

# TRANSITIONAL JUSTICE TOOLS TO ADDRESS RADICALISM AND VIOLENT EXTREMISM

## **Compendium of Primary and Secondary Sources**

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**GIJTR**

Global Initiative for Justice  
Truth & Reconciliation



**CSV**  
Centre for the Study of  
Violence and Reconciliation



International Coalition of  
**SITES of CONSCIENCE**

### About the International Coalition of Sites of Conscience

The International Coalition of Sites of Conscience (ICSC or the Coalition) is a global network of museums, historic sites and grassroots initiatives dedicated to building a more just and peaceful future through engaging communities in remembering struggles for human rights and addressing their modern repercussions. Founded in 1999, the Coalition now includes more than 300 Sites of Conscience members in 65 countries. The Coalition supports these members through seven regional networks that encourage collaboration and international exchange of knowledge and best practices. The Global Initiative for Justice, Truth and Reconciliation is a flagship program of the Coalition.

Learn more at [www.sitesofconscience.org](http://www.sitesofconscience.org)



**CSV**  
Centre for the Study of  
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### About the Centre for the Study of Violence and Reconciliation

The CSV has continued with the transitional justice work that it began during the life of the South African Truth and Reconciliation Commission. Over the past 15 years, it has engaged, both through regional mechanisms and in global forums, with international partners in order to promote effective transitional justice processes in a range of countries. The CSV has worked on numerous collaborative projects with African and other international partners with a view to conducting research, engaging in policy development, building the capacity of non-governmental organisations (NGOs), establishing psycho-social support systems, facilitating community and national dialogue, and engaging in policy advocacy and legal cases involving victims' rights.

Learn more at [www.csvr.org.za](http://www.csvr.org.za)

# TABLE OF CONTENTS

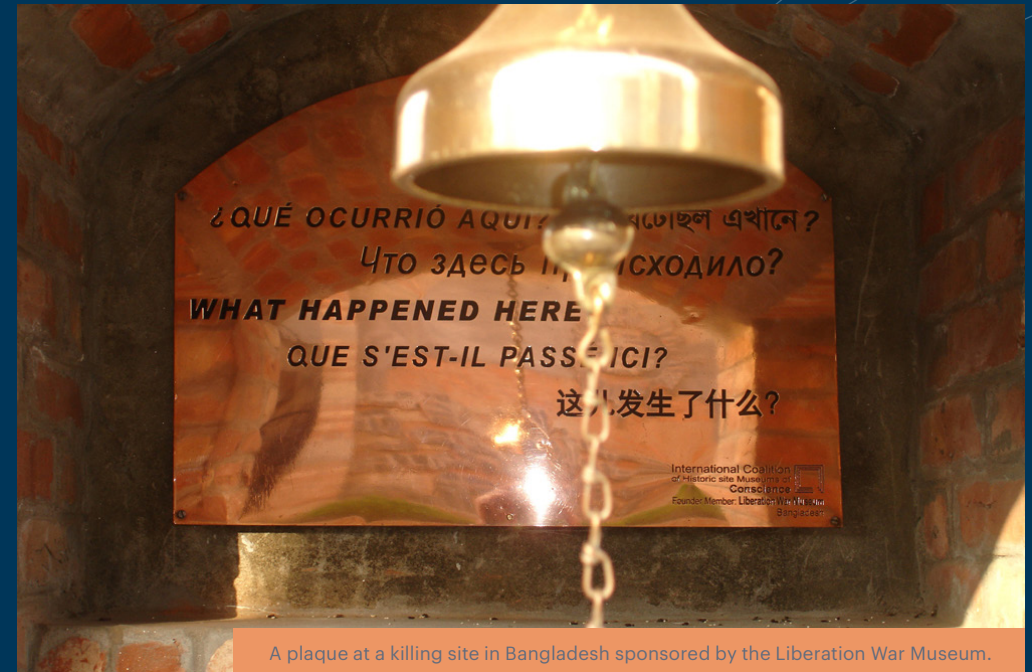
<b>About the Global Initiative for Justice, Truth and Reconciliation (GIJTR).....</b>	<b>2</b>
<b>Introduction .....</b>	<b>7</b>
<b>PART ONE: PRIMARY SOURCES .....</b>	<b>9</b>
<b>I. Definition .....</b>	<b>10</b>
<b>II. Types of Radicalisations, Terrorism and Violent Extremism in its Various forms and Manifestations that Exist in the Three Regions of the Study.....</b>	<b>18</b>
<b>III. Global and Regional Policy Frameworks Addressing Radicalisation, Terrorism and Violent Extremism.....</b>	<b>42</b>
<b>IV. Transitional Justice Tools Supporting Global and Regional Policy Frameworks.....</b>	<b>50</b>
<b>PART TWO: LITERARY SOURCES .....</b>	<b>96</b>
<b>Endnotes .....</b>	<b>108</b>

# ABOUT THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH AND RECONCILIATION (GIJTR)

Around the world, an increasing call exists for justice, truth and reconciliation in countries where legacies of gross human rights violations cast a shadow on transitions from repressive regimes to participatory and democratic forms of governance. To meet this need, the International Coalition of Sites of Conscience (ICSC or the Coalition) launched the Global Initiative for Justice, Truth and Reconciliation (GIJTR) in August 2014.

The GIJTR seeks to address new challenges in countries in conflict or transition that are struggling with legacies of or ongoing gross human rights abuses. The Coalition leads the GIJTR, which includes eight other organizational partners:

- American Bar Association Rule of Law Initiative (ABA ROLI), United States;
- Asia Justice and Rights (AJAR), Indonesia;
- Centre for the Study of Violence and Reconciliation (CSVR), South Africa;
- Documentation Center of Cambodia (DC-Cam), Cambodia;
- Due Process of Law Foundation (DPLF), United States;



A plaque at a killing site in Bangladesh sponsored by the Liberation War Museum.

- Fundación de Antropología Forense de Guatemala (FAFG), Guatemala;
- Humanitarian Law Center (HLC), Serbia; and
- Public International Law & Policy Group (PILPG), United States.

In addition to leveraging the expertise of GIJTR members, the Coalition taps into the knowledge and longstanding community connections of its 300-plus members in 65 countries to strengthen and broaden the GIJTR's work. GIJTR partners, along with members of the Coalition, develop and implement a range of rapid-response and high-impact program activities, using both restorative and retributive approaches to justice and accountability for gross human rights violations. The expertise of the organizations under the GIJTR includes:

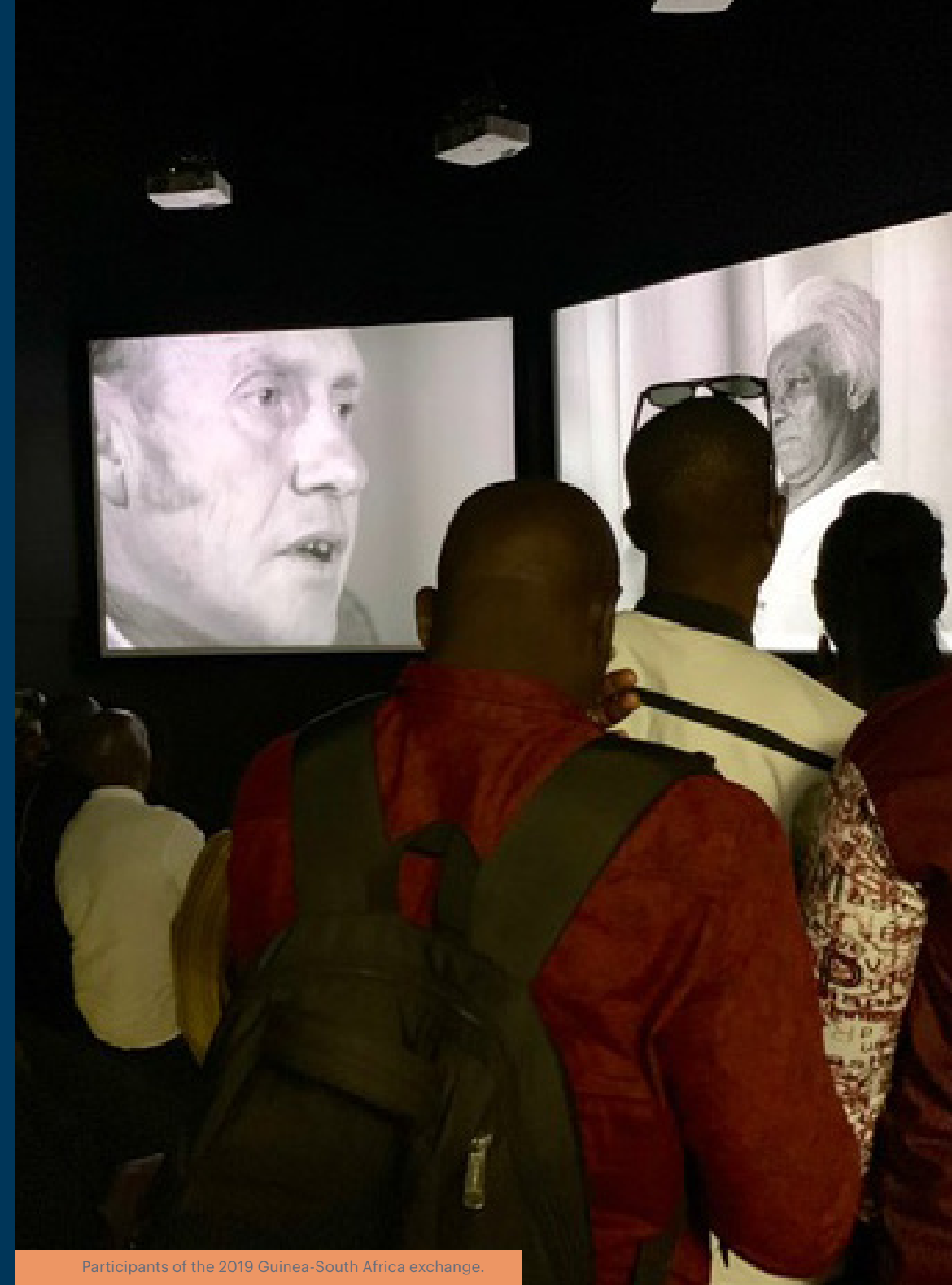
- Truth telling, reconciliation, memorialization and other forms of historical memory;
- Documenting human rights abuses for transitional justice purposes;

- Forensic analysis and other efforts related to missing and disappeared persons;
- Victims' advocacy such as improving access to justice, psychosocial support and trauma mitigation activities;
- Providing technical assistance to and building the capacity of civil society activists and organizations to promote and engage in transitional justice processes;
- Reparative justice initiatives; and
- Ensuring gender justice in all these processes.

To date, the GIJTR has led civil society actors in multiple countries in the development and implementation of documentation and truth-telling projects; undertaken assessments of the memorialization, documentation and psychosocial support capacities of local organizations; and provided survivors in the Asia, Africa and the Middle East and North Africa regions with training, support and opportunities to participate in the design and implementation of community-driven transitional justice approaches. Given the diversity of experience and skills among GIJTR partners and Coalition network members, the program offers post-conflict countries and countries emerging from repressive regimes a unique opportunity to address transitional justice needs in a timely manner while promoting local participation and building the capacity of community partners.

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Learn more at [www.gijtr.org](http://www.gijtr.org)



Participants of the 2019 Guinea-South Africa exchange.



# INTRODUCTION

This in-depth and comprehensive compendium provides key literature on the subject matter. The first part of this compendium is the introduction which provides an outline of the entire work. Subsequently, Part II contains primary sources that offer definitions on radicalisation, terrorism and violent extremism, providing a base for understanding the peculiarities in definitions in the regions of concern for this study.<sup>1</sup> Part III provides the types of radicalisations, terrorism and violent extremism in its various forms and manifestations that exist in the three regions of the study. This is followed by Part IV which provides global and regional policy frameworks addressing radicalisation, terrorism and violent extremism. Part V covers transitional justice tools supporting global and regional policy frameworks. Part VI covers a series of essential secondary sources that provide a selection of literature on how a nexus can be established between transitional justice tools and violent extremism.

## PART ONE:

# PRIMARY SOURCES

## I. DEFINITION

### A. DEFINING RADICALISATION, TERRORISM AND VIOLENT EXTREMISM

#### 1. UNITED NATIONS

##### Plan of Action to Prevent Violent Extremism (A/70/674):<sup>2</sup>

The present Plan of Action to Prevent Violent Extremism considers and addresses violent extremism as, and when, conducive to terrorism.

##### UNESCO:<sup>3</sup>

[Violent Extremism] refers to the beliefs and actions of people who support or use violence to achieve ideological, religious or political goals. This includes terrorism and other forms of politically motivated and sectarian violence.

“Terrorism” refers to a particular strategy adopted to achieve a political goal, which is singularly the deliberate creation and exploitation of fear... The terms “violent extremism” and “terrorism” are often mistakenly used interchangeably. While terrorism is a form of violent extremism, and terrorism is also often motivated ideologically, the conceptual underpinning of terrorism that distinguishes it from violent extremism is the creation of fear or terror as a means to an end.

In the context of efforts to prevent violent extremism, “radicalisation” is commonly used to describe the processes by which a person adopts extreme views or practices to the point of legitimizing the use of violence.

## 2. AFRICAN UNION:

### The African Model Anti-Terrorism Law, XXXIX:<sup>4</sup>

"Terrorist act" shall mean an act or omission, actual or threatened, inside or outside [name of country] that is an offence as set out in any of the United Nations and African Union instruments to which [name of country] is a party and includes an act, actual or threatened, that is intended, or can reasonably be regarded as being intended, to intimidate the public or any section of the public or compel a government or international organization to do or refrain from doing any act and to advance a political, religious or ideological cause, if the act;

- (a) involves serious violence against persons;
- (b) involves serious damage to property;
- (c) endangers a person's life;
- (d) creates a serious risk to the health or safety of the public or any section of the public;
- (e) involves the use of firearms or explosives;
- (f) involves exposing the public to any dangerous, hazardous, radioactive or harmful substance, any toxic chemical or any microbial or other biological agent or toxin;
- (g) is designed to disrupt, damage, destroy any computer system or the provision of services directly related to communication infrastructure, banking and financial services, utilities, transportation or key infrastructure;
- (h) is designed to disrupt the provision of essential emergency services such as the police, civil defence and medical services; or
- (i) involves prejudice to public security or national security.

Notwithstanding the definition of "terrorist act" in xxxviii above or in any other provision in this Law [Act] or any other Law [Act], the following shall not be considered as terrorist acts:

- (a) any act described in xxxviii subsections (g) to (i) if the act is the result of advocacy, protest, dissent or industrial action and is not intended to result in the harm or conduct described in any of xxxviii subsections (a) to (h);
- (b) the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces; or
- (c) acts covered by international humanitarian law, committed in the course of an international or non-international conflict by government forces or members of organized armed groups; Provided that a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defence in respect of an offence of which the definition of terrorist act forms an integral part.

### The OAU Convention on the Prevention and Combating of Terrorism, Article 1(3):<sup>5</sup>

"Terrorist act" means:

- (a) any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:
  - (i) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles;
  - (ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
  - (iii) create general insurrection in a State.

- (b) any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i) to (iii).



### 3. EUROPE:

**European Commission, Article 1 of the Framework Decision on Combating Terrorism:** Violent radicalisation is the phenomenon of people embracing opinions, views and ideas which could lead to acts of terrorism.<sup>6</sup>

**The Common Position of the Council of the EU of 27 December 2001 on the application of special measures in the fight against terrorism (2001/931/CFSP):<sup>7</sup>**

**Article 1(3),** For the purposes of this Common Position, “terrorist act” shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:

- (i) seriously intimidating a population, or
- (ii) unduly compelling a Government or an international organisation to perform or abstain from performing any act, or
- (iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:
  - (a) attacks upon a person’s life which may cause death;
  - (b) attacks upon the physical integrity of a person;
  - (c) kidnapping or hostage taking;
  - (d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;
  - (e) seizure of aircraft, ships or other means of public or goods transport;

- (f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;
- (g) release of dangerous substances, or causing fires, explosions or floods the effect of which is to endanger human life;
- (h) interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;
- (i) threatening to commit any of the acts listed under (a) to (h);
- (j) directing a terrorist group; or
- (k) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.

For the purposes of this paragraph, “terrorist group” shall mean a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist acts. “Structured group” means a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

### European Commission—Violent Right-Wing Extremism in the Western Balkans: An overview of country-specific challenges for P/CVE:8

Violent right-wing extremism are acts of individuals or groups who use, incite, threaten with, legitimise or support violence and hatred to further their political or ideological goals, motivated by ideologies based on the rejection of democratic order and values as well as of fundamental rights, and centred on exclusionary nationalism, racism, xenophobia and/or related intolerance.

## 4. OTHER JURISDICTIONS

### I. Australia

**Australian Government measures to counter violent extremism:** a quick guide: Violent extremism is the beliefs and actions of people who support or use violence to achieve ideological, religious or political goals. This includes terrorism and other forms of politically motivated and communal violence.<sup>9</sup>

### II. United States of America

**US Department of State (Analysis of Violent Extremism in Mali):** Violent extremism is violence motivated by extremist ideology and committed or willingly supported by non-state actors to further political goals. By political goals we mean, any goals associated with



a broader political or religious cause. These would be distinct from criminal goals. By extremist ideology, we mean any ideology based on a worldview which is “incompatible” with other worldviews.<sup>10</sup>

**USAID:** Violent extremism refers to advocating, engaging in, preparing, or otherwise supporting ideologically motivated or justified violence to further social, economic and political objectives.<sup>11</sup>

**FBI:** The FBI defines violent extremism as encouraging, condoning, justifying or supporting the commission of a violent criminal act to achieve political, ideological, religious, social or economic goals.<sup>12</sup>

### III. Sweden

#### Sweden Action Plan to Safeguard Democracy Against Violence Promoting

**Extremism:** A person is said to be [a] violent [extremist] if he or she is deemed repeatedly to have displayed behaviour that not just accepts the use of violence but also supports or exercises ideologically motivated violence to promote something”.<sup>13</sup>

### IV. United Kingdom

**Counter-Extremism Strategy:** [Violent] extremism is defined as the vocal or active opposition to fundamental values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs, as well as calls for the death of United Kingdom armed forces at home or abroad.<sup>14</sup>

## 5. THE CENTRE FOR THE PREVENTION OF RADICALIZATION LEADING TO VIOLENCE (CPRMV) CONSIDERS THE FOLLOWING AS THE MAIN TYPES OF RADICALISATIONS AND THEIR CORRESPONDING FORMS OF EXTREMISM;<sup>15</sup>

- A. Right-wing Extremism:** A form of radicalisation associated with fascism, racialism/racism, supremacism and ultranationalism. This form of radicalisation is characterized by the violent defence of a racial, ethnic or pseudo-national identity, and is also associated with radical hostility towards state authorities, minorities, immigrants and/or left-wing political groups.
- B. Politico-Religious Extremism:** A form of radicalisation associated with a political interpretation of religion and the defence, by violent means, of a religious identity perceived to be under attack (via international conflicts, foreign policy, social debates, etc.). Any religion may spawn this type of violent radicalisation.
- C. Left-wing Extremism:** A form of radicalisation that focuses primarily on anti-capitalist demands and calls for the transformation of political systems considered responsible for producing social inequalities, and that may ultimately employ violent means to further its cause. This category includes anarchist, maoist, trotskyist and marxist-leninist groups that use violence to advocate for their cause.
- D. Single Issue Extremism:** A form of radicalisation essentially motivated by a sole issue. This category includes: radical environmental or animal rights groups, anti-abortion extremists, certain anti-gay/anti-feminist movements, and ultra-individualist or independent extremist movements (such as Free Men on the Land and sovereign citizens) that use violence to promote their causes. Mass murderers whose motivations are partially or wholly ideological may also fall under this category.

## II. TYPES OF RADICALISATIONS, TERRORISM AND VIOLENT EXTREMISM IN ITS VARIOUS FORMS AND MANIFESTATIONS THAT EXIST IN THE THREE REGIONS OF THE STUDY

### A. Region: Africa (Sahel: Burkina Faso, Mali and Niger)

#### 1. TYPE(S) OF RADICALISATION, TERRORISM AND VIOLENT EXTREMISM

##### Mali

Document de Politique Nationale de Prévention et de Lutte Contre l'extrémisme Violent et le Terrorisme et son Plan d'Action (*National Policy Document for the Prevention and Fight against Violent Extremism and Terrorism and Its Action Plan*).<sup>16</sup>

**Terrorism** according to current legislation, terrorism is defined as any act of violence (attacks, hostage-taking, sabotage, hijacking, etc.) committed by an individual or organization to create an atmosphere of insecurity, to exercise blackmail against an individual or government, or to satisfy a hatred towards a community, country, or system.

**Violent extremism** is the tendency to adopt an extreme, radical, exaggerated, and pushed to its limits or extreme consequences attitude or opinion. These extreme opinions can serve as theoretical foundations that advocate the use of extreme means, contrary to the general interest, even aggressive or violent.

**Radicalisation** is the result of a process where normal practices of dialogue and compromise are gradually abandoned for increased engagement in confrontational tactics and more or less violent conflicts. Mali's national strategy links violent extremism and radicalisation to the more common and well-known phenomenon of terrorism in its most violent dimensions.

## Burkina Faso

Strategie Nationale de Prevention de la Radicalisation et de Lutte Contre L'extremisme Violent au Burkina Faso 2021 – 2025 (*National Strategy for the Prevention of Radicalization and the Fight against Violent Extremism in Burkina Faso 2021-2025*).<sup>17</sup>

**Radicalization**, translated into the main national languages (Dioula, Moré, Fulfulde), is defined as the process by which an individual or a group of individuals adopts an extreme position and does not listen to others, anchored in their idea, uncompromising, someone who is fixed on their opinions and does not consider those of others.

**Violent extremism** is the violent expression of radicalisation. The violent extremist is one who is ready to go all the way even if lives have to be sacrificed to impose their ideological, religious, or other position. It is excess in attitudes, the fact of exceeding limits. The violent extremist thus imposes their vision through violence.

## Niger

Stratégie Nationale de Prévention de la Radicalisation et de l'Extremisme Violent (*National Strategy for the Prevention of Radicalization and Violent Extremism*).

**Radicalisation** is generally perceived by regional stakeholders as a dynamic process of behavioural transformation of an individual or group of individuals resulting from the acquisition, integration, and sublimation of a set of ideas and values that are associated with it. This behavioural transformation affects the individual or group in their beliefs, their interactions with others, and in their relationships with society and the norms that regulate it.<sup>18</sup>

**Violent Extremism:** Based on the collected data, violent extremism can be defined as a direct consequence of radicalisation, which involves the advocacy and deliberate use of violence without empathy and outside the bounds of legality to impose one's beliefs, values, norms,

way of life, etc.<sup>19</sup>

**Principal Forms of Violent Extremism:** The analysis of national context and data from regional consultations reveals a typology of extremist violence recorded in Niger, in four (4) categories:

- i. **Physical violence:** armed attacks on villages, camps, and positions of defence and security forces; targeted assassinations, hostage-taking (abduction), suicide bombings, summary executions. These violent acts target both military and civilian targets.
- ii. **Economic violence:** looting of private and public property in villages and camps, raids on rural markets, multiple armed robberies on roads and businesses, livestock theft, destruction of public and private infrastructure and equipment, compulsory collection of tithes.
- iii. **Psychological violence:** the terror instilled in affected areas insidiously affects individuals' minds and causes trauma that will have serious consequences at multiple levels. It should



be noted that this sense of terror not only affects individuals but also heavily affects the provision of activities related to the basic social needs of populations (health, education, water, food security, etc.), economic, administrative, and political activities in the affected areas.

- iv. **Gender-related violence:** women are doubly exposed, firstly as victims of extremist violence, and secondly as privileged targets for forced recruitment and/or under the influence of violent extremists.<sup>20</sup>

## 1.1 Radicalisation in the Sahel

### The Ecowas Political Declaration and Common Position Against Terrorism identifies the principal causes of terrorism in West Africa, which are;

- (a) Presence of violent religious extremist groups and international terrorist organisations;
- (b) History of intractable conflicts, coups d'état, collapsed states and acute political instability;
- (c) High urban criminality rate and organised crime, including piracy and drug, arms and human trafficking;
- (d) Proximity of the vast Sahel region (with little or no law enforcement) – a conduit for terrorists and traffickers;
- (e) Black markets for natural resources, including diamonds (which serve as a funding source for terrorists);
- (f) Widespread corruption, bad governance and the absence of a democratic culture based on the rule of law;
- (g) Poverty, youth unemployment and inequalities (in relation to unemployment and wealth) and a lack of dynamic government policies for disadvantaged and marginalised communities.<sup>21</sup>

### More specific to the Sahel is a joint NATO and AU report— The Contagion of Violent Extremism in West African Coastal States which identifies the nature of extremist radicalisation prevalent in the region, summarised below.<sup>22</sup>

#### A. Ideological and Religion-inspired Extremism:

Extremism, fuelled by ideology and religion, is causing tensions among different faiths in Africa through radical preaching by extremist clerics. The unregulated development of Madrassas, Churches, and other religious practices exacerbates the problem. Education has also fostered religion-inspired extremism, with many young individuals obtaining scholarships to study abroad, leading to radicalisation and the reintroduction of young people as charismatic extremist preachers with opposing religious beliefs. This has considerably aided the radicalisation of the Sahel region as a whole.

#### B. Governance Deficits as Violent Extremism Catalysts:

The report emphasizes that violent extremism develops in an environment marked by governance deficits, human rights violations, a lack of rule of law, and repressive government policies. Government deficits serve as a catalyst for the creation and spread of violent extremism, and violent extremist groups take advantage of these conditions to advance their cause. Furthermore, government repression amplifies the allure of violent extremism and is a major cause of rage and frustration for communities. *[The UN Plan of Action to Prevent Violent Extremism in paragraph 27 states that: Violent extremism tends to thrive in an environment characterized by poor governance, democracy deficits, corruption and a culture of impunity for unlawful behaviour engaged in by the State or its agents. When poor governance is combined with repressive policies and practices which violate human rights and the rule of law, the potency of the lure of violent extremism tends to be heightened. Violations of international human rights law committed in the name of state security can*

*facilitate violent extremism by marginalizing individuals and alienating key constituencies, thus generating community support and sympathy for and complicity in the actions of violent extremists. Violent extremists also actively seek to exploit state repression and other grievances in their fight against the state. Thus, Governments that exhibit repressive and heavy-handed security responses in violation of human rights and the rule of law, such as profiling of certain populations, adoption of intrusive surveillance techniques and prolongation of declared states of emergency, tend to generate more violent extremists].*

Violent extremist groups in the Sahel have exploited local communities by taking advantage of a lack of a governmental presence, development gaps, inter-ethnic disputes, and a lack of basic amenities and opportunities. In many situations, these groups have devised a strategy of delivering essential services that are lacking in order to win the hearts and minds of people who are fed up with government deficits. As a result, local communities cultivate partnerships with these extreme groups for survival and self-preservation, leading in mutual support and control of national areas. *[International Alert report in 2018 concurs that, the state presence is hardly felt in the central Sahel, and social roles and customs, which have nothing to do with the state regulate day-to-day activities. There are only five checkpoints along the 500-kilometer border between Bénéna (Mali-Burkina) and Andéramboukane (Mali-Niger), and two of them have been inactive since the start of the Malian crisis in 2012].*<sup>23</sup>

### **C. Structural Socioeconomic conditions:**

The Sahel, like the African continent, is confronted with structural economic impediments, leading to a shortage of socioeconomic opportunities, especially for youth and vulnerable members of society. This has permitted economic marginalization, high unemployment, and restricted work options, leading to disappointment, dissatisfaction, and extremism. A lack of economic possibilities fosters recruiting by violent extremist organizations, which can persuade vulnerable youth that they



can give a path out of poverty. The problem is exacerbated by a significant proportion of the educated population being unemployed, rendering them prone to violent extremist ideas.

#### D. Historical Grievances and Rivalries:

Peacebuilding, community resilience, and harmonious living are critical components in the prevention of violent extremism; however, unresolved historical grievances and conflicts are exploited by extremist organizations to pursue their objectives, therefore an equitable and inclusive society need long-term peace. Prolonged conflict erodes state authority, creating an ideal setting for extremists to operate and spread their narratives unabated. It is critical to find long-term solutions to disputes, community tensions, and acrimonies in order to prevent radicals from seizing areas and resources and committing atrocities. *[In 2019, the Norwegian Refugee Council ranked the Sahel the world's most neglected and conflict-ridden region,<sup>24</sup> The United Nations Economic Commission for Africa in its 2017 report on the Sahel Region highlights unresolved grievances like Tuareg marginalization in Niger and Mali and provides an overview of the rise of jihadist networks and violent extremism in Burkina-Faso, Mali and Niger].<sup>25</sup>*



## 2. MANIFESTATION(S) OF VIOLENT EXTREMISM IN THE SAHEL:

### Strategie Nationale de Prevention de la Radicalisation et de Lutte Contre L'extremisme Violent au Burkina Faso 2021 – 2025

*(National Strategy for the Prevention of Radicalization and the Fight against Violent Extremism in Burkina Faso 2021-2025).<sup>26</sup>*

Surveys conducted during regional consultations show that the highest rates of perception of individual radicalisation are found in the Sahel and Boucle du Mouhoun regions. Common characteristics of these individuals include changes in behaviour (withdrawal), the use of radical rhetoric, opposition to certain traditional ceremonies, and a tendency to impose their beliefs on others.

At the community level, social cohesion, which was long maintained, has given way to stigmatization fuelled by and perpetuated by extremist groups against certain communities in the Sahel. The intercommunal violence in Yirgou in the Sanmatenga province in January 2019, the land conflict between traditionalists and Wahhabis in Orodara in 2016, and the frequency of religious speeches with radical connotations are examples of this trend.

Furthermore, the radicalisation of extremist groups or their followers is manifested by the closure of traditional schools, demanding the establishment of Islamic education. These symptoms of radicalisation foster or result in violent manifestations of radicalisation...Religious conflicts are not the determining factor of radicalisation, and the main factors are not related to religious order.

### African Union Policy Paper (AU/PAPS/ACSRT/PP/002):<sup>27</sup>

The most profound manifestation of violent extremism in the Sahel region has been terrorism. Between 2019 and 2021, there have been a total of 861 terrorist attacks. These are led by Salafi-jihadist groups and Al-Qaeda-affiliated groups – comprising Al-Qaeda in the Islamic Maghreb (AQIM),

Al-Mourabitoun, the MLF and Ansaru Dine which announced in March 2017 that they would merge to form JNIM (*Jama'a Nusrat al-Islam wal Muslimin*). The merger led to an intensification of attacks in northern and central Mali, western Niger, and north and eastern Burkina Faso.

## Report of the Secretary-General, Activities of the United Nations Office for West Africa and the Sahel (S/2022/521):<sup>28</sup>

**Paragraph 24,** In Burkina Faso, terrorists have strengthened their grip on the Sahel, East and Centre-Nord regions. A tactic of attrition, with the use of heavy weapons, the planting of mines and the destruction of water and power facilities, was carried out in cities such as Djibo, Pama and Dori. Sophisticated improvised explosive devices were also planted along main transport arteries to impede trade and humanitarian access. Civil defence volunteers suffered repeated attacks which, between 25 January and 25 February, triggered the displacement of over 60,000 persons in the Centre-Nord region. On 31 January, the Poni province of Burkina Faso, bordering Côte d'Ivoire, was the scene of an incident when a convoy of civil defence volunteers hit an improvised explosive device in Helintira. Assaults on civilians also intensified in the east, where educational and other government institutions were attacked, while infiltrations from Mali continued in the south-west. On 11 June, an attack in the town of Seytenga, in the Sahel region, resulted in at least 89 deaths and the displacement of over 16,000 people. Dozens of civil defence volunteers were also killed in different attacks across the northern and eastern regions.

**Paragraph 25,** The security situation in Mali was marked by deadly attacks perpetrated by groups affiliated with Islamic State in the Greater Sahara in the Gao region and by a considerable deterioration in the security situation in the Liptako-Gourma region, affecting Ménaka region, where hundreds of civilians were reportedly killed. On 18 and 19 June, at least 100 civilians were killed in attacks reportedly perpetrated by extremist groups against several villages in the Bandiagara region, Central Mali. Dozens of civilians were also reportedly killed by extremist groups in the region of Gao. Against the backdrop of the withdrawal of Operation Barkhane and

Task Force Takuba forces, Jama'a Nusrat ul-Islam wa al-Muslimin remained active in many regions, ostensibly in attempts to fill the security vacuum. Despite an intensification of operations by the Malian armed forces, civilians were exposed to violent attacks and increasing human rights violations and abuses. A counter-terrorism operation conducted by the Malian armed forces, in the village of Moura, Djenné Circle, from 27 to 31 March, raised allegations of summary executions and multiple other serious human rights violations. These were denied by the Malian authorities, who have announced an investigation to establish the facts. The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) is also investigating in accordance with its human rights mandate, although to date it has not been granted access to the site. MINUSMA also continued to be subject to attacks, including of improvised explosive devices, such as on 7 March and 1 June, which resulted in the deaths of three peacekeepers.

**Paragraph 27,** In the Niger, the civilian populations in the western regions of Tahoua and Tillabéri continued to endure attacks and were also impacted by fighting between Jama'a Nusrat ul-Islam wa al-Muslimin and Islamic State in the Greater Sahara. Among other incidents, on 16 March, 21 people were killed when militants attacked a passenger bus and a truck between Téra and Betelkoli near the border with Burkina Faso.



## B. Region: Asia (Sri Lanka)

### 1. TYPE(S) OF RADICALISATION, TERRORISM AND VIOLENT EXTREMISM

#### Sri Lanka—Prevention of Terrorism (Temporary Provisions) Act.<sup>29</sup>

##### Offences Under this Act and Penalties

Section 2(1), any person who:

- (a) causes the death of any specified person, or kidnaps or abducts a specified person, or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or
- (b) causes the death of any person who is a witness to any offence under this Act, or kidnaps or abducts or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or
- (c) commits criminal intimidation of any specified person or a witness referred to in paragraph (b); or  
commits the offence of robbery of the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society; or
- (d) commits the offence of mischief to the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society or to any other public property; or
- (e) without lawful authority imports, manufactures or collects any firearms, offensive weapons, ammunition or explosives or any

article or thing used, or intended to be used, in the manufacture of explosives; or

- (f) possesses without lawful authority, within any security area, any firearms or any offensive weapon, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or
- (h) by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups; or
- (i) without lawful authority erases, mutilates, defaces or otherwise interferes with any words, inscriptions, or lettering appearing on any board or other fixture on, upon or adjacent to, any highway, street, road or any other public place; or
- (j) harbors, conceals or in any other manner prevents, hinders or interferes with the apprehension of, a proclaimed person or any other person, knowing or having reason to believe that such person has committed an offence under this Act,

shall be guilty of an offence under this Act.

#### 1.1 Radicalisation in Sri Lanka

##### United Nations Office on Drugs and Crime, Final Independent Project Evaluation Support to Sri Lanka on Counter Terrorism.<sup>30</sup>

Sri Lanka's experience with politically and religiously motivated violence has a long history. After 25 years of interethnic **violence, the civil war, driven mainly by ethnic rivalry**, ended. Furthermore, Sri Lanka has also been afflicted by **Buddhist extremist actions**, including propagated and incited violence against minorities. It was public knowledge that there was some level of **support for Islamic terrorist groups** among the minority Muslim population in Sri Lanka and that some of them had gone off to fight for ISIL in Syria.

## Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019:<sup>31</sup>

### 1.2 Islamic Extremism

#### A. Politico-Religious Extremism

For the purpose of this report, the phrase 'Islamic extremism,' is used with reference to practices of a segment of the Muslim community that pose challenges to harmonious co-existence of different peoples' groups in the country. For the past two to three decades, a version of Islam that supports extremism began to spread in Sri Lanka mainly in the Eastern Province centering Kattankudy... The PSC observes that Zahran and the National Thowheed Jamaath (NTJ) Organization responsible for the Easter Sunday attacks had been in operation in the Kattankudy area since around 2013/2014... Zahran openly made public speeches in Kattankudy on several occasions (09.12.2016, 17.02.2017, 02.03.2017) against non-Muslims and preached to his followers that all non-Muslims must be killed.

#### B. Right-wing Extremism

The PSC observes that there is a growing trend of Islamophobia in the country in the past few decades. Several attacks on the Muslim minority community were reported starting from Mawanella riots in 2001, Aluthgama riots in 2014, Gintota riots in 2017 Ampara and Digana 2018 and in parts of the North Western Province in May 2019. These riots resulted in Muslim homes and businesses being burned and vandalized and few deaths reported. However, the PSC is not aware of some arrested persons involved in these riots being prosecuted or convicted to date. The ongoing victimization by certain extremists in the Buddhist community of an already vulnerable community over the years fed into the growth of radicalisation and extremism in the Muslim community as per the evidence.

### 1.3 The Rise of Buddhist Extremism

In 2012, a Buddhist extremist group, Bodu Bala Sena (Buddhist Power Force or BBS), was created to promote Buddhist nationalism among the majority Sinhalese community... Despite the change of Government in 2015, the attacks against Muslims and Christian religious places continued coupled with the increasing calls to boycott Muslim businesses. The initiatives to target Muslims in Sri Lanka was fuelled by the growing rhetoric of the Muslim population increasing to replace the Sinhalese as the majority community in Sri Lanka and the economic rivalries. This was compounded by global trends of Islamophobia.

#### United Nations, Comprehensive Report of the United Nations High Commissioner for Human Rights, Situation of human rights in Sri Lanka.<sup>32</sup>

**Paragraph 27,** In previous reports, the High Commissioner expressed concern about the trend towards ethno-religious majoritarianism, which was undermining human rights and reconciliation. Former President Rajapaksa had actively promoted a Sinhala Buddhist majoritarian ideology with the support of the military and Buddhist monks.



## 2. MANIFESTATION(S) OF VIOLENT EXTREMISM IN SRI LANKA

As detailed in the following sources;

Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019;<sup>33</sup>  
US Department of State, Country Reports on Terrorism 2019: Sri Lanka;<sup>34</sup> Report of the Sectoral Oversight Committee on National Security of the Parliament of Sri Lanka - May 2020;<sup>35</sup>  
United Nations Report of the Special Rapporteur on freedom of religion or belief;<sup>36</sup> United Nations Office on Drugs and Crime, Final Independent Project Evaluation Support to Sri Lanka on Counter Terrorism;<sup>37</sup>

The primary manifestation of violent extremism in Sri Lanka has been terrorism. The Easter Sunday attacks in Sri Lanka on 21 April 2019 have been the first and thus far only terrorist activity of this nature associated with Muslim extremism in Sri Lanka, causing havoc to society and killing hundreds of persons. Zahran and the National Thowheed Jamaath (NTJ) Organization responsible for the Easter Sunday attacks had been in operation in the Kattankudy area since around 2013/2014. In June 2014, Muslims and their properties were attacked in the towns of Aluthgama, Beruwala and Darga Town in the Kalutara District by Sinhala Buddhist extremist mainly believed to be supporters of the BBS. It is believed that at least four people were killed and around 80 injured in the riots that lasted two days. Several Muslim-owned shops and places of worship were set ablaze.

## C. Region: Balkan

### 1. TYPE(S) OF RADICALISATION, TERRORISM AND VIOLENT EXTREMISM

#### Albania—The Albanian National Strategy Countering Violent Extremism.<sup>38</sup>

**Radicalization to violence:** a decision to forgo political processes or nonviolent methods of fostering change in favor of adopting violent methods to bring about change.

**Violent extremism:** the use of violence to pursue political goals.

**Foreign terrorist fighters:** individuals who travel to a State other than their States of residence or nationality for the purpose of perpetrating, planning, preparing or participating in terrorist acts, or providing or receiving terrorist training, including in connection with armed conflict.

**Terrorist Fighters:** individuals perpetrating, planning, preparing or participating in terrorist acts, or providing or receiving terrorist training, including in connection with armed conflict].

#### Bosnia And Herzegovina—The Strategy of Bosnia and Herzegovina for Prevention and Combating Terrorism (2021-2026).<sup>39</sup>

What is common to almost all definitions of the term “**terrorism**” is that the basis of this phenomenon is the use of violence, which is a means to achieve political and ideological goals, and which produces an emotional response from the wider population, traumatizes the entire community and creates lasting fear.

**Violent extremism**, refers to acts of violence justified by, or associated with, an extremist religious, social or political ideology. The term violent extremism is broader and more comprehensive than terrorism, as it encompasses any type of violence, as long as the motive for the violence is considered extremist.

**Radicalization leading to terrorism** is defined as a dynamic process during which a person is brought into a state of acceptance of terrorist violence as a possible, perhaps even justifiable, action. This may ultimately, but not necessarily, lead this person to advocate, support or engage in terrorism. In this regard, this Strategy uses the aforementioned phrase because it implies that some cases of violent extremism and radicalisation may not lead to terrorism.

### **Serbia—National Strategy for the Prevention and Countering of Terrorism.**<sup>40</sup>

**Radicalisation:** the process during which a person is brought into the situation when he begins to approve of extremist beliefs, accepts violent extremism and/or terrorism as a possible and justified method of action, with the possibility, at the end of this process, that he shares values, supports or participates in activities of terrorists.

**Violent extremism:** extremism which implies the use of violence for the purpose of achieving political objectives, including but not limiting exclusively to terrorism.

The term “**terrorism**” in this Strategy means criminal offences contained in Chapter 34 of the Criminal Code (RS Official Gazette, No 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013 and 108/2014), from Article 391 to Article 393a, and other criminal offences stipulated by law or other laws, carried out in relation to the criminal offence of terrorism.

Other basic terms used in this text correspond to the meaning defined within UN bodies dealing with issues of radicalisation,

violent terrorism leading to terrorism, and the meaning defined in UN Resolution 2178.

### **Montenegro—Countering Violent Extremism Strategy.**<sup>41</sup>

**Radicalization to violence:** a decision to forgo political processes or nonviolent methods of fostering change in favor of adopting violent methods to bring about change; fostering change in favor of adopting violent methods to bring about change.

**Violent extremism:** use of violence to pursue political goals.

### **Kosovo—Strategy on Prevention of Violent Extremism and Radicalisation Leading to Terrorism 2015-2020.**<sup>42</sup>

**Terrorism:** use of violence with the purpose of causing terror over the



civilian population. Terrorism is a special type of violent extremism.

**Violent extremism:** Extremism which involves the use of violence; including but not limited to terrorism. For example, violent extremists who attack police or army members, or who participate in war, usually are not terrorists.

**Radicalism:** The process of approving extremist religious beliefs and in some cases converting into a violent extremist.

## North Macedonia—National Counterterrorism Strategy of The Republic of Macedonia.<sup>43</sup>

**Violent Extremism** – refers to the beliefs and actions of people who support or use ideologically motivated violence to realize radical ideological, religious or political views.

**Terrorism:** the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims.

### 1.1 Radicalisation in the Balkans.

#### European Commission—Violent Right-Wing Extremism in the Western Balkans: An overview of country-specific challenges for P/CVE.<sup>44</sup>

This provides an overview of radicalisation in the Balkans, in the form of right-wing extremism. In summary, across the Balkans, right wing political parties promote extreme nationalism, irredentism or autonomy of neighbouring territories, frequently use rhetoric fuelled with xenophobia and racism. Groups like the *Albanian Third Position* are openly neo-fascist movements which oppose communism, democracy and Abrahamic religions and promotes traditionalism, paganism and racism.

Generally, the right-wing narrative builds on racism against the Roma

and migrants and includes anti-communism, historical revisionism, xenophobia, anti-Semitism, anti-Muslim, racism and conspiracy theories. Also, in football ultras tend to promote such extremism. For instance, the *Fatherland Macedonian Organisation for Radical Reconstruction - Vardar, Aegean, Pirin* uses the historical liberationist movement as a credential and advocates for an ethnically pure (North) Macedonia.

A lack of consensus about the narratives of the past, frequent political disagreements, significant economic problems and various foreign influences have intersected and further intensified interethnic and political tensions and polarization. This has made the Balkans especially vulnerable to ethno-nationalism, political radicalisation and ideological extremism.

## Albania—The Albanian National Strategy Countering Violent Extremism;<sup>45</sup> Bosnia and Herzegovina—The Strategy of Bosnia and Herzegovina for Prevention and Combating Terrorism (2021-2026);<sup>46</sup> Serbia—National Strategy for the Prevention and Countering of Terrorism;<sup>47</sup> Montenegro—Countering Violent Extremism Strategy;<sup>48</sup> Kosovo—Strategy on Prevention of Violent Extremism and Radicalisation Leading to Terrorism 2015-2020;<sup>49</sup> North Macedonia—National Counterterrorism Strategy of The Republic of Macedonia.<sup>50</sup>

There remains the threat of religious extremism in the Balkans. Overall, from the end of 2012 until the beginning of 2016 it is estimated that up to 1,000 individuals from the Western Balkan countries have travelled to and stayed in Syria and Iraq, some with their families. Some have joined ISIS whereas others aligned themselves with Jabhat Fatah al-Sham (also known as Tahrir al-Sham, and formally known as Al Nusrah Front). These individuals come from Kosovo, Bosnia and Herzegovina, Albania, and North Macedonia. Since ISIS's physical land mass has contracted, some of the Foreign Terrorist Fighters from the Western Balkans have returned home or to other third countries, whereas others have died in battle.

## 2. MANIFESTATION(S) OF VIOLENT EXTREMISM IN THE BALKANS

**As detailed in the following sources; European Commission—Violent Right-Wing Extremism in the Western Balkans: An overview of country-specific challenges for P/CVE;<sup>51</sup> Albania—The Albanian National Strategy Countering Violent Extremism;<sup>52</sup> Bosnia and Herzegovina—The Strategy of Bosnia and Herzegovina for Prevention and Combating Terrorism (2021-2026);<sup>53</sup> Serbia—National Strategy for the Prevention and Countering of Terrorism;<sup>54</sup> Montenegro—Countering Violent Extremism Strategy;<sup>55</sup> Kosovo—Strategy on Prevention of Violent Extremism and Radicalisation Leading to Terrorism 2015-2020;<sup>56</sup> North Macedonia—National Counterterrorism Strategy of The Republic of Macedonia.<sup>57</sup>**

The primary manifestation of violent extremism in the Balkans, is the phenomenon of foreign terrorist fighters, where citizens travel abroad to join ISIL and other extremist groups. Within the region, right-wing extremism activities range from public appearances by individual members of these [RWE] organizations with the use of hate speech in places of public gatherings or through certain Internet portals and other media, to writing graffiti, slogans, painting murals and placing and distributing posters with offensive nationalist content that, under the guise of patriotism, express, promote, spread and incite national, religious and racial hatred and intolerance, as well as bigotry and intolerance towards the LGBT+ population.

There are such activities of fan groups in certain sports and at other public events in the Balkans in addition to exposure to fan extremism (hooliganism).



# III. GLOBAL AND REGIONAL POLICY FRAMEWORKS ADDRESSING RADICALISATION, TERRORISM AND VIOLENT EXTREMISM

## United Nations Global Counterterrorism Strategy:<sup>58</sup>

### Annex (3),

We, the States Members of the United Nations, resolve to recognize that international cooperation and any measures that we undertake to prevent and combat terrorism must comply with our obligations under international law, including the Charter of the United Nations and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law.

#### I. MEASURES TO ADDRESS THE CONDITIONS CONDUCTIVE TO THE SPREAD OF TERRORISM;

We resolve to undertake the following measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism.

#### II. MEASURES TO PREVENT AND COMBAT TERRORISM;

We resolve to undertake the following measures to prevent and combat terrorism, in particular by denying terrorists access to the means to carry out their attacks, to their targets and to the desired impact of their attacks. (3) To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of national and international law, in particular human rights law, refugee law and international humanitarian law. We will endeavour to conclude and implement to that effect mutual judicial assistance and extradition agreements and to strengthen cooperation between law enforcement agencies.

### III. MEASURES TO ENSURE RESPECT FOR HUMAN RIGHTS FOR ALL AND THE RULE OF LAW AS THE FUNDAMENTAL BASIS OF THE FIGHT AGAINST TERRORISM;

We resolve to undertake the following measures, reaffirming that the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism:

1. To reaffirm that General Assembly resolution 60/158 of 16 December 2005 provides the fundamental framework for the “Protection of human rights and fundamental freedoms while countering terrorism”;
2. Reaffirm that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law;
3. To make every effort to develop and maintain an effective and rule of law-based national criminal justice system that can ensure, in accordance with our obligations under international



law, that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in support of terrorist acts is brought to justice, on the basis of the principle to extradite or prosecute, with due respect for human rights and fundamental freedoms, and that such terrorist acts are established as serious criminal offences in domestic laws and regulations. We recognize that States may require assistance in developing and maintaining such effective and rule of law-based criminal justice systems, and we encourage them to resort to the technical assistance delivered, inter alia, by the United Nations Office on Drugs and Crime;

4. To reaffirm the important role of the United Nations system in strengthening the international legal architecture by promoting the rule of law, respect for human rights and effective criminal justice systems, which constitute the fundamental basis of our common fight against terrorism;
5. To support the Human Rights Council and to contribute, as it takes shape, to its work on the question of the promotion and protection of human rights for all in the fight against terrorism;

To support the strengthening of the operational capacity of the Office of the United Nations High Commissioner for Human Rights, with a particular emphasis on increasing field operations and presences. The Office should continue to play a lead role in examining the question of protecting human rights while countering terrorism, by making general recommendations on the human rights obligations of States and providing them with assistance and advice, in particular in the area of raising awareness of international human rights law among national law enforcement agencies, at the request of States;

6. To support the role of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Special Rapporteur should continue to support the efforts of States and offer concrete advice by corresponding with Governments, making country visits, liaising with the United Nations and regional organizations and reporting on these issues.

## **The G5 Sahel (Burkina Faso, Mali, Mauritania, Niger and Chad):<sup>59</sup>**

### ***Preamble, paragraph 8:***

The State parties reaffirm the priority they give to security and development of region and reiterate their full commitment to promoting democracy, human rights, and good governance.

## **ECOWAS Political Declaration and Common Position Against Terrorism:<sup>60</sup>**

### ***The Authority of Heads of State and Government hereby therefore solemnly declares as follows, Declaration 10:***

Reaffirms the commitment of Member States to uphold international law and to streamline all activities undertaken within the framework of preventing and combating terrorism with the applicable international humanitarian and human rights law, including the African Charters on Human and People's Rights and the Rights and Welfare of the Child; as well as the Universal Declaration on Human Rights, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the International Covenant on Civil and Political Rights. To this end, all Member States collectively abhor torture and other degrading and inhumane treatment of terrorist suspects, and undertake to strengthen democratic practices and rule of law to ensure due process, fair trial and equality before the law for all citizens.

## **ECOWAS Counterterrorism Strategy:<sup>61</sup>**

### **Pillar 1: PREVENT;**

#### **ELIMINATE CONDITIONS CONDUCTIVE TO THE SPREAD OF TERRORISM:**

**Action 4:** Implement a zero-tolerance policy against racism and other forms of discrimination based on ethnicity, gender or religion.

## **PROMOTE DEMOCRATIC PRACTICES AND THE PROTECTION OF HUMAN RIGHTS:**

**Action 3:** Promote transparency and accountability in all state programmes and institutions, as well as policies aimed at fully emancipating marginalised communities, including minorities.

**Action 4:** Ensure that human rights as enshrined in the 1981 OAU Charter on Human and People's Rights and various UN conventions, including the 1948 Universal Declaration on Human Rights and the International Covenant of Civil and Political Rights, are protected for every individual. To this end, Member States shall take every measure to ensure that actions taken to prevent and combat terrorism, including the legislative and operational activities of police and law enforcement officers, do not infringe on these rights, except under the emergency conditions allowed under national law.

**Action 5:** Prohibit torture in all its forms and manifestations and other degrading and inhumane treatment, including discrimination on racial, ethnic or gender basis against minorities and terrorist suspects.

**Action 6:** Ensure that detention, arrest, imprisonment or forced expulsion/ deportation and other sanctions against terrorist suspects are conducted strictly within the framework of the law. To this end, all Member States shall ensure that the arrest, detention, forced expulsion, imprisonment or even targeted killing of terrorist suspects is conducted through due process of the law.

### **Pillar 2: RECONSTRUCT;**

#### **PROTECT THE RIGHTS OF VICTIMS:**

**Action 1:** Promote the rights of victims of terrorism, including those affected directly and indirectly by the rippling effect of terrorism, and ensure that their concerns are addressed.

**Action 2:** Funds seized or recovered from terrorists should be distributed to the victims or their families

**Action 3:** Provide other forms of assistance to victims, including medical care and reintegration into normal social life.

## United Nations Plan of Action to Prevent Violent Extremism (A/70/674):<sup>62</sup>

**Paragraph 50:** When Governments embrace international human rights norms and standards, promote good governance, uphold the rule of law and eliminate corruption, they create an enabling environment for civil society and reduce the appeal of violent extremism. Policies and initiatives that are firmly grounded in human rights are essential to ensuring the inclusion of individuals or communities that are vulnerable to violent extremism. We need to find ways to strengthen trust between government institutions and communities to prevent real or perceived marginalization and exclusion. I therefore recommend that Member States:

- (a) Review all national legislation, policies, strategies and practices aimed at preventing and countering violent extremism to ascertain whether they are firmly grounded in respect for human rights and the rule of law, and whether they put in place national mechanisms designed to ensure compliance. This may also involve taking measures to strengthen the rule of law, repealing discriminatory legislation and implementing policies and laws that combat discrimination and exclusion;
- (b) Provide access to justice for all and strengthen fair, effective, accountable and inclusive institutions at all levels, in line with the 2030 Agenda for Sustainable Development;
- (e) Ensure accountability for gross violations of international human rights law and international humanitarian law, including those amounting to crimes under international law, such as war crimes and crimes against humanity, through criminal procedures adhering to due-process guarantees. Accountability mechanisms should have relevant gender expertise to fulfil their mandates. In cases where national procedures are not able or are unwilling to address such crimes, the international community should support accountability efforts, including through a referral of such situations by the Security Council to the International Criminal Court or to an ad hoc tribunal, where appropriate;

- (f) Reform national legal frameworks and penitentiary systems to ensure the security of inmates, personnel and facilities and establish procedures to prevent and counter radicalisation in prisons based on human rights and the rule of law;
- (h) Promote the enjoyment of economic, social and cultural rights, including through human rights-based initiatives that help eliminate the conditions conducive to violent extremism. Such programmes can be particularly helpful when one group, whatever its demographic weight, behaves monopolistically in the political and economic sectors at the expense of other groups;
- (i) Prevent the subversion of the work of educational, cultural and religious institutions by terrorists and their supporters, as highlighted in Security Council resolution 1624 (2005); take appropriate measures against all forms of intolerance and discrimination based on religion or belief, as exhibited in particular in the curricula of formal and non-formal educational institutions, and textbooks and teaching methods;
- (j) Ensure that any restrictions on freedom of expression are clearly and narrowly defined and meet the three-part test of legality, proportionality and necessity.

### **Paragraph 55:**

- (d) Ensure that national legal frameworks protect freedom of opinion and expression, pluralism, and diversity of the media;
- (f) Protect journalists, who play a crucial role in democratic societies, by ensuring the prompt and thorough investigation of threats to their safety, and encourage journalists to work together to voluntarily develop media training and industry codes of conduct which foster tolerance and respect.

# IV. TRANSITIONAL JUSTICE TOOLS SUPPORTING GLOBAL AND REGIONAL POLICY FRAMEWORKS

## 1. DEFINING TRANSITIONAL JUSTICE TOOLS THAT CAN BE USED TO ADDRESS RADICALISATION

### A. Transitional Justice:

According to the *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, transitional Justice is “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. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.”<sup>63</sup>

### B. Truth Commissions:

According to the *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, “Truth commissions are official, temporary, non-judicial factfinding bodies that investigate a pattern of abuses of human rights or humanitarian law committed over a number of years. These bodies take a victim-centred approach and conclude their work with a final report of findings of fact and recommendations... They can also provide a public platform for victims to address the nation directly with their personal stories and can facilitate public debate about how to come to terms with the past”.<sup>64</sup>

According to the **United Nations Approach to Transitional Justice**, “Truth commissions are non-judicial or quasi-judicial investigative bodies, which map patterns of past violence, and unearth the causes and consequences of these destructive events. Each truth commission is a unique institution, but their core activities usually include collecting statements from victims and witnesses, conducting thematic research, including gender and children analysis of violations including their causes and consequences, organizing public hearings and other awareness programs, and publishing a final report outlining findings and recommendations”.<sup>65</sup>

According to the **Report of the independent expert to update the Set of principles to combat impunity, Addendum Updated Set of principles for the protection and promotion of human rights through action to combat impunity**,

**Principle 2**, “Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations”.



**Principle 4**, “Irrespective of any legal proceedings, victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims’ fate”.

**Principle 6**, “To the greatest extent possible, decisions to establish a truth commission, define its terms of reference and determine its composition should be based upon broad public consultations in which the views of victims and survivors especially are sought. Special efforts should be made to ensure that men and women participate in these deliberations on a basis of equality. In recognition of the dignity of victims and their families, investigations undertaken by truth commissions should be conducted with the object in particular of securing recognition of such parts of the truth as were formerly denied”.<sup>66</sup>

### C. Community Dialogues:

According to the **United Nations Development Programme (UNDP)**, community dialogues are “aimed at helping the communities to analyse and understand the root causes of conflict, acknowledge the abuses and crimes perpetrated by the community members against each other, facilitate healing, undertake negotiations to secure formal commitments for durable peaceful cohabitation and work towards community-based recovery.”<sup>67</sup>

According to the **United Nations Approach to Transitional Justice**, community dialogues, “founded on the principle that successful transitional justice programmes necessitate meaningful public participation, including the different voices of men and women. Public participation reveals the needs of communities affected by conflict or repressive rule, allowing States to craft an appropriate context-specific transitional justice programme. Moreover, the consultative process helps victims and other members of civil society to develop local ownership of the resulting programme”.<sup>68</sup>

## D. Justice and Accountability Processes:

According to the **United Nations Approach to Transitional Justice**, these “prosecution initiatives aim to ensure that those responsible for committing crimes, including serious violations of international humanitarian law and gross violations of international human rights law, are tried in accordance with international standards of fair trial and, where appropriate, punished. The credibility and legitimacy of prosecution initiatives require that they are conducted in a non-discriminatory and objective manner, regardless who the alleged perpetrators may be. States have the primary responsibility to exercise jurisdiction over these crimes. Therefore, in relation to the alleged crimes committed in the context of the conflict or repressive rule, transitional justice programmes will seek to reinforce or develop national investigative and prosecutorial capacities, an independent and effective judiciary, adequate legal defense, witness and victims’ protection and support, and humane correctional facilities”.<sup>69</sup>



According to the **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**,

**Paragraph 4**, “In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations”.<sup>70</sup>

**Paragraph 12** “A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law. Other remedies available to the victim include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law. Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should:

- (a) Disseminate, through public and private mechanisms, information about all available remedies for gross violations of international human rights law and serious violations of international humanitarian law;
- (b) Take measures to minimize the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;
- (c) Provide proper assistance to victims seeking access to justice;

(d) Make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law.

**Paragraph 13,** In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.

**Paragraph 14,** An adequate, effective and prompt remedy for gross violations of international human rights law or serious violations of international humanitarian law should include all available and appropriate international processes in which a person may have legal standing and should be without prejudice to any other domestic remedies”.<sup>71</sup>

## E. Reparations:

According to the **United Nations Approach to Transitional Justice**, “reparations programmes seek to redress systemic violations of human rights by providing a range of material and symbolic benefits to victims. Reparations can include monetary compensation, medical and psychological services, health care, educational support, return of property or compensation for loss thereof, but also official public apologies, building museums and memorials, and establishing days of commemoration”.<sup>72</sup>

According to the **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**,

**Paragraph 15,** “Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations

and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

**Paragraph 16,** States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations”.<sup>73</sup>

According to the **Report of the independent expert to update the Set of principles to combat impunity, Addendum Updated Set of principles for the protection and promotion of human rights through action to combat impunity**,

**Principle 32,** “All victims shall have access to a readily available, prompt and effective remedy in the form of criminal, civil, administrative or disciplinary proceedings subject to the restrictions on prescription set forth in principle 23. In exercising this right, they shall be afforded protection against intimidation and reprisals. Reparations may also be provided through programmes, based upon legislative or administrative measures, funded by national or international sources, addressed to individuals and to communities. Victims and other sectors of civil society should play a meaningful role in the design and implementation of such programmes. Concerted efforts should be made to ensure that women and minority groups participate in public consultations aimed at developing, implementing, and assessing reparations programmes”.

**Principle 34,** The right to reparation shall cover all injuries suffered by victims; it shall include measures of restitution, compensation, rehabilitation, and satisfaction as provided by international law. In the case of forced disappearance, the family of the direct victim has an

imprescriptible right to be informed of the fate and/or whereabouts of the disappeared person and, in the event of decease, that person's body must be returned to the family as soon as it has been identified, regardless of whether the perpetrators have been identified or prosecuted".<sup>74</sup>

## F. Institutional Reform:

According to the **United Nations Approach to Transitional Justice**, institutional reform warrants that, "Public institutions that helped perpetuate conflict or repressive rule must be transformed into institutions that sustain peace, protect human rights, and foster a culture of respect for the rule of law. By reforming or building fair and efficient public institutions, institutional reform enables post-conflict and transitional governments to prevent the recurrence of future human rights violations. Vetting members of the public service, particularly in the security and justice sectors, is critical to facilitating this transformation, by removing from office or refraining from recruiting those public employees personally responsible for gross violations of human rights. This may also include the disbandment of military, police or other security units that may have been systematically responsible for human rights violations. The removal of these persons should comply with due process of law and the principle of non-discrimination. Institutional reform should further incorporate comprehensive training programmes for public officials and employees on applicable human rights and international humanitarian law standards".<sup>75</sup>

According to the **Report of the independent expert to update the Set of principles to combat impunity, Addendum Updated Set of principles for the protection and promotion of human rights through action to combat impunity**,

**Principle 36**, "States must take all necessary measures, including legislative and administrative reforms, to ensure that public institutions are

organized in a manner that ensures respect for the rule of law and protection of human rights. At a minimum, States should undertake the following measures:

- a. Public officials and employees who are personally responsible for gross violations of human rights, in particular those involved in military, security, police, intelligence and judicial sectors, shall not continue to serve in State institutions. Their removal shall comply with the requirements of due process of law and the principle of non-discrimination. Persons formally charged with individual responsibility for serious crimes under international law shall be suspended from official duties during the criminal or disciplinary proceedings;
- b. With respect to the judiciary, States must undertake all other measures necessary to assure the independent, impartial and effective operation of courts in accordance with international standards of due process. Habeas corpus, by whatever name it may be known, must be considered a non-derogable right;
- c. Civilian control of military and security forces as well as of intelligence agencies must be ensured and, where necessary, established or restored. To this end, States should establish effective institutions of civilian oversight over military and security forces and intelligence agencies, including legislative oversight bodies;
- d. Civil complaint procedures should be established and their effective operation assured;
- e. Public officials and employees, in particular those involved in military, security, police, intelligence and judicial sectors, should receive comprehensive and ongoing training in human rights and, where applicable, humanitarian law standards and in implementation of those standards".

**Principle 38**, "Legislation and administrative regulations and institutions that contribute to or legitimize human rights violations must be repealed

or abolished. In particular, emergency legislation and courts of any kind must be repealed or abolished insofar as they infringe the fundamental rights and freedoms guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Legislative measures necessary to ensure protection of human rights and to safeguard democratic institutions and processes must be enacted. As a basis for such reforms, during periods of restoration of or transition to democracy and/or peace States should undertake a comprehensive review of legislation and administrative regulations”.<sup>76</sup>

## G. Community-based Memorialization:

According to the *Report of the independent expert to update the Set of principles to combat impunity, Addendum Updated Set of principles for the protection and promotion of human rights through action to combat impunity*,

**Principle 3**, “A people’s knowledge of the history of its oppression is part of its heritage and, as such, must be ensured by appropriate measures in fulfilment of the State’s duty to preserve archives and other evidence concerning violations of human rights and humanitarian law and to facilitate knowledge of those violations. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments”.

**Principle 14**, “The right to know implies that archives must be preserved. Technical measures and penalties should be applied to prevent any removal, destruction, concealment or falsification of archives, especially for the purpose of ensuring the impunity of perpetrators of violations of human rights and/or humanitarian law”.

**Principle 15**, “Access to archives shall be facilitated in order to enable victims and their relatives to claim their rights. Access shall be facilitated, as necessary, for persons implicated, who request it for

their defence. Access to archives should also be facilitated in the interest of historical research, subject to reasonable restrictions aimed at safeguarding the privacy and security of victims and other individuals. Formal requirements governing access may not be used for purposes of censorship”.<sup>77</sup>

According to the *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Paragraph 96*, “Archives containing records of mass violations can contribute to prevention. Access to well-preserved and protected archives is an educational tool against denial and revisionism, ensuring that future generations have access to primary sources, which is of direct relevance to history teaching. One notable example in this regard are the Stasi files opened up by Germany after 1989. Opening files contributes directly to the process of societal reform.”<sup>78</sup>

## H. Trauma-informed Responses:

According to the *United Nations Trauma-Informed Investigations Field Guide*, “A trauma-informed approach is guided by the principle of do no harm, and should apply to all contacts with witnesses”.<sup>79</sup>

Trauma is defined as “an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual’s functioning and mental, physical, social, emotional, or spiritual well-being...a trauma reaction is an emotional response to an event that impairs a person’s capacity to cope, and may strongly impact on their ability to recall and describe the traumatic experience”.<sup>80</sup>

“A trauma involved response essential to the ethical and effective investigation of international crimes. Such crimes typically involve

prolonged or systematic violence against civilian populations, usually based on group identity, and a destruction of the existing societal order. Every person involved in the investigative process—from survivors to witnesses to investigators to local populations as a whole—may be affected by trauma. A victim and witness centered approach requires adapting investigative methods to this reality, in the interests of both the investigation and the witnesses. The conditions that safeguard the psychological well-being of witnesses are the same conditions that facilitate the most complete and coherent retelling of those experiences”.<sup>81</sup>

According to the **United Nations Plan of Action to Prevent Violent Extremism**, paragraph 55(e), ...recommend[s] that Member States: Empower and enable victims to transform their loss and suffering into a constructive force for preventing violent extremism by providing them with online forums where they can tell their stories.<sup>82</sup>



## 2. TRANSITIONAL JUSTICE TOOLS SUPPORTING AFRICAN POLICY FRAMEWORKS, ESPECIALLY IN THE SAHEL.

### A. Truth Commissions:

#### African Union Transitional Justice Policy:<sup>83</sup>

**Paragraph 50**, The truth, justice and reconciliation element of the AUTJP involves the provision of public processes for probing societies with legacies of violent conflicts and systemic or gross violations of human and peoples’ rights. It is implemented through transitional justice (TJ) and reconciliation commissions, which are legal bodies established to examine and address violations and abuses. They also serve to establish a full historical record of such violations, including the various experiences of different groups such as women, children and youth, the identity of the victims and perpetrators, as well as the role of various State and non-State institutions, and to provide for measures of reconciliation and healing.

**Paragraph 51**, TJ commissions may also name individuals and institutions that are perpetrators, accomplices, accessories or facilitators of human rights violations, with a view to holding them accountable. In addition, TJ commissions should outline institutional responsibility for crimes and make recommendations to reform institutions, laws, policies and practices that enabled abuses to occur.

## United Nations Integrated Strategy for the Sahel:<sup>84</sup>

**Objective 1.5 (d)**, Help to design and support truth-seeking processes, national consultations on transitional justice, judicial accountability mechanisms, reparation programmes, including for victims of sexual violence, and provide advice on relevant institutional reforms (OHCHR, Department of Peacekeeping Operations, UNDP).

## Mali National Policy Document for the Prevention and Fight against Violent Extremism and Terrorism and Its Action Plan 2018-2020.<sup>85</sup>

**Pillar 5**, The socio-security crises that Mali has experienced and the institutional crisis caused by the March 2012 coup have put the solidity of the national social fabric to the test. The Malian state, in response to this situation, has implemented solidarity, justice, truth, and reconciliation programs to heal past wounds and strengthen national unity.

## B. Community Dialogues:

## African Union Transitional Justice Policy:<sup>86</sup>

**Paragraph 18**, Traditional and complementary justice mechanisms are the local processes, including rituals, which communities use for adjudicating disputes and for restoring the loss caused through violence in accordance with established community-based norms and practices. They include traditional adjudicative processes such as clan or customary courts and community-based dialogue.

**Paragraph 129**, The process for national dialogue, reconciliation and healing should enable faith leaders, traditional and/or community leaders not only to play an active part in such processes at national level, but also to pursue intra- and intercommunity dialogue, reconciliation and healing at local levels.

## United Nations Integrated Strategy for the Sahel:<sup>87</sup>

**Objective 1.6 (a)**, Support the development of a community security and social cohesion strategy, through participatory and inclusive dialogue, for Sahel countries (UNDP, UNOWA, UNODC).

**Objective 1.7 (b)**, Promote regional dialogue among traditional and community leaders and leaders of faith-based organizations to address, inter alia, recruitment by extremist groups and promote the establishment of community-based conflict prevention and resolution mechanisms (Department of Political Affairs, Counter-Terrorism Committee Executive Directorate).

## Niger National Strategy for the Prevention of Radicalization and Violent Extremism.<sup>88</sup>

Based on these analyses, it appears that the political and administrative domains present the following major challenges for better preventing radicalisation and violent extremism: (vi) Improving the quality of political and social dialogue as approaches for prevention and resolution of political and social conflicts.

## Mali National Policy Document for the Prevention and Fight against Violent Extremism and Terrorism and Its Action Plan 2018-2020.<sup>89</sup>

**Pillar 5 (c.1)**, Strengthening civic education programs, peace culture, and intercultural, interreligious, intra- and inter-community dialogue.

### C. Justice and Accountability Processes:

#### African Union Transitional Justice Policy:<sup>90</sup>

**Paragraph 77**, The justice and accountability element of the AUTJP deals with the (formal and traditional) legal measures that should be adopted for investigating and prosecuting the crimes perpetrated, as a means of establishing accountability and giving judicial remedy to and acknowledgement of the suffering of victims. As a matter of principle, it should apply to all sides to the conflict and investigate and prosecute all crimes, including sexual and gender-based violence, albeit without disregarding the weight of responsibility of the different sides. Alongside its focus on holding perpetrators accountable, and hence on retribution, in the African transitional setting the justice and accountability element should involve conciliation and restitution. Procedures should involve granting compensation to victims and facilitating full participation of victims and community members in proceedings and reconciliation and healing.

#### United Nations Integrated Strategy for the Sahel:<sup>91</sup>

**Objective 1.5 (d)**, Help to design and support truth-seeking processes, national consultations on transitional justice, judicial accountability mechanisms, reparation programmes, including for victims of

sexual violence, and provide advice on relevant institutional reforms (OHCHR, Department of Peacekeeping Operations, UNDP).

## Mali National Policy Document for the Prevention and Fight against Violent Extremism and Terrorism and Its Action Plan 2018-2020.

**Pillar 3 (b.3)**, Try alleged terrorists by competent courts or extradite them in case of request in accordance with the international agreements to which Mali is a party.<sup>92</sup>

**Pillar 5 (a.5)**, Facilitate access to justice for vulnerable populations and ensure the correct and diligent execution of judicial decisions.<sup>93</sup>

### D. Reparations:

#### African Union Transitional Justice Policy:<sup>94</sup>

**Paragraph 64**, Reparative justice consists of effective and adequate financial as well as non-financial redress or restitution for violations or losses suffered.

#### United Nations Integrated Strategy for the Sahel:<sup>95</sup>

**Objective 1.5 (d)**, Help to design and support truth-seeking processes, national consultations on transitional justice, judicial accountability mechanisms, reparation programmes, including for victims of sexual violence, and provide advice on relevant institutional reforms (OHCHR, Department of Peacekeeping Operations, UNDP).

## E. Institutional Reform:

### African Union Transitional Justice Policy:<sup>96</sup>

**Paragraph 93**, The political and institutional reforms proposed in this AUTJP are aimed at reforming critical institutions of State and, where necessary, creating such institutions to give full expression to the spirit and letter of this policy. Institutional reforms must be supplemented and complemented by the creation of political and institutional arrangements, practices and values that ensure democratic and socio-economic transformation and the prevention of the emergence of future violations.

### United Nations Integrated Strategy for the Sahel:<sup>97</sup>

**Objective 1.5 (d)**, Help to design and support truth-seeking processes, national consultations on transitional justice, judicial accountability mechanisms, reparation programmes, including for victims of sexual violence, and provide advice on relevant institutional reforms (OHCHR, Department of Peacekeeping Operations, UNDP).

## F. Community-based Memorialization:

### African Union Transitional Justice Policy:<sup>98</sup>

**Paragraph 71**, Memorialization entails the measures beyond the immediate transitional period that are necessary for truth, reconciliation and healing, involving public acknowledgement of victims and institutionalizing both societal dialogue across generations and non-impunity in national discourse.

## G. Trauma-Informed Responses:

### African Union Transitional Justice Policy:<sup>99</sup>

**Paragraph 120**, Member States should establish social institutions and events that bring members of different groups together. These institutions should be equipped with experts who will facilitate communities' forgiveness and make mediation and trauma counselling available for strengthening social cohesion.

# 3. TRANSITIONAL JUSTICE TOOLS SUPPORTING POLICY FRAMEWORKS IN THE BALKANS

## A. Truth and Reconciliation Commissions:<sup>100</sup>

### RYCO Strategic Plan 2022–2024:<sup>101</sup>

**RYCO's Vision**, In 2025 the Western Balkans will have a more visible and impactful youth culture of reconciliation (...).

### Statute of the Regional Cooperation Council (RCC):<sup>102</sup>

**Paragraph 3**, The tasks of the RCC are defined as follows: to sustain focused regional cooperation in SEE through a regionally-owned and led framework; to provide political guidance to and receive substantive

input from relevant task forces and initiatives active in specific thematic areas of regional co-operation; to promote European and Euro-Atlantic integration; and to provide guidance to the Secretariat of the RCC and its Secretary General.

**Paragraph 5,** Priority areas for co-operation in the framework of the RCC are as follows:

- a. Economic and Social Development.
- b. Infrastructure
- c. Justice and Home Affairs
- d. Security Co-operation
- e. Building Human Capital [The RCC's, **Strategic Outlook at the Priority Areas of Cooperation in South East Europe**, provides; *The RCC will fully support the existing reconciliation initiatives in the region, enhanced cultural exchange, human contact, events and other initiatives aimed at general relaxation of social relations in the region and positively profiling the South East Europe as a region of tolerance and human capital richness...The RCC will focus on communicating the TBS model throughout the region, in strong belief that it can also provide a driving platform for continued reconciliation and fostering of a culture of dialogue, tolerance and mutual respect*]<sup>103</sup>
- f. as well as Parliamentary Co-operation as an overarching theme.

## Framework Convention for the Protection of National Minorities:<sup>104</sup>

**Article 2,** The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

## B. Community Dialogues:

### RYCO Strategic Plan 2022 – 2024:<sup>105</sup>

**RYCO's Vision,** In 2025 the Western Balkans will have a more visible and impactful youth culture of reconciliation, including substantial dialogue among young people in the whole region. Regional Youth Cooperation will be strengthened by a high share of young people experiencing inner-region mobility, built up capacities and networks of multipliers in regional youth work and an enabling political and societal environment for sustainable peacebuilding and youth engagement.

### Framework Convention for the Protection of National Minorities:<sup>106</sup>

**Article 6(1),** The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

**Article 15,** The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

## C. Justice and Accountability Processes:

### **International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY):<sup>107</sup>**

**Article 1,** The International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.

### **Statute of the International Residual Mechanism for Criminal Tribunals (IRMCT):<sup>108</sup>**

**Article 1,** The Mechanism shall continue the material, territorial, temporal and personal jurisdiction of the ICTY as set out in Articles 1 to 8 of the ICTY as well as the rights and obligations, of the ICTY and the ICTR, subject to the provisions of the present Statute.

### **Regional Cooperation Council (RCC), Strategy and Work Programme 2023-2025:<sup>109</sup>**

**Political and security cooperation: Rule of Law and Good Governance,**

**3.5.3.1,** The interventions under this heading aim at improving efficiency, accountability and modernisation of South Eastern Europe judiciaries.

**3.5.3.2,** Promotion of alternative dispute resolution.... In parallel, implement regional awareness raising activities to promote alternative dispute resolution to the wider public.

## **The Dayton Peace Agreement:<sup>110</sup>**

### **Annex 6, Agreement on Human Rights**

**Article II (1),** To assist in honouring their obligations under this Agreement, the Parties hereby establish a Commission on Human Rights (the "Commission"). The Commission shall consist of two parts: the Office of the Ombudsman and the Human Rights Chamber...

**Article V,** Allegations of violations of human rights received by the Commission shall generally be directed to the Office of the Ombudsman, except where an applicant specifies the Chamber.

### **Annex 7, Agreement on Refugees and Displaced Persons,**

**Article I (3e),** Parties shall take immediately the following confidence building measures, the prosecution, dismissal or transfer, as appropriate, of persons in military, paramilitary, and police forces, and other public servants, responsible for serious violations of the basic rights of persons belonging to ethnic or minority groups.



## D. Reparations:

### International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991:<sup>111</sup>

**Article 24(3)**, In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

### Statute of the International Residual Mechanism for Criminal Tribunals (IRMCT):<sup>112</sup>

**Article 22(4)**, In addition to imprisonment, the Single Judge or Trial Chamber may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

### The Dayton Peace Agreement:<sup>113</sup>

#### **Annex 6, Agreement on Human Rights Article XI,**

**1(b)**, Following the conclusion of the proceedings, the Chamber shall promptly issue a decision, which shall address: what steps shall be taken by the Party to remedy such breach, including orders to cease and desist, monetary relief (including pecuniary and non-pecuniary injuries), and provisional measures.

#### **Annex 7, Agreement on Refugees and Displaced Persons,**

**Article I (1)**, All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were; deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.



**Article XI**, The Commission [For Displaced Persons and Refugees] shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since April 1, 1992, and where the claimant does not now enjoy possession of that property. Claims may be for return of the property or for just compensation in lieu of return.

## E. Institutional Reform

### Framework Convention for the Protection of National Minorities:<sup>114</sup>

**Article 6(2)**, The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

**Article 6(8)**, The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

**Article 10(2)**, In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

## The Dayton Peace Agreement:<sup>115</sup>

### *General Framework Agreement for Peace in Bosnia and Herzegovina,*

**Article VI**, The Parties welcome and endorse the arrangements that have been made concerning the establishment of an arbitration tribunal,



a Commission on Human Rights, a Commission on Refugees and Displaced Persons, a Commission to Preserve National Monuments, and Bosnia and Herzegovina Public Corporations, as set forth in the Agreements at Annexes 5-9. The Parties shall fully respect and promote fulfilment of the commitments made therein.

**Article VII**, Recognizing that the observance of human rights and the protection of refugees and displaced persons are of vital importance in achieving a lasting peace, the Parties agree to and shall comply fully with the provisions concerning human rights set forth in Chapter One of the Agreement at Annex 6, as well as the provisions concerning refugees and displaced persons set forth in Chapter One of the Agreement at Annex 7.

### *Agreement on the military aspects of the Peace Settlement*

**Article II (3)**, ... The Parties also commit themselves to disarm and disband all armed civilian groups...

## F. Community-based memorialization:

### **Framework Convention for the Protection of National Minorities:**<sup>116</sup>

**Article 5(1)**, The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

### **The Dayton Peace Agreement:**<sup>117</sup>

#### *Agreement on the military aspects of the Peace Settlement,*

**Article IX (2)**, In those cases where places of burial, whether individual or mass, are known as a matter of record, and graves are actually found

to exist, each Party shall permit graves registration personnel of the other Parties to enter, within a mutually agreed period of time, for the limited purpose of proceeding to such graves, to recover and evacuate the bodies of deceased military and civilian personnel of that side, including deceased, prisoners.

#### **Annex 7, Agreement on Refugees and Displaced Persons,**

**Article V,** The Parties shall provide information through the tracing mechanisms of the ICRC on all persons unaccounted for. The Parties shall also cooperate fully with the ICRC in its efforts to determine the identities, whereabouts and fate of the unaccounted for.

#### **Annex 8, Agreement on Commission to Preserve National Monuments**

**Article IV,** The Commission [to Preserve National Monuments] shall receive and decide on petitions for the designation of property having cultural, historic, religious or ethnic importance as National Monuments.

### **G. Trauma-informed responses:**

#### **Framework Convention for the Protection of National Minorities.<sup>118</sup>**

**Article 4(2),** The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

**Article 5(1),** The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

**Article 12 (1),** The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.

**Article 16,** The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

## **4. TRANSITIONAL JUSTICE TOOLS SUPPORTING POLICY FRAMEWORKS IN SRI LANKA**

### **A. Truth (and reconciliation) Commissions:**

#### **The Office of the High Commissioner for Human Rights (OHCHR) report on Sri Lanka (2015):<sup>119</sup>**

**Paragraph 57,** In the course of its investigation, the team obtained access to the unpublished reports of several domestic investigations, including the Udalgama Commission of 2006 and the Army Court of Inquiry of 2012. The reports confirmed the concerns of OHCHR with regard to their lack of independence and follow-up to their recommendations highlighted in previous reports of OHCHR (see A/HRC/25/23).

**Paragraph 58,** Since January 2015, President Sirisena and other government figures have struck a very different tone on reconciliation in public statements. On Independence Day, 4 February, the Government issued a special “declaration of peace” in three languages in which it expressed sympathy and regret for all the victims of the 30-year armed conflict, and pledged to advance “national reconciliation, justice and equality for all citizens”.

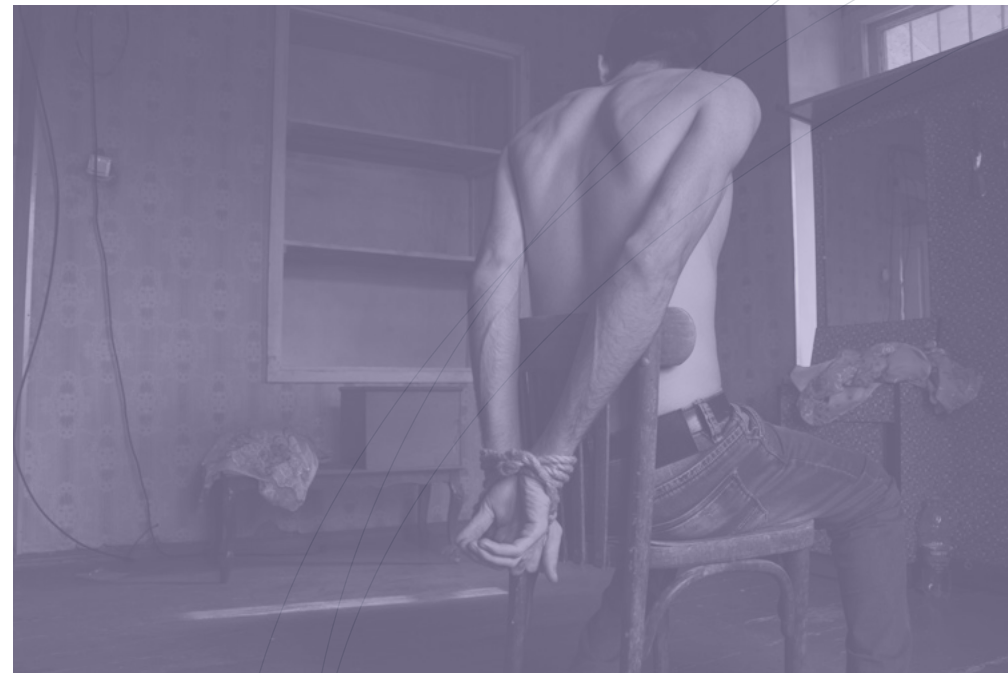
**Paragraph 59,** By a cabinet decision dated 25 March 2015, the Government established a new Office of National Unity and Reconciliation, headed by former President Chandrika Bandaranaike Kumaratunga, with a mandate to drive progress on pending issues such as the release of detainees and civilian land occupied by the military. The Government also continued to place emphasis on implementation of the recommendations made by the Lessons Learnt and Reconciliation Commission.

**Paragraph 81,** The design of any truth-seeking and accountability mechanisms must be pursued through a process of genuine, informed and participatory consultation, especially with victims and their families. New mechanisms should not be established under the Commissions of Inquiry Act, which has systematically failed to deliver results; new, purpose-specific legislation will therefore be required.

**Paragraph 91(1.c),** The High Commissioner recommends that the Government of Sri Lanka: Initiate genuine consultations on transitional justice, in particular truth seeking and accountability mechanisms, reparations and memorialization, with the public, victims and witness groups, civil society and other stakeholders; these should be accompanied by public education programmes that ensure informed participation in the process.

**Paragraph 91(4.s),** The High Commissioner recommends that the Government of Sri Lanka: Develop a central database of all detainees, with independent verification, where relatives may obtain information of the whereabouts of family members detained, and publish a list of all detention centres.

**Paragraph 91(4.t),** The High Commissioner recommends that the Government of Sri Lanka: Publish all unpublished reports of the many human rights-related commissions of inquiry, the Presidential Commission on the Missing and the Army Court of Inquiry into civilian casualties.



### **The Lessons Learnt and Reconciliation Commission Report (2011):<sup>120</sup>**

**4.377,** The Commission therefore recommends that the Government of Sri Lanka institute an independent investigation into this issue with a view to establishing the truth or otherwise of these allegations and take action in accordance with the laws of the land. Equally, the Commission feels that arrangements should be made to ensure and facilitate the confidentiality and protection of information and informants.

### **Sri Lanka's National Plan of Action to Implement the Recommendations of the Lessons Learnt and Reconciliation Commission (2012):<sup>121</sup>**

**Page 3.** Established an integrated database to collate information regarding missing persons.

## B. Community dialogues:

### The Lessons Learnt and Reconciliation Commission Report (2011):<sup>122</sup>

**9.237** To this end, the Government must take the initiative to have a serious and structured dialogue with all political parties, and those representing the minorities in particular, based on a proposal containing the Government's own thinking on the form and content of the dialogue process envisaged. That dialogue must take place at a high political level and with adequate technical back-stopping.

### Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019:<sup>123</sup>

**Recommendation 3,** The need to control and monitor the rise of religious extremism

The Government should sponsor and foster inter-faith dialogue to promote religious harmony, co-existence, mutual respect and create awareness on radicalisation and extremism.

The Government should improve engagement with community and religious leaders and have a robust system to address concerns raised including early warning of increased extremism and follow up with community led initiatives.

## C. Justice and accountability processes:

### The Office of the High Commissioner for Human Rights (OHCHR) report on Sri Lanka (2015):<sup>124</sup>

**Paragraph 74,** The new Government has pledged to deal with accountability issues "within the country's legal framework". Much of the debate has turned on the type of mechanisms that achieve this, and whether they should be domestic, international or a hybrid of the two. As the Human Rights Council stressed in its resolution 25/1, however, what is needed is a "comprehensive approach to transitional justice incorporating the full range of judicial and non-judicial measures", including individual prosecutions, reparations, truth-seeking, institutional reform and vetting of public employees and officials.

**Paragraph 81,** The design of any truth-seeking and accountability mechanisms must be pursued through a process of genuine, informed and participatory consultation, especially with victims and their families. New mechanisms should not be established under the Commissions of Inquiry Act, which has systematically failed to deliver results; new, purpose-specific legislation will therefore be required.



**Paragraph 88,** The High Commissioner remains convinced that, for accountability to be achieved in Sri Lanka, it will require more than a domestic mechanism. Sri Lanka should draw on the lessons learned and good practices of other States that have succeeded with hybrid special courts, integrating international judges, prosecutors, lawyers and investigators. Such a mechanism will be essential to give confidence to all Sri Lankans, in particular the victims, in the independence and impartiality of the process, particularly given the politicization and highly polarized environment in Sri Lanka. OHCHR stands ready to continue to provide its advice and technical assistance in the design of such a mechanism

**Paragraph 91 (1.c),** The High Commissioner recommends that the Government of Sri Lanka: Initiate genuine consultations on transitional justice, in particular truth seeking and accountability mechanisms, reparations and memorialization, with the public, victims and witness groups, civil society and other stakeholders; these should be accompanied by public education programmes that ensure informed participation in the process.

**Paragraph 91 (1.d),** The High Commissioner recommends that the Government of Sri Lanka: Invite the Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence to continue his engagement in accompanying and providing advice in this process.

**Paragraph 92 (c),** The High Commissioner recommends that the United Nations system and Member States: Wherever possible, in particular under universal jurisdiction, investigate and prosecute those responsible for such violations as torture, war crimes and crimes against humanity.

## The Lessons Learnt and Reconciliation Commission Report (2011):<sup>125</sup>

**5.77** The Commission is of the view that proper investigations should be conducted in respect of the allegations against the illegal armed groups with a view to ascertain the truth and the institution of criminal proceedings against offenders in cases where sufficient evidence can be found.

### D. Reparations:

## The Office of the High Commissioner for Human Rights (OHCHR) report on Sri Lanka (2015):<sup>126</sup>

**Paragraph 91(2.h),** The High Commissioner recommends that the Government of Sri Lanka: Prioritize the return of private land that has been occupied by the military and end military involvement in civilian activities.

**Paragraph 91(5.v),** The High Commissioner recommends that the Government of Sri Lanka: Develop a national reparations policy that takes into account the specific needs of women and children, and make adequate provision from the State budget;

## The Lessons Learnt and Reconciliation Commission Report (2011):<sup>127</sup>

**5.37** The Commission also emphasizes that the relatives of missing persons shall have the right to know the whereabouts of their loved ones. They also have the right to know the truth about what happened to such persons, and to bring the matter to closure. Reconciliation is a process. Closure is the first difficult emotive step in that long and

complex journey irrespective of whether they are victims of conflict or victims of LTTE terrorism. This will also enable them to seek appropriate legal remedies including compensation;

**5.39** The issuance of death certificates and monetary recompense where necessary should be addressed as a matter of priority, taking into account applicable international standards.

## E. Institutional Reform:

### The Office of the High Commissioner for Human Rights (OHCHR) report on Sri Lanka (2015):<sup>128</sup>

**Paragraph 85,** Against this backdrop, the High Commissioner believes that the Government of Sri Lanka will need to embark on fundamental reforms of the security sector and justice system, including a full-fledged vetting process to remove from office security forces personnel and public officials suspected of involvement in human rights violations, before it can hope to achieve a credible domestic accountability process and hope to achieve reconciliation.

**Paragraph 91(2.g),** The High Commissioner recommends that the Government of Sri Lanka: Develop a full-fledged vetting process respecting due process to remove from office military and security force personnel and any other public official where there are reasonable grounds to believe that they have been involved in human rights violations.

**Paragraph 92 (a),** The High Commissioner recommends that the United Nations system and Member States: Provide technical and financial support for the development of transitional justice mechanisms, provided that they meet international standards; and set up a coordination mechanism among donors in Sri Lanka to ensure focused and concerted efforts to support the transitional justice process.



### The Lessons Learnt and Reconciliation Commission Report (2011):<sup>129</sup>

**5.78** Action should also be taken to disarm and put an end to illegal activities of these groups, as it would otherwise present a serious obstacle to the ongoing process of reconciliation. In this regard, the Commission strongly reiterates its Interim Recommendation seeking to disarm all illegal armed groups.

### Sri Lanka's National Plan of Action to Implement the Recommendations of the Lessons Learnt and Reconciliation Commission (2012):<sup>130</sup>

**Page 11.** A marked reduction or withdrawal of security force personnel for civil activities.

**Page 12.** Introduce measures/mechanisms/amendment to laws to strengthen citizens grievance mechanisms.

## Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019:<sup>131</sup>

### Recommendations

The PSC makes several recommendations that require urgent attention. These are broadly categorised as follows: -

1. Essential reforms in the security and intelligence sector
2. Establishment of an enhanced financial supervisory Mechanism
3. The need to control and monitor the rise of religious Extremism
4. Addressing delays with justice: Reforming the Attorney General's Department
5. Wahabism and the need for action
6. Media reporting, fake news and other areas of concern
7. Holding politicians/ peoples' representatives accountable
8. Reforming the educational sector to counter growing extremism

## F. Community-based Memorialization:

### The Office of the High Commissioner for Human Rights (OHCHR) report on Sri Lanka (2015):<sup>132</sup>

**Paragraph 60,** At the time of writing, there were indications that the Presidential Commission to Investigate into Complaints regarding Missing Persons appointed by the previous Government had received a further extension to complete its work, despite widespread concerns raised about its credibility and effectiveness. In June 2015,

two additional Commissioners were appointed to expedite the hearing of cases. In July, the Government also announced the appointment of a special investigative team to expedite investigation into some cases, although its status is not known.

**Paragraph 91(4.u),** The High Commissioner recommends that the Government of Sri Lanka: Develop a comprehensive plan/mechanism for preserving all existing records and documentation relating to human rights violations, whether held by public or by private institutions.

### The Lessons Learnt and Reconciliation Commission Report (2011):<sup>133</sup>

**8.304** Given the traumatic nature of the long-drawn-out conflict and the massive toll in human life and property that it brought about, almost all the people who appeared before the Commission articulated



a clear need for the nation to collectively empathize with all those victims of the conflict whether they are civilians or soldiers, or whether they belong to Sinhala, Tamil, Muslim or other communities. The Commission, therefore, strongly recommends that a separate event be set apart on the National Day to express solidarity and empathy with all victims of the tragic conflict and pledge our collective commitment to ensure that there should never be such blood-letting in the country again. Based on testimonies it received the Commission feels that this commemorative gesture, on such a solemn occasion, and at a high political level, will provide the necessary impetus to the reconciliation process the nation as a whole is now poised to undertake.

## G. Trauma-informed Responses:

### The Office of the High Commissioner for Human Rights (OHCHR) report on Sri Lanka (2015):<sup>134</sup>

*Paragraph 91(5.w)*, The High Commissioner recommends that the Government of Sri Lanka: Strengthen programmes of psychosocial support for victims.

### The Lessons Learnt and Reconciliation Commission Report (2011):<sup>135</sup>

**5.4** Hundreds of persons who appeared before the Commission clearly articulated the critical importance of re-dedicating ourselves to the task of promoting and protecting human rights as a catalyst for bringing about reconciliation, lasting peace and security. The Commission also got the clear impression that the current period, which is the immediate aftermath of a traumatic conflict, is an opportune and a decisive moment for this task.

### Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019:<sup>136</sup>

#### Recommendations

The PSC makes several recommendations that require urgent attention. These are broadly categorised as follows: -

1. Essential reforms in the security and intelligence sector
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6. Media reporting, fake news and other areas of concern
7. Holding politicians/ peoples' representatives accountable
8. Reforming the educational sector to counter growing extremism.



## 5. ADDENDUM

Other global policy documents comprise of transitional justice tools which can be used to address radicalisation and violent extremism.

### The Hague – Marrakech Memorandum on Good Practices for a More Effective Response to the Foreign Terrorist Fighters (FTF) Phenomenon.<sup>137</sup>

#### A. Trauma Informed Responses:

**Good Practice 9: Adopt tailored and targeted approaches for CVE responses to radicalisation and recruitment, based on the specific motivational factors and intended audience.** Effective CVE responses consider the specific needs, culture, concerns, and grievances – both real and perceived – of the relevant communities.

#### B. Justice and Accountability:

**Good Practice 11: Develop and implement appropriate legal regimes and administrative procedures to effectively prosecute and mitigate the risk posed by FTFs.**

#### C. Institutional Reforms:

**Good Practice 19: Develop comprehensive reintegration programs for returning FTFs.** Comprehensive reintegration programs – including in prisons - are a critical component to respond to the potential threat posed by returnees. FTFs are driven by different motivational factors that led them to go abroad to fight – including religious, humanitarian, ideological, economic or political concerns – and radicalisation to violent extremism may happen during the time abroad rather than serving as the primary motivational factor for traveling.

#### D. Community Dialogues:

**Good Practice 1: Invest in the long-term cultivation of trusted relationships with communities susceptible to recruitment, considering the broader set of issues and concerns affecting the community.**

Engagement on the FTF phenomenon and radicalisation to violent extremism is an extremely sensitive topic. Authorities that engage communities whose members are vulnerable to becoming FTFs should conduct outreach on a broader set of issues, such as national foreign policy, to cultivate trust and address the core needs and concerns of the communities. This may include efforts to address the conditions conducive to radicalisation to violent extremism. Such authorities need to be honest about their roles and responsibilities, how information will be used, and what information can and cannot be shared with community members.

**Good Practice 6: Reach out to communities to develop awareness of the FTF threat and build resilience to violent extremist messages.**

Members of communities targeted for recruitment may not be aware of Internet-based or in-person recruitment techniques of FTFs. Community awareness briefings and table-top exercises enable the communities themselves to develop effective responses to FTF recruitment and help establish the trust needed for community members to share information about FTFs with authorities... Ultimately, communities should be encouraged to develop dialogue with others, in liaison with social, educational, and medical actors. In particular, inter- and intrareligious dialogue should be promoted. Communities should be supported to develop initiatives to prevent radicalisation and recruitment to violence. In this context, strong attention has to be paid to avoid stigmatization of religious or cultural communities.

## Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to Countering Violent Extremism.<sup>138</sup>

### A. Trauma Informed Response:

**Good Practice 1:** Each state initially needs to understand the nature of violent extremism. States should identify the conditions conducive to violent extremism and assess their own needs, objectives, and capabilities prior to developing and/or tailoring any CVE-relevant program.

**Good Practice 2:** Strategies with regard to CVE should be based on scientific analyses.

### B. Community dialogues:

**Good Practice 10:** It is crucial for states to build trust while working with communities. States should ensure meaningful community participation in order to mobilize the resources of the community in CVE-relevant activities.

**Good Practice 12:** States should promote tolerance and facilitate dialogue in society to build communities which appreciate their differences and understand each other.

### C. Institutional Reform:

**Good Practice 16:** Promoting economic opportunity among at-risk populations can address a condition conducive to violent extremism.

**Good Practice 19:** States should provide training to law enforcement officers in CVE-related matters.





## PART TWO:

# LITERARY SOURCES

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### ***A Transitional Justice Approach to Foreign Fighters***<sup>139</sup>

- This report explores the challenges and opportunities of addressing the issue of foreign fighters through a transitional justice lens. Using Iraq and Syria as primary case studies, this report draws on experiences with foreign fighters and violence characterized as terrorism or violent extremism in other states. The set of interventions examined here is meant to be illustrative, not exhaustive, because the issue requires further research and consultation with relevant stakeholders. Transitional justice can address the issue of foreign fighters in practice by providing specific ways to deal with it. The report identifies the types of national and local initiatives that could be incorporated into a transitional justice approach. Finally, this report concludes that a transitional justice approach can help address some of the root causes that lead individuals to join violent extremist groups while also promoting accountability for crimes committed by these groups.

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### ***Radicalization into Violent Extremism I: A Review of Social Science Theories***<sup>140</sup>

- This article reviews social science theories on radicalisation into violent extremism. The author argues that focusing solely on ideological radicalisation as a precursor to terrorism is not accurate. Instead, he suggests that there are multiple pathways to violent extremism, including personal and social factors. Borum also discusses the role of group dynamics and the Internet in radicalisation. He concludes by emphasizing the importance of understanding these complex processes in order to effectively prevent and counter violent extremism. Overall, this article provides a comprehensive overview of current social science research on radicalisation into violent extremism.

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### ***Islamist Radicalisation: A Root Cause Model***<sup>141</sup>

- This article discusses the root causes of Islamist radicalisation. The authors present a model that identifies various factors that contribute to radicalisation, including political, social, and psychological factors. They argue that these factors interact with each other in complex ways to create an environment conducive to radicalisation. The authors also compare their model to other models of radicalisation and highlight its strengths and weaknesses. Finally, they provide policy recommendations for addressing the root causes of Islamist radicalisation, such as promoting social inclusion and addressing grievances. Overall, the article provides a comprehensive analysis of the complex phenomenon of Islamist radicalisation and offers practical solutions for preventing it.

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### ***Transitional Justice: A Conceptual and Normative Framework for Combating Terrorism in Occupied Territories***<sup>142</sup>

- This article discusses the role of transitional justice in promoting peace and democracy in occupied territories. It explores the challenges faced by societies in these regions, including the need for legal frameworks and the duty of states to address human rights violations. The article also examines the potential for transitional justice to prevent terrorism and promote reconciliation. A comparative framework of existing models of transitional justice is presented, along with a proposal for a specific approach to transitional justice in occupied territories. Overall, the article aims to contribute to a better understanding of the challenges faced by societies in occupied territories and the importance of transitional justice in addressing them.

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### ***After Shocks: Exploring the Relationships between Transitional Justice and Resilience in Post-Conflict Societies***<sup>143</sup>

- The paper discusses with the aid of case studies, the potential of transitional justice tools to address the root causes of conflict and promote social inclusion. However, the downside of transitional justice in post-conflict resilience is also acknowledged. Overall, the paper argues that while transitional justice is not a panacea for addressing conflict and promoting peace, it can be an important tool when used in conjunction with other efforts to address underlying grievances and promote social inclusion.

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### ***Designing Bespoke Transitional Justice: A Pluralist Process Approach***<sup>144</sup>

- This article explores the importance of a customized approach to transitional justice, taking into account the unique circumstances of each society. The author thus argues for transitional justice to be tailored to the unique needs and preferences of each society, rather than relying on a one-size-fits-all approach. The article explores the flaws of international criminal law, theorizes about legitimacy and limiting domination, and assesses the performance of contemporary transitional justice mechanisms such as ad hoc tribunals and hybrid courts. The author emphasizes the importance of conducting empirical studies of population preferences during the design phase, functioning phase, and after completion of a transitional justice mechanism. Ultimately, the article advocates for a pluralist process approach that incorporates local populations' preferences into transitional justice mechanism design.

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### ***The European Union and Transnational Justice in The Western Balkans: A Case Study of Croatia and Serbia***<sup>145</sup>

- This article explores the role of the European Union in promoting transitional justice in the Western Balkans as a means of creating security in Europe. The EU's strong advocacy for human rights, democracy, and transitional justice during the reconciliation process of the Western Balkans is discussed, as well as its involvement through the Stabilisation and Association Process (SAP). The article also examines the challenges faced by the EU in promoting transnational justice in Croatia and Serbia, and concludes that while progress has been made, there is still much work to be done to ensure lasting peace and stability in the region.

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### ***The Irreconcilable Goals of Transitional Justice***<sup>146</sup>

- This article is about how societies that are transitioning from conflict or authoritarianism to democracy deal with past human rights abuses. The article explains that there are conflicting goals in this process, which can be hard to address. The article suggests that law can be used both to regulate violence and expose abuses of power, but also to hide and legitimize them. The article calls for more attention to be given to these conflicting goals when evaluating the political significance of transitional justice. Overall, the article argues that the goals of transitional justice advocacy and institutions are irreconcilable, and that this needs to be taken into account when thinking about how to address past human rights abuses in these societies.

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### ***Transitional Justice and its Discontents: Socioeconomic Justice in Bosnia and Herzegovina and the Limits of International Intervention***<sup>147</sup>

- This article explores the challenges of incorporating socioeconomic justice into transitional justice in post-conflict societies, using Bosnia and Herzegovina as a case study. The author argues that international intervention has been limited in achieving socioeconomic justice due to the dominance of liberal notions about dealing with the past. The article examines the complex transition process in Bosnia and Herzegovina, which has included political, economic, peacebuilding, and transitional justice reforms. The author suggests that a more holistic approach to transitional justice is needed to address socioeconomic inequalities. The article concludes by calling for greater attention to be paid to socioeconomic justice in post-conflict societies and for international organizations to adopt a more nuanced approach to transitional justice.

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### ***From Reconciliation to Transitional Justice: The Contours of Redress Politics in Established Democracies***<sup>148</sup>

- The article discusses how transitional justice can be used to address historical injustices in established democracies. It proposes a broader definition of transitional justice that includes past colonial injustices and contemporary redress activity. The article argues that using this framework can help evaluate different ways of redress and contribute to a more just society. It highlights some shortcomings of existing justice frameworks and suggests that transitional justice can provide a way forward for addressing historical injustices.

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## ***Omnus Et Singulatim': Establishing the Relationship Between Transitional Justice and Neoliberalism***<sup>149</sup>

- This article explores the relationship between transitional justice and neoliberalism. It argues that transitional justice serves to shape transitions according to particularly neoliberal contours. The article uses the concept of “omnus et singulatim” to describe how communities are gathered as stakeholders in economic activities while simultaneously being individualized as self-sufficient and responsible entrepreneurial units. The article locates the emergence of transitional justice within the global rise of neoliberalism. It shows that transitional justice serves an important function in regards to the particularly neoliberal contours of many transitions. The article concludes by arguing that a set of investigative tools is required to challenge the legitimisation of neoliberalism’s configuration as a technical necessity in the present and for the future. Finally, it suggests that this task must be attended with some urgency, especially in a world still feeling the fallout of the 2008 financial crash.



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## ***Mass Violence, Environmental Harm, and the Limits of Transitional Justice***<sup>150</sup>

- This article explores the complex relationship between environmental degradation and mass violence, particularly in the context of genocide. The authors argue that environmental harm can both contribute to and result from mass violence, and that transitional justice mechanisms must address both forms of harm in order to be effective. They discuss several case studies, including the genocide in Rwanda and the conflict in Darfur, to illustrate the connections between environmental degradation and mass violence. The authors also suggest that transitional justice mechanisms should incorporate environmental considerations into their processes, such as by addressing land rights and natural resource management. However, they acknowledge that there are challenges to doing so, including limited resources and political will. Overall, the article highlights the need for a more holistic approach to transitional justice that takes into account both human rights violations and environmental harm.

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## ***Transitional Justice: What Role for the UN Security Council?***<sup>151</sup>

- This report explores the Security Council’s position on transitional justice processes in conflict-affected societies. The Council has emphasized the importance of transitional justice in its briefings and statements, and has included transitional justice-related measures in the mandates of UN peace operations. However, as violence in some countries has increased, the Council’s emphasis on transitional justice has waned somewhat. The report provides case studies of successful transitional justice processes and recommends that the Council continue to underline relevant standards of justice and accountability. Transitional justice processes must be nationally-owned to be effective, but international engagement is also important. Challenges to achieving successful transitional justice include political will, resource constraints, and ensuring that victims’ voices are heard. Overall, this report highlights the importance of transitional justice in promoting stability and national reconciliation in conflict-affected societies.

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## ***Justice Discourses in Transition***<sup>152</sup>

- This article discusses the role of law in transitional societies, using Northern Ireland as a case study. It argues that transitional justice analyses can help us understand how societies emerge from violent politics. The article suggests that transitional justice should go beyond dealing with past human rights violations and focus on a range of inter-related dilemmas. These dilemmas include the relationship between law and conflict, the transformation of legal institutions, dealing with the past, political accommodation and minority rights, and gender and political transition. The article explores the tensions inherent in reforming the law while utilizing legal form to bring about institutional transformation. It concludes by suggesting that a broader understanding of transitional justice is needed to adequately understand the role of law in transitional societies.

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## ***The Influences of Social Identity and Perceptions of Injustice on Support to Violent Extremism***<sup>153</sup>

- This article explores the relationship between social identity, perceptions of injustice, and support for violent extremism among Australian Muslims. The study found that those who identified more strongly with their religious and ethnic groups were more likely to perceive injustice in the political and media fields. These perceptions of injustice were associated with greater susceptibility to supporting violent extremism. The study also found that social support from family and friends was negatively associated with support for violent extremism. The authors suggest that interventions aimed at reducing perceptions of injustice and increasing social support may be effective in preventing violent extremism. However, they caution against stigmatizing Muslim communities or promoting assimilationist policies, which may exacerbate feelings of injustice and alienation. Overall, the study highlights the importance of addressing social identity and perceptions of injustice in efforts to prevent violent extremism.

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## ***DDR and Transitional Justice: Bridging the Divide?***<sup>154</sup>

- This article explores the relationship between disarmament, demobilisation, and reintegration of ex-combatants (DDR) and transitional justice. DDR and transitional justice often operate simultaneously but have traditionally not been designed with each other in mind. They can be in tension or competition, pursuing competing demands and potentially drawing on the same scarce donor pools. The article discusses the challenges that arise when implementing DDR programs in post-conflict societies, including issues related to security, funding, and coordination. It also explores how transitional justice mechanisms can be used to complement DDR efforts by addressing past abuses and promoting reconciliation. Finally, the article provides examples of successful efforts to bridge the divide between DDR and transitional justice in recent history. Overall, the article highlights the importance of considering both DDR and transitional justice in post-conflict settings to ensure a comprehensive approach to peacebuilding.



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### ***Reassessing the Focus of Transitional Justice: The Need to Move Structural and Cultural Violence to the Centre***<sup>155</sup>

- This article argues that transitional justice, which focuses on holding perpetrators of mass atrocities accountable through courts and commissions, needs to shift its focus to address structural and cultural violence. Structural violence refers to the systemic inequalities that make mass atrocities possible, while cultural violence refers to the beliefs and attitudes that perpetuate these inequalities. The author suggests that transitional justice efforts should include measures to address these forms of violence, such as reparations for victims and institutional reforms. The article provides examples of how transitional justice efforts have failed to address structural and cultural violence in countries such as South Africa and Guatemala. The author concludes that a more comprehensive approach is needed to achieve true justice in post-conflict societies.

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### ***Traditional Justice as Socioeconomic Rights***<sup>156</sup>

- The article discusses the relationship between traditional justice and socioeconomic rights. The article argues that transitional justice literature is focused on individual political rights and liberal democratic justice, but overlooks the importance of socioeconomic rights. Kriger suggests that traditional justice can be a means of addressing socioeconomic inequalities and promoting social justice. The article also critiques the assumption that symbolic recognition of human rights abuses is more important than material or monetary compensation for past wrongs. Kriger argues that public debate about violent pasts is crucial for a nation to come to terms with its history and reconcile former enemies. Overall, the article highlights the need for a more comprehensive approach to transitional justice that includes socioeconomic rights and traditional justice practices.



## Endnotes

- 1 Some of the provisions in sections II and III have not been provided in their original language and the English translations may vary in content and quality.
- 2 United Nations General Assembly, Plan of Action to Prevent Violent Extremism, A/70/674, para. 2, available at [documents-dds-ny.un.org/doc/UNDOC/GEN/N15/456/22/PDF/N1545622.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/456/22/PDF/N1545622.pdf?OpenElement)
- 3 United Nations Educational, Scientific and Cultural Organisation (UNESCO), 2017, Preventing violent extremism through education: A guide for policy-makers, p.19-20, available at [unesdoc.unesco.org/ark:/48223/pf0000247764](https://unesdoc.unesco.org/ark:/48223/pf0000247764)
- 4 The African Model Anti-Terrorism Law, Assembly/AU/Dec.369(XVII), Final Draft as endorsed by the 17th Ordinary Session of The Assembly of The Union, Malabo, 30 June – 1 July 2011, available at [archives.au.int/bitstream/handle/123456789/8313/african-model-law-E.pdf?sequence=1&isAllowed=y](https://archives.au.int/bitstream/handle/123456789/8313/african-model-law-E.pdf?sequence=1&isAllowed=y)
- 5 OAU Convention on the Prevention and Combating of Terrorism, 1999, available at [caert.org.dz/official-documents/AU-CT-Framework.pdf](https://caert.org.dz/official-documents/AU-CT-Framework.pdf)
- 6 European Commission, Communication from The Commission to The European Parliament and the Council concerning terrorist recruitment: addressing the factors contributing to violent radicalisation, 21 September 2005 COM (2005) 313, p.2, available at [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005DC0313&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005DC0313&from=EN)
- 7 The Common Position of the Council of the EU of 27 December 2001 on the application of special measures in the fight against terrorism, (2001/931/CFSP), 27 December 2001, available at [eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001E0931](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001E0931)
- 8 European Commission, Violent Right-Wing Extremism in the Western Balkans: An overview of country-specific challenges for P/CVE, p.4, available at [home-affairs.ec.europa.eu/system/files/2022-08/ran\\_vrwe\\_in\\_western\\_balkans\\_overview\\_072022\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-08/ran_vrwe_in_western_balkans_overview_072022_en.pdf)
- 9 Australian Government, What is violent extremism, available at [livingsafetogether.gov.au/Documents/what-is-violent-extremism.PDF](https://livingsafetogether.gov.au/Documents/what-is-violent-extremism.PDF)
- 10 US Department of State, 2019, Analysis of Violent Extremism in Mali, p.3, available at [aclu.org/sites/default/files/field\\_document/c06204210\\_dosanalysisofviolentextremisminmali\\_4.pdf](https://aclu.org/sites/default/files/field_document/c06204210_dosanalysisofviolentextremisminmali_4.pdf)
- 11 United States Agency for International Development (USAID), 2011, The Development Response to Violent Extremism and Insurgency: Putting Principles Into Practice, USAID Policy, p. 2, available at [usaid.gov/sites/default/files/2022-05/VEI\\_Policy\\_Final.pdf](https://usaid.gov/sites/default/files/2022-05/VEI_Policy_Final.pdf)
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