



Global Initiative for
JUSTICE, TRUTH +
RECONCILIATION

PATHWAYS OF INNOVATION:

Civil Society Advancing Transitional Justice

Edited by Simon Robins



International Coalition of
SITES of CONSCIENCE

About The International Coalition of Sites of Conscience

The International Coalition of Sites of Conscience (ICSC) 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 ICSC now includes more than 275 Sites of Conscience members in 65 countries. The ICSC supports these members through seven regional networks that encourage collaboration and international exchange of knowledge and best practices.

Learn more at www.sitesofconscience.org.

Cover photo:

A representative from Fuerza Mujeres Wayúu, an indigenous women's organization in Colombia, interviewing a survivor of the conflict there in 2018.

Unless otherwise noted, all photos were taken by the International Coalition of Sites of Conscience.
Designed by Lori L. Jenkins

ABOUT THIS MANUAL

Published in January 2020, this manual, Pathways of Innovation: Civil Society Advancing Transitional Justice, shares lessons learned from the different collaborations among members of the Global Initiative for Justice, Truth and Reconciliation (GIJTR) Consortium. Each chapter or section lists the primary individual and institutional authors, including the lead partner of that project, with additional Consortium contributors and editors included in each chapter's footnotes. Simon Robins, an editorial consultant with transitional justice and evaluation expertise, developed an evaluation framework and methodology for each chapter, guided the lead authors in identifying lessons learned and recommendations, and streamlined the chapters to ensure accessibility and consistency throughout the manual.

EDITOR'S BIO

Simon Robins is a practitioner and researcher in humanitarian protection, human rights and transitional justice. He combines academic research with a consulting practice focusing on policy and program support to international agencies, including the United Nations and NGOs, with an emphasis on states emerging from conflict and violence. He is a Senior Research Fellow at the Centre for Applied Human Rights at the University of York and his most recent book is *From Transitional to Transformative Justice*, with Paul Gready, published by Cambridge University Press.

CONTENTS

About the Global Initiative for Justice, Truth and Reconciliation (GIJTR) 6

Chapter 1 INTRODUCTION

1.1 GIJTR's Role in Promoting Innovative Transitional Justice Practices	11
1.2 Civil Society as a Transitional Justice Actor.....	13

Chapter 2 BUILDING LOCAL CAPACITIES FOR TRUTH, JUSTICE AND RECONCILIATION IN SRI LANKA

2.1 Background in Sri Lanka	25
2.2 Legal Action, Forensic Practice and Oral History Collection.....	29
2.3 Lessons Learned: Supporting Civil Society in a Challenging Environment	37
2.4 Conclusions	40

Chapter 3 LINKING GRASSROOTS AND FORMAL PROCESSES TO ADVANCE TRUTH AND JUSTICE IN COLOMBIA

3.1 Background in Colombia.....	43
3.2 Developing Tools for Documentation and Participatory Processes.....	45
3.3 Truth-Telling Capacity-Building Training and Community Projects.....	52
3.4 Conclusions	61

Chapter 4

SUPPORTING TRANSITIONAL JUSTICE PROCESSES IN THE GAMBIA

4.1	Background in The Gambia.....	65
4.2	GIJTR's Support to the Gambian Transitional Justice Process	66
4.3	Lessons Learned: Addressing the Challenges of a Divided and Under-Resourced Civil Society.....	71
4.4	Conclusions	75

Chapter 5

THE FORENSIC ACADEMY: SHARING EXPERTISE TO BUILD GLOBAL CSO CAPACITY TO ADDRESS DISAPPEARANCES

5.1	Introduction	83
5.2	Forensic Academy Participants' Contexts and Experiences	86
5.3	Forensic Academy.....	88
5.4	From Training to Implementation	98
5.5	Conclusions	101

Chapter 6

ENGAGING SURVIVORS THROUGH PARTICIPATORY METHODS AND PSYCHOSOCIAL SUPPORT IN GUINEA

6.1	Background in Guinea.....	105
6.2	Capacity-Building in Participatory Methods.....	108
6.3	Psychosocial Support Training.....	114
6.4	Conclusions	121

Chapter 7

MAINSTREAMING GENDER IN CIVIL SOCIETY RESPONSES TO HISTORIES OF VIOLENCE

7.1	Introduction: Transitional Justice as Gender Justice.....	125
7.2	South Sudan.....	127
7.3	The Gambia.....	130
7.4	Guinea	135
7.5	Sri Lanka	138
7.6	Conclusions	141

Chapter 8

MEMORIALIZATION AND EDUCATION: LEVERAGING GLOBAL EXPERIENCE TO IMPROVE EDUCATION ABOUT HISTORY AND VIOLENCE PREVENTION

8.1	Background in Cambodia, Timor-Leste and Guatemala	145
8.2	Working with Core Educators Around Shared Agendas.....	147
8.3	Summary of Project Outputs	153
8.4	Challenges and Lessons Learned.....	158
8.5	Conclusions	161

Chapter 9

CONCLUSIONS

9.1	Approaches to Civil Society Action in Transitional Justice.....	165
9.2	GIJTR Activities as Good Practice.....	167
9.3	Measuring the Impact of Transitional Justice Interventions: Lessons from GIJTR.....	175
9.4	GIJTR as a Practice of Localizing Transitional Justice.....	178
9.5	Moving Forward: Future Paths for GIJTR	181



Community mural from a truth-telling project in Guacoche, Cesar, Colombia. The Community House has become a landmark for the village. Visits to the Community House quickly became an opportunity to recall stories of the armed conflict told by community members and painted on the walls.

ABOUT THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH AND RECONCILIATION CONSORTIUM

Around the world, there is an increasing call for justice, truth and reconciliation in countries where legacies of grave human rights violations cast a shadow on transitions. To meet this need, the International Coalition of Sites of Conscience (ICSC) launched the Global Initiative for Justice, Truth and Reconciliation (GIJTR) in August 2014. The goal of GIJTR is to address new challenges in countries in conflict or transition that are struggling with their legacies of past or ongoing grave human rights violations.

The GIJTR Consortium (“the Consortium”) is comprised of the following nine partner organizations:

- International Coalition of Sites of Conscience, in the United States (lead partner);
- American Bar Association Rule of Law Initiative (ABA ROLI), in the United States;
- Asia Justice and Rights (AJAR), in Indonesia;
- Centre for the Study of Violence and Reconciliation (CSVR), in South Africa;
- Documentation Center of Cambodia (DC-Cam), in Cambodia;
- Due Process of Law Foundation (DPLF), in the United States;
- Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG), in Guatemala;
- Humanitarian Law Center (HLC), in Serbia; and
- Public International Law & Policy Group (PILPG), in the United States.

In addition to leveraging the different areas of expertise of the Consortium partners, the ICSC draws on the knowledge and longstanding community connections of its 275-plus members in 65 countries in order to strengthen and broaden the Consortium's work.

The Consortium partners, along with the ICSC's network members, develop and implement a range of rapid response and high-impact programs, utilizing both restorative and retributive approaches to criminal justice and accountability for grave human rights violations. The Consortium takes an interdisciplinary approach to justice, truth and accountability. On the whole, the Consortium partners possess expertise in the following areas:

- Truth-telling, memorialization and other forms of historical memory and reconciliation;
- Documenting human rights violations for transitional justice purposes;
- Forensic analysis and other efforts related to missing or disappeared persons;



The Forensic Anthropology Foundation of Guatemala (FAFG) applies multidisciplinary forensic scientific methodologies to investigations into the circumstances, whereabouts and identity of missing and disappeared persons to provide truth to victims and their families, assist in the search for justice and redress, and strengthen the rule of law.

Photo credit: Forensic Anthropology Foundation of Guatemala

- Advocating for victims, including for their right to access 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 with transitional justice processes;
- Reparative justice initiatives; and
- Ensuring and integrating gender justice into these and all other transitional justice processes.

Given the diversity of experiences, knowledge and skills within the Consortium and the ICSC's network members, the Consortium's programming offers post-conflict countries and countries emerging from repressive regimes a unique opportunity to address transitional justice needs in a timely manner while simultaneously promoting local participation and building the capacity of community partners.



Representatives from 15 different countries at the Forensic Human Identification Training in June 2019, organized by the Forensic Anthropology Foundation of Guatemala.
Photo credit: Act for the Disappeared, Lebanon



A 2018 memorial remembering those disappeared in the conflict in Colombia.

CHAPTER 1:

INTRODUCTION

Simon Robins

1.1

GIJTR'S ROLE IN PROMOTING INNOVATIVE TRANSITIONAL JUSTICE PRACTICES

Transitional justice has become a global enterprise, with large numbers of states wrestling with how to address the legacies of a violent past. They are supported by an international community of donors, United Nations agencies and international NGOs, seeking to navigate between a global practice that has become increasingly well-defined and the need to ensure that responses are contextualized. Practice is further supported by an epistemic community that has provided a constant commentary on ongoing transitional justice initiatives and has proposed a range of conceptual approaches to address the many challenges that practice faces. Both theory and practice however continue to emphasize transitional justice as a state-driven exercise, with both formal and legal understandings prioritized. Whilst civil society has been widely acknowledged as one of the most important actors in driving a transitional justice process, there remains a deficit of both theory and practice to understand the range of roles it can occupy and how external, and in particular international, actors can support civil society in transitional states to advance justice. The practice of the Global Initiative for Justice, Truth and Reconciliation (GIJTR or "the Consortium") that this volume shares, seeks to begin to address this deficit, by both developing and disseminating novel initiatives with civil society actors that can advance justice in transition as well as assessing transitional justice processes in contexts where it works.

GIJTR seeks to drive a practice that is rooted in an indigenous civil society, building capacities and effectiveness to both address legacies of mass atrocity and support societies to become just, peaceful and inclusive. The structure of the Consortium, led by the International Coalition of Sites of Conscience (ICSC) – a global network of over 275 historic sites, museums and memory initiatives in more than 65 countries – represents not just a wealth of transitional justice expertise, but a set of practitioners that are globally representative. With members from both global North and South, the Consortium leverages both the complementary expertise of the Consortium partners and the knowledge and longstanding community connections of ICSC's

members. The Consortium thus brings an unparalleled breadth and depth to its efforts to support states and civil societies in transition. This breadth, together with partners' efforts to integrate diverse programmatic approaches, leads to a multidisciplinary element that challenges the silos into which post-atrocity work can fall, driving innovation in the practice of transitional justice. GIJTR has sought to acknowledge that transitional justice must develop at multiple levels in parallel: it will ideally be something that unfolds in communities as well as through policy development by state authorities. As such, it aims to connect community-level, informal and grassroots initiatives with state institutions and those making policy, using the position of civil society as a natural intermediary that can facilitate such exchange and understanding.

One impact of this contextual and disciplinary breadth is a capacity to contribute to the growth and development of the field of transitional justice through a practice that is rigorous and theoretically informed but rooted in concrete experience in the real world. Because this experience emerges from civil society actors and authorities, working alongside affected communities and victims, it permits the development of practice that is driven by the needs of the context, yet can nevertheless offer valuable experience elsewhere, in other places addressing the same dilemmas. This innovation disrupts some of the traditional pathways of knowledge dissemination in transitional justice, as much of it comes from the global South, providing a platform for local experts and new voices to share emerging practices. The natural inter- and trans-disciplinarity also fosters advancement in the field and the possibility for renegotiating the traditional relationships between the various elements and mechanisms of transitional justice. The goal of this publication is thus to share these experiences, successes and challenges, in ways that can benefit others. Whilst GIJTR's approach is a particular one, driven by a particular set of actors, it is hoped that the knowledge and understanding that has emerged from its recent work can be adapted by others and benefit those working in different ways.

Transitional justice has long neglected the temporal sensitivities in addressing past atrocity, seduced by the simplicity of the transition paradigm, of a basic "before" and "after" that paradigmatic transition. In practice, transitional justice has a wealth of temporal dependencies, not least the fact that transition itself is a journey not a destination. This is perhaps characterized most often by the pain of victims waiting for a justice that never comes. In many of the contexts discussed in this volume however, it will be seen that the political environment in which transitional justice process must unfold is often highly volatile, with the space for action to address violations opening and closing over time. An example of this is found in Chapter 2, which explores Sri Lanka, where recent years have seen a slow and partial growth in the apparent political

space for action to address the violations of past decades, followed by a significant and fast – if temporary – closing of that space as this volume was in preparation. GIJTR has expressly sought to be able to address such rapid changes in the enabling environment for transitional justice by providing a rapid response mechanism that allows a broad range of interventions to be quickly deployed, responding to both opportunities and threats.

1.2

CIVIL SOCIETY AS A TRANSITIONAL JUSTICE ACTOR

GIJTR is a Consortium of civil society actors that in turn works principally through civil society partners in its target contexts. As such, the role that civil society plays in advancing transitional justice is both a crucial driver of GIJTR impact and at the heart of the lessons that can be learned from its work. Civil society has long been acknowledged as a crucial actor in advancing transitional justice:

Civil society has played an important role in every country that has experienced a successful transitional justice endeavor. National NGOs have helped to initiate, advocate for, and shape some of the strongest and most interesting transitional justice initiatives that have been implemented around the world. In Ghana, Sierra Leone, East Timor, and Peru, for example, national or local organizations played central roles in giving shape to the justice mechanisms put in place to confront past crimes.¹

There are several ways in which civil society is able to uniquely contribute to the advancement of truth and justice after political transition. One lens is comparative advantage, the understanding that civil society organizations are better in certain roles than the state, particularly where the state is weak. This is demonstrated throughout this volume, in particular where the state is either mistrusted by victims and affected communities, or simply lacks resources and expertise. This can lead to NGOs filling gaps where the state lacks capacity, responding more efficiently and facilitating legitimacy, participation and sustainability, through its relationships with communities and victims. A second lens maps the comparative advantage of civil society organizations onto the specific demands of transitional justice. David Backer sees seven primary roles for civil society: data collection and monitoring; representation and

advocacy; collaboration, facilitation, and consultation; service delivery and intervention; acknowledgement and compensation; parallel or substitute authority; research and education.² In summary, civil society may provide data for input into official truth processes or prosecutions, lead advocacy for reparations, or provide psychosocial and other support services to victims. Civil society can also facilitate inclusive dialogue, both at a community level and in national debates. A third lens is that of transnational advocacy, underpinned by coalitions between national and international NGOs, and the understanding that local NGOs, when faced with a hostile or unresponsive state, look outwards to supportive NGOs, states, inter-governmental agencies and others for advocacy support. Such approaches are presumed to have driven the “justice cascade,” which posits that such transnational activism diffuses the norms that drive transitional justice.³

The justice cascade, however, is an apt metaphor for the inherent top-down approach to much of transitional justice, both formal state-led processes and the role of civil society generally. In practice there are multiple “civil societies,” but often actors in the global North partner with and/or fund national civil society, which is based in the capitals of states in transition, and may or may not have relationships with local/regional civil society, which has deep roots in communities. These latter structures are often spontaneous collectivities rooted in solidarity and mutual support between victims and community members but divorced from both discourses of transitional justice and its global funding and support. What has been called the “local-local”⁴ represents an articulation



A February 2019 exchange in Johannesburg, South Africa with civil society representatives from Guinea discussing regional approaches and challenges to transitional justice with activists in South Africa.

of the everyday in the demands made of transitional justice process, but is in practice often poorly engaged with even informal, NGO-led action. GIJTR has sought to explicitly acknowledge this hierarchy in civil society and engage with local organizations in ways that both increase their capacities as well as support structures and relationships that integrate them into national civil society action. This is seen in the Truth and Reconciliation Forum in Sri Lanka (Chapter 2), a national coalition of local actors working on truth and justice; in Colombia (Chapter 3) with the effort to ensure that Afro-Colombians and the indigenous are involved in local truth-telling; and in Guinea (Chapter 5) where national NGOs are working with local survivor groups. Such an approach represents one of the ways in which GIJTR, despite being an international consortium, seeks to support local actors – in the most profound meaning of the term “local” – in transitional justice.

More than 15 years ago David Backer noted the dearth of studies of the role of civil society in transitional justice,⁵ with a focus rather on national governments and international actors such as the UN. This has been remedied to some extent, with stakeholders increasingly understanding that to build sustainable and contextualized interventions, an engagement with – and support to – civil society is crucial. GIJTR acknowledges the importance of civil society in transitional justice as one of the foundations of its work, and in all of the interventions discussed in this volume it will be seen that civil society are key partners.

A typology of the roles that civil society can play in transitional justice is reviewed here with the understanding that GIJTR’s approach can illustrate how truth, justice and reconciliation can be advanced through the support of civil society. The table below represents a development by Gready and Robins⁶ of the framework proposed by Backer, presenting the modes of action that civil society can use in transitional justice. This understands transitional justice as “both a discourse and a set of political processes within society, rather than simply a set of state-led mechanisms,”⁷ an approach that is also integral to the work of GIJTR.

We see from this typology that civil society has a role both in influencing and supporting formal state-led transitional justice mechanisms, as well as leading the development of informal grass-roots processes in communities that can complement and parallel formal mechanisms. One neglected mode of civil society action in transition is what Gready and Robins call the “modelling of alternatives,” that is, creating new realities on the ground that can potentially serve as both examples and starting points for national approaches. Because civil society has a unique capacity to work at the community level across the divides of the conflict, including directly building peace and reconciliation at the local level, this has been an approach used by GIJTR.

Persuasion/ advocacy	Work to influence formal transitional justice process, either directly or indirectly. This includes calling for or resistance towards a process, and a range of different repertoires of action such as documentation, lobbying and protest.
Support	Offer technical, logistical, financial or other support to formal processes, such as supporting a truth commission's efforts to access victims using networks in the community. Support can include following up on and extending the work of institutions, such as advocating for the implementation of truth commission recommendations.
Mobilization/ capacity- building/ education	Work with concerned constituencies so that they can engage with formal processes and/ or empower them to represent themselves in independent initiatives, such as victims' groups. This can include classic rights-based approaches of educating stake-holders about their rights, but extends to empowerment through the creation of organizational forms that permit self-representation.
Substitution / independent action	Undertake transitional justice style processes independently, such as grass-roots truth-telling or documentation, or the provision of assistance to victims. Whilst this can feed into a formal process at some point, it may not.
Space for modelling alternatives	Organizations can test new forms of organization and create spaces where alternatives can be modelled: <ul style="list-style-type: none"> - Generating their own understandings of rights and justice, and potentially rejecting dominant discourses as a point of reference such as neo-liberalism or even transitional justice itself. - Creating "zones of civility" where reconciliation or truth-telling can occur, e.g. religious or restorative justice interventions which contest the dominant discourse on accountability. - Implementing forms of collective action to both construct and modify collective identity. - Engaging in novel repertoires of action, including "unruly" strategies that provide alternatives to transitional justice mechanisms.

Table 1. Modes of action of civil society in transitional justice as seen in GIJTR's actions described in this volume (typology from Gready and Robins).

It will be seen that all of these modes are illustrated by the interventions discussed here.

The other area of work with civil society in transitional justice where lessons can be learned from GIJTR's experience is *how* international actors can best support civil society to advance relevant and contextualized process. There has long been a tension between international actors who bring valuable resources, both technical and financial, and local civil society who are close to affected communities and know the constraints and opportunities in their context. This has sometimes been presented as external donors bringing a discourse and a prescriptive practice from the global North that can override local perspectives and approaches. Precisely because GIJTR seeks to enable and empower civil society to lead the process being supported, its work is a potential model for all international donors looking for routes to supporting contextualized transitional justice processes. This issue is discussed in the chapters of the volume and summarized and discussed in the concluding chapter.



Women whose family members were disappeared during the armed conflict in Bardia, Nepal created a mural entitled, "The search of the missing family members and the much longer search for the truth," with the support of ICSC member National Network of Families of the Disappeared and Missing in Nepal. Photo credit: Voices of Women Media

Photo credit: Voices of Women Media

Measuring the Impact of Transitional Justice Actions

Transitional justice processes present substantial challenges to impact measurement. The failure of what has become a global practice to effectively evaluate the change it seeks to drive has led some to describe it as a “faith-based” enterprise.⁸ That rather few efforts have been made to quantify impacts reflects a range of challenges. The specific goals of transitional justice are themselves often vague as well as contested. The broad concepts that underlie transitional justice – justice, truth, reconciliation, peace, democracy – need to be defined before claims can be made about progress in advancing them. Whilst non-repetition of violations appears to be at the core, in many cases the institution of liberal democracy is seen as the sole route to ensuring this. There are tensions between the range of goals of transitional justice, between providing justice to victims and facilitating a transition to democracy for example,⁹ and between apparently conflicting goals, such as maintaining order and facilitating transformation.¹⁰ Increasing focus on victim-centered approaches suggests that the goals of transitional justice process are not only contingent upon the context, but potentially on the diversity of impacts and needs that victims articulate even within a single context, leading to a huge diversity of potential contradictory goals. The broader contingency of an acknowledged need for context-dependent approaches challenges the very idea of a “global practice” of transitional justice that is relevant and appropriate everywhere. Despite such challenges, advocates for transitional justice often make broad claims that the practice can deliver significant social change, e.g. that truth-telling contributes to reconciliation, that prosecutions act as a deterrent, that institutional reform can aid non-repetition of violations, etc.¹¹ Very few of these claims however are evidence-based. What is most absent from efforts to understand and demonstrate impact is a *theory of change* (ToC), a set of testable assumptions that explains how a particular transitional justice intervention leads to a particular positive social change. While a ToC approach has become conventional in development practice and many other related fields, it remains almost completely absent from transitional justice practice. What ToCs do exist in transitional justice remain normative and human rights-based, rather than empirically rooted.

GIJTR has confronted these challenges by building on their reflexive commitment to a grassroots-driven and participatory approach, by ensuring that in most actions the most engaged social actors – victims, survivors, community-members, CSO activists – both define the goals of the action and play a role in measuring the extent to which those goals have been delivered. This demonstrates an actor-oriented approach that can be seen throughout the chapters of this volume



The Memory Box project documents personal narratives and stories of conflict in Afghanistan. These stories of loss as well as resilience create an avenue for dialogue and reconciliation among different ethnic groups in the war-torn country. Photo credit: Afghanistan Human Rights Democracy Organization

and is discussed further in Chapter 9. This constitutes the heart of a multifaceted evaluation system that uses outcome harvesting, external evaluation and peer evaluation – among other approaches – to provide a multidimensional view of program impacts that can feed a learning culture, as well as provide broader lessons.

The contexts discussed here cover a large range of different types of transition, despite addressing only a minority of contexts where the Consortium is working: From states where wars have been won, but those linked to violations remain close to power (Sri Lanka), to conflict settled by negotiation where the parties to the conflict are now political actors (Colombia), to states seeking to address decades of authoritarian rule (Guinea, The Gambia). While these contexts are radically different, it will be seen that the principles GIJTR seeks to bring to them (notably participation, support, technical capacity-building) are relevant everywhere. More than this, the technical approaches and methods used can be replicated to some extent, taking account of the different political environments and capacities of civil society and the state. Forensic expertise is particularly crucial wherever disappearances have occurred and there is a need to collect forensic data to identify the missing, to give answers to families, and to ensure accountability. Chapter 5 focuses on the building and sharing of such forensic capacity as a part of GIJTR's work globally, and leverages the Consortium's international expertise. There are also thematic chapters, addressing issues of gender and education, both of which have been seen to be highly relevant in all the contexts where GIJTR has worked. Any long-term perspective

on avoiding repetition of violations must consider education, whether in terms of ensuring truths are told publicly about past violations or more formally in terms of the integration of the study of violent pasts into school and tertiary curricula. This is discussed through the lens of a GIJTR approach in Chapter 8. The question of gender is one every process, and everyone working on transitional justice, must consider. Women, as direct or indirect victims and as community members will be affected in different ways from men and will require mechanisms that are sensitive to their particular needs and requirements, both in their goals and in how they work. Chapter 7 discusses this in terms of how gender can be mainstreamed in all the work that is done in transitional justice, by civil society, the state and other actors.

GIJTR's response to Sri Lanka's slow-moving transitional justice process has been to devote resources to the building of organizational and technical capacity in civil society, notably through a national network, the Truth and Reconciliation Forum (TRF). Chapter 2 discusses recent support to the TRF around the collection of oral history narratives, as well as technical support to legal organizations - with the goal of supporting accountability processes, potentially both in Sri Lanka and overseas. It also discusses how GIJTR has supported Sri Lankan actors, in civil society and formal state transitional justice mechanisms, through the sharing of global forensic practice with the missing and disappeared, a major concern in Sri Lanka.

In Chapter 3 the Colombian process is discussed and analogies drawn between the fragility of the current peace and past agreements that failed. The work of GIJTR in Colombia seeks to improve archival policies and practice, support community-based truth-telling approaches and improve the technical capacity of CSOs working on issues of forced disappearance, through experience-sharing with other contexts.

The Gambia is emerging from authoritarianism and decades of rights violations, following the end of the rule of Yahya Jammeh in elections in 2016. A Truth, Reconciliation and Reparations Commission (TRRC) began hearings at the start of 2019. Chapter 4 describes how GIJTR sought to anticipate the TRRC through a consultative mission which revealed the challenges the Gambia faces, in terms of failings of the formal process and the limited knowledge and capacities of civil society. The Consortium's action has as a result focused on technical capacity-building of civil society and identifying strategies that could be adapted to the Gambian context.

The Forensic Academy, discussed in Chapter 5, was an action led by Consortium partner FAFG in Guatemala to build local capacity in the application of forensic sciences in the search for and identification of

the missing and the disappeared. It focuses on participants from a dozen countries in the global South all of whom are seeking to address issues of disappearances and where, in many cases, local expertise and resources are minimal. The Academy uses the significant experience of FAFG and the other Consortium partners to address the technical and broader aspects of the missing and disappeared, including the role of families and state authorities. In giving participants direct access to sites of mass grave excavations and to families and communities who have lived through the process, it aims to give concrete expertise that can be used when they return home.

Chapter 6 addresses the situation in Guinea, almost a decade after the restoration of democracy and with a legacy of decades of right violations still to be addressed. GIJTR has focused on working with civil society and victims' associations around participatory methodologies, to increase the quality of engagement with survivors and affected communities, and building capacities to provide psychosocial support, in a context where almost no provision exists. Participatory approaches can allow communities to identify and address some of the root causes of mass violence themselves, as well as develop consensus and strategies to engage with formal state-led institutions and prevent the recurrence of future violence and atrocities. A set of workshops around psychosocial support has sought to lay the foundations for a civil society-driven mental health and psychosocial support capacity in Guinea, steered by the traumatic experience of many in civil society.

Chapter 7 engages with the mainstreaming of gender in civil society action to address histories of violence. GIJTR partners have noted how the participation of women is often absent in formal transitional justice processes and how civil society action and interventions that unfold in



Srebrenica-Potocari Memorial Center & Cemetery in Bosnia and Herzegovina

communities and informal spaces can drive a far more inclusive type of process. Using the experience of the Consortium in four contexts, the meaning and possibilities of mainstreaming gender are explored.

The final contributed chapter, Chapter 8, explores the role of education about histories of mass atrocity as a part of ensuring non-repetition. Through the lens of a GIJTR program that brought educators from Cambodia, Guatemala and Timor-Leste together for exchange of best practices, followed by participant development of their own educational resources, it compares efforts and experiences in these three countries and notes that approaches taken to ensuring the truth about the past is widely disseminated are highly context-dependent. Whilst lessons can be learned from experiences elsewhere, both formal integration of such studies into educational curricula and informal approaches must be contextualized.

Chapter 1 Footnotes

- ¹ Priscilla Hayner, "Responding to a Painful Past: The Role of Civil Society and the International Community," *Dealing with the Past: Critical Issues, Lessons Learned, and Challenges for Future Swiss Policy*, ed. Mö Bleeker and Jonathan Sisson, KOFF Series Working Paper (Bern: Swiss Peace, 2005): 45.
- ² David Backer, "Civil Society and Transitional Justice: Possibilities, Patterns and Prospects," *Journal of Human Rights* 2, no. 3 (2003): 297-313.
- ³ Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: Norton, 2011).
- ⁴ Oliver P. Richmond, "Becoming Liberal, Unbecoming Liberalism: Liberal-Local Hybridity via the Everyday as a Response to the Paradoxes of Liberal Peacebuilding," *Journal of Intervention and Statebuilding*, 3:3, (2009): 324-344. It has also been claimed as representing a politics that "represents the local beyond the artifice of civil society" (*Ibid.*)
- ⁵ David Backer, "Civil Society and Transitional Justice: Possibilities, Patterns and Prospects," *Journal of Human Rights* 2(3) (2003).
- ⁶ Paul Gready and Simon Robins, "Rethinking Civil Society and Transitional Justice: Lessons from Social Movements and 'New' Civil Society," *The International Journal of Human Rights* 21(7) (2017).
- ⁷ *Ibid.*: 959-60.
- ⁸ Oskar N.T. Thoms, James Ron and Roland Paris, "State-Level Effects of Transitional Justice: What Do We Know?" *The International Journal of Transitional Justice*, Vol. 4, (2010): 329–354.
- ⁹ Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice" *Human Rights Quarterly* 31 (2) (2009): 321-67.
- ¹⁰ Bronwyn A. Leebaw, "The Irreconcilable Goals of Transitional Justice," *Human Rights Quarterly* 30 (1) (2008): 95-118.
- ¹¹ Paul Gready and Simon Robins, "Transitional Justice and Theories of Change: Towards Evaluation as Understanding", *Intl. Journal of Transitional Justice* (in review).



MENA Transitional Justice Academy participants hosted by the Documentation Center of Cambodia with art by Cambodian artists imagining peaceful futures.

1971-Now
Parents - Doctors /& Brother
Horse Riding (Dog)
Collecting Flowers / Swimming /
Catching Butterflies n Colour Fish
Friends: Livera / Dunken / Charlott
Inoka

Mixed Community



→
2017
IRAN
But
I missed
due to my
husband sick
I got a Scholar-
ship (Law) from
university (Mustafa)
unfortunately
that 1st Semester
my husband sick

→ 2013
My Mother
Passed away



- Jobs I did.
 - * Social Services
 - * Election Monitoring

* Ministry of higher education (Leadership)

* Ministry of higher education (Leadership)

* Ministry of higher education (Leadership)

An exhibition in Colombo, Sri Lanka that shared body-maps, an artistic process of dialogue and psychosocial support from survivors of violence, with the general public.

CHAPTER 2: BUILDING LOCAL CAPACITIES FOR TRUTH, JUSTICE AND RECONCILIATION IN SRI LANKA

Ereshnee Naidu-Silverman, Erica Henderson and
Chris Kreutzner¹²

2.1 BACKGROUND IN SRI LANKA

After its decades-long ethnic conflict between the majority Sinhala government of Sri Lanka and the minority Liberation Tigers of Tamil Eelam (LTTE) struggling for an independent Tamil state, and following his election victory over former president Rajapaksa in 2015, President Maithripala Sirisena and his coalition government committed to addressing the legacies of the conflict. The 2015 co-sponsored United Nations (UN) resolution, Promoting Reconciliation, Accountability and Human Rights in Sri Lanka, resulted in government-established entities such as the Secretariat for Coordinating Reconciliation Mechanisms (SCRM), tasked with managing the transitional justice consultation process and associated mechanisms. It also established the Consultation Task Force (CTF), which was commissioned to undertake a nation-wide consultative process and make recommendations, focusing on questions of truth, justice and reconciliation. Amid significant delays and international and national criticism of the Government of Sri Lanka's (GoSL) lack of political will to fulfill its 2015 commitments, the Office for Missing Persons (OMP) and Office for Reparations (OR) were eventually established, with OMP commissioners appointed on 28 February 2018 and OR commissioners appointed on 1 April 2019.

In 2017, the CTF report, which was to serve as a roadmap for the transitional justice process was released to mixed reactions. While the CTF was initiated and mandated by the GoSL with the expectation that the government would take the lead in implementing its recommendations, since the release of the report opponents of the

process have begun to perceive the CTF as an NGO-led coalition aimed at holding the GoSL accountable. International organizations such as Human Rights Watch praised the CTF's work, highlighting that it was the first inclusive and comprehensive survey – taken from 7,306 submissions – capturing ordinary citizens' multiple perspectives on truth, justice and reconciliation, and calling for the GoSL to implement the recommendations as soon as possible. The report has, however, been largely dismissed by the GoSL. The CTF report highlights the public's deep sense of mistrust and frustration at yet another GoSL transitional justice initiative, given that a succession of previous mechanisms failed to meet Sri Lankans' justice and accountability expectations and often lacked legitimacy. However, the report also emphasizes that there is hope among Sri Lankans that the current process will be different. Finally, the report stresses that the CTF's recommendations need to be translated into policy when developing transitional justice mechanisms in order to ensure that Sri Lankan citizens' views are incorporated and to continue to build the confidence of ordinary citizens.

According to the CTF report, the prevailing culture of impunity is viewed as a key challenge to reconciliation efforts. The report notes the need for the GoSL to implement "confidence-building measures" and includes recommendations for the development of an independent, trusted and legitimate witness protection program, the repeal of the Prevention of Terrorism Act (PTA), the release of prisoners detained under the PTA and the termination of military involvement in civilian issues. Overall the report makes recommendations for truth, justice, accountability and reconciliation measures for the North and the South, for Sinhalese and Tamils, and highlights the need for a political settlement and resolution to conflict-related land disputes in the North and East. Concerning accountability, the CTF recommends the establishment of an independent special court to investigate war crimes, which the GoSL committed to in 2015 in the UN resolution, and the integration of international human rights and humanitarian law into domestic law. Furthermore, the court should have no time limitations on its jurisdiction and should include a majority of national judges and at least one international judge to ensure credibility. Focusing particularly on the decades-long unresolved issue of missing and disappeared persons, the CTF recommends an accessible OMP office with central and regional offices, employing skilled family members of disappeared persons. The report encourages the OMP to draw on international expertise and support, particularly in the area of forensics. It also highlights that any exhumations should be undertaken for both identification purposes as well as evidence collection for accountability. It may be noted that the OMP bill that passed has been heavily criticized for its humanitarian approach toward the search and identification of the missing and



A visit to Comalapa memorial, as part of the Forensic Transitional Justice Academy in 2019 with Forensic Anthropology Foundation of Guatemala.

disappeared, particularly its reference that findings may not be used for criminal liability. Since the initial discussions related to the Truth, Justice, Reconciliation and Non-Recurrence Commission (TJRNRC), a truth commission, the mandate of the TJRNRC has been unclear and its relationship to the other mechanisms has remained undefined. The CTF recommended that the TJRNRC's goal should be to establish the truth about the conflict, highlight discriminatory practices and provide concrete, feasible recommendations for promoting truth and reconciliation. It also highlights that the TJRNRC's investigations and uncovering of the truth about events and incidents of discrimination – such as the burning of the Jaffna Public Library, the expulsion of Muslims from the Northern Province and the killing of policemen in the East – need to be included in the school history curriculum in order for youth to develop an understanding of the past and advance reconciliation and non-recurrence. Throughout the report, psychosocial support for victims of conflict is highlighted as a priority area, and women and youth are cited as key stakeholders, both as beneficiaries and implementers of the four proposed mechanisms.

To date the GoSL has made no appreciable effort to establish the special court or the TJRNRC, despite the repeated and consistent demands for accountability from victims. Instead, in 2019 the GoSL explicitly revoked its endorsement of international participation in a special court, citing the importance of maintaining sovereign control over its judicial affairs, while downplaying the need for criminal trials.¹³ Compounding this accountability stalemate is a prevailing culture of impunity that exists throughout the country, with ongoing CSO documentation revealing that torture and other severe human rights violations continue to be perpetrated by security forces. This lack of accountability has led to



Radhika Hettiarachchi, center, who created the Herstories Archive of Sri Lanka documenting women's oral histories post-conflict, sharing with other Sites of Conscience Coalition members.

disillusionment and frustration among victim communities who, while holding out hope for prosecutions, have lost faith in the GoSL to deliver timely results.¹⁴

In addition to a lack of backing for the transitional justice process, a political crisis¹⁵ in late 2018 saw President Sirisena's support of and alliance with former president Rajapaksa lead to his appointment as Prime Minister. Eight weeks of constitutional crisis was eventually resolved with the intervention of the Supreme Court, and the previous PM was restored. However, this episode raised fears that the country would again decline into an autocracy with no respect for human rights, and also increased concerns about the President's commitment to transitional justice. Despite these domestic challenges, Sri Lanka continued to remain a priority on the 2019 UN Human Rights Council's agenda. In her report, UN High Commissioner for Human Rights, Michelle Bachelet noted the lack of concrete results related to transitional justice, escalating mistrust among victims, increased communal and inter-ethnic tensions, reports of continued harassment and surveillance of human rights defenders, and credible reports of human rights violations in the North committed by security forces between 2016 and 2018. She urged the council to continue to monitor the developments in the country and for the GoSL to implement the CTF's recommendations to ensure that the commitments made in Resolution 30/1 are fulfilled.¹⁶ Resolution 40/23 was therefore adopted to

extend the two previous resolutions as well as increase the time for the GoSL to implement accountability, truth and reconciliation mechanisms.

While the most recent resolution provided some hope for survivors and local CSOs that the GoSL would expedite its promised truth, justice and reconciliation initiatives, on 21 April 2019, the country was thrown into shock and despair with the Easter Sunday terror attacks that killed over 250 people at church and hotel targets. As the GoSL shifts its priorities to addressing the threats of violent extremism, and CSOs focus more on peacebuilding and violence prevention in communities where ethnic tensions are rapidly increasing, it is unclear what progress will be made towards transitional justice efforts. The Easter Sunday attacks have, however, amplified the need for social cohesion in the country, as well as the necessity to address some of the underlying and root causes of Sri Lanka's long history of conflict. Given these most recent events, the GoSL's transitional justice priorities remain unclear. However, it is important that local communities' truth, justice and reconciliation needs are met even in the absence or delay of formal mechanisms. To address these needs, GIJTR partners, ICSC, FAFG and the Public International Law and Policy Group (PILPG) undertook a series of actions that aimed to support the CTF's recommendations.

2.2

LEGAL ACTION, FORENSIC PRACTICE AND ORAL HISTORY COLLECTION

Technical Assistance to Organizations Working with the Law

The reticence of the GoSL to pursue justice for crimes committed during the conflict revealed the need for Sri Lankan civil society to assume a larger role in pushing for accountability. To do so, civil society actors need to leverage existing judicial and non-judicial mechanisms to hold war criminals accountable. In support of this effort, Consortium partner PILPG, together with domestic and international partners, designed a program to provide technical assistance to Sri Lankan legal organizations and lawyers to identify, prepare, and build strategic litigation cases intended to address Sri Lanka's conflict-related crimes. PILPG planned two strategic litigation workshops for lawyers interested or involved in pursuing strategic litigation, with offers to provide technical assistance for ongoing cases. The main deliverables for the program were to: (1) provide information and practical examples of comparative strategic litigation involving the pursuit of accountability for international crimes; and to (2) provide information and practical comparative examples of successful and unsuccessful cases brought in foreign domestic courts under the

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SriLankans living Joyfully through Peace,
non violence and equal Rights.

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Members of the Sri Lanka Truth and
Reconciliation Forum sharing their
anonymous aspirations for their country in
October 2019. This states: "Sri Lankans living
joyfully through peace, non-violence and
equal rights."

principle of universal jurisdiction. The expected short-term impacts of the workshops were to strengthen the capacity of local practitioners to take on and pursue strategic litigation cases in Sri Lanka and around the world, through universal jurisdiction cases. The long-term objective was to instill a culture of strategic advocacy among Sri Lankan practitioners to use all available legal channels – both international and domestic – to achieve accountability for war-related atrocities. The first workshop was also intended to gauge the interest and ability of legal practitioners to coordinate efforts to identify, initiate and support strategic litigation projects in Sri Lanka. To ensure domestic input in its planning, PILPG completed in-country consultations in November 2017, meeting with lawyers and civil society organizations pursuing accountability in order to assess the needs and interests of the Sri Lankan legal community to pursue strategic litigation. The consultations revealed a sizeable number of Sri Lankan lawyers interested in developing skills and practical experience in strategic litigation at both domestic and international fora. Expressing a fundamental mistrust of the capacity and commitment of Sri Lankan courts to deliver adequate accountability, those consulted further indicated a strong interest in understanding how to pursue justice in foreign domestic courts under the principle of universal jurisdiction.

Following the in-country consultations, PILPG partnered with a local advocacy and human rights organization, the Law and Society Trust (LST), to plan and execute the next phase of the project. Among other inputs, LST identified and invited 17 workshop participants who are involved in human rights cases across the country. This included representatives from 10 human rights organizations and six independent lawyers with experience in bringing public interest litigation cases. The first workshop was held in Colombo in September 2018. Incorporating input from local consultations, PILPG delivered sessions on: (1) the core elements of initiating strategic litigation, including selecting a venue, case subject matter, and client; (2) examples of strategic litigation in comparative state practice that concern international crimes; (3) opportunities and challenges to pursuing strategic litigation in Sri Lankan courts; and (4) an introduction to accountability in foreign jurisdictions under the principle of universal jurisdiction. The sessions were delivered by two expert consultants with experience developing and engaging in strategic civil and criminal litigation cases relating to international crimes in the Balkans. At informal plenaries, participants further engaged with the consultants to discuss ways of overcoming the specific challenges to strategic litigation in Sri Lanka and proposed ideas on case development and design. In addition to the training sessions, the workshop included a number of interactive roundtable discussions at which participants discussed ways to apply and coordinate strategic litigation approaches to the Sri Lankan context.

Immediately following the workshop, a number of participants expressed an interest in pursuing strategic litigation cases. One participant in particular said that he would “carry out” a universal jurisdiction case “in [the] near future” and another planned to examine the viability of bringing a case through international mechanisms and fora on issues related to torture, extra-judicial killings, and disappearances. Participants also identified networking as one of the main benefits of attending the first workshop. In response to a post-workshop survey, a number of participants noted that their connection to like-minded and programmatically aligned organizations grew significantly by attending the first session.

Additional impact was interrupted by the April 2019 Easter Sunday terror attacks. Previous initiatives made toward reconnecting participants, examining the viability of potential cases and scrutinizing the judicial climate for strategic litigation were largely put on hold following the decision to postpone the second workshop for security reasons. PILPG anticipates reviving this momentum as soon as the programmatic hold is lifted.

Sharing International Forensic Practice Around the Missing and Disappeared

Following nearly three decades of civil war in Sri Lanka, hundreds of thousands of families are seeking the truth about the disappearance of their loved ones, with over 60,000 persons unaccounted for. CSOs and the families of the missing and disappeared are demanding answers, because the uncertainty of their loved one’s disappearance is both a trauma and a crime. To support the search for the disappeared in Sri Lanka, Consortium partner FAFG invited 10 key Sri Lankan forensic organizations, CSOs and family representatives to Guatemala for 10 days to both witness firsthand and learn from experienced experts about a functioning and successful multidisciplinary strategy to search for and identify the missing. In September 2017 FAFG showed their offices, laboratory and processes to these key transitional justice actors so they could witness FAFG’s work and consider its relevance to the Sri Lanka context. Participants engaged with immersive presentations about the family-centered forensic approach and received comprehensive presentations about the scientific disciplines used to resolve cases, including victim investigation and documentation, forensic archaeology, forensic anthropology, and genetics. Together, these four approaches comprise the Multidisciplinary Human Identification Process. Discussions focused not only on the forensic elements but explored the integration and participation of families in the process, how accountability processes could be strengthened by forensic evidence, and the possibility to apply specific elements of FAFG’s work in Sri Lanka’s transitional justice processes and mechanisms. FAFG was clear to emphasize the importance of including the families in the



A member of the TRC at a GIJTR training in Colombo

process. This requires keeping them informed and taking the time to explain the process so they trust and understand that this is not a guarantee that their loved one will be found, but it is one of many ways they can actively search for them. Participants did not hesitate to ask questions and express their concerns about the FAFG approach. This opportunity to discuss strategy built understanding and trust among the participants in the application of multidisciplinary forensic sciences to address the issue of the missing and disappeared. Overall, the capacity-building and experience exchange explored how forensic sciences can contribute to truth-seeking and the construction of a sustainable post-conflict peace process in Sri Lanka, given the required resources and long-term commitment.

The exchange program equipped participants with the tools, forensic understanding and approaches to apply to their work in Sri Lanka to support the search for the missing with the inclusion of the victims' families. Two of the participants were confirmed as Commissioners of the OMP, and through the program, they obtained a better understanding of the needs of victims' families in the long-term search for their loved ones, as well as of the role families can play in the truth-seeking and forensic processes within a transitional justice framework. Forensic efforts can only succeed with the trust and participation of the families, and as a result, the integration of the families in state activities has been promoted by the Commissioners. In addition, the documentation of testimonies and life histories of the survivors and families of the disappeared – a practice that participants learned about during the exchange with FAFG – is considered an initiative worth implementing in Sri Lanka to empower families, preserve their testimonies and support historical clarification. Principles and systematic procedures observed at FAFG for investigations into suspected mass graves have been put into practice at Sri Lanka's Medical Forensic Institute, and the methodologies used have improved. These are critical capacities for the search for the disappeared, and these actions would not have taken place without the exchange. All exchange participants, even those not actively taking part in the search for the missing, have been equipped with abilities to assess whether local processes are adhering to basic standards and good practices. The impact of the exchange continues to enable those who participated to challenge and/or rebuild the existing system, and this empowers families to move forward and not lose hope.

Oral History Data Collection by the Truth and Reconciliation Forum

Finally, in identifying the need for local-level truth-telling in the absence of a formal truth-seeking mechanism, ICSC – in collaboration with its local partner and member sites, the Institute of Social Development (ISD) and Herstories¹⁷ – conducted an oral history training with twenty Truth and

Reconciliation Forum (TRF) members in October 2018. One of the key results of GIJTR's sustained and phased approach to work in Sri Lanka was the formation of the Truth and Reconciliation Forum (TRF), a coalition of local NGOs, approximately 10-12 representatives per district, with support from regional and district officers funded by GIJTR and based in an office of one of the TRF member organizations. The TRF, in contrast to much of civil society in Sri Lanka, is multi-ethnic and multi-religious, drawing members from all parts of Sri Lanka's population. It is also diverse in the nature of civil society groups that constitute its members, with some very local and grassroots based, and others with a strong regional presence. The TRF is explicitly decentralized, with a national Executive Committee (Exco) to govern it, but activities are independently planned and organized at the local level. Since its formation, the TRF has expanded to all 25 districts of Sri Lanka, representing perhaps the most visible legacy of the project to date.

As part of its strategy to provide sustained training for TRF members to engage in all aspects of the transitional justice process, the goal of the oral history training was to provide TRF members skills to conduct oral history interviews as well as better understand the role of memorialization in fulfilling goals of truth, justice and reconciliation. In addition to learning lessons from contexts such as Northern Ireland that could be adapted and applied to Sri Lanka, TRF members were able to test different oral history tools, practice interviewing, and engage with the ethics of oral history collection. The ban on memorialization activities in the North and East that reference LTTE casualties, and the fact that the GoSL razed



A visit to Comalapa Memorial with Carmen Cúmez, one of the leaders of the Guatemalan widows' association CONAVIGUA during the Forensic Academy training in 2019 with Forensic Anthropology Foundation of Guatemala.

LTTE graves soon after the war, means many Tamil families have no space to mourn their loved ones. This drove the initial project planned for TRF members to collect oral history narratives from community members and families whose loved one were disappeared or dead and who had information about mass graves within their communities or were aware of local graves that were razed. For TRF members in the South, plans were made to document narratives of families whose loved ones belonged to the JVP, a Sinhala insurgent group active in the 1970s and 1980s, and had been killed and buried in unmarked graves. One of the main justifications for this project is that many older community members who have memories of these graves are quickly fading, taking their memories with them. However, during the first workshop, it was apparent to project partners that this topic may risk TRF members' security, and that even as a group, TRF members did not adequately trust each other to share their findings with each other. Through exploring other themes, TRF members decided that they would instead collect narratives of peoples' experiences of the war and include disappearances as just one discreet component of the oral history collection.

In January 2019, the group convened again to share some of the challenges that they had faced with their oral history collection and identify strategies – with the support of the lead trainer and peers – to overcome the issues they faced. One of the key challenges that TRF members noted was that they were unable to provide any concrete benefits such as financial assistance to community members who shared their stories. They decided, however, to provide information about financial assistance that the GoSL could provide, as well as referrals for psychosocial, legal and medical assistance that individuals could access. There was also concern about participants' security, ongoing surveillance from the security forces, and retribution, should the stories be seized. TRF members decided that the local partner would be responsible for safely storing and securing the narratives. Finally, TRF members noted the story-telling fatigue within communities and their concern that no concrete outcomes have resulted from previous initiatives. The TRF members were advised to manage expectations by being honest about the project's objectives and to continue to build their relationships within the communities in which they work in order to ensure mutual trust. To date, 150 oral history testimonies have been collected.

Given the diverse nature of the TRF, members were successful in collecting oral histories from all major communities – Muslims, Tamils and Sinhalese. Most narratives related to missing persons and disappearances, though, interestingly, families of the military and police also volunteered to share their experiences and were included. Several narratives raised the need for reparations, and so TRF members plan,

with the interviewees' permission, to share some of these narratives with the Office of Reparations, which is still establishing their operations, so that it can use the narratives to identify the types of cases that should be investigated further. In Sabragamuva province, as a result of the oral history collection, victims formed a group called the Missing Persons Association to advocate on behalf of families of the missing.

Plans were in motion to use some of the oral histories as advocacy tools, but in January 2019, following the political crisis in October 2018, the project was put on hold. The 2019 Easter Sunday terror attacks in Sri Lanka and subsequent increased communal and ethnic tensions exacerbated the security situation and concerns of local partners.

2.3

LESSONS LEARNED: SUPPORTING CIVIL SOCIETY IN A CHALLENGING ENVIRONMENT

A number of lessons were learned from the strategic litigation workshop alone, such as that increasing the frequency of contact and interaction between civil society actors will enhance the development of the trust and confidence among partners essential to support collaborative efforts. The first workshop revealed that distrust and competition among Sri Lankan civil society remains a significant obstacle to developing effective strategic litigation plans; for example, some participants were reticent to share information about their ongoing projects or to consider opportunities to work together on future endeavors. This reluctance highlighted the fracture within civil society along lines of identity and differing political agendas, as well as the repressive environment in which Sri Lankan civil society operates. Participants spoke of constant government monitoring of their activities, demonstrating the preference of many to adopt a cautious and insular approach to their programming.

In this context, combining opportunities for trust-building and coordination among domestic legal actors alongside technical training can support the relationship development necessary to implement a strategic litigation plan. Creating space for one-on-one or small group gatherings in the margins of a multi-day training, along with developing a schedule and structure for communication among participants between conferences, can help to bolster ties between groups and enhance the quality of engagement during full workshop sessions. Providing this type of added support will ultimately encourage coordination as participants test their new strategies and skills.

Conducting ongoing consultations and assessments with lawyers and

CSOs throughout project delivery can also help to identify and address shifting interests and needs. In Sri Lanka, the political and security climate is in constant flux. These underlying uncertainties necessitate an ongoing strategy assessment and adjustment, which often results in the need for new knowledge and skills. Sustained focus on needs assessments through surveys and other feedback tools help to identify and address these shifts in order to ensure participants receive the information and training necessary to further their accountability efforts. In addition to addressing domestic options, for maximum impact, trainings designed to address accountability for atrocity crimes in Sri Lanka, and other contexts where national processes are stalled, must also include in-depth inquiries into the use of international fora. To date, progress securing accountability within Sri Lanka is limited by deep political divisions among the ruling elite. With divergent views among top leaders about whether and to what extent Sri Lanka should prosecute war criminals, little has been done to develop a comprehensive justice strategy. With no clear legal or political path to prosecute atrocity crimes domestically, Sri Lankan legal actors are interested in considering established international venues for redress with review and complaint mechanisms, such as the UN Human Rights Council, the Committee Against Torture (CAT), the Human Rights Committee (ICCPR) and even the development of an International, Impartial and Independent Mechanism (IIIM) for Sri Lanka. Organizing civil society to submit well-documented complaints to these types of treaty bodies provides limited direct accountability, but can serve to initiate momentum in recognizing and addressing the atrocity crimes committed during Sri Lanka's civil war in their own right, and in the context of ongoing human rights abuses.

Linking strategic litigation planning with broader transitional justice efforts is key to its success. Feedback received during and after the first workshop revealed both a strong interest and a significant capacity gap relating to developing advocacy and media campaigns in conjunction with strategic litigation efforts. Participants also had limited knowledge of non-judicial mechanisms available to support accountability efforts at international fora. Successful strategic litigation plans require the additional application of these and other tools. Developing a campaign for accountability centered around a defined story or set of atrocity crimes and pursuing accountability for those specific crimes on multiple levels (international, regional, national, community) will raise awareness and provide momentum to move the transitional justice agenda forward. This kind of movement cannot be achieved using only judicial channels. It requires coordination of multiple transitional justice actors (victims and their families, forensics organizations, advocacy groups, lawyers, policymakers, UN representatives) using a variety of channels (judicial, administrative, media, and legislative). Only this type of coordinated, concerted and focused action has the ability to change the broader narrative toward achieving accountability and justice in Sri Lanka.

Regarding support for the search for the missing and disappeared, FAFG found that despite its two decades of work in Guatemala, each context is unique and not all the strategies used in Guatemala would be applicable in Sri Lanka. What FAFG shared is its own experience and full multidisciplinary strategy, thereby empowering participants from Sri Lanka to adapt the relevant elements in their search and advocacy for the missing and disappeared. The most important lesson from FAFG's work in Guatemala is that families deserve specific attention and inclusion in any and all transitional justice processes, especially those that concern missing loved ones. The relatives and CSOs are key stakeholders in this process, and now with the establishment of the Office of Missing Persons (OMP) in Sri Lanka, the exchange participants are practically able to use some of their learnings to ensure that families are included, acknowledged and involved in these mechanisms. Two of the participants in the Guatemala exchange were appointed as Commissioners of the OMP, and these experiences and the Guatemalan example will hopefully inform their strategy and the inclusion of the families in this process. No matter the strategy adopted, the CSOs and OMP must have a foundation of trust with the relatives, as without their inclusion, there is no way forward to advance the search for the missing and disappeared. The search requires a dedicated long-term effort, and the Sri Lankans will learn through practice what elements and strategy are best for their context.

Finally, the lessons gleaned from the oral history activity highlight that project initiators need to be flexible in their approach and programming. Needs change and evolve, and in volatile environments where CSOs and local communities are vulnerable, security is key. Communities need to be made aware of the benefits of truth-telling, and any participation should be voluntary, based on a good understanding of the goals and limits of such projects. Information about available services is an important asset for community members who are outside city centers and can be a resource that oral history documenters share with community members, whether they have participated in programming or chosen not to. This is especially important because in post-conflict settings where transitional justice processes are delayed and there is an influx of international NGOs working on the ground, there tends to be survivor-fatigue. Survivors and local community members share their testimonies in exchange for nothing but the hope of eventually seeing justice. When justice is not forthcoming, survivors become disillusioned and may disengage from the search for truth and justice. Oral history documenters need to establish and manage expectations early in the project and be aware of possible re-traumatization of survivors. In such cases, a referral network of service providers is important to ensure that survivors get the necessary counselling and other services that they may require.

2.4

CONCLUSIONS

Sri Lanka represents a context that demonstrates many of the greatest challenges facing transitional justice processes globally. Those close to historic violations, in both governance and the security forces, maintain sufficient influence to stall significant progress towards truth, justice and accountability. More than this, the situation remains highly volatile, with the political situation still having the potential to evolve quickly to the point where the transitional justice process is halted or reversed. At the grassroots level, communities remain mistrustful of each other, as demonstrated and deepened by the Easter bomb attacks on churches in April 2019. These factors serve to drive the continued caution of civil society actors, both in terms of the activities they are willing to undertake and in their relations with each other. This demonstrates that international support to CSOs must be highly cognizant of both the fluidity of the situation and the well-grounded concerns of civil society.

In such an environment, efforts to build a national and representative civil society movement for transitional justice, as the TRF aspires to be, are crucial. Such a community-based movement can create a solid basis for grassroots reconciliation efforts and act as a foundation for national advocacy. The TRF represents the localization of transitional justice advocacy, both in terms of national, rather than international, actors leading the process and setting the agenda, and in terms of empowered and independent local activism throughout the country. This serves to link community-based work across ethnic and religious divides with national advocacy concentrated in the capital. GIJTR has seen that building a movement that is sustainable in the very long timescale likely to be required to see justice in Sri Lanka demands a focus not on impacts that can be measured on an annual basis, but on the strength and depth of the movement. This has particular implications for the evaluation of such programs, where short and medium-term outcomes are not defined in terms of transitional justice impacts, but in terms of the quality of organizational development. This is discussed further in the conclusions to this volume.

The strategic litigation support offered by GIJTR in Sri Lanka demonstrates the potential importance of the international stage, particularly around pressure for judicial accountability. The Sri Lankan transitional justice process was triggered by an international process – the UN resolution – and given the stalling of the process and likely future threats, it may need catalyzing by another such intervention. Strategic litigation, both in Sri Lanka and through the use of universal jurisdiction, represents a route for Sri Lankan lawyers to make the GoSL's resistance to accountability visible on the global stage.

The experience-sharing of FAFG's decades of work on resolving cases of the missing and disappeared represented another international opportunity for Sri Lankan civil society. Such exchanges, whilst expensive and often logistically daunting, are a much more effective route to learning than the workshop culture in which global experience is necessarily abstracted. Such an approach also represents an alternative to traditional knowledge transfer models in traditional justice, in which international experts – invariably from the global North – educate activists from the global South. In practice, the greatest experience in many transitional justice issues lies in regions such as Latin America, and the exchange with Guatemala represents an example of the South-South exchanges that should increasingly be the future of knowledge transfer in the field.

Chapter 2 Footnotes

¹² With contributions from Andrea Czollner and Fredy Peccerelli.

¹³ "Sri Lankan Soldiers Accused of 'Criminal Acts' May Receive Amnesty," *Tamil Guardian* (April 15, 2019), available at: <https://www.tamilguardian.com/content/sri-lankan-soldiers-accused-%E2%80%98criminal-acts%E2%80%99-may-receive-amnesty>; "Sri Lanka's Transitional Justice Process Will Be Firmly Grounded in the Constitution and the Domestic Legal Framework," *ColomboPage* (March 26, 2019), available at: http://www.colombopage.com/archive_19A/Mar26_1553618205CH.php; "Ranil Claims to Have 'Preserved Sri Lanka's Sovereignty' at United Nations," *Tamil Guardian* (March 25, 2019), available at: <https://www.tamilguardian.com/content/ranil-claims-have-%E2%80%98preserved-sri-lanka%E2%80%99s-sovereignty%E2%80%99-united-nations>

¹⁴ Minelle Fernandez, "Sri Lanka's War: Victims Demand Justice for Rights Victims," *Al Jazeera* (May 18, 2019), available at: <https://www.aljazeera.com/news/2019/05/sri-lankas-war-victims-demand-justice-rights-violations-190518102740165.html>; Anjali Manivannan, "A Decade Without Justice for Sri Lanka's Tamils," *The Diplomat* (May 17, 2019), available at: <https://thediplomat.com/2019/05/a-decade-without-justice-for-sri-lankas-tamils/>

¹⁵ See <https://www.theguardian.com/world/2018/oct/29/sri-lankas-political-crisis-everything-you-need-to-know>

¹⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/029/25/PDF/G1902925.pdf?OpenElement>

¹⁷ Herstories is an archive of mothers' personal narratives collected between 2012–2013 in Sri Lanka. This project, consisting of 285 narratives, attempts to fill the gap in memorializing the experiences, courage and hopes of women in conflict. (see <http://historicaldialogue.lk/link/herstories/>)



In 2018, the Memory Committee of El Castillo, in Colombia, worked with victims and families of disappeared persons to record their stories and create personalized dolls memorializing those that are disappeared.

CHAPTER 3.

LINKING GRASSROOTS AND FORMAL PROCESSES TO ADVANCE TRUTH AND JUSTICE IN COLOMBIA

Darío Colmenares Millán and Nancy Valdez

3.1 BACKGROUND IN COLOMBIA

During more than 60 years of armed conflict in Colombia, there have been several attempts to bring the conflict to an end. It began as a clash between the two largest political parties, the opposition Liberals supported by guerrilla militias, and the Conservatives in government supported by the military and by paramilitaries. The initial conflict reached a peace settlement in the late 50s, as the parties agreed to alternate in power. But this process failed to disarm and demobilize the Liberal guerrillas, who felt betrayed by party elites. These armed groups soon transformed into Marxist guerrillas, under the influence of the Cuban Revolution in the 1960s, the largest of these being the FARC-EP (Revolutionary Armed Forces of Colombia – People's Army). In the 80s, the Government of Colombia (GoC) reached an agreement with the FARC, but this soon failed before the demobilization process due to the systematic killing of over 5,000 leftist activists by death squads that operated beyond control, with the acquiescence of the State.

In the early 1990s, the government reached a peace agreement with several guerrilla groups, and as a result, a new constitution was written in 1992, granting rights to traditionally excluded sectors of society and acknowledging that the myriad conflicts were driven by poverty and exclusion at multiple levels. However, those guerrilla groups who were not a part of the agreement, including the FARC, remained committed to “armed struggle,” and in many cases still controlled territory. Shortly after, and initially encouraged by government orders legalizing civil defense groups, paramilitary groups linked to right-wing political parties and large landlords emerged. Beyond control of state authorities, they applied a strategy of systematic killings against the population to gain territorial control. Fueled by drug trafficking, the conflict entered a spiral of gross violations of human rights and the laws of war by all sides, including

forced disappearances, extrajudicial killings, sexual violence and mass killings. According to official figures of the Victims' Registry¹⁸ and the Memory and Conflict Observatory¹⁹, the conflict internally displaced 7.5 million people from 1985 to 2018 and led to over 215,000 deaths since 1958, with over 80,000 people disappeared.

In September 2016, after four years of talks, the government and the largest armed group, the FARC, reached a peace agreement that included transitional justice provisions influenced by pressure from victims' groups. These established three transitional justice mechanisms: a Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP) for a period of fifteen years, a Truth Commission (Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición, CEV) for a period of three years and the Unit for the Search for the Disappeared (Unidad de Búsqueda de Personas dadas por Desaparecidas, UBPD) for a period of twenty years, plus a possible extension. Although the terms of the agreement were rejected by a majority of 50.2% in a referendum in October 2016, a revised version was passed by Congress in November 2016. In April 2017, the Colombian Congress passed Legislative Act No. 1 of 2017, which integrated the Comprehensive System of Justice, Reparation and Non-repetition (Sistema Integral de Justicia, Reparación y No Repetición, which includes the JEP, the CEV and the UBPD) into the Constitution.

In anticipation of a positive conclusion to the peace negotiations, from June to August 2016, GIJTR partners conducted a needs assessment to examine the current context with respect to accounting for victims of enforced disappearances, analyzing the mechanisms proposed in the peace agreement, and assessing whether the mechanisms adequately addressed victims' needs for truth, justice and reconciliation. The assessment identified the need to strengthen civil society organizations' (CSOs) capacities to fully participate in the new transitional justice mechanisms. It also noted shortcomings in the implementation of the legal framework to account for the disappeared in Colombia, and especially its failure to place the families of the disappeared at the center of action on the issue. In terms of victims' right to know the truth, the assessment found that significant expectations had been created around the future Truth Commission, but that there remained a generalized distrust of state institutions. Finally, regarding the transitional justice mechanisms' access to data held by the state, the assessment found the need to unravel contradictions between the Law of Free Access to Public Information and the Law of Intelligence and Counterintelligence.²⁰

Against this background, and in preparation for the beginning of operations of transitional justice mechanisms, GIJTR developed a project called Supporting Truth, Justice and Reconciliation in Colombia. This

consisted in its first one-year phase of three components to strengthen the non-judicial mechanisms (the Truth Commission and Search Unit):

- An exchange and technical capacity-building training for CSOs working on forced disappearances to develop skills in forensic techniques for non-forensic specialists;
- A roundtable with state institutions and local and regional archival specialists to develop technical recommendations to strengthen the effectiveness of transitional justice mechanisms' access to state archives; and
- A capacity-building workshop for communities to develop truth-telling initiatives that support the government's truth, justice and reconciliation endeavors.

Despite these efforts, however, the Colombian conflict is far from reaching a conclusion. In a very polarized Colombian society, the stability of the peace process has faced frequent challenges, and the implementation of the agreements has not always been as fast and effective as expected by many. During the implementation of phase one of the project, victims' organizations and CSOs frequently expressed their concern about the limited political will in a few sectors within government, the military and dissidents of the former FARC guerrilla, which called to mind past failures, as happened after the peace agreement of 1984.²¹

Under these circumstances, the transitional justice mechanisms have significantly relied on the political and financial support of the international community. Additionally, time constraints work against the effective implementation of the mechanisms, especially the Truth Commission, which was mandated with a duration of three years beginning in November 2018.²² Despite these challenges, both transitional justice mechanisms and civil society organizations are aware that producing early outcomes in truth-seeking is the only way for Colombia to resume the path to a stable and lasting peace.

3.2

DEVELOPING TOOLS FOR DOCUMENTATION AND PARTICIPATORY PROCESSES

Under the leadership of the International Coalition of Sites of Conscience (ICSC) the project was implemented with the support of GIJTR partner the Forensic Anthropology Foundation of Guatemala (FAFG). Through the participation of these two partners, GIJTR brought to the project extensive expertise in key areas to support Colombia's transitional justice

process, focusing on non-judicial approaches, including forensics, truth-telling, documentation and archives, community engagement and participation. The goal during the first one-year phase of the project was to enhance the effectiveness of non-judicial mechanisms, namely the Truth Commission and the Search Unit, by contributing to their participatory and documentation strategies during their preparation phase before operations.

In preparing its research strategies, the Truth Commission needed to develop technical procedures to access existing documentation in an effective way, both in government and in civil society archives. Additionally, as a complement to its truth-seeking processes, the Commission needed to develop methodologies to engage communities in their own truth-telling and memorialization initiatives.

For the Search Unit, the first and most urgent needs were to deepen their expertise in forensic techniques, targeting both the Unit itself and CSOs working with the families of the disappeared. In this regard, FAFG's Guatemala experience would offer useful insights regarding not only forensic issues, but also procedures to work with families, such as psychosocial support and dignified delivery protocols.

The Consortium sought through its work in Colombia to improve archival policies and practice, support community-based truth-telling approaches and improve the technical capacity of CSOs working on issues of forced disappearance through experience-sharing.

Expert Roundtables Focusing on Archival Policies and Best Practices

In preparation for the documentation stage of the transitional justice process, GIJTR identified the need for the Truth Commission and Search Unit to develop strategies to access large volumes of information, both from state institutions and from civil society archives.

Building on the regional experiences of its Latin American member sites, the ICSC convened two roundtables aimed at providing insight and approaches to preparing strategies for non-judicial transitional justice mechanisms to access documentation. The first roundtable focused on techniques and challenges for the Truth Commission and Search Unit to access information in government archives, with special attention to accessing classified files, while the second focused on the challenges in transferring information from CSO archives to the Truth Commission.

In preparation for the first roundtable, two working documents were commissioned from experts, one of them about the mapping of Colombian security archives and the other on the challenges in declassification of information in other Latin American post-conflict contexts. International and local experts were then invited to share

experiences and discuss recommendations with the Truth Commission and the Search Unit. Participating organizations included the Guatemala Historical Archive of the National Police, Memoria Abierta from Argentina, the National Security Archive from George Washington University, the International Commission of Jurors, the main Colombian CSOs specializing in litigating in human rights cases, and relevant Colombian government institutions, such as the National Archive, the National Center for Historical Memory and the offices of the Inspector General for Human Rights and the Inspector General for Victims' Rights. The Director of the Search Unit and staff of the Truth Commission also participated in the roundtable. Finally, a report with recommendations was produced, collating the technical advice from the expert group with further feedback from participants. This was shared with both the Search Unit and Truth Commission.

The second roundtable was developed in coordination with the United Nations Office of the High Commissioner for Human Rights (UN OHCHR). This built on a mapping of stakeholders conducted in 2017 by the ICSC, the Dutch Embassy, OHCHR and the Organization of American States Mission Supporting Peace in Colombia. A group of victims' organizations and CSOs with relevant documentation was selected to participate in the roundtable, with special care to include ethnic minority, regional and women's organizations, as well as the main umbrella organizations of victims. Regional CSOs participated remotely



A community outreach and truth-telling workshop with members of civil society in Bogotá, Colombia in July 2019.

via videoconference, using their local OHCHR office facilities.

Participants were invited to share their concerns and experiences in documenting human rights violations for truth-seeking processes with international expert archivists. The meeting took place in the premises of the OHCHR in Bogotá, with a digital connection for the remote participation of six regional offices of OHCHR in other parts of Colombia. A total of 40 national and 20 regional CSOs participated in the roundtable. Representatives of the Truth Commission attended the meeting and had the chance to share questions and discuss plans, procedures and possible methodologies with the organizations.²³

Impacts

The roundtables on archiving had a number of impacts:

- Addressing technical challenges to transitional justice mechanisms' accessing archives and using the material accessed in them;
- Increasing the expertise of local experts and empowering them to take part in debates around access to archives;
- Supporting the development of an international network around archives and archiving, as well as networking between Colombian CSOs and the Truth Commission.

Both the Truth Commission and the Search Unit benefited from international experts' detailed descriptions of challenges in Guatemala, Argentina and the United States in accessing government documentation from classified records. Even while having the support of the Constitutional Court in Colombia in ruling that the transitional justice mechanisms be granted full access to any government information, including classified files, challenges remain. These include technical constraints, such as establishing qualified professional teams and developing for each archive a thorough guide of document types, as well as the identification of institutional hierarchies and information flows, particularly given that many archives do not conform to standardized formats. Several local participants who were former members of the Special Advisory Commission on Debugging of Intelligence and Counterintelligence Archives²⁴ had the opportunity to share what they had learned regarding issues around accessing information held in state archives that had not previously been addressed.

A few months after the roundtable on access to state archives took place, the government presented a constitutional amendment restricting transitional justice mechanisms' access to government files. This prompted a public debate, with the active participation of the United Nations, specialized CSOs, the Truth Commission, universities and government institutions. Several of the participants in the expert

roundtable, including ICSC members, were deeply involved in making the case against the prohibition. Finally, the legislative initiative was removed from Congress.

Several months later, just before the start of the second phase of the project, the Special Jurisdiction for Peace (JEP) convened an advisory committee of mixed composition, including state institutions, transitional justice mechanisms and specialized CSOs, to prepare recommendations on access to the intelligence archives of the former Security Department (DAS). DAS had been dissolved after a scandal involving illegal spying on judges and opposition leaders. Several of the members appointed to this advisory committee were participants in the roundtable on access to government files and had developed a network with the international experts who had been involved, and were able to use this support in preparing recommendations.

The commissioned papers and the recommendations of the final report of the roundtable were well received by all participants. In several cases, experts provided further comments to strengthen the recommendations. The report with specialized analysis and technical recommendations was then presented to the Truth Commission and the Search Unit in time to be considered in the process of configuring their working methodology.²⁵

Additionally, the Truth Commission further developed working relationships and agreements with institutions represented by visiting experts, such as Memoria Abierta and the National Security Archive.



Lucía González Duque, National Commissioner for Truth, Coexistence and Non-Repetition, in Colombia speaking to civil society organizations on community truth-telling in 2018.

CSOs and victims' organizations saw the open consultation around civil society documentation as an opportunity to establish early and direct access to the Truth Commission. For many, it was the first occasion to meet and have a direct dialogue with the Commission. This created new opportunities for the Commission's strategic planning process, as the Commission's representatives were able to collect direct input from CSOs in preparation for the "mapping of documentation sources" process that they were preparing across the country.²⁶ The open consultation with CSOs also showed the need for an expert assessment on CSO documentation, since many organizations had only a moderate level of systematization, and it was difficult to establish in advance whether documentation was going to be available by the time, and in the form, that the Truth Commission might need it. Several organizations preparing for their engagement with the transitional justice mechanisms were at the beginning of organizing their documentation. The initial dialogue facilitated by the roundtable helped them understand that they would have to develop their own systematization priorities to focus on selected packages of information, since the timeline of the Truth Commission is too short to enable all relevant information to be prepared and shared.

Several of the pending tasks are being undertaken in phase two of the project, which includes a needs assessment on CSO documentation, capacity-building trainings and the preparation of an action plan for immediate implementation.



Representatives from civil society organizations in Colombia working together at a capacity-building transitional justice workshop in 2019.

Lessons Learned

The expert roundtable on access to state archives produced a unified set of recommendations and acknowledged some immediate challenges. In the first place, it is necessary for the Truth Commission and the Search Unit to establish priorities as quickly as possible, in order to determine which archives are likely to hold the most relevant information, and within these, which document types require special revision and research. The National General Archive offered support in this endeavor. However, ensuring and implementing the corresponding agreements will require an institutional effort in the Truth Commission and the Search Unit.

For effective access to classified information, the Truth Commission and the Search Unit would have to form interdisciplinary teams including social science professionals with experience in archival research, and archivists from both the transitional justice mechanisms and the concerned state institution with classified information. As this institutional effort would be human resource-intensive, to avoid duplication the Truth Commission and Search Unit would have to work together and very likely in coordination with the Special Jurisdiction for Peace. Similar interdisciplinary teams could also work in non-classified official archives. In the case of classified records, it is necessary to set up an advisory committee composed of local and international experts to guide the cataloguing and research. One of the main risks is that the urgency of setting up these archival teams could be easily overlooked in the beginning of the process due to the multiple priorities and broad mandate of the Commission. A late setup of archival teams could render their outputs useless for the short lifetime of the Truth Commission.

The open consultation roundtable provided a first glance at the challenges of making documentation from CSO archives available for the Truth Commission's research team. There are large volumes of information in CSO archives, but most of it is not properly organized or digitized, especially in territories away from regional centers. A thorough classification, organization and cataloguing process for many relevant CSO archives would require intensive work and resources for an extended period, well beyond the lifetime of the Truth Commission. Consequently, an emergency action plan on focused blocks of documents in a select number of archives must be implemented in the short term, following the research priorities of the Truth Commission. However, it is impossible to determine the cost and focus of such an endeavor without an expert needs assessment on a limited number of CSO archives, including paper, electronic and oral archives.

For this purpose, the experience of regional Latin American organizations in preparing CSO archives for truth commissions' research is very valuable and has been integrated into a needs assessment for the second phase of the project.

3.3

TRUTH-TELLING CAPACITY-BUILDING TRAINING AND COMMUNITY PROJECTS

For the last decade, encouraged by the Victims' Law²⁷ and promoted by the National Center for Historical Memory, numerous memorialization and historical memory initiatives have been developed across Colombia. However, the Truth Commission is now seeking initiatives where communities go one step further and include truth-telling activities in the process of memorialization. For an outsider, the result may seem very similar, as both are trying to help sensitize the public to dealing with a traumatic past. But the main difference lies in the process, in which truth-telling demands research, collecting testimonials from community members and fact-checking.

Following the request from the Truth Commission to motivate communities to develop their own truth-telling approaches at the local level, ICSC developed a methodology to leverage the experience of its Latin American members. Seeking to encourage communities to develop their own truth-telling processes in parallel to those directly supported by the Truth Commission, the ICSC then developed a methodological toolkit derived from the implementation of seven rural projects aimed at engaging communities in truth-telling activities. Seven Colombian communities were selected to be a part of the program according to criteria seeking participants from a variety of regions, prioritizing indigenous, peasants and Afro-Colombian organizations.

These community organizations were then introduced to regional experiences in community education and participatory memorialization from ICSC member sites Museo de la Memoria y los Derechos Humanos (Chile) and the Movimiento Ciudadano Para Que No Se Repita (Peru), as well as to local Colombian experiences. This led to the development of seven community-designed projects based on local truth-telling activities, and a range of products resulting from those projects that raise public awareness on the abuse of human rights in those communities.

Two members of each community were invited to participate in the workshop, where they had the chance to exchange experiences and discuss ideas with others. Participants were then assisted in developing a project, including a timeline and budget, focused on needs in their communities. Following the workshop, the communities received financial and technical support to carry out their participatory projects over three months, and finally gathered again to discuss results, challenges, sustainability and lessons learned. The result was then used to construct a toolkit to assist others in the development of participatory truth-telling initiatives in post-conflict societies. This was



Lucía González Duque speaking to civil society representatives in 2019.

made available through the ICSC's website and social media channels²⁸ and was also used as reference material by the regional offices of the Truth Commission that cover the areas where most conflict-affected communities live.

Impacts

Participating grassroots organizations were able to implement fully autonomous community truth-telling projects. In several cases, community members were initially reluctant to participate due to security reasons, or a lack of trust in the community's capacity to achieve a relevant result. However, when communities realized that there were many ways to anonymize testimonies without compromising the end result, and that the products could be highly impactful in raising awareness, many sceptics within the community changed their minds and asked for a chance to be part of the project. Such was the case

with “Dolls of Memory,” a project in which community groups gathered to make rag dolls representing a missing family member and recorded a testimonial on an audio player inside the doll.

In two cases, the project reactivated pre-existing cultural centers and museums referencing historical memory. In one case, a community house became a landmark of the village and started generating visits from nearby towns. In most cases, these community projects, despite being short-term activities, triggered a process of dealing with a traumatic past within the community, generating dialogue and reconstructing the bonds of solidarity. In most communities, survivors and families who participated in the process expressed a sense of healing for the first time, having developed the capacity to share their stories and achieving social recognition, at least among a small circle.

The community truth-telling initiatives implemented as part of the project played an important role in breaking a “code of silence” that had been imposed by the armed conflict and that communities had been unable to challenge, despite the change in context. One positive effect was that neighboring communities, having seen the impact of the actions, wanted to



GIJTR partners meet with members of the Colombian National Commission for Truth and Transitional Justice to share and exchange community outreach strategies in Bogotá, in July 2019.

implement similar projects. However, some participating communities have not seen the conflict end in their territories and continue to face challenges.

The Truth Commission valued the toolkit that was a key project deliverable and immediately began to use it as a resource for their regional offices (called Houses of Truth). Furthermore, the ICSC is in discussions with the Commission and local project partners about the possibility of generating traveling exhibitions with the materials produced in the community projects that could be showcased across the country in all these regional “Houses of Truth.” The methodology developed on the basis of the vast experience of the ICSC in participatory memorialization and community truth-telling has provided the Truth Commission with strategic tools to approach communities and facilitate trust building with them. Beyond Colombia, some of the community projects have showed great potential. The ICSC has shared the experiences with advocacy organizations in other contexts and seen particular interest in anonymization techniques, as well as in developing similar projects.

The development of truth-telling projects at the community level has shown how such processes can trigger community participation at many different levels, encouraging story-sharing among marginalized communities, providing a sense of healing among participants, raising public awareness and promoting a preliminary recognition, therefore preparing them for a more formal truth-telling process.

Lessons Learned

Truth-telling initiatives in communities that have been developed as a part of this project faced several challenges. In the unstable post-conflict context of Colombia, communities in outlying regions do not always find the right conditions to develop truth-telling initiatives. However, achieving a stable peace demands a successful implementation of mechanisms that will raise public awareness of past human rights abuses and clear the way for non-repetition. This begins at the local level, with acknowledgement in the community where abuses occurred, and through encouraging people to develop local strategies to avoid repetition of violence.

While the political will of the Colombian government to implement the peace agreement remains limited, virtually all CSOs participating in the project agreed on their support for the Truth Commission, the Search Unit and the Special Jurisdiction for Peace. While until recently the National Centre for Historical Memory encouraged communities to engage in historical memory initiatives, the Truth Commission is now highlighting the importance of going further and developing truth-telling initiatives through which the members of the community, including

institutions, can share information. Whilst such an approach poses potential security challenges for communities emerging from conflict, or still seeing conflict in their region, the project has shared numerous



The Memory Committee of El Castillo sewing and creating dolls that share the stories of people who are disappeared.

innovative ways to anonymize testimonies to ensure the security of those who provided information. In a few challenging cases, an initial reluctance of the community to participate in truth-telling activities gave way to a more collaborative environment after implementers shared the first results. It became apparent that early results can play a very important role in encouraging participation.

Difficulties in the implementation included local security issues, communication challenges in outlying territories because of bad internet and telephone service, and a delayed process of consultations and approval by communities in remote locations with limited transportation and communications resources. Additionally, efficient monitoring was difficult, and verification of project implementation was often complicated. However, addressing issues in such remote areas, with challenging conditions, represents an important gap in transitional justice practice and therefore any advances made in truth-telling in these regions represent a valuable impact.

Only local people know what will really be effective in their community, and this was seen in the range of approaches taken. These included the use of traditional song, the participation of those respected in the community, the psychosocial support of women's circles and the use of handicrafts and popular art forms, among others. In this sense, an important lesson learned is that the most effective of these initiatives are the result of participatory activities engaging widely with the community, with minimal dependence on external resources or technologies.

Exchange and Technical Capacity-Building for CSOs Working on Issues of Forced Disappearance

The Forensic Anthropology Foundation of Guatemala (FAFG), a GIJTR Consortium partner and CSO with enormous forensic experience in the Guatemalan context, proposed a workshop with CSOs to share its experience in order to build forensic capacity in Colombia and raise awareness of the use of forensic sciences in the search for and identification of the disappeared. As seen in FAFG's experience, providing CSOs with an improved understanding of forensic processes, in a framework that is inclusive of the families of the disappeared, allows CSOs to become empowered advocates for the documentation, investigation and identification of the disappeared in Colombia using such an approach. As representatives of the families of the disappeared, CSOs are important actors in any strategy developed by State institutions to address enforced disappearance.

Based on its previous experience in Colombia, FAFG reached out to CSOs whose work is focused on disappearances from Colombia's long conflict. An initial visit was carried out to present the project concept and

activities to CSOs, as well as the Search Unit and the Working Group on Missing Persons of Colombia, a roundtable representing over 280 CSOs. FAFG then hosted and facilitated a ten-day workshop in Guatemala with 15 participants from the most relevant CSOs specializing in searching for the disappeared in Colombia, including families associations, litigating CSOs representing families, documentation centers and human rights NGOs supporting families.²⁹ The training combined formal presentations on documentation, forensic techniques and psychosocial support with practical sessions such as hands-on training in the genetics lab, field visits to exhumation sites, methodologies for antemortem interviews, procedures for sample collection, sharing experiences with families and including relatives in investigations. Training also included visits to sites of memory and human rights archives for a more in-depth introduction to the Guatemalan context, including engaging with families and CSOs.

A few months after the workshop in Guatemala, there was a follow-up workshop in Bogotá to discuss with participants how the increased forensic understanding gained in Guatemala was implemented in their organizations, and how they could develop strategies for effective coordination with the Search Unit. As a final follow-up activity, FAFG visited the offices of some of the organizations for more detailed verification and monitoring of the results, as well as a better understanding of region-specific challenges and gaps.

Impact

The training in Guatemala provided participating CSOs with the confidence and understanding to effectively advocate, investigate and participate in the search for the disappeared alongside families and the Search Unit. In the follow-up workshop in Bogotá, organizations explained that because of the immersive workshop in Guatemala, they: (1) learned about the experience of Guatemala and the use of forensic sciences; (2) understood the application of forensic sciences in the search for the disappeared; (3) learned how to apply elements from the exchange in their daily work; and (4) were able to initiate ways to apply this knowledge in the search for the disappeared. Participants indicated that they had created and implemented regional plans to search for the disappeared, based on their experience in Guatemala, and defined a work plan to better influence the Search Unit. A more solid understanding of forensic processes strengthened their participation in the public oversight of institutional actions, in the collection of ante-mortem data samples, and in the preparation of expert reports.

The project created new channels of communication with State authorities for CSOs and, by making use of the knowledge received in the workshop, CSOs were able to initiate a more technical dialogue. This enabled them to request government action in developing culturally

sensitive strategies, with special consideration to ethnic and regional community needs, and a wider collection of reference samples to increase the possibilities of identification.

On their return to Colombia after the Guatemala workshop, participants were expected to share their knowledge with their organizations in order to disseminate new skills. This also served to enhance educational work with communities and families, given the CSOs' improved understanding of the diverse and multidisciplinary process of searching for the disappeared. The importance of maintaining and protecting archives was seen as central to the clarification of disappearance cases and the purposes of historical memory. Participating CSOs learned how to better safeguard archives and implement effective security in the handling and storage of information.

The immersive approach of bringing participants to Guatemala, away from their everyday context, where they could focus more thoroughly on the training and the direct contact with specialists, offered the added benefit of strengthening collaboration between participating CSOs. They were able to share their views on the role of the Search Unit and how CSOs could support it both in its political role and in addressing the needs of families of the disappeared.



Visitors at a traveling exhibit in El Castillo listening to families' stories that were recorded through dolls to memorialize their disappeared loved ones.

Lessons Learned

The Guatemalan experience of the peace process and its implementation offer valuable insight to the Colombian context, especially considering that the Truth Commission and the Search Unit are facing similar challenges to those seen in Guatemala. When the call for applications to the training program offered by FAFG was first circulated, many organizations expressed their interest in participating.

There is a visible lack of communication between the State and the families of the disappeared around the search process. Expectations of the Search Unit are high, and disappointment could easily grow if the families feel excluded from current mechanisms and strategies. Families, survivors and victims expect the peace agreements to streamline the search process and to open opportunities for their participation, especially for the marginalized and most vulnerable groups. Whilst the space remains for the state to regain the trust of families by moving the process forward, given the current political environment, this opportunity remains fragile.

During the Guatemala workshop, it was important to ensure that participants felt safe and had the space to speak about their cases. The quality of the exchange was highly due to the diversity of backgrounds and places of origin of those present, some of whom had many years' experience working with families, while others were litigators. However, the diversity of organizations also created challenges due to divergent perspectives which quickly became opportunities for a better understanding of a complex, multilayered context. Focusing on sharing experiences of FAFG and its partner organizations, divergent positions added to the understanding of the complexity of this work. At the follow-up meeting in Bogota, the group was more coherent in their understanding of the search for the disappeared, the use of multidisciplinary forensic sciences and the integration and participation of victims' families.

Due to the high impact of their experience in Guatemala, many organizations requested that FAFG make specific visits to the culturally diverse and contrasting outlying regions of Colombia where they were working to further share their experience with the organizations, communities, and families, and to contribute to the local Colombian processes, especially at a time when families' expectations had increased with the creation of the Search Unit.

CSOs and families described the forensic workshop as a unique opportunity because during the process of search, recovery and identification of the disappeared, they have historically been isolated and given little information. For example, although the National Institute of Legal Medicine and Forensic Science (Instituto Nacional de Medicina

Legal y Ciencias Forenses, INMLCF) and the Attorney General's Office (Fiscalía General de la Nación, FGN) work on cases from the conflict, they have not established channels of communication with the families and their supporting organizations. But through their increased understanding of forensic techniques and the multidisciplinary approach to searching for the disappeared, participating CSOs strengthened their capacities to fully participate in the investigation and clarification of disappearances and to support the families in more effective ways.

3.4 CONCLUSIONS

GIJTR intervention in Colombia represents an example of the project's dual approach: supporting formal mechanisms to improve their performance, and informal approaches overseen by civil society to complement the official process. It began with a needs assessment process that identified both the weakness of the legal framework and the need to reinforce CSO capacities for them to effectively participate in the transitional justice process. GIJTR is valued by both CSOs and transitional justice mechanisms because it fills gaps in the implementation of the transitional justice system. Truth commissioners and the director of the Search Unit have publicly praised the work of the Consortium and have repeatedly requested additional support from Consortium partners.

Both the non-judicial transitional justice mechanisms, the Truth Commission and Search Unit, and Colombian civil society benefited from the structured approach of GIJTR to convene local and international expertise to build capacities of the main stakeholders of the Colombian transitional justice process. Despite constrained political will in some influential sectors at the government level, and a highly polarized society, transitional justice in Colombia does have the potential to eventually build the necessary momentum to sustain the peace process.

Through its holistic approach, GIJTR has been able to provide sustained and focused expert support to enhance the capacity of civil society to participate in an effective way in the non-judicial mechanisms. ICSC and FAFG have successfully developed working modalities with the formal mechanisms as well as some of the most relevant CSOs for a successful implementation of the peace agreement in addressing the needs of victims in several critical areas:

- Despite the political and financial support of the international community, little attention had been devoted to strengthening documentation strategies. ICSC's unique approach has filled a

significant gap, bringing expert advice to assist the Truth Commission, the Search Unit and CSOs in preparing their documentation strategies for truth clarification about a long-lasting conflict;

- ICSC has facilitated a productive working relationship between CSOs and transitional justice mechanisms in the area of documentation;
- The Truth Commission in its preparation stage was able to design community-based methodologies, building on the experience and lessons learned from successful community truth-telling projects developed through capacity-building trainings and small grants provided to local organizations by ICSC;
- Sharing FAFG's experience with Colombian CSOs improved their ability to advocate and participate in the transitional justice processes. Strengthening CSOs through an increased understanding of forensic sciences in the search, location, recovery and identification of the disappeared means that they have the proper resources and tools to work with official mechanisms in seeking answers for families looking for their loved ones. These CSOs have additionally started an exchange with State institutions that enables them to play a more active role, as they can analyze and verify the processes of the State. This provides an oversight mechanism to ensure comprehensive investigations into accounting for the disappeared.
- The immersive training on forensic approaches also enabled CSOs to develop a strategy that put these CSOs and families at the center of the process. The ethnic and cultural awareness of the Guatemalan experts proved particularly effective due to their focus on the family from the beginning of the search to the delivery and dignified reburial of the identified victims.

The high-impact support provided by GIJTR to the Colombian transitional justice mechanisms and civil society has opened many opportunities, but requires a continued effort in broadening the impact and ensuring a sustainable result. Both civil society and transitional justice institutions have expressed their hopes in the capacity of GIJTR to contribute to a stable and lasting peace in Colombia.

Chapter 3 Footnotes

- ¹⁸ The Victims' Registry (Registro Único de Víctimas) is the official list of the government establishing who is entitled to reparations and compensation.
- ¹⁹ The Memory and Conflict Observatory (Observatorio de Memoria y Conflicto) is a database of statistics about the conflict managed by the government-run National Center for Historical Memory.
- ²⁰ The Law of Free Access to Public Information (Law 1712 of 2014) establishes that all information produced by public institutions should be of free access by the public, with the only exception being that information that is deemed as classified for specific reasons that have to be explained by the withholding authority. On the opposite side, the Law of Intelligence and Counterintelligence (Law 1621 of 2013) states that all information produced by intelligence and counterintelligence agencies is deemed classified and should not be delivered to anybody, except when requested by judicial authorities for clearly specified reasons. In this context, the current transitional justice mechanisms, created after the issuance of these two laws, needed to develop a special status to clarify the privileges of access granted to them, as was later in 2018 ruled by the Constitutional Court.
- ²¹ After the signing of the peace agreement, a small number of FARC combatants refused to demobilize. In August 2019, three FARC leaders who had participated in the peace negotiations joined them. However, in reaction to this drawback, most of the former combatants have reasserted their commitment to the implementation of the peace agreement.
- ²² The possibility of an extension of the Truth Commission's mandate is unlikely because it was not introduced as a part of the original legal framework and would therefore require focused political will from the government in reforming the Law and Executive Order that created the Commission.
- ²³ The Search Unit did not participate since it had yet to hire its specialized archive team.
- ²⁴ Comisión Asesora para la Depuración de Datos y Archivos de Inteligencia y Contrainteligencia
- ²⁵ While Commissioners and staff of the Truth Commission and the Search Unit have reported that this advice has been useful, it is unfortunately unclear to what extent this was incorporated, since the final detailed methodology of the Commission regarding classified files is confidential.
- ²⁶ The Truth Commission carried out an extensive inquiry with CSOs across the country in the second half of 2018 to identify possible sources of information that the Commission could access in the investigative process.
- ²⁷ Law 1448 of 2011.
- ²⁸ See English Version at <https://www.sitesofconscience.org/wp-content/uploads/2019/02/Colombia-Toolkit-ENGLISH-final.pdf> and Spanish version at <https://www.sitesofconscience.org/wp-content/uploads/2019/02/Colombia-Toolkit-SPANISH-final.pdf>
- ²⁹ The following CSOs participated in the Workshop: Corporación Jurídica Libertad de Medellín, Coordinación Colombia Europa Estados Unidos, Corporación Para el Desarrollo Regional, OFB Corporación Colectivo Orlando Fals Borda, ASFADDES Bucaramanga Santander, Familiares Forzadamente por el Apoyo Mutuo Familiares Colombia, Corporación Comité Cívico por los Derechos Humanos del Meta, Corporación Claretiana Norman Pérez Bello, Fundación Nydia Erika Bautista para Los Derechos Humanos, Madres por la Vida, Mujeres Caminando por la Verdad, MOVICE Capítulo Valle, Fundación Hasta Encontrarlos, Fundación Progresar Cúcuta, and Centro de Investigación y Educación Popular CINEP.



A drawing from a Gambian artist depicting community truth-telling initiatives.

CHAPTER 4: SUPPORTING TRANSITIONAL JUSTICE PROCESSES IN THE GAMBIA

Sufiya Bray and Milica Kostić

4.1 BACKGROUND IN THE GAMBIA

The defeat of former president Yahya Jammeh during the presidential elections in December 2016 marked an end to more than two decades of authoritarian rule in the Gambia. Since the beginning of his rule, the Jammeh regime was characterized by gross human rights violations, including torture, enforced disappearances, illegal detention, sexual violence and extrajudicial killings carried out by the security forces, notably the National Intelligence Agency (NIA) and a paramilitary group called “The Junglers” – an unofficial unit largely drawn from the Presidential Guard. Jammeh aimed to silence all dissident voices, particularly journalists, human rights defenders, student and religious leaders, political opposition members, judiciary officials and security force personnel. Many eventually fled the country out of fear.

The new government led by President Adama Barrow established a Truth, Reconciliation and Reparations Commission (TRRC) in January 2019 to “investigate and establish an impartial historical record of the nature, causes and extent of violations and abuses of human rights committed during the period July 1994 to January 2017 and to consider the granting of reparations to victims and for connected matters.”³⁰ The act is part of a broader National Transitional Justice Plan that also sees transitional justice advanced through processes such as the Constitutional Review Commission; the Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices; the security sector reform agenda and potentially prosecutions. In January 2019, the TRRC began public hearings relating to the 1994 coup that brought Jammeh to power. In parallel, the TRRC established a Reparations Committee that will prepare terms of reference for the Commission’s reparations policy.

4.2

GIJTR'S SUPPORT TO THE GAMBIAN TRANSITIONAL JUSTICE PROCESS

In anticipation of the TRRC, GIJTR developed a project to support the government-led transitional justice process, provide technical assistance to the TRRC and local CSOs in providing psychosocial support to victims and survivors, and build the capacity of Gambian CSOs to actively and knowledgeably engage in the transitional justice process. The project, which is planned to continue through 2021, included a consultative mission and capacity-building workshops for civil society.

Consultative Mission

In January 2019, GIJTR partners International Coalition of Sites of Conscience (ICSC) and the Centre for the Study of Violence and Reconciliation (CSVN) undertook a ten-day consultative mission to assess the progress of the Gambian transitional justice process and to identify the various actors involved, as well as their level of capacity and engagement. GIJTR team attended public hearings before the TRRC and conducted over twenty interviews with representatives from civil society, academia, government – including the TRRC staff, as well as international organizations.

The consultative mission revealed a lack of transitional justice-related knowledge and skills and lack of capacity of Gambian CSOs; limited awareness and engagement of the Gambian public and, in particular, vulnerable groups in the transitional justice process; and a lack of clarity on key aspects of the process. Many reflected that they had no clear understanding of the broad transitional justice agenda for The Gambia, reflecting that decisions were being made at a political level without interaction with other stakeholders. CSOs were trying to understand what their specific roles should be, but this remained unclear. These findings are described further below.

Narrow Approach to Transitional Justice: During the interviews, when discussing national transitional justice priorities, interviewees spoke of transitional justice only in terms of the TRRC. The expectations were that the TRRC will be delivering justice to Gambians, and that will be the end of the process. This single-mechanism approach has resulted in a very narrow comprehension of transitional justice.

Limited Space for Dialogue, Inclusion and Outreach: The transitional justice process has largely failed to include the Gambian people in its design stage, and it has in particular excluded the most vulnerable, notably women, youth, religious and ethnic minority groups, victims and their families. For example, the national consultations took place only

after the government had already determined that a truth commission would be established. In addition, the transitional justice process in the country is unfolding largely in the area of the capital, Banjul, and there has been limited engagement with and of the broader public since the TRRC's establishment. Government representatives interviewed during the mission emphasized that the limited outreach is due to the country's lack of resources. The TRRC has established a Reconciliation Unit, but several stakeholders noted that it has no clear mandate and is yet to start operating. According to the TRRC Secretariat, the Commission has not planned to hold hearings outside Banjul, in contrast to many other truth commissions, even though violations were widespread. No community or region of Gambia was left untouched; while Jammeh's base was Banjul and many violations occurred in state facilities there, people were often kidnapped from elsewhere. While Gambia is small enough that people can travel to Banjul, challenges to accessing the TRRC include the lack of a clear, coordinated outreach strategy, the lack of clarity as to who should come forward, the poor resourcing of the TRRC – including The Victim Support unit, the Gender Unit and the Communication and Outreach unit – and a lack of coordination between CSOs and the TRRC. Furthermore, the TV station that was given exclusive rights to broadcast the hearings is not a national TV station and can only be accessed via satellite or online, even though only 18.5% of the Gambian population has access to the internet.³¹

Lack of Direction of the Transitional Justice Process: The consultations revealed an overall sense of lack of direction or even purpose of the transitional justice process in The Gambia. The majority, if not all, of the interviewees did not know whether and how the TRRC intends to address some key issues of public interest, including whether there will be prosecutions during or after the TRRC's mandate, or indeed ever; whether there will be lustration or some kind of vetting of government officials, especially those who have already been incriminated before the TRRC; whether the TRRC will issue amnesties; whether and what kind of reparations will be provided by the TRRC; who will be recognized as a victim entitled to reparations; how the TRRC will deal with the issue of those forcibly disappeared, among other issues. Most interviewees noted that the Gambian government is not prepared for the TRRC's aftermath.

The most recent Afrobarometer public opinion poll from October 2018 shows, nonetheless, that Gambian citizens expect a variety of outcomes from the TRRC's work, ranging from national peace, reconciliation, forgiveness, and healing (34%) to accurate records of the previous regime's human-rights abuses (30%), prosecution of accused perpetrators (28%), and support and reparations for victims (43%).³²

Limited Mobilization of Civil Society: Civil society's response to the

transitional justice process in the Gambia has been limited. There is a lack of broad civil society mobilization around the process, and there are few civil society actors actively monitoring the work of the TRRC. There are many factors that have contributed to this civil society landscape, including the decades-long crackdown on civil society during the previous regime, which has resulted in a general distrust in the government, as well as the general lack of CSOs, most of which have little organizational capacity. Many CSOs do not have clear missions or strategies and there is limited coordination among them; their interaction with each other is mostly governed by a struggle for resources.

Lack of Mental Health and Psychosocial Support Services: Mental health and psychosocial support services available in the Gambia are barely existent. It was noted by all interviewees that there is a very narrow understanding of mental health and psychosocial support services, limited to the concept of one-to-one therapy with a psychologist. Public perception is that anyone who requires psychosocial support is mad, so people tend to remain silent in order to avoid the attachment of negative stigma to themselves and their families. Additionally, victims and communities typically do not express their experiences as trauma – they accept it as their fate or a test from their Creator – and tend to suppress their trauma in order to deal with their immediate struggles such as unemployment and poverty. After the team's meeting with the TRRC, one of the most glaring gaps was the insufficient psychological support that witnesses and victims receive before, during and after their participation in hearings. TRRC hearings started in January 2019, and from the team's observations and feedback from various CSO stakeholders, serious concerns are being raised regarding the re-traumatization of witnesses, victims and communities.

Capacity-building Workshops

Based on the key findings of the consultative mission, the project partners conducted a series of workshops to engage local CSOs in the technical aspects of transitional justice, share lessons learned from other countries and identify strategies that could be adapted to the Gambian context.

Transitional Justice and Psychosocial Training with Civil Society

In January 2019, over a period of four days, the CSVR conducted a training for 25 civil society participants on transitional justice and psychosocial support as part of a planned series of workshops aimed at building and strengthening the technical and content expertise of Gambian civil society working on issues of human rights, transitional justice and mental health and psychosocial support. A number of participants who were members of the Gambian Center for Victims of Human Rights Violations (Victims Center) were victims themselves, while



A statue that says "Never Again!" at the dock to depart for Kunta Kinteh Island in The Gambia looking towards the Island, referencing the history of enslaved people and the transatlantic slave trade.

others came from the legal, human rights, media, medical and mental health sectors.

The first training was a platform for key concepts, such as transitional justice, peace, justice, truth, reconciliation, healing, trauma and psychosocial support, to be dissected in order to build a common understanding amongst civil society on what these terms mean and how they can be applied to the Gambian context. The training further explored the importance of applying a psychosocial lens to all transitional justice processes and mechanisms, and reflected on the impact of violence and trauma on individual victims, their families and their communities.

One of the key reflections from the training was the very narrow, limited and prescriptive understanding of transitional justice and its practical application among CSOs. Participants also displayed varying degrees of comprehension of psychosocial support and trauma. Notably, one male participant defined psychosocial intervention as "a process that helps me on my journey of healing with the hope that I can forget my past and be able to move on and become functional again."

Transitional Justice Training

In April 2019, GIJTR partners CSVR and ICSC, in partnership with the Victims' Center, conducted a transitional justice training for civil society organizations in Banjul, bringing together 18 activists from 12 civil society organizations. The workshop was designed as a practical

training, focusing on urgent transitional justice issues in the Gambia. The consultative mission had revealed that many CSOs had already received introductory trainings on transitional justice but had largely failed to utilize this knowledge. For this reason, the training organized by GIJTR focused on (1) providing an overview of key transitional justice topics in The Gambia, such as the ongoing work of the TRRC, and (2) equipping civil society to take part in and respond to key developments, such as the forthcoming Reparations Framework and the National Transitional Justice Strategy. The training included an overview of the recently adopted African Union Transitional Justice Policy, as the forthcoming Gambian National Transitional Justice Strategy was modelled on this. The training was designed to encourage participants to think of transitional justice in the Gambia beyond just the work of the TRRC and to consider other ongoing processes, such as the constitutional review commission, financial investigations commission and prosecutions, as well as experiences from other African countries.

The training also provided important space for civil society to critically reflect on the TRRC's work four months into its mandate. These sessions were particularly timely because the training took place just before the Commission's 6-week break for Ramadan. The result of these brainstorming sessions was a joint declaration by Gambian CSOs evaluating the TRRC's performance and providing recommendations for the improvement of the TRRC's procedures, particularly those affecting victims. The Victims' Center later shared the declaration with the TRRC and invited the Commission for consultations with civil society.

Capacity-building and Technical Support to the Victims' Center

One of the key objectives of the Gambia project is to increase the capacities of local CSOs by providing targeted training, monitoring and support. The consultative mission informed the project's focus on providing direct technical support to the Victims' Center on various levels. The first need identified was to strengthen the organizational structures, systems, strategic planning and vision of the Center. Support was being provided through the establishment of a psychosocial unit within the Center, staffed by experienced psychosocial support staff to provide direct support to victims of gross human rights violations through counselling and outreach in communities. CSVR is providing regular support in the form of mentorship, training and supervision to the newly established team as they start the implementation of their mandate and aid victims. The project also strengthens the Center's recruitment of psychosocial support focal persons, who are individuals trained with basic counselling and documentation skills situated in all regions of The Gambia. Their roles are to identify and document cases of human rights violations in the various communities. These testimonies will be included

in the national victims' database, forming part of the official narrative of the truth-seeking process in the Gambia, as well as allowing referral of cases to the TRRC for consideration and further investigation.

Through the Victims' Center's engagement in communities, there is an opportunity to expand their work beyond their current registration of victims to include outreach, education and awareness-raising around the TRRC and transitional justice. The Center can also promote community dialogues at the local level that reinforce collective and individual healing and the rebuilding of trust. The support being provided to the Victims' Center is built on a long-term vision that seeks to promote local expertise and initiatives that will contribute towards the sustainability of the CSO as well as support the short-term transitional justice mechanisms, such as the TRRC. As one of the female civil society interviewees noted during the consultative mission, "The work of the Victims' Center will really only start the day the TRRC closes its doors and hundreds of victims will be left standing outside still waiting for justice or some form of redress for the harm they suffered. The Victims' Center must be ready and prepare for that day."

4.3

LESSONS LEARNED: ADDRESSING THE CHALLENGES OF A DIVIDED AND UNDER-RESOURCED CIVIL SOCIETY

Conducting a Pre-workshop Assessment: The initial capacity-building workshops were aimed at introducing psychosocial and transitional justice concepts to participants, while also assessing their levels of understanding of these concepts in order to develop tailored content for future workshops. When asked at the start of the first workshop how many participants understood psychosocial support well, almost 80% of the participants lifted their hands. However, during the implementation of the activity it quickly became clear that there was a very limited understanding of psychosocial interventions and services. Furthermore, at the transitional justice training, even though all participants stated that they regularly follow hearings before the TRRC, a majority lacked basic understanding of the TRRC Act as well as of the TRRC's mandate and procedures. The facilitators were able, however, to quickly adjust the content of the workshops to suit the level of the participants' understanding. In the evaluation sessions at the conclusion of the workshops, the facilitators suggested sending out pre-workshop assessments to a sample group of participants to test their knowledge and understanding of the planned content material and develop the workshop sessions and material according to their needs.

Lack of Coordination and Communication Between Civil Society

Organizations: During the Jammeh regime, there was almost no active civil society. The few civil society organizations that did exist focused predominantly on providing basic services, such as education and health – areas that were not considered subversive by the regime. There were no organizations in The Gambia that had expertise or worked on any transitional justice-related issues. Furthermore, one of the regime's primary mechanisms for retaining power was sowing mistrust and suspicion among the population, including between natural allies. As a result of this decades-long crackdown on dissent and civil society, there remains limited trust, communication and coordination among CSOs and between CSOs and the TRRC, including the TRRC's Victim Support Unit. As one workshop participant jokingly noted, "We need to establish a truth commission for civil society in the Gambia."

While institutional reform is widely recognized and used as a mechanism of transitional justice, it is typically applied and considered only in relation to governmental bodies and not to civil society organizations. The Gambia serves as a prime example of the need to think about institutional reform in the context of civil society and the importance of rebuilding and strengthening civil society, as a crucial stakeholder of any transitional justice process.

Lack of Understanding of the Role of Civil Society: The transitional justice training revealed participants' limited understanding of the role of CSOs and, in particular, the difficulties CSOs experience when trying to position themselves towards the government and to the process. Several participants expressed the view that civil society should be "on the side" of the new government because it represents a break from the dictatorship, and they considered watchdog organizations to have a negative connotation, as they were perceived as being "against" the government. In addition, some CSO participants were motivated to participate in CSO more by the fact that transitional justice was bringing resources to civil society rather than an interest in and commitment to social change. This represents one of the most significant impediments to civil society engagement in the country's transitional justice process. For example, one participant, who has an extensive background in working with prisoners, upon learning that the TRRC is preparing a Reparations Framework, said that "those CSOs making advocacy that targets the Reparations Committee should make sure that prisoners' rights are included."³³ The facilitator then suggested that it is precisely his role to conduct such advocacy. After discussing these challenges, the facilitators decided to redesign the agenda to include practical exercises that would demonstrate to the participants how they could act as watchdogs without being confrontational towards the government.

This practical exercise resulted in the joint civil society declaration that contained constructive recommendations to the TRRC.

Participatory and Non-prescriptive Approach to CSO Capacity-building:

Across the three CSO workshops implemented so far, participants appreciated the participatory, non-prescriptive nature of the workshops as well as the flexibility of the project partners and consultant facilitators in revising the agenda based on needs that emerged during the workshop. For example, during the transitional justice training, it became clear that the majority of participants, including those actively monitoring the TRRC, were not familiar with basic elements of the TRRC's mandate and were unfamiliar with the TRRC Act. As a result, the session that was originally envisaged as a refresher and backgrounder on the TRRC's mandate was expanded from a 30-minute session, to a half-day facilitated discussion. The majority of participants stated later in their evaluation forms that this session was the most beneficial to them.

Responding to the trust-building and collaboration needs of Gambian civil society expressed by participants, facilitators redesigned the agenda for the transitional justice training and turned most sessions into a discussion-based format. Participants greatly valued the facilitated inter-group exchanges as well as the opportunity to share their experiences and listen to individuals with whom they otherwise might not have engaged.

Organizational Development Requires Time and a Conducive Environment:

The consultation mission documented a lack of broad civil society mobilization around the transitional justice process and limited monitoring of the process or the work of the TRRC. The expectations of interviewees representing civil society were that the recently established Victims' Center will fill the transitional justice space and ensure that victims' voices are included in the process. Not surprisingly, the Center does not have the capacity to take on this role alone. In a matter of months, the Victims' Center transitioned from a volunteer victims' support network made up of family members to an organization recognized by the State and all stakeholders as the one civil society organization tasked with organizing victims in The Gambia and representing their needs. Since its establishment, the Center has been overstretched trying to meet these excessive expectations and never has had the time to focus on organizational and strategic development. As a consequence, the Center has experienced challenges in prioritizing services and has ended up with an unsustainable, all-inclusive mandate attempting to address all the needs of all victims, including providing micro-loans, paying school fees for victims' families, providing funding for medical treatment and handing out food parcels.

GIJTR recognized that the Center's long-term viability is a prerequisite for the success of the transitional justice process in the Gambia and requires robust organizational development support. The goal must be for the Victims' Center to have a sustainable and strategic funding strategy linked to a clear and actionable strategic plan for the organization. For this reason, GIJTR expanded its mandate to provide such support to the Center on top of the technical and capacity-building support envisaged in the project. However, the fast-paced transitional justice process in The Gambia and the vast needs of victims have put civil society in a constant reactive mode with no time for reflection and long-term strategizing. As such, partners have found it difficult to secure the time and focus needed for the Center's strategic and organizational planning. Moving forward, the Consortium will build in organizational development activities for local partners from the project's outset and secure resources needed for their implementation in the project's workplan.

Holistic and Context-specific Approach to Transitional Justice: In an effort to counter the widespread notion that "transitional justice is no more or less than the TRRC", the Consortium designed its transitional justice training with the aim of analyzing the Gambian context through the lens of all transitional justice pillars and possible mechanisms. The consultative mission at the beginning of the project revealed that international NGOs have conducted multiple transitional justice trainings with Gambian civil society, mostly one-off formulaic presentations of transitional justice and its four pillars (truth, justice, reparations and guarantees of non-repetition), and that CSOs still lacked understanding of how those pillars and mechanisms could be applied to the Gambian



A visit to Kunta Kinteh Island in The Gambia, which became a key stronghold to the propagation and eventual termination of the transatlantic slave trade in 1807.

context. In order to contextualize transitional justice, the training was designed to encourage participants to think of transitional justice in the Gambia beyond the work of the TRRC by looking into ongoing processes, such as the constitutional review commission, the financial investigations commission and prosecutions. In addition, the Consortium invited Gambian experts leading those non-TRRC processes to make presentations at the training and discuss their impact and importance, and then connect them to transitional justice mechanisms. In this manner, transitional justice theory was presented through recognizable and tangible concepts, and participants learned to value all transitional justice measures based on their local context and needs.

Holistic and Coordinated Psychosocial Support Framework: Most participants at the workshops reported perceiving mental health and psychosocial support services to be limited to providing counselling and psychotherapy to patients. It was clear from the workshops that additional specialized training was required for practitioners working with victims, in order to build the psychosocial support infrastructures needed to address the specific needs of victims in The Gambia. A diverse sensitization strategy is also needed to counter the negative stereotypes surrounding accessing mental health and psychosocial support services. In addition, it became clear that the country's transitional justice process requires a sustainable psychosocial support referral and capacitation structure that would not only respond to the immediate needs of victims, but secure a long-term support structure, including after the completion of the TRRC's mandate. In this spirit, the workshop participants suggested the development of a referral network handbook or guide for civil society and victims seeking mental health services.

4.4 CONCLUSIONS

The Gambian Transitional Justice Process

The Gambian transitional justice process remains fundamentally flawed, and an element of the work of GIJTR has been to understand the extent to which even a highly capacitated civil society could address such constraints.

Whilst contextualization is a watchword in transitional justice practice, there remains a cut-and-paste mentality – as seen in The Gambia – sustained by a global network of actors committed to a narrow global discourse and national governments seeking to control a process. For example, the Gambian government decided to establish a truth commission before consulting its citizens. When it did initiate a national

consultation process, it process was cursory, lasting for only one week in August 2017. Furthermore, according to several interviewees, meetings were not formatted as genuine discussions, but rather, government officials informed people that the TRRC would be established and explained the registration procedure. This echoes poor consultative practice in many contexts, particularly those that are highly resource-constrained. The establishment of the Commission was the new president's election promise and not the result of a national dialogue or consultation process: it was top-down, rather than bottom-up.

Several stakeholders noted during the consultative mission that there were people who voiced clear opposition to the establishment of a truth commission during the government's consultations, only to be told that "it has already been decided." Multiple interviewees noted that a truth commission is not an appropriate transitional justice mechanism for The Gambia because there was no armed conflict. As a result, this may reduce the legitimacy of the TRRC in the eyes of Gambian citizens and the victims' community. A public opinion survey conducted a year after the national consultations (in 2018) concluded that fewer than half (46%) of Gambians said they trusted the TRRC "a lot" or "somewhat", while almost one third (29%) said they didn't know whether or not they trusted the commission or refused to answer the question.³⁴ It would be important and useful to ascertain the views of the public regarding the TRRC now that it has actually started its mandate, not least to steer its work and potential complementary mechanisms.

When assessing popular views and support for the transitional justice process, one must not overlook the overall social and economic situation in The Gambia. The Gambia is one of Africa's poorest countries and the majority of the population lack the most basic goods and services, including food, medical treatment and access to education. During the consultative mission, many interviewees expressed serious concerns about the amount of money being spent on billboards and infrastructure for the TRRC – noting that the money is being wasted and that the TRRC is just another opportunity to abuse state resources that should be going to the poor and needy. In these circumstances, it is not surprising that many people are not interested in, for them, abstract concepts such as truth, justice or reconciliation. Ideas of justice and transition are challenged by the fact that what many see as the greatest injustice – poverty – has been a constant across the political transition. This also raises fundamental questions about the traditional focus of transitional justice on violations of civil and political rights, rather than economic and social rights that underpin the urgent issues of poverty and under-development that many Gambians would prioritize. All of Gambia's citizens have been severely impacted by the dictatorship in



The Truth, Reconciliation and Reparations Commission in The Gambia sharing news about truth commission hearings that focus on sexual and gender-based violence in 2019.

one way or another, and so almost the entire population perceives themselves as victims. The long-anticipated reparations framework of the TRRC will be a true test of the government's ability to adopt context-specific measures that are tailored to the needs of victims and the broader population.

External Action to Support Gambia's Process

GIJTR work in The Gambia presents a significant learning opportunity. Accompanying a flawed process are civil society organizations with little capacity in a state where resources, both technical and financial, are few. Some clear approaches for making progress have, however, emerged.

The first lesson is the importance of promoting the sustainability of local civil society partners. When designing projects, international organizations should ensure that the long-term health and capacity of the partner is a priority and not subordinated to short-term impacts. This resonates with critiques of local CSOs as 'implementing partners', meaning essentially sub-contractors, rather than as equal partners whose increased long-term capacities will likely constitute one of the most important program impacts. Most CSOs in The Gambia do not have clear missions or strategies, and their programs are strongly influenced by international organizations. In addition, CSO coordination and overall engagement in the Gambian transitional justice process have been mostly orchestrated by international organizations. A weak civil society, overly influenced by international actors, poses a challenge to the effectiveness of the transitional justice process. For this reason, programming by international NGOs should include – and potentially be



Civil society leaders discussing sexual and gender-based violence in The Gambia at a 2019 capacity-building workshop.

driven by – a capacity-building component for local CSO partners. This should not be limited to transferring technical expertise, but should include an organizational development component that contributes to their sustainability, including, for example, supporting access to independent fundraising.

A second lesson is that participatory process demands a flexible approach to funding and programming. In The Gambia GIJTR's desire to see programming driven by assessed needs was challenged by the fact that while the analysis of the assessment helped shape the interventions and the methodology, the conceptualization of the project preceded the needs assessment. This demonstrates the administrative obstacles to creating truly dynamic, participatory process that can respond to needs, including as they evolve. Few donors are comfortable committing to



Approaching Kunta Kinteh Island, a departure point for thousands of enslaved people from the 1400s to the 1700s as part of the transatlantic slave trade, and UNESCO World Heritage site.

fund programs whose form and content are not well-defined, and that will likely remain a challenge to the most radically participatory process of support to both civil society and states. The rapid response element of work seeks to overcome this, offering access to funds that can be delivered fast enough to be sensitive to needs as they emerge and change.

It is natural that authoritarianism breeds mistrust not just between the state and populations, but between different CSOs. (See for example Chapter 2: Sri Lanka.) However, explicitly building trust between CSOs within the movement for justice remains typically beyond the goals of international intervention, as it was for GIJTR in The Gambia, even though it should be a natural target of those with a peacebuilding pedigree. It has been noted however that GIJTR programming does create space for such dialogue, as well as joint activities and campaigns, that build both solidarity among CSOs and create a space for them to talk to one another.

Workshops Should Have Clear Outputs

Participants were excited and proud that the transitional justice training resulted in a constructive and joint civil society declaration on the work of the TRRC. Multiple participants in the capacity-building workshops and interviewees during the consultative mission noted experiencing training fatigue and feeling demotivated because they lacked the skills, resources and belief that the newly learned concepts could be applied in the Gambian context. The declaration was used by civil society as an advocacy tool and later initiated much-needed exchanges between the TRRC and civil society. Collaborative and action-oriented projects with clear outputs are a hallmark of GIJTR's programming. These outputs typically range from implementation plans by participants to the establishment of a working group to something even more resource-intensive, such as sub-grants for participants to develop and implement projects (See Chapters 6 and 8). Outputs that foster future participation and collaboration are particularly important with respect to sustaining the benefits of workshops over time.

Capacity-building Workshops Should Draw on Local Expertise

Capacity-building workshops should utilize local experts on the topics discussed, whenever possible. Multiple participants in the capacity-building workshops and consultative mission expressed resistance and aversion to foreigners leading trainings and sharing, what they considered to be, lessons and experiences inapplicable to the Gambian context. For this reason, GIJTR hired a Gambian consultant to serve as a facilitator to present and facilitate discussions on the country's political situation, lead-up to the change in government and critical analysis of the TRRC's mandate. In addition, the Consortium organized a panel with

Gambian lawyers, political scientists and other experts to speak about other transitional processes happening in the country that are hugely relevant to the transitional justice process, such as financial investigations into assets expropriated during the dictatorship, the constitutional review process, investigations and prosecutions happening before the national judiciary, and other processes. Lastly, partners contracted a consultant facilitator from Kenya to share lessons from Kenya's transitional justice experience, as it is similar to the Gambian context. Drawing on local and regional expertise is GIJTR's standard methodology because it facilitates discussions and open-mindedness, gives deference to local efforts and methods and secures local ownership and greater sustainability of the project.

Chapter 4 Footnotes

³⁰ Truth, Reconciliation and Reparations Commission Act, 2017

³¹ CIA World Factbook, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ga.html>

³² Sait Matty Jaw, "Afrobarometer Dispatch No. 249", (October 31, 2018), available at: http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno249_gambians_want_national_healing_with_justice.pdf Note that there is no single category for reparations in the survey and this final number is the sum of all those expectations that can be understood as reparations (supporting victims, returning seized property, monetary and non-monetary compensation, and proper burial for victims).

³³ This references those detained under Jammeh who perceive themselves to be victims of a corrupt justice system. They have been overlooked as a group of victims during the classification of crimes under the TRRC and these cases are not being reviewed.

³⁴ Sait Matty Jaw, "Afrobarometer Dispatch No. 249", (October 31, 2018), available at: http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno249_gambians_want_national_healing_with_justice.pdf



Two participants at the Forensic Academy
in Guatemala in 2019.

CHAPTER 5: THE FORENSIC ACADEMY: SHARING EXPERTISE TO BUILD GLOBAL CSO CAPACITY TO ADDRESS DISAPPEARANCES

Andrea Czollner, Sara Bradshaw and Celeste Matross³⁵

5.1 INTRODUCTION

Disappearance is one of the most extreme legacies of the armed conflicts that have devastated many communities globally in recent decades, leaving behind thousands of families confronting the trauma of having their loved ones forcibly disappeared. The Declaration on the Protection of All Persons from Enforced Disappearance, proclaimed by the United Nations General Assembly in its resolution 47/133 of 18 December 1992, defines enforced disappearance as when:

persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.³⁶

Families of the disappeared live each day in anguish and uncertainty, not knowing the whereabouts of loved ones and whether they are dead or alive. In addition, the disappeared person is often the breadwinner, leaving the family in economic hardship and material deprivation, made more acute by the costs incurred searching for the missing. It is also difficult for the families to adapt to the new situation. In some cases, national legislation may make it impossible to receive pensions or other means of support in the absence of a certificate of death. Economic and social marginalization are frequently the result. A state of “ambiguous

loss³⁷ results where families find themselves caught between hope that their love one will return and despair that he or she is gone forever. Families search relentlessly to learn more about the disappearance, never losing the hope for answers about the missing. In some cases, the families of the disappeared file petitions with the police, official bodies such as Human Rights Commissions, domestic investigative bodies and the UN Working Group on Enforced and Involuntary Disappearances. Such action often demands braving harassment and threats from those linked to perpetrators. In many cases families do not report their loved ones missing to the security forces or police due to the fear of reprisal from perpetrators, particularly where state actors are involved in the disappearance. Local civil society organizations (CSOs) that work with the families of victims become important documenters of disappearance, both during and after conflict, demanding meaningful steps from the authorities to investigate and prosecute alleged crimes by government forces and other groups. CSO representatives, family members who speak out and activists face numerous threats against their life, families, and work, including the possibility of arbitrary arrest.

To address legacies of rights violations such as massacres and other extrajudicial killings, as well as enforced disappearances, it is vital to rebuild post-conflict societies to respect the rule of law and human rights. Investigations related to the search, recovery, analysis and identification of the remains of victims, particularly through forensics, serve as truth-telling mechanisms, a means to guarantee families' rights to truth and justice and a contributor to long-term peace and reconciliation processes. In all contexts, there are cases in which the disappeared have been found alive, even after many years, and as such investigations must also include searching for the living.

Adopting measures to account for persons reported missing as a result of armed conflict is a legal obligation imposed on states by International Humanitarian Law (IHL).³⁸ In cases of disappearance a state is responsible for investigating and prosecuting such violations under international human rights law.³⁹ However, in many contexts there are limited resources to implement comprehensive transitional justice processes, including appropriate forensic expertise, or to undertake investigations that can enable responses to the needs of the families of victims and hold perpetrators accountable. Where efforts to search, recover, analyze, identify and return remains to families are underway, they are in some cases undertaken by non-state or international teams.⁴⁰ In some post-conflict contexts, governments have established specific state mechanisms with the mandate to document and search for the disappeared. Whether state- or CSO-led, however, any forensic effort will only succeed with the trust and participation of the families.

The Forensic Academy program was developed with the goal of sharing strategies of successful forensic efforts to search for and identify missing and disappeared persons⁴¹ and increasing the knowledge of Global South-based activists, academics and practitioners around forensic tools and approaches to locate and identify the disappeared. Through the Forensic Academy, GIJTR partners Fundación de Antropología Forense de Guatemala (FAFG, or Guatemala Forensic Anthropology Foundation), the Centre for the Study of Violence and Reconciliation (CSV), and the International Coalition of Sites of Conscience (ICSC) share their unique experience in meeting the wide-ranging needs of families of the disappeared, including through forensic investigation skills, psychosocial and mental health strategies to care for families of the disappeared and memorialization and truth-telling activities to serve families' truth-telling, advocacy and healing needs. The Academy maintains a focus on participatory and holistic interventions and on community-driven efforts. Through two training sessions as well as sub-grants and technical support to participants for small projects, Consortium partners use a multidisciplinary approach to explore the detailed work of conducting forensic investigations, working with families of the disappeared as they search for their missing loved ones and identifying ways in which truth-telling activities, such as forensic investigations, can contribute to broader transitional justice efforts.



Human Identification Training by the Forensic Anthropology Foundation of Guatemala in Guatemala.

Photo credit: ACT for the Disappeared

5.2

FORENSIC ACADEMY PARTICIPANTS' CONTEXTS AND EXPERIENCES

Addressing disappearance is the obligation of state authorities but remains challenging in many contexts. Much of the Forensic Academy's work is rooted in the belief that civil society can play a substantial role in supporting families, advocating for action with authorities and addressing the issue independently, including through forensic work. The CSO's efforts thus play a crucial role in establishing mechanisms to institutionalize the right to know. Here, the work of actors from those countries that participated in the Forensic Academy is discussed.

State action to address disappearance demands appropriate legal and institutional frameworks, and this is often the goal of CSO advocacy, including many participants in the pilot Forensic Academy. In Lebanon, for example, thirty years after the end of the civil war, CSOs (including ACT for the Disappeared, which took part in the Academy) have been lobbying for the creation of a national commission to investigate the fate of the missing, recover remains and make identifications. In November 2018 the Law for Missing and Forcibly Disappeared Persons in Lebanon was passed,⁴² representing a significant step towards upholding victims' families' right to know. In the Philippines, Congress passed an "Anti-Enforced or Involuntary Disappearance Act"⁴³ in 2012, for which CSOs had lobbied for more than a decade. The Act mandates "Restitution and



Empty Chairs Waiting Families, a memorialization project from ACT for the Disappeared and the International Committee of the Red Cross (ICRC). These chairs were designed and painted by brothers, sisters, mothers, fathers, wives, daughters, sons and even grandchildren of people who went missing in Lebanon during armed conflicts since 1975.

Compensation to Victims of Enforced or Involuntary Disappearance and/or Their Immediate Relatives" (Section 26) as well as the "Rehabilitation of Victims and/or Their Immediate Relatives, and Offenders" (Section 27). A rehabilitation program, including medical care, is available for victims, as well as rehabilitation of perpetrators, with the objective of advancing restorative justice and reconciliation. CSOs have also assisted victims of enforced disappearances who have reappeared and families of those still missing to file writs of habeas corpus and protection, as well as criminal and administrative complaints.

Non-legal institutional approaches can also be important in addressing disappearances. In Guinea, CSOs are focused on advancing efforts on conflict prevention and a national reconciliation process, including drafting a national reconciliation law to support the families of the disappeared and to seek accountability. Although some cases have been presented in court, impunity is widespread and alleged perpetrators still occupy positions in the Government. The Gambian Truth, Reconciliation, and Reparations Commission (TRRC) began hearings in January 2018 concerning human rights violations committed during former President Yahya Jammeh's 22 years in power.⁴⁴ The families of the victims are hopeful that sharing their testimonies will enable the truth to be known.

In some states, authorities continue to deny that disappearances have occurred. Thousands of families of the disappeared in India have shared their testimonies and denounced the disappearance of their loved ones in national courts. It is estimated that there are over 8,000 cases of enforced disappearances in Jammu and Kashmir and over 7,000 unmarked and mass graves.⁴⁵ Despite this, Indian authorities continue to deny the fact of enforced disappearances. CSOs are focused on building international pressure on the Indian Government to acknowledge disappearances and the existence of mass graves.

CSOs have also undertaken independent forensic investigations and made efforts to map, preserve and recover mass graves of victims. In Afghanistan, seventeen mass grave sites in five provinces have been identified and registered by the Afghanistan Forensic Science Organization (AFSO), an independent, non-governmental organization, and exhumations have been conducted in Kabul and Bamyan provinces.

Memorializing disappearance both supports families and can act to keep memory of the fact of disappearance alive despite state denial. ACT for the Disappeared in Lebanon is leading memorialization initiatives, including an exhibition of chairs that families painted in remembrance of their missing loved ones, entitled "Empty Chairs, Waiting Families" (see photos on page 86), a project realized in cooperation with the International Committee of the Red Cross. In Nigeria, a National Day of

Mourning was established – with the support of the Center for Medical Law, which participated in the Forensic Academy to encourage victims' families to share stories and bond with one another, while pressing the government to acknowledge the value of individual lives through its policies.

As long as families live in uncertainty about the fate of their missing loved ones, they will also face psychological challenges, alongside the economic constraints of a likely breadwinner being absent. In India and the Philippines, CSOs have been providing psychosocial support for the families of the missing and disappeared. In Guinea, approaches to support victims include socioeconomic reinsertion assistance, to allow families to overcome trauma and live a normal life.

5.3

FORENSIC ACADEMY

The mission of the Forensic Academy is to build local capacity in the application of forensic sciences in the search for and identification of the missing and the disappeared. It focuses on participants from countries in the global South that are struggling with unaddressed human rights violations or that are currently implementing transitional justice processes. Beyond forensic work, participants in the pilot Forensic Academy received training on psychosocial accompaniment and the role of memorialization in transitional justice, with the collaboration of



Forensic processing and lab introduction as part of the Forensic Academy.

Photo credit: Fundación de Antropología Forense de Guatemala.



A forensic training exercise collecting DNA samples.

Photo credit: Fundación de Antropología Forense de Guatemala.

CSV and ICSC. In this first cohort of participants, the Forensic Academy included fourteen participants representing twelve countries from the Middle East, Africa, and Asia.⁴⁶ The Academy also served to create a network of organizations dealing with disappearances to continue the transnational engagement. This is especially important because participants' diverse professional backgrounds and the range of their organizations' missions can furthermore open avenues for collaboration and partnership to strengthen their work within their local contexts, as well as by leveraging their relationship with the FAFG, ICSC, and CSV.

The project contained three elements:

- The twelve-day pilot Forensic Academy in Guatemala;
- The provision of small grants to participants to enable them to implement a project in their own contexts that demonstrates the skills and lessons they have learned; and
- A five-day follow-up workshop in Rwanda.

This chapter reports on the first Forensic Academy that partners held, with two more planned for future. At the time of writing, the participants' small projects were being implemented.

FAFG and the Search for Guatemala's Disappeared

The first training of the pilot Academy was held in Guatemala, home to the FAFG, giving participants the opportunity to learn through the use of both country-specific cases studies and first-hand knowledge of the Guatemalan experience of developing forensics programs that meet international best practices and are rooted in local experiences and needs. Guatemala is recovering from a 36-year-long civil war that began in 1960 and ended with peace accords in 1996. According to the UN Historical Clarification Commission, during the conflict over 200,000 people were killed, and of those 40,000 were disappeared.⁴⁷

The report also found that State security forces were responsible for 93% of the violations documented, and 83% of the victims were identified as indigenous Mayan, demonstrating the ethnic character of much of the conflict.⁴⁸ Although no commission or State mechanism was ever established to formally search for and identify victims, the FAFG has pioneered a non-state effort to work effectively with the Ministerio Publico (the Attorney General's Office) as non-governmental forensic experts in legally requested criminal investigations. Over two decades, the FAFG has developed a locally based approach to the application of forensic science to document both human rights violations and their victims, in terms of the families of the disappeared. FAFG has developed a multidisciplinary human identification system that uses a range of forensic sciences as well as anthropology, archaeology, genetics and victim investigation to gather antemortem information⁴⁹ from the family

about the disappeared loved one and to establish the genogram.⁵⁰ The data obtained for an identification comes from the antemortem interview conducted with the families during victim investigation as well as the genetic profiles obtained from the skeletal samples and the families.

Since 2010, FAFG's genetic laboratory has maintained ISO accreditation, proving its international competence, and has demonstrated its expertise in obtaining genetic profiles from degraded skeletal samples. When a relative of a disappeared person has trust and confidence in the FAFG, a sample of their DNA is collected with a buccal swab. Their genetic profile is extracted and uploaded into FAFG's National Genetic Database of Families and Victims of Enforced Disappearance, where over 16,000 individual family member genetic reference profiles are compared against the genetic profiles of over 4,200 retrieved skeletal remains. To date, FAFG has identified 3,438 victims from the internal armed conflict, thereby providing truth to the families and an opportunity to bury their loved ones with dignity according to their cultural practices. Identifications also support the national justice system with forensic evidence and expert reports that can facilitate accountability.

FAFG's victim-and family-centered approach to forensic investigations has garnered international recognition, including invitations to share expertise broadly in Mexico, El Salvador, Colombia and Sri Lanka, and FAFG's participation in GIJTR has provided additional opportunities for sharing its experience to contribute to a global effort to address disappearances. FAFG's Guatemalan and international experience confirms that CSO representatives and family members are empowered



The group with representatives from 14 countries gathered to exchange practices.

Photo credit: Fundación de Antropología Forense de Guatemala.

when they learn about the multidisciplinary forensic strategy to search for and identify the disappeared, and this effort is optimized by the participation of and engagement with family members.⁵¹ Building families' understanding of relevant forensic processes enables them to better demand effective and accountable investigations, ensure rigorous processes and advocate for the use of DNA and family reference sample collection, as well as for their broader inclusion in the investigation from its initiation to conclusion. It remains a challenge globally that families are not kept informed of progress in the search for the disappeared. This withholding of information generates distrust between the families and the investigators, who are typically from State institutions. In some cases, families and CSOs are leading investigations to seek answers about the missing and disappeared,⁵² and wider forensic knowledge increases their capacity to play this role.

The Forensic Academy represents a unique opportunity to bring together civil society representatives and family members from the Middle East, Africa and Asia to post-conflict Guatemala to explore multidisciplinary forensic methods to investigate, document and identify the missing and the disappeared using a family-centered approach. This immersive training is a space where experience can be shared and CSOs that are dealing with these issues in their daily work can receive technical training.

First Forensic Academy Training in Guatemala

For the first training of the pilot Forensic Academy, FAFG, alongside ICSC and CSVR, welcomed and hosted the fourteen participants in Guatemala for a twelve-day workshop, following invitations that were issued through GIJTR partners and their networks. The training was an immersive experience designed to demonstrate the implementation of forensic methods to search for the disappeared in ways that integrate families into the process and accompanies them in their search for truth, memory and justice, while exploring topics of memorialization and psychosocial care. The Forensic Academy seeks to apply international best practices, rooted in the local experience of partners and participants. The first workshop was structured as a series of modules, cumulatively building knowledge and drawing links from a range of scientific disciplines. Combining theoretical presentations with immersive practical engagement and exploration offered rich experiential learning, as FAFG's functioning forensic lab became both a classroom and a place to share experiences. Elements included practical modules held in FAFG's forensic osteology and genetics laboratories and an exercise in forensic archaeology held in an indigenous rural community outside of Guatemala City, as well as an inhumation in a local community whose disappeared members had been located and identified by the FAFG. The opportunity to engage closely with practice; to see, witness, explore and experience a DNA lab and an osteology lab; and to observe and develop an exhumation

strategy and victim investigation with a family-centered approach, built the participants' understanding and skills required to operationalize a comprehensive search for the disappeared in their own countries – not simply classroom learning, but learning by doing. It should be understood that the training did not aim to make the participants forensic experts, but rather to enhance participants' capacities to advocate for and utilize the values and certain aspects of the proper use of forensics in the search for the disappeared.

To place the FAFG experience in the Guatemalan context, the workshop included an introduction to the history of the Guatemalan conflict, the history of the FAFG and the role that the FAFG has played within the Guatemalan Justice system. The explanations were complemented by a visit to the Casa de la Memoria K'ají Tulam museum. The museum, coordinated by Centro de Acción Legal para los Derechos Humanos (CALDH, or Center for Legal Action for Human Rights), presents the history of Guatemala, from life before colonialism through 500 years of colonialism to the present day, with an emphasis on the internal armed conflict. This visit to an ICSC member organization allowed participants to better understand the context of the Guatemalan conflict and witness efforts by other CSOs to keep historical memory alive.

Additionally, the current political climate in Guatemala, which impacts the transitional justice process, was introduced. Participants learned how



Exhumation of human remains in Chimaltenango, Guatemala.

Photo credit: Fundación de Antropología Forense de Guatemala

FAFG, as an NGO, developed a strategic partnership with the Prosecutor's Office to conduct forensic investigations, as well as built trust with families and local CSOs that are active on the issue. Forensic-specific capacity-building included theoretical and practical sessions addressing the following topics:

- **Investigation and Documentation of Victims:** Family-centered approach and trust-building with relatives, antemortem interviews, informed consent, genetic reference sample collection, genograms, and chain of custody.
- **Forensic Archaeological Investigation:** Survey and location of graves, detailed documentation of grave sites using photographs, interpretation and analysis of the grave and relevant associated evidence, archaeological drawings, exhumation forms, and photogrammetry and drone mapping of site.
- **Forensic Anthropology:** Introduction to osteology, establishing a biological profile of the victim, identifying and registering peri-mortem traumas and differentiating from taphonomic features and antemortem trauma, selecting and collecting a skeletal sample for genetic analysis, and registering of evidence like ballistics, blindfolds and ropes.
- **Forensic Genetics:** Introduction to genetics and DNA principles, genetic statistical theory and software, sample processing, and introduction to DNA databases for families and victims of enforced disappearance.
- **Confirmation of Identification:** Revisiting and informing the family, looking for other family members, retesting the skeletal remain sample and confirming the entire process is adequately documented and legally sustained for identification purposes and evidence, completing new forms, and composing forensic reports for the prosecutors and the families.

Other topics explored during the Forensic Academy training included collection of life history testimonies of survivors, data archiving and databases, memorialization, international law and legal contexts, and psychosocial support and care for the family of the disappeared and the CSO practitioner. In addition, the first training included visits to the field and specific memorialization sites for experiential learning.

Participants were invited to the Paisajes de la Memoria Memorial site in San Juan Comalapa constructed by FAFG and the Coordinadora Nacional de Viudas de Guatemala (CONAVIGUA, or the National Association of Widows of Guatemala), a women's organization dedicated to the advancement of the individual and collective rights of Mayan women and the indigenous peoples of Guatemala. This location has



Archaeologists exhume human remains in Guatemala.

Photo credit: Forensic Anthropology Foundation of Guatemala

a special significance for the families because it was a former military base that was transformed into a memorial site to disappeared persons. It provides a peaceful focal point that families can visit and serves as a record for future generations. The FAFG exhumed dozens of bodies there that were re-buried in 2018 and continues to identify the victims.

The Forensic Academy group witnessed and participated in the dignified restitution of the remains of two children, aged three and nine years, to their families in San Martín Jilotepeque. The children died in 1982 due to a lack of basic provisions during the time of conflict when their families were forced to leave their homes and flee into the surrounding mountains. Their remains, exhumed by the FAFG, were identified and returned to their families 37 years after their death and were now able to be buried with dignity. During this visit, participants were able to witness in a very emotional and intimate moment family members receiving the remains of their loved ones and being able to bury them, following the appropriate cultural practices, and observing how this contributes to the families' process of closure.

The field visit was completed by a visit to an exhumation site to provide insight into the three stages of support to the families: exhumation, inhumation and memorialization. The objective of observing the exhumation was for participants to gain technical hands-on experience under the guidance of an FAFG archaeologist. This was of special interest to participants who came from countries where the processing of mass graves is ongoing and there is little or no forensic expertise. Participants



Participants learn about human anatomy during the scientific component of the training.

Photo credit: Forensic Anthropology Foundation of Guatemala

were also able to witness how families and community members participate in various aspects of the exhumation process.

Meeting Families' Truth-telling and Psychosocial Needs

To complement the forensic knowledge-sharing and capacity-building components, memorialization and psychosocial support were also addressed in the first training. ICSC supported participants to understand the role of truth-telling initiatives as parallel justice processes in societies, especially where perpetrators may not be held accountable through prosecutions. Discussions showed that in countries where forced disappearances have been happening for many years, arts-based methodologies and other innovative forms of memorialization can be used to challenge public indifference to the violation. By combining technical capacity-building with forensic knowledge, partners aimed to broaden participants' view of memorialization's potential to serve truth-telling, acknowledgement, advocacy and healing purposes for families of the disappeared.

The program's inclusion of memorialization as an important tool to address families' needs led several participants to reconsider their initial approach to their small projects to be funded by GIJTR, due to memorialization's ability to serve truth-telling purposes as well as its potential to meet families' needs without requiring government engagement or support. As one participant noted at the training, families' greatest need is often the truth around the fate of their missing loved one; however, even where there is sufficient political will to form a search unit or truth commission, or to undertake prosecutions around disappearance, such processes often take many years to provide answers,

with no guarantees they will deliver answers to particular cases. In contrast, memorialization can take place at any point in the search and identification process and can be initiated by community members, rather than waiting for government action.

Psychosocial Training and Accompaniment

A safe learning space was created during the training sessions, where vulnerability was encouraged in order for participants to learn from each other. The psychosocial training facilitated by CSVR sought to work on two levels: first, to equip participants with knowledge and strategies to better assist the families of the disappeared to cope with the impact of having an absent loved one, and second, to help participants themselves to cope with the impact of assisting people who have experienced deep trauma. The majority of participants had their own traumatic experiences and losses, and during the first few days, when highly emotive material was shared both visually and verbally by the participants, some participants experienced retraumatization. Therefore, during the psychosocial sessions, emphasis was placed on 'containing' the participants, i.e. supporting them to better regulate their emotions and teaching them simple self-care strategies. Daily exercises were conducted to identify their current internal state and then to assist them to relax through, for example, completing "feeling trees" (see Figure 1) connected to a "feeling forest", or being guided through mindfulness meditations. During subsequent discussion, participants reflected on varied, complex emotional states through their feeling trees. In addition,



GIJTR participants share best practices related to enforced disappearances at a training in Guatemala.

Photo credit: Forensic Anthropology Foundation of Guatemala

facilitators ensured to end each day of training on a positive note, such as by inviting participants to share traditional songs and dances.

5.4

FROM TRAINING TO IMPLEMENTATION

Inspired by the workshop and a desire to put into practice the information learned in Guatemala, participants proposed small projects to implement in their countries on a variety of topics and using a range of strategies. The projects are designed to be implemented with subgrants through GIJTR over four to five months, utilizing a multidisciplinary approach. Some of the types of projects that participants proposed included:

- Meetings or seminars with CSOs and family members to build networks, conduct consultations and disseminate information about how families can be involved in the search for the missing;
- Interviews and awareness-raising workshops with families of the disappeared to initiate the collection of antemortem information;
- Memorialization activities, including a temporary museum of objects representing missing loved ones, documentaries of families' testimonies, and quilts crafted by family members to memorialize missing persons and advocate for their search and identification;
- Mass grave documentation and submission of evidence to State mechanisms; and
- Development of databases of missing and disappeared persons.

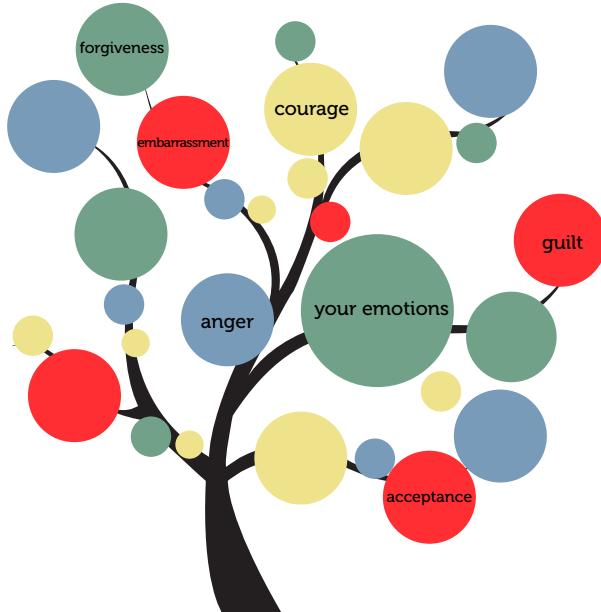


Figure 1. Feeling Tree

The diversity and innovation of these ideas – many in contexts where work has barely begun to address the issue of disappearances – illustrate the possibilities enabled by the Forensic Academy’s showcasing of these lessons on the ground in a real context, and the power of drawing on concrete experiences and practices.

At the time of publication, participants were implementing their projects, and the outcomes will be presented during a follow-up workshop in Rwanda. At the end of the project, FAFG will compile summaries and outcomes of all fourteen small projects, which will serve as a resource for future Forensic Academies and support GIJTR’s broader learning goals. Although the small projects are not completed at the time of writing, the proposal of such projects that draw closely on the topics presented in the workshop illustrate the extent to which the Academy was able to move participants from learning to action. These small projects represent the next steps for these organizations in their journey to learn more about forensics in order to address the broad legacies of disappearance, and to apply those lessons through a range of activities.

Initial Impacts and Outcomes of the Forensic Academy

The central focus of the Forensic Academy is to increase CSOs’ knowledge in forensic sciences and their capacity to support the families of the disappeared in their search for truth, justice, and clarity on the whereabouts of their loved ones. Concepts of memorialization, psychosocial accompaniment and self-care reinforce the forensic material in a comprehensive discussion of transitional justice processes. Theoretical and practical exploration of all the material led to an increased understanding of the multidisciplinary forensic process that includes victim documentation and investigation, forensic archaeology, forensic anthropology and forensic genetics, in addition to how local civil society can integrate specific elements into their daily work on the issue of missing and disappeared persons. Through this unique training, participants are empowered with knowledge, supported by a new global network of experts working on the same issues and equipped with technical, financial and network-based resources to offer new options to families of the victims, potentially motivating families to enhance their participation in the search process and play a larger role in truth-seeking efforts.

Collective participation in the Forensic Academy generated networking opportunities where participants from different backgrounds could share experiences, challenges and lessons learned. Space was created for participants to share and learn from one another about how they dealt with difficult situations around assisting families of the missing and disappeared, as well as how they engage them in a safe and ethical manner. Participants are now able to identify the needs of the families

and help them in meeting these needs. They also learned to protect themselves through coping and self-care strategies to help guard against vicarious traumatization and burnout. Psychosocial support is an important element in transitional justice, and the participants were shown both why it is important to their work and how it can assist them.

The repercussions of the deep fear created by disappearance reverberates through the affected family, often preventing them from reporting it to the broader community. As a result, local CSOs are often the first to be approached by families and to begin the process of documenting and searching for these victims. When CSOs participate in human identifications, they can help raise awareness of the issue within communities, which can motivate families to come forward and become involved. For example, the Forensic Academy participants from Guinea and Kenya are interested in producing evidence from mass graves through forensic science and legal medicine for accountability purposes, and using this evidence to encourage other families to engage in the search effort.

Memorialization skills proved particularly relevant to this group due to memorialization's potential to foster public reflection and dialogue on historical atrocities. During the first training, for example, participants quickly realized that many of their contexts shared a history of being colonized, and that skewed narratives of their colonizers continued to have an impact on the present, including on perceptions of recent forced disappearances. In particular, a representative from the Philippines noted that the current president is reviving methods of strategic violence that the Americans previously used there, such as extrajudicial killings and enforced disappearances, in his war against drugs , while other histories of violence – such as violations committed during the Japanese occupation – are never discussed publicly. Participants from Nigeria and Kenya likened this to their own countries' tendencies to "forget" uncomfortable truths from their past. In response, ICSC shared how building historical memory from a victims' perspective, aimed at non-repetition of violations, sometimes requires going back hundreds of years into the past. This may prove relevant to participants' small projects, since conflict can sometimes partly be the result of unresolved grievances and legacies of the past, which memorialization can help to address.

5.5 CONCLUSIONS

The Forensic Academy was a unique experience for GIJTR partners. The FAFG has been working with forensic-related CSOs in Latin America, Sri Lanka and other countries for many years. However, through the Forensic Academy, the FAFG gained new insights and became familiar with challenges and achievements in Africa and Asia. The FAFG learned about the varied ways in which investigations of the disappeared can be conducted in contexts with which it had previously been unfamiliar. Therefore, the workshop represented an opportunity for mutual learning and inspiration, and the exchange of knowledge, experiences and challenges went both ways.

Participants' contexts differed in many ways, but there are many elements of overlap and issues around which experience can be meaningfully exchanged among CSO practitioners who are all working on the issue of enforced disappearances and missing persons. The search for the disappeared and the support and accompaniment of families in the journey for truth and justice require a long-term and locally contextualized process. Civil society, lawyers, public prosecutors and family members have been working on this issue around the world from a range of perspectives, including the social, legal, forensic and psychosocial, and the Forensic Academy connects those efforts across disciplines and context to discuss challenges, successes and to learn from best practices. The training is mindful that participants come from different backgrounds, nationalities, cultural groups, genders, religious backgrounds, language groups and country contexts, but acknowledges that this can drive a practice that learns from what has worked in one or more contexts in order to inform a similarly successful but contextualized practice elsewhere. The Academy also created a unique global support network for these experts which will extend beyond the life of the project.

Through the implementation by participants of small projects in their own contexts, participating organizations received input to foster practical change and innovation. The experiences shared among the FAFG, ICSC, CSVR, and participants will support the advance of justice, truth and memory for the disappeared and missing in participants' countries, extending globally to address and resolve the growing issue of these crimes and their deep impact. Through forensics, memorialization and psychosocial support, the participants were presented with the tools and knowledge to instigate change in their communities.

The Forensic Academy demonstrates both the benefits and challenges of GIJTR's approach. It is firstly an example of capacity-building of civil society as an end in itself and not as a corollary to other programs.

objectives. Secondly, it is a powerful example of the potential of South-South partnerships, leveraging the fact that FAFG both has enormous experience to share from Guatemala and its work in other contexts, and can become a repository and exchange for innovations developed in other states grappling with legacies of disappearance. The Academy shows how participants learn not only from FAFG but also from each other, and how FAFG in turn learns from participants. As such, it reveals a novel dynamic of how working transnationally with national civil society actors not only delivers results in their individual contexts but generates new global synergies rooted in comparative practice.

Despite the self-evident value of the Academy however, demonstrating its impact illustrates many of the challenges of evaluating transitional justice programming. To show concrete impact of the Academy demands tracking how the civil society actors who participate take on board those lessons in ways that impact the families of the missing in their contexts. Whilst for some participants, such as those from Sri Lanka (see Chapter 2), they were able to immediately and visibly apply the lessons they had learned, for most who took part impacts were both less direct and longer term. The challenges of measuring both learning and the quality of impacts that arise from it, are an example of how the long timescales of ultimate impacts and the complex causal chains that link a program like the Forensic Academy with positive outcomes complicate effective evaluation.

Chapter 5 Footnotes

- ³⁵ With contributions from Fredy Peccerelli, Nancy Valdez and Erica Henderson
- ³⁶ UN General Assembly (1993) Declaration on the Protection of All Persons from Enforced Disappearance, A/RES/47/133, <https://www.refworld.org/docid/3dd911e64.html>
- ³⁷ Boss, P. (2000) *Ambiguous Loss: Learning to Live with Unresolved Grief*. Cambridge, MA, US: Harvard University Press
- ³⁸ Customary International Humanitarian Law, Rule 117, https://www.icrc.org/customary-ihl/eng/docs/v1_rul
- ³⁹ International Convention for the Protection of All Persons from Enforced Disappearance <https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>
- ⁴⁰ An example are the efforts of the Argentinean Forensic Anthropology Team (EAAF) that since 1984 has worked on the recovery and identification of victims of human rights violations in a range of countries globally, and supported local civil society to develop forensic capacities.
- ⁴¹ Missing persons are all those whose whereabouts are unknown to their loved ones, including those missing as a result of armed conflict, as defined in IHL. The disappeared are a subset of the missing whose absence is a result of state agents either extrajudicially killing or detaining them without informing family members and is a violation of international human rights law.
- ⁴² International Center for Transitional Justice (2018), "Lebanon Passes Law for the Missing and Forcibly Disappeared, Marking a Victory for Victims' Families and for Justice." <https://www.ictj.org/news/lebanon-passes-law-missing-and-forcibly-disappeared-marking-victory-victims%E2%80%99-families-and Accessed 29.8.2019>
- ⁴³ Philippine Laws and Jurisprudence Databank (2012), Act Defining and Penalizing Enforced or Involuntary Disappearance. https://www.lawphil.net/statutes/repacts/ra2012/ra_10353_2012.html Accessed 29.8.2019
- ⁴⁴ International Center for Transitional Justice (2019), "Gambia Truth Commission Begins to Address Jammeh-Era Abuses." <https://www.ictj.org/news/gambia-truth-commission-begins-address-jammeh-era-abuses Accessed 29.8.2019>
- ⁴⁵ Naik, Raqib Hameed. "At Least We Will Live at Peace": Families Ask Kashmir to Investigate Unmarked Graves. November 28, 2017." Published in *The Globe Post*. <https://theglobepost.com/2017/11/28/kashmir-india-unmarked-graves/> Accessed: 7.8.2019.
- ⁴⁶ Afghanistan, Algeria, Gambia, Guinea, India, Iraq, Kenya, Lebanon, Nigeria, Philippines, South Sudan, and Syria.
- ⁴⁷ Guatemala Memory of Silence. Report of the Commission for Historical Clarification Conclusions and Recommendations. February 1, 1997.
- ⁴⁸ Ibid.
- ⁴⁹ The antemortem information is data collected about the victim before he/she disappeared: physical and dental characteristics, clothes worn, etc as well as potentially relevant genetic data, i.e. DNA, from a close relative of the victim.
- ⁵⁰ A direct comparison of unidentified human remains with the DNA of the missing person (as in criminal cases) is not possible as the DNA profile of the missing person is typically not available. Therefore, a virtual DNA profile of the missing has to be created through close family members that can be compared to unidentified human remains. This step is based on the genogram, which visualizes family relations at the time when the victim disappeared.
- ⁵¹ This has become a part of global practice, e.g. the Bogota guidelines (International Consensus on Principles and Minimum Standards for Psychosocial Work in Search Processes and Forensic Investigations in cases of Enforced Disappearances, Arbitrary or Extrajudicial Executions).
- ⁵² An example is the efforts of CSOs and families in Sri Lanka, that led to the enactment of the OMP (Office of Missing Persons) Act as well as the establishment of the Office of Reparations in 2019.



The Monument du 22 Novembre 1970 in Conakry, Guinea that marks the fall of the Touré regime.

CHAPTER 6: ENGAGING SURVIVORS THROUGH PARTICIPATORY METHODS AND PSYCHOSOCIAL SUPPORT IN GUINEA

Sarah Case, Sara Bradshaw and Celeste Matross

6.1

BACKGROUND IN GUINEA

On October 2, 1958, following decades of colonial rule, the Republic of Guinea gained its independence from France, and President Ahmed Sékou Touré of the Democratic Party of Guinea - African Democratic Rally (PDG-RDA) became the country's first president. Two years after his election, Sékou Touré declared the PDG the only legitimate political party in the country. This declaration allowed him to run for elections uncontested, leading to a 26-year dictatorship that ended when he died in 1984. Sékou Touré's dictatorship was marked by increased ethnic tensions and a series of human rights violations that affected all Guineans. Following his death in 1984, the Military Committee of National Recovery seized power under the leadership of Colonel Lansana Conté, released political detainees and invited exiles to return to the country. However, hope for the establishment of a democracy that would respect human rights was quickly dashed when, in 1985, a group of mostly ethnic Malinké officers and civilian leaders were arrested in an attempted coup d'état. Eighty-five were executed without trial, and a series of revenge attacks against senior figures of the former regime began. From 1990 to 2008, Guineans experienced yet another wave of human rights violations and restrictions on civil liberties. During this time, Conté was accused of rigging elections to ensure his victory and stifling any political dissent as well as press freedom.

Immediately after Conté's death in 2008, a group of military officers under the leadership of Captain Moussa Dadis Camara seized power. Camara promised that he would lead a two-year transitional period and that elections – for which he did not plan to run – would be held

in 2010. On September 28, 2009, at a peaceful protest of opposition parties and civil society organizations requesting that Camara step down, the presidential guard led a horrific attack against protestors, during which at least 157 people were killed, 109 women were raped, 82 people went missing, hundreds were detained and more than 4,000 wounded.⁵³ In January 2010, Blaise Compaoré, President of Burkina Faso, facilitated a political agreement in which Camara accepted the appointment of Vice President General Sékouba Konaté to lead the transitional government for one year. Alpha Condé was subsequently elected president in 2010, in elections marked by violence between opposition parties and security forces.

Following the waves of ongoing violence and wide-scale human rights violations that have persisted since the country's independence, President Condé's election in 2010 brought tremendous hope for greater protections of democracy and respect for the human rights of all members of society. In his inaugural speech, Condé declared his commitment to fighting impunity. Since that time, he has taken concrete steps to break the cycle of violence and human rights abuses by initiating specific measures with regard to national reconciliation and securing justice for the victims of past atrocities, focusing particular attention on the victims of the September 28, 2009 stadium massacre. Following a UN International Commission Inquiry report, Condé appointed three judges to investigate the military's involvement in the massacre. Parallel to judicial proceedings concerning the 2009 stadium massacre, in 2011 President Condé also initiated a national reconciliation process by mandating a commission, the Provisional National Commission on Reconciliation (CPRN), to develop mechanisms for reconciliation. After conducting national consultations, the CPRN submitted a comprehensive report in June 2016. The CPRN made several recommendations related to truth, justice, reparations, memorialization and institutional reforms to promote peace and reconciliation in Guinea. With regard to past atrocities, the report recommended establishing a Truth, Justice and Reconciliation Commission to investigate human rights violations committed since 1958. The issue of reparations – individual, collective and material as well as symbolic – is also highlighted in the report. Specifically, urgent reparations measures were recommended to support victims with pressing needs that resulted from their victimization. These urgent reparations have been recommended as an interim measure while formal national reparations mechanisms are being established.

However, since the submission of the CPRN report, there has been little progress on transitional justice issues. Following a meeting in April 2017 with CSOs and public sector representatives to discuss a draft bill for a Truth, Justice and Reconciliation Commission to be presented

to parliament, there have been no further significant developments to date.⁵⁴ In the interim, victims' hopes for any kind of redress and justice continue to dwindle, with many victims, such as those from the notorious detention center Camp Boiro, now frail and dying. While political will is lacking, the country's unresolved political and ethnic tensions, coupled with a pervasive culture of violence, threaten any expectations for reconciliation, peace or security for Guineans.

Given the Government of Guinea's delay in establishing a transitional justice mechanism in a timely manner and the urgent truth, justice and reconciliation needs in the country, GIJTR partners: the International Coalition of Sites of Conscience (ICSC) and the Centre for the Study of Violence and Reconciliation (CSVR), have been supporting local CSOs and survivors since 2017 to engage in truth, justice and reconciliation initiatives with the goal of preventing violence and promoting community rebuilding. As part of this effort, GIJTR has been working with three local partners – Observatoire Guinéenne de Défense des Droits de l'Homme et du Citoyen (Guinean Organization for the Defense of Human and Citizens' Rights, OGDH), Association des victimes, parents et amis du 28 septembre 2009 (Association of Victims, Family and Friends of September 28, 2009; AVIPA), and Consortium des associations des jeunes pour la défense des victimes de violences en Guinée (The Youth Coalition for the Defense of the Rights of Victims of Violence in Guinea; COJEDEV) – to provide them with technical and financial support. These partners have in turn been building the capacities of survivor groups and community organizations to raise awareness among communities with a focus on the marginalized, including women, youth, survivors and minority populations. Partners' efforts have focused on the government's judicial and non-judicial mechanisms that have been



Hélène Zogbelemou, center, working with regional coordinators and local partners in Conakry, Guinea.



Religious leaders attending a capacity-building transitional justice and violence prevention workshop in Conakry in 2019.

implemented and the various ways in which these groups could engage with these mechanisms to prevent future violence and encourage social cohesion. In addition, while advocating for a cohesive and inclusive national reconciliation process, GIJTR has been supporting local CSOs and victims' associations to develop their own locally based initiatives to respond to victims' needs in their own communities.

6.2

CAPACITY-BUILDING IN PARTICIPATORY METHODS

In order to increase Guinean CSOs' and victims associations' ability to use participatory methodologies as tools to raise awareness among their communities on issues related to truth, justice, reconciliation and violence prevention, ICSC organized a five-day training with fourteen participants from Conakry and Forested Guinea in September 2017. Trainers included ICSC staff and representatives from ICSC member sites District Six Museum (South Africa) and Trust for Indigenous Culture and Health, or TICAH (Kenya). The workshop included an introduction to participatory methodologies with a focus on process; an overview of oral history as a participatory methodology; an introduction to the practice of using a culture's traditional knowledge as a starting place for societal change; a training on advocacy and messaging; and a

session in which participants began to form ideas for pilot advocacy and awareness-raising projects, using participatory methodologies. Following the training, each organization was awarded a small grant to implement their chosen projects.

The training was designed with the assumption that using participatory approaches to raise awareness of transitional justice mechanisms will allow communities to identify and address some of the root causes of mass violence themselves, as well as develop consensus and strategies to prevent the recurrence of future violence and atrocities. Participatory approaches can be used to engage local communities in the creation and implementation of truth, justice and reconciliation strategies that are responsive to their needs and priorities. It is also more likely that community members will participate in a transitional justice process if they have a sense of ownership over its design and outcomes.

All participants had previously worked on projects within their local communities, and many were survivors who conduct advocacy work as members of victims' associations. However, discussions demonstrated that prior to the training most attendees were not fully acquainted with participatory methodologies that emphasize the inclusion of all project stakeholders at every stage of the project, from conceptualization to evaluation. For example, some participants had experience in collecting oral histories of survivors and witnesses as a means of preserving their stories of human rights violations. However, during training sessions



Religious leaders exchanging violence prevention and dialogue facilitation techniques, 2019.

on this topic, they expressed less familiarity with oral history collection as a community-building endeavor, with components such as inviting interviewees' ideas for the types of narratives that should be collected and how those oral histories should be shared with others. By the end of the workshop, participants were able to elaborate their projects and integrate the provided skills into their proposed project activities in ways that respond to their communities' needs in a more inclusive manner, as reflected in the design of the projects they subsequently implemented.

The activity clearly impacted the approach that participants would later use in their small projects, because some noted in their closing remarks that, due to what they had learned in the training, the projects they would submit after the training would be different from the ones they had in mind at the beginning. While the participants had initially assumed they understood the needs of victims in their communities and how they should go about addressing them, as a result of the training, the participants incorporated initial consultations with key stakeholders into the design of their projects and looked for ways to actively engage them throughout the implementation of the projects. Another participant noted, "Yesterday we had problems. We could all talk about restitution but now we know how to design a project, how to go to the victims. We are very happy." This demonstrates growth in creating projects that deliberately engage communities as a key objective and a crucial step towards meeting their truth and justice needs.

As evidenced throughout this publication, providing technical and financial support in the form of small grants is emblematic of the Consortium's approach to building local capacity and ensuring that skills gained in training are applied and adapted to on-the-ground realities by community actors. The design and outcomes of the three-month projects that participants developed and implemented following the training illustrated the degree to which participatory methods were embraced by participating CSOs and victims' associations, and the impact that these methods had on the projects' ability to meet communities' identified truth and justice needs. For example, the Association of Victims of Camp Boiro (AVCB) led activities with survivors who were imprisoned at Camp Boiro between 1960 and 1984 in order to help them identify their immediate needs in relation to local truth-telling, justice and reconciliation, and then conducted advocacy trainings with the survivors so they could promote and campaign for their needs. Following these trainings, AVCB collaborated with other local CSOs to mount an advocacy campaign aimed at securing increased access for survivors to mass graves and sites of past atrocities. While their requests have not yet been fully granted, they have succeeded in attracting renewed attention to their cause. Similarly, another organization,



Religious leaders exchanging violence prevention and dialogue facilitation techniques, 2019.

COJEDEV documented stories of ten young activists who experienced human rights violations during protests and then recruited an artist who worked with the activists over the course of five meetings to create ten paintings based on the victims' stories. While the depictions could have been made based on written accounts of the activists, the meetings between the artist and youths ensured that the paintings were produced in a more participatory way. The paintings were then displayed to raise awareness on the impact of political violence and have been used by the organization to stimulate dialogue around violence prevention among youth in particularly volatile communities.

Having some prior familiarity with oral history approaches, visual arts and advocacy made it easier for participants to conceptualize how to adapt those methodologies to serve transitional justice awareness-raising purposes in a participatory way. Some participants noted that while they were not clear on the first day of the training what facilitators meant by "participatory," after seeing and experiencing the presented methods over the course of the workshop, they understood how to alter their existing approaches to be less extractive and more elicitive, focused on building community trust and consensus. The training's emphasis on the process of designing and evaluating projects with community involvement, as opposed to achieving the project's expected results or deliverables, was novel to some participants, possibly as a result of working in a donor-driven environment. Facilitators emphasized the importance of



Reflections during a psychosocial support training with religious leaders in Conakry, Guinea.

working with community members to determine what success would look like for each of the participants' projects, and then meeting with these same community stakeholders at the conclusion of the projects to determine whether the project activities met their expectations and solicit their recommendations for follow-up initiatives. This is a form of outcome mapping, where the actors most closely engaged with a project determine both what outcomes should be and if they have been met at the end of the project. While the extent to which participants have integrated such a practice in a rigorous way is unclear, it has very visibly changed the way they now work with survivors. CSOs report that they have built greater trust with survivors as a result and have included consultations with community members during the project conception and evaluation phases, while encouraging their active engagement throughout the implementation of the project activities.

The workshop also included day-long mini-trainings on participatory methodologies, including oral history and visual arts, which directly increased participants' ability to design and implement successful projects. In contrast to similar past GJTR capacity-building workshops on participatory methods and transitional justice, which focused on the theory behind and advantages of participatory methodologies, the in-depth discussions of sample methodologies included in this training better prepared participants to carry out the projects they later developed, as they helped to elucidate how communities can be engaged as collaborators at every stage of project development and implementation, and not just as interviewees and sources of information.

Because the budgets for these subgrant projects were small enough that partners did not want participants' reporting requirements to be overly burdensome, the Guinean organizations' reports share the activities they implemented and the impact they had, but do not necessarily evaluate how successful they were in ensuring all stages of the project were participatory. For similar initiatives in the future, it would be useful to learn directly from the participants of the CSOs' projects the degree to which they felt the planning, implementation and evaluation of the projects engaged the community.

Finally, as one participant reflected, prior to her taking part in the participatory methodologies and psychosocial support trainings, she would often design and implement projects feeling that she already had a strong understanding of the needs of the survivors and victims with whom she is working. While she still recognizes that she has significant community knowledge, now, following the trainings, she no longer assumes that she knows what will be best for the groups she is working with and she makes sure that she directly involves them from the earliest consultations for the projects, through their implementation and evaluation. This kind

of commitment to ensuring that marginalized groups are fully engaged in and have ownership over the truth, justice and reconciliation initiatives in their communities will help ensure, in the long-term, that Guinea has an inclusive, responsive, and sustainable transitional justice process.

6.3

PSYCHOSOCIAL SUPPORT TRAINING

As noted in the CPRN's recommendations, many survivors in Guinea are in urgent need of medical, economic and psychosocial support as a result of the violence they have endured. During the initial needs assessment for the project, some programs offering educational and vocational support to survivors were identified. However, very little local capacity existed to provide victims with psychosocial support. GIJTR partners ICSC and CSVR therefore identified the provision of psychosocial support training as a crucial element to be included in GIJTR's work in Guinea and organized two workshops with sessions on the topic, in May 2017 and July 2018.

The first of the two workshops, which took place over four days, was focused on ensuring that the importance of psychosocial support within transitional justice processes would be understood by all of the participants, especially in a context where these services are in short supply and may not have been prioritized in the past. In recognition of the different levels of knowledge with which participants joined the workshop, GIJTR facilitators aimed to present basic concepts related to working with trauma for participants with little to no prior knowledge



The regional coordinators collaborating and creating outreach strategies.



Asmaou Diallo, center, President of the Association of Victims, Family and Friends of September 28, 2009 (AVIPA) with Souleymane Camara, right, who also works with AVIPA.

of psychosocial support and, for those who had already been involved in providing support to victims and survivors of human rights abuses, to build upon their existing skills and knowledge. Lastly, the workshop was intended to help participants begin to map referral sites for rehabilitation within Guinea in order to strengthen referral pathways and identify and address gaps in service provision within the country. The workshop was unique among others hosted by GIJTR in that it brought together CSO representatives, victims' association representatives and journalists and encouraged all of them to strategize around ways in which they could work together to ensure that the human rights of all members of society would be restored and that a national reconciliation process takes place within Guinea. In addition to the victims' association representatives, GIJTR partners felt that it was important to include CSO representatives and select journalists, because of their frequent contact with victims and the need for them to be both sensitive in their interactions with victims while also mindful of the impact that regularly hearing and reporting on stories of trauma could have on them. The diversity of the group, while advantageous for bringing different sectors of society together around a common goal, also presented a challenge in that the psychosocial support material had to be pitched at different knowledge levels and learning needs among the different participants.

At the outset of the psychosocial support sessions, participants reported that there were no formal Guinean psychosocial service providers and that the majority of services that had been offered were provided by international NGOs that subsequently left the country after working there for short periods of time. In addition, the participants noted that the provision of these services were related primarily to the outbreak of Ebola in the country years earlier, and that the services were not specifically related to treating psychological trauma. Based on this initial feedback, the need to support local organizations to develop – at minimum, basic – skills in the provision of psychosocial support became evident, as they are the actors who are experts in the local context, history, culture and needs of their communities. GIJTR facilitators therefore adapted the content of their sessions and made this the focus of the first workshop.

At the same time, Consortium facilitators were aware that the development of these skills would take time and that these initial trainings alone would be insufficient to build the capacity to deal with the complexity of the population's trauma as well as the number of people requiring assistance. Participants shared this recognition, with one stating, "I believe that everyone in Guinea is suffering from trauma." The Consortium partners therefore approached this first training with the understanding that it would be the first of many steps needed to improve access to mental health and psychosocial support services (MHPSS) throughout the country.

The facilitators approached the topics that they intended to cover for the first workshop according to a systems approach. They were initially scheduled to include: the basics of trauma; psychosocial support; understanding mental health; understanding rehabilitation; and a mapping of rehabilitation resources in Guinea. However, partners could not address all of the content as planned due to the emotional reaction of the participants to the content of the workshop, which took up more time than expected. The model of the workshop was designed to allow the participants to learn techniques to use with survivors of conflict through engaging with those same techniques themselves. During an exercise, participants began sharing their experiences of losing family members during the 2009 stadium massacre, of the torture that they experienced at Camp Boiro and of the survivor guilt they experienced as the only surviving member of a mass execution, among other stories of loss and trauma. One of the survivors of Camp Boiro stated that he shared things in this group that he had not even told his wife, perhaps because of the contracting of confidentiality within the group before the session began and the sense that the majority of the participants shared similar experiences. Due to the intensity of participants' reactions, facilitators felt that it would be best to allow adequate time for the



Regional coordinators and religious leaders discuss and plan activities, 2019.

participants to contain and process these responses, rather than continuing with the previously prepared content. Though unexpected, this was a profound moment that required the facilitators to be respectful and mindful of the participants' pain and loss and, the facilitators recognized, would affect the participants' trust and commitment moving forward in the project.

Following this initial training, a second, four-day workshop with psychosocial support sessions took place fourteen months later with a mixture of CSO representatives, victims' association representatives and members of the media. While the majority of the participants were part of the same group that had participated in the previous training, some of the participating organizations decided to send different representatives, based on their team members' availability and interest in the workshop subject matter. The psychosocial support capacity-building component of the workshop was planned to include content around: a review of basics of trauma; community psychosocial support in the form of psychological first aid; a peer debriefing: providing space to reflect on the project while learning peer debriefing skills; peer supervision: learning how to help each other and share knowledge around case management issues; and self-care. These particular activities and methodologies were chosen because they were cost-effective, would require few resources, required no formal psychological training on the part of the participants, could be conducted at individual, group, family and community levels,

were beneficial to both the participants and the survivors and could be adapted to fit different contexts. These considerations were particularly important in Guinea, where, as facilitators had previously noted, there were initially very few psychosocial support resources.

However, the workshop once again did not go according to schedule and faced significant challenges, primarily due to violent protests in reaction to an increase in petrol prices that forced Consortium partners to cancel the second day of the workshop and attempt to incorporate content from that day into the third day. This was particularly challenging for the psychosocial components of the workshop, which – due to the emotional nature of the topics explored – is very time intensive and often cannot be shortened while being respectful and mindful of the participants. Based on the observations from the previous workshop that the participants had significant unresolved trauma of their own, as well as vicarious trauma from their work, the facilitators decided to present the debriefing component of the psychosocial program and to adapt it so that it could be used as a tool for the participants as well as their clients. The facilitators then conducted a guided mindfulness meditation technique with the group.

In the particular circumstances of this workshop, with emotions running high around rising fuel prices and accompanying violent protests, participants found the debriefing session to be helpful. The majority of those in attendance reported that they felt energized and refreshed and that the session helped to clear their thinking and generate new ideas for problems that they were facing. Some participants experienced feelings of loss and bereavement that they had been suppressing come to the fore. A significant number of participants also reported feeling and thinking about things from their past that they had never consciously thought of before. One participant left the debriefing session and two participants displayed body language indicating discomfort; they subsequently reported re-living memories of loss. Near the conclusion of the session, the participants reported feeling amazed that everyone's experiences of the exercise differed, even though they all participated in the same activity. The facilitators were able to turn this observation into a learning experience by linking it to the session reviewing the basics of trauma, from the beginning of the session, and to the fact that everyone experiences events differently based on who they are, their experiences in their past and the different contexts in which they are living. The training concluded with a discussion of the concepts of non-judgment and acceptance of your own experiences and those of others; and showing respect for the debriefing space by not leaving it unless it is for self-care reasons.

In general – though faced with time constraints and unexpected changes in scheduling – the psychosocial support workshop sessions successfully provided a safe place for participants to share very personal



Civil society representatives from Guinea and South Africa in Johannesburg, sharing obstacles, successes and strategies for advancing transitional justice in their contexts.

information. They also offered a space in which participants could give and receive peer support from others who best understand the challenges related to the work they are doing, particularly those around vicarious traumatization. Participants left the sessions having learned new strategies that they could use with victims and others to help them begin to speak of their trauma; understand and make meaning of it; and finally, over time, hopefully begin to heal from it. Because of this initial psychosocial support training provided by GIJTR partners, some participants have reported engaging in psychosocial support-focused projects or using different psychosocial support tools in their ongoing work. One participant in particular reflected that, while she had worked with victims of gender-based violence for many years, she had never spoken publicly about her own experiences as a victim. After her work with GIJTR, however, she was finally able to talk openly about the pain she had endured and felt that a pressure to remain silent about her past and been lifted, which brought a significant sense of relief. Though facilitators recognized that these initial trainings only constituted the beginning of the significant work required to build up the capacity for Guinean organizations to successfully meet survivors' psychosocial support needs, the early results of these workshops give reason to hope that these trainings will have long-term impacts among CSOs and victims' associations aiming to address the legacies of their past.



Local religious leaders at an awareness-raising session on the wide-ranging impacts of past human rights violations and their role as community leaders in promoting truth, justice and reconciliation goals.

The early successes of these two workshops were credited to multiple factors. Firstly, at the beginning of the first workshop – knowing that many of the participants had very little prior knowledge of psychosocial support – the facilitators framed their presentations to ensure that participants would gain a clear understanding of why psychosocial support is crucial to ensuring an impactful, ethical and meaningful transitional justice process, so that they would see and understand that it is an essential component of the work they are doing and hope to continue to pursue.

Secondly, the training in mental health and psychosocial support is process-driven, and facilitators can achieve greater impact through the use of experiential learning. As partners observed in both workshops, when people can experience the impact that a psychosocial support intervention has had on them, they are more likely to employ that intervention with their clients. This process, however, requires a significant amount of time, as well as an environment that is conducive for an intimate sharing of information and learning to take place. The venue must be private, quiet and allow space for smaller groups to break off within it. In addition, it is important for the sake of both the participants and their clients that debriefing and case supervision be added onto each workshop to help participants build a stronger sense of support and mastery over their developing skills. In future workshops, facilitators noted that it would also be useful to have a second facilitator

who is a trained mental health practitioner present at all times in the workshop to help contain and support any participants whose own trauma may be retriggered through the content of the sessions.

6.4 CONCLUSIONS

Whilst the experience of much of GIJTR's work in Guinea has been challenging, particularly in seeking to address psychosocial support, the lessons learned can benefit not only future work in the country but also approaches elsewhere.

The use of workshops to both enhance awareness of particular issues and build concrete capacities is a longstanding tradition in transitional justice. GIJTR's work in Guinea has, however, emphasized the importance of ensuring that those delivering training contextualize it. In the Guinea case this involved using the expertise of both local actors alongside those from other African contexts. Prioritizing those from the region rather than from the Global North is a crucial part of seeking to localize approaches taken to addressing issues of justice and seeing any process as a response to local needs, rather than the imposition of a global template. In the participatory methodologies training, participants noted that the experiences shared by ICSC's member sites from Kenya



Collaborative, multi-disciplinary planning between various facets of civil society organizations in Conakry, Guinea.



Representatives from civil society organizations planning activities and workshops in Conakry, Guinea.

and South Africa were particularly helpful and inspiring for precisely this reason. Localizing approaches to justice demands the incorporation of traditional African healing models, ideologies and cosmologies into the Western models of mental health and psychosocial support that international projects bring. There is otherwise the possibility that even the idioms of distress that communities demonstrate are not acknowledged as indicative both of trauma and of a demand for a contextualized approach to addressing it. This is a question of sustainability, relevance and simple efficacy.

An emphasis that emerged naturally from the training process was one that focused on process rather than outcome. Participatory methods necessarily demand that the process of community engagement be prioritized, over an *a priori* assumption of what approach or mechanism should be created. This enables affected communities to identify both needs and routes to addressing them, with the support of engaged CSOs. The importance of process over outputs was even more important in the psychosocial support training, not least because of the very visible needs and sensitivities of participants. Whilst initially perceived as an obstacle to achieving training goals, emphasizing the needs and requirements of participants to conduct the training safely actually served as the best possible demonstration of how to approach psychosocial support. By ensuring training approaches addressed participants' own trauma and distress, support will be rooted in the lived experience of CSO representatives who will be delivering that support in communities. The

psychosocial support workshops also demonstrated the need for such training to be dynamic and flexible, responding in real-time to the needs of participants, both in terms of support and sharing expertise.

GIJTR's Guinea experience emphasized that the incorporation of psychosocial support into all aspects of a transitional justice process is essential to its sustainability and to ensuring that it is carried out in a responsible and ethical manner. However, learning how to provide psychosocial support is a time-intensive process that requires a long-term commitment on the part of both the participants and those offering the training. Any project that seeks to engage with psychosocial support in such resource-challenged contexts must be of sufficient duration that capacity can either be sustainably built, or strategies are in place to ensure that support continues beyond the project lifetime.

The process of 'subgrants' to support pilot projects in Guinea reveals both the challenges and potential of truly participatory process. It demands firstly that a project cannot be defined in detail in advance of contact with the community and that time and space for plans to be revised within communities is crucial. A deep participatory approach demands multiple consultations and different participatory planning stages and there is a need to build a global knowledge base of examples that can be shared with CSOs of how to do this in the transitional justice space.

Chapter 6 Footnotes

⁵³ Human Rights Watch (undated), "Bloody Monday: The September 28 Massacre and Rapes by Security Forces in Guinea", <https://www.hrw.org/report/2009/12/17/bloody-monday/september-28-massacre-and-rapes-security-forces-guinea>

⁵⁴ Human Rights Watch (2018), "Guinea: 9 Years Later, Bring Justice for September 28 Crimes", <https://www.hrw.org/news/2018/09/27/guinea-9-years-later-bring-justice-september-28-crimes>



Participants in the African Youth Transitional Justice Academy share their experiences during a workshop session in May 2019.

CHAPTER 7: MAINSTREAMING GENDER IN CIVIL SOCIETY RESPONSES TO HISTORIES OF VIOLENCE

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7.1

INTRODUCTION: TRANSITIONAL JUSTICE AS GENDER JUSTICE

While transitional justice has become a standard lens with which to approach societies emerging from conflict and political violence, it remains rooted in a prescriptive global perspective towards gender, in which gender issues are acknowledged but rarely central. In some contexts, there has in particular been a focus on gender-based violence which shrinks the transitional justice framework in how it addresses women to violations that are themselves gendered. Though this legal approach, emphasizing retribution, has ensured that sexual violence can be prosecuted under international law, it risks reducing women to the violation they experience. Such a narrow approach ignores the huge and often indirect impacts on women of almost all acts of violence in conflict, in which women are often impacted indirectly, through economic and social effects. It also overlooks the varied identities of women during conflict other than victim, such as community leader, combatant or family breadwinner.

The broader potential of transitional justice is as a transformative lens on gender issues, challenging not just legacies of acts of violence but of the structural violence of discrimination that facilitates violations against women, deepens their impact and narrows the scope of social and economic possibilities for women. Formal transitional justice process is constrained by the narrow range of mechanisms (trials, truth commissions, reparations) that limits the normative frame of an intervention. Asking what women's goals are of transition challenges the liberal paradigm in which violations of civil and political rights are elevated over the social, cultural and economic with a demand for a transformative approach to transition, in which traditional social relations are questioned. This is less a canonical transitional justice, than a broader approach to 'justice in transition'.⁵⁵ The radicalism of such an agenda is

that transitional justice – and potentially the broader transition – becomes not something that unfolds exclusively in metropolitan institutions, but that impacts everyday spaces, such as the home and community, in which violations and discrimination occur. This sees intervention targeting women as seeking to not only empower them, but to find routes to challenging societal norms that encode discrimination and as a result facilitate and enable gendered violence.

Such a transformative lens also confronts the fact that women's experience of violence often fails to coincide with how the transition paradigm defines conflict and its end. In many contexts, violence against women has continued across the transition, demonstrating that sexual and other violence does not begin or end with conflict and has in some cases worsened once conflict ceases. These continuities of violence challenge the understandings of 'violation' and even of 'transition', as privileged by transitional justice processes, begging that interventions with women emerge from an engagement with their everyday lives. It also demands that gender in transitional justice be understood not just as something that concerns women, but that acknowledges that much violence actually represents a problem with and of masculinity, during and after conflict. A gendered transitional justice is one that benefits both men and women with respect to their diverse experiences and needs and that is informed by not only their gender but other social, political, economic and ethnic characteristics. This demands an acknowledgement not only of gender but of all the identities that affect how someone is impacted by their experience of violations – an intersectional approach.⁵⁶

While much conceptual work has been done around gender justice as a part of transitional justice, it is unclear as to what extent this has impacted practice. One significant threat to a gender-sensitive transitional justice is that transitional processes are almost always steered by male-dominated domestic and international elites, excluding the voices of women in their design and implementation. In response to this, both formal transitional justice process and linked civil society-based interventions have routinized the language of women's 'participation' and 'ownership', even though the practical meaning of such terms is often ill-defined. This leads to a natural focus on women's agency in post-conflict societies and an emphasis not only on formal mechanisms that will likely echo existing power structures, but also on local and informal approaches that represent spaces where new gender relations can be forged, including through the empowerment of women. A practical approach to women's engagement with transitional justice is through the concept of gender mainstreaming, understood as "the process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in all areas and at all levels".⁵⁷ Including gender as an explicit element of transitional justice,

as mainstreaming implies, is as much about addressing societal inequalities and grievances as it is about addressing an individual's experiences of violation, echoing the vision of justice as addressing the collective experience of structural violence that inequality represents.

For a truly transformative transitional justice to emerge in both theory and praxis it is necessary for the discipline to transcend its legal origins and produce an evidence-based practice that privileges the views of those most affected by transition. A radical approach to gender issues in transition has the potential to drive a transitional justice that can aid in the transformation of post-conflict societies, but it must be driven by the needs of survivors. This chapter seeks to show how such practice is unfolding in four different contexts in ways that can illuminate the possibilities for a civil society-based approach to a radical engendering of justice in transition.

7.2

SOUTH SUDAN

The South Sudan environment is one in which steps have been taken to determine the shape of formal transitional justice processes within and despite a climate of active violence. In 2015, President Kiir and the Sudan People's Liberation Movement-in-Opposition signed the Agreement on



Alejandra Naftal (R), director of Museo Sitio de Memoria ESMA and Clara Weinstein, Director of Madre de Plaza de Mayo..

Photo credit: Museo Sitio de Memoria ESMA, Argentina.

the Resolution of the Conflict in South Sudan (ARCSS) in response to the rampant violence that had ravaged the country since the conflict began, largely as a result of a political schism in 2013 that has escalated into violence along ethnic lines. The Agreement declared a permanent ceasefire and recognized the need for the country to initiate a transitional justice process, including measures for accountability, reconciliation, and healing. This fragile peace collapsed in renewed conflict in 2016, and violence continues at varying levels across the country. South Sudanese women remain under-represented in the revitalized peace negotiations and community-level peace processes, although there are notable South Sudanese women activists promoting gender-specific issues as they relate to the proposed transitional justice mechanisms. As the peace agreement did not address the root causes of the conflict, unabated violence and power struggles between ethnic Dinka, Nuer and Equatoria communities, among others, characterize the South Sudanese civil war and make dialogue a critically important practice to bridge divides.

Locally Designed Community Dialogue Program

In 2017, the International Coalition of Sites of Conscience (ICSC) held a training on designing and implementing community-level facilitated dialogue for ten South Sudanese civil society activists and community workers, both men and women. In divided settings around the world, ICSC uses a facilitated dialogue methodology as a tool to encourage communication among individuals with varied experiences and often differing perspectives to engage in an open-ended conversation toward



Community consultations with Rohingya Muslim communities in refugee camps in Bangladesh in 2019.

the express goal of personal and collective learning. The training prepared participants to design and conduct community dialogue programs that raise awareness of the violations being committed and that promote discussion on issues of peace, justice and reconciliation.

On the second day of the training, a spirited debate around the role of women as drivers of conflict in South Sudan erupted among several participants, and through open-ended questions, the facilitator redirected the conversation to be a spontaneous dialogue, such as the ones that participants would soon be holding with their own communities. A male participant claimed that women instigate conflict in South Sudan when they mourn their loved ones who have been killed and then, whether directly or inadvertently, encourage husbands and sons to seek revenge. Many of the women participants rushed to point out that this is a misconception, as women are merely expected to support their spouses in everything they do, including cattle raiding and low-level fighting, reflecting a patriarchal culture. As cattle raiding among communities in South Sudan often represents a microcosm of the national-level conflict, the urgent nature of this debate reflects the necessity for similar dialogues to take place among other groups at all levels of society.

On the final day of the training, participants identified topics through which they wished to engage communities in dialogue, including gender issues, transitional justice and the cycle of hatred between ethnic groups. At the conclusion of the training, participants noted they felt a sense of hope about engaging their fellow South Sudanese in important dialogues about the future of their country. They believed they possessed the tools and knowledge to make critical conversations happen, actively supporting one another as partners for transitional justice.

In the following months, participants received feedback from ICSC on their individual dialogue designs, as well as financial support to hold pilot programs in their communities. Two participant-designed dialogues focused exclusively on issues around women and transitional justice, and both were led by women. The first program brought South Sudanese women together from different regions that are historically in conflict with one another. Through dialogue, the participants realized that through their marriages – and consequent moves – across regional boundaries, women can be better able than men to bridge differences between groups and have greater potential to work together for peace. The second participant's dialogue drew national- and community-level women's leaders together and began with inviting participants to share, through completing an "I am from..." poem template used at the ICSC dialogue training, the people, beliefs and experiences that have shaped their values and worldviews. Through everyone's poems, the technique revealed to participants that South Sudanese women

everywhere experience similar challenges simply because they are women. The dialogue as a whole served to address tensions between women leaders at multiple levels that can prevent them from being a unifying voice for justice and peace, and the participants initiated a communications platform for them to continue working together following the program.

Lessons Learned

Participants at the dialogue training agreed that the program filled critical gaps in their work to date, and that holding community dialogues using ICSC's methodology could be a useful way to model at the grassroots level the inclusivity that many South Sudanese perceived as lacking at the time in the government's National Dialogue initiative. The spontaneous dialogue at the training around women's role in driving conflict in South Sudan points to a need for additional facilitated dialogue around traditional gender roles at all levels of South Sudanese society, and how they relate to and influence narratives of the conflict. While transitional justice programming in South Sudan, and elsewhere, is often premised on women being survivors and/or agents for peacebuilding, recent research has shown that women in South Sudan are just as likely as men to believe that violence is a valid way to solve conflicts⁵⁸ and programming must recognize this dual potential of women in order to effectively contribute to sustainable peace. The outcomes of the community-level dialogues with women that were subsequently facilitated by the training participants also establish how dialogue can bridge difference and foster mutual understanding among women from groups in conflict with one another.

7.3

THE GAMBIA

Adama Barrow's electoral win in December 2016 set in motion a break with the Jammeh regime's period of authoritarian rule and marked an opportunity for Gambians to identify ways in which they could come to terms with the past and promote truth, justice and reconciliation.⁵⁹ There have been claims that during the Jammeh regime, women were raped and sexually violated by security forces when being detained, and that rape was used as method of torture against both women and men. Victims have shared stories of being penetrated by sharp and dangerous objects while being tortured that resulted in permanent and serious medical injuries, and men were victims of either partial or full castrations during their torture experiences. Young girls were victims of rape as part of Jammeh's so-called "scholarship pageants", where beautiful girls would be selected and provided with scholarships, under the condition of being Jammeh's sex slaves. LGBT persons were persecuted, tortured, subject to



Participants in the MENA Transitional Justice Academy meeting with Commissioners from the Truth and Dignity Commission in Tunisia.

life imprisonment and, in some instances, forced to leave the country. The extent of the cases remains unknown, as victims fear reprisal and being further victimized and stigmatized in their families and communities.

In anticipation of the Truth, Reconciliation and Reparations Commission (TRRC) commencing operations in January 2019, GIJTR developed a project to support the government-led transitional justice process, provide technical assistance to the TRRC, and build the capacity of local CSOs to engage in transitional justice processes.

Consultative Mission

In January 2019, when the TRRC was starting its first public hearings, GIJTR partners – the ICSC and the Centre for the Study of Violence and Reconciliation (CSVN) – conducted a consultative mission aiming to identify the range of local-, national- and international stakeholders working in areas of transitional justice, as well as any coordination efforts that are currently in place; identify current truth, justice and reconciliation initiatives that are being undertaken by the government, local CSOs and international actors; and understand both local CSOs' and the government's transitional justice priorities and needs for technical support. The consultative mission included meetings with over 20 individuals from key non-governmental organizations and government representatives, as well as international organizations.

One of the key findings of the mission was that gender-based violations are not being adequately addressed by the TRRC – the only transitional justice mechanism established to date – and that women and women's groups more generally, especially from outside the capital of Banjul, are being left out of the transitional justice process. The fast-paced transitional justice process in the Gambia has largely excluded the public, and in particular women, from taking part in the design of the

government's policies, or else reduced their participation to a formality. Aside from the general lack of representation of women in decision-making processes, the speedy national consultations pertaining to the TRRC Act did not take into account practical obstacles to women's participation, thus effectively excluding their voices. For example, the consultations took place in town halls throughout the country around midday when women would be cooking or doing other daily chores requiring them to stay home.

Furthermore, the TRRC has yet to design and adopt measures that will adequately respond to the needs of women and other victims of gender-based violence and ensure that their experiences are captured by the commission. The TRRC's operating procedures are excessively court-like, structured as a series of cases, with witnesses examined individually, and aside from the option of providing testimony "in camera", no procedures envisaged for holding hearings outside of Banjul or structuring them differently, such as with groups of victims. When partners asked during the mission if the TRRC will be conducting special hearings for women to uncover the extent of the sexual and gender based violent crimes, no clear answer was provided.

In these circumstances, it comes as no surprise that, at the time of the consultative mission, there was not a single SGBV case in the TRRC's docket, or a single registered SGBV victim. In a country with a culture of silence in cases of gender-based violence, severe repercussions for those very few who dare to speak out, and effectively no protection measures, the TRRC and other mechanisms will likely remain with an empty docket unless specific measures, developed in close consultation with women and gender-based violence victims, are put in place to encourage them to come forward and protect them once they do so. The establishment of a Women's Affairs Unit in the TRRC is a commendable first step in the right direction, but the unit is under-resourced, and women's groups fear that the establishment of a Women's Affairs Units will be just a "ticking the box" exercise and that it will not ameliorate the situation of women victims.

Furthermore, as a result of Jammeh's crackdown on civil society, CSOs, including the few women's organizations, are either just developing or require ongoing and extensive capacity-building and support to ensure that they are able to engage with the transitional justice process and other political processes in the country. Local activists have only begun to mobilize in an effort to ensure that women's voices and experiences are not excluded from the current transitional justice process. Other gender issues, including the cases and needs of male SGBV victims and LGBT victims of persecution, are considered taboo and remain unaddressed or even unrecognized by both government and civil society.



Participants at the African Youth Transitional Justice Academy in 2019.

Lessons Learned

Because the timing and practices of the national consultations effectively barred women from participating, there is very limited engagement of women in the transitional justice process and there is limited understanding of their unique needs. For this reason, GIJTR is partnering with local women's and victims' groups to conduct an extensive assessment of the needs of women and victims of gender-based violence, including documenting their views on the ongoing transitional justice process, their level of awareness around truth, justice and reconciliation issues, and their expectations and challenges regarding participation.

The experiences of Gambian women also demonstrate that programming on sexual and gender-based violence during conflict or authoritarian rule should also address peacetime, structural gender-based discrimination, since gender-based violence is rooted in gender inequality that can exist regardless of the presence of conflict.⁶⁰ While the transitional justice process in the Gambia has recognized the need to address sexual and gender-based violence committed during Jammeh's rule, most steps undertaken in this regard have failed to address the broader gender-based discrimination in the country. For example, the TRRC has not adopted protection measures or planned to conduct women-only or women-tailored hearings in order to provide them with a safe space to share their experiences, despite being familiar with such best practices of other truth commissions. Although some NGOs have implemented programs aimed at supporting victims of gender-based violence, these have been mostly focused only on the Jammeh era. Such a compartmentalized approach is unnatural to many victims who have suffered both in "peacetime" and during the dictatorship, and thus fail to understand why only one part of their experience is being addressed. Namely, gender-based violations such as FGM, domestic violence, marital rape and child marriage are widespread in the Gambia. Furthermore, the Gambia has extremely high maternal mortality rates, limited access to education for girls and very low female participation in public office. Addressing conflict-related SGBV without a broader goal of eliminating its underlying causes defies the aim of transitional justice – ensuring the non-recurrence of rights violations.

The findings of the consultative mission also show that transitional justice outreach programs must adopt innovative techniques to reach all target audiences, including women. In The Gambia, information and knowledge about truth, justice and reconciliation processes are often limited to the capital and not designed to target women specifically. As a result, women do not have quality information on the participatory mechanisms contemplated in the current regulations. Radio programs

still remain a potent tool for accessing women in particular, who are used to listening to the radio in their local languages while doing chores in the house. For this reason, GIJTR is providing funding to local CSOs to conduct awareness-raising campaigns targeting under-served parts of the population and, in particular, women.

7.4 GUINEA

Since gaining independence from France in 1958, Guinea has experienced ongoing cycles of wide-scale human rights violations, including mass violence against women, under successive authoritarian regimes (see Chapter 6). The election of Alpha Condé in 2010 brought widespread hope for increased protections of democracy and respect for human rights for all members of Guinean society. Condé took concrete steps to address the needs of victims by initiating judicial proceedings to hold the perpetrators of the 2009 stadium massacre accountable and mandating the creation of a commission, the Provisional National Commission on Reconciliation (CPRN), to begin a country-wide consultation and develop recommendations for a national reconciliation process.

While rape and sexual assault remain highly taboo topics in Guinea, 43% of the individuals interviewed as part of the CPRN's consultations identified rape as an act of violence that had negatively affected Guinean society since the country's independence, and over one-quarter of respondents noted that either they or others they knew personally had been victims of individual or collective rapes.⁶¹ In addition, the Commission noted that women's participation in the transitional justice process would be crucial to its success, and highlighted their findings that 88% of the individuals consulted felt that women should occupy a place of importance or one equal to that of men, which the report's authors understood to mean that the vast majority of interviewees felt that the status of women in Guinean society must change.⁶² While recommending that a national truth commission be established, the CPRN also emphasized the urgent need for reparations for survivors currently suffering from the trauma they endured and urged the government to establish September 28th as a national day of mourning and reflection in honor of the victims of the stadium massacre that took place on that day in 2009.

Unfortunately, since the commission's findings were released in 2016, the Government of Guinea has shown little political will to act on its recommendations, while the hopes of victims for any kind of justice have continued to dwindle and violent confrontations between

protesters, security forces and opposition groups persist. Within this context, GIJTR began an ongoing, multi-year project in Guinea in March 2017 that aimed to ensure that communities – particularly survivors, women and other marginalized groups, the media and CSOs – have the required capacities to fully participate in the country’s transitional justice processes and that local communities’ needs in truth, justice and reconciliation issues are addressed in an integrated and sustained manner. After conducting extensive research, GIJTR recruited six local CSOs – including victims’ associations and women’s and youth networks – to undertake a series of consultations in their communities on victims’ needs and local understandings of truth, justice and reconciliation. The CSOs were then given subgrants to address the most urgent issues they identified in their communities. Among the organizations supported, two in particular focused on supporting women and survivors of sexual and gender-based violence.

Community Projects Responding to Local Needs

Humanitarian Association for the Protection of Women and Children (HPFE), a civil society organization founded in 2010 in Guinée Forestière, was founded by Hélène Zogbelemou to fight against gender-based violence and inequality and to raise awareness among women and girls about their fundamental human rights. As part of their project supported by GIJTR, HPFE used their funds to identify and interview forty-one victims of the Zogota Massacre, including five widows and forty-three orphans, whose loved ones were killed when security forces, in response to local protests against the mining company Vale-BSGR, led a punitive raid on the village in August 2012.⁶³ HPFE produced a series of oral histories documenting survivors’ experiences of the massacre and the ways in which they have been affected since then, as many of the women and children were left without any means to support themselves when their husbands and fathers—the families’ primary breadwinners—were killed. The survivors are still in need of economic assistance and psychosocial support.

While the organization has struggled to seek accountability on behalf of the survivors, due to complicity and corruption amongst local politicians and security forces, HPFE has succeeded in educating the women and children on their rights and the justice mechanisms that should be available to them and in attracting public attention to their situation. In addition, by bringing the survivors together and giving them a platform through which to share their experiences and mourn in a collective space, the organization has helped them to resist intimidation and outside pressure to silence their complaints and has contributed to individual and collective healing, as many of the women and children noted that they had not previously had a venue in which they could share their pain and experiences openly.



GIJTR Exchange between Guinean civil society and South African civil society in 2019.

A second organization and one of GIJTR's primary local partners in Guinea – the Association of Victims, Family and Friends of September 28, 2009 (AVIPA), a victims' association for those affected by the stadium massacre – used their funds to produce a short film highlighting victim testimonies on both the day of the massacre and in its aftermath.

The film features testimony from Asmaou Diallo, the president of the association, whose son was killed at the stadium, as well as three women who were raped by members of the security forces. With their testimonies spoken by anonymous narrators to disguise their identities, the women describe their assaults and the ways this has impacted them, some having been abandoned by their husbands and families as a result of the stigma attached to survivors of rape, and others still in need of medical care for the injuries they sustained nine years prior. AVIPA noted that while some of the victims were initially wary of testifying, AVIPA was able to gain their trust and has used the film at multiple events with politicians, activists, and members of the international community to advocate on behalf of the survivors and raise awareness about their needs and the events of September 28, 2009.

Lessons Learned

Women's engagement with the truth, justice and reconciliation recommendations proposed by the CPRN will be crucial to community rebuilding in Guinea and the long-term success of the proposed mechanisms. However, while the status of the national reconciliation process remains unsure, civil society organizations and victims' associations have been able to begin to address the needs of survivors of sexual and gender-based violence through informal transitional

justice mechanisms, including community-based truth-telling projects, awareness-raising workshops, and memorialization initiatives. In a context such as Guinea, where survivors of rape and sexual assault can often be ostracized and further victimized by speaking openly about their experiences, it is crucial to involve them from the earliest stage of a project's design and implementation, so that their needs can be fully understood, the ways in which they are prepared and unprepared to participate can be respected, and their trust can be earned. With careful consultations and an inclusive project design and execution, the process of participating in these initiatives can contribute to healing in itself, by preventing women from being silenced and providing a space in which the violence they have endured can be recognized, even while justice through formal mechanisms remains elusive.

7.5 SRI LANKA

Since the 2015 co-sponsored United Nations (UN) resolution, Promoting Reconciliation, Accountability and Human Rights in Sri Lanka, the government of Sri Lanka (GoSL) has made some progress towards meeting its commitments despite substantial delays. It has established entities such as the Secretariat for Coordinating Reconciliation Mechanisms (SCRM), tasked with managing the transitional justice consultation process, and commissioners for the Office of Missing Persons and Office of Reparations have been appointed. GIJTR partners, led by the International Coalition of Sites of Conscience (ICSC) in collaboration with its lead local partner and ICSC member site, the Institute of Social Development (ISD), have undertaken a series of programs in Sri Lanka since 2015 with the goal of supporting and strengthening local capacities to contribute to post-conflict truth, justice and reconciliation initiatives, ensuring that multiple stakeholders remain engaged in the transitional justice process in a holistic and coordinated manner.

Very early in their work, GIJTR partners understood that women not only had specific needs because they were among the most vulnerable members of Sri Lankan society, but that they also had to be purposefully included in GIJTR programs because they were trusted members of their communities, playing a central role in community life. Women in Sri Lanka have also held diverse roles in the decades-long internal conflict, such as community peacebuilders; direct victims of the conflict as well as secondary victims as wives, mothers and daughters; and active combatants as a part of the Liberation Tigers of Tamil Eelam (LTTE) or the Sri Lanka military.

Partners found that while memorialization in the South was promoted as part of national celebrations, practices in the North and East were restricted

and at times highly surveilled by security forces. Despite memorialization being considered a “soft” issue in post-conflict settings, this repression highlights its potential as a significant form of truth-telling. In repressive contexts or in the absence of credible truth and justice mechanisms, memorialization can provide spaces for community expressions of mourning, intergenerational transmission of memory, and community dialogue and rebuilding. They can also ensure that the memory of violations remains alive until a point where formal truth-telling and accountability processes can be established.

Engaging Women Through the Truth and Reconciliation Forum and Alternative Forms of Documentation

One of the key results of GIJTR’s sustained and phased approach to work in Sri Lanka was the formation of the Truth and Reconciliation Forum (TRF).⁶⁴ While it has been successful in achieving religious and linguistic diversity within its membership, the TRF has been less successful in ensuring the sustained engagement of women as a part of its steering body, the Executive Committee (Exco). Since its beginning, the TRF has experienced rapid turnover of women, with female members citing their domestic responsibilities as a challenge to their participation in the coalition. Although ISD has taken measures, such as hosting single-day workshops so that women do not have to stay over, and actively recruiting women for specific activities, in general women have been unable to sustain their participation in the leadership. Based on these factors, the Exco has decided to appoint two women who are able to participate in the Exco as gender “focal points”, who will reach out to women for specific activities and will monitor the gender diversity of the TRF. The TRF has been more successful in recruiting women for the desk officer positions, which allow them the flexibility to determine their own schedules and work only in their own province: four of the nine desk officers are women.

Based on the findings related to memorialization and sexual-based violations, project partners hosted a body-mapping workshop for women who were primary or secondary victims of the war, giving them a space to address some of the violations that they would not openly share, as well as providing them an opportunity to undertake a memorialization activity. Body-mapping is an arts-based methodology that guides participants to reflect on different times in their lives from early childhood to adulthood; while participants spend time reflecting about their victimization, this is not the sole purpose. It also promotes individual healing for victims by providing them with platforms to share their experiences, acknowledge those of others, and build empathy among a diverse and often-divided group of survivors. Twenty women, including Tamils, Muslims, Sinhalese and Christians, from the North, East, and North-Central provinces participated in the five-and-a-half-day

workshop, which included the body-mapping activity and debriefing with a psychologist. At first, the women were reluctant to share their experience, but towards the end of the workshop, the participants reported feeling a bond of shared sisterhood and increased trust of women from other religious groups.

In a check-in with the women in October 2017, almost all participants noted a sense of relief after being able to share their life experiences; many noted their new understanding of other religious groups; and almost all the women emphasized the need for this group of women to work together to ensure that reconciliation was a grassroots-led movement. Project partners also launched a body-map exhibition in Colombo in October 2017, which included a panel discussion by the participants. The launch provided an opportunity for increased public awareness and dialogue about women's experiences of the war and what reconciliation and justice would mean for them. There is evidence that women who were part of the body-mapping exercise went on to become advocates in their communities for both reconciliation and action to address women's needs arising from the conflict. Two of the participants have become transitional justice advocates and trainers, working closely with ISD to promote transitional justice with Sinhalese communities and local government officials, emphasizing the importance of their participation in truth, justice and reconciliation activities and clarifying the common misconceptions among Sinhalese that transitional justice is for the Tamils only.

Lessons Learned

Partners learned early on that despite women's active roles in their communities' social, cultural and political life, programmatic activities needed to take into account the other domestic responsibilities that most women had. Offering shorter workshops closer to home, childcare provisions and even sending formal letters to spouses outlining the importance of their wife's participation in activities were a few of the strategies that partners' adopted to ensure women's ongoing participation.

Given the kinds of violations that women suffer and the silences and shame associated particularly with sexual violations in most contexts, it was important to use methodologies like body-mapping that allow women to share their experiences in a confidential and anonymous manner and at their own pace. Testimony or traditional documentation may not adequately capture the nuances of victimization and may serve a single purpose—that of documentation—with little catharsis for the victim. By focusing on process and using creative methodologies adapted from different fields, new types of testimonies can emerge that can be useful for awareness-raising and



Memory quilt created by the families of disappeared in Bardiya, Nepal. Photo credit: National Network of Families of the Disappeared and Missing, Nepal.

advocacy and may also have positive effects on an individual level. In addition, women often don't consider themselves victims unless they have been directly violated, but women's "secondary" violations as mothers, wives, sisters and daughters need to be brought to the fore to ensure that they can be addressed in a gender-appropriate way.

7.6 CONCLUSIONS

In contexts all over the world, GIJTR partners have found that the temporal scope and resource constraints of most formal transitional justice processes frequently mean that only a select few survivors can participate, and that the participation of women in particular, who have often suffered multiple types of violations over decades, is often absent. Whilst the rituals of government consultation have been seen in all contexts, they have almost all failed to reach female victims to any great extent. This leaves many survivors with little motivation for engaging in rebuilding society and in long-term peacebuilding. More than this, evidence from GIJTR demonstrates that while official transitional justice process is crucial, CSOs have a role not only in advocacy but in delivering approaches to truth, justice and reconciliation in communities. The work carried out by GIJTR in South Sudan, Guinea and Sri Lanka

reflect the potential of informal and community-based methodologies, including facilitated dialogue, oral history, and body-mapping, in engaging women in particular and offering opportunities for them to share individual memories and experiences of traumatic events that may be underrepresented elsewhere.

Given the constraints seen in women accessing mechanisms in official spaces, often in capital cities far from where they live, informal approaches can unfold in spaces to which women have access. Released from the procedural restrictions of many formal mechanisms, these programming approaches are perhaps more likely to meet women “where they are” both figuratively and literally; for example, in cultures where women are keepers of family narratives and traditions, collecting oral histories may be an appropriate means of documenting their stories. Similarly, these activities are more likely to take place in local communities away from the capital city and take into account the rhythms and requirements of women’s daily lives, though deliberate planning is still necessary to ensure this is the case. The immediate impacts of such approaches will be local but offer platforms for women to play a larger role in advocacy and the national transitional justice process. Mainstreaming women’s participation and issues of the greatest relevance to them in a civil society action has the potential to enhance mainstreaming in a formal process. On the evidence of GIJTR experience however, integrating women’s perspectives in official process demands constant advocacy and nevertheless faces great challenges.

The bulk of interventions described here are focused not on particular outputs, but rather on process. Just as formal institutions exclude women, so it was seen in Sri Lanka that CSOs working on transitional justice struggled to be inclusive, demanding changes to how women were engaged in such work. In Guinea, participation – in both local and formal processes – was itself seen as healing, demonstrating that community-based action, even in the absence of official mechanisms, can begin to address women’s needs. This also shows the potential route from engagement to empowerment, with women gaining both space and confidence to participate that can be a platform for impacting broader gender relations and structures.

Perhaps due to their ability to encompass both personal and collective truths, methodologies such as dialogue and body-mapping can also help build women’s solidarity across religious, cultural and ethnic boundaries. Their open-ended nature allows for women’s varied experiences and roles during conflict to be acknowledged as integral to the complex narrative of the conflict as a whole. Women are able to be the narrators of their own diverse needs, broadening general understanding of their individual post-conflict demands – not uniformly as survivors or

peacebuilders, but in some cases as direct or indirect combatants, family breadwinners, or multiple roles throughout a conflict.

There remains a tension, as seen in the body-mapping action, between the need for women to share their experience in relatively private spaces, to ensure a degree of anonymity – particularly around sexual violations – and the imperative to drive structural change that impacts women generally. This potential divergence between the needs of a mainstreaming approach to integrate women's experience and that of individual victims for dedicated spaces and approaches will remain a challenge in addressing gender issues in transitional justice.

Though varied in their experiences of conflict and transition, the four contexts described here attest to the need for transitional justice mechanisms and programming to extend and re-envision their scope so as to not only consider gender-based violence committed during conflict but also the broader and systemic gender discrimination often present long before the conflict began. The community-level outcomes of utilizing the alternative methodologies in these four contexts demonstrate the great potential for transitional justice processes to address traditional gender roles and how they relate to and influence conflict. While political transitions can provide an extraordinary window of opportunity for enhancing women's rights and access to public space generally, such a long-term goal must be included deliberately in any gender programming. In this way transitional justice can begin to transform the societal inequities often at the root of conflict and truly signify a break from the past.

Chapter 7 Footnotes

- ⁵⁵ Paul Gready and Simon Robins (2014), "From Transitional to Transformative Justice: A New Agenda for Practice," *International Journal of Transitional Justice*, 8 (3): 339–361.
- ⁵⁶ Fionnuala Ní Aoláin and Eilish Rooney (2007), "Underenforcement and Intersectionality: Gendered Aspects of Transition for Women," *International Journal of Transitional Justice*, 1(3): 338–354.
- ⁵⁷ United Nations. "Report of the Economic and Social Council for 1997". A/52/3.18 September 1997.
- ⁵⁸ Dominic Iyaa and Katie Smith. "Women and The Future of South Sudan: Local Insights On Building Inclusive Constituencies For Peace." Search for Common Ground, Sept. 2018.
- ⁵⁹ Please see Chapter 4 for further background on The Gambia.
- ⁶⁰ European Institute for Gender Equality, <https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence>
- ⁶¹ Commission Provisoire de Reflexion sur la Reconciliation Nationale. *Consultations nationales en appui à la Réconciliation Nationale en Guinée: Rapport Final*. 27 June 2016: 49-65.
- ⁶² p. 115, ibid.
- ⁶³ For additional information, please see: <https://www.business-humanrights.org/en/vale-bsgr-lawsuit-re-complicity-in-violence-against-villagers-in-guinea>
- ⁶⁴ Please see Chapter 2 for additional information on the TRF.



Students listening to narratives of survivors at the Liberation War Museum.

CHAPTER 8:

MEMORIALIZATION AND EDUCATION: LEVERAGING GLOBAL EXPERIENCE TO IMPROVE EDUCATION ABOUT HISTORY AND VIOLENCE PREVENTION

Farina So, Sara Bradshaw, Lucia Samayoa and Indria Fernida⁶⁵

8.1

BACKGROUND IN CAMBODIA, TIMOR-LESTE AND GUATEMALA

Memorialization and education are crucial aspects of post-conflict transitions that complement each other in building opportunities for not only helping societies break with their past, but also reinvent their future. Both memorialization and education are committed to telling the truth of what happened in the past and why. While memory is superficially something individualized, in practice memory is collectively constructed, serving to provide a shared recall of the past within collectivities, whether they be families, communities or nations. Similarly, education empowers and liberates on the basis of the sharing of truths that reflect individual and collective understandings. Every society emerging from conflict must engage with its past, including through the construction of both individual and collective memory as well as through education that can challenge perspectives on the past that maintain division and drive future cycles of violence.

In this respect, memorialization and education are important factors in the future of the countries discussed in this chapter: Cambodia, Guatemala, and Timor-Leste. Cambodia has struggled with memorialization of the history of its genocide, and the conflicts that preceded and followed it, for decades. Between 1975 and 1979, the Khmer Rouge seized control of the country and, under a communist ideology, imposed harsh conditions that involved forced labor camps, mass starvation and a totalitarian security state that imprisoned, tortured and executed millions of people.⁶⁶ The regime seized control in the midst

of a violent conflict, and after it was removed from power, it continued to persist as a guerrilla movement that caused innocent deaths and destruction.

Cambodian schools did not teach the history of the Khmer Rouge for many years. For a certain period of time in the 1980s and 1990s, portions of the history were included in public school curricula. It was, however, politicized and oriented to delegitimizing Khmer Rouge forces who were still active as a guerrilla force challenging the government. After Khmer Rouge forces disarmed, official and public interest in the history receded and with it the development of curricula related to this history. As a result, until 2008, the Khmer Rouge era was largely not taught in public schools. Since then, the Cambodian Ministry of Education, Youth and Sport, in partnership with the Documentation Center of Cambodia (DC-Cam), has worked to integrate the history of the Cambodian genocide into all secondary schools, and a university-level course. Using DC-Cam's textbook and teaching methodology, secondary education students are required to receive, at minimum, instruction on the key aspects of the regime and history, and several questions on Khmer Rouge history appear in national exams.

Guatemala has also experienced significant conflict and horror in its recent past. During its internal armed conflict between 1960 and 1996, Guatemala suffered over 200,000 deaths, and 40,000 people disappeared. Besides the armed struggle between government forces and rebel groups, the conflict included massacres of entire villages, selective disappearances, extrajudicial executions and other forms of violence by the Guatemalan state against the civilian population. The Commission for Historical Clarification (Comisión para el Esclarecimiento Histórico, CEH) found that the State was responsible for 93 percent of human rights violations during this period, particularly against indigenous Mayan populations.⁶⁷

In Timor-Leste, civil war broke out in the 1970s, and Portuguese colonial authorities took flight. Up to 3,000 people were killed and tens of thousands were displaced, with both warring parties committing crimes, including the execution of prisoners. Indonesian military incursions soon followed and, with the support of foreign powers, a full-scale invasion occurred in December 1975. Massacres, famine, sexual violence, torture and various other forms of political repression marked the ensuing quarter century of Indonesia occupation. The 2005 report of the Commission for Reception, Truth and Reconciliation in East Timor (Comissão de Acolhimento, Verdade e Reconciliação, CAVR) reports an estimated minimum number of 102,800 conflict-related deaths.⁶⁸ Of these, the report says that approximately 18,600 were either killed or disappeared, and that approximately 84,000 died from hunger or illness

in excess of what would have been expected due to peacetime mortality. In 1999, Indonesia allowed East Timorese to vote on independence, and the referendum that followed was marked by violent attacks against actual and perceived supporters of independence. The declaration of the result in favor of independence was met with a punitive campaign of violence by East Timorese pro-Indonesian militia with the support of elements of the Indonesian military, representing the final spasm of violence as the Indonesians withdrew.

With these contexts in mind, GIJTR partners the Documentation Center of Cambodia (DC-Cam), Asia Justice and Rights (AJAR, Timor-Leste), the Forensic Anthropology Foundation of Guatemala (FAFG) and the International Coalition of Sites of Conscience (ICSC) developed a program to address issues of attitudes towards the past in these disparate, but similar, post-conflict societies. The aim was to provide multi-layered improvement to Cambodian, East Timorese and Guatemalan education organizations' ability to provide context-specific public education on history and violence prevention. It also aimed to identify lessons learned that could be shared in order to build new opportunities in the participating countries and potentially others. The overall goals of the project can be broken down into three general objectives:

- Provide space for educators from Cambodia, Timor-Leste and Guatemala to share experiences and practices in documenting and teaching about conflict and violence in their respective countries, including using memorialization-based techniques;
- Build capacity for educators to conduct documentation and education programs that focus on transitional justice; and
- Develop replicable education tools and identify best practices that have been implemented in individual contexts and share these tools among educators from different contexts.

8.2

WORKING WITH CORE EDUCATORS AROUND SHARED AGENDAS

The overall project involved three overarching components during its first phase: (1) two international workshops for a group of 12 core educators from all three countries; (2) further country-specific activities reaching a wider group of educators, students and community members; and (3) educational/ memorialization projects and tools, developed and implemented by the twelve core participating educators

and supported by grants from GIJTR. Phase 2 focused on additional in-country activities to expand the reach and strengthen the outcomes of the first phase.

The Core Group of Educators

The main part of the program was focused on building the capacity of a selected set of twelve educators from the three contexts. All participants were selected on the basis of their demonstrated interest in learning new methodologies for addressing histories of violence with students and community members, as well as their community standing and ability to apply and share the knowledge gained in the program. After participants were selected, project partners developed a baseline assessment survey to determine the participants' starting capacities, priorities and the challenges they faced in teaching about history and violence prevention in their individual contexts. The results of this assessment were used to shape the agenda of the two International Educators' Workshops.

In Guatemala, for example, one of the educators selected by the FAFG to attend the workshop was from the International Institute of Learning for Social Reconciliation (IIARS), which is a leading institution in education for social reconciliation in Guatemala. IIARS has an exhibition titled "Why We Are Like We Are", which presents the recent history of Guatemala and how this impacts its current society. They also lead the Technical Committee for Education for Peace, Historical Memory and Human Rights, which is creating a curriculum and teacher resources related to citizenship, human rights, historical memory and other topics, and which the Ministry of Education had started to implement in schools all over



International Educators Workshop in Timor-Leste in June 2018.

Photo credit: Asia Justice and Rights.



Students at the Liberation War Museum in Bangladesh engaging with stories from the conflict as a pilot curriculum in 2019.

the country. In Timor-Leste, the four participating educators represented community education organizations, universities and the institute responsible for following up on the recommendations of the Chegal truth commission report. In Cambodia, the four educators selected by DC-Cam to attend the workshop and participate in subgrant-funded projects were either active or retired teachers with the Ministry of Education, Youth and Sport who had actively participated in DC-Cam's previous genocide research and education teacher trainings.

International Educational Workshops

The two international workshops targeting educators from the three contexts focused on professional development, information-sharing and a perspective-broadening experience that centered on historical site visits within the workshops' host countries. The first four-day workshop was held in Phnom Penh, Cambodia in January 2018, and the second in Dili, Timor-Leste in June 2018. Each GIJTR partner organization approached the aims of education and memorialization in a unique way that was informed by their respective culture and operating environment. Because the ICSC operates as a worldwide network of member institutions, it provided inputs to the workshops and project that drew on its members' global expertise related to site-based education, memorialization as a community-building endeavor and connecting histories of conflict to present-day issues in order to build peaceful, human rights-based cultures.

AJAR based its program contributions and training sessions on its experience operating a full-time residential learning center in Bali, Indonesia and working on a variety of advocacy and education-related initiatives across the Southeast Asian region, specifically Indonesia, Myanmar, Timor-Leste, and Sri Lanka. AJAR's particular approach to education and memorialization in this project was informed by its work in Timor-Leste, which has made notable strides toward integrating victim perspectives and voices into government policies. DC-Cam's workshop sessions focused on its collaboration with the Ministry of Education, Youth and Sports to incorporate genocide education into the national school curriculum in 2009. It has also trained 3,000 history and civic education teachers in genocide education and educated over one million school children nationwide. FAFG, in addition to applying multidisciplinary forensic scientific methodologies to investigations into the whereabouts and identity of missing and disappeared persons (which is further described in Chapter 5), has also begun new truth-telling and memorialization efforts to strengthen and empower the survivors and family members and preserve these truths for educational and restorative purposes, and it drew from these initiatives when facilitating workshop sessions.

During these two workshops, partner organizations brought together the twelve core educators to share experiences, ideas, and practices on

teaching histories of violence in the participants' respective countries, especially using non-traditional methodologies, such as oral history, intergenerational dialogue and art and to assist the participants in developing education-based projects for which they received small subgrants, with focused discussions on country-specific challenges and opportunities. Participants shared common challenges and possible solutions for documenting and teaching history and violence prevention in their respective countries, and the potential for memorialization and documentation methods to strengthen their programs, especially in contexts where their local respective histories are not widely discussed or taught in schools. They learned about the dimensions of conflict and transitional justice, what is needed to prevent genocide and mass atrocities, and how to build on existing capacities to create educational tools based on their country contexts. They also learned from other countries' and participants' experiences with teaching about mass crimes. Participants' learning at the first workshop, held in Cambodia, was enhanced by site visits to ICSC member sites Tuol Sleng Genocide Museum and Youth For Peace and workshop sessions facilitated by ICSC member site Fondazione Scuola di Pace di Monte Sole (Monte Sole Peace School Foundation, Italy).

At the second international workshop, partners invited the Executive Director of GIJTR partner Humanitarian Law Centre-Kosovo to share his organization's work with creating civics course curricula and historically accurate, non-partisan textbooks about the conflict in the former Yugoslavia. Partners presented the outcomes and lessons learned from their country-specific activities, which are further described below, and the participating educators shared the outcomes and resulting educational tools from the implementation of their small projects (please see below). The workshop enabled participants to successfully extract common lessons learned and challenges, and to map out next steps to ensure continuity of local efforts in strengthening capacity in teaching history and violence prevention. Participants also learned about the transitional justice process in Timor-Leste by visiting Centro Nacional Chega, located in a former prison, the Museum of Resistance, meeting with survivors of the November massacre and visiting the site of Liquiça massacre of Timor-Leste.

Subgrants for Education Projects

Based on the skills and knowledge gained at the first International Educators' Workshop, and in close consultation with project partners, the core group of twelve educators developed small, pilot education projects that were implemented over three months with financial assistance from GIJTR. The educators spent the last part of the first international workshop in Phnom Penh discussing and presenting their initial ideas and

then developed them in full over the weeks following the workshop. A key requirement of the projects was that they each result in a replicable educational resource or products. These projects, which are described in fuller detail below, gained the support and active participation of students, other teachers, parents and authorities in the educators' home communities. GIJTR partners also provided guidance and assistance to the educators as they implemented their projects. Projects ranged from training students to collecting oral histories of people affected by the conflict in Timor-Leste, to supporting the creation of an illustrated account of the Khmer Rouge regime in Cambodia, to be used with Guatemalan students, who cannot learn in their classrooms about the decades-long conflict that took place in their own country.

In-country Education and Memorialization Activities

To complement participants' project development and implementation, GIJTR partners based in the participants' countries – namely, AJAR, DC-Cam and FAFG – carried out further activities with their countries' core participating educators as well as additional participants in the education field. These sought to enhance education capacities related to violence prevention and the relevant histories of conflict in the concerned contexts. Although each GIJTR partner approached the objectives and desired results differently, their approaches were similar in terms of a focus on small-group workshops and participant-centered activities.

In Cambodia, DC-Cam focused its country-specific project on training village history teachers. Local teachers received formal training, both through a workshop and 'on-the-job', in collecting oral histories from survivors of the Khmer Rouge regime and writing organized and coherent interview summaries for use in educational contexts. The two-day workshop was followed by a research project in which the participants conducted interviews of survivors in their local village alongside DC-Cam's expert staff. The final results of the project were three-fold: enhanced research and writing skills of Cambodian teachers; publication of a Village History Compendium for use by schools, the local community and foreign scholars; and amplification of otherwise unknown stories by victims and survivors of the Khmer Rouge. The collected stories reflected the perspectives of people who have not been interviewed by the investigators of the Extraordinary Chambers in the Courts of Cambodia (ECCC) and so have never publicly shared their stories.

In Guatemala, FAFG organized a workshop to train twenty educators from all over the country on techniques for addressing recent history and memory in the classroom. The main objectives were to reflect on the experiences shared from Cambodia and Timor-Leste at the international workshops; discuss the application of new and innovative techniques

to teach students about the internal armed conflict, drawing from the lessons learned at the International Educators Workshop in Cambodia; and explore the possibilities for integrating life history interviews and accompanying IWitness⁶⁹ programs to teach about the experience of the conflict through the memory of the survivors.

Finally, in Timor-Leste, AJAR organized workshops for fifteen university lecturers in Timor-Leste on the issue of conflict and transitional justice. AJAR conducted two three-day workshops to help educators discuss their role in guiding students and the public through the history of Timor-Leste and the story of its democracy. Workshop participants also endeavored to develop university teaching resources necessary and appropriate for these themes. The purpose of the workshops was to collaboratively develop curricula on the memory of past violence in relation to contemporary democracy. To be useful, the curricula had to be adaptable to multiple classroom subjects. The curricula centered on having students deconstruct the layers of history from Portuguese colonization to the Indonesian occupation of Timor-Leste. Explicit consideration was given to the inclusion of women participants in the workshop and to addressing issues of gender in the teaching of Timorese history. In addition, AJAR created and published tools for integrating transitional justice learning at the university level.

8.3

SUMMARY OF PROJECT OUTPUTS

Both phases of the project produced outputs and outcomes that can be useful in planning for future projects. In terms of outputs, in Guatemala, FAFG created a guide for teachers on how to use the documentary "Finding Oscar" in classrooms, in addition to a toolbox that summarized the Guatemalan educators' experience at GIJTR's international educators' workshops in order to share the methodologies and lessons learned with many more Guatemalan teachers. FAFG printed these two products, along with two other guides for teachers that had already been created by FAFG's partner, the International Learning Institute for Reconciliation (IIARS) and five small comics about different conflicts, created by the students of one of the core Guatemalan educators, so they could be used by teachers as educational tools. In addition, nine information kiosks, containing information about the armed conflict and the work of relevant organizations, such as the FAFG and IIARS, were set up in museums and schools around the country.

In Timor-Leste, AJAR supported the collection of thirteen oral histories from survivors by youth, students, members of victims' families and

volunteers. These narratives will be included as material for a future community exhibition. In addition, AJAR launched a program entitled, “Teaching History and History for Peace and Reconciliation in Timor-Leste” that aimed at strengthening the Centro Nacional Chega (CNC, the Chegal National Centre⁷⁰) as a follow-up institution to Timor-Leste’s truth commission by teaching courses on history and memory at the university level in support of the Chegal recommendations. AJAR achieved national-level recognition and adoption of this curriculum through a memorandum of understanding between the Ministry of Education and the CNC. This was achieved through a number of supporting activities in the form of seminars, workshops, and high-level meetings. Lastly, AJAR facilitated an intergenerational story-writing workshop for 22 individuals – youth, students, members of victims’ families, and volunteers – and an exhibition on transitional justice.

Through its in-country program activities, DC-Cam completed a first draft of its Village History Research publication, which centers on the oral history research collected by teachers and graduate students from local communities nationwide. Through the educators’ subgrant-supported projects and the DC-Cam’s additional in-country activities, the teachers produced six documentary films linked to the research and the draft publication, each centered on either the life stories of those affected by the Khmer Rouge regime or the experiences of students learning about their families’ and country’s history of that time

By working with educators and artists, DC-Cam also produced a second version of the “Breaking the Silence” booklet, outlining a play that addresses issues of memory of the genocide, in Khmer and English languages. The performance was created from interviews with survivors, describing their experience and dealing with questions emerging from the Khmer Rouge Tribunal. The plot is organized around issues of karma, forgiveness, and testimony from the Khmer Rouge Tribunal.⁷¹ This booklet now serves as an educational resource for students and teachers, and some educators use select themes from the booklet to teach their students about Khmer Rouge atrocities, justice and reconciliation.⁷²

GIJTR enabled educators from all contexts to create tools and learn new skills on connecting their nations’ histories of conflict to the urgency of preventing violence today. Educators learned new teaching methods, including the ethical challenges and other issues that they bring, and are now inspired to try what they have learned during the project with their students. Through the international educators’ workshops, participants encountered various teaching methods that allowed them to approach sensitive topics, such as violence prevention and learning about conflict, differently from how they traditionally dealt with them within their local curricula. While in some cases participants learned completely new

methodologies, in others they identified how to improve the techniques they already relied upon. The concrete nature of the project allowed participants to put in practice the newly-learnt teaching methods once they were back in their educational institutions, through the program's subgranting component. These small education and memorialization projects developed by the core group of educators also allowed them to discuss, practice, and improve upon professional development tasks and functions, such as project management, research, and strategic planning.

The project received significant support from GIJTR's local partners, the nature of which differed across the three contexts. In Cambodia, local partners included primarily national, regional, and local governmental entities and officials who were associated with the Cambodian Ministry of Education, Youth and Sport. In Guatemala, local partners were IIARS and the individual educators who participated, as identified by IIARS. The project also had formal backing and participation from some schools in Guatemala. In Timor-Leste, local partners included:

- The Universidade Nacional Timor Lorosa'e (UNTL, National University of Timor-Leste), a state university that has been actively collaborating with AJAR since 2014 on the development of transitional justice materials to be introduced in university teaching.
- The Universidade da Paz (UNPAZ, Peace University), a private university that was involved in the consultation process of developing transitional justice materials. They have adopted these materials into their curriculum and have started using these materials in teaching.
- Centro Nacional Chega (CNC), a public institution established in 2017 by ex-Prime Minister Dr. Rui Maria de Araujo with the vision to preserve past memories as a lesson for Timorese people to find peace and to implement the recommendations of both the Truth, Reception and Reconciliation Commission of Timor-Leste and the Truth and Friendship Commission of Timor-Leste and Indonesia.

Asosiasaun Chegal Ba Ita (ACbit), an NGO that works with women victims and survivors of past conflict. Through GIJTR project, ACbit began to introduce inter-generational dialogue in which they invite children of the victims and survivors to conduct interviews and record the struggle of their family members and to draft stories based on their interviews.

Across all partners' subgrant activities, beneficiaries actively participated in the implementation of the project. In Cambodia, all program participants, including educators, students, and community members were actively engaged in the project, and they requested that similar activities continue in the future. An assessment of the activity was conducted by an external consultancy and reached very positive conclusions, namely that project objectives are highly relevant and aligned with needs of beneficiaries, and

that beneficiaries agreed they will benefit from the knowledge acquired from this project in the long term. The participating educators confirmed that they were now determined and able to apply what they learned from the project in their local work. All respondents to an assessment survey also reported that they had shared the project learning with other people – mostly other educators, but also with colleagues and other peers. A local coordinator in the three countries noted that through implementing the educator-designed projects that were funded by the subgrants, many educators also gained practical skills around project design and project management.⁷³

Project Impacts

The project is motivated by an effort to contribute to the overarching goal of violence prevention and transitional justice. According to the external assessment report's qualitative feedback, the project contributed to raising awareness on the connection between historic knowledge and understanding of truth and violence prevention, triggering a process of critical thinking.⁷⁴ The findings of this assessment show that this project has achieved its main objectives, as it contributed to increasing educators' capacities, provided them with a platform for cooperation and sharing best practices, and facilitated the production of replicable education tools and practices. The beneficiaries are now well-equipped to ensure sustainability of the project results, notably as tangibles such as tools and materials have been produced and already shared with educators not directly involved in the project.

The term "transitional justice" is not widely used by Cambodian participants despite the fact that they have been engaging with what are essentially transitional justice mechanisms for many years. These include the hybrid court (ECCC), empowering victim participation in truth and justice seeking process, engaging in judicial and non-judicial reparation projects, widespread memorialization efforts and a historical commission on genocide prevention. They rather refer to 'dealing with the past' or 'moving forward'.⁷⁵ After the final workshop in Timor-Leste, they have begun to use the term.⁷⁶ Thus, the project's impact in the field of transitional justice has been important as the stakeholder feedback has shown limited knowledge about this issue among the project participants prior to the project implementation. During discussions, participants shared their approaches to the issue, noting that increasing their understanding of transitional justice principles will help them not only when working on educational reform but also when incorporating civil society in the various transitional justice mechanisms. The most tangible outcome in this regard was a manual on transitional justice that was printed in Timor-Leste, for use in Timor-Leste schools and educational programs. This project dimension fits within the wider multidisciplinary

approach of GIJTR to transitional justice that places emphasis on sustainability of the project results.⁷⁷

Finally, the project also added value that the organizations intend to leverage for projects and partnerships going forward. For example, they found that site visits are valuable as a part of any workshop experience, enhancing information sharing and professional development. Site visits to ICSC member sites in Cambodia provided concrete examples through sites of memory about what happened during the Khmer Rouge period, while those in Timor-Leste helped broaden participants' understanding of transitional justice mechanisms undertaken there.

The project also contributed to strengthening relations between partner organizations and national institutions (such as the Ministry of Education) in Cambodia and Timor-Leste. The Under-Secretary of the Ministry of Education attended the international workshop in Phnom Penh, while the Minister of Education attended the final workshop in Timor-Leste. Both officials said that such projects are important for their countries to learn about the past and prevent atrocities from recurring. The active participation of such institutions in the international workshops was a very positive surprise for the participants in general and especially for those coming from Guatemala, demonstrating how different political environments are across different contexts. This also gave Guatemalan participants' ideas on how they could involve national and local institutions in their activities.

Sustainability

This project embraced the concept of local ownership by assigning the responsibility for the subgrant-supported education projects to the educators themselves, who were given a pre-set budget and the freedom of designing and implementing their activities within their specific country. Educators developed draft objectives, strategies and activities and had to provide not only a general outline on the proposed impact of their local project, but also a theory of change and how specific, local actions related to the overall project aim of improving understanding of violence prevention as it relates to local histories of conflict for the local population. The value of local ownership was also demonstrated in the outputs. Each of the twelve core educators created one or more products that could be replicated or scaled-up for larger audiences or impacts in their local countries, or adapted to other contexts. In effect, whereas the subgrant to each participating organization may not have aimed to produce national-level actions, it provided seed money for the creation of products that could form the core reference for such large-scale actions in the future. These core references were also improved by the partner organizations, who provided input and ideas throughout the development and dissemination of products.

The concept of local ownership also empowered the participating educators in their effort to gain recognition from national-level institutions. Organizations were able to leverage their knowledge of local politics and culture to accentuate the near-term impact and sustainability of activities far more than had the same activities been performed by a foreign or international entity. The project also created an optimum environment for sharing ideas amongst partners on how to increase the public profile of projects, as well as the buy-in of government and civil society stakeholders. The sustainability of local actions accordingly increased – not only because of the increased public profile of the local organizations, but also the greater government and public engagement, which was helped by the collaborative effort of partners to improve each other's strategic communications on their local projects.

Finally, the sustainability of the project was also improved by the relationships that were built between different partner organizations, which contributed to more innovative thinking in strategic planning for future activities. Whereas the partner organizations found a number of challenges discussed below, the weight of these challenges were offset by the value of sharing ideas on how to improve each other's particular agenda or activities in their country. The ability to obtain a second opinion on a proposed strategy or theory of change from a partner organization was priceless. The sustainability of the overall project (i.e., as a longer-term effort or a second collaborative project between all partner organization) was clearly feasible based on this value alone. Future projects could include collaborative efforts focused on more scaled-up versions of the local projects implemented in this project and could include professional development or product integration activities that build off partner organizations work during this project. To this end, participating organizations could share ideas on their proposed plans for these scaling-up activities and mentor each other in the actual implementation.

8.4

CHALLENGES AND LESSONS LEARNED

The team encountered challenges and through this project learned many lessons. Language barriers, resources, and time constraints imposed significant barriers. Whereas there was always a high level of participation from educators involved in the project, the different languages and difficulty with English as a common language necessitated the use of educators and facilitators as ad-hoc interpreters, which constituted a hurdle throughout the project.⁷⁸



GIJTR's International Educators Workshop in Timor-Leste in June 2018.

Photo credit: Asia Justice and Rights.

On a general level, each organization could identify a number of lessons learned that were relevant across all countries. The first was the value of collaborating and sharing information, experience, and ideas between organizations working towards shard objectives, even if they did so in different ways. Each organization came with their own unique challenges, strengths, and vision, which confirmed their contribution to the collective endeavor. However, whereas each organization had expertise on memorialization and education in their own context, they all stood to gain from alternative ideas and strategies from other organizations that came with a different perspective. In Timor-Leste, for example, DC-Cam (Cambodia) learned from AJAR about the importance of building state recognition of survivors into organizational activities. In both Timor-Leste and Cambodia, FAFG (Guatemala) learned about the importance of leveraging state organizations to institutionalize the formal history curriculum. Finally, both FAFG and AJAR learned from DC-Cam's work in Cambodia in terms of the various ways in which different incentives and protocols can be implemented to ensure high levels of participation in organizational activities. Despite recent progress, Timor-Leste lacked strong institutional support from the government in terms of budget, technical assistance, and a sustainable curriculum. AJAR was able to look to DC-Cam's work in genocide education and FAFG's forensic work in Guatemala as example strategies for increasing government partnership and support.

A second lesson learned was the value of having survivors interact and learn from each other's experiences, both within and across contexts.

Conflict and genocide not only dehumanize people in the present, they also reverberate through the generations, impacting social and cultural life and institutions. Survivors and the generations born after conflict can heal, reflect, and grow from sharing their experiences as well as learning from others from similar contexts. The exercise of investigating one's village history gave Cambodian survivors, for example, an opportunity to share their experiences and connect with people in order to reaffirm their humanity. In addition, by bringing together survivors who are also educators and therefore work in the same or similar fields, there was an immediate effect on participants' professional identities. Whereas all survivors of mass atrocities can relate to each other through their horrific experiences, this project revealed how survivors' kinship can extend beyond personal experiences derived from their respective histories, but also professional struggles related to reintegration within professional communities and society. History books may mark a point in time in which a particular atrocity has ended; however, for individuals, the experience suffered during this time period echoes through one's professional and personal pursuits, coloring nearly aspect of one's life and struggle to obtain a sense of normalcy. This struggle at reintegration in society and the struggle to channel one's experiences into professional endeavors that give meaning and purpose to one's identity were areas in which participants found a sense of kinship that was not an anticipated outcome of the project.

Project participants found it extremely helpful to exchange their approaches to transitional justice with peers. Such exchanges help them to learn from other contexts and contributed to the creation of innovative teaching and learning tools and activities. These included using theatre, role-play, debate, historical research, oral history and multimedia, digital mapping⁷⁹ and documentaries, and tours of sites of memory. While many of the best practices and lessons learned were cross-cutting, some participants noted that they were not able to concretely implement everything they learned during the project, since the methodologies they learned from their international peers were, in some cases, not applicable in their context. For example, this was noted regarding some teaching methods used at university level that were not valid for the secondary school level.⁸⁰ In a few cases, the different levels of available technologies also limited the applicability of the acquired knowledge.

In moving forward, as recommended by ICSC's expert consultant trainer at the first international educators' workshop, it would be helpful to have educators actually participate in an educational activity at one another's sites, rather than merely sharing information and lessons learned about the respective programs they conduct at home and visiting sites. In

addition, whereas the three countries and organizations involved in this project obtained tangible benefits from it, future projects may want to consider a regional exchange that minimizes travel between project sites or organizations and therefore maximizes limited budget resources.

Whereas the sharing of different teaching methodologies was valuable, future projects could consider a greater emphasis on comparative history, with organizations comparing and contrasting the histories of violence and conflict in other places. A workshop focusing on comparative history can be particularly useful in contexts where educators are not permitted to directly teach about that country's history, as discussed by the Guatemalan educators. For example, one of the Guatemalan educators' students produced comic books about the Khmer Rouge through GIJTR program, and the educator used them to teach about violence prevention in a way that only indirectly engaged the circumstances, context, and laws specific to Guatemalan violations.

8.5 CONCLUSIONS

There remains a challenge in seeking to transfer lessons from one context to another, and a tension between seeking knowledge and experience transfer across transitional states and the need to ensure every approach is contextualized. For example, some educators found that techniques proven in one context would not be feasible in another, due to political or practical circumstances – demonstrating that no single approach can be considered ideal and relevant in all contexts. Issues such as level of economic development and differing histories drive the precise approach required. For instance, the outlook of survivor populations in each country differed, driving differences in how each organization approached them. DC-Cam learned that the implementation of transitional justice is more advanced in Timor-Leste and, as a result, survivors there received greater recognition than in Cambodia. A Guatemalan educator noted that he found that school authorities and parents were not always supportive of his teaching students about the internal armed conflict in Guatemala: a common response in post-conflict states where history and its interpretation remain contested.

The struggle with including the history of mass atrocities in public schools and institutions appears most difficult in post-conflict societies that have only recently achieved a semblance of peace and stability because there is a compelling argument to avoid controversy or any topics that could trigger renewed violence. There may also be national

or local considerations tied to persons or groups that, having negotiated a settlement, may want to avoid public inquiry and debates that may undermine their legitimacy or negotiations with counterparts, rivals, or other communities. Whereas Cambodia was able to eventually integrate the history of its genocide into public schools in a rather direct way that focused on the history of the Khmer Rouge, other societies may find this direct approach too controversial for the near-term, in which case they may use curricula addressing mass atrocities committed in other countries as an alternative path to achieving similar outcomes related to teaching human rights, justice, and humanitarian law. Countries that have recently experienced mass atrocities or conflict may find inquiry, debate, and education on other countries' experiences with these issues to be not only a safer first step, but one that is actually productive by way of giving attention to the value of the human being through the experiences and stories of survivors in other societies.

There are also more general lessons for truth and justice practice that emerge from the experience of GIJTR around memorialization and education. The discussion of sustainability of impacts demonstrated that local ownership is crucial when international organizations are funding and supporting such truth and justice actions. Similar to many GIJTR programs, this project sought to negotiate a path between external funding – and the oversight required to ensure financial accountability – and the prioritization of decision-making by local stakeholders, in this case, the core group of twelve educators. It did this by defining a budget and letting educators determine the nature of the project that would be funded. External assessment indicates that such a model creates social change that is sustainable, through building of capacity and sharing of approaches across contexts. More than this the international component injected conceptual novelty from external peers into each context, providing tested models that had emerged from significant experience. In its general approach, and in this particular example, GIJTR allows international funding to support both local innovation and the cross-fertilization of local approaches transnationally. This localization of transitional justice work is discussed further in the conclusions to this volume.

Chapter 8 Footnotes

- ⁶⁵ With contributions from Christopher Dearing and Lucia Samayoa
- ⁶⁶ See generally Chandler, David P. *Brother Number One: A Political Biographer of Pol Pot*. Boulder, Colo.: Westview, 1992; Etcheson, Ben. *The Rise and Demise of Democratic Kampuchea*. Boulder, Colo.: Westview, 1984; Kiernan, Ben. *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975–79*. New Haven: Yale University Press, 2008.
- ⁶⁷ "Guatemala: Memory of Silence," Guatemala City: Historical Clarification Commission. <https://www.ca1.uscourts.gov/sites/ca1/files/citations/Guatemala%20Memory%20of%20Silence%20Report%20of%20the%20Commission%20for%20Historical%20Clarification%20Conclusions%20and%20Recommendations.pdf>
- ⁶⁸ CAVR (2008) *Conflict-Related Deaths in Timor-Leste: The findings of the Chega! Report*, <http://www.cavr-timo56ttrlest.org/updateFiles/english/CONFLICT-RELATED%20DEATHS.pdf>.
- ⁶⁹ iWitness (<https://iwitness.usc.edu/SFI/>) is an educational website developed by the University of Southern California Shoah Foundation that provides access to more than 1,500 life histories and testimonies of survivors and witnesses to the Holocaust and other genocides. iWitness aims to provide educators with a variety of ways to integrate video testimony into their curriculum and can be used inside and outside of the classroom. FAFG has collected over 600 Life History interviews, of which 31 have been indexed, translated, and integrated into the iWitness archive.
- ⁷⁰ The CNC was established by the authorities through a decree-law in 2016 and set-up in 2017 to facilitate the implementation of recommendations made by Timor-Leste's truth commission (CAVR) in 2005. Chega! (meaning "enough" in Portuguese) was the title of the CAVR's report.
- ⁷¹ Formerly known as the Extraordinary Chambers in the Courts of Cambodia (ECCC), this is a hybrid court set up in 2006 to bring former Khmer Rouge senior leaders and those most responsible to justice.
- ⁷² Prins, Anne Marie. *Breaking the Silence*, Documentation Center of Cambodia, 2019, http://d.dccam.org/Projects/Radio/pdf/Breaking_the_Silence_2019.pdf.
- ⁷³ Blomeyer & Sanz, (2019). *Draft report: Assessment of the Consortium's rapid response project 'Strengthening Capacity for Education on Mass Atrocity'* - Phases one and two, p. 14.
- ⁷⁴ Ibid, p. 7.
- ⁷⁵ DC-Cam's observations on the educators' opinions during village history trainings.
- ⁷⁶ AJAR. (2018), *International Educators' Workshop on Strengthening the Capacity for Education on History and Violence Prevention*, 25-28 June 2018, Dili, Timor-Leste, p.9.
- ⁷⁷ Blomeyer & Sanz, p. 20.
- ⁷⁸ DC-Cam. (2018). *Report on International Workshop in Phnom Penh*, p. 7.
- ⁷⁹ Digital mapping is the process by which maps are formatted into virtual images, which enable interactive capabilities as well as overlays that enhance the way in which a site is experienced.
- ⁸⁰ Blomeyer & Sanz, p. 10.



A visit to Comalapa Memorial with Carmen Cúmez, one of the leaders of the Guatemalan widows' association CONAVIGUA, during the Forensic Academy training in 2019 with Forensic Anthropology Foundation of Guatemala.

CHAPTER 9: CONCLUSIONS

Simon Robins

9.1

APPROACHES TO CIVIL SOCIETY ACTION IN TRANSITIONAL JUSTICE

GIJTR sees supporting CSOs and civil society more broadly as its key strategy in advancing justice, representing an approach it articulates in all contexts, whilst acknowledging the importance of the engagement of both state authorities and communities affected by historic violations. The chapters of this volume demonstrate that in all contexts there are two different ways through which GIJTR advances truth, justice and reconciliation through civil society action. First, the principle mode of action of the project is to build capacity of civil society in countries engaging with violent pasts, to allow local NGOs to work at a range of levels, with communities, with the state and through advocacy, to advance the justice agenda. Second, GIJTR Consortium members will themselves work directly with states, official mechanisms and potentially other actors, representing an international civil society engagement with authorities in states. In many contexts such action will be mixed with workshops for example, targeting both state and civil society, so that both can develop technical expertise while potentially building relationships that make cooperation and cooperation more effective.

The range of interventions discussed in this volume, across multiple contexts, demonstrates how civil society is engaging with transitional justice – with the support of GIJTR – in all the ways laid out in the typology of modes of action discussed in the introduction. The following table repeats the categories of civil society action in transitional justice, with some examples from the work of GIJTR.

Persuasion/ advocacy	<ul style="list-style-type: none"> - Community-based truth-telling initiatives (many contexts) – as documentation - GIJTR consultations to highlight limits of formal process (many contexts)
Support	<ul style="list-style-type: none"> - Forensic support to Office of Missing Persons (Sri Lanka), including through the Forensic Academy and to the Search Unit (Colombia) - Advice on how to ensure non-judicial mechanisms have archival access to government and civil society files (Colombia) - Community-based truth-telling initiatives (many contexts) – as complementary to formal truth-telling process, including toolkit for Truth Commission (Colombia) - Facilitation of networking between formal mechanisms and international experts (Colombia, Sri Lanka, The Gambia) - Facilitation of networking among local actors (Sri Lanka, The Gambia, Guinea) - Raising awareness about formal process in communities (all contexts)
Mobilization / capacity-building/ education	<ul style="list-style-type: none"> - Bringing activists together nationally, under a single umbrella (Sri Lanka, Guinea) - Organizational development to civil society and victims' organizations (The Gambia, Sri Lanka) - Workshops to educate civil society actors about transitional justice and practice elsewhere (all contexts)
Substitution / independent action	<ul style="list-style-type: none"> - Legal action, domestically and through universal jurisdiction, by legal NGOs (Sri Lanka) - Community-based truth-telling initiatives (many contexts) - Civil society forensic activities around disappearance where state is unwilling or unable, including engagement with families. Psychosocial support to survivors, around the process and otherwise (The Gambia)
Space for modelling alternatives	<ul style="list-style-type: none"> - Local reconciliation initiatives through dialogue and arts methodologies as a way to show how people can live together - Supporting civil society to be as inclusive as possible, including around gender and ethnicity (Sri Lanka, Guinea)

Table 1. The table of modes of action of civil society in transitional justice, compared with the range of actions supported and enabled by GIJTR.⁸¹

It is worth noting that in many cases any one action will have multiple impacts, including demonstrating modes of action that traverse more than one of the above categories.

9.2

GIJTR ACTIVITIES AS GOOD PRACTICE

It is useful to review some of the actions that define the work of GIJTR, as examples of practice that both build on longstanding transitional justice practice, but that also represent innovative approaches to international support to national processes. More than this, GIJTR's entire methodology is unique, driven by a program cycle of: needs assessment, capacity-building, sub-grants to permit practical action and assessment of that activity to identify lessons and build on those learnings. As a long-term intervention in transitional societies, with a focus on civil society actors – and how they complement and support states – it offers a blueprint for external intervention to advance truth, justice and reconciliation. It not only seeks to directly enable civil society to fulfill the largest role possible but does so in ways that are in principle reproducible by any funder. Whilst the project is led by a group of institutions with unprecedented global experience and technical expertise, it shows how even the most under-capacitated civil society organizations can be supported, given national and international partners prepared to work with them.

For donors GIJTR approach offers a potential solution to the challenge of developing a 'value for money' approach to supporting transitional justice work. Optimizing the effectiveness of funding has often been frustrated by the challenge both of measuring impacts effectively (see below) and of creating the long-term programs that are necessary, without committing substantial support before there is evidence of positive outcomes. Working through civil society organizations or coalitions through a committed partnership leads naturally to the phased GIJTR approach to funding: short-term impacts can be measured and constitute benchmarks upon which continuing funding is contingent.

Needs Assessments

One novel practice that has become an example to international agencies and donors seeking to engage in transitional settings has been GIJTR's approach of conducting extensive needs assessments when it begins to work in a new context. For any form of intervention this would seem to be a prerequisite, but actually remains rare. Many international interveners come to a context with both a set of skills and projects that they plan to implement, often driven by an understanding that global

understandings of both the goals and mechanisms of transitional justice are sufficient to frame such an intervention. Such prescriptive approaches can be sustained by the power relationship between national and international civil society, with the former reluctant to risk international support by pushing back against their agendas.

A formal needs assessment, conducted in collaboration with intended national civil society partners, ensures both that any support addresses the issues of greatest priority in any context and that it is informed by the perspective of the local civil society actors who will be most involved in implementing a project. An assessment allows for the limitations in any formal process to be understood, such as the highly prescriptive and narrow nature of processes in The Gambia and Guinea, alongside the strengths and constraints of civil society. Ultimately, a needs assessment permits any intervention developed to be evidence-based.

Needs assessments must however be made cognizant of the fact that different community members will express different needs. For example, in societies where women are disempowered and occupy often narrowly defined roles in society, their needs are likely to diverge from those of men. Since women are less present in decision-making at all levels, there is an urgent need for CSOs working on justice issues to ensure that there are mechanisms for women's needs to be understood and acted upon. A needs assessment conducted with a rigorous methodology can be an effective tool in broadening the demands made of a transitional justice process to consider women's needs, both in terms of formal mechanisms and of civil society action. CSOs leading such assessments can use them to both develop their own gender-sensitive programming and as an advocacy tool to push official process to prioritize women's needs.

A Global Expert Network on Work to Address Disappearance

The work of the Consortium on missing persons and the disappeared, led by FAFG, demonstrates the potential and value in not only sharing experience globally, but in seeing such work led by actors from the global South. This is typified by the Forensic Academy in which civil society actors from a range of contexts seeking to address long histories of disappearance travelled to Guatemala to not only engage in classroom or workshop learning, but to directly engage with the Guatemalan experience of recovering and identifying the bodies of the missing. However, FAFG also shared their experience in myriad other ways in many of the contexts discussed here, through workshops and other engagements. Whilst FAFG are primarily a forensic group, it is important to understand the breadth of what they are able to teach others. What FAFG hasve been doing in Guatemala for two decades is not only scientific work of the highest quality but working with families to build

the relationships that effective identification depends upon. As such, some of the most important lessons for exchanges between civil society actors are to build skills in working with and supporting the families of the missing, so that they are truly integrated into the scientific work and at the center of all justice efforts.

Just as FAFG emerged from a set of regional actors in Latin America who learnt from each other and their similar contexts, so GIJTR is supporting the construction of a global network rooted in FAFG's expertise and experience to mentor civil society in myriad contexts globally. The value of this network being centered on a Guatemalan NGO rather than an actor from the global North is that the richness of their experience, in terms of navigating a challenging political environment and sourcing funding from Northern donors, are challenges likely to be shared with other members of this emerging network, along with many others.

Community-based Truth-telling as a Complement to Official Process

Community truth-telling is one example of an action that simultaneously addresses several of the 'modes of action' outlined in Table 1 and thus acts as a demonstration of how a single action can have impacts in communities, on civil society and on official state mechanisms.

Community-level truth-telling seeks to create space at grassroots levels for those affected by violations – potentially as victims, perpetrators or bystanders – to challenge the denial of or silence around past violence. It has been supported by GIJTR in many contexts, led by local actors and advancing outcomes at several different levels. Such local truth-telling seeks to have a healing impact at the community level, restoring relationships damaged by misrepresentations of the past and promoting empathy among divided groups and individuals. It can raise public awareness of the value of truth-telling and in the words of those working with the Consortium in Colombia "break the 'code of silence' of conflict". Such informal, local truth-telling can thus also be seen as advocacy for an official national process, where there is none, as well as triggering participation in a broader truth and justice process. More than this, it can be done with few resources – mostly those locally available – and can address urgent community needs, even if the formal process is delayed, as it is for example in Sri Lanka (Chapter 2). GIJTR work in Guinea (Chapter 6) demonstrates the value of local truth-telling that can be done immediately, where a formal process has yet to unfold and victims of historic violations are dying. In such a situation, truth-telling can both acknowledge victims and ensure their testimony is available in the future to support official processes. In Colombia, for example, GIJTR's community truth-telling work allowed the development of a toolkit, benefitting from both local and global experiences and is being used

by the formal truth-telling mechanism as a resource. These are a few examples of how local truth-telling can support a formal truth process, by generating data that can potentially be shared with a state truth commission and in sensitizing communities to both the need for truth-telling and to its modalities

Community truth-telling demonstrates the strength and depth of GIJTR's approach. In an environment where the political space does not yet exist for an official truth process, it can still have very positive impacts locally, while keeping truth and memory of violations alive in often difficult political environments. In more amenable environments such truth-telling can have a concrete and short-term role in advancing and complementing the truth and justice agenda nationally. Such localized truth-telling is a tool transferable to a range of different contexts at different stages of political transition and demonstrates the relevance of a global experience that is localized according to contextual needs.

MHPSS as an Essential Part of All approaches to violent pasts

Addressing mental health and psychosocial support (MHPSS, a term developed in the humanitarian community) in contexts emerging from armed conflict and political violence has increasingly become central to work with victims of rights violations. GIJTR has sought to ensure that addressing trauma and the psychological and psychosocial impacts on victims is an essential part of both formal transitional justice mechanisms and of civil society efforts to support them. The work of the Consortium has been important in raising the profile of MHPSS intervention in transitional justice contexts: whilst support to those engaging with formal mechanisms has become a standard approach, comprehensive MHPSS services to affected communities remain the exception.

In low resources contexts, such as The Gambia and Guinea, there is essentially no access to psychosocial support for victims, those working with them or others facing challenges. Needs assessments demonstrate that such support is seen by victims' groups as a key demand, and one of the most urgent services they require. Confronting the significant capacity challenges, GIJTR seeks to work with civil society actors to give them the most rudimentary tools to begin supporting both their own staff and victims. A strength of GIJTR approach, and the work done through civil society and victims' groups, is that they bring their own experience of violations and of the trauma it brings to their engagement with those in need of support. This was seen clearly in MHPSS training workshops, where far from being dry technical training, the sessions themselves demonstrated a significant therapeutic element as attendees talked of their own traumatic experience and shared this with their peers. Such experiential learning equips local interveners with the empathy

as well as the basic skills to support those with whom they will work, complementing professional services where they exist and in the many places where they do not, providing a first line of psychosocial support

Seeing Civil Society as a Target of Intervention

A radical thread emerges from the discussion in this volume of support to civil society, in terms of capacity-building of local organizations as a goal in itself rather than something that exclusively accompanies action to directly impact truth and justice. While capacity-building has become central to development interventions, rule of law in general and transitional justice in particular are areas where a capacity-building perspective has rarely driven external intervention. The work of GIJTR, involving a close and long-term engagement with local NGO partners as well as a broad needs assessment, has naturally included capacity-building approaches that can be distinguished from those typically used in transitional justice by the fact that they sometimes have a focus on organizational development, i.e. with the goal of building the structure and representivity of the NGO, rather than purely its technical capacity. Crocker has reported that: "Groups in civil society, especially following prolonged authoritarianism, may be very weak and disunited, which limits their potential impact on transitional justice,"⁸² and this drives the need for organizational, as well as technical support from the Consortium. Such support can include seeking that civil society actors are inclusive in the populations they represent, accountable and effective, as well as trusted by the communities with which they work. For example, in many of the contexts described in this volume, the civil society with which GIJTR is working reflects traditional patriarchal hierarchies and women are poorly represented. Aiding CSOs in addressing this has been a part of much of GIJTR's work, supporting both the mainstreaming of gender issues (see Chapter 7) as well as creating spaces where women can articulate their particular justice needs and be empowered to play a larger role in civil society and beyond. While this is typically a modest part of the Consortium's engagement with an organization and will be accompanied by significant technical support, it demonstrates that capacity is not only technical and that supporting civil society also means ensuring they have the structures to deliver on the modes of action discussed in Table 1.

One particular element of GIJTR approach that defines good practice in work to support national and local civil society is the use of sub-grants as an integral part of many projects. Traditionally, capacity-building is typically situated within international projects – in both the development and rule of law environments – as something that supports a local partner to implement the project in which it is embedded. Whilst long-term capacity impacts are assumed and often advertised, they are rarely measured or otherwise demonstrated. GIJTR routinely uses sub-grants

as an element of a project to explicitly accompany capacity-building, with the intention that a modest, locally relevant project – designed and implemented by the agency involved, represents a concrete opportunity to put into practice what has been learnt. A fixed amount of funds are made available to each CSO participating in a project for them to create their own project that can articulate the ideas and content of the training they have received, or experience that has been shared. Such a project provides a bridge from learning to the action of the concerned CSO, operationalizing their new understanding and providing another, contextually relevant, learning opportunity. Experience of such projects can then be shared among the group of CSOs involved in the broader GIJTR project, creating a cascade of new learning potential. Throughout the chapters of this volume, there are examples of such small grants, where CSOs have practiced new skills and approaches that they can later apply more broadly in their work and that have also produced valuable outputs. This also links to the idea of organizational development as a crucial element of support to many CSOs; the small grants build internal capacities to manage funds and report on them. This permits the demonstration of skills to donors and potential donors who will be supporting them in the future.

Despite the significant literature on the role of civil society in transitional justice, there remains a paucity of discussion about the challenges in practice of seeking to build the capacity of NGOs and in particular where this concerns capacity beyond the purely technical. There is potential for the learning from GIJTR's work to begin to address this deficit.

Participatory Methods: Process Over Product

Participation, in terms of what it means and how it is realized in transitional justice, has been discussed at great length in the literature. Scholars and practitioners have tried to balance a well-defined set of mechanisms that are understood as constituting a transitional justice process, while ensuring that space exists for those most engaged with that process – victims and affected communities – to steer its form and goals. Because participation, both of civil society actors and of victims and affected communities, is central to GIJTR's approach, lessons can be learnt about resolving this dilemma from the Consortium's experience.

Ultimately, participation is about agency, about ensuring the empowerment of concerned constituencies to be able to both engage with and steer processes of relevance to their lives. What the work of GIJTR discussed here reveals is that enabling such agency – of victims, of women, of the marginalized – necessarily demands putting aside preconceived ideas about what should constitute transitional justice in any one context and letting the needs of such actors drive the work that is done. GIJTR's experience in Guinea and elsewhere

reveals the importance of supporting civil society to let go of their own preconceptions about victims' and survivors' needs and rather engage with them through the deepest and most inclusive consultation. Concretely, participation is a practice and an approach that can and should steer all engagements with concerned actors, demanding that the dissemination of global prescription be replaced with elicitive approaches, rooted in local needs. Training civil society in participatory methodologies is intended to allow communities to identify and address both the root causes of mass violence, as well as to develop consensus and strategies to address the legacies of past violations. Participation is empowering, because it can mobilize the resources of an NGO – and potentially the state – behind realizing community members' wishes, but also because local projects can transform the lives of such stakeholders.

The net result of such a participatory approach is that civil society will not assume that their context requires exactly the set of mechanisms that constitute a global understanding of a transitional justice process, but rather will be steered by those they seek to represent. The net effect of this is a prioritization of how civil society works, over what they do. Prioritizing process over pre-conceived outcomes, leads to outcomes that both address the needs and empower victims and communities and emphasize local agency and resources, rather than external agendas and approaches. The results of such an engagement are likely to ensure that a truly contextualized, victim-driven, approach will deviate from the canonical mechanisms that global prescription suggests.

Mainstreaming Gender in Civil Society Action: Different Forms of Participation

While it has become conventional that work to address rights violations after conflict claims to be 'gender sensitive', there are substantial challenges in ensuring that such efforts go beyond a simple acknowledgment of women's engagement with any project. GIJTR has made an explicit commitment to mainstreaming gender, seeking not just that women are represented equally, but that issues of gender are central to every action. This begins from an understanding that gender goes beyond women's participation, and that it also demands an engagement with masculinity and gender roles more broadly. This was seen in the community dialogue programs in South Sudan which allowed both CSOs and ultimately communities to engage with the gendered roles community members play in both fomenting and preventing conflict. Whilst there were indeed unique opportunities for women as peacemakers, it was also clear that they had also played a role in driving conflict between communities. Ensuring such gendered understandings of the forms violence takes would appear to be a necessary foundation for gender to be mainstreamed in efforts to address the legacies of

such violence and GIJTR is at the forefront of efforts to develop such approaches in some of the most challenging contexts.

The work of GIJTR has also seen that mainstreaming gender necessarily means both integrating women more effectively into civil society action (and into formal mechanisms) as well as ensuring that women-only spaces are a part of programming, where required. The two sides of this were seen in Sri Lanka, where the challenge of a male dominated civil society leadership demanded that efforts be made to give women a bigger role, and in the bodymapping work, where women needed spaces that allowed them both to build trust and to share experiences, notably of sexual violence, that are stigmatized in their communities.

Such innovative work has broader lessons, for formal transitional justice mechanisms and for civil society work, in understanding what forms truth and memory can take around violations where victims' welfare demands anonymity. There is a need that the fact of sexual violence, its scale and impacts on victims, be made visible, ideally in ways that communicate the affective nature of its impact. The need for confidentiality however demands that victims be protected from being identified when they share their testimony. The bodymapping project (even though it did not focus on sexual violence) offers one model for this. It created a safe, women-only space where stories could be told and recorded, in an anonymous way, but allowed not only that testimony to be shared more widely but explicitly created an artifact (the bodymap) that is simultaneously highly personal, deeply emotional and yet anonymous, despite making violations visible. It seems likely that this model, effectively a process that hides identity but communicates the nature of women's suffering, could be reproduced in myriad other ways.

GIJTR work also demonstrates the importance of participation and how crucial it is that women's agency be enabled by their engagement with processes at all levels, through deep rather than merely tokenistic participation. This echoes the argument above of the importance of process, and of a focus on its quality rather than just the fact of participation. Work in many contexts (e.g. Guinea, as discussed in Chapter 7) show that effective participation is healing for victims, challenging the disempowerment and disconnection of victimhood and enabling an 'active coping'⁸³ fostered through solidarity. This link to women's agency is also key to broadening what process to address legacies of violations can achieve, challenging approaches that address the consequences of women's disempowerment and the resulting violence, with those that seek to confront the gender norms that underlie that disempowerment. This reflects a move from a transitional to a transformative justice, and from transitional justice – focused largely on formal approaches to bodily integrity violations – to 'justice in

transition’,⁸⁴ that seeks to use the moment of transition to address social injustice more broadly.

9.3

MEASURING THE IMPACT OF TRANSITIONAL JUSTICE INTERVENTIONS: LESSONS FROM GIJTR

The inherent challenges of measuring program impacts on a transitional justice process, and on advancing truth and justice more broadly, can be seen in the discussions of this volume. Timescales are often long, in terms of both official mechanisms delivering on their promise and of delivering social change at the community level: even long projects are likely to be shorter than the expected timeline of such impacts. Measuring social change also demands operationalizing terms such as ‘reconciliation’ and ‘peace’, which is conceptually as well as practically challenging. Constraints on program impact are many, notably in contexts where the political space for truth and justice – both at formal and informal levels – is limited and a failure to see impact may reflect not on the program itself, but on the insuperable social and political limitations it encountered. Measuring the impact of advocacy is always difficult, given that success often has to be measured in terms of changing attitudes – either of policymakers or others. An additional fact that emerges from GIJTR’s modality of working with and through civil society is that some impacts are on the structure and behavior of NGO partners, and are organizational rather than on justice outcomes. To measure such change demands a very different approach to measuring transitional justice impacts.

As a result, evaluation approaches in transitional justice programming have largely failed to generate an evidence base for such actions, which remain often normatively justified, despite being the target of large investment.⁸⁵ It is also clear that any program driven by external intervention will be only one of many potential contributions to truth, justice and reconciliation in a context: there will be political developments, government programs and a myriad of other external engagements that can advance or constrain the objectives a program seeks to deliver. Rule of law impacts are complicated, meaning they are typically multi-causal. As such, the goal of evaluation has to be to measure the *contribution* the program has made to advancing its goals rather than seeking to attribute change uniquely to it.

An additional challenge is that the change that truth and justice programming seeks to advance is complex. The relationship between action and impact is often non-linear. Seeing a transitional society as a

complex system, characterized by interconnected and interdependent elements, acknowledges that change arises from a multitude of relationships rather than from linear cause-effect chains.⁸⁶ The complexity of change sought and the continuing reliance of evaluation approaches on program-oriented theories of change (ToCs), such as logframe approaches, are inadequate to track and measure non-linear and extended causal chains. As a result, the traditional logframe is often inappropriate for rule of law and justice interventions.

An alternative to the program-oriented approach is the use of actor-oriented ToCs. It has been seen in the actions discussed in this volume that GIJTR has tried to use such approaches, most notably an 'outcome harvesting' approach in which the actors closest to the social change a program seeks to drive, typically civil society partners, victims or community members, will measure program impacts. This demands that such actors' subjective understandings of the change that has occurred and its causal drivers are prioritized in evaluation approaches. Such an approach, seeing evaluation as "constructivist knowing", leads naturally to the idea of "responsive evaluation"⁸⁷ which offers a perspective in which evaluation is reframed from the assessment of interventions on the basis of goals defined externally, to an engagement with all stakeholders about the value and meaning of practice at multiple levels.⁸⁸ This has begun to be used in evaluation of rule of law actions, through methods such as outcome mapping, but demands expertise and significant other resources that are often unavailable, since an actor-oriented approach to evaluation demands that the partners themselves lead this process. One challenge for GIJTR has been to prioritize such an actor-oriented impact measurement approach, subject to the constraint of the often limited resources and capacities of civil society partners. Since most NGOs in the contexts where GIJTR is working have a limited evaluation capacity, approaches must be tailored to the levels of relevant technical resources and expertise.

GIJTR seeks a multifaceted and multidimensional approach to evaluation. This uses multiple methods of evaluation, exploiting multiple perspectives on programs and their impacts. One of these uses an actor-oriented approach through an outcomes-based monitoring and evaluation system. This aims to identify observable and significant change in social actors' behavior, relationships, activities, actions, policies or practice, that can be attributed to the work of GIJTR. This attribution, i.e. the causal connection between the observed change and GIJTR action, is made subjectively by those most able to understand the concerned social dynamics. In practice this means the civil society partners of the Consortium, as well as those – victims,

affected communities, authorities – who are closely engaged with both the projects and the broader transitional justice process. This approach permits a range of impacts at a range of scales to be measured, from grassroots mobilizations and peacebuilding at community level, through to support to state mechanisms and the building of global civil society networks. It should be noted that, given the focus on the building of local capacities, many of the impacts GIJTR's work seeks to have will not directly link to transitional justice impacts but will concern issues such as capacity-building or organizational development.

All projects are subject to mid-term and final term review which seeks to confirm, respectively, if the project is on track – and if changes to strategy are required – and if objectives have been met. These are driven by the input of project partners. External evaluations are performed for all substantial program elements. This involves recruiting external experts who can bring an impartial perspective and significant experience to both measuring program impacts and offering advice and support for future directions. Such eclectic and wide-ranging experience – that diverges from that of those implementing programs – can be especially useful when evaluating innovative programs that seek to serve their target populations creatively.

To ensure that evaluation approaches also serve to build capacities among Consortium partners, the program has introduced a peer evaluation approach, where any external evaluation will be supported and accompanied by the engagement of a staff member from a Consortium partner not involved in the program being evaluated. This gives a perspective that is inside the project but not that particular action, as well as what is usually a Global Southern perspective on evaluations that are typically led by experts from the North. This seeks to build evaluation capacity in all Consortium partners, including those where the M&E function may currently be quite limited. This will enable more effective internal monitoring and evaluation in that partner's future projects – whether with GIJTR or not – and could in principle enable future GIJTR external evaluations to be made by evaluators from within the Consortium network.

There remains a tension between the need for high statistics quantitative studies of the perceptions of target populations, such as victims and affected communities, and that for qualitative interrogations of the subjectivities of those who engage with GIJTR actions, such as those provided by outcome harvesting (see above). The quantitative approach is complicated by the challenges of understanding often subtle responses to issues that are conceptually multi-layered (see Introduction) through yes/no questions or a Likert scale. To address this the ICSC has developed a global approach using rubrics, in which

key elements of truth and justice programming are conceptualized in terms of defined thematic areas⁸⁹ and measures of success developed in each area. These have been codified to provide a simple quantitative approach to grading the perceptions of program impact in these areas. This provides, in principle, a tool that can be used in any context to measure impact in a way that allows comparison to be made across both contexts and programs. These rubrics have not yet been used to measure GIJTR programming, since they are newly introduced, but may in future be useful as a tool to be used with and by local CSO partners. Rubrics have the advantage of codifying the complexity of qualitative approaches that demand highly skilled evaluators in ways that make them more easily implemented by CSOs as survey instruments, even where they have limited M&E capacity. ICSC will continue to explore the possibilities of a rubric approach with GIJTR partners.

The range of evaluation approaches used in measuring the impact of GIJTR programming reflect what might be called a portfolio approach. A broad and diverse range of evaluation methods – outcome harvesting, peer evaluation, external evaluation, rubrics – are available to GIJTR consortium in evaluating various program elements. Typically, several of these will be used in a complementary way with the long-term goal of assessing any one program element or context through a multifaceted evaluation approach that delivers the most robust impact measurement. Given the many challenges that face the evaluation of transitional justice practice, both in terms of international support to processes and of state-led mechanisms themselves, GIJTR's approach represents the evolution of a state of the art that can serve as an example to all those working in the field.

9.4

GIJTR AS A PRACTICE OF LOCALIZING TRANSITIONAL JUSTICE

One of the dominant critiques of contemporary transitional justice is that a prescriptive and mimetic practice is being promoted globally by an 'industry' that is steered from the Global North both conceptually and practically through institutions dominated by Europe and the US. In its most extreme form this sees much of the theory and practice of transitional justice as being remote from the needs, culture and circumstance of the contexts in which it unfolds, predominantly in the global South. This was seen most visibly here, by the narrow and prescriptive process unfolding in The Gambia, driven by a focus on the 'four pillars' of transitional justice and a global idea of what practice should be. GIJTR is indeed funded by a Northern governmental donor, but is actively seeking to challenge a globalized, decontextualized

practice through an engagement with and empowerment of civil society actors in the contexts where it works, and in the global South more broadly. Here, GIJTR as a model for the localization of transitional justice is discussed on the basis of the experience presented in this volume.

While ‘localization’ is a term that has gained currency in the humanitarian sector, it represents the goals of many of those who seek that transitional justice be a part of ensuring that communities and states emerging from histories of rights violations are empowered to find their own solutions and approaches. This process of a localization of transitional justice, both conceptually and operationally, concerns precisely the renegotiation of power to make decisions about such approaches. Such a localization seeks to move the locus of decision making away from sites where dominant donors are based to those where justice is needed and transferring power from the global North to transitional contexts. Such a ‘decolonization’ is understood to be not just an ethical priority, but also a practical one: local actors know much better both what their needs of justice and truth are and how to address them. Given that Northern donors will likely remain the principle financial supporters of transitional justice processes globally, GIJTR represents a mechanism to articulate this localization, and create routes for donor funding to be allocated according to the priorities of communities affected by violations.

The mechanism of this localization through GIJTR is primarily civil society. National civil society can act as a bridge between international agencies bringing their resources and their expertise on truth and justice to a context and victims, survivors and communities. National civil society has relationships – with communities and with authorities – that facilitate both the understanding of needs and their addressing through both formal and informal process, and this is seen in many of the examples in this volume: from the participatory needs assessments made in Colombia and Guinea, to the relationship building between civil society and state authorities in a range of technical workshops, in The Gambia, Colombia and Sri Lanka. The Consortium’s focus on building capacities in civil society, and in particular capacities to understand and represent communities’ needs, is another way in which the voices of those most in need of justice are prioritized. The combination of advocacy for appropriate process with informal mechanisms, such as truth-telling, at the community level also represents a localization of process, beyond the national level to the sub-national and community level.

GIJTR also challenges the top-down way in which transitional justice is articulated and supported in other ways. The Consortium is led

by the ICSC that is a natural convener of such work, given its status as a coalition of concerned civil society actors globally. Additionally, a majority of Consortium partners come from states in the global South that have themselves emerged recently from political transition that demanded the addressing of historical violations. This replaces a traditional vertical North-South engagement with such contexts with a horizontal South-South sharing and replaces an expert-practitioner interaction with a discussion amongst civil society peers, as demonstrated most emphatically by the work of the FAFG. Beyond this, it is seen in several examples in this volume that draw trainers from Coalition partners in the global South rather than the usual suspects of Northern experts, has proven much more valuable to civil society actors who find the experience they share more relevant. Such an approach has been seen to have a range of benefits to GIJTR action, not least in terms of being able to bring contextual experience that resonates with local cultural values, as seen through the role of African trainers in Guinea, where the resonance between local culture and that of the trainers' contexts proved valuable.

More than this, GIJTR as a unique opportunity for civil society from transitional contexts to exchange ideas and experience has led to the generation of unique approaches that can be transferred between contexts. Examples discussed in this volume include: innovative approaches to the anonymization of testimony developed in Colombia; experience of local truth-telling globally that has informed efforts in many GIJTR contexts; the primacy of psychosocial support, even in very low-resource contexts; the importance of trust building between CSOs (as in Sri Lanka, Gambia and elsewhere); the importance of organizational development of CSOs at all stages of support; the importance of ensuring that CSOs are inclusive, by gender and ethnicity; participatory approaches as encouraging a focus on process over outputs and ensuring communities set goals and where possible evaluate impacts; small grants to follow training to ensure new ideas are implemented. Whilst few of these approaches are entirely novel, in many cases GIJTR represents the first time such methods have been rigorously applied and documented across multiple contexts.

9.5

MOVING FORWARD: FUTURE PATHS FOR GIJTR

GIJTR is maturing as a Consortium and as a set of projects that have learned from the experience of all its partners as well as from the initial years of GIJTR implementation. The project represents a new path for donor support to transitional justice efforts, concentrating as it does on civil society as a tool to both advance change itself and to advocate for official process to be implemented. GIJTR is having impacts at all levels: in communities where locally-rooted CSOs are best placed to have impact and at national level, where CSOs supported by the Consortium can complement and advocate for state action.

The Consortium is also beginning to have an international impact. As the confidence, experience and technical expertise of the Southern CSOs who are the principle implementers of its projects increases, partly as a response to the networking and support of GIJTR, so they are increasingly seen as global experts. This is seen in the support to Sri Lankan lawyers to use international mechanisms, such as universal jurisdiction, to advance accountability of perpetrators in Sri Lanka, representing a locally driven turn to international forums: an inversion of the ‘justice cascade’! There remains however a tension in GIJTR practice between global approaches and the need for contextualization and this is something that must be constantly and consciously managed. One way of doing this is by ensuring that methods and approaches dominate workshop activities, rather than dissemination of the global transitional justice discourse and the prioritization of certain formal institutions. An example of this is GIJTR’s focus on an initial needs assessment, ideally highly participatory and led by local civil society, and an emphasis on sharing elicitive and participatory approaches that permit local agendas to emerge. Whilst understanding how formal mechanisms in other contexts have succeeded – or not – can be valuable, such examples are understood as just that and not a preferred route for every context.

There remain however challenges that the project will have to face in the future. Some contexts discussed here (e.g. South Sudan) see transitional justice processes challenged by ongoing conflict or the potential of new hostilities. Others are confronted by political environments that remain hostile (Guatemala, Sri Lanka), while in others limited resources suggest that, in the short-term at least, any process will be highly constrained in both scale and quality (Guinea, Gambia). The challenge linking all of these is to sustain both project activities and donor interest when impacts may be modest. Target communities may become disenchanted and so – in addition to managing expectations carefully – CSOs must seek to

ensure that community-based projects yield visible and positive impacts. These contexts do however also offer opportunities. GIJTR's grassroots CSO-based approach offers a genuine hope for impactful community-based transitional justice work even during conflict and political repression and, with the appropriate ethical safeguards in place, such practice would represent a genuine innovation.

This volume discusses GIJTR projects and reviews their contribution to a transitional justice practice that still remains legalistic, prescriptive and driven by top-down agendas. It sketches the outline of a practice in which international donor funds support an international Consortium to define and support approaches to justice that leverage the local knowledge and unique positionality of local CSOs to triangulate between a global discourse and everyday lived realities in their contexts. GIJTR represents an alternative to the model of international NGOs supporting local partners who are often little more than sub-contractors and of direct support to national CSOs but without the element of experience and direct support that GIJTR brings. It may be too early to claim that impacts demonstrate the superiority of this approach, but there is already evidence – outlined in this volume – of a radically different perception of the interventions the Consortium has supported.

As GIJTR continues to implement projects and to develop innovative ways of measuring their impacts (itself a genuine contribution to the field), it becomes important to disseminate both its methods and results. This volume represents one effort to do so, and it is hoped that an audience of practitioners and academics will read and engage with these case studies.

Chapter 9 Footnotes

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- ⁸² David Crocker, "Civil Society and Transitional Justice," *Civil Society, Democracy, and Civic Renewal*, ed. Robert Fullinwider (Lanham, MD: Rowman and Littlefield, 1999), 381-384.
- ⁸³ Colic-Peisker, V. and Tilbury, F. (2003) "'Active' and 'passive' resettlement: The influence of support services and refugees' own resources on resettlement style," *International Migration*, 41(5): 61-91.
- ⁸⁴ Paul Gready and Simon Robins (2014), "From Transitional to Transformative Justice: A New Agenda for Practice," *International Journal of Transitional Justice*, 8 (3): 339-361.
- ⁸⁵ Oskar N.T. Thoms, James Ron and Roland Paris (2010), "State-Level Effects of Transitional Justice: What Do We Know?," *The International Journal of Transitional Justice*, Vol. 4, 2010, 329-354; Concerning financing see <https://peaceandsecurityindex.org/issues/transitional-justice/>
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- ⁸⁷ Stake, R. E. *Responsive Evaluation*, U.S. Department of Health, Education, and Welfare. (1972)
- ⁸⁸ Lincoln, Y.S., "Constructivist Knowing, Participatory Ethics and Responsive Evaluation: A Model for the 21st Century," T. Kellaghan, D.L. Stufflebeam (eds.), *International Handbook of Educational Evaluation*, Dordrecht: Kluwer Academic Publishers: 69-78. (2003)
- ⁸⁹ The survey addresses the following areas for which indicators have been developed: Community Engagement and Participatory Processes; Networking and Coalition Building; Advocacy and Awareness; Self-care and Psychosocial Support; Human Rights Documentation.

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