

“Different approaches to transitional justice have different aims and impacts,” said Mr. Mendez. Truth commissions, he declared, contribute to the legitimacy of new leadership, and recognize “citizens” as rights holders. They also provide a process for understanding how the abuse happened, and, in the best of circumstances, empower a domestic reform constituency to advocate for institutional responses. Important national truth-seeking efforts have taken place in countries as disparate as Peru (2003), Morocco

(2004), and Sierra Leone (2005), and new path-breaking truth-seeking initiatives are currently underway in Canada and Liberia.

Mr. Mendez explained that reparations programs aim to present either material or symbolic benefits to victims of certain types of crimes through individual or collective distribution. Reparations programs have two goals: first, to provide a measure of recognition for victims; and, second, to encourage trust among citizens and particularly between citizens and the state. "Experience demonstrates that transitional justice must be approached in a holistic way," concluded Mr. Mendez, "truth commissions, for example, must work alongside courts, and cannot be seen as an alternative to criminal justice." Efforts are underway to further broaden the work of transitional justice, documenting contributions the discipline makes to conflict prevention, peace making, peacekeeping, peace building, and development.

David Ashley, UK Regional Conflict Advisor based in Kenya, spoke in his personal capacity. He supported the link between transitional justice and development stating that, "transitional justice can and should be a valuable means to address insecurity and combat inequality." Mr. Ashley offered a compelling argument for why transitional justice must move forward to embrace economic and social crimes—addressing not just criminal accountability but developmental accountability as well. This does not mean simply expanding the list of crimes that transitional justice mechanisms address to incorporate illegal trade of resources and corruption, for example, but rather using transitional justice to consider the causes as well as the consequences of conflict. In his words, "Transitional justice has to be about creating a more just society. It therefore cannot only address the crimes of conflict; it must also address the causes of conflict. Not only crimes against humanity but also crimes against development."

In response to Mr. Ashley's presentation, some participants voiced concern about overloading transitional justice, others about how a truth-seeking initiative balances political versus social justice. Addressing economic and social crimes will widen the pool of the guilty in any given situation. One participant questioned: How to get transitional justice on the table when all the parties have something to lose? Juan Mendez remarked that while his position has been that it is difficult to adjust mechanisms on crimes against humanity to deal with social, economic and cultural rights, Mr. Ashley's articulation of "crimes against development" creates an opportunity for additional consideration.

PART 2: WHAT ARE APPROPRIATE MEANS AND METHODOLOGIES FOR EVALUATING PROGRESS AND DETERMINING SUCCESS?

Currently, any argument put forward in favor of transitional justice as contributing, for example, to more “traditional” development objectives, is speculative. This prompts an important question: why should donors spend money on transitional justice, particularly if presumed beneficiaries seem to have other priorities (e.g., roads, schools, hospitals or, in the case of the internally displaced persons [IDPs] of Northern Uganda, the freedom and safety to return home)? Donors must consider first whether or not to get involved at all in transitional justice; a decision that requires weighing the trade offs between supporting transitional justice and other initiatives.

National ownership of transitional justice processes is essential—even to the point where international actors must engage with some of the worst offenders. Therefore, it is troubling for some that there is a lack of threshold criteria in this regard. The question needs to be asked: at what point do we stop engaging with a government that is committing serious abuses of human rights?

Participants uniformly agreed that transitional justice as a field must build up the empirical basis for its work. The impacts of transitional justice must be more carefully monitored and analyzed. Objectives and benchmarks must be set, and procedures must be shaped correspondingly. All the participants in the meeting agreed that monitoring and evaluation, not just by international consultants, but also by domestic and international organizations, is necessary for continued investment in transitional justice.

Monitoring and Evaluation

There is currently a very limited amount of empirical research into the effects of transitional justice initiatives around the world. **Colleen Duggan**, Senior Program Specialist in the Evaluation Unit of the Canadian International Development Research Centre presented some of the challenges faced in trying to evaluate transitional justice mechanisms, and suggested useful methodologies taken from the development field that may advance monitoring and evaluation in the field.

Challenges

1. *The social and political contexts in which transitional justice usually operates are fragile and complex.* The kinds of change targeted by transitional justice (reconciling conflicting parties, developing a democratic culture, etc.) can take generations, whereas the mechanisms employed tend to have relatively short lifespans (two or three years for a truth commission, for example). The complexity of transitional justice settings also makes it difficult to predict what kind of social change will take place, let alone attribute a causal link to the transitional justice intervention.
2. *There is a tension between two contrasting styles of evaluation: the “Logical Frameworkers” and the “Complex Circlers.”* The “Logical Frameworkers” approach, which is the current tool of choice, favors linear, cause and effect thinking, and attempts to use easily measurable indicators which are thought to apply to a variety of situations. The “Complex Circlers,” on the other hand, believe that, due to the complexity of development, or in this case, transitional, settings, it is impossible to create a simple framework that can be used to evaluate all transitional justice work; rather, each situation will be unique. The logical framework approach currently dominates the international development field, but it can tend to over-simplify complex situations and does not lend itself to contingency planning. Logical frameworks can be useful tools, but only if used in a participatory and dynamic way and if participants are trained and supported in their use.

3. *The rebuilding of relationships is often at the heart of transitional justice work.* This must be taken into account when designing and implementing evaluation, which is broadly seen as a disempowering and punitive experience recipients of aid.

Useful Evaluation Methodologies

1. *Theories of change.* Applying a theory of change can help both donor and recipient to draw logical connections between activities and outcomes. Catholic Relief Services Southeast Asia and Pacific Region have been using theories of change alongside logical frameworks in their peace-building programs, for example.
2. *Outcome Mapping (OM).* Developed by the International Development Research Centre (IDRC), this is an integrated planning, monitoring, and evaluation methodology that is "learning-based" and "user-driven." Outcome Mapping defines outcomes as behavior change in key individuals or groups, rather than focusing upon changes of state (impact) which is important, but which often takes years to occur. IDRC is currently working on this method with two transitional justice projects in Guatemala.
3. *Most Significant Change (MSC).* Developed by Rick Davies, an independent researcher formerly with the Christian Commission for Development in Bangladesh, and Jess Dart, Principal Consultant with Clear Horizons, MSC is a systematic storytelling, gathering, and discernment process that has recently been advocated for program monitoring and evaluation activities that have more complex social change goals.
4. *Peer Review.* Examples of Peer Review models include the Organization for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC) model and the New Partnership for Africa's Development (NEPAD) model. The benefits of this model include the enhancement of vertical accountability and reflective learning by practitioners.

A growing body of evidence suggests that building evaluations into programs from the outset increases the effectiveness of an intervention. Furthermore, donors should encourage proposals that allow for an inception phase where time is given to conflict analysis and the development of appropriate monitoring and evaluation systems. To monitor and evaluate a program effectively takes more time and resources than are normally allocated in a grant period. In the discussion following this presentation, participants explored the idea of adopting a series of principles or best practices for evaluating transitional justice. The OECD DAC principles on conflict prevention and peace-building evaluation, as well as the Paris Declaration on Aid Effectiveness, were mentioned as examples.

Impact of Aid to Transitional Justice

A further challenge currently facing transitional justice is the lack of empirical study into the effect of international aid in the field. The limited research to date has focused on the functioning of individual transitional justice and aid mechanisms, as opposed to the interplay of these different mechanisms, with an emphasis on international/hybrid initiatives. There is a need for large-scale, cross-country statistical studies of the impact of donor support on all forms of transitional justice. The Chr. Michelsen Institute has begun to address this gap by studying aid trends to transitional justice projects in Guatemala and Rwanda between 1995 and 2005.¹ Researcher **Ingrid Samset** provided an overview of this work that investigates the sequencing of aid during a particular time period, as well as how this aid was divided among the various kinds of transitional justice projects (truth commissions, international courts, security sector reform (SSR) etc.). Among its findings for

¹ Ingrid Samset, Stina Petersen, and Vibeke Wang, *Maintaining the Process?: Aid to Transitional Justice in Rwanda and Guatemala, 1995-2005* (Bonn: Working Group on Development and Peace [FriEnt], 2007).

those two countries is a bias towards SSR funding, and the existence of a common dilemma: how to balance the need for local ownership of a project while ensuring that the goals of transitional justice are met. Five areas are identified that merit further research:

1. The impact of transitional justice aid on broader goals such as peace-building, truth, restitution, accountability, and poverty reduction.
2. Recipient perspectives/experiences of transitional justice aid. Questions to be considered here include: what if recipients do not want to face the past?; what if they are divided in their opinions on transitional justice?; and what if the government transitional justice strategy is "illegitimate?"
3. To what extent are there general rules on the *mix* of mechanisms to support, *who* to partner with, and *when* to issue support?
4. How does the legacy of the conflict and its settlement shape the framework for transitional justice?
5. Could there be a problem of "conceptual stretching?" Although we may wish transitional justice to have broader developmental benefits, we must remain clear on its fundamental meaning and purpose, trying not to confuse it with concepts like "security" and "development."

PART 3: HOW CAN WE ENHANCE THE CONTRIBUTION OF TRANSITIONAL JUSTICE INITIATIVES TO THE PROTECTION OF CIVILIANS AND PREVENTION OF THE REOCCURRENCES OF ABUSE?

More donor attention can and should be given to advancing the understanding of how transitional justice contributes to prevention of violent conflict. Juan Mendez, president of ICTJ, suggested that a “multi-pronged approach” is required. This involves providing physical protection as well as humanitarian assistance to vulnerable populations, promoting peaceful settlements to conflicts, holding governments to international standards, and ensuring criminal accountability. There is no general formula for action, however, the measures taken to achieve these goals must be situation specific and, crucially, must involve the meaningful participation of all stake-holders in policy design and implementation.

Joelle Jenny, Deputy Head of Profession, Governance, and Conflict at DFID chaired the session meeting that explored the contributions of transitional justice in these areas. She opened with a statement about DFID’s approach. The protection of civilians entails not only the provision of physical security, but also requires the full respect for the rights of each individual in accordance with the law. Situations of armed conflict often involve gross violations of human rights. In these circumstances, DFID speaks of three layers of protection: immediate responsive action, remedial work (restoring victims’ dignity), and, finally, the building of an environment that is conducive to the full respect of the individual’s rights.

Other panelists presented on SSR and transitional justice and the provision of justice in conflict situations with specific presentations on SSR in Liberia and UNDP-supported justice aid centers in Sudan.

SSR and Transitional Justice

Reform of the security sector plays an important role in building an environment that is conducive to respecting human rights. According to **Alexander Mayer-Rieckh**, Head of ICTJ’s Security Sector Program, while SSR is usually approached as an exercise in institutional reform, there are a number of points at which transitional justice and SSR usefully intersect:

1. *Prevention is a shared goal of SSR and transitional justice.* A transitional justice initiative that prosecutes all abusers and offers reparations to all victims should not be considered successful unless it also contributes to institutional changes that prevent future violence and abuse. Prevention has to be about breaking the cycle of impunity.
2. *Transitional justice and SSR operate in the same contexts.* These processes deal with many of the same actors and often target the same institutions, and thus necessarily interact. SSR could enable transitional justice by helping to reform personnel into more effective investigators and prosecutors. Conversely, transitional justice can help to provide SSR with legitimacy. Indeed, transitional justice can be an enabling condition for SSR, contributing to the marginalization of “spoilers,” for example. This has certainly been the case in Liberia, where the prosecution of Charles Taylor liberated parts of the security sector (such as the Anti-Terrorism Unit) from his grip.
3. *SSR can learn from transitional justice.* The methodologies developed by transitional justice can be applied to the reform of abusive security systems to create “justice sensitive” SSR. For instance, effective SSR cannot be blind to the past. A police force with an abusive history cannot be made effective merely by retraining its personnel as it will not enjoy the trust of the people, and they will continue to look elsewhere for security. Transitional justice offers some suggestions on how rebuild this trust, which must involve not only structural reforms (introducing disciplinary systems, for example) but also a greater focus on the victims rather than the service providers.

Security Sector Reform in Liberia

Cecil Griffiths, President of Liberia National Law Enforcement Association, offered a presentation on Liberia as a case study. Reform of the security sector is critical in Liberia not only because security sector personnel were involved in human rights abuses in the past, but also because the sector was split into various factions with conflicting loyalties during the war. Under the 2003 Comprehensive Peace Agreement, the United Nations Mission in Liberia (UNMIL) was given the lead on police reform, while the United States was given the mandate to reform the army. The United States contracted private U.S. military contractor DynCorp International to provide basic facilities and basic training for the Armed Forces of Liberia, and Pacific Architects and Engineers won the contract for building an army base, for forming and structuring the army and its component units, and for providing specialized and advanced training for the officer corps. The combined expenses of DynCorp and PAE totalled \$18 million in the first six months of 2007. Mr. Griffiths voiced his concern about the role of independent military contractors in security sector reform: What does it mean to have a private entity in charge of the training of a national army of a new democratic state?

The reform efforts underway are not currently living up to expectations. Vetting procedures have been undermined by the fact that the current President appoints the heads of Liberia's security institutions. Moreover, as of September 2007, only 5% of the new army had been trained, and 630 recruits have graduated from the SSR initial training course. Impatience with the slow pace and high costs of the training resulted in Dyncorp dropping the three weeks of the course that were dedicated to human rights and civics training. That said, the army currently enjoys a higher level of prestige than the police. UNMIL has faced serious funding and recruiting problems. In the struggle to meet recruiting targets, in particular the benchmark that 20% of the new police force must be female, the entry standards have been lowered so that it is no longer necessary to have graduated from high school to apply for training. Meanwhile, the levels of violent crime are so high in Monrovia that in September the Minister of Justice called on citizens to form vigilante groups to protect themselves. This call was condemned by members of civil society who restated the need for a strong professional police force.

Providing Justice in Conflict Situations: UNDP-supported Justice Aid Centers in Sudan

The UNDP's work on the protection of civilians is built upon the understanding that legal and structural reform is not enough to protect civilians: good governance is based on the rule of law. This is the core of UNDP's work in rule of law—and empowering civilian actors is a critical part of this work. UNDP's Senior Justice and Security Sector Reform Advisor, **Yasmine Sherif** explained that the UN's work to strengthen the rule of law in Darfur began with sensitization, dialogue, and awareness-building about the rule of law with a large spectrum of actors—government, military, and civil society leaders, as well as the IDPs themselves. This helped to establish credibility with the IDPs and also gave UNDP access to various government institutions. The second step was establishing legal aid centers, empowering IDPs as paralegals to identify violations in the camps with the support of international rule of law officers and legal aid centers located inside the camps, so to ensure protection. The third step was to engage full-fledged Darfurian lawyers to represent cases before the courts. A network of sixty local lawyers was supported to deal with violent crimes such as rape. The UNDP also worked with judges and prosecutors to try to establish a reasonable consensus that bridges the tensions between differing definitions of adultery and rape under Western and Shari`alaw.

All this action was taken with the intention of quickly curbing the number of violent crimes that were taking place within and against the camp populations. Today 2,000 cases have accessed legal aid with 800 cases having gone through the courts, a large number including rape. Ms. Sherif offered three lessons learned for the consideration of the group:

1. Justice can and should be done during conflict—not just after. The rule by force should be countered immediately with the rule of law.
2. International actors must understand the constraints of conflict situations—it takes decades to rebuild a functional system. Therefore, each case of access to legal aid leading to a conviction must be seen as a step forward. Don't expect the perfect filing system or to combat impunity overnight.
3. It is not just about changing structures; you also have to change people's minds. Otherwise even the best framework will fail.

Documentation of human rights abuses, and support to human rights organizations, are means by which transitional justice practitioners can initiate or support accountability and justice initiatives during conflict. Transitional justice can augment conflict prevention and civilian protection by identifying root causes of conflict and abusive institutions, marginalizing but also transform spoilers (which is even more sustainable), and contributing to institutional reform, particularly the judiciary, the security sector and governance structures, through vetting processes that include human rights criteria. The empowerment of citizens is an integral component of a justice-sensitive approach to SSR because their role also has to change in the transitional reform process: no longer are they mere subjects of state oppression or victims of conflict-related violence but they truly become people with rights, responsibilities and needs that public institutions are called to serve. Efforts to assist subjects of state oppression and victims of violence to recognize themselves as right-bearers include, among others, empowerment measures such as public information campaigns, citizens' surveys to identify their security and justice needs, training of civil society organizations on monitoring the security system, and media training on security in democracy.

PART 4: HOW DO WE BUILD INCREASINGLY CONSTRUCTIVE RELATIONSHIPS BETWEEN INTERNATIONAL DONORS AND NATIONAL PROCESSES?

The success and growth of transitional justice to date would not have been achieved without the support of international donors to institutions and projects such as the ICC, the international tribunals for Yugoslavia and Rwanda, the hybrid tribunal in Sierra Leone, international NGOs, such as the ICTJ, and the international networks of research and practice in transitional justice around the world. The international community's contributions to transitional justice are critical in a number of areas:

1. *Capacity building*: Investing in training such that national actors have the skills and knowledge to carry out justice in their own way while, at the same, respecting the universal obligations of truth, justice, reparations, and institutional reform.
2. *Integrating local actors into internationally supported institutions*: Extraordinary tribunals such as the Special Court for Sierra Leone provide significant opportunities for "on-the-job" learning, including the exposure of national judges and local defense counsel to international law and practice, training provided to criminal investigators from the national police, and national administrative personnel trained in court management section.
3. *Strengthening international law*: Donors can support other countries' efforts to realize international law. For example, by supporting the UN position to refuse recognition of amnesties for genocide, war crimes, or crimes against humanity, including those relating to ethnic, gender and sexually based international crimes. In some circumstances, respect for international law has become a condition of aid programmes and regional collaboration (e.g. Serbia and the European Union)
4. *Increasing the understanding of the impact of transitional justice*: Outcomes should be analyzed not only in terms of how they have advanced the field of transitional justice, but also with respect to the broader aims of peace, justice, and development.

The question of how to build increasingly constructive relationships between international donors and national processes was addressed primarily in the donor roundtables that concluded each day of the meeting. Partnerships with the UN, national processes, and civil society were also discussed in small group sessions. The following section attempts to organize those debates into three sections: donor experiences in supporting transitional justice, funding methods, and partnerships.

Donor Experiences in Supporting Transitional Justice

Transitional justice is difficult for donor governments or organizations because it lies at the intersection of several more established fields, such as human rights, rule of law and SSR. It is also a relatively new field. As a result, governments are in the early stages of considering their overall policies; and support to transitional justice processes can still be ad hoc and reactive. There are few coordination mechanisms at a global or country level. Country representatives emphasized the need for more coordination. Participants also agreed that there is room for more partnerships between government and private funding; they can play different and collaborative roles. Effective strategies for monitoring and evaluation were also recognized as a deficit on the donor side; donors are unclear about how to identify good processes and how to analyze progress and set backs.

- **Belgium** includes transitional justice in the Government's focus on conflict prevention and preventive diplomacy. In these areas Belgium seeks more cooperation around challenging political issues, for example reparations in Rwanda.

Donors need to be coordinated or their unilateral practices could have negative consequences. Belgium believes the capacity of local communities to develop their own mechanisms is underestimated—as a government they can fund civil society initiatives directly and actively look for opportunities to do so.

- **Canada** recognizes transitional justice is a critical area at both the policy and programmatic levels. A strong supporter of the International Criminal Court and ad hoc tribunals, Canada is also seeking innovative ways to support transitional justice mechanisms in priority fragile states such as Colombia. Canada is leading a number of interested countries and civil society organizations in developing the Justice Rapid Response (JRR), a facility to deploy legal experts in the immediate aftermath of grave international crimes in order to document information that can be used in peacebuilding and accountability processes. Canada has also established its own Truth and Reconciliation Commission to address past treatment of aboriginal children in residential schools.
- **Germany** has undergone two national experiences of transition: after the Second World War and after the reunification of Germany at the end of the cold war. It can draw on this as it develops a policy on transitional justice. In the area of international cooperation, Germany offers assistance in many areas that are associated with transitional justice (from support to international criminal justice and truth mechanisms to DDR), but does not declare this assistance as "transitional justice" measures. In June 2007, Germany organized in Nuremberg a groundbreaking conference on the nexus between peace, justice and development, but in terms of operationalizing transitional justice, the country lacks a strategic plan or an understanding of how to evaluate such measures. There is a government-NGO working group on transitional justice, responsible for comparing experiences and developing conceptual work around the issue.
- The **UK** has no overarching policy on transitional justice but has provided assistance to a range of countries and mechanisms. For example, the Foreign Commonwealth Office funds the international tribunals and hybrid mechanisms and DFID has funded some truth commission processes. There is room for greater collaboration between FCO and DFID to help develop a UK position in partnership with others.
- **The Mott Foundation** is a private institution, which makes grants of up to \$100 million to the United States, Balkans, and South African civil societies. In the Balkans the organization began working on issues of dealing with the past. It supported human rights organizations, particularly on issues of documentation and research; family reunification; victim's organizations; and informal processes of truth-telling (such as film and debate). For Mott, transitional justice is not an identified programmatic area, but is addressed in its Civil Society Program.
- **Oak Foundation** is also private foundation. It is generally less risk adverse and willing to work in less crowded fields than government donors. This includes, for example, the Oak Foundation's support of universal jurisdiction in part by funding individual prosecutions against people who have sought asylum in Europe. The Oak foundation also supports human right documentation and security issues; is interested in helping human rights organizations increase the sophistication of their advocacy and campaigning; and has a program dedicated to constructing historical narratives through museums, sites of conscience, and other means.

Funding Methods

Donors also need to consider how to better fund transitional justice so as to avoid ad hoc initiatives. Currently transitional justice can be funded through general budgetary support, project with national governments, through contributions to the United Nations or its agencies, and through projects with international or national non-governmental or civil society organizations.

Long-term, sustainable change can only come through transforming the attitudes that create the possibility of extreme violence. Such change is unachievable within the time

period of a UN peacekeeping mission, for example, and this limitation needs to be factored into the consideration of funding needs. One way to ensure sustainable long-term investment in a project is to ensure that, when creating a multi-donor trust fund, the recipient government makes a significant contribution. In most areas of development coordinated by the UNDP in Sudan, for example, the government contributed 60% of the funds required. This high figure was negotiated by involving the Sudanese government in the needs assessment process, and by avoiding placing too many strict conditions on aid at the very beginning.

Participants discussed the merits of direct budget support to governments. There are some good reasons for funding transitional justice in this way:

- In many cases, prosecutions are best carried out by the domestic judicial system.
- Transitional justice aims, in part, to recreate public confidence in the state. This aim is undermined if justice takes place elsewhere.
- If there is an aim to support wider justice sector reform, it may be more effective to fund and coordinate this through the same government structures.
- If there is a trade off to be made between transitional justice and, health, for instance, then it is better that this decision is made by the body that is accountable to the people (i.e., the government).

There are, however, some drawbacks in funding transitional justice solely through governments. As governments have often been an actor in the conflict, it may be difficult to avoid a perception of bias or interest. Moreover, although some mechanisms may seem to be “locally owned”, they may not provide victims or alleged perpetrators due process, or may be based on traditional practices that exclude or marginalize certain sectors of the population. Funding should allow the people to own and shape transitional justice to their needs, in most situations—regardless of the country level of development—justice cannot be achieved only through government initiatives.

There can be a trade off between funding for national processes and for international processes. International processes are much more expensive. In his 2004 report to the Security Council, Kofi Annan, the former UN Secretary General stated that the two ad hoc criminal tribunals set up to try those accused of human rights violations in Rwanda and the former Yugoslavia had “a combined annual budget exceeding a quarter of a billion dollars – equivalent to more than 15 percent of the Organisation’s total regular budget”. The figure has since risen: the budget for the ICTY alone for 2006-2007 is over \$275 million. The cost is borne by all U.N. members. The issue of trade-offs between international justice mechanisms and investment in national judicial systems deserves further discussion.

Another funding possibility that was mentioned but not discussed in detail was the idea of including transitional justice in national Poverty Reduction Strategy Papers (PRSPs) on the basis of which aid is increasingly provided, or in multilaterally managed funds for post-conflict peace building. An example is the United Nations Peace-building Fund, which through the Peace-building Compacts for Burundi and Sierra Leone will fund transitional justice related processes in those countries.

Associations or groups of funders are another mechanism that can help coordinate donors and ensure a more holistic approach to transitional justice. The Grantmakers Forum for Eastern Europe was mentioned as an example, but government and bilateral organizations do not participate within this group. The G24 in Colombia is another example of a donor coordinating body where donors exchange information and discuss how to work with the government and civil society to share the cost of peace process, including the cost of transitional justice initiatives.

Partnerships

This section examines how donors can best form partnerships with different actors and is divided into three groups: the UN, national processes, and civil society. There are at least four key questions that need to be addressed in this area. First, how do donors choose partners (state, non-state, global actors, etc.)? Second, what guidelines should inform the ways in which donors work with these partners? Third, how do we link partners together, while acknowledging the uniqueness of each different situation? And finally, how do we evaluate the outcome of the work with partners?

Partnerships with National Governments

The kinds of partnerships that donors build with national processes are determined, to a large extent, by the level of engagement with transitional justice by the government in question. First, donors must be well informed about the political and historical context of the country/region in question and the credibility of the various organizations on the ground. One participant in the meeting suggested that a possible way of addressing this gap would be to create an advisory body that gave information and counsel to donors.

Where governments are uncooperative, donors have a role to play in supporting the national debate around transitional justice, as was the case in Bosnia. When a country has chosen to pursue transitional justice, systems must be transparent and sustainable, ensuring that those responsible for implementation are engaged in the planning process. The credibility of a project— in the eyes of the local population, the national government, and the international community—depends heavily upon the kinds of partnerships involved. Including all stakeholders in the process may not necessarily lead to the best outcomes, but may nonetheless be desirable on other grounds, such as increasing local ownership in the process.

It is also important that debates about different options for accountability and justice also consider the drawbacks of initiating concurrent processes. In Sierra Leone, for example, it has been suggested that the presence of a truth commission and an international tribunal had some counterproductive effects because among other things, the two bodies were in competition for resources. A national discussion about sequencing of transitional justice mechanisms can be enhanced by donor experiences in other contexts.

Partnerships with Civil Society

In identifying potential civil society partners, donors need to consider what they really mean by partnership; some donors, for example, seem to consider NGOs purely as service providers rather than genuine partners. The relationship between donors and NGOs should be one of trust and empowerment, but it is often one of asserting donor power. In post-conflict situations, donors may also have to consider taking greater risks by working with more difficult partners such as victim groups and ex-combatants.

The small group discussion touched on a number of issues related to the funding of civil society organizations working on transitional justice processes. Representatives from civil society organizations in Liberia and Sierra Leone identified the manifest challenges in finding funding for institutional support and salaries, as well as finding support to develop or incubate new ideas. Funding should not only be given to established organizations, but must also be made available for new organizations in civil society to support fresh and creative programs for addressing the past. Donors have been known to create associations or organizations where they see a gap in civil society. This can sometimes yield negative outcomes, such as when a group of people come together only for the benefit of the funding, and there is no long-term incentive for the organization.

One participant raised the issue of building cultures of philanthropy in countries emerging from conflict. In-kind contributions from communities, for example, could create some exciting opportunities for ownership. Finally, a need was expressed for more cross-regional exchanges between civil society groups working on similar issues.

Partnerships with the UN-OHCHR and UNDP

The UN's work in the field of transitional justice ranges from the political (Department of Political Affairs), to the developmental (with the work of the UNDP), to the human rights work of the Office of the High Commissioner for Human Rights (OHCHR). In 2006-7 the "Rule of Law Resource and Coordination Group" and the "Rule of Law Unit" were established to improve UN coordination of rule of law and transitional justice initiatives. Different "baskets" of responsibilities were allocated to various agencies, and transitional justice was made the responsibility of the OHCHR. In general, at the UN Headquarters level, work on transitional justice is in its infancy and there is some confusion amongst member states as to how these new processes and bodies work. At the same time, the UN is working towards improved coordination on SSR issues: the Secretary General is issuing a new report on SSR and has created a new "SSR Task Force," co-chaired by the UNDP and the DPKO.

The first element of **OHCHR** work has been the development of normative tools for use in transitional justice settings. The tools cover amnesties, reparations and truth-seeking, among others. The second element of the OHCHR's work in transitional justice is in standard setting, in the context of the Commission on Human Rights. The creation of principles on impunity and reparations are examples of this work. Finally, technical advice is offered to OHCHR field presences.

For the OHCHR, the key question around partnerships is how best to ensure participation of victims; experiences in Bosnia and Northern Uganda, to name but two examples, have shown that various actors are willing to speak on behalf of the victims, but it is not easy to verify how valid these representations actually are. In cases where cooperation between the UN and the national government is not possible, partnerships with civil society are again identified as fruitful alternatives.

Transitional justice has also become an increasingly important part of the work of the **UNDP**. Transitional justice is not explicitly in UNDP's mandate, which focuses on governance, rule of law, and capacity development. When requested by a host government, UNDP works closely with partners, notably OHCHR, to provide support in the field of transitional justice. Transitional justice constitutes a particular challenge, not only in addressing justice in the aftermath of massive human rights violations and restoring public confidence in justice and security institutions, but also as an avenue for national reconciliation. Given its development mandate, UNDP's endeavours to provide support to transitional justice processes in combination with broader capacity building programmes in the Rule of Law/JSSR sector. The overarching objective of UNDP's engagement on transitional justice is to strengthen the linkage between transitional justice and development. The design of transitional justice mechanisms should be anchored in national processes and oriented towards international norms and standards, and entail inclusive and participatory consultations, capacity development of justice and security institutions and confidence-building.

With the new system of UN in-country programs being coordinated by a Special Representative of the Secretary General (SRSG), it is now the case that **Peace Keeping Operations** are being overloaded with concerns such as reconstruction and transitional justice. One problem with this is that these highly sensitive issues are treated with a "peace-keeping logic," being addressed quickly, without local consultations and in an interventionist style. It may be the case that greater modesty is thus required in terms of what goals are achievable; the question being, what are the first small contributions that a peace-keeping operation can make to the processes of transitional justice?

UN presences vary in form from country to country, and the kind of partnerships formed between donors and the UN with regards to transitional justice will vary accordingly.

When considering any of these partnerships, donors need to take the political dimension of their actions very seriously, defining their own political rules, and ask themselves how and why they are entering into these particular transitional justice processes. It may be useful for donors to develop a set of working principles that help to

assess the cost benefits of engaging or not engaging, and which may include a strategy for pre-funding assessment and for providing consistent support.

It should be noted that the actors referred to as "donors" in this context do not necessarily consider themselves under this heading. A large part of the international community's role in the Balkans, for example, has been political rather than financial. Here, a coalition of EU states formed and used the issue of EU accession to exert pressure in the region. Further to this kind of support, the OHCHR emphasizes the importance of member states signing up to international human rights standards and then upholding these standards explicitly in their discussions with governments on the topic of transitional justice. These actors also play an important role in assessing different approaches. During the first quarter of next year, for example, UNDP will be conducting a lessons learned study on support to transitional justice. It will consider UNDP's role but also that of other strategic partners, such as member states, and explore what general principles can be drawn.

PART 5: CONCLUSIONS AND STEPS FORWARD

What have been the impacts of transitional justice initiatives to date?

- There have been significant advances in the international legal and normative frameworks that advance transitional justice by upholding the obligation for governments to investigate human rights crimes, and recognizing the right of victims and victimized communities to pursue truth and reparation. Significantly, amnesties for acts of genocide, war crimes, or crimes against humanity are no longer recognized by the UN and other international actors. Furthermore, the emergence into force of the International Criminal Court in 2002 creates a powerful tool for fighting impunity.
- The trial of former President Albert Fujimori in Peru, and former Liberian President Charles Taylor's recent submission to the jurisdiction of the Special Court for Sierra Leone (SCSL), represent further critical challenges to the notion of presidential immunity.
- Different approaches to transitional justice have different aims and impacts. Truth commissions may provide a process for understanding how the abuse happened, offer a forum for victims, recognize "citizens" as rights holders, provide an advocacy tool for a domestic reform constituency to advocate for institutional responses, and contribute to the legitimacy of new leadership. Reparations programs attempt to provide a measure of recognition for victims; and, to encourage trust among citizens and particularly between citizens and the state. Institutional reform efforts can break cycles of impunity, contributing to change that prevents future violence and abuse.

What are appropriate means and methodologies for evaluating progress and determining success?

- Donors need better and more information to help them make the initial decisions about supporting transitional justice processes; a decision that requires weighing the possible trade-offs between supporting transitional justice and other development priorities, such as building the domestic rule of law system.
- Improved monitoring and evaluation, not just by international consultants, but also by domestic and international organizations, is necessary for continued investment in transitional justice processes.
- Building evaluations into programs from the outset increases the effectiveness of a transitional justice intervention.
- Donors should provide encouragement and time for partners to explore and apply monitoring and evaluation methodologies.
- Donors also need to consider when to disengage. What kind of threshold criteria is relevant for donors that need to make a decision about withdrawing their support of a government that is committing serious abuses of human rights?

How can we enhance the contribution of transitional justice initiatives to the protection of civilians, prevention of the reoccurrences of abuse, and more generally, to development?

- A multi-pronged approach to prevention would involve providing physical protection, as well as humanitarian assistance to vulnerable populations, promote peaceful settlements of conflicts, hold governments to international standards, and ensure criminal accountability.
- The protection of civilians requires immediate responsive action, remedial work, and the building of an environment that is conducive to the full respect of the individual's rights.

- Justice can be applied during conflict—not just after conflict. Innovative projects that empower citizens, such as UNDP’s Justice Aid Centers in Sudan, change the perception of what is possible in the midst of war.
- Transitional justice must move forward to embrace economic and social crimes. It can be a valuable means to address insecurity and combat inequality by addressing not only crimes against humanity, but also crimes against development.
- Transitional justice needs to be connected to wider efforts to build the rule of law and promote access to justice for all.
- Documentation of human rights abuses, identification of root causes, and marginalization of spoilers are means by which transitional justice mechanisms can initiate or support accountability and justice during conflict.
- Transitional justice can contribute to conflict prevention and the protection of civilians. One important contribution is through a justice-sensitive SSR that, via vetting and other mechanisms, attempts to break cycles of impunity, and prevent further conflict and abuse.
- A justice-sensitive approach to Security Sector Reform includes vetting abusive institutions on human rights criteria, and employs mechanisms that contribute to empowering people to understand their role as citizens with rights. The kind of reform can be an important factor in preventing future conflict and abuse.
- To improve the basis for donors’ decision-making on transitional justice support, more research is needed to identify how donor support to transitional justice has worked so far, under what conditions it has worked, and to what extent aims of the support have been reached.

How do we build increasing constructive relationships between international donors and national processes, including partnerships with civil society initiatives?

- Donors make many contributions to the field of transitional justice. The most important areas identified in this report have been in capacity building, strengthening of international law, integrating local actors into internationally supported institutions, and increasing the understanding of the impact of transitional justice.
- Donors also have a significant role as political actors. Development agencies need to work with foreign affairs ministries to ensure that development support enhances national policy positions.
- International justice mechanisms are expensive. The issue of trade-offs between investment in international mechanisms and national processes deserves further discussion.
- Transitional justice requires partnerships between donors and government and non-government actors at various levels. When engaging in these partnerships a good understanding of the political and historical context of the region is necessary.
- The prospect for sustainable investment in a process, such as a transitional justice process, is increased when the recipient government makes a significant contribution to that investment.
- Consultation with the population needs to be considered throughout the transitional justice process, beginning with a needs assessment and the method of funding chosen, through to the kinds of transitional justice mechanisms favored. Consultation must be built into decisions about how these mechanisms are structured, the personnel chosen for implementation, and the methodology used for evaluation.
- More discussion is needed about how transitional justice is funded. The idea of including transitional justice mechanisms in national PRSPs or in multilaterally managed funds for post-conflict peacebuilding, are possibilities to explore.

In terms of steps forward, ideas proposed by participants included the following:

- *Improved monitoring and evaluation:* A number of monitoring and evaluation models used in the development field may be useful for transitional justice. Participants explored the idea of adopting a series of principles or best practices for evaluating transitional justice. The OECD DAC effort at developing guidance on Evaluating Conflict prevention and Peacebuilding Activities may be one avenue for this discussion.
- *Consistent funding:* New ways of funding must be considered, to ensure that processes are adequately supported through the fulfillment of their mandate.
- *Assessing trade-offs:* need to assess cost benefit of TJ vs. other initiatives, cost benefit of different TJ approaches, how to provide funding to make sure initiatives are sustainable and deliver outcomes
- *Considering crimes against development:* Transitional justice needs to include not only crimes against humanity but also crimes against development.
- *A better mechanism for information exchange:* It was suggested that an international advisory body could be established to provide timely information to donors. Other suggested an information sharing network on transitional justice, perhaps following the Relief Web model. A further suggestion was to establish voluntary task forces to pool knowledge and ideas on specific issues or countries.
- *Guidelines on best practices:* Donors need better guidance to assess transitional justice proposals and decide whether and how to provide support. It was suggested that a checklist on a set of good outcomes for transitional justice practices would be useful for donors, governments, and advocates.
- *Funding guidelines:* Guidelines could be developed that address the choices between funding government initiatives, funding via the UN, or funding non-governmental and civil society groups. The role of private donors also needs to be considered, as they are often able to fund more politically “risky” projects.
- *Further conceptual work:* A number of topics for further research were identified including the impact of transitional justice aid on peace building and poverty reduction; and examining how the legacy of a conflict shapes the framework for transitional justice.

There will be many opportunities to continue the interdisciplinary dialogues that have begun at this conference. For future meetings, more time could be given to discussing country-specific settings, as well as different approaches to impact analysis and evaluation methodologies.

Following on from these discussions, we need to develop collective approaches and strategies to address the issues identified. On the basis of this meeting, the following action points were suggested as next steps.

- 1) A 3-5 page policy brief will be developed on the basis of this conference report and will be shared with participants and other interested governments and institutions.
- 2) The conference report and policy brief will be presented to the OECD DAC for the purpose of contributing to the organizations work on developing guidance for evaluating conflict prevention and peacebuilding activities and to the joint working group on human rights and conflict which will be taking stock of transitional justice experiences.
- 3) The conference report and policy brief will also be presented to the UN Peacebuilding Fund as a contribution to on-going discussions about guidelines for supporting transitional justice in peacebuilding contexts.

Annexes

1. Agenda

Day 1

9-9.30

Welcome

- Mark Robinson, Head of Profession, Governance and Conflict, DFID (Chair)
- **Opening remarks by Shahid Malik**, MP, Parliamentary Under Secretary of State, UK Department for International Development (DFID)

9.30 – 10.30

Session 1: *Transitional justice – Role of donors in the evolution of the field*

This session will provide an overview of the current state of the field, and discuss the role of donors in shaping transitional justice initiatives. Speakers will identify challenges and areas where increased international attention can contribute to advanced understanding and practice.

- Paul van Zyl, Executive Vice President, ICTJ (Chair)
- **Keynote speaker:** Geoffrey Robertson QC, Doughty Street Chambers, former president of the Sierra Leone Special Court
- Juan Mendez, President, ICTJ
- David Ashley, UK Regional Conflict Adviser (Central & East Africa), Nairobi

11.30 – 12.30

Session 2: *Understanding the challenges of international support to transitional justice*

What do we know about the impact of international involvement in transitional justice processes? Does aid to transitional justice help to reduce poverty and build peace? A small group of researchers is beginning to explore the effect of aid in this field. Panelists will discuss what is known about the impact of international support and how international and national actors should consider monitoring and evaluating these mechanisms.

- Louis Bickford, Director, Policymakers and Civil Society Unit, ICTJ (Chair)
- Ingrid Samset, Researcher, Aid to Transitional Justice Study, Chr. Michelsen Institute
- Refik Hodzic, Spokesperson for Registry and Chambers, International Criminal Tribunal for the former Yugoslavia, former Head of Public Information and Outreach, War Crimes Chamber of the Court of Bosnia-Herzegovina
- Colleen Duggan, Senior Program Specialist, Evaluation Unit, The International Development Research Centre, Canada

13.00 – 14.00

Lunch

14.00 – 16.00

Session 3: *Defining success and ensuring long-term impact*

Participants will break up into three smaller groups to explore how to define success and long term impact of transitional justice processes. Each group will include a chairperson, as well as experts representing different perspectives on specific transitional justice processes. They will provide some opening remarks to inform the discussion. Each group will also assign a respondent who will report back on the discussion to the subsequent donor roundtable.

Group 1 Truth-seeking

Paul van Zyl, Executive Vice President, ICTJ (Chair), and Miranda Sissons, Deputy Director, Middle East and Northern Africa Program, ICTJ (Expert)

Group 2 Hybrid Tribunals and Legacy

Marieke Wierda, Director, Prosecutions, ICTJ (Chair) and Mohamed Suma, Director, Sierra Leone Court Monitoring Programme (Expert)

Group 3 Reparations

Lisa Magarrell, Head Reparations Program, ICTJ (Chair) and Ahmed Herzenni, President of the Advisory Council on Human Rights, Morocco (Expert)

16.30 – 18.00

Session 4: Donor roundtable: *Donor experiences in supporting TJ – Defining success and evaluating impact*

Working groups will report back and representatives of donor governments and private foundations will present on their experiences of supporting transitional justice processes. The focus will be the challenge of determining success and evaluating impact.

- Christian Much, Head of Division, Conceptual UN Issues; Forum Global Issues, Federal Foreign Office, Germany (Chair)
- Adrian Arena, Program Officer, International Human Rights Program, Oak Foundation
- Anne Wittman, Senior Policy Analyst, Rule of Law, Conflict Prevention and Peacebuilding Group, Stabilization and Reconstruction Task Force (START), Department of Foreign Affairs and International Trade, Canada

18.30 – 19.30 Reception hosted by the Foreign Commonwealth Office, United Kingdom
Entente Cordiale Room, Foreign Commonwealth Office
King Charles St, London SW1A 2AH
Welcome remarks by Stephen Pattison, Director of International Security, FCO

Day 2

9.00 – 10:00 Session 5: Protecting civilians and preventing future atrocity
Panelists will explore the role of transitional justice in safeguarding victims and witnesses, guaranteeing the non- reoccurrence of abuse, and contributing to lasting change through institutional reform. Questions to be addressed include: What is justice-sensitive security system reform? How does transitional justice contribute to the protection of civilians? What is the evidence that it can prevent future conflict? What is the role of international actors?

- Joelle Jenny, Deputy Head of Profession, Governance and Conflict, DFID (Chair)
- Alexander Mayer-Rieckh, Head, Security System Reform (SSR) Program, ICTJ
- Cecil Griffiths, President of Liberia National Law Enforcement Association
- Yasmine Sherif, Justice and Security Sectors Reform Adviser, UNDP

11.00 – 13.00 Session 6: *Partnerships*
Louis Bickford, Director of ICTJ's Policymakers and Civil Society Unit, will introduce the topic in plenary. Participants will break up into groups to explore issues and propose guidelines for improved partnerships with the United Nations, national processes, and civil society organizations. Each group will be led by co-chairs representing one of these perspectives. Each group will have a respondent reporting back to the subsequent donor roundtable.

Group 1 Partnership with the United Nations

(Co-Chairs) Lucie Viersma, Human rights Officer, Transitional Justice, Rule of Law and Democracy Unit, Office of the UN High Commissioner for Human Rights, and Marcus Lenzen, Programme Specialist, Bureau for Crisis Prevention and Recovery, United Nations Development Programme

Group 2 Partnership with national processes

(Co-Chairs) Ahmed Herzenni, President of the Advisory Council on Human Rights, Morocco, and Refik Hodzic, Spokesperson for Registry and Chambers, International Criminal Tribunal for the former Yugoslavia, former Head of Public Information and Outreach, War Crimes Chamber of the Court of Bosnia-Herzegovina.

Group 3 Partnerships with civil society

(Co-chairs) Mohamed Suma, Director, Sierra Leone Court Monitoring Programme, and Cecil Griffiths, President of Liberia National Law Enforcement Association

13.00 – 14.00 Lunch

14.00 – 15.30 Session 7 - Donor's roundtable: *Responses and recommendations for next steps*
Working groups will report back and representatives of donor governments and private foundations will reflect on the discussions so far. They will offer comments on partnerships between donors and recipients. They are also asked to make concrete proposals on how to take the discussion of the two days forward in terms of enhancing international coordination on aid to transitional justice processes.

- Laure-Hélène Piron, Justice Adviser, DFID (Chair)
- Walter Veirs, Program Officer, The Charles Stewart Mott Foundation
- Ivan Godfroid, Ministry of Foreign Affairs, Belgium

15.30 -16.00 Closing remarks

2. List of participants

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2. Speeches*

- 1) Opening Remarks by Shahid Malik, MP, Parliamentary Under Secretary of State, DFID
- 2) Presentation by David Ashley, UK Regional Conflict Advisor based in Kenya
- 3) Presentation by Colleen Duggan

*The full text of these speeches will be available on the ICTJ website at <http://www.ictj.org/en/partners/program/index.html>

3. Further resources

- 1) Paris Declaration on Aid Effectiveness
<http://www.oecd.org/dataoecd/11/41/34428351.pdf>
- 2) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, C.H.R. res. 2005/35, U.N. Doc. E/CN.4/2005/L.10/Add.11 (19 April 2005)
<http://www2.ohchr.org/english/law/remedy.htm>
- 3) OECD DAC Guidance on Evaluating Conflict prevention and Peacebuilding Activities.
http://www.oecd.org/document/23/0,3343,en_21571361_34047972_35263575_1_1_1_1,00.html
- 4) Secretary-General's Report on The rule of law and transitional justice in conflict and postconflict societies, UN Doc. S/2004/616, 3 August 2004.
<http://www.securitycouncilreport.org/atf/cf/{65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9}/IJ%20S2004616.pdf>
- 5) DFID Conflict Prevention Policy (2007)
<http://www.dfid.gov.uk/pubs/files/preventing-conflict.pdf>
- 6) Ingrid Samset, Stina Petersen, Vibeke Wang, "Maintaining the Process? Aid to Transitional Justice in Rwanda and Guatemala, 1995-2005", FriEnt Report. Available at <http://www.cmi.no/publications/publication/?2811=maintaining-the-process>
- 7) "Evaluating Experiences in Transitional Justice and Reconciliation: Challenges and Opportunities for Advancing the Field," (report of workshop organized by Centre for the Study of Violence and International Development Research Centre, April 2007). Available at http://www.idrc.ca/en/ev-111542-201-1-DO_TOPIC.html
- 8) Alexander Mayer-Rieckh and Pablo de Greiff, eds. Justice as Prevention: Vetting Public Employees in Transitional Societies (New York: Social Science Research Council, 2007.). Available at <http://www.ssrc.org/blog/2007/05/08/justice-as-prevention/>



The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and nonjudicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized prosecuting perpetrators, documenting and acknowledging violations through nonjudicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes. The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments and others.



DFID, the Department for International Development: leading the British government's fight against world poverty. One in five people in the world today, over 1 billion people, live in poverty on less than one dollar a day. In an increasingly inter-dependent world, many problems - like conflict, crime, pollution, and diseases such as HIV and AIDS - are caused or made worse by poverty. DFID supports long-term programmes to help tackle the underlying causes of poverty. DFID also responds to emergencies, both natural and man-made. Together, these form the United Nations' eight 'Millennium Development Goals', with a 2015 deadline. Each of these Goals has its own, measurable, targets. DFID works in partnership with governments, civil society, the private sector and others. It also works with multilateral institutions, including the World Bank, United Nations agencies, and the European Commission. DFID works directly in over 150 countries worldwide, with a budget of nearly £4 billion in 2004. Its headquarters are in London and East Kilbride, near Glasgow.