

**GUIDANCE PAPER**

# **MAXIMISING POPULAR PARTICIPATION IN TRANSITIONAL JUSTICE IN AFRICA:**

A GUIDANCE PAPER FOR  
MULTILATERAL ACTORS

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For more research publications, policy briefs and other materials on this topic, please visit the **From Partnership to Participation: Multilateral Engagements with Transitional Justice in Africa** project page.

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## Introduction

Multilateral actors are increasingly interested in supporting transitional justice processes that maximise popular participation, especially by victims/survivors of violence and communities most affected by human rights abuses. Looking at the African context, this guidance paper outlines practical strategies for multilateral actors to mainstream participation in transitional justice processes, including formal, state-led measures and non-formal, civil society-led measures. The guidance is designed to ensure these processes are planned, funded and implemented in ways that can enable the agency of people impacted by past violations.

The guidance paper builds on the African Union Transitional Justice Policy (AUTJP)<sup>1</sup> and complements the AUTJP Roadmap for Implementation.<sup>2</sup> Extending beyond the mainstream official mechanisms associated with transitional justice, namely truth commissions, prosecutions, reparations and institutional reforms, the AUTJP defines transitional justice as

the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.<sup>3</sup>

By highlighting ‘an inclusive consultative process,’ the AUTJP demonstrates that participation is intrinsic to transitional justice.

Formal participation is understood here as including the development of transitional justice policies and laws, representation of victims/survivors and affected communities in official mechanisms such as trials and truth commissions, and the shaping of reparations programmes, institutional reforms and other such processes. Non-formal participation includes, but is not limited to, activism and organising, civil society-, victim/survivor- and community-led advocacy, and any activities that engage with legacies of past violations, including truth-seeking, memory and documentation work, traditional or customary processes, and the use of the arts. In practice, the lines between formal and non-formal processes may be blurred.

Increasingly, transitional justice is the sum of both formal and non-formal measures, with the latter occurring in all contexts, even if not always highly visibly. The non-formal is both a complement to the formal and a substitute for it when political constraints prevent state-led processes. The value of non-formal measures, even where a formal process is present, is at least in part because enabling participation in non-formal processes is often easier. This guidance paper emphasises that there are always intersections between the formal and non-formal, and that participation can be an important bridge between them.

The result of a study on multilateral actors working in transitional justice in Africa, this paper draws on 24 semi-structured interviews with representatives of international and regional organisations such as the African Union and the United Nations, state donor bodies, private foundations and international nongovernmental organisations (INGOs). The study was complemented by empirical research on participation in formal and non-formal transitional justice-related processes in two African countries at different stages of transition, The Gambia and Somalia.<sup>4</sup>

1 African Union (2019) African Union Transitional Justice Policy, [https://au.int/sites/default/files/documents/36541-doc-au\\_tj\\_policy\\_eng\\_web.pdf](https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf)

2 African Union (2020) Roadmap for the Implementation of the African Union Transitional Justice Policy, [https://au.int/sites/default/files/documents/41242-doc-Roadmap\\_for\\_the\\_Implementation\\_of\\_AU\\_ENGLISH\\_Sep\\_091.pdf](https://au.int/sites/default/files/documents/41242-doc-Roadmap_for_the_Implementation_of_AU_ENGLISH_Sep_091.pdf)

3 African Union (2019) African Union Transitional Justice Policy, 4.

4 For the country-specific research reports and additional outputs on this topic, see Centre for the Study of Violence and Reconciliation (2024) From Partnership to Participation: Multilateral Engagements with Transitional Justice in Africa, <https://www.csvr.org.za/from-partnership-to-participation>

This guidance paper outlines how multilateral actors can advance participation, but we recognise that they are rarely direct actors in transitional justice. As such, many of the recommendations made here emphasise how other stakeholders – notably, states and civil society, as well as victims/survivors and affected communities – can enhance popular participation and what role multilateral actors can play in supporting them.

Whilst the term ‘civil society’ is commonly associated with professionalised, urban, human rights-focused NGOs, in this paper it covers a broad range of actors, including community-based organisations, religious and traditional authorities and groups, professional associations, women’s groups, student formations, victim/survivor groups, businesspeople, collectives of ordinary citizens, and others, depending on the country context.

The guidance paper begins with a discussion of the challenges and opportunities of participation, framing participation as a set of practices that bridge the gap between a transitional justice measure and the people it seeks to serve. The paper presents some general strategies that must underlie all approaches to participation. It then outlines a set of specific strategies for enabling participation in formal and non-formal processes. For formal processes, the guidance recommends the earliest possible popular engagement and ensuring that victims/survivors and civil society are engaged in planning and process design, as well as implementation and follow-up. For non-formal processes, we outline a range of types of process and recommend that agency is emphasised, representation is ensured, and a human rights-based approach is adopted.

These strategies are presented in a way that allows them to be adapted to a particular context, highlighting the important role that civil society can play. They are presented alongside recommendations of concrete actions that multilateral actors can take to enhance popular participation in a transitional justice process, notably including support to civil society actors who are crucial mediators of popular participation in transitional justice.

A key message is that multilateral actors should seek to identify and support existing processes and practices – including community-based measures, traditional and religious practices, and others – that have buy-in and trust among the local population and provide networks and resources on which to build for a more contextualised, participatory and therefore sustainable transitional justice.

Just as the AUTJP defines transitional justice as part of a process of ‘democratic and socio-economic transformation’,<sup>5</sup> so participation in transitional justice should be seen as an exemplar and a precursor to a broader participatory citizenship. Whilst many of the recommendations in this guidance paper focus on the participation of victims/survivors, they advocate approaches and strategies that also enable the participation of the broader population, whom transitional justice should also seek to serve.

## Challenges and opportunities of participation in transitional justice

The focus on popular participation that underlies this guidance paper echoes that of the AUTJP, which promotes the ‘participation in all stages of TJ processes’ of victims/survivors, affected communities and marginalised groups such as women and girls, children and youth, older persons, persons with disabilities, internally displaced persons, refugees and stateless persons.<sup>6</sup>

This resonates with the understanding that everyone has a right to participate in political and public life.<sup>7</sup> Human rights mandate participation for their realisation, since they are understood to be ‘claimed’ by rights-holders. Those whose

5 African Union (2019) African Union Transitional Justice Policy, 1.

6 Ibid.

7 OHCHR (2019) Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs, [https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs\\_web.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf)

rights have been violated in acts to be addressed by a transitional justice process must have agency in that process and engage in decision-making around it. This also resonates with the understanding that victimhood emerges from a power relationship between victims/survivors and perpetrators that must be challenged to guarantee the rights of victims/survivors to justice, redress and non-recurrence.

The participation of victims/survivors, articulated in the concept of a ‘victim-centred’ process,<sup>8</sup> is thus central to transitional justice processes, alongside broader community engagement. Participation in transitional justice has been described as ‘primarily a political process, not a technical exercise, and its success is contingent on the ability of the process to generate empowering dynamics.’<sup>9</sup>

In order to frame an understanding of participation that leverages this perspective, we here define participation in transitional justice as

the involvement of victims/survivors, affected communities and the broader population in one or more stages of a transitional justice process in ways that enable their agency over the goals, form and outcomes of that process.

This emphasises participation as an empowering engagement, but allows its precise nature and scope to be driven by the context and by the relevant resources, capacities and constraints of those taking part.

As noted above, we advocate for the *mainstreaming* of participation.<sup>10</sup> This seeks to advance the integration of a participatory perspective into the preparation, design, implementation, follow-up, monitoring and evaluation of all approaches to transitional justice, with a view to maximising the extent and quality of popular participation. Participation should not be seen as an element of transitional justice but something that defines the process, demanding a different conceptualisation of both what transitional justice is and how a process is crafted. In place of asking how any foreseen engagement can be made participatory, it demands starting with an approach that optimises participation and following the logic of that thinking.

Participation should be a rule and a self-evident requirement instead of an afterthought, ideally integrated into both how a process develops and how a multilateral actor engages with it. Effective participation is transformative, changing both the nature of a process and how victims/survivors and others are impacted by it.

Mainstreaming participation also demands that those who are not direct victims engage with the transitional justice process. So-called ‘bystanders’ will still be affected by human rights violations and indeed must be a part of the process if victims/survivors are to be effectively integrated into society.<sup>11</sup> This demands that bystanders acknowledge what has happened to victims/survivors and that bystanders be a specific target of outreach during a process.

### **Ordinary people as experts**

At the heart of the principle of popular participation in transitional justice is the understanding that individuals and communities affected by violations have their own expertise and knowledge. Far from a process having to work to

8 e.g. Simon Robins (2011) Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal, *International Journal of Transitional Justice*, 5(1), 75–98.

9 Ralph Sprenkels (2017) ‘Restricted Access’: Promises and Pitfalls of Victim Participation in Transitional Justice Mechanisms, The Hague: Impunity Watch, [https://www.academia.edu/37275795/Restricted\\_Access\\_Promises\\_and\\_Pitfalls\\_of\\_Victim\\_Participation\\_in\\_Transitional\\_Justice\\_Mechanisms](https://www.academia.edu/37275795/Restricted_Access_Promises_and_Pitfalls_of_Victim_Participation_in_Transitional_Justice_Mechanisms)

10 Whilst there has been some engagement with the idea of mainstreaming participation in the development sector, it remains relatively undiscussed in transitional justice, e.g. J. Blackburn et al. (2000) Mainstreaming Participation in Development, OED Working Paper Series No. 10, Washington DC: World Bank, <https://www.participatorymethods.org/files/Mainstreaming%20participation%20in%20development%20Blackburn.pdf>

11 e.g. L.E. Fletcher (2007) Facing up to the Past: Bystanders and Transitional Justice, *Harv. Hum. Rts. J.*, 20, 47.

accommodate these, such communities should be seen as resources, without which transitional justice will struggle to be relevant or sustainable.

When they engage with communities, all multilateral actors must understand that they do not have the answers, but that community members do. Victims/survivors and those who have confronted the challenges of rights violations and their legacies know best how to face and overcome them – they are producers of knowledge and expertise in transitional justice.<sup>12</sup> It is this expertise that participation seeks to leverage and that will have relevance for every part of a transitional justice process.

Victims/survivors are very often seen as the ‘conscience’ of a transitional justice process and claims that their needs are a priority are used to legitimise mechanisms. However, transitional justice must also seek to serve the entire population, and this should drive a lens on participation that engages not only with communities impacted by histories of violence and authoritarianism, but also the entire country. Without the buy-in of the general public, political transitions can remain fragile. Even where conflict has only affected a part of a country, for example, the transitional justice process should be seen as engaging – and ensuring the participation of – all communities.

As the language of participation in transitional justice has become more conventional,<sup>13</sup> so the concept has been acknowledged and incorporated, but often in tokenistic ways. Inviting relevant stakeholders – women, victims/survivors, youth and others – to participate in ways that emphasise their visibility but not their agency has led to some actors working with the idea of *meaningful* participation. A UN Women study emphasises, for example, that ‘women’s meaningful participation is not simply about the *quantity* of women, but about the *quality* and effectiveness of their role to *influence* transitional justice processes and outcomes.’<sup>14</sup>

Participation in transitional justice is largely understood as ‘having a say’ in a process, and this empowering of ordinary people resonates with broader understandings of political participation. As such, this can have impacts beyond addressing the narrow legacies of violations and advance practice that addresses the disempowerment and exclusion that often enable those violations, whilst advancing the socio-economic transformation that is a part of the AUTJP’s definition of transitional justice.

### ***The politics of participation***

Transitional justice, despite efforts to present it as a largely technical process, will always unfold subject to the existing political environment in a context. This can both support and constrain a process. In many contexts, for example, even effective and comprehensive consultation processes have ultimately had little impact on the form of transitional justice, as authorities have rejected the proposals that emerge from them.

The political environment can also represent a significant restriction on participation. For example, where perpetrators remain close to power and victims/survivors and affected communities have a reasonable fear of them, promoting their participation may put them in danger. Whilst a formal process will always be subject to the consent of authorities, even non-formal initiatives can be frustrated by those in power who seek to minimise their impact, such as by denying civil society organisations (CSOs) permission for their activities. An additional challenge of participation is that it takes

12 C.T. Gomez (2021) Victims/Survivors’ Communities as Knowledge Producers in Transitional Justice Processes: The Case of Post-Conflict Colombia, in *The Routledge International Handbook of Public Sociology* (pp. 287–299), New York: Routledge.

13 e.g. Sprenkels has stated that ‘victim participation is becoming absorbed by transitional justice (TJ) mainstream policy.’ R.W.F.G. Sprenkels (2018) *Restricted Access: Promises and Pitfalls of Victim Participation in Transitional Justice Mechanisms*, The Hague: Impunity Watch, 4.

14 UN Women/UNDP (2022) *Women’s Meaningful Participation in Transitional Justice: Advancing Gender Equality and Building Sustainable Peace*, New York: UN Women/UNDP, 22, emphasis in original.

time to do properly. As such, where windows of opportunity are seen as limited, it may be necessary to balance taking advantage of the political moment with the benefits of a deep, but drawn out, process of participation.

Furthermore, much of the guidance here presumes that transitional justice is a response to a concrete political transition, for example that an authoritarian regime has been toppled or a conflict has ended. In practice, transitional justice can unfold in contexts where either the political transition is less clear-cut or conflict is ongoing. Participation is still highly relevant in such contexts and can leverage the principles and approaches outlined here, with the caveat that issues of victim/survivor and other participants' security – potentially enhanced by the visibility that participation implies – may need to be foregrounded in considering the forms participation can take.

Political actors, including authorities, can also instrumentalise participation to advance their own agendas. Whilst victims/survivors can come together across the divides of conflict, participation can also be used to mobilise them to maintain antagonism, with transitional justice seen as a space to maintain and deepen the divides of the past.

Finally, participation is political in the sense that those who are able to engage most effectively with a process are likely to be the most empowered. Those in the capital and those who have benefitted from education will have advantages in participation, whereas those in rural areas and from groups that have traditionally been excluded, including by gender, will be most challenged to engage with a process. Meaningful participation demands rising to this challenge.

### ***Bringing the process closer to the people it should serve***

Understanding the obstacles to popular participation in transitional justice reveals principles that facilitate deeper and wider participation. Those who do not know there is a process, or do not know what transitional justice is, will be hard-pressed to contribute to it. Whilst the longstanding approach to addressing this is to raise awareness through meetings, trainings and workshops with affected communities, the real challenge is to bridge the gap between a transitional justice process and the people it should serve. This can be done by ensuring both that the process includes elements that are relevant and accessible, and that non-formal and grassroots practices that may have been developed independent of any national process are integrated into the process as far as is possible.

Participation demands a *decentralisation* and *localisation* of transitional justice, such that people can engage with it physically and it resonates with local needs and understandings. Whilst education and awareness raising can be important to allow people to engage with a national process, it is as important to ensure that the logic of a process and how it is framed are comprehensible to ordinary people without requiring such interventions. Ideally, participation will be made possible by an accessible process, which will in turn be shaped further by that participation.

Communities are not solely targets of a transitional justice process, but rather a source of insight, resources, networks and skills that can transform the relevance and effectiveness of the process. As one interviewee noted,

You have to invest in preparing the group or community to participate, providing them with information, but also making sure that the process itself is open to participation – whether through its procedures, its mechanisms, its whole composition, it's open to participation. Not just to say we allow you to participate, but then it imposes all these extensive barriers.<sup>15</sup>

Access, in terms of both physical access and a conceptual understanding, is a prerequisite for participation.<sup>16</sup> In addition to requiring that the process unfold close to where affected individuals and communities are, this entails ensuring the most inclusive possible approach, which consciously includes all elements of society, by gender, age, ethnicity, location and other markers.

<sup>15</sup> Interview, INGO staff member, April 2024.

<sup>16</sup> e.g. Christian Blind Mission (2024) Providing Accessibility, <https://participation.cbm.org/in-practice/key-enablers/providing-accessibility>

## General strategies for enabling participation in transitional justice

This section outlines overlapping approaches multilateral actors must consider in order to effectively support popular participation in both formal and non-formal transitional justice processes, especially by victims/survivors and affected communities.

### *Stakeholder mapping and representation*

Any external engagement with a context should begin with a stakeholder mapping, to identify the ecosystem of actors of relevance and their relationship to each other and to affected communities. It can also be valuable to map state authorities, at the national and the local levels, and to identify allies who can support participation and transitional justice more broadly. Participation can and should include direct representation by victims/survivors in transitional justice mechanisms. However, it is impossible for every victim/survivor or member of an affected community to directly participate in a transitional justice process. As such, there will be a need for *representation* of those who cannot participate directly, and multilateral actors can support this process.

A stakeholder mapping should seek to centre the experience of trusted locals. An effective mapping is most likely to emerge from multilateral actors developing long-term relationships with multiple local partners who can steer and confirm any mapping.

Representatives should be chosen by those they seek to represent, through victim/survivor mobilisation or other processes that engage with the concerned community. Care should be taken to resist representatives that reflect traditional hierarchies of age, gender or wealth through processes that challenge rather than reinforce power relations. Whilst NGOs, often with a focus on human rights, are traditionally the go-to stakeholders, they are not always highly representative. Representatives should be able to share information about victims/survivors' needs and engage with any process, formal or non-formal.

### **Recommendations:**

- Map the victims/survivors of violations, not only of acts of violence but also of the structural violence of marginalisation and exclusion that accompanies and facilitates acts of violence. Ideally, the particular needs of victims/survivors will be situated in an understanding of the broader experience of the communities of which they are a part and serve as a foundation for understanding the transitional justice needs of non-victims, individually and collectively.
- Map state authorities, in both central and local government, and seek 'champions' who can support work to advance participatory transitional justice.
- Identify stakeholders who can represent victims/survivors, including not only human rights NGOs but also community-based organisations, women's groups, traditional leaders, faith-based actors, media representatives, businesspeople and others who have a longstanding relationship of trust with groups of victims/survivors and affected communities.
- Determine which relevant providers of services – mental health and psychosocial support (MHPSS), legal advice, and technical information about the transitional justice process, among others – are present in communities and the extent of their capacities to access and support victims/survivors.
- During the mapping process, consider the following:
  - Do victims/survivors (or particular categories of victim, such as victims of sexual violence) feel safe to publicly identify themselves as such, or do anonymous and confidential ways of representation have to be found? Their participation will demand measures to ensure confidentiality and anonymity, including potentially from their own family members.

- What relationships do victims/survivors already have in their communities? Who does or could represent victims/survivors? Do victims have their own groups or organisations?
- Who can represent the broader community? Are there existing structures or leaders (such as traditional or religious leaders) who are respected and representative?

### ***Tailored support for stakeholders***

Participation in a transitional justice process is not straightforward for many, especially victims/survivors or those with disabilities, for example. For people who have suffered often extreme impacts of violence, participating in a process that demands they engage with, and potentially publicly discuss, those impacts can be retraumatising. Enabling participation will demand the provision of MHPSS to ensure that stakeholders suffer no negative effects and to enable them to engage effectively, in both formal and non-formal processes.<sup>17</sup>

Access to a process demands an awareness of, and response to, the range of constraints people face. On the basis of the stakeholder mapping, multilateral actors can both support processes directly and advocate with concerned actors to support engagement.

#### **Recommendations:**

- Guarantee MHPSS provision, either directly or through local service providers.
- Make clear that participation is always voluntary and that potential benefits or services emerging from the process are not contingent on participation. This informed consent framework will also help manage expectations of transitional justice.
- Ensure that the participation process includes marginalised individuals and groups, whether this be on the basis of ethnicity, gender or any other characteristic. Geographic location can often be a factor that impacts on participation; those in remote or rural areas may face challenges, for example, as will those in the diaspora.
- Optimise participation of the marginalised through direct support and/or advocacy with concerned actors, in particular by:
  - Facilitating the participation of persons with disabilities through appropriate support, for example, accessible venues and support for the deaf to engage.
  - Giving special consideration to those who speak minority languages and those who are illiterate.
  - Acknowledging and addressing gendered access constraints, such as those emerging from the social expectation that women look after children or prepare meals.

### ***Supporting victim/survivor mobilisation***

Victims/survivors' organisations are an important vehicle for victim/survivor agency. Victims and survivors come together both to support each other and to advocate for their needs to be addressed. This makes them natural transitional justice actors as representatives of their peers and thus as potential local partners for multilateral actors seeking to advance participation.

Such groups can both support victims/survivors and drive action at the community and national levels – for example around truth and memory – that can constitute non-formal transitional justice processes, notably by

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<sup>17</sup> An example of how such approaches can be incorporated into transitional justice practice in Africa is discussed in: J. Brankovic (2021) *Integrating Mental Health and Psychosocial Support into Transitional Justice in the Gambia: Practitioner Perspectives*, Johannesburg: Centre for the Study of Violence and Reconciliation, <https://www.csvr.org.za/integrating-mental-health-and-psychosocial-support-into-transitional-justice-in-the-gambia-practitioner-perspectives/>

bringing victims/survivors together across the divides of the conflict in ways that can advance reconciliation. The environment of victim/survivor organisations may be fractured, as groups may represent different sets of victims and articulate divergent agendas. Nonetheless, these groups provide a way to effectively support victims/survivors in multiple ways, such as through MHPSS, as well as medical, economic and other assistance, whether funded externally or by the state.

All such support also enhances the capacity of victims/survivors to participate more effectively in transitional justice. As histories of conflict and authoritarianism as well as competition for limited funding may encourage an atmosphere of competition between CSOs working in transitional justice, building collaboration is important.

A challenge for any engagement with victims/survivors is the management of expectations. When building partnerships and mobilising victims and survivors, multilateral actors must be honest about the shortcomings of any transitional justice process, such as the potential limits of mechanism mandates. An informed consent framework can support engagement around mobilisation, seeking to ensure that all involved understand the nature of their involvement, and the potential risks, benefits and alternatives.

#### **Recommendations:**

- Catalyse or support the creation of victims/survivors' groups and organisations, by offering support that can include technical and administrative capacity building and financial assistance, including initial core costs.
- Support existing victims/survivors' organisations at both the local and the national level, through a capacity-building approach (see the next section).
- Focus on understanding victims/survivors' needs and priorities in ways that can both drive the broader action of the multilateral actor and support both formal and non-formal transitional justice processes. This can be done through a systematic study led by victims/survivors, informal meetings and discussions with victims/survivors and their representatives, and by making it an element of capacity-building support to victims/survivors' organisations.

### ***Civil society capacity building and support***

For multilateral actors seeking to support participation in a transitional justice process, local partners provide an essential route to a locally relevant approach to victims/survivors and communities. Once representative stakeholders have been identified, the goal should be to support such local partners to engage with transitional justice processes in ways that enhance popular participation in both formal and non-formal processes. Such partners are likely to be civil society actors, understood broadly. As noted above, whilst they include NGOs with a human rights focus and victim/survivor organisations, they also may include faith-based actors, traditional clan-based structures, community-based organisations and other actors, depending on the country context.

The challenge of supporting local actors with close connections to communities is one of building their capacity and enhancing their expertise whilst avoiding the external imposition of an agenda. This firstly demands that any multilateral actor seeking to offer such support is prepared both to look beyond the usual suspects of trusted players in national capitals and to cede significant control over the nature of project work to the partner. This represents an acknowledgement that those closest to communities best know their needs and what approaches are likely to succeed.

#### **Recommendations:**

- Set criteria for selecting local partners, including that they:
  - Effectively represent victims/survivors, or broader affected communities, and have established routes of accountability to them.

- Demonstrate commitment to a human rights-based approach. Even if a local partner only seeks to represent some particular element of a community, they should be committed to human rights principles.<sup>18</sup>
  - Are open to capacity building. Whilst partner capacity will be an issue in ensuring maximum impact, it may be that the most representative potential partners have relatively low capacity. This emphasises that multilateral actors have an important role in building partner capacity.
  - Understand the expertise and resources communities already have and ensure this is the basis for their participation.
  - Also represent bystander communities who are not direct victims.
- Be non-prescriptive, in the sense of sharing with partners what has been done in transitional justice processes elsewhere, such that partners can use this knowledge to define and inform their process, rather than simply mimic global practice. This best allows locally informed solutions to emerge.
  - Use a ‘learning by doing’ approach, in addition to formal trainings, to advance both the technical and the administrative capacities of local partners.
  - Ensure that all projects are co-created by the provider of resources and the local partner, rather than restricted to a call for proposals and implementation approach. This enhances the agency of the local partner in driving the work. This type of localisation can also be advanced through the use of ‘subgranting’ (see the next section).
  - Make a long-term, multi-year commitment. Support, including funding, needs to be long term, as the initial capacity of local partners is typically low and trust must be built among victims/survivors, affected communities and local partners, as well as between local partners and multilateral actors, as a prerequisite for local partners to have the space to set their own agenda.
  - Advocate with state authorities both in terms of pushing them to maximise participation and in advancing the agenda of civil society partners. This exploits the fact that multilateral actors likely have greater access to authorities than local partners.
  - Connect partners and other community-based actors with elite processes happening at a national level. This can involve linking local CSOs to state authorities as a part of the formal transitional justice process, as well as to larger, more experienced CSOs in the capital who are responding to that process. This is often crucial to enhancing engagement beyond urban elites.
  - Support partners to make connections to other sources of technical and financial support.
  - Encourage coordination and networking between local civil society actors and support the conditions under which trust can be built and collaboration encouraged in ways that increase the total capacity in the sector. This in turn can enable enhanced access to external support.

### ***Collaborative grant making***

A technical approach that multilateral actors have used widely is *subgranting*. This involves the provision of relatively small grants to highly local actors, typically smaller and younger CSOs or community-based organisations (including victims/survivors’ organisations), which lack financial capacity and struggle to access support from larger donors. Support is likely to include technical and administrative capacity building as well as direct project support,

18 These are articulated in the PANEL principles, in terms of Participation, Accountability, Non-discrimination and equality, Empowerment, and Legality (e.g. AHRC (2024) Human Rights Based Approaches, <https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-based-approaches>)

to enhance sustainability. In acknowledgement of the often limited administrative capacities of smaller grassroots organisations, reporting demands made by donors are often lighter around such small grants.

### **Box I. GIJTR support to young CSOs in The Gambia**

The Global Initiative for Justice, Truth and Reconciliation (GIJTR) is a consortium of NGOs working to assist communities emerging from conflict in creating just and peaceful futures. In The Gambia, one CSO leader described their support as follows:

‘[The project] is very victim centred, like local participation at its finest, because it’s almost like they are paving the way and helping with things that are necessary, but also at the time not being overly bureaucratic. ... It’s almost like they trust the project and the person and the organisation running it so much that they really do give you the lead. ... The reporting techniques and mechanisms are tailored for local organisations, and for me that was so important because when you go to communities like in The Gambia ... you have a lot of young people that are so ambitious and passionate about a lot of things, but are not equipped with the know-how, the techniques or the skills of negotiating funding for the projects that they want to do. ... So in terms of being new in the field, you know, it’s very difficult to have an opportunity to be trusted. Every donor or organisation wants you to prove 10 years of work. ... And all of that meant so much because it created the springboard for almost everything that the organisation does right now.’

Subgranting is typically made through a donor supporting an intermediary, which then manages the subgranting process. An example in Africa is the Africa Transitional Justice Legacy Fund, whose entire approach is based on subgranting.<sup>19</sup> An example of the impacts of subgrants on young CSOs was seen in the work of the Global Initiative for Justice, Truth and Reconciliation in The Gambia (see Box I).<sup>20</sup>

Enhancing participation by increasing access to grants for local actors requires modifying the demands made by multilateral actors and seeking to build relationships based on trust more than formal accountability.

The most participatory approach to funding is ‘participatory grant making,’ where relevant participants – from the community and victims/survivors – are empowered to make funding decisions.<sup>21</sup> There are different models of participatory grant making, but all involve setting up a panel of representatives from the affected community, who define criteria, put out a call for proposals and then award grants.<sup>22</sup> One obvious route to such an approach is working with victims/survivors’ groups.

#### **Recommendations:**

- Use subgranting to support inexperienced civil society actors, including for example religious and traditional actors and community-based organisations, with a priority not only of achieving programme impacts but also of building capacity for those actors to become sustainable, in terms of both their technical capacity and their ability to access funding.

19 e.g. ATJLF (2024) What We Do, <https://atjlf.org/what-we-do/itja>

20 Interview, Gambian CSO founder, November 2022.

21 e.g. Fund for Global Human Rights (2024) Fund 101: Intro to Participatory Grant-Making, <https://globalhumanrights.org/commentary/fund-101-intro-to-participatory-grant-making/>

22 An example of such practice in Africa with important lessons can be found in: Fund for Global Human Rights (2021) Youth Participatory Grant-Making in Sierra Leone: Lessons from the Tar Kura Initiative, <https://participatorygrantmaking.issuelab.org/resources/38111/38111.pdf>

- Simplify proposal and reporting demands for local actors, engaging with them in their language and reducing financial accounting demands.
- Start pilot projects using participatory grant making in transitional justice, and document and disseminate the learnings, with the aim of building an ecosystem of grant makers willing to provide flexible and long-term support for the work of local actors.

## Evaluation

If participation is to be mainstreamed in the actions of multilateral actors, then an effort to measure the success of that approach should be integrated into their monitoring and evaluation processes. This demands finding ways to quantify the extent to which participation has been advanced by programming.<sup>23</sup>

Ideally, such measurement will itself articulate participatory principles, with participation seen as an outcome to be measured and with those whose participation is being advanced given a central role in generating such data. Such participation can itself be restorative for victims/survivors,<sup>24</sup> and implies that the entire project design is highly participatory, with victims/survivors and affected communities involved from the very beginning. Donors demanding particular evaluation frameworks and indicators represent the imposition of an external understanding of success.

### Recommendations:

- As participatory evaluation is likely to involve narrative or qualitative evaluation (rather than traditional quantitative indicator approaches), adopt evaluation approaches such as outcome harvesting,<sup>25</sup> where victims/survivors and communities are involved from the beginning of the process and engaged over an extended period.<sup>26</sup>
- Whilst evaluation may foreground victims/survivors' perceptions, it is vital that it also engages with the broader population.

## Participation in formal processes

Participation in formal processes, of victims/survivors, affected communities and the broader public, is typically understood as engaging with mechanisms once they are operational, for example as witnesses or givers of testimony, or as recipients of reparations. This guidance paper takes a broader view, outlining how multilateral actors can ensure that victims/survivors and affected communities are engaged as constituencies at all stages, including design, implementation and follow-up.

Victim/survivor groups and other structures that allow those most affected by violations to be national actors in transitional justice enhance all forms of participation in formal mechanisms, at all stages of the process. In particular, networks and coalitions of victim/survivor organisations and other civil society actors can be a conduit for victim/survivor representation in and around such a process (see the section on capacity building above).

23 Some benchmarks for such evaluation approaches can be found in: N. McMurry and S. O'Sullivan (2022) A Human Rights-Based Approach to Participation, *Studies in Social Justice*, 16(3), 554–570.

24 e.g. G.P. Dazzo (2022) Restorative Validity: Exploring How Critical Participatory Inquiry Can Promote Peace, Justice, and Healing, doctoral diss., George Mason University.

25 Better Evaluation (2024) Outcome Harvesting, <https://www.betterevaluation.org/methods-approaches/approaches/outcome-harvesting>

26 M. Porciuncula (2021) Measuring Results and Monitoring Progress of Transitional Justice Processes, New York: ICTJ, [https://www.ictj.org/sites/default/files/ICTJ\\_Report\\_Measuring%20Results\\_EN.pdf](https://www.ictj.org/sites/default/files/ICTJ_Report_Measuring%20Results_EN.pdf)

Multilateral actors should prioritise working with local partners to build such networks to facilitate the representation of victims/survivors at all phases of a transitional justice process. Where multilateral actors seek to financially and/or technically support a formal process, decision making about how and if to do so should be steered – and ideally led – by local partners.

### ***Planning and process design***

One longstanding challenge of enabling popular agency in formal processes is that once processes and their constituent mechanisms are determined – which is the point at which consultations typically take place – there is limited room for input to significantly change their design. This demonstrates the importance of ensuring participation at the earliest possible stage, such as during peace negotiations or during discussions around a transition to democracy.

Early engagement, like in the Havana peace talks, can steer which mechanisms are enshrined in a peace agreement or which policies emerge in response to it (see Box II). International engagement often emphasises a prescriptive, so-called ‘best practice’ approach and victim/survivor participation can ensure that any global model is modified to take account of local and contextual needs and issues.

In the policy-making phase that follows regime change or the end of conflict, authorities will typically create structures, such as committees, to design the process and the individual mechanisms that will constitute it. Such structures are a primary route to effective participation and processes can be put in place to ensure that victims/survivors and affected communities are represented, as well as all social groups impacted by violations, inclusive of gender, ethnicity and so forth. An empowered and representative civil society can be a source of members for such committees.

#### ***Box II. Colombia’s peace process and the inclusion of victims/survivors***

The Havana process took place from 2012 to 2016 and led to the peace agreement between the Colombian state and the FARC-EP. The process included delegations of victims/survivors, whose presence arose from a series of forums that brought together victims from conflict-affected regions in Colombia and, eventually, in a national forum. A working group, including victims’ organisations and civil society actors, clarified the criteria for selecting the delegations of victims/survivors to participate in the peace talks. In all, five delegations of 12 victims/survivors presented their individual testimonies to the negotiating parties during private hearings and submitted specific proposals for the final agreement. The presence of victims/survivors provided the parties and mediators with an opportunity to ensure that approaches to addressing their needs were incorporated into the transitional justice process written into the peace accords.

Consultations are a form of participation, but often a very limited one, that can provide a way for victims/survivors to affect the form of a transitional justice process. They are typically led by state authorities, but there is space for multilateral actors to support or advise around such processes. Consultations can take place at the planning phase and contribute to the overall process design, and/or at a later stage when individual mechanisms have been determined and consultations can contribute to their design. Such bodies should include representatives of victims/survivors and affected communities, and multilateral actors can advocate for this with authorities. Identifying and mitigating potential risks of such visible participation should, however, always be a consideration.

Some suggest that a consultation is itself a part of the transitional justice process, as an opportunity to start to rebuild popular trust in the state and for the state to demonstrate its commitment to responding to citizens’ wishes. One of the most common critiques of consultations is the instrumentalisation of victims, where the entire process can be treated as a tick-box exercise and the needs and demands of those consulted can be ignored. Beyond this,

many consultations occur at a time when the form of the transitional justice process is largely fixed, reducing the impact of any popular input received.

Multilateral actors can advocate with authorities and provide financial and technical support to them to enhance both the quality and utility of consultations. This, however, must be balanced by the fact that effective participatory processes will lengthen timelines, and may not always be feasible where authorities perceive political space to be limited.

Effective consultations are natural precursors of broader processes of popular engagement with governance, such as participatory budgeting. In particular, local government can use consultations to deliver messages to central authorities about needs and numbers of affected persons in their communities and to advocate for support.

#### Recommendations:

- Support peace processes and negotiated political transitions to ensure that a commitment to transitional justice is enshrined in the agreement and that steps for popular participation are an integral part of that.
- Advocate for any process on the nature and design of transitional justice to include the direct participation of victims/survivors and their representatives as members of relevant structures. Where a multilateral actor has been working with victims/survivors, it can support authorities in identifying representatives to such structures.
- Advocate for and support decentralised formal mechanisms that are more geographically accessible than those that unfold exclusively in the capital.
- In the case of consultations, advocate for the earliest possible use of consultations with victims/survivors, before the form and design of the process is finalised.<sup>27</sup>
- Support consultations, financially and technically, including by enabling local civil society partner engagement. This can include making systematic studies of the needs of victims/survivors and affected communities of transitional justice, to both inform and complement a formal consultation.<sup>28</sup>
- Multilateral actors can engage to enhance the effectiveness of a consultation, including through:
  - Advocating for and supporting an engagement with victim/survivor representatives, including their own local partners, in designing a consultation to ensure it accesses all those affected by violations, including the most marginalised and those in the most remote areas. Decentralising consultation can enhance access, as it did in Sri Lanka (see Box III).
  - Encouraging a ‘rolling’ process of consultation, in which victim/survivor representatives can be continuously consulted as the design and implementation of a process evolves. This challenges the limitations of a ‘one-off’ process that cannot respond to changing conditions and an evolving context, including of victim/survivor needs.

27 An example of the constraints that can limit the value of consultations is that of South Sudan, where a public consultation in 2022 around the Commission for Truth, Reconciliation and Healing, which was a commitment of the peace agreement, ended up asking people questions about the length of the commission’s mandate and the number of commissioners, rather than about more substantive elements.

28 One example is a study that was recently completed in Ethiopia, seeking to understand popular needs around addressing legacies of violence: P. Pham, T.S. Metekia, N. Deyessa, A. Mah, L. Vosniak and P. Vinck (2023) Ethiopia Peace and Justice Survey, <https://hhi.harvard.edu/publications/ethiopia-peace-justice-survey-2023>

## Implementation

Implementation of transitional justice begins with the creation of mechanisms, such as a truth commission or a reparations unit. This phase is where formal mechanisms engage with victims/survivors and affected communities and, as such, it is crucial that participation be maximised through the greatest possible popular interaction. The quality and legitimacy of a process, and the value and relevance of its outputs, are contingent upon an effective and comprehensive engagement with those impacted by violations and a perception that victims/survivors have been heard.

Some formal mechanisms, such as prosecutions, have inherent limits on the extent to which victims/survivors can participate, with well-defined roles as witnesses but little other opportunity for participation. In contrast, truth commissions, reparations and other measures have scope for greater engagement, and participation increases the scope and value of the process.

One important – albeit shallow – form of participation is to ensure people are informed of transitional justice measures. For formal mechanisms such as truth commissions or reparations, popular participation is impossible in the absence of awareness. As such, participation in such mechanisms is also understood as including *outreach*. This is an effort not only to inform the population about the process but also to show that anyone can and should participate, alleviating any doubts, especially in country contexts where active citizenship has been rendered difficult or impossible by political or other types of exclusion.

### **Box III. Sri Lanka's decentralised consultation process**

Whilst Sri Lanka's transitional justice process remains stalled, authorities permitted a decentralised consultation process that gave victims/survivors access to it, through the creation of 15 Zonal Task Forces (ZTFs). Each ZTF had a local committee containing both civil society actors and victims/survivors, and half the members were women. In a context where trust in the state remained very low, this both encouraged victim/survivor engagement and generated greater public confidence in the consultation and overall transitional justice. This demonstrates how decentralisation of such processes can enhance both trust and access.

### **Recommendations:**

- Advocate for transitional justice mechanisms and their operational structures to include representatives of victims/survivors and be inclusive by gender, ethnicity and so on. Where a multilateral actor has been working with victims/survivors and their organisations, it can support authorities in identifying representatives to such structures with the support of its local partners.
- Support victim/survivor access to formal transitional justice processes, through provision of services that victims/survivors need to give testimony or otherwise engage, including in terms of MHPSS and support for travel, where necessary. In some contexts, multilateral actors have directly supported the provision of MHPSS to victims/survivors engaging with mechanisms.
- Assist local partners with collecting the testimony and details of the needs of victims/survivors – particularly those who are unable or unwilling to travel and speak publicly – and share these with mechanisms in reports, such that the mechanism can consider them in its findings and recommendations. This can be formalised in ways such as submitting amicus briefs to judicial processes, including those at international courts.
- Advocate for and support educating and informing affected communities about mechanisms through outreach. This includes the broader population, which was not directly impacted by violations but is still affected. Civil

society actors are likely to be closer to communities and enjoy greater trust than the state and so can do this better than the authorities. This can include keeping communities updated as processes in the capital evolve, including, for example, by screening remote trials in affected communities.

### **Follow-up**

When a formal transitional justice process is over, state authorities have to deliver on their outcomes, typically engaging with issues such as reparations, official memorialisation, institutional reform to prevent repetition of violations, and reconciliation and healing initiatives. Because these elements, in particular reparations, can address some of victims/survivors' and others' most pressing claims on the state, participation is crucial.

If the process has benefitted from participation throughout, it is likely that victim/survivor groups and civil society actors will be able to contribute significantly to this phase. Follow-up can involve, for example, identification of beneficiaries, determination of the precise nature of the needs of victims/survivors and the appropriate response to them, and crucial support to the state around the process by which reparations are delivered.

Where participation in formal transitional justice has been seen to be effective, multilateral actors should seek to frame this as modelling the benefits of active citizenship more broadly and advocate for greater participatory governance in all sectors, using the transitional justice process as an example from which lessons can be learnt.

### **Recommendations:**

- Support local partners technically and financially to play a role in follow-up processes, including by supporting capacity building.
- Advocate with the state for local partners who can represent victims/survivors and affected communities to be at the centre of the follow-up process and a part of institutions delivering on decisions or recommendations from transitional justice mechanisms.
- Make links between a participatory transitional justice process that has proved effective, as an exemplar of active citizenship, and broader state approaches to participatory governance.
- Advocate with other multilateral actors to provide the funds required to deliver on recommendations in the short and long term.

## **Participation in non-formal processes**

Non-formal transitional justice processes have advantages over formal processes in terms of facilitating participation. Such processes can be community-based, led by victims/survivors and others affected by violations, rooted in traditional leadership and customary practices, or led by CSOs, including not only NGOs but also other structures with long relationships of trust with communities. An interviewee at an important state donor reported:

I think we look at it from the perspective of a well-balanced approach in the sense that we're not throwing all of our resources into formal processes, especially when we know they're not moving forward. The non-formal is critical, the non-judicial is critical ... especially in a context where we know that the formal is not going anywhere for any foreseeable amount of time, there's importance in supporting some of the non-formal work.<sup>29</sup>

<sup>29</sup> Interview, staff member of state donor in the global North, April 2024.

These processes can include local communities as active participants in transitional justice, ensuring legitimacy, local ownership and participation. They are typically local, meaning sub-national, often engaging only with a particular community, which means they are more culturally salient, more cost-effective, closer to the victims/survivors of mass crimes and, therefore, more reflective of and responsive to their needs. Participation in non-formal mechanisms generally involves ‘co-generative dialogue,’ where local people not only advise on the shape and direction of the process but are collaboratively involved in decision making around it. Any multilateral engagement with such a process must centre such local agency and ensure external input supports this rather than imposing any external prescription.

Non-formal processes often have a different focus from formal mechanisms, with an emphasis on repairing harm, restoring relationships and rebuilding social cohesion rather than punitive measures. As such, they have significant potential to facilitate reconciliation in communities torn apart by conflict. Because they unfold at a community level, they are adaptable to the specific cultural, social and political context and can address needs in a holistic way. Non-formal processes may include:

- **Community dialogues and reconciliation processes**, such as facilitated discussions within the community to address grievances, promote understanding and foster reconciliation among conflicting parties.
- **Activism and organising of victims/survivors’ groups and networks**, with the goal both of advocating for a national process and driving change at the community level that addresses the needs of those who have suffered violations.
- **Traditional dispute resolution mechanisms** that draw on local customs, traditions and leadership to resolve conflicts and restore harmony within the community. These can include payment of compensation and restitution for harms suffered, rooted in traditional restorative practices.
- **Truth telling, storytelling and memory work**, which encourages victims/survivors and perpetrators to share their experiences, in public forums or private sessions, to acknowledge wrongdoing and promote healing.
- **Healing circles or rituals**, involving structured gatherings where participants engage in ceremonies or therapeutic activities to promote emotional healing and collective restoration.
- **Educational initiatives** that seek to educate community members about the causes and consequences of conflict, promoting empathy and understanding.
- **Artistic and cultural expression** that uses visual art, music, dance, drama and other means to facilitate dialogue, expression and healing. Artistic approaches are a way to challenge narrow technical agendas, whether rooted in human rights or other approaches. They offer a way to engage populations in ways that can be relevant to them, even in environments not conducive to formally or legally confronting a violent past. An interviewee from an INGO reported:

Using more artistic initiatives is a way for people to be involved and to discuss the past and the future ... in a much more indirect kind of symbolic way that we found has been quite effective in actually increasing levels of participation in terms of the number of people who are accessing these different types of initiatives.<sup>30</sup>

Non-formal processes like these can be far more accessible than formal ones, as they typically unfold in communities and use language and frameworks that are highly resonant with community attitudes. Where the state is not trusted or has traditionally had a limited presence, a non-formal process may be the only type of transitional justice with

30 Ibid.

which communities will engage. Similarly, where the political environment does not permit a formal process, a non-formal process can both address some of the needs of victims/survivors and communities in the short term and keep alive hope for a larger process in the long term.

### ***Types of non-formal transitional justice***

This section goes into detail on how three different types of non-formal process may emerge and the role multilateral actors can play in supporting them.

#### **Traditional practices**

A process that leverages customary approaches in a community, including those that have long been used in dispute resolution and are led by traditional authorities, can have a significant impact in communities precisely because it is accessible to and understood by all the members. Such a traditionally rooted process may be far more effective at enhancing community cohesion after conflict than one in a remote capital. A staff member of an INGO working in the Great Lakes region reported that informal processes can be far more impactful than formal ones, as a result of their cultural and physical proximity to communities:

There's a sort of clash almost between trying to support people to participate in mechanisms that don't necessarily have any connection to local culture, which is why I think that a lot of the time we find that because of that cultural but also the physical proximity of local initiatives, we often find that the impact of those initiatives can be much, much greater for people than their experience of participating in those national mechanisms.<sup>31</sup>

Transitional justice processes based on traditional, customary or community-based mechanisms can use tradition as it has long been understood or adapt custom for the particular conditions of transition. This has been done in several contexts where customary reconciliation practices have been used to address the most severe crimes in ways framed by a restorative vision, such as in northern Uganda (see Box IV).<sup>32</sup> Multilateral actors can support such processes by providing resources and sharing experiences from other contexts.

#### ***Box IV. Traditional reconciliation practices in northern Uganda***

*Mato oput* is a traditional reconciliation and justice process of the Acholi people of northern Uganda. It is a ritual used to restore relationships and harmony between clans after serious crimes such as murder. The process involves a series of steps aimed at acknowledging guilt, asking for forgiveness and compensating the affected parties. The *mato oput* ceremony has been instrumental in the reintegration of ex-Lord's Resistance Army (LRA) rebel fighters into their communities, through acknowledgement of guilt, mediation by elders and truth telling by both victims/survivors and perpetrators. It also includes ritual cleansing to restore social harmony, enabling the potential payment of compensation or reparation and the reintegration of ex-combatants into the community. Through *mato oput*, the Acholi people have been able to address the complex legacies of the LRA conflict by fostering an environment of forgiveness, understanding and communal healing.

31 Interview, INGO staff in Democratic Republic of the Congo, April 2024.

32 P. Bako (2009) Does Traditional Conflict Resolution Lead to Justice? The Mato Oput in Northern Uganda, *Pretoria Student L. Rev.*, 3, 100.

## Ongoing community-based processes

In all contexts emerging from violence, people will find ways to address its legacies. This will include interpersonal and intercommunal initiatives whose value is precisely that they emerge as a natural response of those most affected. Such processes can include community dialogues to tell truths about the past and to support people in articulating their needs of the community, or more formalised documentation or memory work that seeks to deal with the violent past. The goal is typically to bring people together to engage around sensitive issues in ways that forge collective understandings, which can constitute a basis to move beyond conflict. They can be led by victim/survivor groups, traditional or religious leaders, groups of community members or others (see Box V).<sup>33</sup>

### **Box V. Community dialogues in Libya**

The United States Institute of Peace has trained a group of Libyans in conflict resolution, transitional justice and dialogue facilitation, and supported community dialogues in a number of regions. In Ubari, Libya's marginalised southern region, dialogues focused on addressing the problem of violence in schools and the return of markets to the city as key 'connectors.' These dialogues led to tribal and community leaders coming together to sign a Social Pact against School Violence and supported Ubarians to work together to help reopen markets, starting with a weekly one that featured vendors representing the three major tribes of the area. This was a response to the 2014–16 war, when Ubari's markets had to move outside the city, forcing residents to travel dozens of kilometres to buy produce and other goods. The weekly market benefits the community as a social connector to encourage positive interactions across the divides of the conflict on a large scale.

## Civil society-run measures

Perhaps the most common way that multilateral actors can catalyse non-formal transitional justice processes is through financial and technical support to local civil society. Civil society of all sorts, from NGOs to faith-based and community actors, are well placed both to be close to communities and thus aware of what process is required and to have the technical capacities and connections to donors to fund such work, representing an important link between external resources and the community. Civil society actors can engage with and support all the forms of non-formal process discussed here and are the most common route to creating dedicated measures that operate at the local level independent of the state.

Victims/survivors' groups can be important civil society actors that have the trust of those they represent and can advance processes that benefit both victims/survivors and broader communities. The mobilisation of such groups represents a type of non-formal transitional justice, with victims/survivors' organisations able to advance agendas locally through truth telling and memory work, as well as reconciliation and healing, particularly where they work inclusively across the divides of a conflict.

Such actions can unfold in ways that are disconnected from any formal transitional justice measure, and this will often be the case in the many contexts where a lack of political will prevents a formal process and sustains impunity. Yet, they can also complement a formal process, by advocating for the needs of victims, representing a conduit from the community to the national level, and serving as a way to connect victims/survivors and communities to the formal measure (see Box VI).

33 USIP (2024) Community-Based Dialogues for Reconciliation in Libya, <https://www.usip.org/programs/community-based-dialogues-reconciliation-libya>

**Box VI. Listening circles in The Gambia**

Women in Liberation and Leadership (WILL) is a Gambian CSO that developed a unique approach to hearing the voices and stories of women victims/survivors who might otherwise have been excluded from the formal transitional justice process. WILL's 'listening circles' are intimate meetings of peers where women can share their experiences. WILL conducted listening circles as a complement to the highly centralised truth-telling process in The Gambia, the Truth, Reconciliation and Reparations Commission (TRRC). Based on the outcomes of WILL's listening circles with victims/survivors of forced HIV treatment, the TRRC agreed to delay its hearings on the issue in order to prepare more thoroughly and ensure that victims/survivors were adequately protected from being identified if they testified. Additionally, many participants in listening circles who previously felt excluded from the TRRC process by stigma were able to share their experience with the commission through WILL's reporting or give testimony directly to the commission.

**Multilateral engagement with non-formal processes**

When engaging with non-formal processes, or contemplating supporting their creation, multilateral actors should ensure a deep understanding of the environment and include both a mapping of any existing non-formal processes and a systematic effort to understand the culturally framed needs of victims/survivors and affected communities. This is best done in partnership with local actors, such as civil society. Such a mapping will ideally include not only non-formal processes already being used in a transitional justice context but also what mechanisms communities are familiar with, such as customary approaches, that could potentially be adapted to address legacies of violence.

A consistent challenge for non-formal processes is limited resources. Whilst communities have relevant and innovative ideas for such initiatives, they often lack the technical and financial capacities to implement them, particularly in poor post-conflict contexts. This represents a significant opportunity for multilateral actors to contribute resources, both technical and financial.

**Recommendations:**

- Conduct or support a comprehensive mapping – ideally led by local civil society – of the needs of victims/survivors and affected communities, existing non-formal processes of relevance, and existing resources within the community, including customary approaches.
- Initiate any non-formal process only in partnership with trusted local actors and make sure it is planned, designed and implemented with the broadest possible participation of local communities.
- Ensure that all non-formal processes adopt a human-rights based approach, based on inclusion and a challenging of traditional hierarchies. This demands a commitment to including all communities and members of communities in multilateral actors' transitional justice work and, when working with traditional structures, making sure they are inclusive, representative and not reproducing longstanding hierarchies of gender, age, ethnicity and so forth. This can be a particular issue when traditional leaders or faith-based actors are involved,<sup>34</sup> who can be highly patriarchal.
- Provide funding and build capacity for non-formal transitional justice processes, ideally through local partners.

34 GIJTR (2022) Strengthening Transitional Justice through Engagement with Religious and Faith-based Actors, <https://gijtr.org/wp-content/uploads/2022/02/Faith-based-Actors-Toolkit-6x9-EN.pdf>

### ***Linking formal and non-formal processes***

Whilst there appears to be a clear conceptual divide between participation in non-formal processes and in formal, state-led processes, they can adopt similar approaches to dealing with the past. For example, in some contexts, civil society actors, such as religious leaders, have led substantial truth-telling processes, which have served as both transitional justice mechanisms and new advocacy platforms. In practice, a non-formal process typically serves to complement and potentially facilitate a formal process. Where there is no formal process, a non-formal process will both create pressure and set the scene for an eventual formal process.

Understanding participation as a process of empowerment necessarily links the non-formal to the formal. The examples above outline how multilateral actors can support local civil society to bridge the gap between a formal process, especially one in a national capital or at the international level, and the people it should serve (see the section on capacity building above).

#### **Recommendation:**

- Identify and support explicit links between non-formal and formal processes in order to enhance participation at multiple levels.

## **Conclusions**

Popular participation has come to be understood as a prerequisite for effective and sustainable transitional justice. In African contexts, the African Union has emphasised the need for ‘an African model and mechanism for dealing with not only the legacies of conflicts and violations, but also governance deficits and developmental challenges.’<sup>35</sup> It has also stated the need for going ‘beyond retribution and drawing on traditional justice approaches emphasizing conciliation, community participation and restitution.’<sup>36</sup>

Participation emphasises national and local ownership and can ensure that transitional justice processes, both formal and non-formal, are context specific and cognisant of what the AUTJP calls the ‘cultural nuances of affected societies,’<sup>37</sup> resisting prescriptive and derivative approaches. Participation demands highlighting both national and sub-national agendas, to ensure that the broad needs of those affected by past violations drive each process. It also represents the only effective route to ensuring that a process enables popular agency and is victim- and survivor-centred.

Multilateral support for local concepts, actors, processes and practices – which already have buy-in and trust among the local population – yields networks and resources on which to build a more contextualised, inclusive and sustainable transitional justice.

Seeing participation as agency has underpinned some of the conceptual benchmarks of this guidance paper. Agency demands that ordinary people have access, opportunity and the required resources to contribute to transitional justice.

- First, access includes the physical, in the sense that victims/survivors and affected community members, including those with disabilities and members of excluded groups, can engage with a process or mechanism, which is crucial for often highly centralised formal mechanisms. This can mean bringing a process to where people are, facilitating them to travel or ensuring a remote route to that engagement. It will almost always require some form of *decentralisation* of that process, and a non-formal process is often an effective way of doing this.

35 African Union (2019) African Union Transitional Justice Policy, 1.

36 Ibid., 4.

37 Ibid., 4.

- Second, any process must be *localised*, meaning it resonates with local needs and understandings and it makes conceptual sense to victims/survivors and others not directly impacted but still affected by violations. Ordinary people will not engage with a process that is either not understood or appears to offer them and their community no benefit. This emphasises the importance not only of outreach, or raising awareness of a process and its goals, but also of building a process on local approaches that are framed in relevant ways to those it seeks to serve. The most effective way of doing this is to ensure participation at the earliest possible stage, including in framing the goals and designing a transitional justice process.
- Third, in order to create a process that optimises the quality and quantity of popular participation, participation must be *mainstreamed* at all stages of planning, design, implementation and follow-up. For a multilateral actor seeking to engage in a context, all programming should be developed through a participation lens. This implies that engagement with target communities is seen as a route to developing the nature of that engagement, and thus as the first step.

Multilateral actors have long had an important role in advancing transitional justice in Africa, including by supporting state authorities in ways that emphasise the importance of participation in formal processes. However, the research that underpins this guidance paper shows that one of the most important roles for multilateral actors in operationalising participation in transitional justice is through relationships with local civil society.

In both formal and non-formal processes, participation is most effectively catalysed, implemented and sustained by civil society, understood as including human rights NGOs as well as community-based organisations, religious and traditional authorities and groups, professional associations, women's groups, student formations, victim/survivor groups, businesspeople, collectives of ordinary citizens, and others, depending on the country context. As such, multilateral actors will typically not be direct actors in most contexts, but rather seek to support and work through local civil society that can instantiate participation in practice, most notably through the provision of technical and financial support to such stakeholders.

This guidance paper lays out a route to multilateral actors to support achieving the type of participation in transitional justice processes envisaged by the AUTJP. Participation in a formal process must be facilitated by state authorities, whilst multilateral stakeholders can both support the process and advocate with the state to optimise participation. Multilateral actors should work with civil society at both highly local and national levels, to enable participation by ordinary people and affected communities, particularly victims/survivors. Collaboration between multilateral actors and civil society can yield relevant and resonant non-formal processes and build links between formal processes and those affected by violations that maximise meaningful participation.

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